

CHARITABLE GIVING ON DEATH

Prepared by:



DUST EVANS

Lawyers / Avocats

2589 boul. St. Joseph Blvd.
Orléans, Ontario K1C 1G4
613-837-1010
www.dustevans.com

THINGS YOU SHOULD KNOW AND CONSIDER

1. It is essential that you have a Will if you wish to give to a charity on death. If you die intestate (without a Will) the government does not provide for charities, only blood relatives. If you die without any blood relatives, all of your estate “escheats” to the government.
2. It is important to have the Will prepared by a lawyer, who will make sure that:
 - (i) the charity exists;
 - (ii) the charity is properly described and located;
 - (iii) the charity will accept your testamentary gift;
 - (iv) clauses are included which give guidance to the Executor if the charity no longer exists upon your death;
 - (v) you properly balance the needs and wishes of your family and other beneficiaries with the needs of the charity;
 - (vi) you do not place undue limitations on the ability of charity to use the gift;
 - (vii) your charitable intentions are matched with the appropriate charitable organization. For example, sometimes it is more appropriate to give to the governing body of a church denomination rather than a specific church congregation.
3. It is important to review your Will periodically, as your charitable intentions may change over the years. For instance, you may have changed churches, the charity may have moved or changed its name or location, the charity may have changed its operations or objectives, or your charitable intentions may have changed. Also, tax laws may change over the years respecting charitable giving, which may affect how much you give to charities, the type of assets given to the charity, etc.
4. The current tax laws in Canada provide significant tax advantages for those who give to charities in their Will. The tax credit for a gift by Will is available to offset 100% of income for the year of death and can be carried back and used to reduce taxes payable in the prior year. In general, the value of the gift, for purposes of the charitable donation tax credit, is the value immediately before death and not when the property is subsequently received by the charity.