

GIFTS IN KIND

While there is no official data on the subject, it is likely that more than a few major gifts that are made in Canada (in terms of dollar value) are gifts made “in kind” rather than in cash. These may be gifts to museums or galleries, which are added to collections, or they might be real property, stocks and bonds, or other investment assets.

The general rule applicable to gifts in kind is that the gift is treated as a disposition of the property at its fair market value. That same value is the amount of the donation receipt that can be issued.

Gifts of appreciated property, particularly listed securities, are a popular choice to donors as a result of several recent Federal Budgets. When listed securities or ecologically sensitive lands are contributed to a public or conservation charity, *none* of the capital gain is taxable. (For gifts of other types of property such as real estate, art works, and privately-owned shares, 75 percent of the gain is taxable.) Another change that makes gifts of appreciated property more appealing is an increase in the amount of the donation receipt that can be claimed for gifts in any one year. The maximum amount creditable for a contribution of appreciated property is now:

- 75 percent of the donor’s net income for the year (including taxable gain from the gift) plus...
- 30 percent of the taxable gain arising from the gift.

As a result of this increase in the creditable amount, the tax credit will always exceed the tax on the gain, resulting in net tax savings for the donor, however much the property is appreciated.

Example

In 2007, Mrs. Brown, who has annual income of \$150,000, donates listed stock worth \$100,000 to a local charity. The stock had cost her \$35,000, so she has a capital gain of \$65,000.

Regular income	\$150,000
Taxable capital gain ¹ (0% x \$ 65,000)	<u>0</u>
Total income	\$150,000

¹ As introduced in the May 2, 2006 Federal Budget.

The maximum amount creditable is:

75% of income	\$112,500
0% of taxable capital gain	<u>0</u>
Total creditable amount	\$112,500

Since Mrs. Brown's donation receipt for \$100,000 is less than the maximum creditable amount, she can claim the entire receipt for credit on her 2007 tax return.

Note that she must report the gain on her tax return, but because the entire capital gain is now *exempt* from taxation, she will not be subject to tax on the gain. As a result, the creditable amount is fully available to offset tax on other income, resulting in very attractive tax savings.

How would a gift compare to a sale? If Mrs. Brown had sold the stock for \$100,000, 50 percent of the \$65,000 gain would have been taxable, resulting in tax of \$6,250, and leaving after-tax proceeds of \$83,750. With the gift, the net tax savings are \$50,000. The difference, \$33,750 (\$83,750 - \$50,000), is the cost of making a gift of \$100,000. In other words, it now costs her only 34 cents for the cost of donating a stock compared to selling it.

Example Two:

Mr. Singh has an annual income of \$250,000, makes a gift of undeveloped real estate worth \$500,000 to a public charity. The cost of the property was \$200,000, so that the capital gain of \$300,000 is on the gift.

Amount from gift	\$100,000
Taxable capital gain	<u>150,000*</u>
Total income	\$250,000

For gifts of property other than listed securities, 50 percent of the gain is

The maximum creditable amount is determined as follows:

75 percent of income	\$187,500
25 percent of the taxable capital gain	<u>37,500</u>
Total creditable amount	\$225,000

Although Mr. Singh has to add the entire taxable gain to income in the year of the gift, the creditable amount is larger than the taxable gain, again resulting in net tax savings for the gift year. He will also save taxes in the following years, for the \$275,000 (\$500,000 - \$225,000) of excess donation can be carried forward for up to five years.

Because in-kind gifts of capital property are now much more attractive to donors than before, it is likely that in the future an even greater proportion of major gifts will be in-kind rather than cash. Many donors may find it advantageous to make their charitable gifts with appreciated property and preserve cash for family gifts.