OPINION

Will New AMT Proposals Crimp Canadian's Charitable Giving?

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In the wake of the federal budget, experts in philanthropic planning and tax professionals raised concerns that new proposals surrounding the alternative minimum tax regime might have a dampening effect on high-net-worth individuals' giving intentions.

The industry has had several months to pore through and digest the language – and it seems the impact on philanthropy may be more dramatic than initially thought.

"The AMT, alternative minimum tax, was introduced back in 1986 to account for situations where someone might receive income that's not considered taxable under the standard income tax system," says Mark Halpern, CEO of WEALTHinsurance.com in north Toronto. "The new proposed AMT regime in 2024 will impact more people and increase the impact on those already captured within the AMT. And it's going to be a problem for charitable donations."

According to Halpern, the proposed AMT rules set to kick in January 1, 2024 will have major implications for in-kind donations of non-registered appreciated securities such as stocks, segregated funds, ETFs, and mutual funds to charity. For those types of donations, donors can claim a tax deduction against the fair market value of the securities, and they won't have to incur tax on the capital gains from those securities.

As it stands, the zero per cent inclusion of capital gains for in-kind donations also applies for AMT purposes. But under the proposed new AMT rules, 30% of capital gains on publicly listed securities that are donated in-kind would be counted under adjusted taxable income. The government is also widening the AMT income base by increasing the AMT capital gains inclusion rate to 100% from 80%.

"Currently, when someone has a liquidity event – selling their business, for example, or selling real estate – they may want to use in-kind charitable donations to mitigate some of the tax on that," Halpern says. "The proposed AMT rules would make it less attractive for them to do so."

Halpern notes that the AMT rules don't apply to charitable donations on death, which is why the Canadian Association of Gift Planners (CAGP) is encouraging high-net-worth and ultra-high-net-worth individuals to bake strategic philanthropy into their estate plans.

For those thinking about giving in-kind donations of securities with warm hands, he suggests they should consider moving forward with plans and strategies within 2023. One approach, he suggests, is to open a donor advised fund and make a contribution there immediately. That would let them take full advantage of the deductions today, and use the money stocked up in the account for charity in the future.

"Most trusted advisors – tax professionals, lawyers, investment advisors, insurance professionals – they're the gatekeepers on helping clients. It's really important that they understand the potential impact of this on charitable giving, so they could flag it and possibly make course corrections before 2024 rolls around," Halpern says. To help spread awareness on the impact of AMT, he held a LinkedIn Live session with Ali Spinner, a tax partner at Crowe Soberman on July 9. A recording of that session can be found at: https://lnkd.in/gp55B-3NW

"Charitable planning professionals have always been mindful of AMT. They've always had their eye on those goalposts," Halpern adds. "Now those goalposts are becoming much narrower, so I would encourage people to lobby and raise their concerns with the government."

As the window of opportunity

slowly closes before the new AMT rules take effect, he says charitable institutions should be aware of how the AMT proposals could impact them. Those institutions that are most in need, he says, should think about contacting their largest donors to look at creating gifts immediately.

“The charitable industry was greatly impacted by Covid-19. People are more nervous about their personal financial situation, so their giving is a little bit tighter,” Halpern says. “The government can’t sustain the social fabric of Canada on their own, so if anything, we should be finding more ways to encourage people to give.”

Mark Halpern, Certified Financial Planner (CFP), Trust and Estate Practitioner (TEP), and Master Financial Advisor - Philanthropy (MFA-P) has helped business owners, entrepreneurs, professionals, and affluent families for 32 years. Mark is a faculty member and contributed curriculum content for the ground-breaking Master Financial Advisor-Philanthropy (MFA-P) designation. He is building a national community of 100 financial professionals and charities with the goal of creating $1 Billion of philanthropy annually. https://wealthinsurance.com/billion.php

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