Having your Cake and Giving it Too

A "gift of residual interest" is a method of giving away an asset while continuing to enjoy its use. Although several types of property can be donated in this way, the most common is a family home. A donor has the choice of making this gift through a bequest in their will, or through a gift of residual interest. In both cases the donor lives in the house for as long as they wish. In both cases the value of the gift to the church is the same.

Here's how a gift of residual interest in a home would work.

Imagine that the rights to the property are divided into two parts. One is called the *life interest*, and represents the right of the donor to use the property for as long as they live. The other part is what's left over, and so is known as the *residual interest*. The donor gives away the residual interest to the church while retaining the life interest.

There would be a legally binding agreement transferring the title, defining the right of the donor to occupy the home for his or her lifetime, and specifying who would pay taxes, maintenance costs, etc. Once the agreement is signed by both parties, the gift has been completed. But the donor continues to live in the home as they always have.

It is possible to take the current monetary value of any property and divide it into the two interests: life and residual. This is just a calculation on paper — the *physical* property is intact and undisturbed! As with any other charitable gift, the charity would acknowledge the donation with an official receipt. Since it is only the residual interest that is donated, the amount of the receipt is only a portion of the market value at the time of the gift. This portion is determined by the age of the donor: the older the donor, the larger the receipt.

Why would anyone consider making a gift of residual interest in a family home? For starters, they must have the desire to support God's mission by means of a significant gift. A church might be able to use a home and property in its ministry programs, or it could sell the real estate and use the cash proceeds.

Beyond that, there are some significant financial benefits available to many donors. Compared to a bequest, a residual interest gift:

- will likely result in higher charitable donation credits, which translate into **lower income taxes** paid. This is because a gift made during a donor's lifetime can be claimed for income tax credits over six taxation years, while gifts in a will can be claimed only in the year of death and the previous year.
- **gives the benefits of income tax reductions to the donor**, not the heirs. A person of average income might find that they pay little or no income tax for up to six years after donating their home in a gift of residual interest.
- **reduces probate fees**. Because the home is disposed of during the donor's lifetime, it is *not* part of the estate. If the home is donated by a bequest clause in the will, its value is included in the estate

and probate fees are applied. (Probate fees do not apply to most estates in the province of Québec.)

A gift of residual interest is not advantageous in every situation. Persons considering this type of gift should note that, unlike a bequest, a gift of residual interest is *irrevocable*. Potential donors and beneficiaries should consult competent professional advisors before acting on any of the ideas in this article.

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For more information on gifts of residual interest, call Lutheran Planned Giving at 1-888-308-9461.

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