

Newsletters

Congratulations on opening your dental practice!

2015 Federal Budget Announces Welcomed Changes for Charities

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Donations of Private Corporation Shares and Real Estate

Currently, taxpayers are exempt from capital gains tax for charitable gifts of publicly listed securities and gifts of ecologically sensitive land and cultural property. The Budget proposes to provide an exemption from capital gains tax in respect of certain dispositions of private corporation shares and real estate occurring after 2016 provided the following conditions are met:

- Cash proceeds received from the disposition are donated to a qualified donee within 30 days after the disposition, and
- The disposition was to a purchaser that deals at arm's length with both the donor and the qualified donee.

Therefore, it will be necessary for the donor to sell the private company shares or real estate to an arm's length purchaser and then donate the proceeds to a qualified donee, in order to qualify for the proposed capital gains exemption. Where only a portion of the proceeds of disposition are donated, the capital gains exemption will be applied proportionally. The Budget includes anti-avoidance rules to reverse the exemption where, within 5 years after the disposition, the donor or a person that does not deal at arm's length with the donor:

- re-acquires the property that had been sold
- acquires shares substituted for shares that have been sold
- those shares are redeemed and the donor does not deal at arm's length with the corporation at that time

Donations to Foreign Charitable Foundations

Under the current legislation, only a foreign organization carrying on certain activities can receive status as a qualified donee, thereby allowing the donor to claim charitable donation credits or deductions against Canadian income. The Budget proposes to allow foreign charitable foundations to be registered as qualified donees if they have received a gift from the Canadian government and the foundation is carrying on disaster relief work, urgent humanitarian aid, or other work in the national interest of Canada. This measure will apply when the enacting legislation receives Royal Assent.

Investments in Limited Partnerships by Registered Charities

Currently, registered charities rarely hold an interest in a partnership as the current rules prevent a charity from carrying on a business. A partner is considered to carry on the business of the partnership. The Budget proposes that, effective April 21, 2015, a registered charity shall not solely – because of the acquisition or holding of an interest in a partnership – be considered to carry on any business of the partnership if the following conditions are met:

- The interest is in a limited partnership;
 - The charity and non-arm's length entities hold 20% or less of the interests in the limited partnership; and
 - The charity deals at arm's length with each general partner of the limited partnership.
- Contact Cooper Bick Chen LLP to explore this and other valuable tax planning opportunities.

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