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# Wills and Bequests

## We cannot say enough about the importance of having a Will.

Although it is difficult for most people to think about, death is certain for all of us and, without a Will, our provincial laws take over as to who gets what from our estate, when we pass away. The laws are not flexible. The people you want to benefit from your estate may be left out and those who do benefit may not be whom you would have chosen. If you have no living relatives, your whole estate goes to the provincial government.

The process of preparing a Will allows you to look at all your financial and other possessions and make arrangements to provide for your family and others once you pass away. It also helps you avoid paying unnecessary taxes.

You do not need to be wealthy to do estate planning. Anyone with a few assets and a family has an estate.

Bequests are gifts that you leave through your Will to your beneficiaries.

Each year, thousands of people, wealthy and otherwise, designate charitable organizations as beneficiaries of portions of their assets. A well-planned charitable bequest will enable you to make a larger gift than you would have been able to make while living, and receive a tax receipt to reduce your estate's income taxes. There are three types of bequests.

- **A specific bequest** is a gift of a sum of money, or particular property (such as securities).
- **A residual bequest** is a gift of a portion, or the balance, of your estate once all expenses, debts, taxes and other bequests have been paid out.
- **A contingent bequest** is a gift that takes effect only if the original beneficiary of the gift does not survive you.

We understand that the idea of creating and/or changing your will or leaving a bequest can be overwhelming and somewhat intimidating. Please don't let that prevent you from ensuring that your final wishes are clearly expressed and honoured.

We can help, please feel free to reach out to us with any questions or concerns.

### Tax benefits of a Charitable Bequest

Revenue Canada considers a charitable bequest as a gift made in the year of death. You are allowed to give charitable gifts of up to 100% of your net income in your final year. Any excess can be carried back to the previous year to save on that year's taxes, also up to 100% of your net income for that year. (Your net income in your final year can be quite high because, if you are not survived by a spouse, your assets, like your RRSP or RRIF and other investments, are considered cashed and become part of your net income, which is taxed.)

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Here are some examples of tax benefits:

## Example - Gift of cash

Charitable bequest (assuming no other charitable gifts )	=	\$200,000
<b>Tax payable - Final year:</b>		
Donor's net income	=	\$175,000
Minus: Tax credit for donation (100% x \$175,000 net income)	=	<u>\$175,000</u>
Tax payable	=	\$ 0
<b>Tax payable - Previous year:</b>		
Donor's net income	=	\$ 70,000
Minus: Amount carried back to previous year		
(\$200,000 bequest - \$175,000 tax credit in final year)	=	<u>\$ 25,000</u>
Taxable amount	=	\$ 45,000
Tax payable (assuming 50% rate x \$45,000)	=	\$ 22,500

The income tax for the final year is totally eliminated, and substantially reduced in the previous year, allowing the donor's heirs to benefit from the tax savings. **If a gift was not made, the donor would pay \$122,500 in taxes in those two years (assuming a 50% tax rate). Therefore, the gift of \$200,000 actually cost only \$100,000.**

## Example – Gift of listed securities vs cash:

If the donor's estate consists of appreciated listed securities as well as cash, it is more beneficial to donate the securities and give the cash to the heirs because of the preferential tax treatment for donations of securities. The following example illustrates that there is a **net tax savings of \$18,400** in making a bequest of securities of \$100,000 market value (with a \$20,000 cost base, leaving a capital gain of \$80,000), versus a cash bequest of \$100,000. The donor's income tax rate and tax credit rate are assumed to be 46%.

### Securities bequest (cash given to heirs):

Tax credit (46% x \$100,000 market value)	=	\$ 46,000
Minus: Tax on capital gain	=	<u>\$ 0</u>
Net tax savings	=	\$ 46,000

### Cash bequest (securities given to heirs):

Tax credit (46% x \$100,000 cash donation)	=	\$ 46,000
Minus: Tax on capital gain 46% (50% x \$80,000)	=	<u>\$ 18,400</u>
Net tax savings	=	\$ 27,600

**The tax savings to heirs (\$46,000 – \$27,600) = \$ 18,400**