

New Alternative Minimum Tax (AMT)

As Much as a Third Reduction in Flow-Through Share Financings – A Primer

The newly revised Alternative Minimum Tax (AMT) introduced in the 2023 Federal Budget, effective January 1, 2024 will significantly reduce the effectiveness of the flow-through regime and the successful Critical Mineral Exploration Tax Credit, putting thousands of high-paying jobs in rural and remote communities at risk. Annually over a billion dollars are raised through the use of flow-through shares, with the vast majority being Charitable Flow-Through. Under the new AMT rules, flow-through subscribers will be limited to purchasing two thirds of what they normally would for the purpose of donation or investment, impacting both the exploration sector and charities by reducing access to exploration capital (and flow-through shares donated) by about a third in all.

What is AMT

Introduced in 1986, AMT is a parallel tax calculation that applies to high income earning taxpayers, defined as of Jan 1, 2024 as those earning more than \$173,000 annually, who could otherwise pay little to no tax due to various deductions and credits. The AMT is “alternative” since taxpayers calculate both the amount of their regular tax as per the T1 return net of entirely proper and legitimate deductions and credits and then calculate the AMT adding back into income a list of deductions and credits such as carrying charges and capital gains. Taxpayers are required to pay the higher of either their regular tax, or the AMT.

By way of a simple example, if the regular tax payable is \$100,000 but the AMT calculation results in tax owing of \$120,000 then the taxpayer pays the \$120,000 and carries forward the \$20,000 as a tax credit usable in the next seven years, after which the AMT credit expires.

How AMT Impacts the Exploration Sector and the Effectiveness of the Critical Mineral Exploration Tax Credit (CMETC)

The 2022 Federal Budget introduced the 30% CMETC, targeted at a select list of 15 critical minerals such as lithium, copper, cobalt and nickel that Canada needs for national security and to accelerate our transition to our low carbon, green future. Within the first year (April 2022 to March 2023) of the CMETC, more than \$350 million was raised, for 38 critical mineral projects.

The changes to the AMT will take the wind out of the CMETC’s sails. Individuals purchase flow-through for charitable purposes up to their AMT limit. A higher AMT means that an individual can purchase less flow-through. Due to the tax value difference between the CMETC and the regular mineral exploration tax credit, the critical mineral projects that Canada needs are impacted at a higher rate than precious metal projects.

Impact of AMT on Flow-Through Share Donations

Donation of flow-through shares (FTS) are particularly affected by the new rules. FTS financings completed for donation purposes represents more than 75% of all FTS financings. In this format, the FTS subscriber buys the FTS for donation capturing the exploration expenses and tax credits “flowed through” by the resource issuer to the subscriber from treasury funding the exploration. For example, a dollar of deduction in Toronto results in a dollar of taxable activity in Timmins. Otherwise a FTS is merely a common share. On the closing of the financing, the FTS are donated, then immediately sold at a discount stripped of tax value. By separating the two elements of a FTS - tax value from the underlying equity, PearTree has ‘expanded the universe of exploration capital.’

In most years over the past 15 years since PearTree was founded, over 90% of all the shares sold on closing by the charities are to global (non-Canadian) investors.

As an example, for the year 2023, Sayona Mining Ltd, which is exploring and developing lithium projects in

Quebec, saw PearTree subscribers purchasing \$50 million worth of FTS. They subsequently donated and sold these shares to Australian investors for \$32 million.

Under the new AMT rules effective in 2024 the same subscribers would buy a third less shares since under the new AMT rules the tax values will not be fully usable in 2024. This is a major hit to exploration financing in Canada.

We know for a fact and have offered to share the data with government – thus far without response, that a very small number of Canadians using this approach give more to charity while simultaneously funding exploration jobs in Canada’s rural & remote communities. Under the new AMT rules effective in 2024, donors of FTS will require at least 1.5x more income to maintain the same level of donation. Otherwise stated, if income remains the same, the donation amount contracts by approximately a third. Those who donate \$100,000 annually in this format can only donate \$67,000 all other factors remaining the same.

Take Action

Contact your politicians. We are here to help. Feel free to contact Alanna Clark, Vice President, Government Relations at alanna.clark@peartreecanada.com.

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