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**THE JEWISH COMMUNITY FOUNDATION OF MONTREAL  
LA FONDATION COMMUNAUTAIRE JUIVE DE MONTRÉAL**

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# **CHARITABLE GIVING AND MARKETABLE SECURITIES: WISE PLANNING TIPS**

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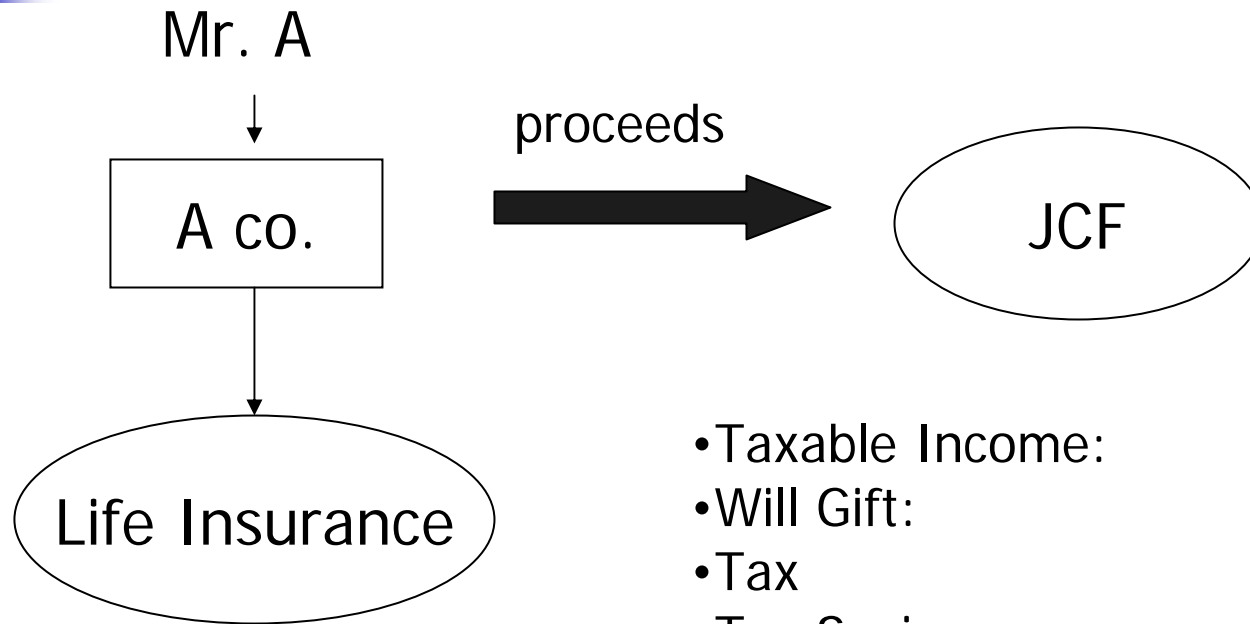


# Rules on Gifts of Marketable Securities

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- Donors who make gifts of stocks listed on a “Prescribed Stock Exchange” (as defined in Regulations 3200 and 3201 of the Income Tax Act Canada ( “ITA”)) to a public charity, are not subject to capital gains tax (**s. 38(a.1)(i)**).
- Effective March 18, 2007, the zero capital gain for donations of qualifying publicly-listed marketable securities also extends to private foundations.

# Estate Planning



• Taxable Income:	\$1,000,000
• Will Gift:	<u>\$1,000,000</u>
• Tax	\$0.00
• Tax Savings:	\$ 480,000
• Insurance Cost:	?



# Estate Planning - Illustration

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- Corporation to purchase \$1,000,000 life insurance policy on last to die basis
- On last to die, donors leave \$1,000,000 in their wills to JCF
- At the second death, the corporation will receive \$1,000,000 tax free
- The corporation will remit \$1,000,000 tax free to the estate to pay will gift
- The deceased final tax return will utilize a \$1,000,000 tax receipt from the JCF, saving \$480,000 of tax



# Estate Planning – Illustration

## Present value of financial considerations

Life expectancy based on life insurance tables

Estate savings- \$ 480,000 12 years at 4.5% \$ 283,039

Premium costs			
year		premium	PV at 4.5%
1	\$	37,200	\$ 37,200
2	\$	37,200	\$ 35,598
3	\$	37,200	\$ 34,065
4	\$	37,200	\$ 32,598
5	\$	37,200	\$ 31,194
6	\$	37,200	\$ 29,851
7	\$	37,200	\$ 28,566
8	\$	37,200	\$ 27,336
9	\$	37,200	\$ 26,158
10	\$	37,200	\$ 25,032
11	\$	37,200	\$ 23,954
12	\$	37,200	\$ 22,923
			\$ 354,476



# Estate Planning - Illustration

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- The cost of life insurance, at present value is **\$354,476**
- With no life insurance purchase, the corporation would transfer to the estate \$354,476 on which the estate would pay 24% tax, leaving the estate with **\$269,402**
- The estate will save \$480,000 on the deceased final tax return which, at present value represents **\$283,039**
- The net cost of creating \$1,000,000 of charity is a saving of **\$ 13,637**



# Will Gift with Marketable Securities

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- Corporation to purchase \$1,000,000 life insurance policy on last to die basis
- On last to die, donors leave \$1,000,000 in their wills to JCF. Will states that to the extent possible the donor directs his Executors to make the gift using marketable securities (assume that at death stocks have adjusted cost base of \$200,000 and fair market value of \$1,000,000)
- At the second death, the corporation will receive \$1,000,000 insurance proceeds tax free
- Marketable securities transferred to the JCF
- The corporation will remit \$1,000,000 tax free to the estate replacing the value of the gift
- The deceased final tax return will utilize a \$1,000,000 tax receipt from the JCF, saving \$480,000 of tax



# Estate Planning – Gift of Securities

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- The cost of life insurance, at present value is **\$354,476**
- With no life insurance purchase, the corporation would transfer to the estate \$354,476 on which the estate would pay 24% tax, leaving the estate with **\$269,402**
- No gift of marketable securities – on death estate would pay tax on the disposition of the securities (\$192,000) leaving the estate with **\$808,000**
- The estate will save \$480,000 on the deceased final tax return which, at present value represents **\$283,039**
- The net cost of creating \$1,000,000 of charity is a saving of **\$205,637**



# Gift Flow Through Shares

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- Assume that Quebec Exploration Funds are purchased.
- Assume Mr. X invests \$1.00 to purchase an oil / gas limited partnership unit.



# Tax Savings – Flow Through Shares

<b>Federal</b>	<b>Quebec</b>
\$1.00 deduction	\$1.50 deduction
<u>24% tax rate</u>	<u>24% tax rate</u>
\$0.24	\$0.36
\$0.15 investment tax credit	
(0.036) tax cost	
\$0.354	\$0.36 = <b>Total saving</b> <b>\$0.714</b>



# Donation of Flow-Through Shares

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- After a waiting period Mr. X receives shares and donates the shares to the JCF at say \$0.80 value.
- Mr. X receives a donation receipt of \$0.80
- Tax savings of 48% = \$0.384
- Total tax savings = \$1.09.8



# Evolution – Immediate Liquidation

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- The promoter arranges for the partnership interest to be converted to shares and these shares are liquidated in short order;
- The JCF receives the money quickly and there is no risk – you know the end result
- However the sale of the shares are at a discount so the net cost could be 10-20%.



## Issues to be aware of

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- Net costs are a function of write-offs. Quebec offers 150%, 125% or 100% write-offs depending on what is due and situs.
- A Quebecer purchasing a non-Quebec flow-through is limited on the Quebec return to the flow-through to the extent of \$1.00 of flow-through per \$0.50 of investment income.



## Issues – continued

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- Beware of pricing. Because of the advantage the price of the partnership can increase artificially.
- If the promoter is creating a quick liquidation what is the discount? CRA accepts the quick sale as a *bona fide* flow through; however the plan is considered a charitable tax shelter and the promoter should register as such.