Written Submission for the Pre-budget Consultations in Advance of the 2021 Budget

By:

The Canadian Association of Gift Planners

February 19, 2021

Contact:
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Recommendations

1. That Canada's current tax and legislative provisions that incentivize and amplify charitable giving be protected and maintained.

2. That changes be made to the Income Tax Act, Section 153(1) to allow for the withholding of income tax to be waived when a donor/annuitant instructs the financial institution to make a charitable gift directly from a RRIF or RRSP to a Canadian registered charity or other qualified donee.

3. That recommendations brought forward by Imagine Canada in their 2021 Pre-budget Consultation submission be strongly considered.

CAGP is pleased to provide this submission to the Pre-budget Consultation in advance of the 2021 Federal Budget.

Canada's charitable sector

Canada's 167,000 charities and non-profits play a vital role in strengthening and building healthy, sustainable communities and are an important partner with government in achieving policy outcomes. In an ever-changing world, the sector's innovations in health, the environment and social services help ensure that our country is equipped to meet the demands of tomorrow.

The charitable sector employs more than two million people in communities across the country, and contributes more than 8% to the national GDP. This sector is an essential component of Canada's economic health, growth and prosperity, and is a crucial part of Canada's continuing competitiveness.

The sector is facing challenges as Canadian society evolves. The number of donors is declining; demand for programs and services is increasing; and many organizations struggle to adapt to emerging technology and new opportunities for doing business.

The COVID-19 pandemic has impacted every facet of Canadian society. This is especially true of the charitable sector as it responds to community need and an increased demand for essential services, while also adapting to a socially-distanced context and facing its own uncertain future. The sector has a vital role to play in community health during the pandemic, and in society's recovery. Philanthropy plays a critical role in the sector's adaptability and resilience.

We believe the recommendations we are bringing forward will help ensure charities continue to benefit from the generosity of donors, and can continue to meet their missions and support our communities.

Recommendations

1. **We recommend that Canada's current tax and legislative provisions that incentivize and amplify charitable giving be protected and maintained.**

The pandemic has created an immense fiscal challenge for our government but also for charities which serve Canada and its people. Some, such as hospitals and social service organizations, are directly involved with COVID relief. Others, such as universities and cultural organizations, are trying to serve Canadians under severe fiscal challenges.

Charities have been appreciative of the support of government; however, many also rely on revenue from donors and any reduction to the tax incentives that could negatively affect charitable giving could reduce their ability to carry out their important activities.

Canada benefits from a generous legislative system that supports charitable giving. Measures include tax credits on direct donations, as well as additional tax benefits for donations made through strategic charitable giving instruments. Canada's charities benefit enormously from donations incentivized through these tax measures. As an example, the elimination of capital gains tax on gifts of listed securities in 2006 has been enormously successful, and has resulted in charities receiving significantly more gifts of public shares, the proceeds of which they can use in their activities.

We understand that legislative amendments with regard to the tax treatment of employee stock options, previously proposed in summer 2019, are again being considered. CAGP provided input on these proposed amendments requesting that current tax rules for Canadians to donate stock options remain in place. We maintain that position, and re-submit our proposal as Appendix A.

Canadian donors have been generous but they will have to do more, this year and onwards. The system cannot afford de-stimulation to giving; it must be maintained and even enhanced. While the government will be considering all options to maximize revenue in order to address increased expenses and a rising deficit, we urge that the current tax and legislative provisions that incentivize and amplify charitable giving be protected and maintained.

2. **We recommend that changes be made to the Income Tax Act to allow for the withholding of income tax to be waived when a donor instructs the financial institution to make a charitable gift directly from a RRIF or RRSP to a registered charity.**

In addition to making simple cash gifts to Canadian charities, donors are increasingly integrating assets, such as RRSPs and RRIFS, in their strategic giving plans. This recommendation is a simple amendment that will increase the efficiency for donors making charitable gifts, making this a more attractive giving option while also being revenue-neutral for the federal government.

Currently, if an individual directs a donation to a registered charity be made from their RRIF or their RRSP, the financial institution holding the fund must withhold tax, notwithstanding that as a result of the gift no tax will be owing. The donor must file their tax return, report the gift, receive a tax refund and then, if desired, remit the balance of the gift to the charity.

This complexity creates issues for charities in explaining the issue to a prospective donor, in receipting the gift and in ensuring that the donor's ultimate objective of making a gift in a particular amount is achieved. If a donor directs the financial institution to pay the funds directly to a registered charity, it seems unnecessary to require this complexity.

We recommend that changes be made to Subsection 153(1) of the *Income Tax Act* in order to permit withholding to be waived when a donor instructs the financial institution to make the charitable gift directly from a RRIF or RRSP to a registered charity. This instruction from a donor to a financial institution could be recorded by the creation of a form to document and confirm such gift.

3. **That recommendations brought forward by Imagine Canada in their 2021 Pre-budget Consultation submission be strongly considered.**

Imagine Canada plays an important role in Canadian social context by working to strengthen charities and nonprofits so they can better serve individuals and communities. Many in the sector view them as our "voice", to the federal government in particular. Imagine Canada has spent considerable effort to gather feedback from charities and nonprofits to better understand how they have been impacted by COVID-19. As part of the 2021 budget consultation process, Imagine Canada further consulted to gather input on and prioritize recommendations for action. We therefore support the recommendations brought forward by Imagine Canada in their submission, namely:

- **The extension and adaptation of emergency supports** – Organizations have benefitted from access to COVID-19 emergency support provisions. The strain continues and further relief is needed, specifically through an extension of CEWS, CERS, CEBA and RRRF until September 2021.

- **Stabilization funding for organizations** – The most direct and effective way to support the sector is financial investment for charities and nonprofits in the form of one or more federal granting programs. This will ensure organizations can carry on their work and effectively transition programs and business models to a new context.

- **A matching fund initiative** – It is proposed that the federal government establish a 1:1 private donation matching fund, thereby doubling the impact of donations made by ordinary Canadians and empowering the charitable sector to survive COVID-19 and rebuild for the future.

Thank you for your consideration of these recommendations.

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About CAGP

The Canadian Association of Gift Planners (CAGP) is a national, non-profit organization established in 1993 whose purpose is to champion the growth and development of strategic charitable gift planning in Canada. We work to achieve this mission by developing knowledge and providing education; building awareness and promoting philanthropy, locally and nationally; creating connections and facilitating partnerships; and engaging in national dialogues and influencing public policy.

Our national membership, engaged in our 20 Chapters across the country, is comprised of 1,200 charitable gift planners, as well as individuals from a variety of allied professions in the private sector, including law, trust and estate planning, accounting, life underwriting and financial planning. Our members adhere to a strict Code of Ethics.

Appendix A

September 12, 2019

The Honourable William F. Morneau
Minister of Finance
House of Commons
Parliament Buildings
Ottawa, ON K1A 0A6

Re: Proposed amendments to ITA regarding stock options – Possible adverse effect on charitable giving in Canada

Dear Minister Morneau:

On behalf of the Canadian Association of Gift Planners (CAGP) we are writing to provide input on the Notice of Ways and Means motion tabled on June 17, 2019 in the House of Commons to amend the Income Tax Act's provisions for stock options, as announced in the 2019 federal budget. We understand that a consultation process has been launched on these proposed amendments that will run until Sept. 16, 2019. As this issue will have implications to our members across Canada, we respectfully submit this letter for your consideration.

A cornerstone of our mission is a 25-year history as a voice for the charitable sector, advocating for a beneficial tax and legislative environment that supports charitable giving. We regularly work with various public servants in the Department of Finance and members of our Government Relations Committee are asked to submit opinions and serve on technical panels with respect to the impact of proposed laws and regulations relating to charitable giving.

Given our mission and purpose, CAGP's members are particularly interested in the impact of these proposed amendments to the Income Tax Act, and its possible adverse effect on Canadians who wish to donate stock options to registered charities across the country.

Under the current tax rules, if an employee donates a publicly-listed share (or the cash proceeds from the sale of a publicly-listed share) acquired under an employee stock option agreement within 30 days of the exercise of the option to a qualified donee, such as a registered charity, the employee is eligible for an additional deduction equal to one-half of the employee stock option benefit. As a result, where both the stock option deduction and the donation tax credit are available, the entire employee stock option benefit is effectively excluded from income.

We respectfully submit that the current tax rules for Canadians to donate stock options remain in place.

It is our understanding that under the new proposed rules, if an employee donates a publicly listed share acquired under a stock option in excess of the $200,000 vesting limit, the employee will not be eligible for any tax exemption on that portion of the employee stock option benefit in excess of the said vesting limit. Any capital gain that has accrued since the share was acquired under the stock option agreement will continue to be eligible for the full exemption from capital gains tax, subject to existing rules.

Gifts of publicly-listed securities including gifts of stock options are one of the most popular ways Canadians have supported registered charities since these tax incentives were introduced by the federal Liberal government over twenty years ago. Many charitable organizations that support their local communities across the country rely on these types of gifts to support their day-to-day operations and long-term missions that are integral to Canadian society as a whole. The importance of the charitable sector to Canada's economic and social well-being was recently highlighted by Special Senate Committee on the charitable sector.

As has been the case for over twenty years, CAGP is happy and willing to work with the Department on this issue and to provide guidance in regard to gifts of stock options to ensure that the deduction for gifts of stock options is not limited to the proposed new $200,000 vesting limit. This could be done by simply including the elimination of subparagraph 110(1)(d.01)(iv) in the draft wording in the Ways and Means Motion.

Thank you for your consideration of this submission as part of the consultation process.

Sincerely,

Grant Monck
Chair, Government Relations Committee

Ruth MacKenzie
President & CEO