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COMMENT

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DISBURSEMENT QUOTA CHANGES FOR CHARITIES

Registered charities have an annual disbursement quota that sets out the minimum amount they are required to spend each year on their own charitable activities, or on gifts to other registered charities. The purpose of the quota is to ensure funds received from donors flow efficiently through to the activities of the charity and are not spent on excessive administration or accumulated in perpetuity.

Concerns had been raised by the charitable community that the disbursement quota was overly restrictive and difficult to administer for small and rural charities. As a result, the government announced in its 2010 federal budget that the quota would be significantly simplified and streamlined. The changes allow many charities to avoid penalties and/or deregistration over excessive administrative expenses or accumulations of capital. At the same time, to ensure charitable objectives are being met, the Canada Revenue Agency has increased its oversight of charity activities.

For charitable organizations, the new disbursement quota is 3.5% of the average value, over the prior two years, of the charity's property that was not used for its charitable activities or administration. The formula excludes buildings or equipment that is used directly by the charity in the completion of its objectives. In general terms, this means the formula uses the charity's investment funds as the base and requires that the charity spend at least 3.5% of the value of these funds annually. It should be noted that the new disbursement quota does not apply to those charitable organizations that do not have at least $100,000 of such accumulated property. As a result, smaller charities, or those that have not accumulated property, will no longer be subject to the disbursement quota.

For public and private foundations, the disbursement quota is the same as that for a charitable organization; however, rather than a $100,000 threshold before the formula applies, the minimum is set at $25,000.

The 3.5% disbursement quota is fixed in the Income Tax Act (Act) legislation, rather than being linked to any external measure or set under the regulations of the Act. This means it will take an act of Parliament to change the factor in the future.

The regulations to the Act provide that the value of a life insurance policy (that is not an annuity or segregated fund policy) that is owned by a charity is deemed to be nil for purposes of the disbursement quota. This means that life insurance policies that have sufficient cash value to support the life insurance coverage will not impact a charity's disbursement quota.

It should be noted that a non-exempt life insurance policy would also be deemed to have a nil value for purposes of the disbursement quota. This could lead to planning to donate newly issued policies that have sufficient cash value to carry the life insurance coverage. Typically, single-pay life insurance products would not qualify for exempt status. From the charity's point of view, however, exempt status is not important (since the charity is not subject to income tax). This ability to hold paid-up non-exempt policies enables charities to better manage their portfolio of life insurance policies without an ongoing obligation for premium payments.

In the past, an individual may have made a gift of a life insurance policy and directed that the gift be subject to a "ten-year direction." Subjecting the gift to a ten-year direction meant that the gift of premiums was not part of the former 80% disbursement quota. While the ten-year direction is no longer required for current or future premiums, any directions made in the past will still have to be honoured by the charity because that was the commitment made at the time the gift was made.

Under these rules it is therefore simpler to donate a policy for which all the premiums have been prepaid, or which has a very short premium payment period. Most charities would prefer such a donation (if they accept gifts of life insurance policies) as it gives them greater certainty that they will not be left holding an expensive premium payment responsibility.

Charities are integral to Canadian society as they provide valuable services using funds contributed by Canadians. By giving generous tax assistance for charitable donations, the government is subsidizing those charitable programs. By providing fair rules for charities with respect to their disbursement quotas, the government ensures charitable gifts are spent on the objectives of the charity.

I/R 1600.00

CHANGING TRENDS AFFECT RETIREMENT PLANS

Everyone wants to feel financially secure and in a position to enjoy a worry-free retirement; achieving this, however, requires careful advance planning. Without disciplined action on a realistic plan, retirement in a comfortable lifestyle may be unattainable in a reasonable time frame.

Between 1997 and 2010, the rate of employment for individuals over age 55 increased substantially, with an increase of about nine per cent for men and nearly 13% for women. The concept of more individuals working at older ages has carry-over effects for retirement planning as the early retirement trend in the 1980s is reversing. A recent study by Statistics Canada compared 50-year old workers in 1997 to 50-year old workers in 2008 and found that there is an expected delay in retirement by about two years, with retirement now anticipated to occur at about age 66. The analysis did not pin the upward shift in retirement age on any single factor but concluded that, as we all might guess, retirement age results from a complex set of integrated factors including personal choice, individual circumstances, advance financial planning, and changes in business and economic circumstances.

Canada's aging population is contributing to the increasing value placed on older workers who remain in the business environment. Delaying retirement can help facilitate the essential knowledge transfer from generation to generation, aiding Canada's level of economic productivity. It was noted in the study's analysis that it is helping with the sustainability of pension plans. In addition to the intrinsic value a mature worker may gain from delaying retirement, there is also increased financial stability achieved through a longer period of monetary accumulation and a delay in the individual's dependency on what has been accumulated to date.

It might be assumed that, by delaying retirement, there will be fewer years in the retirement pay-out phase, but this assumption is only partially true. Canadians are healthier than ever, which means they are living longer than previous generations; therefore, delaying retirement can become a necessity if the amount of accumulated financial resources is not sufficient to support the individual's retirement vision.

Retirement could be forced as a result of an involuntary layoff or illness. In such a situation, the individual's exit from the workforce is driven by uncontrollable circumstances. The study found that about one-quarter of all retirements are involuntary, and result in advancing the individual's retirement to a date earlier than might otherwise be chosen.

While individuals who are more educated tend to have a longer life expectancy than their less educated counterparts, the period of working years is similar regardless of education level. As such, more educated individuals tend to have longer post-retirement periods that will need to be considered when estimating retirement funding needs.

Regardless of why the average retirement age is being pushed out further into the future, comprehensive financial planning can allow an individual to plan for his or her own retirement based on personal goals while incorporating changing financial circumstances. The key is to take charge and implement the plan as early as possible.

I/R 6401.00

THE ESSENTIALS OF HAVING A WILL

Writing a last will and testament is an emotional exercise for many individuals. A delay in the preparation of a will can occur because the task involves making longer-term and sometimes difficult decisions, or because individuals simply do not want to face the subject of personal mortality. Death is an uncomfortable subject for many. Even those who have passed the first hurdle by preparing a will can find updating it to be an onerous task — one to be avoided.

Whatever the reason for delaying, the reality is everyone needs a will. Why? Because almost everyone has moral responsibilities to their surviving spouse, children or other dependents. Individuals who pass away without a will — who have died "intestate" — have no say as to how their estate is distributed. Instead, provincial legislation sets out a prescribed statutory formula that applies. If asked, it is likely most people would be quick to proclaim that they do not want the government deciding the distribution of their worldly possessions. Every spouse or partner and surviving child deserves to know that they will be supported based on the deceased individual's testamentary wishes rather than through an arbitrary formula set out in law.

Given how quickly and how frequently needs of dependents, property ownership and tax legislation can change, everyone should review their current will on a regular basis.

The primary reason for having a current will is to clearly establish in written terms how the individual's property is to be distributed after his or her death. The first priority is typically to ensure, to the extent possible, the financial well-being of the deceased individual's surviving spouse and children. The will allows for the provision of income to support the survivors' ongoing lifestyle. In addition, personal properties such as a valued necklace, antique car, boat or special set of dishes are generally directed to those individuals who will cherish them the most, helping provide fond memories of the deceased.

Another reason for having a properly drafted will is to name an individual to manage the estate. If there is no will or if the executor named in the will is unable or unwilling to act, the courts will decide who is to be appointed to administer and be responsible for managing the estate. The courts generally look to the surviving spouse to fill the role of administrator, then to the adult children. The individual appointed as administrator will likely have to post a costly administrative bond as security for an honest and diligent administration of the estate.

A third reason for having a properly drafted will is to be able to leave specific bequests. Whether the bequest is to a favourite relative, friend or charity, without a specific instruction in a properly drafted will the bequest cannot be completed. The administrator of the estate may not know that the individual had wanted to make a bequest, and even if the administrator knew of deceased's intention, he or she would not have the legal authority to make a distribution outside of the formula mandated by provincial legislation.

A properly drafted will can name a guardian for the individual's children. While the courts still have to approve the appointment of a guardian for any minor children, the courts look to the will to see who the individual thought would be a worthy individual. Without any direction from the deceased, the courts will review the various applications from relatives and friends to determine an appropriate guardian. Single parents should consult appropriate legal counsel to understand what will happen when there is a surviving parent.

The preparation of a will also provides opportunities for tax planning. For example, the executor can be specifically charged with some discretion as to asset distribution and the ability to make income tax elections. Discretion could be required when the executor transfers certain assets to the surviving spouse because of the opportunity to defer taxable gains accrued on the property, or RRSP funds to minor or disabled children because of the availability of a rollover.

A properly drafted will can also allow an individual to leave assets in trust for their beneficiaries. Without a will, gifts to minors would be held in a trust, but the trust would automatically pay out to the child upon the child reaching the age of majority (typically age 18). Testamentary trusts established in the will could be structured to provide for spendthrift beneficiaries, such that periodic distributions of income and capital would provide for the needs of the beneficiary and the beneficiary could not collapse the trust and access the capital. Testamentary trusts also allow for tax planning, as income may be split between the beneficiaries and the trust itself (like individuals, testamentary trusts have marginal tax rates).

Without a properly drafted will that takes into consideration the individual's testamentary objectives and all of his or her assets, liabilities, bequests and obligations, planning opportunities will be lost. Failing to plan can often result in failing to provide for our moral obligations.

I/R 8500.04

GOVERNMENT PENSION PLANS: Benefits and Contributions for 2013

Contributions and benefits under government pension plans are adjusted periodically to reflect increases in the Consumer Price Index or the average Canadian wage. The new amounts, commencing January 1, 2013, are shown in the table below. Each benefit is subject to income tax when received, with the exception of the Guaranteed Income Supplement and the Allowance. All benefits shown are paid monthly unless otherwise indicated, and are the maximum amounts.

	CPP	QPP	OAS
CPP / QPP benefits (for new beneficiaries)			
Retirement pension (at age 65)	$1,012.50	$1,012.50	
Disability pension	$1,212.90	$1,212.87	
Disabled contributor's child benefit (each child)	*$228.66	*$72.60	
Survivor's*** pension			
under age 65	**$556.64	**$833.18	
age 65 or over	$607.50	$607.50	
Surviving child's benefit (each child)	*$228.66	*$228.66	
Death benefit (lump sum)	$2,500.00	$2,500.00	
Combined benefits			
survivor's*** pension and disability (under age 65)	$1,212.90	n/a	
survivor's*** pension and retirement (age 65 and over)	$1012.50	$1012.50	
Annual CPP contribution			
Self-employed (9.9%)	$4,712.40		
Employee (matched by employer) (4.95%)	$2,356.20		
Annual QPP contribution			
Self-employed (10.2%)		$4,855.20	
Employee (matched by employer) (5.1%)		$2,427.60	
Old Age Security (OAS)			
January to March 2013			$546.07
Guaranteed Income Supplement (GIS)			
January to March 2013			
spouse/common-law partner receives OAS or Allowance			$490.96
single person (or spouse/common-law partner receives neither OAS nor Allowance)			$740.44
Allowance			
January to March 2013			
age 60 to 64, and spouse/common-law partner receives OAS and GIS			$1,037.03
age 60 to 64, survivor's*** Allowance			$1,161.01

Notes:
* Flat benefit amounts
** These amounts may vary depending on whether the survivor is under age 45, disabled, or with or without children
*** A survivor is the spouse or common-law partner of a deceased individual

I/R 3201.01 and 3201.03

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