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c 50 Charitable Gifts Act

Ontario

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CHAPTER 50

The Charitable Gifts Act

1. In this Act, "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law. 1959, c. 13, s. 1.

2.—(1) Notwithstanding the provisions of any general or special Act, letters patent, by-law, will, codicil, trust deed, agreement or other instrument, wherever an interest in a business that is carried on for gain or profit is given to or vested in a person in any capacity for any religious, charitable, educational or public purpose, such person has power to dispose of and shall dispose of such portion thereof that represents more than a 10 per cent interest in such business.

(2) Subsection 1 does not apply to an interest in a business given to or vested in any organization of any religious denomination.

(3) Where an interest to which subsection 1 applies is subject to a life interest, life annuity or income for life, so much of the interest as is necessary to provide such life interest, life annuity or income for life shall be deemed to be given or vested when such life interest, life annuity or income for life ceases to exist.

(4) For the purposes of this Act, a person shall be deemed to have an interest in a business,

(a) if he is a part owner of the business;

(b) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more shares in a corporation that owns or controls or partly owns or controls the business; or

(c) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more bonds, debentures, mortgages or other securities upon any asset of the business.
For the purposes of this Act but subject to subsection 3, an interest in a business shall be deemed to be given to or vested in a person for a religious, charitable, educational or public purpose so long as the interest or the proceeds thereof or the income therefrom is to be used for any such purpose at any time and notwithstanding that before any such use is made thereof the interest or the proceeds thereof or the income therefrom is to pass into or through the hands of one or more persons or is subject to a life or other intermediary interest. 1959, c. 13, s. 2.

Where an interest to which section 2 applies was given or vested pursuant to a will or other testamentary instrument, section 2 shall be complied with within seven years after the death of the testator.

Where an interest to which section 2 applies was given or vested pursuant to an instrument other than a will or other testamentary instrument, section 2 shall be complied with within seven years after the date of the instrument.

A judge of the Supreme Court may from time to time extend the period mentioned in subsection 1 or 2 for such further period as he considers proper, if he is satisfied that the extension will benefit the religious, educational, charitable or public purpose concerned. 1959, c. 13, s. 3.

Where and so long as an interest to which section 2 applies represents more than a 50 per cent interest in the business, the person to whom it is given or in whom it is vested and the person having control of the management of the business or his nominee and the Public Trustee shall on or before the 30th day of June in each year determine jointly the amount of the profits earned by the business in its fiscal year ending in the calendar year next preceding.

The business shall pay to the person to whom the interest is given or in whom it is vested his share of the then undistributed profits of the business in the amounts and on the dates determined jointly by the persons mentioned in subsection 1.

For the purposes of this section, the person to whom the interest is given or in whom it is vested shall on or before the 31st day of March in each such year deliver to the Public Trustee a return with respect to its fiscal year ending in the calendar year next preceding showing,

(a) the assets and liabilities of the business;
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(b) all accounts of profit and loss of the business;

(c) the particulars of any fee paid to any director; and

(d) where the amount of salary and other remuneration paid to any person is $8,000 or more, the particulars thereof,

and the return shall be verified by the certificate of an officer or the auditor of the business that the statements therein are true.

(4) For the purposes of this section, the Public Trustee Examination of accounts, etc. may require of any person such further or other information and may make such examination of the accounts and records of the business as he deems necessary.

(5) If the persons mentioned in subsection 1 fail to determine jointly any matter mentioned in subsection 1 or 2, the matter shall be determined by a judge of the Supreme Court, and in determining the amount of the profits of the business the judge may disallow in whole or in part any deduction, expenditure, expense, reserve, allowance or other sum that he considers to be unnecessary, excessive or improper having regard to the nature of the business and its financial position. 1959, c. 13, s. 4.

5. Where an interest in a business is being disposed of pursuant to section 2, any person acquiring any portion of such interest for other than religious, charitable, educational or public purposes may, subject to the approval of a judge of the Supreme Court as to the consideration for and the terms and conditions of the acquisition, so acquire such portion notwithstanding that he is the person disposing of such interest or is an officer, director, agent or employee of such person. 1959, c. 13, s. 5.

6. The proceeds of any disposition pursuant to section 2 may be invested only in investments authorized by The Corporations Act for the investment of the funds of joint stock insurance companies, but no such investment shall be made that results in the person making the investment holding more than a 10 per cent interest in any one business. 1959, c. 13, s. 6.

7.—(1) The Treasurer of Ontario may appoint any person to make such investigation as he deems expedient respecting any interest in any business that has been given to or vested in any person for any religious, charitable, educational or
public purpose or respecting any person to or in whom any such interest has been given or vested.

(2) Every person so appointed has the same powers as may be given to a commissioner under *The Public Inquiries Act*. 1959, c. 13, s. 7.

8. Upon the application of the Attorney General or any person interested, a judge of the Supreme Court may make such orders as he considers proper to carry out the intent of this Act or to determine any matter arising under it. 1959, c. 13, s. 8.

9. Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than $100 and not more than $5,000 or to imprisonment for a term of not more than one year, or to both. 1959, c. 13, s. 9.