

Strategic Giving Session II

Robert Kleinman FCPA, FCA

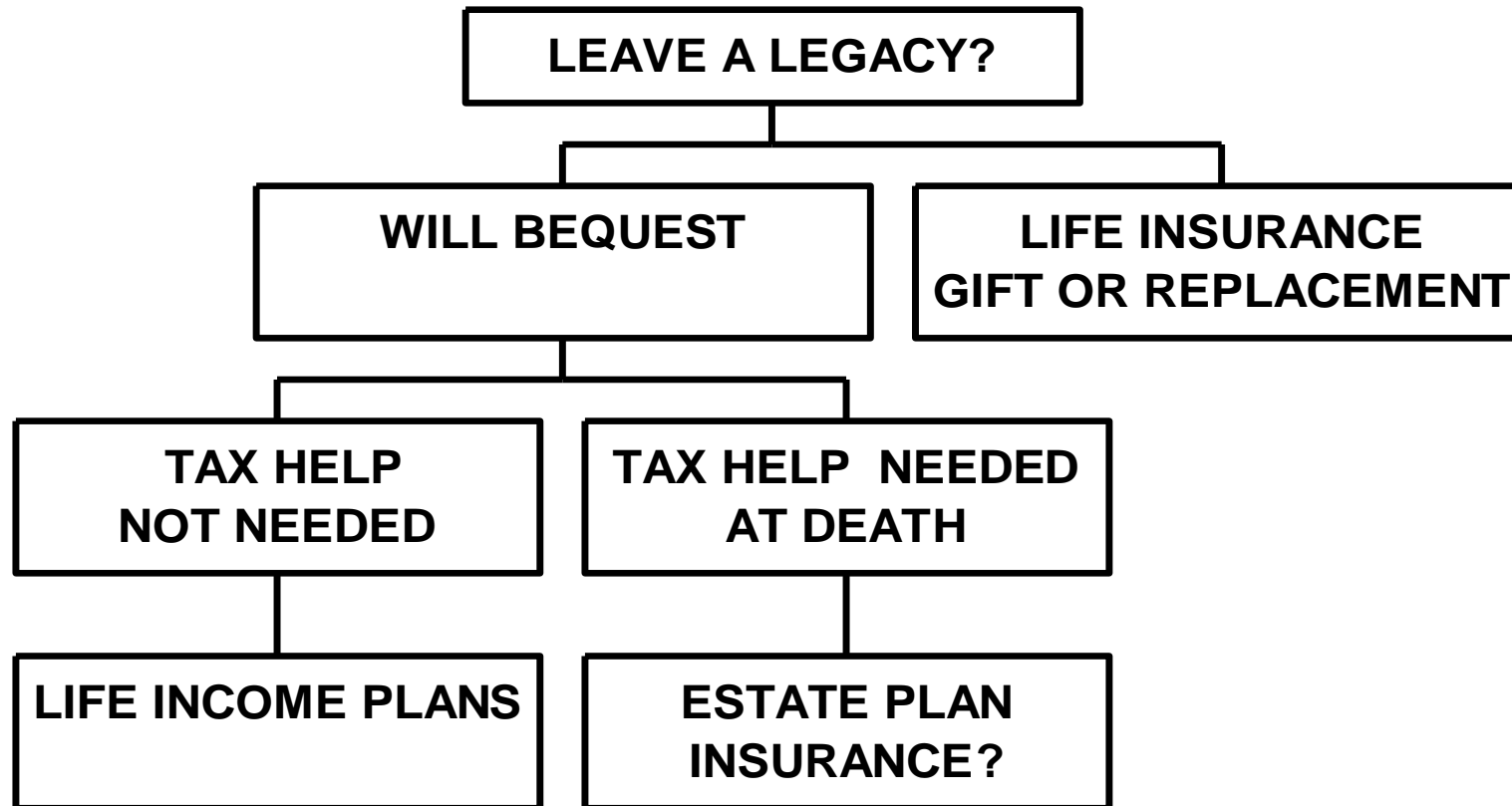
October 12, 2021



PearTree

- Legacy
- Marketable Securities
- Mining flow-throughs
- Charitable remainder trusts
- Insurance

The Legacy Decision Tree



- Will gift
- Insurance
- Charitable remainder trust
- Will – marketable securities
- I leave \$20,000 to Charity A. I direct my liquidators- trustees, to the extent possible, to make this gift with appreciated marketable securities.

- Estate makes the gift
- Elects to final tax return
- This is different!!!
- To do a final tax return with a donation credit must pay the donation
- This is a discussion point

- Assets in a spouse trust- tax rollover- spouse enjoys income and capital for emergencies- at second death, assets to children and charity A
- At second death trust has deemed income- expect charity to offset tax- but CRA says the charity is a distribution not an eligible gift- no charitable intent
- Change trust to give the trustees the discretion to make gift to A

- Transfer property to a trust today
- Income beneficiary during lifetime - donor (+spouse)
- Capital beneficiary
 - Lifetime- none
 - Upon death- charity
- Tax receipt today
- PV- (capital, mortality, interest)
- Ex. \$100,000 male age 78
- PV- (\$100,000, 10.2 years, 2.5%)
 - = \$77,519
- www.jcfmontreal.org
- Professionals- calculators

Poll Question



PearTree

- Property moves from donor's account to CRT A donor account
- Donor receives tax receipt
- Donor receives income for life
- Financial professional invests account
- A does contract, annual tax returns

- Assume, no children, estate goes to charity
- Receipt at death little value
- Crt uses the receipt during lifetime- free tax savings
- Eric Grenier CBC, 2017, one-person households 28.2%, couples without children 25.8%
- Crt programme is huge opportunity

- \$1m trust- income to person; capital at death to charity
- Do the opposite
- \$1m trust- income to charity
- Pay \$50k a year for life or a maximum of 20 years to person

- Leave a larger gift
- Or to replace the gift capital for family

- Traditional
- Charity owner + beneficiary
- Donor donates premiums

- New opportunity
- Many policies are given up
- Have great value- big receipt; no income
- Transfer to charity
- Part of education, discussion

Example:

- Mr. Jones donates \$100,000 of Royal Bank of Canada stock to A
- His alternative is to sell the stock and donate \$100,000

Sale vs. Gift



	<u>Stock Sale</u>	<u>Stock Donation</u>
Proceeds	\$100,000	\$100,000
Cost	\$50,000	\$50,000
Capital Gain	\$50,000	\$50,000
Taxable Capital Gain	\$25,000	\$25,000
Special Exemption	(\$0)	(\$25,000)
Net Income	\$25,000	\$0
Income Taxes Payable	\$12,500	\$0
Tax Receipt	\$100,000	\$100,000
Tax Savings	\$50,000	\$50,000
Net Tax Savings	\$37,500	\$50,000

- Works on securities on most stock exchanges
- Works on mutual funds
- Requires a transfer from donor stock account to charity stock account
- A form is used and signed by donor
- Corporate even better
- DAFs

- Example:
- Holdco makes a gift of \$500,000 worth of securities to the JCF.
- Adjusted cost base = \$0
- Capital Gain = \$500,000
- Tax Implications: Since for Federal and Quebec purposes there is no taxable capital gain, the full \$500,000 flows through to Holdco's CDA and can be paid out tax free to the shareholders of Holdco.

- The ITA allows certain mining companies to pass along its tax deductions and credits to investors
- Companies doing exploration (development, operations) are not making profit. Very hard to finance. MFTs allow financing.
- This has been going on for decades (before we heard the term Alberta tar sands)
- Mining is controversial- hydrocarbons- global warming- Indigenous lands desecrated
- Mining is economy- \$48b in 2019, 620,000 nice paying jobs, largest private sector employer of Indigenous people in the North (e.g. In Nunavut 97.5% of residents who work in mining are Indigenous)- (from Dept of Finance release July 10, 2020)

- Concept- buy MFT public company shares and gift most of the shares purchased to a charity
- Obtain mining deductions and credits and a charity receipt (and a capital gain on the disposition of the securities- no capital gains exemption on the gift)
- The shares are, in effect, pre-sold, you buy, gift and sell all in a row- no investment risk, you know the numbers

- Basically to the investor-donor it is a numbers game. It costs me $\$x$, I am going to get $\$y$ dollars back when the shares are sold (I hold on to some shares), I will benefit from $\$h$ of tax savings and thus I am out of pocket $\$r$.
- The charity winds up with $\$y$. So I have donated $\$y$ at a cost of $\$r$. My cost of giving is r divided by y .
- Buy $\$100,000$ of shares. Receive $\$20,000$ of proceeds from sale. Enjoy $\$77,000$ of tax savings. Out of pocket $\$3,000$. Charity has $\$45,000$. Cost of giving is $\$3,000$ divided by $\$45,000$ or 6.67%
- Each province has its own stimulus factors (or not)

1. The concept as a tax shelter is blown apart by CRA. Probably not a factor. PearTree early on obtained tax rulings from governments and effectively governments are on top of this.
2. Obvious- what if mining company takes your money and does not do the exploration- no deductions and credits. Promoters can be asked what they do to mitigate this risk.
3. Your tax return is probably the biggest risk. Do you save tax at the highest rate. There is alternative minimum tax.
4. Charities do not sell CMFTs. They educate on their possibilities. The donor's professional has to work through whether it is appropriate for the donor
5. Corporate purchases are different.

Examples

1. Pledged \$500,000 to a university, payable over 5 years. The plan, based on personal tax return to buy CMFTs to donate \$65,000 a year. \$35,000 a year to come from corporate marketable securities.
2. \$1m insurance policy for A. Premiums to pay - \$50,000 a year for 5 years. Pay the \$50k a year with CMFTs.
3. DAFs- will your charity help?

- We will look at marketable securities, CMFTs, insurance in HOLDSCO
- Estate Planning and strategic gift planning
- Preferred share gifts