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Original version: As a Matter of Tax - Simpler process for charitable gifts of life insurance

As a matter of tax

Simpler process for charitable gifts of life insurance

The 2010 Federal budget announced the intention to eliminate the 80% disbursement quota and repeal the enduring property rules. (See *Tax Topic* on 2010 Budget.) The elimination of these rules applies to charities' taxation years that end on or after March 4, 2010.

The purpose of the 80% rule was to ensure that a charity expends a certain percentage of total gifts each year on charitable activities or gifts to other charities. Gifts of enduring property were excluded from this rule. Enduring property included gifts by bequest or inheritance, including gifts made by direct beneficiary designation in an RRSP, RRIF, TFSA or life insurance policy, as well as gifts made subject to a 10-year direction.

Prior to the elimination of the 80% rule it was common to make a gifts of a life insurance policy and any subsequent premiums under the policy, subject to a 10-year direction. Generally, the direction would require the charity to hold the policy, any proceeds or any property substituted for the policy or proceeds for a period of not less than 10 years after receipt of the last premium payment.

The CRA provided detailed comments and administrative practices relating to the appropriate way to do this in IT244R3 - "Gifts by individuals of life insurance policies as charitable donations" and in certain technical interpretations. (See *As a Matter of Tax* from July 2007 – Gifts of life insurance policies and premiums subject to a ten year direction.)

With the elimination of the 80% disbursement quota, carving out exclusions by way of 10-year directions will no longer be required, which will make gifts of life insurance policies simpler. However, charities that hold existing life insurance policies that were donated subject to these directions will still have to hold the policies in accordance with them. Charities would have accepted these gifts subject to these conditions at the time the gift was made.

Charities will still be required to disburse 3.5 percent of the value of assets not used in charitable activities or administration if these assets exceed certain thresholds ($100,000 for charitable organizations, $25,000 for charitable foundations). Registered charities may also apply for approval from the CRA to exclude property that is accumulating for a particular purpose (for example, a building project) from the 3.5 percent disbursement quota.

Regulation 3702(1)(b)(vi) provides that the value of an unmatured life insurance policy that is not an annuity contract is nil for the 3.5% disbursement quota rule.

The elimination of the 80% disbursement quota removes a large administrative burden from charities. It also allows for a much simpler process when making gifts of life insurance and subsequent premiums to a charity.

These columns are current as of the time of writing, but are not updated for subsequent changes in legislation unless specifically noted

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