

Charitable Giving

Planning Considerations for Canadian Residents

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Charitable Giving

- Recipient must be "qualified donee" or eligible under U.S. treaty;
- Qualified donees include registered Canadian charities, RCAAAs, municipalities, federal and provincial crown, U.N. agencies, some foreign universities, some foreign organizations recognized by federal government;
- Gifts can be made during lifetime or on death by will or, subject to appropriate drafting, by trustees of a trust or can be made by a corporation or partnership;

Charitable Giving

- Individuals get credits – corporations get deductions;
- General rule limits relief up to 75% income for the year;
- For year of death and previous year up to 100% of income can be sheltered;
- Election mechanism for gifts made by will;
- Coordination of rules for gifts made by will with filing for year of death and previous years and for filing T3 return for year of donation, previous years and subsequent years;

Charitable Giving

- U.S. treaty provides tax relief for donations to "recognized" U.S. organizations, subject to 75% rule based on U.S.-source income;
- Must be (a) a resident of U.S., (b) generally exempt from U.S. tax, (c) eligible for registration, if it were Canadian (i.e. "charitable");
- CRA publication T4016 lists exempt organizations;

Charitable Giving

- Special treaty rule provides relief for donations to U.S. college or university, without regard to 75% limit, provided donor or "family member" is or was enrolled (no need to graduate);
- Meaning of "family member";
- In some cases, U.S. university may be both qualified donee and eligible under treaty, either as recognized foreign organization or because donor or family member enrolled. Where U.S.-source income, is needed, synchronize Canadian tax relief with U.S. tax relief for donations;



Charitable Giving

- CRA does not recognize U.S. organizations that are eligible recipients under treaty as "qualified donees";
- Canadian charities not able to "donate" to those U.S. organizations, despite the fact that other donors get relief, subject to 75% rule (except for eligible U.S. colleges and universities);
- Five year carry forward may be useful if large donations cannot be utilized in year of death or previous year;

Charitable Giving

- Provincial tax not necessarily consistent with federal tax;
- U.S treaty does not necessarily affect provincial tax – recent Quebec decision.



Questions?



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