

**Submission to the Standing Committee on Finance for its study of
Tax Incentives for Charitable Giving in Canada**

University of Victoria
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University of Victoria (UVic) has experienced a significant increase in the level of major gifts support (defined as individual gifts valued at \$25,000 or more) over the past several years. In 2009-10, 90% of total funds raised at UVic were from major gifts from 1% of all donors, compared to 80% in 2006-07, also from 1% of all donors. This corresponds to the overall Canadian trend, albeit more sharply. Statistics Canada reports in its “Highlights from the 2007 Canada Survey of Giving, Volunteering and Participating” that the top 25% of donors accounted for 82% of the total value of donations to all charities in Canada.

Most of this support has come through gifts from individuals and their respective gifts continue to increase, in proportion of total giving. At UVic, individuals make up 49% of all living donors and 11% of gifts are received through estates (also individuals), while 20% are from Foundations (including private foundations). As such, individuals make up a significant level of support to UVic, as is the case with other charities in Canada.

Across Canada, **Education and Research** make up the third largest non-religious cause after health/hospitals and social services, and with changing demographics such as increasing number of alumni at young universities such as UVic (celebrating its 50 years as a University in 2012-13), the relative proportion of giving to Universities will increase in the future. The average age of donors is also increasing, as is reflected in our alumni population. Therefore the combination of growth in absolute numbers as well as their age profile indicates the need for giving strategies and providing appropriate incentives to attract donors who are older, and potentially more capable of making major gifts.

Many donors to UVic, as is likely to be the case with other Canadian universities and research institutes, are entrepreneurs and have created start-up companies whose ownership is generally privately held. This may especially be the case among immigrant families, many of whom tend to be entrepreneurs. As immigrant populations become more affluent and integrated into Canadian society, they are likely to give towards charities, especially universities, in recognition of the role that education plays in the career development of immigrants and their families.

Our submission to the Standing Committee, therefore, is focused on enhancing philanthropic support for the potential donors, who may have significant private non-liquid assets (which, in particular, include older Canadians and entrepreneurs):

- 1) Donors who have a significant portion of their assets tied in their private companies, and therefore may consider making gifts of private shares and
- 2) Donors who have significant appreciated real estate holdings and may consider making gifts of a portion of their holdings; and

3) Donors over the age of 65 who would like to make a major gift in their lifetime but would also like to continue enjoying their assets and receiving an income via a trust that could be established with their holdings. Such a gift would be in the form of a Charitable Remainder Trust (CRT), and the *Income Tax Act* needs to clarify the law surrounding the CRT.

1. Gifts of Private Shares

Since 2006, the full exemption from tax on capital gains for gifts of publicly-traded securities has been highly successful. Estimates suggest that Canadian charities have received over \$1 billion in donations in the form of listed securities. However, in Canada, these measures are not applicable to gifts of privately held shares. In the United States, gifts of both publicly and privately held securities are exempt from capital gains taxes.

As has been argued by several commentators, the inclusion of the capital gains exemption for gifts of private shares will give entrepreneurs, who maintain private company status, the same tax treatment who take their companies public and subsequently donate shares to charitable causes. Donald K. Johnson, a member of the advisory board of BMO Capital Markets, in his article published on October 31 in the *Globe and Mail*, has estimated that introducing these measures in the next budget will result in an additional \$200 million a year of incremental donations. Moreover, it would help level the fundraising playing field for our universities with our American counterparts, with whom we compete for talent.

As Mr. Johnson has mentioned, “concerns regarding evaluation abuse can be addressed by a regulation that the charity may not issue a tax receipt to the donor until the charity has received the cash proceeds from the sale of the asset. If the purchaser of the asset from the charity is not at arm’s length from the donor, the charity would obtain two independent appraisals to confirm that the asset was donated and sold at fair market value.”

2. Gifts of Real Property

Similar to the above proposal of eliminating all capital gains on gifts of public and privately traded securities, we propose an amendment of the *Income Tax Act* to eliminate capital gains on donations of real estate and land to public charities. Real Estate is one of the most widely held asset classes in Canada, especially in communities such as Victoria, where real estate values have steadily increased, and constitute some of the most significant holdings for individuals and families.

As proposed by the Canadian Association of Gift Planners (CAGP) in their submission to the Standing Committee in August, gifts of appreciated real estate will greatly benefit the not-for-profit sector and society: “the proposal eliminates the tax on capital gains realized from the sale of taxable real estate where the proceeds from the sale are gifted to charity within 30 days of the date of the sale or the tax on capital gains realized when a donor gifts real estate to a charity that will be used by the charity directly in pursuing its charitable purposes.”

The University of Victoria and a number of other universities in major metropolitan areas, where real estate values have significantly risen over the past 20 years or so will hugely benefit from this amendment, as this would enhance tax incentives for giving of non-liquid assets or assets that are no longer required by donors or their families. This is particularly relevant for the Baby Boom generation who are in the process of adjusting their property holdings, more suitable for their retirement years.

3. Charitable Remainder Trust

In their submission to the Standing Committee, the CAGP has also proposed changes to the *Income Tax Act* to clarify the law surrounding donations to **Charitable Remainder Trusts**. Charitable Remainder Trusts are effective means for donors who are 65 years and older to make significant gifts of assets. The Trust provides a “life income” that allows the donor to create a trust, retain a life income, and upon their death, the remainder interest goes to charity. Since the trust is irrevocable, the donor receives a current tax receipt for the *future* value for the capital in the trust.

The CAGP proposes that “the transfer of property to a full charitable remainder trust would be a gift for tax purposes. The charity would be required to value the remainder trust which is left to the benefit of the charity and can issue a tax receipt for that amount.” In addition, the proposal states that “while the charitable remainder trust would be exempt from tax but their annual distributions made to a beneficiary would be taxable under the *Income Tax Act*.”

Currently the *Income Tax Act* does not have explicit recognition as a gift vehicle, and it is believed that this devise will play an important role in structuring near end-of-life gifts made by Canadians.