BUDGET 2023: ALTERNATIVE MINIMUM TAX

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Budget 2023 proposes the first major changes to the Alternative Minimum Tax (the "**AMT**") since its introduction in 1986 with the stated goal of "ensuring the wealthiest Canadians pay their fair share."

The AMT is a parallel tax system aimed at ensuring that high income earners cannot unduly reduce their tax liability by taking advantage of certain deductions or other tax incentives. Essentially, individuals and certain trusts are required to calculate their annual income tax liability under both the regular method and the AMT, and they pay the higher of the two. In Budget 2023, the Federal Government indicated that trusts that are currently exempt from the AMT will continue to be exempt (for example, certain spousal or common law partner trusts, alter ego trusts, mutual fund trusts, related segregated fund trusts, master trusts and employee life and health trusts). Further, an examination will be undertaken to determine whether additional trusts should be exempt from the AMT.

Currently, the AMT applies a flat 15 percent tax rate (rather than the progressive rates which otherwise apply) on income in excess of a $40,000 threshold. Any tax due under the AMT can be carried forward for seven years and used to offset regular (non-AMT) tax due in those years.

Budget 2023 proposes the following changes to the AMT, beginning in 2024:

1. An increase in the AMT rate from 15 percent to 20.5 percent;
2. An increase in the basic AMT exemption from $40,000 to $173,000 (indexed annually to inflation), thereby excluding middle-class Canadians from the application of the AMT and targeting higher income earners more specifically; and
3. Introducing changes to the calculation of the AMT, thus broadening its application, including the following:

    a. Increasing the capital gains inclusion rate for AMT purposes from 80 percent to 100 percent;
    b. Including 100 percent of employee stock option benefits;
    c. Including 30 percent of capital gains on charitable donations of publicly listed securities;
    d. Limiting to only 50 percent (down from 100 percent) the deductibility of many expenses and deductions for purposes of calculating AMT liability, such as interest and carrying charges incurred

to earn income from property, non-capital loss carryovers, etc.; and

e. Reducing AMT by only 50 percent of most non-refundable tax credits (down from 100 percent).

Further details are to be released later in 2023.

Budget 2023 projects that the proposed changes to the AMT would result in the following:

1. The generation of an additional $3 billion of tax revenues over five years, beginning in 2024; and
2. More than 99 percent of the AMT would be paid by those earning over $300,000 annually, and 80 percent of the AMT would be paid by those earning over $1 million annually.

Given that the proposed changes to the AMT would take effect beginning in 2024, affected taxpayers may wish to accelerate any related planning before then.

by Steven Sitcoff

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.