

# The Bottom Line

A "quick-read" for estate planning professionals from the JCF Professional Advisory Committee  
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## UPDATE: ELECTION CHANGES

One of the seemingly worthless elections of the Income Tax Act is contained in subsection 118.1(6), (subsection 110.1(3) for corporations) which allows a donor to elect his proceeds of disposition to be between ACB and FMV on a gift of capital property to a charity.

Why worthless? Because the election limits your use of the charity receipt to the elected amount. Thus an election can reduce a capital gain but also the receipt. As capital gains are taxed at 50%, donors usually don't mind the gain as long as a 100% receipt is available.

The JCF has documented one plan where the election is warranted - namely where the capital property is transferred to a **charitable remainder trust** and thus the receipt is otherwise reduced based on the mortality of the income beneficiary of the trust. In this case the election to reduce proceeds of disposition is often advisable.

December 20, 2002 amendments to the Act, for gifts made after 1999, now will allow the election to be made on depreciable property and for the lower limit of the election to be the U.C.C. of the class of the asset gifted.

**The bottom line:** This opens up some interesting plans to transfer real estate to a CRT, particularly where recapture is potentially significant.

For more details, please refer to the JCF Gift Planning Handbook in the **Charitable Remainder Trusts** section.

To view the National Jewish Gift Planning Handbook at:

[www.jcfmtl.org/handbook/index.htm](http://www.jcfmtl.org/handbook/index.htm)

For more information of value to financial professionals visit our web site:

[www.jcfmtl.org/pac.htm](http://www.jcfmtl.org/pac.htm)

## Questions? Comments?

**Contact us: THE JEWISH COMMUNITY FOUNDATION OF MONTREAL**

Tel.: 735-3541 Fax: 345-6410 [E-mail: info@jcfmtl.org](mailto:info@jcfmtl.org)

Robert Raich    Andy Etcovitch, Jeffrey Mandel CA,  
President    Co-chairs, Professional Advisory Committee

Robert Kleinman FCA  
Executive Vice-president

Joel King  
Executive Director

Marlene Gerson  
Marketing Associate