FOREVER AND EVER… HEREAFTER

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In my last article, I outlined some ways you can show your generosity by making your planned gift during your lifetime. In this article I want to explore the ways you can make your gift after you die.

There are many reasons why most planned gifts occur at death. The first is the nature of life itself. We have no idea how long we will live, or what financial responsibilities may need to be met by our accumulated capital. Will inflation rear its ugly head? Will I need long term care? Will I need my capital for my spouse or my needs? The second is the nature of our generosity. Statistics show that Canadians over the age of 65 are the most generous donors in both numeric and on a per capita basis. In other words, they volunteer and they give more as a percentage of their income. That generation has been generous to their children in life, but choose to expand their generosity at death. Gender is the third reason. Women tend to out live their spouse, so they inherit. Traditionally, they have been the active volunteers, and the church becomes their extended family in widowhood. The decisions they subsequently make around money and generosity reflects that. (I know some of this suggests some gender stereotyping, and the situation is changing as women create their own capital, but the statistics still reflect the stereotype). The last reason relates to tax. Until 10 years ago, the income tax structure did not provide significant incentive to give. The joke used to be that you got a greater tax break giving to the political party structure than you did to a charity. That has changed, as I alluded to in my last article. The greatest tax liability we incur tends to happen at death when cottages, stocks, and other capital property with accrued tax liability are sold or transferred to the next generation. For most of us, the biggest tax liability is the value of our registered plans. All that tax deferral comes back to bite at the death of the second spouse in a family. From an estate planning perspective, all that potential tax favours a generous decision to make a planned gift when we die to (partially) offset that tax. For many donors, the decision of when (during life or at death) to give may boil down to maximizing the tax impact of the gift.

The most common way to give is a direct **bequest in the will**. The will has six essential qualities to it.
Most importantly, it tells or completes the story. It is often referred to as 'the last will and testament'. And what is a testament, but a story? Your story! You can choose to write the story, or you can let the state do the job. Who is better equipped?
Secondly, the will gives direction. Who gets what property? When do they get it? Should there be restrictions on income or capital? Your will gives this direction.
Thirdly, the will places someone in charge of your estate. It names the trustee (Executor) and it names guardians for your minor children (or adult dependent children).

Another essential quality is to create the centrepiece of testamentary estate planning. A properly drafted will enables your trustees to arrange your estate in such a way as to minimize or defer taxes.
The will establishes trusts. Trusts are common in second marriage situations, where the principal asset may be a family business or cottage, where there are minor children, or if there is an adult dependent child who should not inherit directly.
Finally, the will establishes charitable **bequests** (gifts).

If all this sounds way too complicated, here are three reasons why you should not prepare a will. 1) The court can do a better job of deciding how to disburse your estate than you can. 2) The court can choose a more caring guardian or trustee than you can. 3) The government will minimize the amount of tax your estate pays and use that money more efficiently than your family or a charitable beneficiary. If you believe these statements, I suggest you stop reading this article, and tackle Stephen's 'Holy Mysteries' column.

The Church of the Redeemer can be named as a beneficiary of a lump sum, a share, or a percentage of the estate. You can also do a **contingent bequest**. For example, Jane's will says everything goes to her spouse who survives her, otherwise to her children and the Church of the Redeemer in equal shares. A contingent bequest is particularly helpful as the last beneficiary if a disaster occurs. If Jane and her spouse are young parents with children they all die in a house fire, the will has a clause saying all the estate goes to the church, rather than splitting the estate among siblings or family of the parents, if no immediate family survives. Obviously, we hope not to inherit under such tragic circumstances. However, the young family in this example has done two things. They have prepared a will, which, if you glean nothing else from this article, everyone should prepare. Secondly, they have demonstrated their charitable intent. As they age and their estate grows and their thoughts become clearer the gift moves from 'what's left?' to 'how much more?'

In my last article I talked about a **charitable foundation** as a recipient of an *inter vivos* gift. You can also do the same in your will, especially if there are multiple charitable beneficiaries.

A **gift of residual interest** or **charitable remainder trust** is another way your will can express your charitable intent. These gifts are somewhat problematic, because it is difficult for the Canada Revenue Agency to value the gift. The residual interest has to be discounted from the FMV in determining the receipt. This is one gift where it is imperative to get professional advice before proceeding.

An easy way to accomplish your charitable intent is by way of **beneficiary** designation of assets outside the will. In my last article I referred to **life insurance** policies where ownership is transferred to the charity. As a testamentary gift, the insured names the

charity as beneficiary or makes the designation in their will. There is no charitable tax credit during the insured's lifetime, but the full death benefit is a credit to the insured's estate when they die. This is a particularly beneficial result if that is when significant taxable events occur, such as RRSP/RRIFs coming into income, or a capital asset such as a cottage or shares comes in to the estate. You can also name the parish as **beneficiary of your RRSP/RRIF/LRIF.** This accomplishes your charitable objective, and avoids probate fees on these assets. Another little known way of naming a beneficiary and avoiding probate is the use of **insurance company non registered segregated funds or GIC products**. The new **Tax Free Savings Account (TFSA)** has a provision for a beneficiary designation in addition to naming your spouse as successor holder. When you die, your spouse succeeds as owner, but on their death, the beneficiary designation applies. (There is ambiguity about this strategy because, although the TFSA is a federal initiative, the laws around succession are provincial. Currently, Ontario has not amended its law to allow for a TFSA beneficiary designation. Although your intent may be clear, it might be challenged by an heir.)

Throughout this article I have made frequent use of the word 'beneficiary'. The other word I used was 'testament'. I can't help it. When you 'go technical', as these articles have done, you have no choice. Our journey with Christ has brought us to this place we call Redeemer. As we grow together in Jesus Christ, we realize we are the beneficiaries of so much. Call it grace, call it redemption, call it salvation, call it what you want. We have been endowed with the gifts of life, of love, of wealth, of community, of creation. What makes these gifts so special for us, as beneficiaries, is our ability to share these gifts with others, to open doors, widen the circle of beneficiaries, and to proclaim the Good News at Bloor Street and Avenue Road. This is our testament. Forget the technical stuff. Complete your story. Create new beneficiaries. Make your gift, in Christ's name. Amen.