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WHEN EQUAL IS NOT EQUAL

John, a widower who is nearing the end of his life, wants to leave his children equal portions of his estate, which consists of his home appraised at $500,000, a $500,000 life insurance policy, and $500,000 in other assets consisting of appreciated, listed securities and some money in a registered retirement income fund (RRIF). He names his son David as beneficiary of the life insurance policy, leaves the home to his daughter Nancy through his will, and makes Tom the beneficiary of the rest of his estate.

Do they receive equal amounts? Nominally, yes. However, when taxes are taken into consideration, the children are treated unequally. David will pay no tax on the life insurance proceeds paid directly to him. Neither Nancy nor John's estate will be taxed on the gain in his home, for the gain in a principal residence is exempt from taxation. However, John's estate will be taxed on the gain in the securities and on the RRIF funds, so the residuary estate assets payable to Tom will be less than $500,000.

When arranging gifts to heirs it is important to consider the taxation of assets as well as the value of the assets. Remember that your heirs will generally not pay income tax on life insurance proceeds, on the gain in your principal residence or on cash you leave to them. However, your estate will be taxed on 50 percent of the gain in listed securities and on the entire amount in retirement accounts like an RRSP and RRIF. To have achieved an equality of results, John should have given the children one-third of each of the assets.

If, like John, you own these different assets, and you want to make a legacy gift to our organization, you should consider making your charitable gift with appreciated, listed securities. When they are given to a charity, the gain is excluded from taxation, but when they are given to individuals 50 percent of the gain is taxed. Thus, from a tax standpoint, it is better to make charitable gifts with appreciated listed securities to the extent possible and to give other assets to your heirs. Since you do not know what particular securities may be in your portfolio at the end of your life, you may empower your executor to fulfill charitable bequests by selecting securities from your estate.