

GIFTS OF RESIDUAL INTERESTS

A gift of residual interest with retained life use: it's like having your cake and eating it, too! You have the satisfaction of making a major gift to (*Charity*) now and receiving an immediate tax benefit, yet you continue to use and enjoy the gift property (usually your residence or a work of art) for the rest of your life!

In making such a gift, you transfer the property irrevocably to (*Full Name of Charity*) but retain its lifetime use. When the transfer is made, you will receive a donation receipt for the present value of the "residual interest"--the value, in today's dollars, of the property (*Charity*) will receive at your death. This is calculated on the basis of the property's appraised value, your age, and an appropriate discount rate.

Q: If I give my residence, can my spouse continue to live in it after my death?

A: Yes. Your agreement with (*Charity*) can be written to include both lives. In that event, the house will continue to be available to the surviving spouse.

Q: What are the tax benefits of giving my residence?

A: When you transfer your principal residence to *Charity*, you realize no taxable gain, no matter how much its value has increased. In addition, your transfer to *Charity* is treated as if you had sold the house to *Charity* at its fair market value. This means that the donation receipt can be used to offset other income, resulting in a significant tax saving. Consider this example:

Roberta W, age 65, is co-owner in her home, which is valued at \$200,000, and she expects to continue living there for many years. Since her children are well settled in their own homes, she will have no need of the house at her death, she decides to give it to (*Charity*) and retain a life interest for herself.

Roberta receives a donation receipt for \$85,421 which, given her combined tax credit of 45 percent, will save her \$38,439 over a six-year period. (The portion of the donation which she may claim in any given year is limited to 75 percent of her income, but she has the gift year and five additional years to use the full amount.)

Q: Who is responsible for maintaining the house while I continue living in it?

A: You will be responsible for maintenance and such other expenses as are specified in your agreement with (*Charity*).

Q: What if we need to move from the house earlier?

A: In that event you have several options. You may rent the house and retain the rental income, you may give your remaining life interest in the house to (*Charity*) and receive an additional donation receipt, or, by agreement with (*Full Name of Charity*) you may sell the house and receive a share of the proceeds based on the value of your life interest.

Q: Are the benefits the same for a gift of the residual interest in a summer cottage that is not my principal residence?

A: Not quite. The exemption from tax on capital gain applies only to your principal residence. If the property has increased in value during your ownership, you will be taxed on 50 percent of the gain attributable to the residual interest. Even so, the tax savings from your donation receipt will offset your tax on the gain.

Harvey M, age 73, has a cottage on a lake a few hours from his home in Ontario. He bought the cottage many years ago for \$40,000, and it is now worth \$100,000. He is reluctant to sell it, both because he still uses it frequently and because he would incur a taxable gain of \$30,000 (50 percent of \$60,000). If he transfers the cottage to (Charity) with a residual interest only, he will only pay tax on 50 percent of the gain. The residual interest will be valued at \$53,000. The donation receipt received for the overall value of the cottage will more than offset the taxable gain of \$16,082.

Preview

If you give property that has appreciated in value, the amount of the donation receipt attributable in any one year is 100 percent of the taxable gain in the gift, plus 75 percent of your net income. This assures that you will always realize net tax savings, no matter how much the property has appreciated.

Q: Will (Charity) retain the property, or sell it and use the proceeds?

A: If the property itself is useful to (Charity) and appropriate to its purposes, it may be retained and used. If not, (Charity) will sell the property and put the proceeds to meeting current needs or as endowment. Subject to (Charity) policies, you may specify the way in which you would like such proceeds to be used. Any gift of a residual interest in property must be approved by the (Charity) board.

*Full Name of Charity
Street
City, Province, Postal Code
Telephone*

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. You should consult your own lawyer or other professional advisor about the applicability to your situation.

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