

Index

Canada Not-for-Profit Corporations Act, 155

Canada/US cross-border gifts, 60-61

charitable gift agreements

checklist for preparing, 171-172

distributions from charitable trust fund, 111-112

donors

advisors, 112-113

recognition of, 113-114

reporting to, 113

generally, 107-108

identification of gift property, 109

identification of parties, 108

settlement of charitable purpose trust or identification of precative gift, 109

specific charitable purposes and alternative purposes, 109-110

terms of charitable trust fund, 110-111

transfer of charitable trust fund, 112

charitable pledge agreements

checklist for preparing, 173

generally, 114-117

charitable remainder trusts

generally, 55-56

inter vivos, 88-90

testamentary, 90-91

charities, generally, 1-3

Charities Accounting Act (Ont.), 6, 102, 103, 105, 110, 111, 137, 156-157

charity, defined, 3-5

checklists

charitable gift agreements, preparing, 172-173

charitable pledge agreements, preparing, 174-175

questions for donors prior to gift-making, 176

questions for effective testamentary giving, 180

questions for registered charities prior to gift acceptance, 181-182

questions when preparing gift acceptance policies, 177-178

questions when preparing sponsorship agreements, 179

corporate philanthropy

corporate sponsorship agreements and sponsorship policies

acceptable and non-acceptable sponsorship arrangements, 146-147

- checklist for preparing sponsorship agreement, 175-176
- documenting sponsorship arrangement, 146
- parameters of sponsorship arrangement, 147-148
- gifting, sponsorship and other tax issues
 - gift acceptance issues, 144-145
 - gifting vs sponsorship, 141-144
- parallel foundations
 - designation as registered charity, 158
 - potentially negative factors, 153
 - potentially positive factors, 152-153
 - steps to establish
 - charitable purposes and activities, 157
 - control and funding, 157-158
 - form, 154-156
 - jurisdiction, 156
- strategies, 148-152
- crowdfunding, gift by**, 59-60
- cryptocurrency, gift of**, 59
- cultural property, gift of**, 44-45
- deemed gifts**, 74-75
- documenting charitable gifts**
 - charitable gift agreements
 - distributions from charitable trust fund, 111-112
 - donors
 - advisors, 112-113
 - recognition of, 113-114
 - reporting to, 113
 - generally, 107-108
 - identification of gift property, 109
 - identification of parties, 108
 - settlement of charitable purpose trust or identification of precative gift, 109
 - specific charitable purposes and alternative purposes, 109-110
 - terms of charitable trust fund, 110-111
 - transfer of charitable trust fund, 112
 - charitable pledge agreements, 114-117
 - generally, 107
- donor restricted gifts**
 - consequences of restrictions, 97-101
 - generally, 93-94
 - tips and traps

- acceptability of donor-imposed restrictions, 102
- amending restrictions once imposed, 103-105
- compliance with restrictions, 102-103
- excessive restrictions and donor retention of control, 101-102
- flexibility and alternatives, 105-106
- types of restrictions
 - restricted purposes, 94-96
 - restrictions on expenditures, 96-97

due diligence for charities

- generally, 131
- gift acceptance policy
 - checklist for preparing, 174-175
 - generally, 136-139
- questions for registered charities prior to gift acceptance
 - generally, 131-132
 - what is the property being gifted, 135-136, 177-178
 - what is the value of the gift for receipt purposes, 136, 178-179
 - who is the donor, 132-134, 177

due diligence for donors

- abusive tax shelter charitable gifting arrangements, 128-129
- checklist, 174
- generally, 119
- questions for donors prior to gift-making, 127-128
- regulation of registered charities
 - business activities, 124-125
 - charitable receipting, 124
 - direction and control over charitable activities, 123
 - disbursement of charitable funds, 122
 - disbursement quota obligations, 123-124
 - exclusively charitable activities, 122
 - fundraising activities, 125-126
 - generally, 120-122
 - other compliance obligations, 126
 - political activities, 126
- reviewing personal goals and circumstances, 119-120

ecological gifts, 43-44**eligible refundable dividend tax on hand (ERDTOH), 47-48**

Estate Administration Tax Act, 1998, (Ont.), 75

Family Law Act, (Ont.), 134

flow-through shares, gift of, 57-58

gifts

- Canada/US cross-border gifts, 60-61
- charitable remainder trusts, 55-56
- crowdfunding, 59-60
- cryptocurrency, 59
- cultural property, 44-45
- defined, 17-19
- ecological gifts, 43-44
- eligible amount of gift
 - determining amount of advantage, 24-27
 - determining fair market value, 20-24
 - generally, 20
- flow-through shares, 57-58
- gift acceptance policy of charity
 - checklist for preparing, 174-175
 - generally, 136-139
- hedge fund interest, 57
- life insurance policies
 - charity-owned insurance policy, 52-54
 - donor-owned insurance policies and other beneficiary designations, 54
 - generally, 51-52
 - gifting through corporation, 54-55
- limited partnership interests, 56
- private company shares and non-qualifying securities
 - generally, 45-46
 - personal vs corporate charitable giving, 46-47
 - private company shares, 47-48, 48-51
- publicly traded securities and other capital property, 41-43
- tax-free savings accounts, 58-59
- testamentary gifts, *see* **testamentary charitable giving**

graduated rate estate (GRE)

- benefits, 69-71
- testamentary charitable gifts, and, 71-72, 87-88

hedge fund interest, gift of, 57**life insurance policies, gift of**

- charity-owned insurance policy, 52-54
- donor-owned insurance policies and other beneficiary designations, 54
- generally, 51-52
- gifting through corporation, 54-55

limited partnership interests, gift of, 56**non-eligible refundable dividend tax on hand (NERDTH), 47-48**

Not-for-Profit Corporations Act, 2010, (Ont.), 155

parallel foundations

- designation as registered charity, 158
- potentially negative factors
 - administrative and regulatory compliance burden, 153
 - potential for negative publicity, 153-154
- potentially positive factors
 - centralization, cohesiveness and coordination, 152
 - control, 153
 - flexibility, 152-153
 - publicity, 153
- steps to establish
 - charitable purposes and activities, 157
 - control and funding, 157-158
 - form, 154-156
 - jurisdiction, 156

private company shares and non-qualifying securities, gift of

- generally, 45-46
- personal vs corporate charitable giving, 46-47
- private company shares
 - gifts of, 47-48
 - non-qualifying securities, 48-50
 - other issues, 50-51
 - testamentary gifts of, 50

private foundations, 159-166

Public Guardian and Trustee Act, (Ont.), 7

publicly traded securities and other capital property, gift of, 41-43

receipting, charitable

- auctions, 34
- charitable pledges, 30
- charity golf tournaments, 33
- content and issuance of receipts, 35-37
- donor-directed funds, 29
- fundraising events, 32-33
- generally, 124
- gift certificates, 30-31
- improper receipting, consequences, 38-39
- inventory, 30
- loans of property, 28
- lotteries, 32
- membership fees, 33-34

- naming rights, 34-35
- non-qualifying securities, 31
- provision of services, 27-28
- sponsorship, 31
- volunteer expenses, 29-30

regulation of registered charities

- business activities, 124-125
- charitable receipting, 124
- direction and control over charitable activities, 123
- disbursement of charitable funds, 122
- disbursement quota obligations, 123-124
- exclusively charitable activities, 122
- fundraising activities, 125-126
- other compliance obligations, 126
- political activities, 126

sponsorship agreements and sponsorship policies

- acceptable and non-acceptable sponsorship arrangements, 146-147
- checklist for preparing sponsorship agreement, 175-176
- documenting sponsorship arrangement, 146
- gifting vs sponsorship, 141-144
- parameters of sponsorship arrangement, 147-148

strategies for involved donors

- checklists
 - charitable gift agreements, preparing, 171-172
 - charitable pledge agreements, preparing, 173
 - questions for donors prior to gift-making, 174
 - questions for effective testamentary giving, 176-177
 - questions for registered charities prior to gift acceptance, 177-179
 - questions when preparing gift acceptance policies, 174-175
 - questions when preparing sponsorship agreements, 175-176
- donor-advised funds, 166-171
- private foundations, 159-166

Succession Law Reform Act, (Ont.), 134

tax-free savings accounts (TFSA), gift of, 58-59

tax implications

- abusive tax shelter charitable gifting arrangements, 128-129
- benefits of charitable giving
 - corporate donors, 14-15
 - generally, 10-11
 - individual donors, 11-14

Income Tax Act

- charitable tax receipts, *see* **receipting, charitable**
- generally, 1
- new tax regime, 2014 amendments, 68-75
- qualified donee, defined, 10
- registered charities under, 5-9
- trusts under, 81-83
- taxation of testamentary gifts
 - new tax regime
 - deemed gifts, 74-75
 - generally, 68-69, 72-74
 - graduated rate estate (GRE), benefits, 69-71
 - GRE and testamentary charitable gifts, 71-72
 - on death, 67-68
- taxation on death, benefits of charitable giving, and**, 67-68
- tax-free savings accounts (TFSA)**, 58-59, 66, 72, 74-76
- testamentary charitable giving**
 - all or part of residue of estate, 65
 - best practices, 75-78
 - checklist for effective giving, 176-177
 - contingent gift in event that beneficiary predeceases testator, 65
 - discretionary beneficial interest, 66
 - generally, 63-64
 - gift management by registered charities, 78-80
 - gift subject to intervening life interest, entitlement upon death of life tenant, 65-66
 - other gifts arising on death of donor, 66
 - outright legacies or bequests, 64
 - taxation
 - new tax regime
 - deemed gifts, 74-75
 - generally, 68-69, 72-74
 - graduated rate estate (GRE), benefits, 69-71
 - GRE and testamentary charitable gifts, 71-72
 - on death, 67-68
- “third sector”**, 1
- Trustee Act**, (Ont.), 110, 137, 160
- trusts**
 - charitable gift agreements, provisions of
 - distributions from charitable trust fund, 111-112
 - settlement of charitable purpose trust, 109
 - terms of charitable trust fund, 110-111

- transfer of charitable trust fund, 112
 - charitable remainder trusts
 - inter vivos*, 88-90
 - testamentary, 90-91
 - forms of gifts, 83-84
 - generally, 81
 - graduated rate estates, 87-88
 - Income Tax Act*, and, 81-83
 - life interest trusts, 84-87
- Wills, Estates and Succession Act* (B.C.), 134