



ST JOHN'S COLLEGE

Gifts Involving Trusts

There are many reasons why an individual may wish to create a trust:

1. As a means to protect privacy since trusts are not subject to probate and therefore never become public documents;
2. As a way to transfer assets to a spouse in a way that defers the capital gains to a future date;
3. As a way to provide a managed income stream for family members;
4. As a way to avoid probate fees and to offset income taxes;
5. Or to provide financial protection for loved ones, dependent adult children, or adult children who may have diminished finances due to divorce or other significant event.

A trust has the following four elements:

- Settlor – the person who establishes the trust
- Trustee – the person or institution that holds or invests the property transferred into the trust by the settlor
- Income Beneficiaries – the person(s) who is/are entitled to the earnings on the trust property
- Remainder Beneficiaries – the person(s) or institution(s) that receives all or part of the assets that are remaining in the trusts when the trust terminates

When an individual creates a trust in which all or a part of the assets are left to the college when the trust terminates, the charitable sector refers to these gifts as charitable remainder trusts. The legal profession may call these same trust instruments by names such as spousal, alter-ego, joint partner, revocable, irrevocable, inter-vivos (created while the individual is living) or testamentary (meaning trusts that take effect at the time of death), or many other terms.

In order to make a trust cost efficient, trusts should really only be considered if the assets available to be placed into it are valued at \$200,000 or more.

Trusts Qualifying for a Tax Receipt at the Time of Creation

For a trust to qualify for a tax receipt at the time of creation, it must be transferred to the charity on the trust's termination date, irrevocably. The tax receipt would be calculated based on the present value of the amount that will be remaining when the charity receives the transferred assets. The original assets transferred into the trust cannot be transferred out to the beneficiaries, but must remain intact for transfer to the charity. The trust beneficiaries instead receive the income generated by the trust assets for the period of time that the trust is in effect. This income is taxable to the beneficiaries at the applicable tax rate.

An individual may consider establishing an irrevocable trust if he or she wishes to ensure a gift to a charity while at the same time:

- Help offset income tax payable that an income tax receipt would offset;
- To provide an income stream for a period of time to their spouse, children or other family members who are not in a position to manage the assets themselves because the family member is a minor, disabled or imprudent with money.

Trusts Qualifying for a Tax Receipt at the Time of Termination

There are times when no tax receipt will be issued upon the creation of a trust. These trusts are not required to be irrevocable, and trust beneficiaries may withdraw from the original assets placed into the trust upon the approval of the trustee. When there is a provision in a revocable trust that transfers the residual, or remainder of the trust to a charity, the charity may issue a tax receipt based on the fair market value of the residual assets when they are received.

An individual may consider establishing a revocable trust to:

- To provide an income stream for a period of time to their spouse, children or other family members who are not in a position to manage the assets themselves

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