NetWorth

Let's connect

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Philanthropy and Tax-Advantageous Giving

Although charitable donations are not made solely for the tax benefits, the Federal and provincial governments provide favourable tax incentives that encourage Canadians to be generous with their charitable giving strategies.

While there are rules governing gifts other than cash, you can contribute almost any property of value, such as securities, RRSPs, RRIFs, life insurance benefits and real estate to a registered charity. In particular, special tax incentives are provided to donations of appreciated publicly-traded securities.

When an **individual** makes a charitable donation to a qualifying charity that is registered with the Canada Revenue Agency, they are entitled to a credit against their tax otherwise payable. For Federal tax purposes, where the gift is under $200 the credit is calculated at the lowest Federal personal tax rate on the amount of the gift. In 2016, a top Federal marginal tax rate of 33% was introduced on taxable income greater than $200,000. For donations made after 2015 that exceed $200, the Federal tax credit is calculated at the top 33% marginal rate, but only on the portion of donations made from income that is subject to this top marginal tax rate. For any donations made in excess of $200, where the individual's taxable income is less than $200,000, a 29% Federal tax credit will apply, which was the previous top Federal marginal tax rate. Additional credits are also available for provincial tax purposes, with special rules applying in various provinces.

When a donation is made by a **corporation**, the corporation receives a deduction, as opposed to a tax credit, when computing its taxable income. For Federal tax purposes, corporations are also subject to the 75% net income limit that applies to individuals.

Before deciding on what type of asset to donate to your favorite charity, it is important to consult with your BMO financial professional, who can connect you with a BMO philanthropic advisor to ensure that your gift is not only tax advantageous, but will also have the biggest impact on your charity.

For more information, please ask your BMO financial professional to receive a copy of our publication, *Philanthropy and Giving Back - A Guide for Philanthropic and Charitable Giving Strategies.*

Special Needs Beneficiaries Require Special Estate Planning

For anyone with a family member or other loved one with a disability or special needs, it`s especially important to consider what will happen to this loved one after you`re gone. Understanding and assessing the various options, and putting a plan in place will provide peace of mind, knowing that your estate plan provides appropriately for such loved ones when you are no longer here to do so.

In Canada, persons with disabilities or other special needs have access to a variety of plans and programs designed to provide them with financial assistance and protection while minimizing the impact of income tax on their benefits. These can be sponsored federally (administered uniformly across the country) or provincially, where they vary across the country depending on where the person resides.

In all cases, individuals who wish to include a family member or other person with a disability or special needs in their estate plan must take special care to understand the requirements and restrictions on eligibility for these plans and programs. Such an estate plan should include a customised strategy that is appropriate for the current needs and entitlements of their intended beneficiary and one that anticipates their probable future circumstances as well.

As we cannot precisely foresee the future needs and circumstances of these loved ones, an effective estate plan should be sufficiently flexible and be managed by a competent executor and trustee, able to adapt to the changing needs and circumstances of the beneficiary. The estate plan should be prepared by a legal practitioner who specialises in estate planning, including for beneficiaries with special needs. BMO`s specialised planning consultants can assist clients in reviewing the options available to them and making recommendations based on their wealth plan and estate planning objectives, in conjunction with your legal professionals.

For more information, please ask your BMO financial professional for a copy of our publication, *Special Needs Beneficiaries Require Special Estate Planning*, which provides an overview of several estate planning strategies, their appropriateness to various special needs beneficiaries and ways in which these strategies interact with one another. This includes Registered Disability Savings Plans, Lifetime Benefit Trusts, Henson Trusts and jointly held assets, as well as tax strategies such as the Qualified Disability Trust and Preferred Beneficiary Election.

What is a Life Insurance Trust?

A life insurance policy offers a simple solution to some complex estate planning issues by creating a pool of funds available to the beneficiaries soon after death. A life insurance trust is a less well known, but sophisticated, wealth management tool that can amplify and diversify the benefits of a life insurance policy on the death of the insured.

An insurance trust provides the same benefits as insurance to a named beneficiary: privacy, speed of access to funds on death, and avoidance of the probate process (where applicable), thereby saving probate fees, related expenses, and time. Properly structured, an insurance trust can offer the following further advantages not available when an insurance policy is paid as a lump sum to named beneficiaries:

- Creditor protection for the beneficiaries;
- Reduced potential exposure to family law claims;
- Benefit to persons under the age of majority;
- Protection for vulnerable beneficiaries from depletion of their inheritance;
- Protection of entitlement to social assistance benefits for disabled beneficiaries; and
- Reduced overall tax burden on families by allowing income to be taxed in the hands of beneficiaries in a lower tax bracket.

The mechanics of a life insurance trust allow insurance proceeds to fund a testamentary trust on the death of the insured. Until that time, the policy retains its creditor-exempt status, provided the beneficiaries of the trust are from the prescribed class of family members (i.e., spouse or common-law partner, child, grandchild or parent). The insurance trust can be created in the Will or in a separate insurance trust document or "insurance declaration."

In the right circumstances and with comprehensive estate planning and tax advice, a life insurance trust can have a meaningful impact on the lives of the beneficiaries. To learn more about life insurance trusts, and under what circumstances they may benefit you, please ask your BMO financial professional for a copy of our publication, *Life Insurance Trusts: The Whys and Whens.*

What You Need to Know About RESP Withdrawals

If you have children or grandchildren, one of your financial goals may include saving for their post-secondary education. To do so, you may have been contributing to a Registered Education Savings Plan ("RESP"), and accumulating government grants as well as deferring taxes on the growth and income of contributions inside the plan until withdrawals are made.

And, perhaps the time has come where your child or grandchild is pursuing their post-secondary education and will need to access the funds in the RESP in order to pay for their post-secondary education. The rules and the process for making withdrawals from a RESP are complex, and it's important to understand them to make a withdrawal effectively and in a timely manner.

First, let's get acquainted with some of the terminology associated with RESPs:

- **Beneficiary:** The person for whom the RESP was set up for (i.e., the student).
- **Canada Education Savings Grant ("CESG"):** This is the portion the government of Canada contributed to the RESP; there is a lifetime maximum of $7,200 per beneficiary.
- **Canada Learning Bond ("CLB"):** These are contributions made to the RESP by the government of Canada for low-income families. Eligibility is based on the number of children and the adjusted income of the primary caregiver.
- **Educational Assistance Payments ("EAP"):** These are amounts paid from the RESP to the beneficiary (i.e., the student), and is comprised of the CESG, CLB, and any provincial matching programs, plus any investment income earned inside the RESP.

- **Post-Secondary Education Payment ("PSE"):** These are the contributions that the subscriber has made to the RESP.
- **Post-secondary Institution:** According to the Government of Canada, a post-secondary institution is classified as:
  - A university, community college, private college, seminary, specialized health care training institute, such as massage therapy, chiropractic, naturopathy, or applied arts and technology schools that offer post-secondary courses on a full-time basis;
  - Trade schools and other specialized skills institutions certified by the Ministry of Employment and Social Development Canada that teach skills in an occupation such as plumbing, HVAC, welding, truck driver training, esthetics, hairstyling and makeup application; or
  - A university, trade school or college outside of Canada that offers either full-time courses of at least three weeks in duration, or part-time courses of at least 13 weeks' duration.
- **Promoter:** The financial institution administering the RESP.
- **Qualifying Education Program:** A post-secondary level or distance education program of at least three weeks' duration that requires at least 10 hours of coursework per week.
- **Specified Education Program:** A post-secondary education program of at least three weeks' duration that requires at least 12 hours per month on coursework.
- **Subscriber:** The person making the contributions to the RESP — usually the parent or grandparent.

RESP assets

The account balance in any RESP consists of two types of assets: 1) contributions, the amount contributed to the plan by its subscribers; and 2) accumulated income, a fund that include CESG grants, capital gains on plan investments, interest and/or dividends. An important distinction is that the withdrawal of contributions, i.e., the PSE, will not be taxed.

However, the withdrawal of accumulated income is considered an EAP and will be taxed as ordinary income in the hands of the student. In most cases, it's preferable that EAP withdrawals be taxed in the hands of students, since they'll normally be in a lower tax bracket than their parents, the plan subscribers.

Rules of withdrawals

To make a withdrawal from a RESP, the subscriber must initiate the process, advising the financial institution that holds the plan what type of withdrawal they desire, whether it's a PSE, EAP, or combination of both. The subscriber will need to provide proof that the student is attending a qualified post-secondary educational facility on a full-time or part-time basis. In those first 13 consecutive weeks of the student's post-secondary education, the subscriber can only withdraw $5,000 of accumulated income as an EAP. After that, they can withdraw as much of the RESP's accumulated income as they wish – as long as the student continues to attend school.

Tax circumstances that may influence withdrawal needs

When completing a RESP withdrawal for post-secondary education purposes, the subscriber can choose to withdraw from the plan's contributions (PSE) or earnings (EAP). Generally, it is recommended to complete EAP withdrawals first in order to use the CESG while it is available. Once the earnings, including the CESG, have been withdrawn from the plan, payments will then be made from the plan's contributions. However, there may be certain situations that will influence how much is withdrawn from the RESP as EAPs.

For instance, if a university student has a part-time job, but still doesn't have a lot of employment income in the year of the withdrawal, it may be advisable for the subscriber to withdraw the maximum $5,000 EAP in those first 13 weeks of university. In the student's second year, they may seek employment, for example, in a co-op program. Subject to the student's cash flow needs, it may be beneficial to limit EAP withdrawals (and consider PSEs) when the student is in a higher tax bracket due to the income earned from employment.

Starting a post-secondary education is an exciting and stressful time. This is true not only for students, but also for parents. It's important that families be financially prepared for the costs of higher education, and have a sound understanding of the RESP rules and withdrawal process, so that you can provide for your children's educations without facing hardships and unnecessary tax penalties.

For more information, please ask your BMO financial professional for a copy of our publication, *Taking Money Out of a RESP.*

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