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Tax Alert – Canada

Federal budget 2024 announces further changes to alternative minimum tax

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On 16 April 2024, as part of the 2024 federal budget, the government introduced several revisions and technical amendments (updated amendments) to the proposed changes to the alternative minimum tax (AMT) regime introduced in the 2023 federal budget for taxation years beginning after 2023. The updated amendments contain mostly welcome changes that address some concerns identified by stakeholders with respect to certain measures in the initial draft legislative proposals released on 4 August 2023 (initial amendments).

In this Tax Alert, we provide a brief overview of the updated amendments to the AMT regime. For a discussion of the initial amendments and how they may impact certain high-income individuals, see EY Tax Alert 2023 Issue No. 45, [Alternative minimum tax: Significant changes will impact taxpayers in 2024](#).

Background

Broadly speaking, the initial amendments target the AMT base by further limiting tax preference items, increase the basic exemption amount and the AMT rate, and extend eligibility for the general AMT exemption to additional types of trusts. These amendments were intended to target high-income individuals to ensure they pay a share of tax proportionate to their income, while removing the application of AMT from most middle-class Canadians.

One of the most notable concerns arising from the initial amendments was the treatment of the charitable donation tax credit for AMT purposes. As discussed below, this concern, along with some others, has been addressed by the updated amendments. However, no amendments are proposed to address the concerns raised with respect to the 30% inclusion rate for capital gains arising from the donation of publicly listed securities. Under the pre-2024 AMT regime, such capital gains were excluded from the AMT base.

Aside from these revisions, the updated amendments largely retain the core elements of the initial amendments.

Updated amendments

The key updated amendments to the AMT regime are summarized below.

- ▶ **Charitable donation tax credit:** The AMT rules generally allow for a limited range of tax credits to be claimed for AMT purposes. One significant proposal under the initial amendments was that certain tax credits, such as the charitable donation tax credit, would be subject to a 50% inclusion rate when calculating AMT, reduced from 100% under the pre-2024 AMT regime.

Since the release of the initial amendments, the charitable sector has expressed strong concerns that this reduction in the inclusion rate may disincentivize significant, one-time, charitable donations, potentially resulting in decreased funding for charities. These gifts may stem from a memorial donation or in response to an educational or medical institution's specific need. In addition, the initial amendments may result in donors spreading out their donations over several years to limit their annual AMT exposure.

In response to these concerns, the updated amendments permit a claim of 80% of the charitable donation tax credit when calculating AMT.

For other permitted tax credits, the 50% inclusion rate remains unchanged, with two exceptions noted below.

- ▶ **Allowable tax credits:** Two tax credits are allowed to be fully claimed for AMT purposes under the updated amendments: the special tax credit for former residents¹ and the federal logging tax credit. Under the initial amendments, these tax credits were treated in the same manner as other tax credits permitted under the AMT regime and only 50% of the amount could be claimed.
- ▶ **Permitted deductions:** The updated amendments allow full deductions with respect to the Guaranteed Income Supplement, social assistance and workers' compensation payments. Only 50% of these deductions were allowed under the initial amendments.

¹ Section 119 of the *Income Tax Act* provides a special tax credit in situations where the stop-loss rule in subsection 40(3.7) applies to an individual who has emigrated from Canada.

- ▶ **Unused losses from other years:** The updated amendments provide that only 50% of unused restricted farm losses and unused farm losses that are deducted for purposes of computing regular income are deductible for AMT purposes. These changes result in such losses being treated in the same manner as unused non-capital losses and unused limited partnership losses for AMT purposes under the initial amendments.
- ▶ **AMT carryover:** Generally, if an individual paid AMT in any of the prior seven taxation years, the individual may have an AMT carryover balance that may be used to reduce regular tax payable for the current year. In determining the “regular tax payable” for this purpose, certain deductions and credits are not permitted under the pre-2024 AMT regime. The initial amendments did not make any changes to these rules.

The updated amendments provide that the following tax credits will now be permitted in computing regular tax payable for AMT carryover purposes:

- ▶ Various investment tax credits;
 - ▶ Federal political contribution tax credit;
 - ▶ Federal logging tax credit; and
 - ▶ Labour-sponsored funds tax credit.
- ▶ **AMT exempt trusts:** The updated amendments further extend the list of trusts exempt from the application of AMT. Notably, employee ownership trusts (EOTs) will now be exempt from AMT. Furthermore, the exempted capital gains on the sale of a business to an EOT² will be subject to an inclusion rate of 30% for AMT purposes, which parallels the AMT treatment with respect to gains eligible for the lifetime capital gains exemption.

Additionally, certain trusts established for the benefit of Indigenous groups or communities will also be exempt from AMT, provided the necessary conditions are met. The government has invited interested parties to submit their views on these proposed exemptions.

Additional considerations

The 2024 federal budget proposed to increase the capital gains inclusion rate from one half to two thirds for corporations and trusts for capital gains realized on or after 25 June 2024. For individuals, the inclusion rate will increase from one half to two thirds on the portion of capital gains realized in the year that exceeds \$250,000, for capital gains realized on or after 25 June 2024.

² The 2023 Fall Economic Statement proposed to exempt the first \$10 million in capital gains realized on the sale of a business to an EOT from taxation, subject to certain conditions. The 2024 federal budget provides further details on the proposed exemption and conditions. See [EY Tax Alert 2023 Issue No. 47](#) for an overview of draft legislative proposals relating to EOTs.

While it may be beneficial to accelerate the recognition of a substantial capital gain before 25 June 2024 to avoid the imminent higher inclusion rate, other factors must also be considered in implementing any tax planning strategies, including the potential impact of the proposed AMT amendments. Consult your EY advisor to assess the impact of any planning that may be available to help minimize your tax liability.

Learn more

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