Estate Planning and Planned Giving

Presented By
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and
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Agenda

- Estate planning
  - Why have a will?
  - New Wills Act amendments
  - Taxation on death
  - Charitable bequests
  - Charitable remainder trusts
- Planned Giving
  - Introduction
  - Donations
  - Registered proceeds
  - Non-registered securities
  - Charitable foundations
  - Life insurance

Estate Planning

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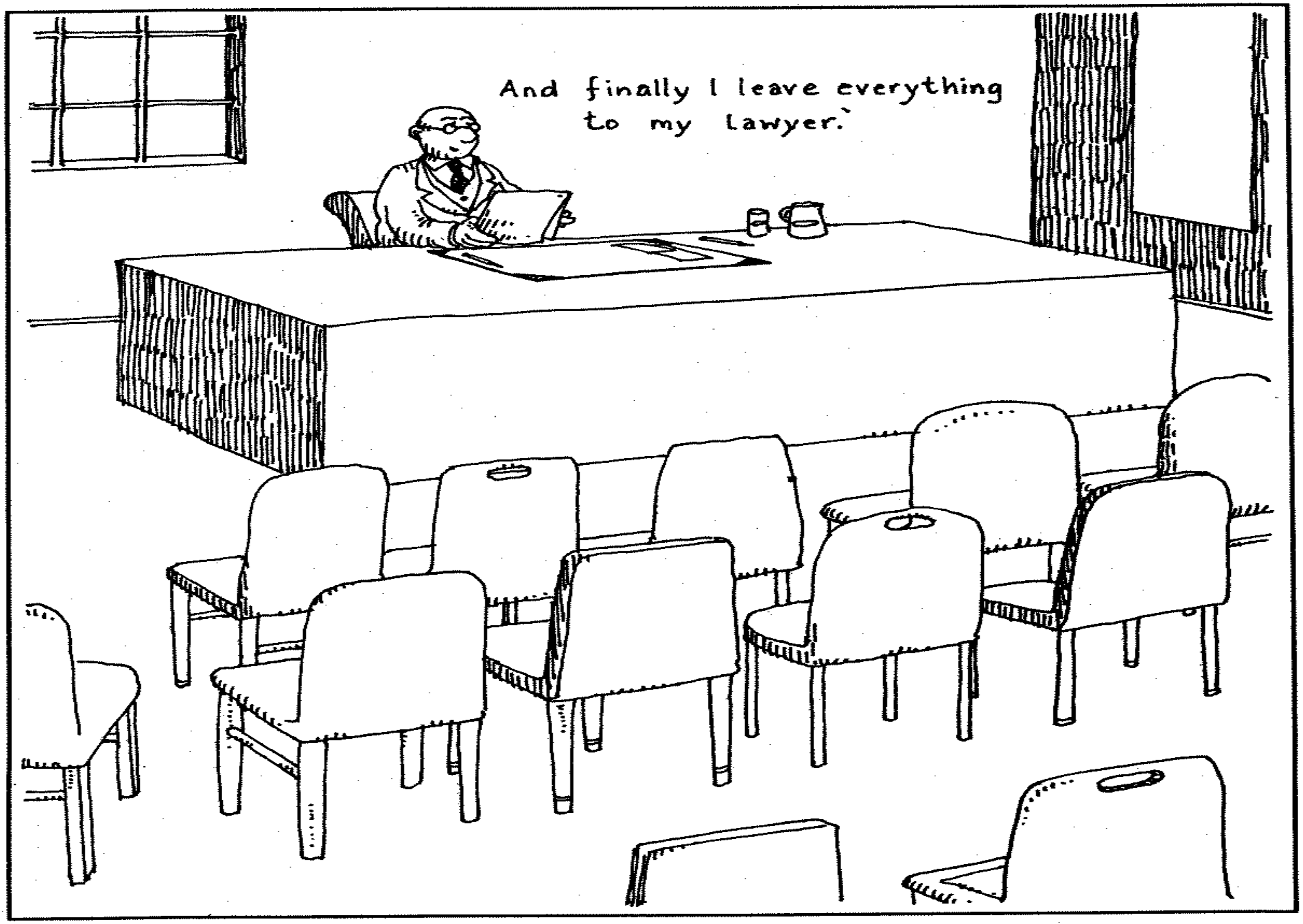
And finally I leave everything to my lawyer.

What is Estate Planning?

- Planning directed at:
  - Accumulating wealth
  - Transferring wealth to succeeding generations
  - Protecting wealth from unnecessary income and probate taxes and from creditors and others challenging the estate plan

Definitions

- "Spouse" includes "common-law partners" (same or opposite sex) under the *Income Tax Act* (1 year cohabitation) for tax purposes and "registered domestic partners" (same or opposite sex) under the *Vital Statistics Act* for matrimonial property issues in Nova Scotia

Planning for Death

- Key: ensuring your assets are disposed of in the manner you wish and that your family is provided for
- Tax minimization is important, but secondary

Why should you have a will?

- Your will is the building block of an estate plan
- Your executor/trustee is the most important decision you will make
- Role of executors:
  - Your personal representative
  - Trustee and fiduciary

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Will (cont'd)

- Topics for will planning include:
  - Personal and household effects
  - Specific gifts of money, including charitable gifts
  - Primary beneficiary (typically spouse)
  - Secondary beneficiary (typically children and/or grandchildren)
  - Alternative beneficiary (extended family or charity)

Will (cont'd)

- Will review – every 3 to 5 years or sooner if circumstances change
- Alternative: intestacy (assets) and administration (personal representative)

New Wills Act Amendments

- “holograph” wills permitted
- “substantial compliance” provisions added
- Clarifies that an executor can be a witness
- Extends recognition of foreign wills to real property in NS
- Divorce now has the effect of treating the former spouse as having predeceased the testator

Taxation on death

- Capital property deemed disposed of at fair market value on death
- Tax-free rollover to a spouse is available (tax deferral)
- Transfer to spouse can be outright or in a trust (spousal trust)
- RRSPs/RRIFs fully taxable as income unless spouse is the designated beneficiary

Taxation (cont'd)

- Only addresses first spouse to die – taxes are payable when the second spouse dies
- There are ways to address this:
  - Life insurance to fund the tax liability
  - Charitable gifts in your will to offset income tax otherwise payable

Charitable bequests

- Can be included in your will as a fixed amount or percentage/share of the residue
- Estate gets a tax receipt for the full amount of the gift
- Offsets taxes otherwise payable by the estate
  - Note: if the estate assets include marketable securities, consider transferring those securities directly to the charity which eliminates the capital gain on those securities – more later

Charitable Remainder Trusts

- A type of trust which has a charitable beneficiary(ies)
- Can be set up by donor during lifetime (inter vivos) or on death (testamentary)
- Taxable event to transfer assets to the trust
- Trust benefits donor and/or family beneficiary(ies) during their lifetime(s) and charity(ies) thereafter
- Must be irrevocable and have no or limited right to encroach on capital during the term of the trust

Charitable Remainder Trusts (con't)

- Donor/estate then gets a tax receipt on creation based on the fair market value of the assets put into the trust, the life expectancy(ies) of the individual beneficiary(ies) and a discount rate to reflect the time value of money
- Donor/estate can then use the resulting tax receipt to offset income tax otherwise payable

Planned Giving

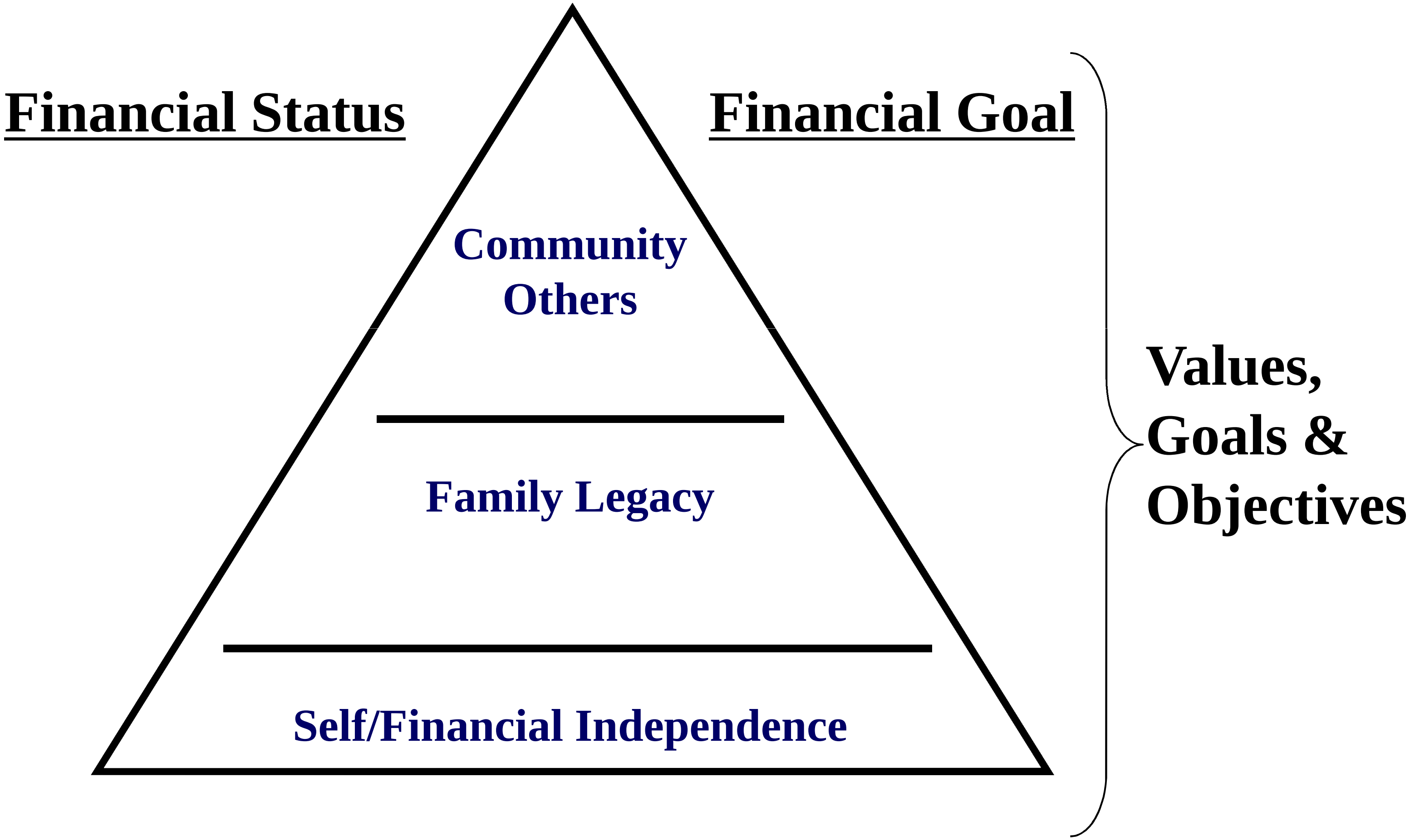
“Thoughtful, family wide participation in philanthropy leads to growth in self-esteem, stability, imagination, and a rewarding family life.”

Roy Williams, The Williams Group
Philanthropy: Heirs and Values, 2005

Overview

- How charitable giving complements financial planning
- Choosing registered money, non-registered money & a charitable foundation
- Considering life insurance as a tool

Establishing Priorities



Why planned giving?

- **You can distribute your assets to the following**

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Potential Funding Methods

- Cash Donation
- Donating proceeds from RRSP/RRIF
- Donating Non-Registered Securities
- Charitable Foundations

Cash Donation

- Simplest form of donating
- Cheque or cash is given to specified charity
- Tax Receipt is issued
- Tax Credit Received for donation

Donating Registered Proceeds

- Money withdrawn from RRSP/RRIF becomes taxable income
- Proceeds donated to charity create tax credit

- If total taxable income is in excess of $123,185*, tax credit will eliminate all but $49** of taxes owing

* - *income in Nova Scotia at which highest marginal tax rate commences (2008)*

** - *first $200 of donations only receive credit at lowest marginal tax rate of 23.79%.*

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Donating Registered Proceeds

- If total taxable income is below $123,185 then tax credit can basically equal tax owing from withdrawal.
  - *Example:* John has $60,000 of taxable income in 2008. His marginal tax rate (MRT) is 38.67%. He withdraws an additional $5,000 from his RRSP to donate to charity.

TAXES OWING

$5000 x 38.67% MRT

$1,933.50

TAX CREDIT

$200 @ 23.79%
Plus $4800 @ 38.67%

$1903.74

Donating Registered Proceeds

- Tax credit offsets taxes payable, it does not reduce taxable income.
- Not effective in reducing income for purposes of calculating thresholds for OAS, GIS and age credit.

Donating Non-Registered Securities

- New rules in effect in 2006
- No gains incurred on disposition of securities when donated in-kind (excluding non-qualifying private foundations)
- Securities with largest unrealized gains most tax-effective source of donation

Donating Non-Registered Securities

- *Example:*
- John has $100,000 in shares of ABC Corporation. The cost base of the shares are $34,000. John's MRT is 48.25%

Sell Shares and Donate	**Donate Shares In-Kind**
Gain on sale **$66,000**	Gain on sale **$0**
Taxable gain: **$33,000**	Taxable gain: **$0**
Tax owing: **$15,923**	Tax owing: **$0**
Tax Credit: **$48,201**	Tax Credit: **$48,201**
Credit Remaining: **$32,278**	Credit Remaining: **$48,201**

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Set Up Charitable Foundation

- Public foundation, eligible for exclusion on capital gains (donating non-registered securities)
- Full tax credit received with initial contribution
- Retain control of which charities receive contributions and when
- 3.5% to 5.5% dispersion rate for first 10 years, no restrictions afterwards

Set Up Charitable Foundation

- Retain control over
  - investment mix of foundation
- Can continue in perpetuity, even after death

Life Insurance Option

- Opportunities exist to maximize donations and minimize costs through effective planned giving programs

- Life insurance products are key to helping donors and charities achieve their goals

Why Life Insurance?

- ***Cash donations:***
- Take tax receipts
- for the donations as
- they are made

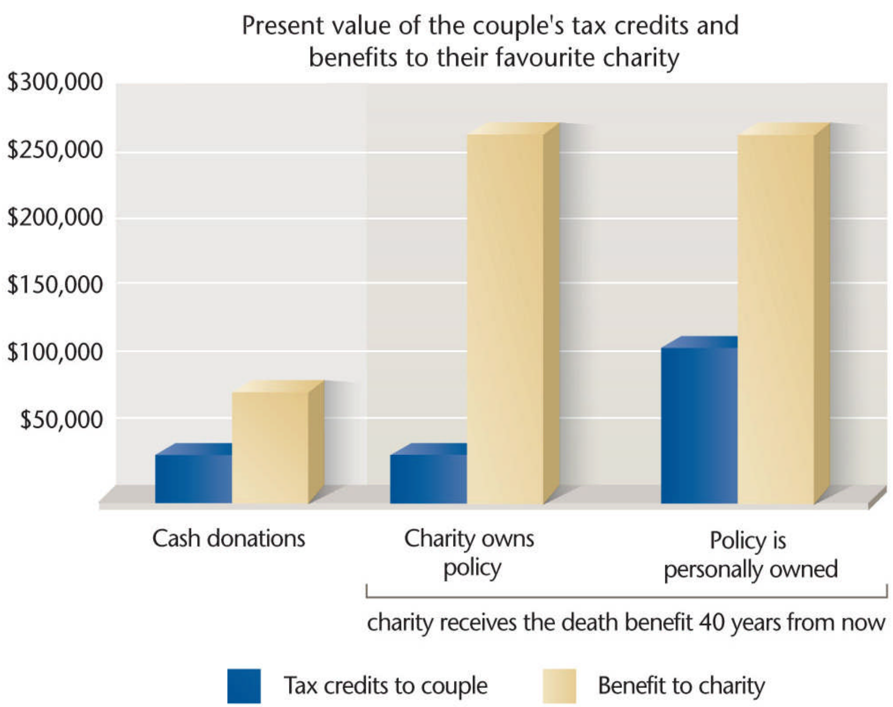
- ***Charity owns policy:*** Buy a life insurance policy, donate it to the charity, then take tax receipts as the premiums are paid

- ***Couple owns policy:*** Buy a life insurance policy, retain ownership, then at death take a tax receipt for the proceeds paid to the charity

Compare the Impact of your Choices

Life insurance owned by the charity or the couple

- A couple, male age 47 and female age 45, both non-smokers, standard underwriting risks, buy a permanent joint-life insurance policy, with proceeds payable on the death of the last to die, with premiums of $5,000 annually for 20 years.



This example is based on average illustrated permanent life insurance death benefit values from four of Canada's largest life insurance companies. Actual results vary with age, gender, health, return provided in the policy and other factors. For an explanation of the assumptions used in present value calculations, please refer to the *Important considerations* section.

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Summary

- How charitable giving complements financial planning
- Choosing registered money, non-registered money & a charitable foundation
- Life insurance as an option

Conclusion

- Estate planning and planned giving are customized processes – each plan is unique
- Various tools are available to maximize benefits and minimize risks
- Goal is to create a customized plan that is best for each person's personal circumstances

Questions?

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