2500, 20 Queen St. West
Toronto, ON M5H 3S1
Canada
Tel. 416.595.8500
Fax.416.595.8695
www.millerthomson.com

MILLER THOMSON LLP

Barristers & Solicitors, Patent & Trade-Mark Agents

TORONTO VANCOUVER WHITEHORSE CALGARY EDMONTON WATERLOO-WELLINGTON MARKHAM MONTRÉAL

CHARITABLE REMAINDER TRUSTS

By Rachel L. Blumenfeld

October 24, 2004

Charitable Remainder Trusts

CAGP*ACPDP™ - GTA RoundTable
October 24, 2002

Presented by:

Rachel Blumenfeld – Miller Thomson LLP
Michelle Osborne – The Hospital for Sick Children Foundation
Jo-Anne Ryan – RBC Investments

GREATER TORONTO AREA ROUNDTABLE
CAGP·ACPDP
CANADIAN ASSOCIATION OF GIFT PLANNERS
ASSOCIATION CANADIENNE DES PROFESSIONNELS EN DONS PLANIFIÉS

Items to be addressed

- Basics
- Charitable receipting and disbursements
- Trustee powers
- Funding a CRT
- Receipt valuation calculation
- Beneficiaries
- CCRA
- How to identify opportunities

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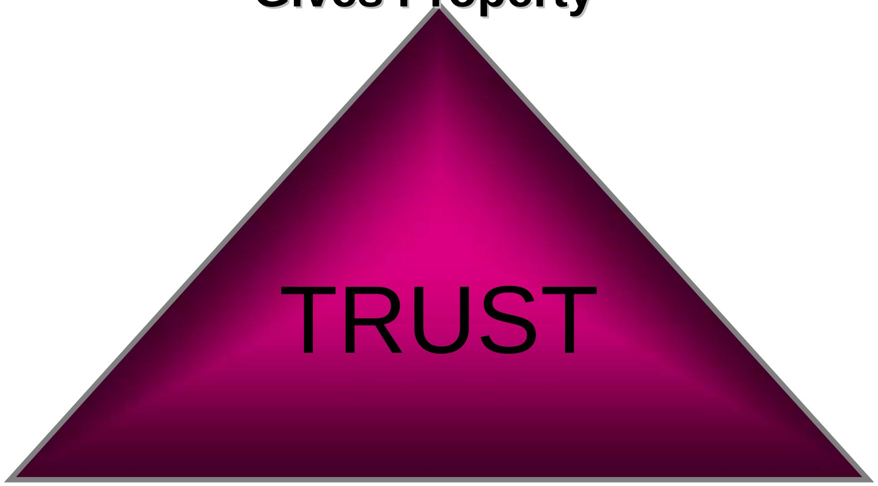
Parties to a Trust

Settlor/Testator:
Gives Property



Trustee:
Holds legal title
to property
(legal ownership)

Beneficiary:
Holds equitable title
to property
(beneficial
ownership)

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Charitable Remainder Trusts

- Donor irrevocably transfers assets to Trust
- Receives income for life (or fixed term)
- Only income, no encroachment on capital
- When Donor dies (or term is up), capital is given to charity (or charities)
- Donor receives tax receipt for present value of future interest of gift to charity

Requirements for such a transaction to be considered a gift

Under IT226R, in order for CCRA to consider a gift to have been made, the following requirements must be met:

a) there must be a transfer of property voluntarily given with no expectation of right, privilege, material benefit or advantage to the donor or person designated by the donor.

b) the property must vest with the recipient organization at the time of transfer. A gift is vested if:

- the person or persons entitled to the gift are in existence and are ascertained,
- the size of the beneficiaries' interests are ascertained, and
- any conditions attached to the gift are satisfied

Requirements con’t:

c)the transfer is irrevocable

d)it must be evident that the recipient organization will eventually receive full ownership and possession of the property transferred.

Also, in order to claim the gift for income tax purposes, it must be supported by an official donation receipt.

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Unresolved Issues:

- Discount rate
  - possibilities
- Charitable remainder trusts not mentioned in the Income Tax Act

CCRA opinions provided

- capital gain on transferred asset

  election under 118.1(6) of Income Tax Act

- additions to a trust

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Valuation Formula

$$P = \frac{V}{(1 + i)^{n}}$$

"P" = present value

"V" = fair market value of the property transferred to the trust

"i" = interest or discount rate

"n" = life expectancy of the income beneficiaries

Example:

Mr. DoGood, age 68, contributes to a charitable remainder trust listed stock having a cost base of $150,000 and a fair market value of $500,000 and names himself as income beneficiary. The annual dividend from the stock is $10,000. Soon after the contribution the trustee sells the stock and purchases bonds paying 6 percent.

-Amount contributed	$500,000
-Elected amount (under section 118.1(6))	$200,000
- Capital gain recognized as a result of transfer of stock to trust ($200,000 - $ 150,000)	$ 50,000
•**Taxable gain** (50% x $50,000)	**$ 25,000**
•**Tax on gain** (assuming Ont. Highest rate @ 46.61%)	**$ 11,603**
•**Tax Credit** (assuming 46.61 combined credit, $200,000 x 46.41%)	**$ 92,820**
•**Net tax savings** ($92,820 - $11,603)	**$ 81,217**
Income before gift	**$ 10,000**
Income after gift	**$ 30,000**

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