



PUBLIC TRUSTEE
FOR THE AUSTRALIAN CAPITAL TERRITORY
WILLS • ESTATES • POWERS OF ATTORNEY • TRUSTS

Issue 4 ■ February 2016

GOING PUBLIC

Wills Financial Management

PHILANTHROPY AND YOUR WILL.

"This issue concentrates on
Philanthropy and your Will. We
will also bust a few myths about
philanthropy and share with
you some interesting
articles on charitable
giving."

WELCOME

Welcome to the fourth edition of 'Going Public'.

This issue deals with upcoming events at the Public Trustee for the ACT (PTACT) and concentrates on *Philanthropy and Your Will*.

Readers will find information about our own exciting charitable foundation *GreaterGood* (The Capital Region Community Foundation), articles on how to make tax-effective donations to charitable causes and becoming a philanthropist through your Will.

We will also bust a few myths about philanthropy and share with you some interesting articles on charitable giving.

Our next edition will deal with Guardianship matters.

We trust you find *Going Public* interesting and informative.

Andrew Taylor
PUBLIC TRUSTEE



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WE ARE CHANGING

In November 2015, the ACT Government announced a restructure of ACT's rights protection agencies. As part of this announcement PTACT, along with the Guardianship function of the Public Advocate, will form a new entity ACT Public Trustee and Guardian from 1 April 2016.

All services will remain the same with the new agency providing a more conjoined service delivery in respect to guardianship and financial management services. The changes will particularly affect the provision of services as attorney under Enduring Power of Attorney as well as undertaking the role of decision-maker for persons with a decision-making disability under order of the ACT Civil and Administrative Tribunal.



What we do

- **Wills** - Wills for ACT residents who appoint the Public Trustee as Executor.
- **Financial Management Services** - Under order of the ACT Civil and Administrative Tribunal.
- **Estates** - Permanence, trustworthiness and professionalism are vital in the choice of an executor.
- **Powers of Attorney** - Power of Attorney services (financial) for Will clients where you appoint the Public Trustee as attorney.
- **Trusts** - Act as trustee under court order, will or deed including Special Disability Trusts for those unable to manage their funds.
- **Unclaimed Money** - Pay claims associated with certain unclaimed money.
- **Confiscated Criminal Assets** - Administer forfeited assets restrained.
- **Official Visitors** - Provision of administrative services to Official Visitors.
- **GreaterGood** - Our own Charitable Foundation enables Canberrans to establish a charitable fund of their own.

Join us in celebrating Seniors Week 2016

Join PTACT in celebrating ACT Seniors Week 2016 to be held from Saturday 12th to Sunday 20th March 2016. We provide free professional Will services to persons of 65 years and over.

PTACT will have a public information stall at the Senior's Expo at Thoroughbred Park, Mitchell at 9:30 am to 3:00 pm on Thursday 17 March 2016.

For more information, please visit <http://cotaact.org.au/2015/09/seniors-week-2016/>



Getting the most out of your **DONATIONS**



For charities, it is a common request that donations are to be sent to where the money is most in need, a nice way of saying they don't want their donation to be absorbed into the administrative and employee expenses of the charity. Of course these requests aren't binding on the charity and running a not-for-profit still involves paying the occasional bill. However, as a donor it pays to consider some useful strategies to get the most out of your donation, via tax deductions and through some other tactics as well.

Probably the most well-known tactic regarding donating is to seek a tax deduction wherever possible. This means you will have more funds available for future donations and the higher your earnings the bigger the effect of the tax deduction. For those earners in the highest tax bracket (47c in the dollar including Medicare levy) a donation of \$5,000 to charity comes at a net cost of \$2,650. This is dependent on the worthy charity being endorsed as a Deductible Gift Recipient (DGR) and to check if you will receive a tax deductible receipt from your donation it could be useful to refer to the charity's ABN details on the website at abr.business.gov.au.

Another strategy useful for investors is to consider gifting specific shares or property that currently have a capital gain attached to them. While not all charities outwardly advertise this, many will accept transfers of ownership. This means you don't always have to crystallise a capital gain in your individual tax return and can instead claim the full value of the asset as a deduction as at the date of transfer.

Another method to maximise your donations is to spread them over the entire financial year via an agreement with your payroll office. Finding available cash to donate near the end of the financial year can sometimes clash with other financial obligations, and setting a specific amount over many pay cycles could mean a more significant donation without stressing the family budget. Another bonus is that your payroll officer can pay these amounts from your pre-tax dollars ensuring you get the immediate net tax effect without having to wait for the completion of your tax return.

If you intend to donate to an overseas cause it may be useful to determine whether any Australian-based charities are also involved in the endeavour. Overseas charities will not be

able to provide you with a suitable tax deductible receipt so it is always preferable to funnel your gift through an Australian arm (experienced in overseas projects) of an international charity.

It is also recommended that you spend time researching the charity before donating. Websites provide a useful insight into what a charity is currently engaged in. Occasionally a charity may be involved in a project where a local or Federal Government could be further assisting the project via dollar matching donations from the public. Some of these in the past have included \$1 for every \$10 donated by the public for certain projects on Australian soil.

Another website is the Australian Charities and Not-for-profits Commission (ACNC) portal where most charities are required to submit an Annual Information Statement (AIS). While it has received much criticism as additional 'red tape' for the not-for-profit sector, the ACNC has provided a degree of transparency to the industry. By reading the AIS of your chosen charity you can see what the charity intends to focus on in the coming year and to examine its financial information to see how funds have been applied in the past.

For those who donate significant funds to charity on a regular annual basis it may be wise to consider establishing a named account with a Public Ancillary Fund (sometimes referred as a community foundation). Instead of having to maintain an annual donation, you could settle capital into an account that will be invested for the long term with a minimum 4% distribution to your recommended charities each year. This will exist past your death in perpetuity, forever benefiting your favourite cause. The Public Trustee is trustee for GreaterGood, the Capital Region's own Community Foundation and has over 90 accounts including workplace giving accounts, named accounts for specific charities and memorial funds established under will.

"It is also recommended that you spend time researching the charity before donating. Websites provide a useful insight into what a charity is currently engaged in"

Philanthropy and your Will through GreaterGood

Today we hear of many worthy community and charitable causes urgently needing public support and we might all wish we could provide more help to Canberra's struggling charities.

Philanthropy may be growing but household budgets leave limited dollars spare for even our most favoured causes. So it makes sense for charities to explore innovative ways to attract not only immediate funds but ongoing support for the future.

Everyone - governments, trustees, financial institutions and other professionals - should encourage philanthropy in any way that appeals to the giver and this may include giving tax concessions and offering the convenience and ongoing recognition available through named family charitable funds.

Family charitable funds have been available since 2001 when the government introduced the concept of the Private Ancillary Funds (PAF) to receive capital for investment, give an immediate tax deduction and generate an income for annual distribution to worthy charities. PAFs can be created with the help of your lawyer and accountant and the attraction is the ability to settle capital and maintain ongoing involvement.

An even more accessible and cost effective way of creating a family charitable fund is through Canberra's local charitable foundation, GreaterGood.

Established in 2003 as Canberra's first Public Charitable Foundation, GreaterGood (The Capital Region Community Foundation) is a Public Ancillary Fund under the *Income Tax Assessment Act 1997*. GreaterGood is administered by the Public Trustee as a perpetual entity with its mission to seek to 'link good people with good causes'.

GreaterGood provides an umbrella facility for charitably minded people to establish their own named charitable account with a settlement of funds of as little as \$20,000 attracting full tax deductibility and no establishment costs. GreaterGood has brought the concept of an ongoing charitable fund into the reach of everyday people. Funds are invested for both growth and income and recipient charities receive helpful annual distributions to fund their charitable works; distributions that will increase with time and go on forever. truly a gift that keeps on giving.

Additionally, under your will, you can create your own named commemorative charitable fund to ensure that your support of charities can be ongoing. The fund will safeguard your capital as you have done during your lifetime and will distribute the annual income to your recommended charities. There are also capital gains tax advantages regarding assets that carry a potential tax liability.

GreaterGood has a Board of eight members, chaired by a person appointed annually by the Public Trustee who serves as foundation trustee.

Since its establishment, Lady Helen Deane has served GreaterGood as its Patron. Lady Deane has strong associations with the legal profession and practised as a solicitor with what is now known as Herbert Smith Freehills. She is also the patron of Mercy Works Inc, Youth off the Streets and Canberra's Marymead.

Members of the Board include:

- **Larry King** (Chair) – Former Executive Director of the Law Society of the ACT;
- **Renee Le Grande** – General Manager, ACT Institute of Chartered Accountants;
- **Dianne O'Hara** – Chief Executive Officer of the Law Society of the ACT;
- **Maureen Cane** – Canberra Citizen of the Year (2011) and Chief Executive Officer of Volunteering ACT;
- **Laurie Wilson** – President, National Press Club of Australia
- **Air Chief Marshal Angus Houston** AC, AFC (Ret'd) – Former Chief of the Australian Defence Force; and
- **Justice Richard Refshauge** – Justice of the Supreme Court of the ACT.

More information about GreaterGood and how you can use GreaterGood to achieve your philanthropic goals securely, efficiently and at minimal cost is available online at www.greatergood.org.au.

PTACT's Charity Portfolio Value

In late 2015, PTACT's own charitable foundation, GreaterGood, reached a total portfolio value of \$16 million.

Charitable accounts established with GreaterGood include:

- Aerial4Greatergood
- Basil Vincent Memorial Fund
- Billberry Blue Stocking Fund
- Bob & Gert Munro Memorial Fund
- Bray Kargas
- Canberra Disaster Recovery Fund
- Capital Region C/Foundation Gift Fund
- Christopher Van Leeuwen Asthma
- Common Ground Act
- Crookwell Community Trust
- David And Susan Chessel
- Eric Crawford Memorial Fund
- Francis Carroll Sch Fund
- Freida Nomchong Memorial Fund
- Gibson Family Foundation
- Giving Heart Canberra's Health
- Haddon Spurgeon Charitable Trust
- Hands Across Canberra
- Harry and Helen Notaras Fund
- JACS4Greatergood Workplace Giving
- Johanna Wyld Memorial Fund
- King Financial Services
- Lifeline Canberra Foundation
- Matthew Callaghan Memorial Fund
- Molly Murray Foundation
- Mundango Charitable Trust
- National Arboretum
- National Arboretum Gift Fund
- Palmer Family Memorial Fund
- Prance Family Memorial Fund
- Rachel Baker Memorial Fund
- Richardson Family Trust
- Silver Birch Foundation
- Telfer Memorial Fund
- Upper Lachlan Foundation
- Walter Turnbull Charitable Fund
- Woolridge & Burrow Memorial Fund
- Young Charity Fund
- Young Family Foundation
- Act Law Society Found - Gift
- Canberra Hospital Gift Fund
- Capital Woodland & Wetlands Conservation Trust
- Daley-Jarzynski Family Fund
- Downes Family Memorial Fund
- Footprints Forever Foundation
- Letts Charitable Fund
- Linke Animal Welfare Fund
- Peter Blackshaw Charitable Fund
- Poorcountry Charitable Trust
- Sally Sinisoff Fund
- Spaul Family Charitable Fund
- ACT Jewish Community Bequest Fund
- Belconnen Minor Rugby League
- Boundless Canberra
- Bungendore Community Foundation
- Capital Region C/Foundation Open Fund
- Capital Woodland & Wetlands
- Crookwell Potato Association
- Nancy Martin Memorial Fund
- Upper Lachlan Foundation
- ACT Law Society Found - Open
- Anna Oszlanszki Memorial Fund
- Arthur Edward Smith Memorial F
- Australian Security Medals
- Canberra Hospital Open Fund
- Crookwell/Taralga Aged Care F
- Foundation Challenge Fund
- Janice Margaret Boland Memorial
- Linda Brown Fund
- Peter Robert Brauer Memorial Fund
- Ralf Iannuzzi Memorial Fund
- Rotary Club Of Canberra City
- Union Fenosa Scholarship



MEET OUR NEWEST DEPUTY PUBLIC TRUSTEE

Gregory Burn was recently appointed as one of PTACT's four Deputy Public Trustee's and Manager of the Wills, Deceased Estates and Trusts Unit.

A lawyer of over 30 years experience, Gregory operated a private legal practice in Sydney for 25 years before joining the New South Wales Trustee and Guardian. Gregory's legal practice included the making of Wills and Powers of Attorney, the administration of deceased estates, the creation of Trusts, litigation, property law and commercial law. At the New South Wales Trustee and Guardian, Gregory managed a team that provided specialist legal support to the staff of the organisation and Wills and Powers of Attorney making services to the community.

AUSPICING FOR CHARITABLE PURPOSES

An **auspice** agreement is an agreement where an organisation agrees to enter into an agreement on behalf of another. This is often a funding agreement.

A common reason for seeking to be auspiced is a need to quickly and easily meet grant funding requirements. Grant funding often requires that a recipient is incorporated, is a Tax Concession Charity or has Deductible Gift Recipient (DGR) Category 1 endorsement.

While it is possible for a group seeking to run a project to become incorporated and then make applications to access tax concessions and DGR endorsement, this can be a time consuming and expensive process. Where a group or individual only wants to run a short term project, or is exploring a model and wishing to trial an idea before committing to incorporation, auspicing offers a neat solution.

Completing a project under the auspices of the auspicing organisation provides quick access to tax concessions and DGR status. Sometimes groups that have already incorporated may also seek to be auspiced. An example is where the funding body wants to see the project group establish a reputation of successful implementation of projects before providing direct funding to the group. Another reason could be that the incorporated group is yet to receive the appropriate tax endorsements required for the funding or activities. In that circumstance, the auspice agreement would reflect that the group is operating through a legal entity.

In the ACT, the current Boundless Canberra project was able to be established through an auspicing agreement with an organisation called "Touched by Olivia" through which deductible receipts could be provided to donors until Boundless becomes a DGR 1 in its own right.



Philanthropy and Tax

As the end of the 2015/16 financial year approaches, we will start to see product promotions calling for us to get our tax time essentials right.

Superannuation accounts figure highly amongst tax effective strategies while a lesser discussed, socially desirable and tax effective aim is philanthropy.

There are many charities and charitable causes worthy of our support and the period from May to June is a good time to contribute as the return benefit from the resulting tax deduction is at its closest.

No doubt the best way to help is a straight out gift and, if the recipient charity holds tax-deductible gift recipient status, all cash gifts of \$2.00 and over are deductible. Additionally, gifts of property of \$5,000 and above may be deductible. For larger gifts, a taxpayer may spread the claimable deduction over up to five tax years.

From the recipient charity's perspective, the more given the better however, when contemplating larger gifts, donors may wish to consider all available options. Since July 1999, it has been possible to create Prescribed Private Funds (PPFs) where a capital sum can be settled to provide an ongoing income for charities. These funds were changed on 1 July 2009 to Private Ancillary Funds (PAFs) following legislation to improve the integrity of PPFs and to provide trustees with greater certainty as to their obligations. The recipient charities must be deductible gift recipients and full tax deduction is available for the settled sum. The fund can be given a name connected with the benefactor family and decisions made each year on the charities to benefit from the income.

MYTHS BUSTED

MYTH - *A donation to any charitable cause is tax deductible.*

BUSTED - **False.** Generally if you wish to claim a tax deduction for a charitable donation these general provisions should be met:

1. The gift was to a Deductible Gift Recipient (DGR). This is an endorsement from the Tax Office to the Charity and to see if they have this status you can look up their ABN on the ABN Search website.
2. The gift must truly be a gift and you received no material benefit or advantage.
3. The gift must be money or property and be at least \$2 in value.

MYTH - *I attended a fund raiser dinner and can deduct my expenses in my tax return.*

BUSTED - **False.** Even when the main charity involved is a Deductible Gift Recipient such as the Red Cross, generally expenses you incur such as table tickets, silent auctions and raffles are not tax deductible. If however you provide additional gifts of money or property to the DGR charity during the event for no material benefit you should be able to receive a tax deductible receipt.

MYTH - *I can spread my tax deduction over a number of years.*

BUSTED - **True.** You can spread your tax deduction over five financial years. This can be useful for those maximising the tax benefit from a large donation to charity.



THE CANBERRA HOSPITAL FOUNDATION



**CANBERRA
HOSPITAL**
Foundation

In 2014, The Canberra Hospital Foundation partnered with GreaterGood to develop and maintain an ongoing philanthropic relationship with Woolworths. Woolworths donates to Paediatrics at Canberra Hospital and funds are raised primarily by Woolworths volunteers hosting weekly BBQ's at Canberra Hospital. The funds raised are used for the purchase of equipment, to support research and to enhance facilities for young patients, their families and carers. Canberra Hospital Foundation General Manager Helen Falla said "The Canberra Hospital Foundation is grateful for our partnership with the Public Trustee for ACT particularly in relation to their in-depth knowledge and expertise".

The Canberra Hospital Foundation has grown in leaps and bounds since its launch in 2011 and is recognised as a philanthropic cause at the heart of the community. The Foundation raised over \$1.3 million in 2014/15 100% of donations being used to purchase equipment and provide support to enhance patient and family centred care at Canberra Hospital. The impact the Foundation has had in enhancing patients' experiences at the hospital has been made possible thanks to the expertise and support of the Public Trustee through the GreaterGood Fund, as well as the generosity of the Canberra community and corporate sector.

Ms Falla said “The Canberra Hospital Foundation is incredibly grateful to be part of GreaterGood and looks forward to continuing and expanding on this partnership into the future.” For more information about the Canberra Hospital Foundation please visit the website at www.canberrahospitalfoundation.org.au or like the Canberra Hospital Foundation Facebook page www.facebook.com/CanberraHospitalFoundation.

ACT LAW SOCIETY FOUNDATION

Established in 2012, the ACT Law Society Foundation was launched to “bridge opportunity gaps” in the Canberra Community by donating the interest earned from its endowment to support Canberra charities and worthy causes.

The ACT Law Society Foundation was established within the Capital Region Community Foundation known as GreaterGood which is administered by the Public Trustee of the ACT, and holds an Australian Taxation Office endorsement as a Designated Gift Recipient.

Since its establishment, the ACT Law Society Foundation has received 10 charitable donations and has a total value of \$68,821.

WORKPLACE-GIVING

Our flexible and adaptable workplace giving scheme has been adopted by two government and two private sector workplaces.

It's a structured means for employers and employees to donate to charitable causes with deductible gift recipient status, through automated payroll deductions.

Many workplace giving schemes are established by charities themselves as a means of fundraising ensuring that the benefit goes to that charity only.

The GreaterGood scheme provides for permanent distributions, freedom to decide who benefits and without administrative or establishment costs.

Flexibility is the key with endowment funds...you can benefit different charities each year and the scheme continues to provide benefit long after its members have left.

Becoming a philanthropist through a workplace giving scheme is a simple yet powerful statement for both employers/employees and your community.

....and remember, 100% of contributions go to work immediately to provide benefit.

Download a Fact Sheet from our website at www.greatergood.org.au and call us on 62079800 for information about how you can establish a scheme in your workplace to benefit your chosen charities.



**Set up
workplace-
giving in your
workplace
today...**

**The
GreaterGood
way!**

Step 1

It's easy to establish, call us on (02) 6207 9800. We'll help you design a payroll deduction form and intranet page. There is no establishment or administrative cost. Your payroll office will deduct the amount nominated by your individual staff members from their pay into your workplace giving account with GreaterGood. Deductions are recorded on your PAYG Payment Summary.

Step 2

Your donation keeps on giving in perpetuity. Your scheme will be advised of the amount available for annual distribution to your recommended Deductible Gift Recipient charity and you can then recommend us to make the payment and/or arrange a promotional cheque handover at a social club function. A gift through your workplace giving scheme with GreaterGood goes significantly further as it keeps in giving - making a difference where it matters most.

Step 3

Regular giving through your workplace giving scheme with GreaterGood allows charities to plan confidently for the future and saves on their administration costs. Meaning you're supporting them in more ways than one.

“Having the Last Word” – prevalence of will-making and patterns in Australia

The Public Trustee for the ACT recently participated in and co-funded a research study as a joint project between The University of Queensland (UQ), Queensland University of Technology and Victoria University in partnership with seven Public Trustees across Australia. The study was aimed at examining will making and will contestation in Australia. The report was launched in March 2015.

The study found –

- most Australians have a will (60%) or expect to make one (22%). This is a high compared with rates in the UK and the US.
- the likelihood of making a will increases with age and the amount of assets. However, 93% of people over 70 have a will regardless of assets.
- wills are a ‘family document’ where most assets are distributed to family members.
- Charities and other organisations are not commonly nominated as beneficiaries.
- the view of wills as a mechanism to distribute “family money” has potential to foster a sense of entitlement amongst family members.

In the prevalence survey, most will-makers believed it was important to make provision for immediate family members, in particular their children, their current spouse or partner, and, to a lesser extent, their grandchildren.

Will makers were least concerned about making provision for other people or organisations to recognise their support, companionship or assistance. From the available information there is little indication that the principles varied according to size of the estate.

Only 16% reported that it was important to provide for charities/organisations. Women and those without children were more likely to consider making such bequests, however, half of those without children still rated leaving provisions for organisations as unimportant.

Nonparents prioritised providing for a current spouse/partner or for their own parents rather than organisations or individuals outside the family. For the small group without partners or children, provision for other people

to recognise support/companionship and/or friendship was the most common response, followed by provision for care of pets.

It is of interest to note that charitable bequests did not receive a higher priority from this group. The survey of will drafters also supported a view that testators most commonly distributed assets between partners and children. The inclusion of pets as beneficiaries was identified as posing difficulties for will drafters for over half of the will drafters surveyed.

In contrast to this general pattern, almost all Islamic

respondents in the interviews mentioned making charitable bequests in their will, with some charities being religious in nature. This reflects the spirit of Sharia law where Muslims are encouraged to give money to charity from the one third of their estate they can distribute as they wish. This is in contrast with most other participants, who did not plan to give charitable bequests.

“Having the Last Word” may be found on the Public Trustee for the ACT’s website at www.publictrustee.act.gov.au



The Eric Crawford Perpetual Trust

Vision Australia continues to thank the generosity of the Eric Crawford Memorial Fund – part of the GreaterGood suite of funds - for its contribution of \$41,000 towards Vision Australia's quest to work in partnership with Australians who are blind or have low vision to help them achieve the possibilities they choose in life..

The late Eric Crawford supported the former Royal Blind Society during his lifetime. He wished his good support of charities to continue in his name after his death and, created his named perpetual charitable trust in his will to be effected through GreaterGood.

In his will, Eric created a perpetual trust, The Eric Crawford Memorial Trust, with the capital to be invested and the income to be shared equally between The Spastic Centre (now Cerebral Palsy Alliance) and Vision Australia.

A person with a disability himself, Eric was a regular supporter of charities making gifts on a monthly basis to numerous charities including the Spastic Centre, Royal Blind Society, Cancer Council, Heart Research, Christian Blind Mission.....



Eric experienced health difficulties and suffered following an operation in 1974. As a result of a war injury to his left leg he had a deformity which caused him to suffer osteo-arthritis to the knee and hip as well as affecting his back. In 1974 it reached the stage of requiring amputation below the left knee. Unfortunately when hospitalised the surgeons reportedly removed the wrong leg. This left him to continue his suffering as he then refused to allow the removal of his left leg which would have rendered him a paraplegic. He was allowed to retain the bad leg and lived in fear for over thirty years that he would eventually lose that leg as well.

Eric's preferred charities will continue to benefit through annual distributions in perpetuity through his generosity.



PUBLIC TRUSTEE
FOR THE AUSTRALIAN CAPITAL TERRITORY

OUR CUSTOMERS SAID...

Since our last public seminars on Wills and Enduring Power of Attorneys, PTACT customers have responded positively to the new forum style presentations and here are a few comments from our customers:

"The seminar was excellent. The content was clear and very useful, the presentation was interesting and engaging. The Q&A sessions were especially beneficial."

"The presentation was very professional and I really appreciated the Q&A sessions. Thank you for providing this seminar."

"The seminar was very informative and useful. It was easy to understand and there were very friendly presenters. PTACT provides a great community service."

"This type of seminar is very helpful for people like myself who are ignorant and new to the Country. These seminars should continue and I would be happy to attend again."

"Your Seminar was excellent - short answers and comments but very clear. There was no waffling on!"

FACT SHEETS



Our Fact Sheets can be found under "Publications" on our website at www.publictrustee.act.gov.au. You'll find comprehensive information about a range of issues and services.

Our top four Fact Sheets have been translated into five different languages.

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DISCLAIMER

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