



Ask An Advisor: *CAGP's Online Virtual Community of Professional Advisors*

Did you know that a membership with the Canadian Association of Gift Planners provides you with access to an online community of professional advisors across Canada?

That's right, as a member benefit of CAGP; our members are able to submit gift planning questions - whether technical, legal or ethical in context. Why is this online tool so beneficial? It provides charitable representatives and professional advisors at any experience level with the opportunity to submit an anonymous question and be confident that the answer they have received will be informative and correct.

DeWayne Osborn, CGA, CFP certified accountant of Lawton Partners offers the online tool as a 'first stop for gift planners or professional advisors to confirm the context of any situation regarding a planned gift' which enables members to be informed with the right information before they respond to the donor or professional advisor. Often gift planners are not fully equipped with the right tools. The *Ask An Advisor* tool provides our members with the confidence that they understand the context of the gift and situation, so that they can work with and facilitate the needs of the donor or professional advisor.

It's an excellent learning tool, which also allows our members the opportunity to deal with other advisors and donors in an appropriate manner. More importantly, it gives our members the confidence to deal with their complex gifts or circumstances. CAGP members should consider DeWayne and the other professional advisors he consults as 'virtual members of their planned giving committee'.

Here are some examples of questions submitted anonymously by our CAGP members using the Ask An Advisor tool:

Question 1

RRSPs - I have a donor who wishes to use a portion of his RRSPs to make a lifetime gift to my charity. I know that making a planned gift through RRSPs can be a very effective way to reduce taxes but what are the consequences of taking money out of RRSPs during one's lifetime to make a charitable gift? Are there situations when this might be a good way to make a current gift? My donor is retired with a yearly income of about \$60,000. He says he does not need all of his retirement income and would like to make a gift now.

Ask An Advisor Response

People withdraw from their RRSPs all the time. However, when you do so, you do not receive all of the money withdrawn. A portion is retained by the RRSP holder institution in the form of a withholding tax. The amount withheld depends on how much money is withdrawn. In other words, you prepay the tax. See chart below:

Withdrawal Amount % Tax Withheld

From \$0 to \$5,000 10% (5% in Quebec)
From \$5,001 to \$15,000 20% (10% in Quebec)
Greater than \$15,000 30% (15% in Quebec)

So that presents a problem. You want to donate \$5000 during your lifetime from your RRSP, but you will only have \$4750 net of withholding tax in your pocket to donate. In order to donate the full \$5,000, the donor will have to top up the gift with his or her own funds.

Gifts of RRIFs have similarities to the RRSP in that any amounts above the minimum required withdrawal from a RRIF are subject to the same withholding tax. However, for both RRSPs and RRIF's, the donor can write to CRA and request the withholding tax be refunded.



Lastly, if the donor lives in Alberta, things get interesting. With the top individual income tax rate of 39 percent, and a donation credit of 50 percent, that 21 percent increment goes a long way to making up for the withholdings on gifts of registered funds. You do not have to donate as much money to eliminate all of the tax.

Consider this simple example: a top taxpayer in Manitoba will pay 46.4 percent taxation on income. If he withdraws \$10,000 from his RRSPs to donate, he actually receives \$8000 net of the 20 percent withholding tax. His tax bill will be \$4640 (46.4 percent times the \$10,000 in income). If he donates just the \$8000, his \$3712 tax credit will reduce his tax bill to \$928 (\$4640 -3712). If the same person lived in Alberta, the tax on the \$10,000 is only \$3900. However, the \$8000 donation will produce a \$4000 tax credit, which completely wipes out the tax bill without the need to top up the gift.

Question 2

We have a donor couple who are withdrawing the minimum required from their RRIF accounts. They are then donating the net amount, after 20% withholding, to us, as part of a long-term strategy to create an endowed fund. I have told them that they can donate the gross amount and the tax credit should completely offset any tax owing on the gross amount (whether or not withheld). They say I am mistaken and do not understand the tax law. What is your advice on this point?

Ask An Advisor Response

Taxpayers can request that taxes not be withheld from RRSP or RRIF withdrawals during life. As you will see on page 25 of the attached document, the letters required explaining why taxes should not be withheld and CRA would either agree or disagree. The fact that you are making a donation could be substantive enough to justify eliminating the withholdings. Otherwise the CRA individual contact was correct in that withholding must occur from any withdrawal from a RRIF RRSP - including amounts donated. However most people withdraw multiple smaller amounts attract the low rate of withholding tax.

<http://www.cra-arc.gc.ca/E/pub/tg/t4040/t4040-12e.pdf>

Question 3

We are the beneficiary of the estate and we have so far received the will, and two payments from the estate. I called the lawyer asking for the list of assets; I received an angry call back saying that he has NEVER, NEVER in his career received a request like this and that none of the other charities asked for the same report. Is this something that I am not supposed to ask for?

Ask An Advisor Response

Barring any provincial special issues (which you would need to contact a lawyer in the province where the estate is being administered) the lawyer is wrong. Generally speaking, beneficiaries are entitled to an accounting of the estate being administered ON THEIR BEHALF! If he will not provide it, they can go to court and order him to.

See attached for guidance re: beneficiary's rights. As you know, Carters is in Ontario.

<http://www.carters.ca/pub/article/estate/accbenef.htm>

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