

The Bottom Line

A "quick-read" for estate planning professionals from the JCF Professional Advisory Committee

March 24, 2004

Update on.... FEDERAL BUDGET 2004 CHARITY HIGHLIGHTS

Finance Minister Goodale brought down his first budget yesterday.

The following briefly highlights those proposals affecting charities:

Disbursement Quota ("DQ")

- The DQ for the capital of a foundation will now be calculated using a 3.5% calculation rather than 4.5%.
- This will affect year-ends commencing after March 22, 2004.
- For non-foundations this capital calculation will be a new DQ component commencing in 2008 or immediately for newly incorporated charitable organizations.
- RRSP and Insurance proceeds at death can be given directly to a charity and still be eligible for a tax credit on the deceased' final tax return. Even though these gifts are not "will" gifts, they will now not be required to enter into the charity's DQ calculation.
- Transfers of capital between charities will no longer be negative to the DQ calculation. The recipient charity will be treated for DQ purposes as if the original donor had made the gift directly to the recipient charity.

Donation Carryforwards

We have seen much legislation limiting the use of certain tax carryforwards (losses, CCA, etc.) after a change of control. Donation carryforwards are now similarly restricted.

Compliance Penalties

Previously, if a charity did not comply with the Income Tax Act properly, CCRA's only legal recourse was to deregister the charity. Of course, this was quite draconian for most issues. Now the Act will be amended to allow for cash penalties and other methods (e.g. restricting the ability of a charity to issue receipts for a specified amount of time) if receipts are improperly prepared or tax returns are filed late, etc.

The web site www.canada.com will get you to the budget documents if you require more detail.

For more information on estate planning and charitable giving for professionals, go to:

www.jcfmtl.org/pac.htm