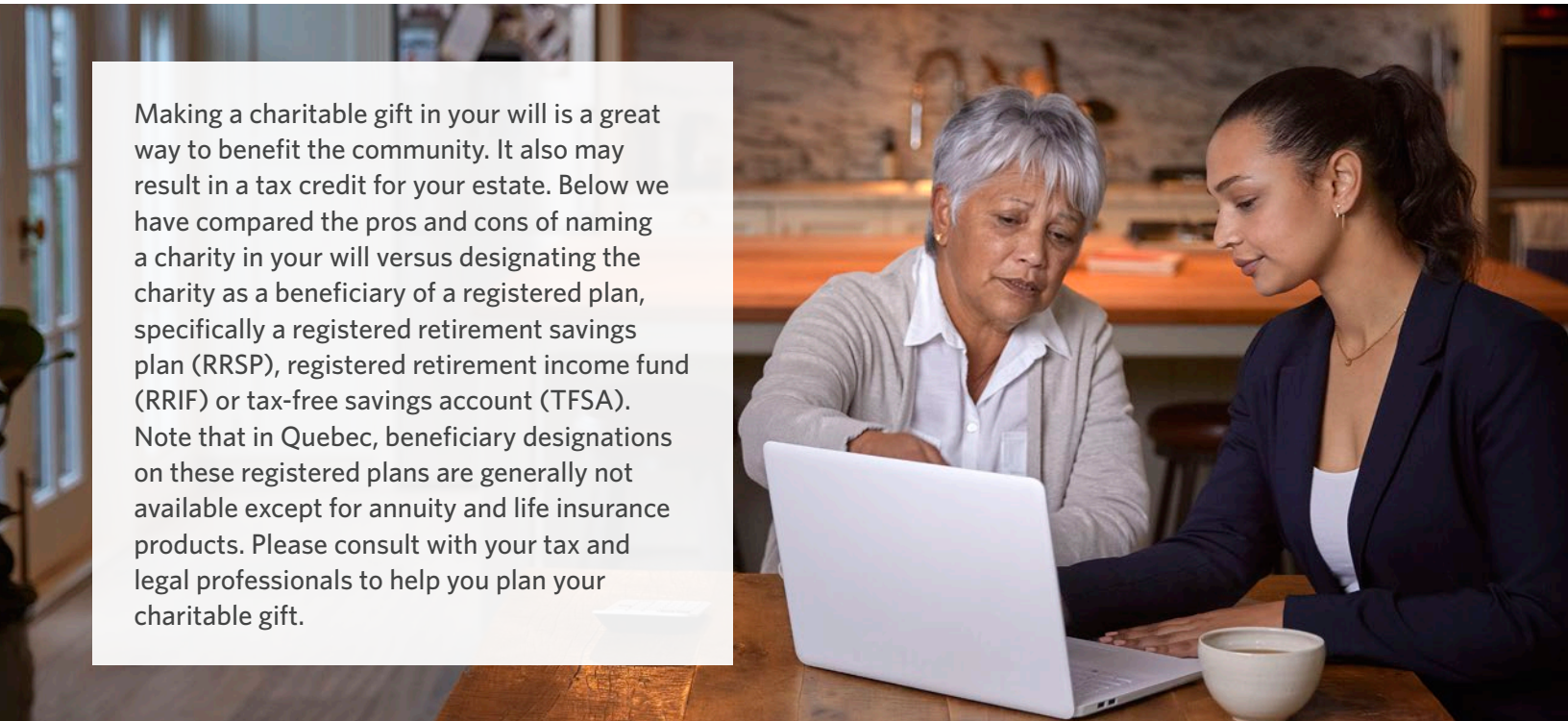


CHARITABLE GIFTS: WILLS VS. BENEFICIARY DESIGNATIONS

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Kate Lazier, Director of Philanthropy and Legacy Planning, CIBC



Making a charitable gift in your will is a great way to benefit the community. It also may result in a tax credit for your estate. Below we have compared the pros and cons of naming a charity in your will versus designating the charity as a beneficiary of a registered plan, specifically a registered retirement savings plan (RRSP), registered retirement income fund (RRIF) or tax-free savings account (TFSA). Note that in Quebec, beneficiary designations on these registered plans are generally not available except for annuity and life insurance products. Please consult with your tax and legal professionals to help you plan your charitable gift.

Pros to naming a charity in a beneficiary designation

1. A registered plan can be paid directly to the designated beneficiary without becoming part of your estate. This can reduce probate tax in some provinces and can lower the executor's compensation.
2. Beneficiary designations are generally paid faster. This can be helpful to claim the donation tax credit in the terminal tax return for the deceased. Most wills need to be probated before the executor can pay amounts to the beneficiaries. Waiting for probate may mean that the executor has to file the terminal return before the executor can make the charitable gifts set out in the will. Since the charitable gifts have not been made, the executor may need to pay more tax to avoid interest and will need to refile the terminal return after the charitable gifts are made in order to claim the tax credit.
3. Beneficiary designations can be easier for the executor. Plan proceeds are paid directly from the financial institution without the involvement of the executor. The executor does not need to deal with the charity or disclose information about the estate to the charity.
4. Beneficiary designations may provide more privacy for donors compared to a gift in a will. While an executor may be able access information about a beneficiary designation, probated wills are public documents. Therefore making gifts in a beneficiary designation may be helpful when a client does not want others to readily know the extent of their generosity.
5. The beneficiary designation may be less likely to be challenged in court.

Cons to naming a charity in a beneficiary designation

1. If the donor has a spouse, partner or dependent child or grandchild with a disability, then they should consider leaving their RRSP or RRIF proceeds to those family members for potential tax -deferral on the transfer. Similarly they should consider leaving their TFSA proceeds to their spouse or partner who may then be able to continue tax-free savings on that amount because they will have increased TFSA room. In these cases it may be beneficial to gift other assets to charity.
2. If the donor owns publicly listed securities, then it may be more beneficial to gift the securities instead of naming the charity as beneficiary of their registered plans. Gifting publicly listed securities can result in charitable tax credit as well as no tax on the capital gains for gifted securities. The donor may also get equivalent tax treatment when stock options for publicly-traded securities are exercised and the shares are donated within 30 days.
3. A beneficiary designation gifts the value of the registered plan at the time of death to the charity. Registered plans tend to fluctuate in value, due to market fluctuations and personal withdrawals or additions to these accounts. Therefore the balance to charity may be higher or lower than intended by the donor.
4. While a beneficiary designation gifts the value of the registered plan to the charity, taxes attributable to the deemed income inclusion of the date of death RRSP and RRIF value are still included in the donor's terminal tax return. This may be a surprising result for some people, but also note that these taxes may be offset by the charitable tax credit generated by the gift.



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