



CIBC PRIVATE WEALTH

Lifetime gift planning



Fulfill the promise of your ambitions

What's your vision for success? We've learned that success often means achieving a sense of satisfaction and joy about the use of your wealth for yourself, your family and causes you hold dear.

It also means having peace of mind about your financial affairs, trusting that your wealth advisor is managing the complexities of wealth ownership. Additionally, for some, it means that plans are in place to realize your vision for broader community impact and a lasting family legacy.

CIBC Private Wealth can be your partner for all of your investment, wealth planning and private banking needs. Our professionals are dedicated to delivering exceptional performance and service with an unwavering focus on you and your best interests.

We hope the information on the following pages will inspire you to articulate your own vision for your wealth. It would be our privilege to help you bring your ambitions to life.

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CIBC PRIVATE WEALTH

Lifetime gift planning

Lifetime gift planning strategies: Considering your options



Lifetime gift planning strategies

Lifetime gifts can be an effective way to transfer wealth and create a lasting financial legacy. In addition, lifetime gifts allow an individual to leverage the federal gift tax exemption (\$15 million in 2026) to transfer assets and any future appreciation outside of their estate. Whether the goal is to transfer assets to be used for many generations or to experience the recipient enjoying the gift during the grantor's life, there are an array of options that can be implemented to make the most of any lifetime gift planning.

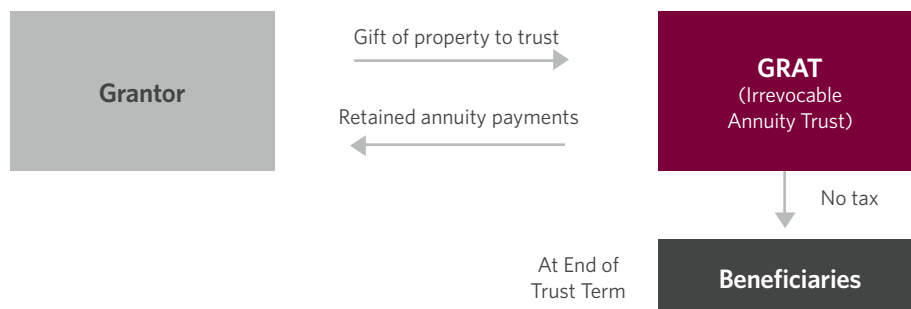
Grantor retained annuity trust (GRAT)

A grantor retained annuity trust (GRAT) is an irrevocable trust in which the grantor makes a gift of property in trust while retaining a right to an annual payment (annuity) for a specific period of time. GRATs can be used for a variety of assets, including concentrated positions and assets expected to appreciate significantly. GRATs allow a grantor to split interests in property and make discounted gifts to beneficiaries while preserving the right to an annuity.

The right to the annuity is a retained interest that has a value determined by using IRS tables. The value of this retained interest is subtracted from the full value of the property transferred when determining the taxable value of the gift for transfer tax purposes. The amount of property that remains in the trust at the end of the trust term after making the annual payments passes to the beneficiaries free of any further gift or estate tax.

Because only the remaining interest is subject to tax, the applicable exclusion is more effectively used or leveraged. A GRAT is treated for income tax purposes as a "grantor trust." This means that the income tax liability incurred by the trust flows through to the grantor as if it had been incurred by the grantor himself or herself.

If the grantor dies prior to the end of the trust term, generally the entire value of the trust will be included in the taxable estate, as if the trust had never been created. It is important to select the term of the trust with care, so that the grantor is likely to live beyond the termination of the trust and distribution of the property to the beneficiaries.



Advantages

- The annuity can be defined as a percentage of the fair market value of trust assets, which avoids any gift tax "surprise."
- Strong case law and regulatory guidance exist for GRATs.
- Appreciation in excess of the annuity is transferred to beneficiaries without gift tax.
- Since only the appreciation is transferred, the principal is retained by the grantor.

- The grantor remains liable for income tax on sales or earnings within the GRAT, which can be an additional planning benefit.
- If the annuity is paid back “in kind” using contributed assets, there are no income tax consequences to the grantor.
- The annuity stream may be used to fund additional GRATs, creating rolling GRATs.

Disadvantages

- The death of the grantor during the term of the GRAT generally will cause GRAT assets (including appreciation) to be included in the grantor’s estate, as if the GRAT had not been created.
- If assets fail to appreciate, any gift tax paid (or exclusion used) to transfer the remainder interest will have been wasted.
- The annuity payments from the GRAT must be nearly equal, not allowing compounding.
- Because the generation-skipping transfer (GST) tax exemption cannot be allocated to a GRAT until the grantor’s interest has terminated, GRATs are less effective as multi-generational planning tools.

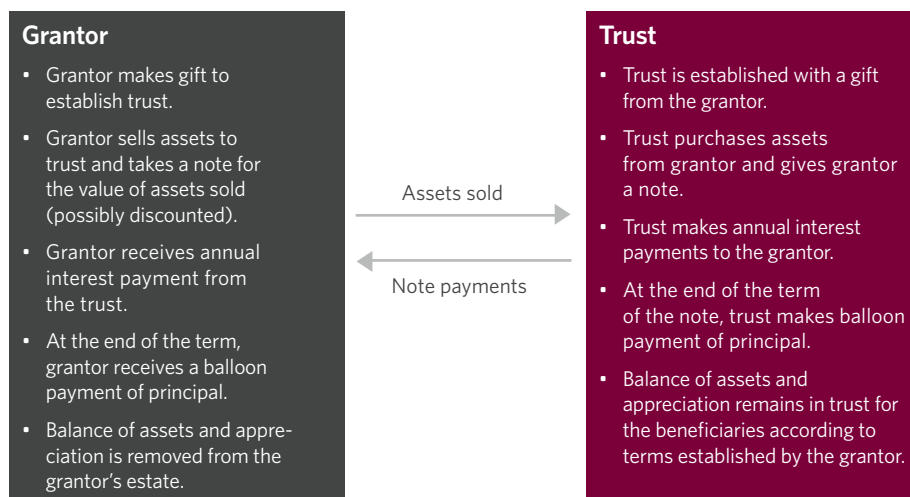
Installment sale to a grantor trust

The goal of this strategy is to transfer anticipated appreciation of assets at a reduced gift tax cost.

The installment sale to grantor trust strategy takes advantage of the significant differences between the income and transfer tax treatment of irrevocable grantor trusts. When structured properly, the grantor of an irrevocable trust can be treated as the “owner” for income tax purposes while having made a completed gift for transfer tax purposes.

The purpose of attempting to achieve this discrepant result is to effect a sale to the trust that does not produce a capital gain to the grantor, but produces an irrevocable grantor transfer of property and its appreciation to the trust (and out of the grantor’s estate). In return for the transfer of property, the trust gives the grantor a note, which carries a market rate of interest and a balloon payment of principal at the end of the term of the note.

When the note is repaid, the grantor has transferred the appreciation with no tax liability. Moreover, if the asset that was the subject of the sale was discounted at the time of the sale (for example, interests in a privately held business or a family limited liability company), the amount that will be satisfied at the term of the note will be less than the original underlying value of the asset transferred, providing additional leverage.



Advantages

- Upon the death of grantor during the term of the loan, the underlying assets (including appreciation) are not included in the grantor's estate; only the value of the note balance is included.
- Payments on the note can be structured as interest only with a balloon payment at the end of the term of the note, allowing compound appreciation of the assets during the term of the note.
- Appreciation in excess of the sale amount is transferred to beneficiaries without incurring a gift tax.
- Since only the appreciation is transferred, principal is retained by the grantor.
- The grantor remains liable for income tax on sales or earnings within the trust, which can be an additional planning benefit.
- The transaction can be structured to take advantage of the generation-skipping transfer (GST) tax exemption and promote multi-generational planning.

Disadvantages

- The IRS may challenge the valuation, and the transaction could be viewed as a part sale/part gift. The grantor may owe gift tax on the non-sale portion.
- If assets fail to appreciate above the IRS assumed rate, the benefits can be minimal and any gift tax paid (or exclusion used) to fund the transaction could be lost.
- The strategy does not have any statutory authority.
- If the grantor dies during the note term, favorable grantor trust status will terminate and the trust may be liable for income tax.
- The value of the asset may decline, resulting in the inability of the trust to repay the loan.

Family limited liability entities

How family limited liability companies (FLLCs) work

Family limited liability entities can help you consolidate investments, share income with family members in lower tax brackets, protect assets and develop long-term estate plans. These entities can hold business, personal or investment assets. Although the terms "family limited partnerships" and "family limited liability companies" are sometimes used interchangeably, the use of one structure over another will be dependent upon jurisdiction and intended use. Please speak with your legal and tax advisors to determine which is optimal for your situation. The term "family limited liability company" (FLLC) will be used here. Key characteristics of an FLLC strategy often include:

- One or more family members set up a limited liability company and transfer capital assets into it. Within the FLLC structure, the parents can be the managing members, and the children (or grandchildren) are the non-managing members. The managing members often own only a small portion of the company (for example, 2%), while the non-managing members own the majority interest. The managing members have complete responsibility and control of company activities.
- The non-managing managers have no control or management rights.
- One of the most attractive features of the FLLC is its flexibility. Some estate planning strategies must be "irrevocable" in order to be effective. Once set up, these irrevocable tools generally cannot be changed or undone. In contrast, the FLLC document can be modified to respond to changes in the family or business structure.

Why consider an FLLC?

There are three primary reasons for creating an FLLC:

- **Income Tax Benefits:** Once the children or grandchildren own the majority of the LLC interest (as a result of estate planning transfers), most of the income generated flows through them and is taxed at their typically lower marginal tax rate. On the other hand, the managing members (often, the parents) have a great deal of control over whether and how income is distributed.
- **Protecting Assets from Lawsuits:** State limited liability company statutes generally prevent the creditors of a limited partner from attaching FLLC assets. While the creditors may get a "charging order" against the debtor's FLLC interest, as a practical matter, it can be difficult to collect the debt.
- **Estate Planning Benefits:** When the parents contribute assets to an FLLC, or when they transfer interests in the FLLC to the children, they are transferring asset value and shifting asset growth and income from themselves to a younger generation. Often, a gifted ownership interest can receive a discounted value because the non-controlling or minority interest lacks marketability. The use of valuation discounts should be carefully reviewed with your legal advisor.

FLLCs are not for everyone

Before considering an FLLC, there are a number of questions that the parent or parents must answer. Will the income shared with the child affect the parents' lifestyle? Will a gift tax be due and payable when the transfer is made to the child? Will the transfer and income tax savings compensate for the increased complexity?

Assets transferred to the FLLC generally should be invested for growth. In light of case law, it is important that the FLLC be structured properly. Among the factors that should be considered are the following:

- The FLLC should have at least one significant business purpose other than to obtain discounts or reduce taxes.
- FLLC accounts should be managed separately from personal accounts and proper documentation should be retained.
- FLLC assets should not be used for personal expenses.
- The FLLC should be established while you are in good health.

Advantages

- Flexibility of control of the entity and transferability of beneficial interest
- Aggregation of investable assets allowed, resulting in access to a greater variety of investment choices for beneficial owners
- Asset protection
- Family participation
- Valuation benefit

Disadvantages

- Possible challenge by the IRS to the discount claimed
- Inclusion in your estate if too much control is retained

Due to the complexity of FLLCs, they are not appropriate for every individual or family situation. The documentation for an FLLC must be carefully designed to avoid violating both federal law and the law of the state where the FLLC is being created.

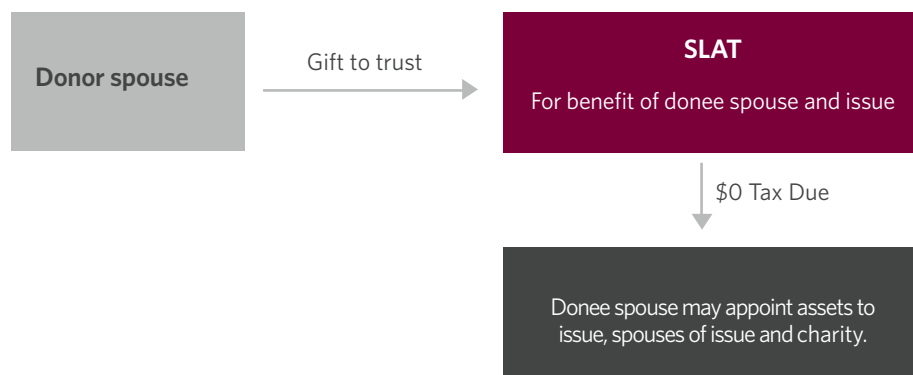
Spousal lifetime access trust (SLAT)

With the increase of the lifetime exemption amount, many individuals choose to take advantage of this opportunity by making direct outright gifts to family members or trusts for their benefit. Other clients may be more hesitant to give away significant assets now, but do not want to lose the chance to plan. One choice for these clients is to create a lifetime trust designed to allow clients to have the best of both worlds.

A spousal lifetime access trust (SLAT), is similar to a family trust or credit shelter trust that many clients already have under their estate plans. Often a will or revocable trust creates a separate trust, typically for the benefit of the surviving spouse and descendants or just for the surviving spouse, funded with a decedent's remaining applicable exclusion amount (that portion of the exemption amount—\$15 million per person (\$30 million for a married couple) for 2026—that was not used during life). The trust is designed specifically so that it will not qualify for the unlimited marital deduction. Instead, the decedent's remaining estate tax exemption is allocated to the trust and the trust is sheltered from estate tax in the decedent's estate. When the surviving spouse subsequently dies, the assets, no matter how large they grow, are not taxed in the survivor's estate and pass to the descendants or trusts for their benefit.

The SLAT would operate in the same manner as above except that it is created during the donor's lifetime rather than under a will or revocable trust. In a typical structure, the donor spouse would make a transfer to a trust created for the benefit of the donor's spouse and descendants. The trustees can distribute income and principal to any of the beneficiaries. The beneficiary spouse may also serve as a trustee and have a limited power to appoint the assets either during his or her lifetime and/or under his or her will.

As the trust is funded during life, the couple will be able to take advantage of the \$15 million per person (\$30 million for a married couple) gift tax exemption for 2026, but retain access to the trust's assets through the ability of one spouse to receive income and principal distributions. To the extent that trust distributions are not made, both the assets and the appreciation of the assets during the spouses' lifetimes will escape any further gift or estate taxes. This can be enhanced with the allocation of GST tax exemption.



Taking this strategy a step further, both spouses may wish to create SLATs to provide each of them some access to trust assets. The trusts should not be substantially identical, as the IRS may "look through" identical trusts and find that no gifts were made. The trusts can be created at different times, funded with different amounts and contain different terms. For example, one trust may be for the benefit of a spouse only and the other for the spouse and descendants. One spouse may have a power of appointment and another may not.

Note: It is critical to work with a qualified professional when structuring such trusts.

Intra-family loans

Intra-family loans can help another family member achieve specific goals, such as buying a home or starting a business, without making an outright transfer or gift. Under rules set forth in the Internal Revenue Code, you can make loans to family members at lower rates than commercial lenders without the loan being deemed a gift.

For example, if a parent makes an interest-free loan to a child, the IRS will treat the foregone interest as a taxable gift to the child and imputed income to the parent. In order to prevent this treatment, the parent must charge a minimum interest rate, which is known as the applicable federal rate (AFR). The Treasury Department updates this rate monthly.

If the parent establishes a bona fide creditor-debtor relationship with stated interest at or above the AFR, the intra-family loan will be treated as a loan and not a transaction subject to the gift tax. In order to establish this creditor-debtor relationship, the parent should strive to make the loan official with the creation of a promissory note, a fixed repayment schedule, adequate security or collateral (for example, a mortgage if the proceeds are used to buy a home), and records of payments.

Intra-family loans create an opportunity to shift wealth from one family member to another if the borrower family member can earn a return on the amount borrowed greater than the AFR. The extra return is essentially a transfer tax-free gift from the creditor family member to the borrower family member.

Furthermore, intra-family loans allow the total interest expense paid over the course of the loan to stay within the family instead of being paid to a third-party lender. The loans also provide an opportunity to help a family member with poor credit history make a purchase and to save on some of the ancillary costs and fees associated with borrowing from a third-party lender (administrative costs, closing costs, appraisal fees, etc.). Also, the lower interest rates of the AFR will allow the borrower to save more money in his or her pocket over the term of the loan when compared to a similar loan from a third-party lender.

An intra-family loan can be a simple and effective wealth transfer device to help your family members purchase a home or business or make an investment without incurring additional gift tax.

There are many variations to the strategies outlined above, as well as other planning opportunities, that should be discussed with your family wealth advisors.



CIBC PRIVATE WEALTH

Lifetime gift planning

Dynasty trusts:

Keeping it all in the family



Dynasty trusts

There are many benefits to making gifts to younger family members in trust for their benefit rather than an outright gift to them. These advantages include asset protection, tax planning and family control. When creating a trust for many generations, there are several points to consider.

A dynasty trust is any trust that lasts longer than one generation below that of the grantor, taking advantage of the federal generation-skipping transfer (GST) tax exemption to remove family wealth from the transfer tax system for as long as the trust is in existence. Gifts to anyone two or more generations below the donor (such as grandchildren or great-grandchildren) are potentially subject to the GST tax. This tax is in addition to the estate or gift tax, and is applied at a flat rate of 40% for 2026. There is an exempt amount of \$15 million per person (\$30 million for a married couple) for 2026.

One of the most effective uses of the GST tax exemption is to apply it to a transfer in trust that lasts for multiple generations. A trust that skips generations is frequently referred to as a “dynasty trust” and can last as long as the law in the state of creation allows. Some states allow trusts to last in perpetuity, while others require trusts to terminate and vest in individuals after a certain period of time. These laws, called Rules Against Perpetuities, vary from state to state. However, it is possible for a donor to create a trust in a state other than the one in which he or she lives to take advantage of more favorable laws.

For 2026, an individual can give up to \$15 million worth of assets (the GST tax-exempt amount) to a trust for the benefit of his or her children, grandchildren and future generations, and protect the assets in the trust from transfer taxation for as long as the trust is in existence.

- Income and principal from the trust benefit each succeeding generation according to the terms the donor specifies in the trust document. All undistributed income and asset appreciation accumulate free of transfer taxes.
- The GST tax exemption can be further used by transferring assets subject to valuation discounts or policies of life insurance. Such assets allow the donor to transfer more value to the trust without additional tax consequence.

Case study

The following table illustrates the effect of long-term compounding free of transfer tax in a dynasty trust compared with the imposition of transfer tax at each generation.

In addition to protecting the trust assets from transfer taxation, dynasty trusts can protect the assets from the claims of the beneficiaries’ creditors. The beneficiaries do not own the underlying trust assets, but have an interest that is subject to the trustee’s discretion (governed by the donor’s guidance in the document). Creditors are only able to reach amounts that are actually distributed to a beneficiary. Discretionary trusts are a time-honored vehicle for long-term asset protection.

Dynasty trust compared to outright bequest

		Outright bequest	Dynasty trust
G2	Transfer of \$1,000,000*	1,000,000	1,000,000
	Future value (25 years @ 6%)	4,291,871	4,291,871
	Estate tax (at children's death @ 40%)	(1,716,748)	(0)
	Amount available for grandchildren	2,575,122	4,291,871
G3	Future value (25 years @ 6%)	11,052,093	18,420,154
	Estate tax (at grandchildren's death @ 40%)	(4,420,837)	(0)
	Amount available for great-grandchildren	6,631,256	18,420,154
G4	Future value (25 years @ 6%)	28,460,491	79,056,921
	Estate tax (at great-grandchildren's death @ 40%)	(11,384,197)	(0)
	Amount available for great-great-grandchildren	17,076,295	79,056,921

*An initial transfer of \$1 million is used. This table makes a number of assumptions regarding interest rates and future value and is for illustrative purposes only.

Grantor trusts add another layer of tax benefit

Another strategy to consider when making gifts to long-term trusts is structuring the trust in a way that allows the assets to grow not only without estate taxation, but also free of income tax for which the trust is liable. A grantor trust treats the trust's grantor as the owner of the trust assets for income tax purposes, allowing the trust principal to grow free of tax.

Payment of income taxes by the grantor enhances the estate planning benefits of a transfer, as the assets within the trust will not be diluted by income taxes.

A grantor trust is a trust over which the grantor maintains sufficient control to be the owner of the trust assets (or a portion). For income tax purposes, this has the effect of requiring the grantor to include on his or her income tax return all items of income including gains, deductions, losses and credits generated by the trust, as if the trust had not been in existence. Income is taxed at the grantor's rate and the trust is disregarded as an entity with regard to transactions (such as sale of an asset) between the grantor and the trust. Payment of income taxes by the grantor can enhance the estate planning benefits of a transfer, as the assets within the trust will not be diluted by income taxes—essentially a tax-free gift. In addition, income taxes paid by the grantor continue to reduce the size of the grantor's taxable estate for estate tax purposes.

Advantages

- A transfer to a trust is a simple method of transferring wealth to future generations, as the assets and their appreciation are immediately removed from the grantor's estate.
- If a grantor trust strategy is employed, income taxes paid by the grantor free the trust assets to compound tax-free.
- Annual exclusion gifts may be added to dynasty trusts, to the extent the exclusions are not needed for other purposes.
- Additional leverage for the gift may be obtained if assets are contributed to an LLC and LLC interests are transferred.

Disadvantages

- A transfer to a trust can be an expensive strategy from a gift tax perspective, if the full value of assets is included in the gift.
- To the extent unified credit is used to protect the assets transferred to the trust, it cannot be used for other strategies.
- With a grantor trust, the grantor is responsible for the income tax, which is an estate tax benefit, but can be a cash flow burden.
- There is immediate loss of control over transferred assets.

Please speak with your CIBC Private Wealth advisor if you believe a dynasty trust could be useful in helping you achieve your overall wealth and estate planning goals.

Case study

A grantor gifts \$1 million to a trust invested for growth to produce a 6% annual rate of return:

- 2% of the return reflects ordinary income taxed at a 43.4% ordinary income tax rate.
- 2% is capital gains taxed at a 23.8% capital gains tax rate.
- 2% represents growth that will not be taxed until a gain is realized.
- The blended tax rate on the total return is 22.4%.

Outright gift to grantor trust

Annual gift	Trust pays the tax	Grantor pays the tax (asset grows tax-free)
Year 5	\$1,255,511	\$1,338,226
Year 10	\$1,576,309	\$1,790,848
Year 15	\$1,979,074	\$2,396,558
Year 20	\$2,484,750	\$3,207,135



CIBC PRIVATE WEALTH

Lifetime gift planning

Planning with real estate:
Options for a special asset



Planning with real estate

The estate and gift tax exemption is \$15 million per person (\$30 million for a married couple) for 2026. For your family or your favorite charity, planning with real estate may be a way of taking advantage of a large exemption amount without hurting your liquidity. Just be aware of all the many considerations in passing on a piece of property—the right structure, the terms, the tax benefits and who should pay for the broken china.

In *The Big House: A Century in the Life of an American Summer Home*, author George Colt lovingly describes not only his extended, yet close-knit, multi-generational family, but the fixed point to which the family migrates each summer—a large, but fraying, 100-year-old family home on Cape Cod, the long-time center of the extended family's universe. And also a center whose spokes have drifted away into their own nuclear units, even as the house needs a major infusion of money (and attention) to keep it from falling apart—or falling to the wrecking ball. As Colt describes it, his 42 summers in The Big House were “beloved for the stability, continuity and predictability I found nowhere else. The Big House felt like home . . . I wanted my children to know the feeling.”

In many ways, this is a typical scenario for affluent families—a first generation wants to pass down and keep a treasured property in the family for subsequent generations to enjoy. Fortunately, there are comprehensive estate planning tools that can help families achieve this goal. There are also good reasons to consider ways to gift real estate in 2026, as gift tax rates are low and the gift tax exemption is high. Consider this: The top gift tax rate is currently 40% and the gift tax exemption is currently \$15 million per person (\$30 million for a married couple) for 2026. For many people, though, gifting considerations include the issue of a negative effect on liquidity and cash flow needs.

A gift of real estate—especially a property that a family considers to be part of its unique heritage and family identity—is a smart way to achieve numerous goals, including maintaining liquidity. The term ‘real estate’ encompasses everything from a working farm to a beach cottage to a commercial office building. But when families begin thinking about gifting property, they should also consider the many emotions and family legacy considerations inherent in real estate that aren't usually found in financial assets such as stocks. Considering our current environment, all the pieces line up for many clients—a discounted asset, an asset with a strong family connection, a very attractive tax environment and creative planning tactics—to take advantage of present conditions. Not that the options are not complex, because they are, if for no other reason than the fact that you have to be respectful of and flexible about family dynamics.

Now and later: Planning techniques for real estate

Qualified personal residence trusts (QPRTs) take maximum advantage of the current exclusion amount and can significantly reduce gift taxes on the transfer of the property. The QPRT also takes advantage of the valuation discounts that result from splitting an interest in property. Its biggest benefit is that parents can transfer their interest in a personal residence, including a legacy vacation home, to a trust for the benefit of the children, while retaining the right to use the residence for the term of the trust. When the trust terminates, the residence becomes the children's property. Because the initial transfer of the residence is subject to the parents' retained right to use the home, the value of the gift to the children is reduced. The right to own and use the home sometime in the future is not as valuable as the right to own and use the home immediately. So valuation discounts apply, resulting in a reduced transfer tax on the property. If the property continues to appreciate, that appreciation passes to the children free of any additional transfer tax. The estate tax savings for the parents can be considerable depending on the value of the home at the end of the QPRT's term.

QPRTs: A closer look

The qualified personal residence trust (QPRT) may be an effective way to take advantage of 2026 gift tax rates and the gift exemption rate, while keeping a valuable property in the family.

If you are the grantor, these are some of the QPRT's advantages:

- The residence is no longer in your estate.
- Appreciation in excess of the IRS assumed rate is transferred to children at minimal gift tax cost.
- You retain the right to live in the home during the term of the QPRT and you may rent the residence from your child or children, or the trust, at the end of the term.
- You may exclude tax on capital gains.

And here are some disadvantages a grantor should consider:

- If you die before the end of the QPRT's term, the value of your interest will be included in your estate—this mortality risk can be offset by varying the length of the QPRT.
- The IRS may challenge the value of the discount in addition to the value of the remainder interest.
- The stepped-up basis at your death will be lost if your children sell the residence post-death, for liquidity or other reasons.

Property can also be transferred to a **limited liability company (LLC)** or limited partnership (LP), with the children owning equal shares of the LLC or LP that actually owns the property. While the LLC or LP exists, the parents are actually tenants of, and pay rent to, the entity. The rent can be used toward the ongoing upkeep of the property. In addition, the LLC can own life insurance on the parents so that when the second parent dies, the LLC becomes the beneficiary—creating an endowment fund for both upgrades and maintenance or for liquidity if a sibling needs to be bought out by others. Most important is to build flexibility into the structure of the transfer so that it makes sense for the longer-term harmony of a multi-generation family, as well as from a tax and estate planning standpoint.

Sometimes the planning tactic can include a piece of property that has value, but no “connection” for the next generation. In these cases, it may make sense to remove the property from the estate, but it also requires a frank discussion with the client about expectations. For example, a client of CIBC's is a physician who owns the building where he houses his medical practice. The property is in an area that was once depressed, but is now showing signs of significant development and appreciation in the future, and he plans to keep his practice at that location; this being said, it would be to his advantage to remove it from his estate. In this case, **a gift to a trust with lease back** probably makes the most sense. Although the tax advantages are there, it's a type of transaction that has a different flavor than gifting the family vacation home to the next generation.

Another exit strategy for clients who own commercial property—particularly a sizable portfolio of numerous properties acquired as an investment—is to sell the portfolio to a **real estate investment trust (REIT)**. Managing commercial properties entails a lot of costs and requires expertise. It's frequently not something clients' children are either interested in doing or are equipped to do. At CIBC Private Wealth, we're often involved in planning strategies for both commercial real estate and family legacy properties. Although there is a big contrast between the two, we have to think creatively about how to transfer the properties and their value to subsequent generations.

The gift that keeps on giving—or requiring: Who pays?

Once a real estate gift strategy is put into place, the big question many clients ask themselves is, “Okay, now what?”

Answering this question involves a critical set of family decisions. Ultimately, these decisions need to accomplish two goals: explain how each family member is going to continue to use the property and clarify the financial responsibilities associated with the property—including which family members will ultimately be held accountable. CIBC works with families to set up and manage a calendar of usage. This calendar should answer some of the following questions:

- Can non-family members rent the property, and if so, who will receive the rental income if one child gives up his or her week and rents the property to a friend?
- Does usage of the property have to be equal for all parties?
- Should we implement a family “lottery” for the most desirable weeks?
- How are repairs, taxes and insurance going to be paid for and renewed over time?

Ideally, the trust would be established with a foundation of cash to pay for ongoing expenses and upkeep to avoid situations that would put one child or grandchild in a financial bind. Certainly there are cases where a young family member may feel house-rich but cash-poor.

While each family, and each piece of real estate to be gifted, is unique, there are common emotional land mines that go along with transferring heritage property. There are very different issues for a family whose property actually appears on a state map and is in an area named after them than for a family passing on a city residence—even if the property is extremely valuable and is the home where the kids grew up. Strong feelings are especially common with mountain or lakeside “camps”—places where generations connect and reconnect, where holidays are spent and where there’s a palpable sense of safety and family unity. Family discussions guided by an advisor need to go deep and include the following questions:

- Do all of the children feel equally attached to this property?
- How well do the children and grandchildren get along and do they communicate with each other well?
- Is each heir of somewhat equivalent earning power or asset base?
- What happens if a child divorces and wants to sell his or her interest?
- Who decides on the need for remodeling?

There are sound ways to handle most of the ‘what if’s’ involved in gifting real estate. Certainly, a part of our job as trusted advisors is to encourage and facilitate family discussions to ensure as many questions as possible are addressed. When children are too young for that, parents can express very specific feelings in a trust document. For one client, language was included about the parents’ “hope”—but not requirement—that the children retain the vacation home when the trust terminates and the assets are distributed. It even outlined provisions for handling ways to buy from siblings who do not wish to retain their interest, including “drawing straws” to decide which of the other siblings can go first on purchasing another’s interest.

In some cases, transferring real estate to children and grandchildren carries a price that needs to be carefully considered for those receiving the property. Think of a producing vineyard or working ranch. In cases like those, the romantic notion of keeping the lovely home with the small winery attached suddenly becomes a career in agriculture. CIBC worked with a family whose patriarch strongly desired for his three children to “keep the family together” by involving all of them in not just usage of a home on the family farm but in actively working the farm. Of the three, only one actually lived on the farm, while the other two lived a considerable distance away. Although it’s been a struggle for each of them, they’ve finally come together under one unifying purpose: Dad wanted us to keep the farm as a viable entity in order to preserve the property and the family’s farming tradition for future generations.

Donating real estate to charity

Another reason many families want to gift property is to achieve charitable giving goals. Giving more, and giving more efficiently, is a big reason to consider donating real estate to your favorite charitable organization, according to Ryan Boland, director of the Complex Asset Group at Fidelity Charitable in Boston. “Very often, people donate appreciated securities, but for some people, donating real estate can be even more tax efficient and, therefore, very advantageous for both giver and receiver,” says Boland.

Let’s assume that a married couple with a large primary residence that is mortgage-free and now worth several million dollars is ready to downsize after 25 years in the home. Actively philanthropic, they assume that their best course of action is to sell the home and donate the profit to charity. But a direct donation of the home to a public charity allows a full, fair market value tax deduction (not just the original cost basis), while eliminating the capital gains tax they would pay on the sale—which could be quite sizable on a long-held home in an area with significant appreciation. “The bottom line is that by donating a piece of highly appreciated real estate, you’re not only being tax-efficient, but you’re also able to give more to the causes and organizations you care about deeply,” says Boland.

Along with donating other “complex assets”—private company stock, LLC and LP interests—a gift of real estate requires careful consideration by both the individual and the charity. In some cases, options for donating may be limited—for example, when the favorite charity is a small organization with a local focus. “It’s not that these organizations don’t want a contribution of this value, it’s just that many charities are not equipped to handle this type of donation,” says Boland. “Even before they can sell it, the charity would need to consider numerous administrative issues such as insurance, taxes, utilities and security, to name a few. And if the donated real estate is far away from the charitable organization’s location, they may be very reluctant to accept it.”

One strategy gaining favor is to donate complex assets such as real estate to a charity that offers a donor-advised fund (DAF) program. This type of structured giving vehicle has grown in popularity—the average size of an individual DAF account increased by 9.2 percent from 2022 to 2023.¹ With a DAF, the donor would make an irrevocable contribution of real estate to the sponsoring charitable organization. The charity would coordinate the sale of the property and allocate the proceeds into the donor’s DAF. “One of the biggest benefits of structuring a donation this way is that you receive the tax deduction when the property is given, but can use the proceeds to provide support to charities now and in the future,” says Boland. It gives you time to strategize thoughtfully about diversifying giving. “Many want to give to several organizations, but it would be very cumbersome to contribute one-third of a house to each of your alma mater, your church and your local free medical clinic,” Boland notes. “In the case of a small, local ‘soup kitchen,’ periodically receiving smaller cash amounts may be easier for the organization to handle.” In addition, some organizations that offer DAFs allow grants as small as \$50, an opportunity for a multi-generational family to let grandchildren learn and participate in decisions on where the gifts go.

Whatever the ultimate goal—keeping a family’s “Big House” intact and improved, putting it in the next generation’s hands or donating it to help a favorite cause—recognizing family dynamics and managing your family’s expectations are important parts of the process. If, for example, something starts with Mom and Dad—the lake cottage they’ve lovingly maintained over the years—Mom and Dad will be the constant touchstone and reference point. Healthy family discussions that accompany the setup of a QPRT or other tactic may help avoid touchy issues in the future. The hope is to avoid a conversation years down the road in which one sibling says to another, “Not only did you and your friends break Mom’s favorite lamp at the lake house, who said you could rip out the heirloom gardenia bushes and put in an herb garden?”

Please speak with your CIBC Private Wealth advisor about how these real estate planning choices could benefit your estate plan.

¹ National Philanthropic Trust, “2024 Donor-Advised Fund Report,” nptrust.org/daf-report/.

Real estate and donor-advised funds: A checklist

A typical opportunity for real estate and donor-advised funds (DAFs) is this: Your family owns appreciated, debt-free residential real estate, such as a vacation home; is philanthropically inclined; and would like to support various charitable causes over time. You're interested in eliminating the capital gains tax liability and in taking a charitable tax deduction.

Considerations and solutions:

- The property will ideally be “highly marketable,” debt-free and highly appreciated.
- Some charities will consider a commercial property with an income stream, but the due diligence process is considerably more involved.
- You must be willing to transfer the property irrevocably to the charity that is sponsored by the DAF, which will exclusively control the sale, including negotiating the sale price.

Benefits:

- You unlock the philanthropic value of a seemingly illiquid asset while also eliminating any capital gains tax on the appreciation of your property.
- Currently, you can take a tax deduction for the fair market value of the property of up to 30% of your adjusted gross income (AGI). If the fair market value of your contribution is greater than 30% of your AGI, you may be able to carry the deduction forward for five years.²
- You can invest the balance in your DAF for potential tax-free growth—and more dollars to charity.

² IRC Secs. 170(b), 170(d).

Conservation easements: What you need to know

An income tax deduction of up to 50% (or higher for farming and ranch land) of adjusted gross income, significant estate tax benefits, a donation to a worthwhile organization—what's not to like about a conservation easement (CE)?

In simple terms, a CE is a voluntary encumbrance that creates a legally enforceable land preservation agreement between a property owner and a government agency or a qualified land protection organization. It's often used to restrict real estate development on a family's “heritage” property. In general, a CE can be used to protect any type of land whose conservation is in the public interest—woodlands, wetlands, historic areas. The premise that a landowner can convey certain rights on his or her land while retaining other rights is rooted in English common law, on which the U.S. legal system is based. The financial benefit to the property owner who donates the CE to a qualified organization is a federal income tax deduction as long as the easement is perpetual. While a land trust should help ensure that donations of land or CEs meet federal and state tax law requirements, in the long run, it's the donor's responsibility to make sure the requirements are met.

An extremely important point that you can't afford to overlook: While the real estate remains the private property of the owner after the CE is donated, the terms of the CE “run with the land” and are binding on all future owners of the property.

CIBC Private Wealth worked with a family with a lovely historic home on the East Coast, whose owner put a CE on it as a result of her fondness for a local charity. She was able to take a sizable income tax deduction while also satisfying her desire to align with the mission of the charity. The problems came on the back end. Although the location of the home was highly desirable, the house needed updating and the CE was so restrictive that after the client's death, her children couldn't find an interested buyer when they decided to sell. What seemed like a great idea done for the right reasons turned into a difficult situation for a later generation who didn't feel as strongly about the home. This is a lesson in thinking very carefully about a planning technique's long-term effects.

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