

To the Professional Advisor:

It is our pleasure to invite you and your clients to participate in the Community Foundation of Portage & District. Since its inception in 1994, the Community Foundation of Portage & District has provided its donors with a flexible, low-cost, professionally managed vehicle to accomplish individual charitable goals.

As a professional advisor, you are in a unique position not only to service the charitable needs of your clients, but also to significantly affect the quality of life in our community. Funds established today in the Community Foundation of Portage & District will provide a critical stream of income in the decades ahead to meet the changing needs of our community.

This kit is designed to make it easier for you to serve your clients. Please call or write the Foundation Executive Director, or contact a member of the Board of Directors with any questions or comments you may have concerning the Foundation and its activities.

We are grateful for the opportunity to work in partnership with you in serving your clients' needs and those of Portage la Prairie's charitable community.

**Community Foundation of Portage & District
P.O. Box 1153
Portage la Prairie, Mb
R1N 3J9**

PROFESSIONAL ADVISOR'S KIT

INDEX

- 1. COMMUNITY FOUNDATION OR PRIVATE FOUNDATION**
- 2. ADVANTAGES OF USING A COMMUNITY FOUNDATION**
- 3. GIFTS OF CASH, INCLUDING MEMORIAL FUNDS**
- 4. TYPES OF FUNDS, AND WHO USES THEM**
- 5. GIFTS OF PROPERTY OTHER THAN CASH**
- 6. GIFTS MADE THROUGH WILLS**
- 7. GIFTS MADE THROUGH TRUSTS**
- 8. GIFT OF LIFE INSURANCE AND ANNUITIES**

1. COMMUNITY FOUNDATION OR PRIVATE FOUNDATION

(Excerpt from Establishing a Private Foundation, Canadian Centre for Philanthropy)

Community foundations offer an attractive alternative to the expense and administrative burden of setting up and maintaining a private foundation.

Community foundations are registered as charities under the provision of the Income Tax Act, and designated as public foundations.

Community foundations mission is to enhance the quality of life in its geographic area. It does this by receiving donations and distributing the income to charitable organizations. It is a union of many gifts, which come from individuals, families, businesses, charitable foundations and estates. From these gifts and bequests, community foundations build and maintain endowments, the earnings from which are used to solve problems and advance the interests of the community. All funds, whether large or small, receive the advantages of professional administration at a very low cost, and donors are usually provided with the maximum tax benefits allowed by law.

Community foundations are overseen by a Board of Directors who represent, and are concerned with, the diversity of community interests. The Directors of the Community Foundation of Portage & District are appointed by officials of Portage la Prairie and District: Mayor, Reeve, School Board Chairperson, Chamber of Commerce President and Member of the Legislative Assembly.

The first Canadian community foundation was established in Winnipeg in 1921. (The Community Foundation of Portage & District was created in 1994). There is a network of foundations across Canada with Winnipeg and Vancouver being the two largest.

Community foundations share a common promise and premise that the intentions of the donors to the local community will forever be translated into meaningful charitable purposes.

Community foundations offer flexibility to the donor. At the time of creating a fund within the foundation, donors can name the fund, the purpose of the fund, and even the charity to be supported... the principal is held in perpetuity, and the earnings distributed to charitable organizations of choice.

A donor wishing to create a fund has simply to instruct the community foundation in writing of the name of the fund and what he or she wants done with the income from the fund. Subject to this being accepted by the Board of Directors of the foundation, and on receipt of the gift, these wishes will be carried out.

Since a community foundation is a public foundation, the income tax rules, which affect it, are significantly less onerous than those affecting a private foundation.

There are no legal fees attached to setting up a fund in a community foundation, and the community foundation assumes the tax and the reporting responsibilities for the fund. The community foundation handles grant applications, disbursements, and receipts: in fact, all the administrative and financial details of the fund.

The donor's fund is named in annual reports and other publications of the community foundation and thus receives recognition in perpetuity.

2. ADVANTAGES OF USING A COMMUNITY FOUNDATION

Several charitable organizations or causes can be provided for with a single gift.

For example, a life insurance policy establishes a permanent capital fund in the name of the donor(s) and the annual earnings divided in thirds between university, the Boys & Girls Club, and disadvantaged children.

A donor can specify a cause without having to name a particular organization.

For example, Services for Seniors or Victims of Abuse.

During his or her lifetime, the donor can alter charitable purposes.

For example, the original agreement with the Community Foundation of Portage & District designates Bereaved Families. If that organization dissolves or the donor becomes disaffected, the agreement is easily altered at no cost.

The donor is assured that the specified cause or organization will be appropriately varied if it ceases to be viable or serve a useful purpose:

For example, a fund directed to polio could be redirected to a current health issue such as AIDS without court or other costs.

The donor is assured of professional management of a fund whose designated beneficiary may not have financial expertise:

For example, a donor admires and wishes to leave a large bequest to a small art school but knows they do not have the financial skills necessary to manage an endowment fund.

The donor is assured that the fund will remain intact in perpetuity.

For example, all too often, endowments disappear over time as charitable organizations are tempted to “borrow” from them to expend the capital. When managed by the Community Foundation of Portage & District, the organization has access only to the annual earnings.

3. GIFT OF CASH, INCLUDING MEMORIAL FUNDS

The cash gift of any amount is the traditional and familiar form of charitable giving. Community Foundation of Portage & District will issue an income tax receipt promptly after the gift is received. Donors may then, within certain limits, obtain a tax credit.

The February 18, 1997 Federal Budget relaxed a restriction on the amount of annual donations which may be deductible. Previously, deduction of donations was restricted to 50% of a taxpayer's net income. That limit has been increased to 75% of net income. The limit on donations in the year of death and the preceding year remains unchanged at 100% of net income.

An annual cash-gifting program can be a tax savings option for an elderly person who has plans to make a large charitable donation upon his or her death. If the gift is saved until the donor dies, the charitable credit cannot be applied backwards. If the donation exceeds the income in the year of death and the immediately preceding year, the remainder, from a tax point of view, is wasted. Had the same gift been donated in cash over a number of years, a potentially larger tax savings may have been possible. (See Sheet 6: *Gifts made through Wills.*)

A donor making a cash gift to the Community Foundation of Portage & District may direct it to the Foundation generally, to a particular charitable purpose, or to an existing fund within the Foundation. A donor can also establish his or her own fund - either immediately, or with a series of payments. In order to keep administrative costs down, an aggregate contribution threshold of \$5,000 is required in order to establish a separate fund. Once a fund is established, it receives permanent recognition in the Foundation's *Annual Report*.

A **memorial fund** with the Community Foundation of Portage & District is a particularly effective way to marshal cash gifts. After a relative's death, instead of directing friends to donate to "the charity of your choice," the family can direct donations to the "___ Fund with the Community Foundation of Portage and District." If it is to become a new named fund, a pledge to top up the contributions to the \$5,000 minimum is required. In addition to the fact that the deceased receives permanent recognition (the capital is maintained in perpetuity in a fund named for him or her) the family has the option to specify how the earnings of the fund are to be spent, and continue to be involved in the annual allocation of the earnings.

Technical Reference

IT-110R2 *Deductible gifts and official donation receipts*

4. TYPES OF FUNDS, AND WHO USES THEM

A donor to the Community Foundation of Portage & District can either make a general gift to The Foundation, or establish a Fund. The threshold requirement for the establishment of a fund is \$5,000.

Funds can be earmarked in a number of ways:

- **Undesignated Funds** allow The Foundation maximum flexibility in determining exactly how income is allocated year by year. Such an all-purpose **Community Fund** is the most flexible for responding to emerging charitable needs in our community and therefore has the greatest possible impact.
- **Designated Funds** are funds under which the donor has specified, in a general or particular way how the income derived from the fund is to be spent.
- For **Advised Funds**, the donor retains the right to advise The Foundation how the income should be spent. Revenue Canada policy requires that the final say rest with The Foundation.

An individual donor may wish to allocate his or her gift to any one of the three types of funds. However, not just individuals can take advantage of the resources of the Community Foundation of Portage & District, for example:

- **A charity that wishes to establish its own endowment fund** but does not have the resources fully to administer and invest it, may wish to establish its endowment with the Community Foundation of Portage & District as a Designated Fund.
- **A corporation that wishes to rationalize its giving program**, or reduce the administrative costs of dealing directly with requests for funding, may wish to set up an Advised Fund and use the resources of The Foundation to evaluate requests.
- **A family that is considering setting up a Family Foundation** may find it quicker, cheaper and less troublesome on an ongoing basis to set up a Designated or Advised Fund with the Community Foundation of Portage & District, without sacrificing any of the real benefits of having a Family Foundation. (See Sheet 1: *Community Foundation or Private Foundation?*)

More information about the various funds the Community Foundation of Portage & District has under administration, and about the grant making process The Foundation allows, can be found in The Foundation's *Annual Report* that is enclosed with this package.

5. GIFTS OF PROPERTY OTHER THAN CASH

Subject to reasonable limits (we would be unlikely to accept a gift of an operating donut shop), donors may give property to the Community Foundation of Portage & District in a form other than cash.

Examples include securities, bonds and/or mutual funds. If you consider this type of gift to a charity rather than giving cash, it may maximize your tax benefits. Normally, one pays tax on 50% of any capital gains resulting from the sale of property. When such an asset is donated to charity, one only pays tax on 25% of the capital gain.

A donor may wish to utilize a provision to the Income Tax Act permitting a donor to elect the “tax value” at which the property is transferred to The Foundation. For example, a donor holding a stock portfolio can transfer the portfolio to The Foundation at its adjusted cost base, and, therefore avoid triggering any capital gain at all. He or she will also receive a tax receipt of the amount of the adjusted cost base of the portfolio. The Community Foundation of Portage & District may well decide to liquidate the portfolio the next day, but The Foundation does not pay tax.

Because of the complexity of the issues surrounding donations of property other than cash, the prospective donor would be advised to speak to his/her professional advisors before proceeding.

In an appropriate case, the Community Foundation of Portage & District can arrange for the donor to retain the use of the donated asset for his or her lifetime. This will have some effect on the value of the receipt.

Technical Reference

IT-110R2	<i>Deductible gifts and official donation receipts</i>
IT-288R	<i>Gifts of capital properties to a charity and others</i>
IT-297R2	<i>Gifts in kind to charity and others</i>

6. GIFTS MADE THROUGH WILLS

Wills are a popular vehicle for donors to make gifts to charities. The key to a successful gift in a Will is to be aware of the different ways the gift can be structured.

Some of the possibilities are:

1. Give a fixed sum to the Community Foundation of Portage & District in any and all events. The advantage of this technique is that it gives The Foundation no standing to oversee the executor's conduct of the estate administration, and is simple to administer.
2. Give a proportionate share to the Community Foundation of Portage & District in any and all events. This allows the value of the donation to stay in proportion to the size of the estate.
3. Give a contingent gift. For example, the donor may designate that the Community Foundation of Portage & District receive the gift if a primary beneficiary predeceased the donor and the donor is less anxious to benefit secondary beneficiaries.
4. Make a gift of a particular asset such as the proceeds of insurance payable on accidental death.
5. Instead of making an outright gift to a person who primarily requires income (such as an elderly relative, who, if given an outright gift, may leave the capital to another purpose shortly after the donor's death) create a trust. The provisions of the trust could provide income to that person, and then distribute the capital to the Community Foundation of Portage & District when he or she dies or no longer needs the income. From a tax-planning standpoint, care must be taken in drafting such a provision. (See Sheet 7: *Gifts Made through Trusts*).
6. Think of the estate as a series of layers of value. Give the first layer to the immediate family to ensure they are well provided for. But then, if there is some left over, give a layer to the Community Foundation of Portage & District to address community needs that may be more acute than the family's after they have been provided for.
7. Think of The Portage and District Foundation as a beneficiary of last resort, if all those the donor really cares to benefit die.

Unfortunately, a Will is sometimes used as the only time and place for a charitable donation. Although the March 6, 1996 Federal Budget increased the amount of a charitable donation which can be deducted in the year of death from 20% of net income to 100% of net income, a large donation could still be "wasted" in a tax sense. The donation can only be carried back one year and not forward at all. If, after eliminating all income in the year of death and preceding year, undeducted donations remain, they will not be deductible in any other way. A program of planned giving over a donor's lifetime may, therefore, be more tax effective. (See Sheet 3: *Gifts of Cash, Including Memorial Funds*; Sheet 7: *Gifts Made Through Trusts*; and Sheet 8: *Gifts of Life Insurance and Annuities*.)

To its credit, the Will is marvelously flexible. It can be changed at any time up until death, and the donor feels no pain while alive. However, it is worth remembering the obvious fact that the Will, and the terms of the gift made by the Will to the Community Foundation of Portage & District, cannot be changed after the donor's death. If the donor plans a gift other than a general gift or a gift for generally defined objectives, he or she should discuss this with the Community Foundation of Portage & District. Further, the donor may want to enter into an agreement to create a fund at his or her death, which will ensure the gift can be practicably applied. In that manner, the Will can simply direct payment to the Community Foundation of Portage & District in accordance with the agreement.

7. GIFTS MADE THROUGH TRUSTS

A trust can be a great vehicle by which to make a large gift that is only paid out of the donor's estate on death. This is because a tax receipt can be obtained right at the time the trust is created.

The technique requires that the donor set aside a certain fund of money. A document (the trust agreement) sets out that the donor (or nominee) will receive the income from the fund while he or she is alive. Upon his or her death, the fund will be payable to the Community Foundation of Portage & District. The donor, in essence, foregoes the right to eat into the capital, or to change his or her mind as to where the capital goes on his or her death.

Revenue Canada will issue a tax receipt in the year the trust is created, but not for the full amount paid to the trust. The amount is, instead, discounted by the remaining life expectancy of the donor. The capital must be intact for the charity, or only eaten into at a fixed rate. If the trustee has the discretion to eat into the capital for the benefit of the donor without limitation, the tax receipt will be valueless.

This sort of arrangement is sometimes referred to as a charitable remainder trusts. The trust is usually established by and for the immediate benefit of a living donor (inter vivos trust). However, it can be established under a Will (testamentary trust), in which case the charitable receipt is applied to the year of the donor's death. The inter vivo trust, when established properly, will have the added benefit of avoiding probate fees that would be charged on the assets if they were dealt with by the donor's will.

The transfer of non-cash property to the trust will normally generate a deemed disposition of that property at a fair market value, and therefore produce taxable income. However, the donor can select the *tax value* at which property is transferred (see Sheet 5: Gifts of Property other than Cash), and therefore, if desired, avoid exposure to any capital gain, or trigger enough income to offset losses incurred elsewhere.

Where real estate is involved, the donor can avoid the use of a formal trust agreement and simply transfer the property to the Community Foundation of Portage & District subject to his or her registered life interest.

The charitable remainder trust might work well in the following case: an elderly couple with no children, or well-to-do children, plans to leave some of their combined estate to the Community Foundation of Portage & District after they both die. They are confident that they can commit a chunk of their capital to the Foundation now, and receive only the income it produces. They like the idea that control of the capital remains in their hands. They understand the ground rules: they cannot touch the capital, and they cannot change the ultimate beneficiary.

Technical Reference

IT-226R Gift to a charity of a residual interest in real property or an equitable interest in a trust.

8. LIFE INSURANCE AND ANNUITIES

- Life insurance may be **owned by the Community Foundation of Portage & District**. A donor purchases a policy and then immediately donates it to The Foundation, which designates itself as beneficiary. The donor will receive acknowledgment from The Foundation as soon as the policy is purchased and assigned. The donor continues to pay the premiums and receives a charitable receipt for each premium payment.
- A donor can give an existing policy to the Community Foundation of Portage & District, in which case he or she receives a tax receipt for each premium payment.
- Paid up insurance policies may also be given to the Community Foundation of Portage & District during the lifetime of the donor, but care must be taken, in the case of an absolute assignment, to check whether this might trigger personal tax problems.
- Life insurance can also be **owned by the donor**. In this case, the donor does not receive a tax credit for the premiums: instead, he or she receives a credit for the death benefit left to the charity in his or her Will. The charitable donation (within limits - see Sheet 6: *Gifts Made Through Wills*) will reduce taxes otherwise payable at death, such as capital gains arising from deemed dispositions and/or the balance in RSP or RIF accounts.
- Life insured corporate debentures are another option. (See Sheet 5: *Gifts of Property other than Cash*.)

ANNUITIES:

An annuity is a life insurance product. A charitable annuity is an annuity issued by the Community Foundation of Portage & District, underwritten by a life insurer. The donor gives The Foundation a lump sum, and The Foundation in turn, through the insurer, promises to pay the donor an agreed upon series of payments for life. Revenue Canada publishes a life expectancy table that allows The Foundation to calculate, as a lump sum, the level at which this stream of payments is anything more than a return of the capital to the donor. Anything less is an immediate charitable gift that generates a receipt, and all the payments made under the annuity are tax-free.

- Donors frequently combine a non-charitable annuity with a life insurance purchase. The annuity payments are, in part, used to fund a Community Foundation of Portage & District-owned life insurance policy, with the result that the charitable receipt for the annual premiums reduces the taxable component of the annuity. Those in the life insurance field maintain that the use of this technique produces a higher annual income for the donor than simply investing the capital in a term deposit, paying tax on the interest, and leaving the capital to charity by Will. A close comparison should be made with the charitable remainder trust (See Sheet 7: *Gifts Made Through Trusts*).

Technical Reference

IT-244R3 Gifts by individuals of life insurance policies as charitable donations

IT-111R2 Annuities purchased from charitable organizations