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# LEAVE A LEGACY

## INCOME TAXES

**Colleen Ma**

October 21, 2017

VANCOUVER CALGARY EDMONTON SASKATOON REGINA LONDON KITCHENER-WATERLOO GUELPH TORONTO VAUGHAN MARKHAM MONTRÉAL



# Topics of Discussion

- Taxation on death
  - Deemed disposition on death
  - Deemed to receive other amounts
  - Taxation of different types of assets
- Tax administrative issues
  - Tax filing obligations
  - Clearance certificate
- Tax benefits of charitable giving

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# Taxation on Death



# Deemed disposition / receipt at death

- Deemed disposition of all capital property at fair market value (“FMV”) immediately before death
  - Taxed on growth of assets, not total value
- Deemed to receive full withdrawal of RRSP or RRIF immediately before death
- Exceptions
  - Tax-deferred transfer (“rollover”) of property
    - To spouse or common-law partner or trust for spouse or common-law partner
  - Principal residence
  - Tax-deferred transfer of registered accounts (RRSP, RRIF)
    - To spouse or common-law partner
    - To other family members in certain circumstances



# Estate of Arthur Felix (example)

| Asset                   | Value              |
|-------------------------|--------------------|
| Cash deposits           | \$150,000          |
| House in Calgary        | \$500,000          |
| RRSP                    | \$350,000          |
| Cabin in BC             | \$500,000          |
| Shares of Telus         | \$200,000          |
| Life insurance proceeds | <u>\$300,000</u>   |
| Total                   | <u>\$2,000,000</u> |



# Cash and Life Insurance

| Asset   | Fair Market Value |
|---|-------------------|
| Cash  | \$150,000         |
| Life Insurance                                  | \$300,000         |
|   |                   |
| Income taxes (assume tax at top AB rate of 48%) | \$nil             |
| Available to family                             | \$450,000         |



# RRSP

| RRSP  |           |
|---|-----------|
| Fair market value at death                      | \$350,000 |
|   |           |
| Income taxes (assume tax at top AB rate of 48%) | \$168,000 |
| Available to family                             | \$182,000 |



# Real Property

|  | House in Calgary<br>(purchased 1991) | Cabin in BC<br>(built 2001) |
|--|--------------------------------------|-----------------------------|
| Appraised value                                    | \$500,000                            | \$500,000                   |
| Original cost                                      | <u>(\$200,000)</u>                   | <u>(\$200,000)</u>          |
| Accrued gain                                       | \$300,000                            | \$300,000                   |
| Taxable gain                                       | \$150,000                            | \$150,000                   |
|  |                                      |                             |
| Income taxes (assume tax at top<br>AB rate of 48%) | ?                                    | ?                           |
| Available to family                                | ?                                    | ?                           |





# Principal Residence Formula

$$\frac{(A \times B)}{C}$$

A = the gain

B = # years as “principal residence” (+1 if not non-residence on acquisition)

C = # years property owned



# Principal Residence Designation

|   | House in Calgary (bought 1991) | Cabin in BC (built 2001) |
|---|--------------------------------|--------------------------|
| Designation years (+1)                          | 1991 – 2001 (11/27 years)      | 2002 – 2017 (15/16)      |
| Appraised value                                 | \$500,000                      | \$500,000                |
| Original cost                                   | <u>(\$200,000)</u>             | <u>(\$200,000)</u>       |
| Accrued gain                                    | \$300,000                      | \$300,000                |
| Exemption                                       | <u>(\$133,333)</u>             | <u>(\$300,000)</u>       |
| Adjusted gain                                   | \$166,667                      | \$nil                    |
| Adjusted taxable gain                           | \$83,334                       | \$nil                    |
| Income taxes (assume tax at top AB rate of 48%) | \$40,000                       | \$nil                    |
| Available to family                             | \$460,000                      | \$500,000                |



# Designation – House Only

|   | House in Calgary (bought 1991) | Cabin in BC (built 2001) |
|---|--------------------------------|--------------------------|
| Designation years                               | 1991 - 2017                    | N/A                      |
| Appraised value                                 | \$500,000                      | \$500,000                |
| Original cost                                   | <u>(\$200,000)</u>             | <u>(\$200,000)</u>       |
| Accrued gain                                    | \$300,000                      | \$300,000                |
| Exemption                                       | \$300,000                      | N/A                      |
| Adjusted gain                                   | \$nil                          | \$300,000                |
| Adjusted taxable gain                           | \$nil                          | \$150,000                |
| Income taxes (assume tax at top AB rate of 48%) | \$nil                          | \$72,000 (vs. \$40,000)  |



# Non-registered investments

|   | Telus Shares      |
|---|-------------------|
| Value on Oct 1, 2017                            | \$200,000         |
| Original cost                                   | <u>(\$50,000)</u> |
| Accrued gain/loss                               | \$150,000         |
| Taxable gain/loss                               | \$75,000          |
|   |                   |
| Income taxes (assume tax at top AB rate of 48%) | \$36,000          |
| Available to family                             | \$164,000         |



# Estate of Arthur Felix

| Asset                   | Value              | Tax<br>(CRA's Share) | Net Tax<br>(Family's Share) |
|-------------------------|--------------------|----------------------|-----------------------------|
| Cash deposits           | \$150,000          | \$nil                | \$150,000                   |
| House in Calgary        | \$500,000          | \$40,000             | \$460,000                   |
| RRSP                    | \$350,000          | \$168,000            | \$182,000                   |
| Cabin in BC             | \$500,000          | \$nil                | \$500,000                   |
| Shares of Telus         | \$200,000          | \$36,000             | \$164,000                   |
| Life insurance proceeds | <u>\$300,000</u>   | <u>\$nil</u>         | <u>\$300,000</u>            |
| Total                   | <u>\$2,000,000</u> | <u>\$244,000</u>     | <u>\$1,756,000</u>          |

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# Tax Administrative Issues



# Tax filings on death

- Final return (or terminal return)
  - Income from January 1 – date of death
  - Due the later of April 30<sup>th</sup> or 6 months after death
  - Special rules
- Optional “Rights and Things” return
  - Include certain non-periodic payments in separate return
  - Double up on personal credits, separate marginal rate available
- T3 Trust and information return – due within 90 days of trust/estate year end
- T4 Statement of Remuneration - due in February
  - Executor fees are considered income
  
- Also consider probate fees



# Clearance certificate

- Legal representative can be personally liable for unpaid taxes of deceased or estate if distribute without clearance certificate
- Clearance certificate protects the legal representative but does not protect beneficiaries
- Request turn-around time currently approx. 4 months but can be much longer



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# Tax Benefits of Charitable Giving

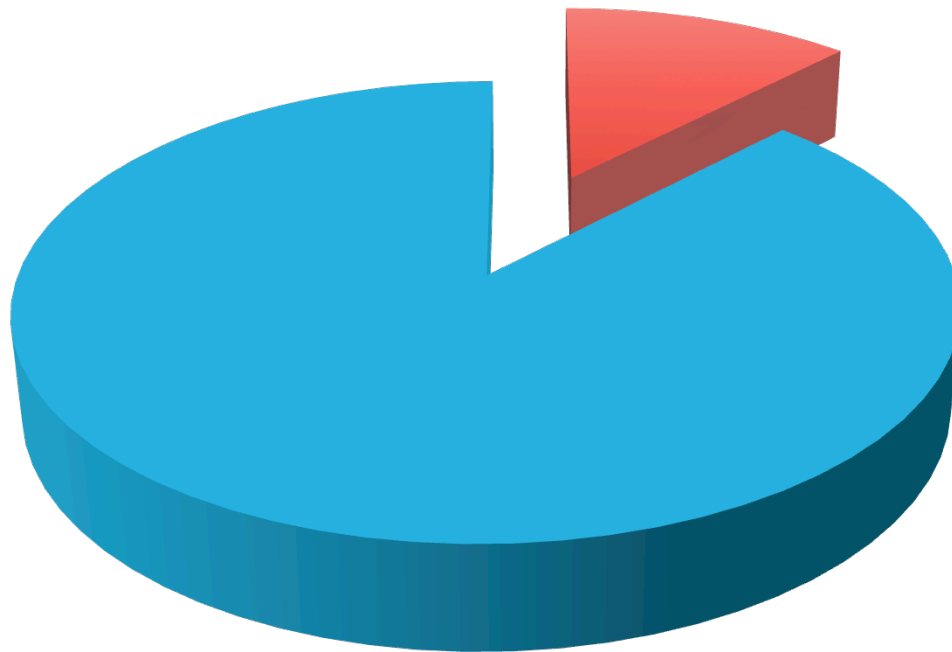


# Estate of Arthur Felix

| Asset                   | Value              | Tax<br>(CRA's Share) | Net Tax<br>(Family's Share) |
|-------------------------|--------------------|----------------------|-----------------------------|
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| House in Calgary        | \$500,000          | \$40,000             | \$460,000                   |
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# No Charitable Gift



**\$2,000,000 Estate**

■ CRA - \$244,000

■ Family - \$1,756,000



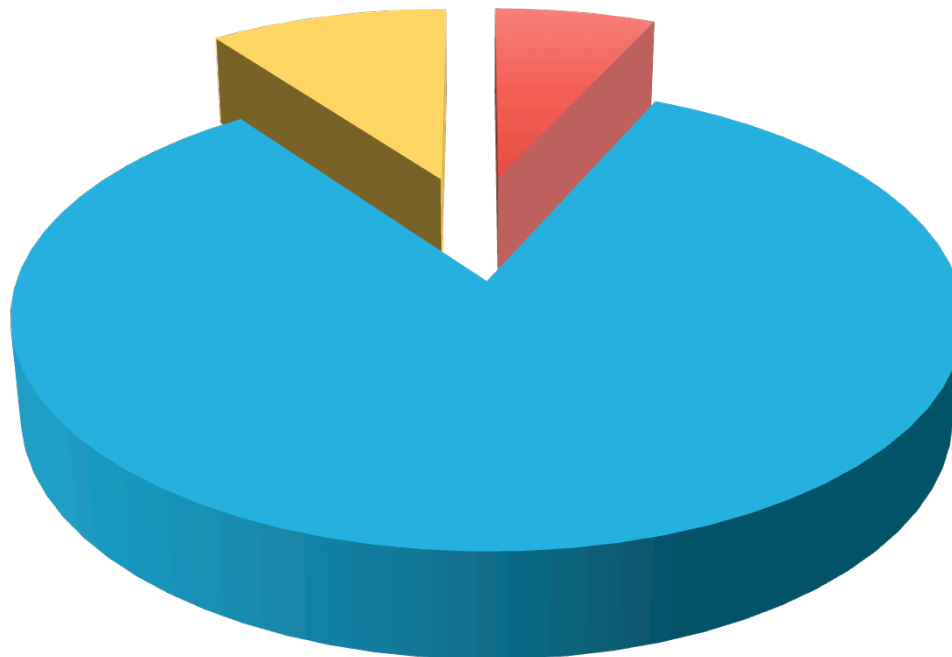
# Tax benefits of charitable donations

- Must be specified in the Will or direct designation (life insurance, RRSP, etc.)
- Considered made by estate
- Donation tax credit claim options
  - T1 terminal return
  - Year before death
  - Estate in year of donation
  - Estate in previous year(s) or following 5 tax years
- Federal – 15% on first \$200, 33% between \$200 - \$202,800 (2017) and 29% over \$202,800 (2017)
  - First-Time Donor's Super Credit expires at end of 2017
- Alberta – 10% on first \$200, 21% over \$200



# Charitable Gift \$200,000 cash

\$2,000,000 Estate



- CRA - \$136,058
- Family - \$1,663,942
- Charity - \$200,000



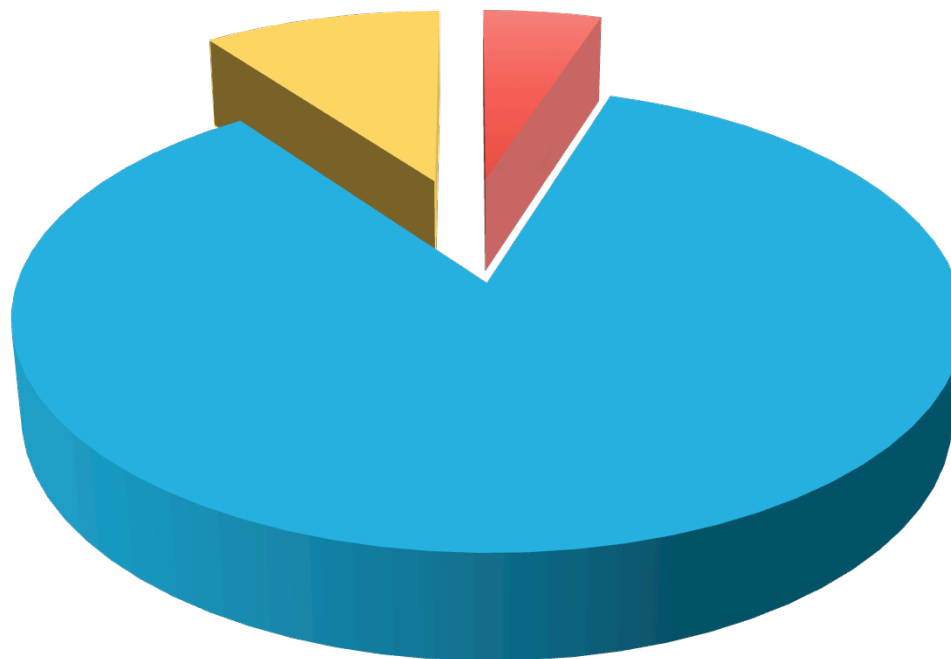
# No Capital Gain

- Usually 50% inclusion rate for capital gain
- 0% inclusion rate for capital gain of
  - Publicly-traded marketable securities
  - Ecological property
  - Cultural property
- Donation must be made from a “graduated rate estate”



# Charitable Gift \$200,000 Telus shares

\$2,000,000 Estate



- CRA - \$100,058
- Family - \$1,699,942
- Charity - \$200,000



# Effect of Charitable Gift

|              | No Giving   | Charitable gift<br>\$200,000 cash | Charitable gift<br>\$200,000 Telus shares |
|--------------|-------------|-----------------------------------|---|
| CRA          | \$244,000   | \$136,058                         | \$100,058                                 |
| Charity      | \$nil       | \$200,000                         | \$200,000                                 |
| Family       | \$1,756,000 | \$1,663,942                       | \$1,699,942                               |
|              |             |                                   |   |
| Total Estate | \$2,000,000 | \$2,000,000                       | \$2,000,000                               |



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