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Bring back charitable tax exemptions

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Byline: Donald K. Johnson
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The vast majority of stakeholders in the not-for-profit sector were extremely disappointed with Jack Mintz's April 13 column, "Too Generous With Charity." These stakeholders, which include the managements, boards of directors, the fundraising professionals and employees of our hospitals, universities, social service agencies and arts and cultural organizations strongly disagree with the points he raised in supporting the federal Liberal government's decision in its 2016 budget to rescind the capital gains exemption for donated private company shares and real estate.

Federal, provincial and municipal governments are all facing fiscal challenges during these difficult economic times. They are not able to provide all of the funding required to enable our not-for-profit organizations to service the increasing demand for their services, particularly for health care, as our population ages. Private sector donations are vital to fill in this gap, and are much more tax-effective than direct government spending. While charitable donations may reduce federal and provincial government revenues by approximately $5 billion per annum, charities themselves receive approximately $9 billion in charitable donations. If governments were to provide all of the funding directly, they would have to increase taxes by $4 billion per annum!

I believe the assumptions Mr. Mintz makes in reaching the conclusions that the government is providing undesirable tax incentives to donors are erroneous for the following reasons: He assumes that every donation of appreciated capital property has a zero adjusted cost base. This is clearly not the case for the majority of donations of listed securities and would not be for donations of private company shares or real estate.Mintz's estimate assumes that the government is foregoing the capital gains tax immediately upon donation. However, if donors had to pay a capital gains tax on their donation, they would simply not donate their listed securities, private company shares or real estate. They would simply hold onto their assets for the foreseeable future and there would be no immediate capital gains tax payable anyway. Therefore, the actual fiscal cost to the government is the discounted present value of the ultimate capital gains tax, which the government would realize in the future, when the donor passed away or decided to sell the asset.Mintz does not take into account that, when an owner sells commercial real estate and donates the cash proceeds to a charity within 30 days, he is still subject to a recapture of the capital cost allowance (CCA), which was deducted from his taxable income each year since he owned the property. The recapture of CCA is taxable at regular income tax rates and represents additional revenues to the federal and provincial governments.

The 2015 budget included measures that would address any concern Mr. Mintz may have had with respect to donor abuse in assigning too high a value to the charitable gift to increase the tax benefit. The rules required the donor to first sell the private company shares or real estate to an arm's-length party in order to qualify for the capital gains tax exemption. If the purchaser of the asset is at arm's length from the donor, and the donor obviously wants to achieve the highest possible price, he or she will achieve fair market value for the sale.

The donation tax exemption announced in the 2015 budget addressed an inequity in the tax system. Entrepreneurs who take their company public, and then donate shares of their company to a charity, are exempt from capital gains taxes. Entrepreneurs who keep their company private do not enjoy the same treatment. There are 109,000 members of the Canadian Federation of Independent Business (CFIB) and they are all private organizations. Why should they be treated differently, resulting in less private wealth being donated to not-for-profit organizations that benefit all Canadians?

In the United States, gifts of appreciated capital property are already exempt from capital gains taxes. These include listed securities, private company shares and real estate. The donation tax exemptions announced in the 2015 budget would have levelled the playing field for fundraising at Canada's not-for-profit organizations, which compete directly with their U. S. counterparts for the best and the brightest talent.

Donations of listed securities have exceeded $1 billion a year virtually every year since 2006, when the remaining capital gains tax was removed. Removal of the capital gains tax on donations of private company shares and real estate would result in an additional $200 million per year of charitable donations.

The 2015 budget's capital gains exemption for donated private company shares and land had the support of all three major parties: the Conservatives, the Liberals and the NDP. Despite this, the Liberals' 2016 budget stated that the government would not proceed with this measure. The new Liberal majority government should take the time to consult with the management and boards of not-for-profit organizations across the country - including at the University of Calgary, where Jack Mintz is the President's Fellow of the School of Public Policy. It will find there are very good reasons to reinstate this exemption in the next budget.

Donald K. Johnson is volunteer board member of four not-forprofit organizations in each area of the charitable sector and a member of the advisory board of BMO Capital Markets.