Anatomy of a Planned Gift

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Gift Planner’s Perspective

- Paid to raise funds for charity
- Optimize gifts for both charity and donor
- Current gifts of assets
- Deferred gifts of assets
- Hybrid gifts

The Players

- Donor, Client
- Family
- Gift Planner
- Financial Advisor
- Accountant
- Lawyer
- Estate and Trust pros
- Senior leadership in charity

Finding the Balance

- Donor
- Family
- Advisors
- Philanthropy

The Rules

- ITA Canada
- Provinces: Societies Act, WESA etc.
- Insurance Regulators
- Accreditation, Ethics
- Gift acceptance policies

What’s new?

- New 36 month rules for GRE extended to 60 months (5 year GRE)
- Donating real estate and private shares

Real Estate and Private Shares

…or, perhaps newer and better,
the cash

Existing Rules

Real Estate

- Taxable Capital Gain on all donations of real property except principal residence
- CCA recapture is income
- 75% inclusion limit plus 25% of capital gain, plus 25% CCA recapture
- Qualified appraisal required

Private Shares

- Not exempt from capital gain unlike public securities
- At-arm's-length rules in play for donations
- 5 year limit on liquidation for tax receipt
- Business valuation or cash redemption to assess value and capital gain

Proposed New Rules

- Proceeds of sale of RE and PS only
- 30 days to give cash
- Gifts in kind do not qualify for tax exemption
- No self-dealing during sale and gifting transactions

Uncertain but Optimistic

- Will the proposal pass?

Anti Self-Dealing

- Not ideal for existing business and property succession planning
- Can still donate in-kind

"Don't make too easy!"

RE and PS are not simple gifts

- For donors, nor charities
- Know the rules
- Often illiquid and difficult to value
- Most charities would prefer cash anyway

Positive Incentive

- Even with complexities and limitations it should incent more donors to give these assets

Story time

- Bob and Cindy's gift for endowment

Bob and Cindy

Bob and Cindy are a delightful couple. Bob is a professor of global renown, Cindy a retired administrator. No children. Both have been generous, long-term donors to Mountain Top University. Several years ago Bob received an inheritance and used some of the money to establish the Bob and Cindy Scholarship Endowment. Subsequently he and Cindy arranged gifts in their wills that would eventually convert the scholarship into a professorship thus continuing research in Bob's esoteric, but globally recognized, field of study.

Last year, facing retirement, Bob was worried that his research at MTU could languish for 20-25 years until their estate gift was realized, unless the university hired a professor to carry it on. But there was no guarantee this would happen because recent policy changes meant that the Provost could assign Bob's current position to anywhere there was greatest need in the university.

Knowing this, Bob was concerned that their estate gift plans could fail and called on the university Gift Planner to see what could be done. Was there a way to guarantee continuity of the research based on the promise of a revocable gift by will? Although the gift was generous ($1M) it was doubtful the Dean and Provost would agree, as faculty positions are rare and coveted by many departments. Could the existing gift fail without a guarantee?

Bob's concern was quite real. To assure him, the Gift Planner suggested that Bob and Cindy consider a donation of their principal residence as a gift of Residual Interest with a joint life estate. If they agreed, the Gift Planner would propose the idea to the Dean and Provost seeking a binding agreement for a faculty position, tied to an irrevocable donation of a significant asset. The Provost and the Dean in their wisdom did agree. It would allow the Faculty to use Bob's much higher existing salary to hire two new junior professors, one of them for Bob's research area.

The gift planner contacted a qualified law firm to write the agreements. He also required the donors to seek a financial advisor whose task would be to objectively assess whether the gift would be aligned with Bob and Cindy's retirement plans, to assess future financial security and to optimize the value of a pending $675K tax receipt. At the time they had 4 different financial advisors handling different investments without knowing what the others were doing.

Who should be involved? [gift planner, lawyer, accountant, financial advisor/estate planner, appraiser, actuary] What agreements need to be in place? [Endowment ToR, MoU with Dean, Deed of Gift, Title and Life Estate registrations] What other options are there to secure a faculty position and maximize the donation at the same time? [RRSP, Life Insurance, CRT] What impacts could there be on the donor's/client's lifestyle? [retirement income, healthcare, LTD, divorce, irrevocable donation] Was the gift appropriate? [charity must manage asset for long term and fund purpose without cash flow, implied charitable trust is created, donor must trust the charity and have protections with legal recourse]

What charity needs

- Gift acceptance policies
- Asset to guarantee bridge funding
- Financial stability, longevity, vision
- Appropriate purpose for donation
- Execution and exit strategies
- Internal agreement, technical competency
- Board support

What the donor wants

- Continuity of purpose
- Involvement, be part of vision
- Personal and professional legacy
- Assurances from charity
- Secure, comfortable retirement
- Backstop for emergent needs
- Tax receipt for gift

Bob and Cindy's Assets

- House: $1,000,000
- Savings and Investments: $600K
- Registered Pensions & RSP's:
  - Bob: pension + RSP capital = $1.7M, 50% continuing to Cindy on death
  - Cindy: indexed pension $45K/year, 50% continuing to Bob on death
  - CPP and OAS

Legal Issues

- Legally securing the purpose of the gift but leaving flexibility for unforeseen future events
- Registration of Life Estate on Title protects donor
- Deed of Gift stipulating who pays for what
- Charitable Remainder Trust vs. Gift of Residual Interest or…
- Valuation

Donor's Goals

- Comfortable retirement
- Consider healthcare issues
- Maximize donation receipt (FMV-LI = $675K)
- Leave residue of estate to MTU

Donor Client Strategy

- Consolidate investment portfolio
- Use donation tax credit over 6 years
- RPF/RRSP withdrawals over 6 years
- Maximize TFSAs
- Minimize taxes, income splitting
- JLTD Life Insurance policy ($2M)

Retirement, Gift and Estate Plan

- Comfortable secure retirement
- Donation of property - MTU assumes asset and liabilities, rent free for life, non taxable capital growth
- MTU guarantees professorship while donor lives, estate gift endows professorship
- Estate value grows, investment stability and maximize ultimate donation
- Happy donors & charity, lifelong relationship for clients and advisor

Lets play and plan together

Thanks For Listening