

The Most Popular Planned Giving Vehicle – Wills and Bequests

Considering making a donation to a worthwhile institution, such as St. Timothy's Presbyterian Church, necessitates consideration of the benefits of "planned giving". The most common form of planned gift is the bequest - making a gift through one's will. Leaving a charitable gift through a will is the practice that most people think of when they consider planned gifts. Indeed, almost eighty percent (80%) of planned gifts are bequests. My purpose in drafting this second short information piece in the Stewardship series is to set out some of the considerations that one should have in mind when one makes out a will. This second piece will also provide examples of bequests for illustrative purposes.

For many people considering making a charitable gift, a concern exists that by doing so they will be short of funds in the future. For these donors, the bequest is one of the smartest options. Leaving a gift by will permits them to leave a significant gift in the future to benefit a charity that they love now, such as St. Timothy's Presbyterian Church, all the while providing for their present and future financial security.

As with all of these informational pieces, this one is drafted to raise the awareness of the planned giving option to St. Timothy's Church supporters. It is not to be considered legal or investment advice. Consultation with a professional advisor is always recommended. A list of competent advisors is available from the author.

Intestacy – How to Avoid It

When one dies without having drafted a will, one is deemed by law to have died *intestate*. Intestacy is an unattractive outcome for most people because the government decides how their estate is to be administered. The law divides the intestate's estate and thereby determines how much each of one's heirs will receive. Charity receives nothing. For most people made aware of that reality, the government having that complete control over the division of their assets is unacceptable. Nonetheless, statistically, a large number of Canadians die intestate.

With a will, the donor (in law, called the "Testator") is provided with a great deal of flexibility. A significant contribution to a charity such as St. Timothy's Church can be made, without the Testator having to sacrifice *any* financial security during his or her lifetime.

Indeed, a will allows the Testator to make his or her own decisions, among other things, about the following matters:

- (a) who will receive the distributions of his or her estate;
- (b) the appointment of guardians for minor children;
- (c) the determination of whom will be his or her Executor;

Making a bequest is an excellent way to continue to fund those areas of St. Timothy's Church in which one has the most interest.

Does one wish to help pay for the upkeep of certain meeting rooms such as the Goforth Room or the Choir Room, the building itself, the pews or other furnishings, help fund particular projects in a specific field, or contribute to a specific fund or a general endowment fund? A most common approach is to leave support where the governing bodies of the Church deem it is most needed. These various options for giving are available from the Minister or the Clerk of Session.

Types of Bequests

The most common types of bequests are the following ones:

- (a) *A Specific Bequest*, e.g., "I give to St. Timothy's Presbyterian Church...". With this type of bequest, the Church would receive a specific dollar amount or a stated proportion of the estate.
- (b) *A Contingent Bequest*, e.g., "If my spouse pre-deceases me, then my entire estate (or, one-third of my estate, not to exceed \$5,000, etc.) to St. Timothy's...". With this type of bequest, the Church would receive all or a share of the estate only in the event of the prior death of other named beneficiaries.
- (c) *A Residual Bequest*, e.g., "I give to St. Timothy's Presbyterian Church in Ottawa, 5% of the remainder of my estate, to be used at the discretion of the Church's management...". With this type of bequest, the Church would receive all or a percentage of the remainder of a donor's estate after other specific legacies have been fulfilled.
- (d) *A Trust Remainder Bequest*, e.g., "Upon the death of named beneficiaries receiving income from a trust established herein, all or a part of the remainder of the trust to go to St. Timothy's Church". With this type of bequest, the Church would receive all or part of the principal of a trust established in the Will to benefit named beneficiaries, upon the death of those beneficiaries.
- (e) *A Restricted Bequest*, e.g., "I give \$10,000 for capital improvements...". Funds are restricted to the use designated.

As another advantage, if one makes a bequest, one's *estate* is entitled to a tax receipt for the full value of the gift, thereby *reducing the taxes* on the estate that are payable.

The “Power to Vary Purposes” Clause

When donors are contemplating making gifts to the Church by bequest, they may decide between making restricted or unrestricted gifts. The unrestricted gifts, meaning, gifts unrestricted as to use, do provide the Church leadership with more flexibility in the future. Realistically, also, changing circumstances may nullify a narrow use contemplated and predetermined by a donor.

It would be wise for the donor to authorize his or her lawyer to include authorization in the will for the management of the Church to change the use of the gift if it cannot be applied as originally intended. Such a “Power to Vary Purposes” clause would look something like this clause:

“In the event that the circumstances make the designated use of this gift no longer practical, desirable or even possible, the Board of Managers of St. Timothy’s Church is hereby authorized to make changes in its use in keeping as far as possible with the spirit and general intent of the gift.”

Bequests are most easily made through the addition of a “codicil”, which is, in effect, a supplementary clause adding content to an existing will. The codicil will retain all of the provisions of an existing will, except those provisions that are modified by the codicil.

Your Legacy for St. Timothy’s Presbyterian Church in Ottawa An Extra Advantage for You

Any gift that you leave to St. Timothy’s Church is an investment in the future of the church. If it assists you in preparing your overall estate plan, an extra advantage accrues. In fact, this is an often-overlooked advantage. If the gift is an addition to your existing will, you will have the advantage of having your will reviewed and updated by a professional, something people should do regularly. Many people make wills, and then leave them in a drawer or a safety deposit box for years. Peoples’ circumstances change over those passing years. Many of those changing circumstances impact estates. Finally, and most importantly, you will take control over the future of your estate to benefit those elements of the Church that have meant the most to you in your lifetime. Gift giving through bequests is a spiritual exercise as well as a legal and practical one.

For greater information, do not hesitate to contact the author.

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