Wealth Management

the Navigator

INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC FAMILY OFFICE SERVICES

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How could the proposed changes to alternative minimum tax (AMT) affect my charitable giving?

As the result of the AMT proposals announced in the 2023 federal budget, high-income earners may be re-evaluating their personal charitable giving plans including reviewing what assets to give, how much to give, and when the donation should be made. This article explains the current AMT regime, the proposed changes that could affect charitable giving, and planning you may wish to consider that may help minimize the tax impact of the proposed changes.

What is AMT?

The AMT provisions in the *Income Tax Act* have been in effect since 1986. AMT is a parallel tax calculation that applies to certain high-income taxpayers who may otherwise pay little or no tax because of the deductions, exemptions and credits they claim under the regular tax system. AMT is designed to ensure that these taxpayers pay at least a minimum amount of tax.

Consequently, you are required to compute your tax liability by calculating your regular tax and AMT for federal tax purposes. You pay either the regular tax, or the AMT, whichever is the highest. If you are required to pay AMT, it may be recoverable over the next seven years. As such, it is often seen as a prepayment of taxes. For further information on the AMT rules, please ask your RBC advisor for the article on AMT and the proposed changes.

You may also be subject to provincial/territorial AMT. For many provinces/territories, provincial/territorial AMT is calculated as a percentage of federal AMT. This article focuses on federal AMT.

What are the proposed changes that may affect my charitable giving?

Under the regular tax calculation, you receive a donation tax receipt for the full value of the security when you donate a publicly listed security in-kind to a registered charity. With this receipt, you may choose to claim a donation tax credit, which would reduce your taxes payable for the year. Donating in-kind also allows you to avoid including any capital gain accrued on the donated security in your taxable income. As such, you may have included donating securities in-kind in your charitable giving plan.

Under the proposed AMT calculation, not only is the donation tax credit halved, but also 30% of the capital gain realized on the donation of the security in-kind is included in income for the purposes of calculating your AMT liability. These proposed changes are expected to come into force on January 1, 2024.

To illustrate the potential tax impact of these changes, the following are some examples. Be sure to consult with your qualified tax advisor for a more in-depth discussion on how the proposals may affect your specific situation.

Examples

Let's compare your estimated federal tax liability with your estimated AMT liability under proposed rules, assuming you earn $400,000 of employment income and want to donate publicly listed securities in-kind, valued at $300,000. The securities have an adjusted cost base (ACB) of $100,000 so that the accrued capital gain is $200,000.

	Regular tax calculation	2024 AMT calculation
Employment income	$ 400,000	$ 400,000
Taxable capital gain on in-kind donation (0% / 30%)	$ -	$ 60,000
Taxable income / Adjusted taxable income	**$ 400,000**	**$ 460,000**
AMT exemption		$ (173,000)
Net AMT taxable income		**$ 287,000**
Federal tax (at graduated rates) / AMT (at 20.5%)	$ 107,646	$ 58,835
Donation tax credit* (100% / 50%)	$ (99,000)	$ (49,500)
Other non-refundable tax credits** (100% / 50%)	$ (2,740)	$ (1,370)
Federal tax / AMT	**$ 5,906**	**$ 7,965**
Additional tax due to AMT		$ 2,059

Since the minimum tax of $7,965 is greater than the regular tax of $5,906, you'd have an AMT liability and owe $7,965 in federal taxes.

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In our next example, let's assume you earn $300,000 in eligible dividend income from Canadian companies, realize $200,000 in capital gains, and want to donate publicly listed securities in-kind, valued at $150,000. The donated securities have an ACB of $50,000 so that the accrued capital gain is $100,000.

	Regular tax calculation	2024 AMT calculation
Eligible dividends (grossed up by 38% / not grossed up)	$ 414,000	$ 300,000
Taxable capital gain (50% / 100%)	$ 100,000	$ 200,000
Taxable capital gain on in-kind donation (0% / 30%)	$ -	$ 30,000
Taxable income / Adjusted taxable income	**$ 514,000**	**$ 530,000**
AMT exemption		$ (173,000)
Net AMT taxable income		**$ 357,000**
Federal tax (at graduated rates) / AMT (at 20.5%)	$ 145,266	$ 73,185
Donation tax credits* (100% / 50%)	$ (49,500)	$ (24,750)
Other non-refundable tax credits** (100% / 50%)	$ (1,950)	$ (975)
Dividend tax credit (15% / 0%)	$ (62,182)	$ -
Federal tax / AMT	**$ 31,634**	**$ 47,460**
Additional tax due to AMT		$ 15,826

Since the minimum tax of $47,460 is greater than the regular tax of $31,634, you'd have an AMT liability and owe $47,460 in federal taxes.

* We have assumed a federal donation tax credit rate of 33% for the full donation amount.
** Other non-refundable tax credits include the basic personal amount, the base CPP and EI amount, and the Canada employment amount.

In our final example, let's assume you earned $300,000 of employment income and also sold your business, realizing a capital gain of $2,000,000 on the sale. For simplicity's sake, we will assume that the sale does not qualify for the lifetime capital gains exemption. You also wish to donate securities in-kind, valued at $975,000 with a nominal ACB.

	Regular tax calculation	2024 AMT calculation
Employment income	$ 300,000	$ 300,000
Taxable capital gain from sale of business (50% / 100%)	$ 1,000,000	$ 2,000,000
Taxable capital gain on in-kind donation (0% / 30%)	$ -	$ 292,500
Taxable income / Adjusted taxable income	**$ 1,300,000**	**$ 2,592,500**
AMT exemption		$ (173,000)
Net AMT taxable income		**$ 2,419,500**
Federal tax (at graduated rates) / AMT (at 20.5%)	$ 404,646	$ 495,998
Donation tax credit* (100% / 50%)	$ (321,750)	$ (160,875)
Other non-refundable tax credits** (100% / 50%)	$ (1,950)	$ (975)
Federal tax / AMT	**$ 80,946**	**$ 334,148**
Additional tax due to AMT		**$ 253,201**

Since the minimum tax of $334,148 is greater than the regular tax of $80,946, you'd have an AMT liability and owe $334,148 in federal taxes.

AMT carryforwards

If you're subject to AMT, you can carry forward the difference between the AMT you paid and your regular income tax liability as a tax credit for seven years, or until it's used up. This AMT tax credit can be used to offset your future regular taxes, to the extent your regular tax liability exceeds your AMT liability in future years. In this sense, AMT is like a prepayment of tax.

If you don't have sufficient regular taxes payable in the next seven years, your AMT credit will expire and becomes a permanent tax. You may have an issue recovering your AMT if you claim the same types of exemptions, deductions and credits every year.

* We have assumed a federal donation tax credit rate of 33% for the full donation amount.

** Other non-refundable tax credits include the basic personal amount, the base CPP and EI amount, and the Canada employment amount.

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Strategies to minimize the impact of the proposed AMT

Donating in 2023:

- If you donate in 2023 and are able to claim the full donation tax credit, you will not be affected by the proposed changes to AMT. However, if you donate in 2023 but carryforward any amount of the donation, the proposed changes to AMT may affect your ability to fully benefit from the donation tax credit in future years.
- If you would like to make a larger than normal donation in 2023 in hopes of avoiding these proposed changes but are uncertain on which charity to make your donation to, consider speaking with your RBC advisor about whether setting up an RBC Charitable Gift Fund would be a good solution for you. A donation to your own RBC Gift Fund would allow you to receive the tax benefits of the donation this year and decide later which charities to grant to.

Donating in 2024 (assuming the proposed changes become law):

- Instead of making one large donation, consider spreading out your donations over a number of years. This strategy may be especially useful if you sell capital property (such as securities or real estate) and are able to receive the sale proceeds over the same number of years.
- Consider whether you are able to adjust the types of income you earn in the year you make a significant donation. For example, withdrawing funds from your RRSP/RRIF, or drawing a salary or bonus from your corporation may be preferable to realizing capital gains in the year you make a large donation. This is because non-tax preferred income sources (such as salary income) minimize the impact AMT may have.
- Instead of making your donations personally, consider having your holding company make the donation. This is because AMT is applicable to individuals and not to corporations.
- AMT does not apply on death. As such, donations made through your estate will not be affected by the proposals.

As with any donation, you should consult with a qualified tax advisor to ensure you are aware of any income tax ramifications, and that the gift is being made in a tax-efficient manner.

This article may contain strategies, not all of which will apply to your particular financial circumstances. The information in this article is not intended to provide legal, tax or insurance advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax, legal and/or insurance advisor before acting on any of the information in this article.