



# Quarterly Exchange

Fall 2019



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## Grandparents and RESPs: Hope (and Help) for the Future

A new child in the family is a joyful time but also a period of hopes, plans and reflections. Grandparents, a step removed from immediate new-baby chaos and lack of sleep, may consider a thoughtful contribution to the household during the celebrations, the gift of higher education.

It's a consideration as important as any other large financial goal. Statistics Canada reports that the average tuition for full-time students in 2017-18 was \$6,571 with living expenses on top of that.<sup>1</sup> One estimate is that, for children attending university in 2036, the cost of four years in school could top \$138,400.<sup>2</sup> What if they wish to pursue law or medicine?

RESPs are the go-to savings plan for parents saving for their child's education, as they provide a means for accessing government grants and may allow investment income or gains to accumulate on a tax-deferred basis. Starting early allows a plan to maximize the potential for compound growth — from the time a child is born until the time they cram their gear in the van and drive off to university or college.

However, while grandparents have the best intentions, should they actually be the ones overseeing a grandchild's educational savings plan, especially if there is already an existing plan managed by the parents? Are multiple plans per student necessarily better than a single plan?

Ian Lebane, VP, Tax and Estate Planner, TD Wealth, explains that, due to contribution and withdrawal limits and other rules, one plan per student, in some cases, may be easier from an administrative point of view for all concerned. For instance, with an RESP, the federal

government's Canada Education Savings Grant (CESG) provides 20 cents on every dollar contributed up to a maximum of \$500 every year for each student up to a lifetime maximum of \$7,200. While a student may be the beneficiary of multiple plans, the grants and maximum contribution limits apply on a per student basis.

Therefore, just giving money to the parents of the student for the RESP may eliminate potential difficulties with multiple contributors and coordinating multiple RESP accounts, and also makes the mechanics of withdrawing funds more efficient.

Having parallel plans in place for one child can run the risk of not contributing enough. The individual who enters into an RESP contract with the financial institution, (usually, but not necessarily, a parent of the student) is called the subscriber. Having different subscribers on different plans can give rise to coordination issues that could prevent a child from getting the full benefits from the grant if not enough money is contributed in any given year. As well, there could be over-contribution problems if the subscribers don't co-ordinate. The lifetime limit for contributions is \$50,000 and a tax (1% per month) will be imposed on contributions above the maximum on the subscriber.

Lebane also makes the point that, if the grandchild decides not to pursue post-secondary education or decides not to finish a degree after a few years of study, there may be adverse tax consequences for the grandparent as a subscriber upon withdrawing any growth earned within the plan.

Any income growth (or investment gains) generated



on invested funds may face an additional 20% penalty, (in addition to being regarded as income) if it is withdrawn by the subscriber instead of being used by the beneficiary for education purposes. The grant money that has been accumulating, but not paid to the child for education purposes, can't be withdrawn by the subscriber; any grant funds remaining in the account must be repaid to the government if the account is being closed.

These restrictions and penalties apply to any RESP subscriber, not just grandparents. If a subscriber withdraws accumulated income from the RESP, they could potentially defer tax by rolling the funds into their own RSP. Since grandparents have likely been saving for retirement for a longer period of time, they may have already used up all their RSP contribution room, whereas a parent may have more flexibility to effect this rollover.

Even if a student leaves a program without completing it, the subscriber may choose to leave the funds in the plan since RESPs can stay open for 35 years, and the student could still decide to return to school at some point.

Lebane says that another consideration is that grandparents may pass away during the life of the RESP plan before the child starts university or college. This may create a problem if the RESP is not addressed appropriately in the deceased grandparent's will. In certain circumstances, the funds may become subject to the provincial probate tax and be regarded as part of the larger estate.

If grandparents (and parents) are concerned about how the RESP would be treated in conjunction with their will, they should consult their lawyer or financial advisor about naming a successor subscriber.

Lebane emphasizes that everyone — not just grandparents — who open RESP accounts should address the RESPs appropriately in their wills. Everyone's situation is different and Lebane adds if you need help sorting out how you should manage your RESP, the expenses, and what make sense for your family situation, check in with your financial planner, investment advisor or lawyer and see what they can suggest.

— Don Sutton, *MoneyTalk Life*



<sup>1</sup> [www150.statcan.gc.ca/n1/daily-quotidien/170906/cg-b001-eng.htm](http://www150.statcan.gc.ca/n1/daily-quotidien/170906/cg-b001-eng.htm)

<sup>2</sup> [http://www.osfi-bsif.gc.ca/Eng/Docs/CSLP\\_2016.pdf](http://www.osfi-bsif.gc.ca/Eng/Docs/CSLP_2016.pdf)



## Gift of Giving: Tips from Canada's Top Philanthropists



Philanthropic giving has become much more than just a tax-saving strategy; donors want to measure impact and ensure wise use of their resources. “Philanthropy is the space in which the not-for-profit and business worlds are often forced to find common ground,” says co-author Chuck English. “Yet, it doesn’t always work out that way — mostly because of very different expectations. The philanthropist who wants to use his resources to change the world is confronted by the not-for-profit organization that just needs enough money to make payroll this month. The result is often mutual disappointment.”

Many of Canada’s top philanthropists adopt business strategies to ensure the needs of donors and organizations are met. Here are some tips on how you can make your philanthropic efforts count:

### **Give Your Time First, Then Money**

Your knowledge and expertise may be as valuable to a not-for-profit as a cheque. Sometimes what an organization needs most is advice and guidance — on everything from how to make a pitch for a donation to how to attract talent. Working with an organization may give you an opportunity to scrutinize the management, as well as to see how your resources will be deployed. Once you are comfortable with the organization and feel it can benefit from a gift, then, a monetary gift may be a natural extension. Hal Jackman, the former Lieutenant Governor of Ontario, is well-known for his charitable work. “I was interested in the opera, but I think I got on the board before I gave money,” he says. “The same with the University of Toronto, which are the two things I have given to most. I was involved in the university before I really made the decision to give money to them.”

### **Take a Few Risks**

Taking calculated risk can be good for business, but does the same apply to charitable giving? English says yes. “Many of the projects funded by the philanthropists we interviewed were groundbreaking and inherently risky,” says English. “For many philanthropists, the ability to feel comfortable with risk-taking does them well in business and giving.” For example, the Juris Doctor/MBA programs that Jay Hennick, founding CEO of FirstService Corporation, wanted to create at both the University of Ottawa and the University of Toronto were one-of-a-kind in Canada. Both programs are still ongoing, decades later.

### **Take a Step-Wise Approach to Giving**

Philanthropists want to see their money put to good use and to make a difference. More and more, philanthropists think of their philanthropic gift as an investment, which may or may not reap the desired results. One way to protect your investment is to build a long-term relationship with the organization. To minimize risk, instead of giving one big gift in one shot, consider spreading out your donations. Start with smaller gifts, and grow as you feel comfortable, as Eric Sprott has. His first gift to Carleton University, shortly after graduation, was only \$200. Now, he is one of Carleton’s most generous contributors. Taking this approach allows you to become truly acquainted with the organization and its work.

Hennick says that when you do give large gifts, expect a long-term plan for the money. “Give me a five-year plan. I don’t want just numbers,” Hennick says. “Give me some metrics that you’re very comfortable you can exceed, so at least I know we’re moving in the right

direction. That's what donors should do on larger gifts."

Jo-Anne Ryan, VP of Philanthropic Advisory Services at TD Wealth, and the Executive Director of The Private Giving Foundation, agrees the best way to approach philanthropy is to create a plan with long-term goals. "With our clients, we develop a comprehensive plan around their finances, and we project where they are going to be in five years and beyond," says Ryan. "The client often begins to see that they will have more money than they can spend in their lifetime, which opens up the perfect opportunity to discuss how he or she can fulfill their philanthropic goals."

### **Set Clear Goals and Expectations**

If you approach your giving the same way as you would investing, then consider what may be an appropriate return. A good return on your investment might be to increase the size of the community served by 20 per cent, or to find and create efficiencies within the ranks. According to Marla Dan, of the Aubrey and Marla Dan Charitable Foundation, the new generation of philanthropists is demanding a return for their money. "I think the younger generation has a different connection," says Dan. "They won't just write the cheque, no questions asked. They want to know where exactly it's going and what it's going to be there for, how is it going to be managed, how many hands is it touching before it gets to the end."

### **Align Your Business Interests**

Increasingly, companies are looking to corporate social responsibility as an opportunity to fundamentally strengthen their businesses while giving back. Some innovative companies are partnering with not-for-profits as one way to create value for both the business and society simultaneously.

"It's interesting that so many of those who give the most in Canada told us about the many ways in which they have aligned their business goals with their giving," says co-author, Mo Lidsky. "That's good business sense." When the Art Gallery of Ontario brought in a prestigious collection of art — including works from Renoir and Picasso — investment firm Gluskin Sheff and Associates saw an opportunity. They sponsored the exhibit because of its affiliation with wealth, culture and prestige — values that align with their business.

A focused and well thought-out plan could help your money make a greater impact. "There are 86,000 charities in Canada, phoning and knocking at your door looking for money — and you can't give to them all," says Ryan. "Talking to an advisor about your philanthropic goals can help you focus on the causes that will help you to create a legacy."

The Philanthropic Mind offers some inspiration and lessons for your charitable plan. "We hope that those who are just starting on a path of philanthropic involvement will find the experiences and insights of these philanthropists to be instructive and motivational," says Lidsky. "We believe that their stories and insights have the potential to be intriguing, interesting and inspirational to anyone in any walk of life who simply seeks to somehow make a difference."

– Written by Denise O'Connell, *MoneyTalk Life*







Your adult child just started her full-time job in the city a few years ago, met her soulmate, and has set the date for the wedding. You want to help your child get a head-start in her married life by giving her some cash. But how do you make this happen so that there won't be any question about whether it's an outright gift or a loan? One way to firm up your intentions is through the use of a document called "deed of gift." Nicole Ewing, a Business Succession Advisor and Tax and Estate Planner, TD Wealth explains real life scenarios where you can use a deed of gift.

### **What is a Deed of Gift?**

A deed of gift simply documents the transfer of property from one person to another and declares that it is a no-strings attached gift to anyone you name, with no stipulations or expectations of payback. Without a deed of gift, once property or cash is transferred, there may be lingering questions, even after your death, about how the assets were transferred, the kind of transaction involved (e.g. a temporary loan), and even exactly who the assets were meant for.

There may even be ambiguities between the person who gives the asset and the person who receives it, since some families are reluctant to actually spell out if they expect money they have lent their children to be paid back. Ewing says a deed of gift can provide legal clarity around the transfer of funds to avoid any challenge to the gift.

"Many of my clients have simply transferred funds to their children in the past without putting their intentions in writing. Before, they would just give the money away but now they recognize the importance

of putting the gift of money into writing and recording what their intent was, particularly if different children are receiving funds at different stages of their lives," she says.

"When someone gives money to another person, there's always a question of whether that money was meant to be a gift. Someone else may challenge that transaction and say it wasn't intended as a gift. So to make your intention clear, you could have a deed of gift in those cases. If it wasn't intended as an outright gift, another document, such as a declaration of trust or a loan agreement should be used to document the reality and intent of the transfer,"

### **Giving Cash to Your Adult Child**

The most common use of deed of gift is to provide evidence of a gift parents give to help their kids get started in life: setting up as adults, buying cars, paying tuition or simply meeting the costs of living independently. The deed of gift can help protect the funds given. The reason is that, if an adult child is married and the deed of gift stipulates the funds (and any gains on the funds) are only for the adult child and not the married couple, it may prevent their spouse from claiming that money is part of the family assets if there is a marriage breakdown. But there is one important factor to be aware of: the benefits of a deed of gift do not extend to the direct purchase of, or payment towards, a matrimonial home.

That's because, if a couple divorces, a matrimonial home's value generally forms part of the common property of the couple. Regardless of how much each spouse had put into the family home, the value of the family home is commonly split between the two. This

supersedes any protection a deed of gift could give. As a result, a parent may see their gift end up in the hands of their child's ex-partner.

Despite this limitation, there are other ways deeds of gift can come in handy.

Ewing says that if funds are absolutely required for a matrimonial home, one method is to give cash or investments of some kind, through a deed of gift, and secure credit using the gifted assets as collateral.

For example, once an adult child receives the funds, they can then invest in a portfolio of stocks or other assets. Then, they can secure a loan using the portfolio as collateral to purchase the home and, in this way, the assets in the portfolio remain protected. In Ontario, the value of gifts received by an individual are generally excluded from assets split during divorce. In this way, the funds transferred as a gift remain secure, the parent succeeds in their wishes by using a deed of gift and helps their child with a home purchase.

Ewing says to consult with legal and financial professionals when considering a deed of gift.

### Minimizing Liability

It is a fact of a life that business owners may be sued by unhappy clients and creditors. If a business is not incorporated, the business owner — often a lawyer or other professional — may be held personally liable for claims against the business. A business owner may, therefore, consider transferring their personal assets like their home and investments through a deed of gift to their spouse who is not a part of that business. That way, if the business owner is ever sued, the transferred assets may be protected. This structure can be a helpful measure to avoid theoretical risks, but note that it is illegal to make the transfer if the intention is to hide assets from an actual or likely creditor. Accordingly,

individuals should take legal advice before making these types of gifts.

In addition, this type of gifting between spouses may trigger consequences, so consult a tax specialist before making any such gift.

“As part of planning, if I'm a lawyer or another professional starting my own business, I may want to ensure that family assets are held in the spouse's name if I'm vulnerable to that kind of legal proceeding,” Ewing says. However, holding everything in a spouse's name may complicate other aspects of wealth management so it's best to meet with a financial professional to see what particular course of action is right for you.

### Documenting Gifts to Make Everyone Happy

What happens if a parent pays for the post-grad tuition of one child, helps another child with a down payment of a house and gives money to a third to start their own business? How does a parent ensure they are treated equally or fairly? And when the parent passes away, and the remaining assets of the parent are divided up, how do the previous financial contributions factor into the division of the estate? Were they unconditional gifts? Early inheritances intended to come out of their future “share”? Or were they informal loans that should be paid back when the kids have the money? If they were loans, should the loans be paid back to the estate?

Documenting gifts of cash or property through a deed of gift can help simplify these matters. If the transfer was meant as a gift and there was no expectation that the child would pay the money back, this method can work hand in hand with a will to ensure that all children are treated in accordance with the parent's wishes. If a child did not actually receive a gift from their parents and it was understood that the transferred money







would eventually be paid back, documentation also helps the executor of the estate calculate what is owed to the estate.

“For the distribution of the estate, there is what’s called the ‘hotchpot clause’ which basically says, ‘divide everything between my children, taking into account any gifts I have made during my lifetime,’ and having a deed of gift on record helps keep track of that and helps ensure children are treated as intended (whether that’s equally or otherwise),” Ewing says.

### **With a Joint Account**

Often an elderly parent and an adult child will have a joint bank account to look after the financial affairs of their parent by paying bills and perhaps even contributing money. Unfortunately, when a parent dies, the child may not be automatically entitled to use the funds. The assets in the account will usually form part of the estate of the deceased parent unless the child can demonstrate — and a witness may help — that the assets were meant for them.

A deed of gift can help smooth this problem. It can be evidence of the parent’s intention that their adult child is meant to have the funds after the parent passes away. A deed of gift can help avoid any questions about whether the funds should be turned over to the estate.

### **A Team Approach**

Ewing says, in all matters concerning transferring large amounts of money, managing taxes, drawing up wills and making gifts, people should always work with a financial advisor, lawyer and/or accountant. She says that using a deed of gift can have implications for someone’s finances, future estate, taxes and even personal relationships. Getting sound advice is always advisable before proceeding forward.

— Don Sutton, *MoneyTalk Life*

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