Philanthropy and Charitable Giving

We all know the kind of year 2020 was and the unexpected challenges the Covid-19 pandemic brought to all our lives. Many people in various ways have been left in a position of needing more than they are able to provide for themselves. Additionally, many people have been hit in the pocketbook in ways they could not have imagined before the pandemic, making charitable giving and philanthropy take a back seat in terms of determining discretionary spending.

Now more than ever, those who have the resources are encouraged to consider donations to charity and planned philanthropic giving as part of their estate or financial planning process. In this blog we clarify the various forms this giving can take, and some of the considerations to make when discussing this with your ONE Sports advisor. We will use the Canadian experience (CRA) as a basis for the discussion, but will also include some specific US examples where applicable. As always, we encourage you to seek advice from your advisor for specific country details.

A good starting point is the definition of a gift. CRA considers a gift to be a voluntary transfer of money or property for which the giver expects and receives nothing in return. Gifts can take a variety of forms including:

- Cash
- Gifts in Kind
- A right to Future Payment – proceeds from life insurance for example
- Certified cultural property – primarily works of art or artifacts

You cannot receive CRA tax relief for grants to individuals or unqualified organizations which are not registered with CRA. CRA qualified donees include, but are not limited to:

- A registered charity (including a registered national arts service organization)
- A registered Canadian amateur athletic association
- A registered Canadian municipality
- A registered university outside Canada that is prescribed to be a university, the student body of which ordinarily includes students from Canada

When making a gift as described above you must consider whether you receive an advantage or not from your gift. For example, if you donate $1000 to your local Art Gallery and receive a work of art as thanks worth $100, then according to CRA, your net eligible amount of the gift, is $900. Similarly, we often see questions regarding "Charity Golf" tournaments. If there is an entry fee that includes golf and dinner, normally you should subtract the cost of the dinner and golf from the entry fee to see the true donation amount … and no, typically the items you buy at the auction table or live auction are not "charitable donations" unless otherwise stated.

As gifts can take a variety of forms, so too can the methods by which you make those gifts. As we discuss when helping you in your estate planning process, gifts can be made as a bequest under a will. These gifts may produce a tax credit on your estate's final tax return, which could result in more being left to your beneficiaries. Also, you can revoke a gift you intended to make in your will simply by changing your will. In a previous blog we discussed Probate or Death Taxes in the US. Generally, in Canada, a charitable bequest in your will does not avoid probate taxes since in most provinces those probate taxes are calculated on the value of your estate before distributions are made.

There are several options in setting up ways to handle charitable giving either before you pass away or through the will. Some of the more common are:

<u>Donor Advised Fund</u>
A donor advised fund is an account created and maintained with an accredited charity where the donor's contribution is immediately eligible for an income tax deduction. In Canada, the donor retains the ability to recommend which registered charities will receive the funds, but essentially surrenders control of the contribution.

<u>Charitable Remainder Trust</u>
A charitable remainder trust is an irrevocable trust established during the lifetime of the donor. It is designed to provide an income stream to the trust beneficiary(s) during their lifetime and upon death of the beneficiary, the remaining assets are distributed to the charities as named in the trust agreement. As opposed to providing tax relief to your future estate if the trust is funded during the lifetime of the grantor, he/she receives an income tax deduction. Since there are professional and administration fees associated with this type of trust, we suggest the trust be worth at least $200,000 initially. Since the assets are held in a trust structure, they are excluded from the donor's estate for tax purposes in the US and probate fees in Canada.

Private Foundation

A private foundation is a legal entity funded by an individual, family, or corporation for the purpose of supporting charitable activities through grants and other gifts. The private foundation is exclusively controlled by its donor and a board of directors. The donor retains control in determining how the foundation assets are invested, spent, and which charities ultimately receive the support of the foundation. These foundations provide the greatest flexibility in charitable giving. In Chris Moynes' 2020 Christmas message, he discussed using a Family (Private) Foundation for your charitable giving. As Chris said, "… Unlike a "one off" charitable contribution, creating a Family Foundation allows individuals to receive tax relief … also to create a long-term structure that allows them to distribute grants to one or a variety of worthy causes on an ongoing basis …". In that December email Chris also identified several Family Foundations established by our clients, and we welcome you to revisit that email for those details. If this idea appeals to you, please let us know and we can discuss further.

ONE Sports has also held discussions with many Community Foundations across North America. Typically, a Community Foundation or Fund provides an option for "giving back" to your community, without having to consider a specific charity for your donation. Community Funds provide a way for those with a passion for their particular community to contribute to its collective health and ensure the community remains a great place to live, work and play. This becomes important as we won't know what the community needs will be 25 years or so down the road; and while you do not have a specific say in how your donation funds will be used, the controlling board of directors, who have a pulse on the community do – and they have the infrastructure in their operating Instructions to ensure they will be around in one form or another, for years if required.

Charitable giving gives you the chance to make a significant impact to causes and organizations you care deeply about. It also affords you the opportunity to give careful thought to the kind of legacy you want to leave with your wealth, along with involving members of your family to contribute their thoughts to how they want to shape the world around them. At the same time, we can't forget about the potential income and estate tax benefits. It makes sense to consider your estate planning and your gift planning as joint efforts; more benefits means more philanthropy, and more philanthropy is good for everyone.