Remarks to the Economic Club of Canada

Unlocking More Private Wealth for Public Good

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Introduction

Ladies and gentlemen, I'm delighted to address such a distinguished group which includes volunteer board members and other professionals involved in fundraising for a wide range of philanthropic organizations. Today's luncheon provides us with a further opportunity to raise the public profile of our advocacy campaign to enable charities to access substantial, incremental funding for our hospitals, universities, social service agencies and arts and cultural organizations.

The Focus of My Remarks

I'll limit my remarks to 20 minutes to leave time for some questions. I'll focus my remarks on three issues:

1. The success of the removal of the capital gains tax on gifts of listed securities which began in the 1997 budget and was completed in the 2006 budget,
2. The opportunity for the federal government to unlock additional private wealth for public good by removing the capital gains tax on gifts of two other appreciated assets – private company shares and real estate, and
3. What each of us can do to help convince the government to include these measures in the upcoming 2013 budget.

The Success of the 1997 and 2006 Budgets

During the late 1990s**,** when the government was focused on reducing and eliminating the deficit primarily through spending cuts, a way had to be found to enable charities to access greater funding from the private sector. Many Canadians who had an interest in giving back to their communities could make major gifts in the form of capital assets which had appreciated in value, but they had limited capacity to make gifts in the form of cash.

In 1997 the government cut the capital gains tax by 50% on gifts of listed securities to charities. In the 2006 budget, the government removed the remaining capital gains tax on such gifts. This decision was made after Members of Parliament, Senators and senior bureaucrats were contacted by thousands of people across Canada who were keenly interested in helping charities access greater funding from the private sector. It was a real team effort! These measures have been an enormous success. **Charities have received over $1 billion in gifts of stock every year since 2006.** A large portion of these gifts have been incremental donations and only a very small portion have been substitutes for cash donations. Let me give you one example. From 1956 to 1996, the total gifts of stock to the United Way of Greater Toronto over that 40 year period was a mere $44,000. Since the first step was taken in 1997, the United Way of Greater Toronto has received over $117 million in gifts of stock.

Although many of our not-for-profit organizations have capitalized on this opportunity, many prospective donors, who have significant assets in the form of listed securities or stock options, still need to be educated on the tax benefits of these measures.

The Fiscal Challenges Facing Our Charitable Sector

All three levels of government—federal, provincial, and municipal—play an important role in providing funding for vital services for all Canadians; that is health care, education, social services and arts and culture. As our population ages, the demand for these services continues to grow, especially for health care. All three levels of government, however, are currently facing fiscal challenges themselves, the most important being to reduce, and ultimately eliminate, their fiscal deficits. As it is unlikely they will increase taxes **significantly**, the major way to reduce deficits is by spending cuts and restraint. This raises the question—what can the government do to help our charitable sector?

The Opportunity

Of the alternatives for the government to provide additional tax incentives for charitable donations, the single, most effective step for the government to take is to expand the capital gains tax exemption to include gifts of private company shares and real estate. **Removal of this barrier to charitable giving would unlock more private wealth for public good.** In the United States, gifts of private company shares and real estate represent approximately 20% of total gifts of appreciated capital property, with listed securities representing approximately 80%. Using the U.S. experience as an example, it is reasonable to assume that removal of the capital gains tax on gifts of private company shares and real estate would result in approximately $200 million of donations to charities every year.

Addressing Concerns about these Proposals

The Fiscal Cost of Our Proposals

Last year, the C. D. Howe Institute hosted a Conference on “Strengthening Charity Finance in Canada”. The Head of Philanthropic Services at one of Canada’s leading financial institutions estimated that, if these measures were introduced, charities would receive donations of $170-$225 million per annum in gifts of private company shares and real estate. He estimated that the fiscal cost to the federal government of these two measures would be only $50-$65 million per annum. Obviously, the benefits of increased funding to charities would far outweigh the fiscal cost to the federal government of implementing these measures.

The Potential for Valuation Abuse

The amendment to the Income Tax Act should include a restriction that the charity could not issue a tax receipt to the donor until the charity had received the cash proceeds from the sale of the asset. This establishes the real value of the donation. Further, if the purchaser of the asset is not at arm's length from the donor, then the charity, not the donor, would have to obtain two independent professional appraisals of the asset in order to confirm that the charity was receiving fair market value for the gift. If the gift, however, was in the form of property that the charity would be using to fulfill its mission, such as a gift of land, and the charity was not planning on monetizing the gift, the charitable donation tax receipt would be issued at the time of the transaction and be based upon the value provided by two professional appraisers.

Substitution versus Incremental Donations

Charitable donations of these two appreciated capital assets would be largely **incremental**, not **substitutions** for cash donations. Prospective donors of private company shares and real estate would have the opportunity to make significant donations at a time when they plan to sell their business or their real estate. If they are required to pay a capital gains tax on their gift of the appreciated capital property, they would not be inclined to give a portion of the asset to a charity. Presumably, if they were exempt from capital gains taxes on such gifts, many would give serious consideration to making a significant charitable donation to a favourite cause.

I'll give you one specific example. A good friend of mine has a minority interest in a private company which has no plans to go public. He has a Purchase and Sale Agreement (PSA) with the controlling shareholder, so he can sell his shares at any time at a price based upon a multiple of the company's cash flow. He has committed to me, that if the capital gains tax on gifts of private company shares is removed in the upcoming budget, he will donate $5 million to his alma mater and $1 million to the Vision Campaign which I am Chairing for the Eye Center at the Toronto Western Hospital. He would simply donate his shares to these two charitable organizations, they would then monetize these shares by selling them to the controlling shareholder based upon his PSA agreement, receive the cash proceeds and provide him with a charitable donation tax receipt. If the capital gains tax on such gifts is not removed, however, he will simply continue with the status quo and retain his investment in the private company. Most private companies have several shareholders who have a Purchase and Sale Agreement with the controlling shareholder. The agreement with the controlling shareholder would provide an opportunity for their favourite charity to monetize the gift immediately. A similar opportunity to access additional major donations would arise when the owner of a private business decides to retire and sell their business.

Additional Benefits of these Proposals

Removal of an Inequity in the Tax System – Donations of Public Company Shares versus Private Company Shares

Under the current tax system, if you are an entrepreneur, and you take your company public and subsequently donate shares to a registered charity, you receive a charitable donation tax receipt for the market value of your gift and are exempt from any capital gains tax. Under the current tax system, however, if you are an entrepreneur who decides to keep your company private, if you donate shares in your company to a registered charity, you are required to pay a capital gains tax on your gift of shares. Our proposal would remove this inequity and would level the playing field for all entrepreneurs who have an interest in giving back to the communities which have played an important role in their success. There are 109,000 members of the Canadian Federation of Independent Business (CFIB). The members are all private companies or organizations. Many of the CFIB's members are located in rural communities and not-for-profit organizations in their local communities would benefit from their generosity. Logically, the vast majority of CFIB's members would be supportive of our proposal.

Tax Effective Funding for Municipalities

From the perspective of the mayors and councillors of our cities, towns and villages, these measures would provide additional private sector funding to the charities in each of their local municipalities**.** The fiscal cost would be borne by the federal and provincial governments, not the municipalities. Municipalities derive their tax revenues primarily from property taxes, not income taxes. Members of the Federation of Canadian Municipalities (FCM) are supportive of these proposals.

Levelling the Playing Field with U.S. Charities

In the United States, gifts of appreciated capital properties are exempt from capital gains taxes. Implementation of these two proposals would level the fundraising playing field for Canadian charities as we compete with their U.S. counterparts to attract and retain the best and the brightest talent.

The Opportunity Provided by Canada's Income Tax Act

Our Income Tax Act currently has a provision that enables donors to sell certain property to fund a donation and to eliminate tax on disposition if the cash proceeds are donated to the charity within 30 days of the sale. This precedent could be utilized for donations of private company shares and real estate. After selling the asset, the donor could give part or all of the cash proceeds to charity within 30 days and be exempt from the capital gains tax on the sale. This provision in our Income Tax Act is more efficient and effective than the U.S. system because it provides valuation certainty for tax purposes and simple management for charities which reduces their costs and increases public benefit.

The Next Budget

In his 2011 budget statement, the Finance Minister announced that the House of Commons Standing Committee on Finance would conduct hearings on "**Tax Incentives for Charitable Donations**". The Committee began its hearings in January and held its final hearing on October 3. The next step is for the Committee to make its recommendations to the House of Commons. We are optimistic that the Committee will include our two proposals in its report.

What We Can Do to Help Make it Happen

I do not expect the Department of Finance to recommend that the Minister of Finance include these proposals in the upcoming budget. The decision, however, is made by the Minister of Finance after considering his Department's recommendations and the House Finance Committee's Report. Both he and the Prime Minister must be convinced that the benefits of these measures significantly outweigh the fiscal cost and that the terms and conditions of these Income Tax amendments satisfactorily address any concern about valuation abuse. They must also be satisfied that a large portion of the donations of private company shares and real estate would be **incremental** donations and not simply **substitution** for cash donations that would otherwise have been made. Essentially, they must be convinced that these measures are not only good public policy, but also good politics.

Clearly, these measures are good public policy. They are also good politics, because the federal government would be applauded by all stakeholders in the not-for-profit sector. These include community leaders who serve as volunteer board members, the management teams of these organizations, their professional fundraisers, and the 2.1 million people who are employed by the charitable sector, as well as the millions who benefit from the vital services which the charitable sector provides.

Although Opposition parties typically challenge the government on its initiatives, these proposals would be an exception. The Leader of the Official Opposition and the Finance Critic of the Liberal Party are both publicly on record as being supportive of these two proposals. **This is one of the few public policy issues upon which all parties can agree!**

To help ensure these measures are in the next budget, it is essential that all Members of Parliament and Senators understand the benefits of these proposals and communicate their support to the Leaders of their Parties. I communicate periodically with over 700 business and community leaders across the country who serve as volunteer board members of not-for-profit organizations and ask them to write a letter of support to their local Member of Parliament and communicate their support to other influential politicians and bureaucrats in Ottawa. I would be delighted to add each of you to the list if you are not already on it! **Together we can make it happen!**

In conclusion, I'd like to share with you two of my favourite quotes which I always keep in mind on this Advocacy Campaign. The first is "The Sale Begins When the Customer Says No". The second is "Persistence Prevails When All Else Fails".

Thank you.