

Donations of Appreciated Securities

History

- On May 2, 2006 the Conservative government eliminated capital gains tax on donations of publicly listed securities to charities, effective immediately. On March 19, 2007, the government extended this measure to include private foundations.
- In 1997 the federal government reduced capital gains tax on donations of stock by 50 per cent on a five-year trial basis. The result was a three-fold increase in gifts of publicly traded securities to charities – from \$69.1 million to \$200.3 million between 1997 and 2000. The percentage of stock donations jumped from 1.6% to 3.9% of all donations. In 2001, the government made the capital gains reduction permanent.
- A recent TD Economics report shows Canadians hold \$1.3 trillion in stocks – almost half of which are unrealized capital gains. The elimination of capital gains on donations of appreciated securities to charity could unleash a windfall of giving.

NOTE TO READER:

The purpose of this publication is to provide general information, not to render legal advice. In addition any changes in the tax structure may affect the examples listed in this information. Your client should consult their own lawyer or other professional advisor about the applicability of this information to their situation.

How it Works

Usually, one-half of a capital gain is subject to tax; with gifts of publicly-listed securities, that amount is eliminated when the gift is made to a charitable organization, a public foundation, such as a community foundation¹, or a private foundation.

Listed securities include:

- Shares, rights, and debt obligations listed on most Canadian and certain foreign stock exchanges²
- Prescribed debt obligations
- Shares of the capital stock of a Canadian public mutual fund corporation
- Units of widely held Canadian mutual fund trusts
- Interests in related segregated fund trusts

¹ Publicly-listed shares that are acquired under an employee stock option plan may also qualify for this incentive provided certain criteria are met.

² Securities that are listed on Toronto, Montreal and tiers 1 and 2 (but not 3) of the TSX Venture Exchange qualify for this incentive, as do those that are listed on the NYSE, Nasdaq (excluding the Over-the-Counter Bulletin Board) and most other major foreign exchanges.

**The benefits of these gifts include:**

- Immediate donation receipt for fair market value of security, determined for most securities from their closing price on the date of the gift
- Favourable reductions in capital gains taxation
- Charity pays no tax on sale
- Gifts can be given during donor's lifetime or after, through their estate

Securities may be transferred to a charity in either of the following ways:

- The donor delivers endorsed certificates to the charity. The gift is complete the day the certificate is delivered. A donation receipt is based on the value of the security that day.
- The donor transfers the securities from his/her brokerage account to the charity's account. The gift is complete when the securities are actually transferred to the charity's account.

Incentive to Give

The income tax system supports the generosity of Canadians by providing a tax credit for donations to registered charities. This incentive is good public policy because each dollar of tax revenue that is lost through donations results in \$2.25 that is put to work in the community.

At the same time, the income tax system presents a barrier to giving. Many would-be donors have their assets invested in securities that have appreciated in value. Selling these securities to generate cash to make a donation will trigger capital gains taxes that partially offset the tax credit incentive.

The following illustrates the additional tax savings that donors realize when making gifts of appreciated publicly-listed securities rather than cash and the additional savings that are available now that the government HAS eliminated the taxation of gains in respect of such gifts.

Example: Donation of Capital Property versus Cash³

Mr. Price is considering a \$100,000 donation to his favourite charity, and has sufficient net income to claim the full amount of the donation in the year in which it is made. Among his assets are 1,000 shares of Publico, a publicly listed corporation. He also has \$100,000 of available cash.

The shares have a fair market value of \$100,000 and an original cost of \$1,000.

Mr. Price is evaluating three alternatives: making a \$100,000 cash donation; selling the Publico shares and giving the cash to charity; or transferring the Publico shares to charity for the fair market value of \$100,000.

We have assumed that Mr. Price is in the top marginal tax bracket (taxable income in excess of approximately \$116,000) and that the combined federal and provincial top marginal rate is 45%⁴.

What is the net tax benefit of the donation?	Gift cash	Sell shares and gift cash	Gift the shares: Tax on capital gain is eliminated
Proceeds/deemed proceeds of sale/donation	\$100,000	\$100,000	\$100,000
Cost	100,000	1,000	1,000
Capital gain (proceeds less cost)	N/A	99,000	99,000
Tax on capital gain	N/A	(22%) 21,780	(0%) Nil
Donation tax credit	(45,000)	(45,000)	(45,000)
Net tax savings from donation (available to shelter other income from tax)	45,000	23,220	45,000

³ This example was excerpted with permission and with some modification from "Charitable Giving Guide for Individual Donors" © 2005 PricewaterhouseCoopers LLP, Canada.

⁴ The actual tax credit will vary depending on the province in which you reside. Rates may be subject to change. If you are planning for a significant donation, we suggest that you check with your personal advisor to ensure that you are using the appropriate rate and that your gifting strategy is optimal for your circumstances. Your community foundation would be delighted to work with you and your advisors.

Effect on Net Worth of Donation of Shares⁵

Now let's evaluate the effect on Mr. Price's net worth. Mr. Price's current net worth is \$1,000,000.

What is the after-tax cost of making the donation?	Gift cash	Sell shares and keep cash	Sell shares and gift cash	Gift the shares: Tax on capital gain is eliminated
Net worth before sale/donation	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Donation	100,000	0	100,000	100,000
Tax on sale/donation	N/A	(21,780)	(21,780)	Nil
Donation tax credit	45,000	N/A	45,000	45,000
Net worth after sale/donation	945,000	978,220	923,220	945,000
After-tax cost of donation	55,000	N/A	55,000	33,220
Summary				
Value to charity	100,000	N/A	100,000	100,000
Cost to donor	55,000	N/A	55,000	33,200
Government foregone taxes	45,000	N/A	45,000	66,780 ⁶

⁵ Please refer to footnote 3.

⁶ With the tax on the gain eliminated, the government will forego revenues of \$21,780 – the tax that would have been payable if the shares were sold plus the \$45,000 taxes saved as a result of the donation tax credit.