



## How much publicly listed securities are donated to Canadian charities and how will AMT changes affect charities?

By Mark Blumberg (November 5, 2023)

The Canadian charity "sector" is concerned about a change in how the Alternative Minimum Tax might affect donations of marketable securities. We have written before about this topic in our article [AMT changes provide an opportunity for charities to encourage HNW donors to donate marketable securities this year rather than next year](#)

One day, someone will do a deep dive into how some umbrella organizations within the charity sector became so quickly concerned and so quick to organize when it came to the AMT issue. Very little media coverage has been balanced – it is usually just regurgitating hyperbole from press releases. The only one relatively balanced article that I can recall from the those who cover the charity sector was one from Gabe Oatley of the Future of Good, entitled [Some fear upcoming federal tax changes on rich could result in donation nosedive; others say concern unwarranted](#). Also, the only relatively balanced article from the financial services sector is an article in National Post by Jamie Golombek entitled [New Alternative Minimum Tax rules might mean donating more to charity this year](#).

### *Umbrella Organizations*

I was quite surprised for example to read from the CAGP:

“While we do not know with certainty the degree the new AMT proposals will impact high-value donations, the charitable sector knows that historically, transformational donations represent approximately 35 per cent of the total dollar amount of charitable gifts. Therefore, it would not be unreasonable to suggest that as much as one-third of the \$11.8 billion of annual charitable giving by Canadians will be negatively impacted.”

First of all, annual charitable giving in Canada is not \$11.8 billion. That is what is claimed on individual tax returns by about 5 million people. Total charitable giving in 2021 for example was \$20.7 billion in receipted donations and billions more in unreceipted donations. Secondly, 1/3 of \$11.8 billion is about \$3.9 billion. I will take the whole staff of CAGP out for Harvey's (one of my favourite non-Ethiopian food restaurants) if their predictions even remotely accurate!

Imagine Canada says this in their [campaign](#):

Budget 2023 proposed changes to the Alternative Minimum Tax (AMT) which will reduce financial incentives for high-income individuals to donate to charity. Imagine Canada supports the government's efforts to ensure that wealthy Canadians pay their fair share of taxes. However, even if the impact of the AMT changes (by conservative estimate) amount to a 5% reduction in overall donations, charitable sector revenues will decline by over half a billion dollars.

Ok so now we have gone from 33.3% at CAGP (\$3.9 billion) to a conservative figure of 5% (\$500 million) from Imagine Canada.

I am thinking the total amount of donations of appreciated marketable securities vary from year to year. I understand that the total amounts of marketable securities donated by individuals in 2020 was \$1 billion and in 2021 it was \$1.3 billion. That is just individuals and comes from the tax filer data from the T1170 form (Capital Gains on Gifts of Certain Capital Property).

For purposes of the AMT discussion, that is what is relevant but if one wants a global figure, as corporate donations of marketable securities are generally more than individual donations, one is probably looking at annual donations of marketable securities from individuals and corporations in the range of \$2-3 billion per year.

That is from approximately 7200 individuals and 1480 corporations. In terms of the value of donations used to be about half from corporations and half from individuals but now it is leaning more towards corporations. Perhaps 60% corporate and 40% individual.

Also keep in mind that the amount of marketable securities donations can fluctuate substantially from year to year, even when there are no changes in terms of tax treatment. Declines in the stock market, people's emotional involvement in a particular cause, some very wealthy people dying and leaving bequests to charities, as well as major corporate transactions, can all significantly affect the total value of marketable securities donations. Hence in 2020 it was \$1 billion and in 2021 it was \$1.3 billion.

Very importantly the corporate donations are not impacted by the AMT changes so we can exclude that from this discussion. So, let's say about \$1.3 billion in marketable securities are potentially affected if all 7200 individuals are affected by AMT. But we know that AMT affects only a small number of wealthy individuals. If 20% (random guess) of these people are affected by AMT and for arguments sake let us say that all donate similar amounts and decide not to donate at all then you might have a decline of 20% of \$1.3 billion or \$260 million.

Is a potential \$260 million decline in revenue of a sector that takes in total revenue of \$334 billion worth the extreme statements and mobilization of the sector. It is 0.0078 percent. Not a 1 percent decline in revenue. Not a 1/10 of % decline in revenue but even less.

Some of the people screaming the loudest about this change were opposed to increasing the DQ to 5%. That increase in the DQ will probably result in an extra \$1 billion per year for operating

charities. If the DQ was increased to 7.5% as the Conservative government has in their platform it would have increased the amount that operating charities would receive of about \$3-4 billion.

Some of those who have arranged their affairs to donate appreciated marketable securities personally will instead donate through their corporations who are not affected by AMT. Some will realize they are still getting a staggering tax benefit, but not as staggering as the year before and keep on giving. Some people will advance their contributions so it could actually help charitable giving in 2023.

There is nothing intrinsically better about people or corporations donating marketable securities to charities rather than cash. Most charities would prefer cash if it did not make any other difference. The only reason for picking that type of asset has to do with better tax savings. Some donors have now been “well-trained” to do it. The danger of course of this approach as it relates to sustainability of funding of the sector, is that when there is a stock market decline, and needs are often far greater in those times, this type of gift tends to plummet. So, it is cyclical and focused in fact on the times when charities need less funding.

*Which designation benefit?*

Here is another matter to keep in mind namely that about 2/3 of the marketable securities donations go to public and private foundations and about 1/3 to charitable organizations. So much of the funds “donated” to charity will just be accumulated in private foundations and public foundations and dribbled out to charities at perhaps 3.5% or 5% per year. So, if we are using my number above of \$260 million it means that charitable organizations will lose about \$80 million in revenue directly and another \$10 million indirectly.

*Do small charities benefit?*

As well I will just point out that about two-thirds of the value of marketable securities gifts went to charities earning over \$10 million and charities with revenue under \$250,000 received roughly 1% of the value of gifts of marketable securities. About 55,000 registered charities of the 85,000 have revenue under \$250,000 and they only receive roughly 1% of the marketable securities donations! There is nothing inherently better about small versus larger organizations but a tax incentive that somehow manages to miss really helping so many charities is a tax incentive that should be studied and perhaps changed. This particular tax incentives costs a lot, and it does almost nothing for small charities.

*What ‘really’ motivate people to give?*

Here is another small concern that I have, namely the apocalyptic view that with a slight reduction in tax incentives some very wealthy people will cease or drastically reduce their philanthropy. This seems to indicate that some people think that the donations of ultra-high net worthy individuals are largely motivated by tax incentives and not the myriad of other reasons people give. The academic studies say that tax incentives are not near the top of motivations for donors, including wealthy donors.

We know that some wealthy people don't give anything to charity. Are we thinking they are not aware of the generous tax incentives and if they were they would all of a sudden give a lot? What separates those that give and don't give. Both are offered similar tax incentives. In fact, Canada provides in total probably the most generous tax incentives of any country for donations to charities and that is still not enough for some wealthy people.

But let us not talk about those who don't give but those who do give. Let us say that the academic studies are wrong and what almost every major philanthropist says when interviewed by their local newspaper is wrong and wealthy people are more focussed than anyone thought on tax incentives, or perhaps only focussed on the tax incentives, well then if that was true it paints a pretty awful picture of wealthy people in Canada. And if I thought that was true, I would probably say then that the decline will be far more than \$260 million! Perhaps some of the professional advisors know some things about their client's and their true motivations that academics and even their own clients don't know.

Also, it is interesting that the assumption is that most very wealthy people who give appreciated marketable securities are paying almost no taxes and therefore the AMT applies to them. Yes, some wealthy people could pay more, but who thinks that all wealthy people are not paying taxes?

*Be careful what you ask for*

Another thing to keep in mind is that although the AMT change and marketable securities is only looking at a small segment of donors it is focusing a spotlight on donations of marketable securities in general.

This AMT advocacy has intentionally or unintentionally resulted in increasing attention on how while many Canadians receive little to no tax incentives for actual donations, many more receive only a 40 or 50% tax incentive and a very very small number receive very large tax incentives and therefore it actually costs them almost nothing to donate to charity and often the charity is their own private foundation.

Many of the very largest donors would either give or not give to charity irrespective of any tax incentives because they are in some cases have huge business and marketing interests, CSR requirements, and a desire to shape the world they live in (for good or bad). The fact that it is not costing them almost anything is just a bonus. Do you think philanthropy in Canada just started when the donation tax incentive was introduced? In other words, the AMT advocacy has highlighted that the structure of our system is not good value for money for governments at both a federal and provincial level. The old idea that government should encourage generosity by giving tax incentives and then both the donor and government pay roughly equally for the donations is well actually such cute and quaint historical idea when it comes to some very wealthy donors.

Donations of marketable securities are providing an extremely generous tax incentive and it is predominantly going to some very wealthy people and I would not be terribly shocked in light of the tremendous financial constraints that governments have and the huge need in society that the

extra incentive is eliminated at some point. This poorly thought through advocacy may hasten that day.

### *GR Strategy*

Be careful to be aware that sometimes you have something really really good and you may think it is a good idea to advocate to make it better or you have something really really good that most people don't realize how good and it is going to be made slightly worse. Be careful about the advocacy and it could actually result in a worse position ultimately. Or it can result in a pyrrhic victory now and a deeper understanding of consequences in a few years. We are currently experiencing this issue relating to charities dealing with non-qualified donees and the directed donation rules. Lots of misguided advocacy. When will we ever learn?

### *Horizontal Equity*

As an aside and no one seems to be asking – is it fair to the vast majority of donors who give cash get less tax benefits than those who give appreciated marketable securities? It is called horizontal equity and no it is not fair. For some organizations to go to bat for some of Canada's wealthiest people who are paying so little taxes that the AMT applies to them might not be a great look to the vast majority of donors who give cash or other items that are treated less favourably than the marketable securities.

### *Generosity and Diversity*

It also reminds us that the donation tax credit system is largely very beneficial to a very small number of Canadians. With political donations there is generally a realization that very beneficial subsidies should be capped. If we want to have a vibrant charity sector, we might need to rethink how we deal with tax incentives for donations. Why do we treat all charities the same, irrespective of the amount of public good? Why don't we incentivize average Canadians more than rather the wealthiest? When a billionaire gives a million dollars is that more generous than a person earning minimum wage who gives \$500 dollars? Most average Canadians are not donating to their own private foundations and dribbling out 3.5% per year. Most average Canadians are giving usually unrestricted gifts and often those are to small charities in their communities who are having an impact. More importantly it is to lots of different organizations, rather than a few large charities, and if one truly wants diversity of organizations and thought in Canada the current approach of encouraging marketable securities is not fit for purpose.

### **Understanding the numbers**

Unfortunately, there is no up-to-date comprehensive analysis of donations of appreciated marketable securities in Canada. Except for the figures from 2020 and 2021 provided above most of the analysis goes back quite a few years. So here are some snippets from the past that shed some light on historical marketable securities donations.

Unfortunately, the CRA's T3010 does not ask enough questions to provide that answer.

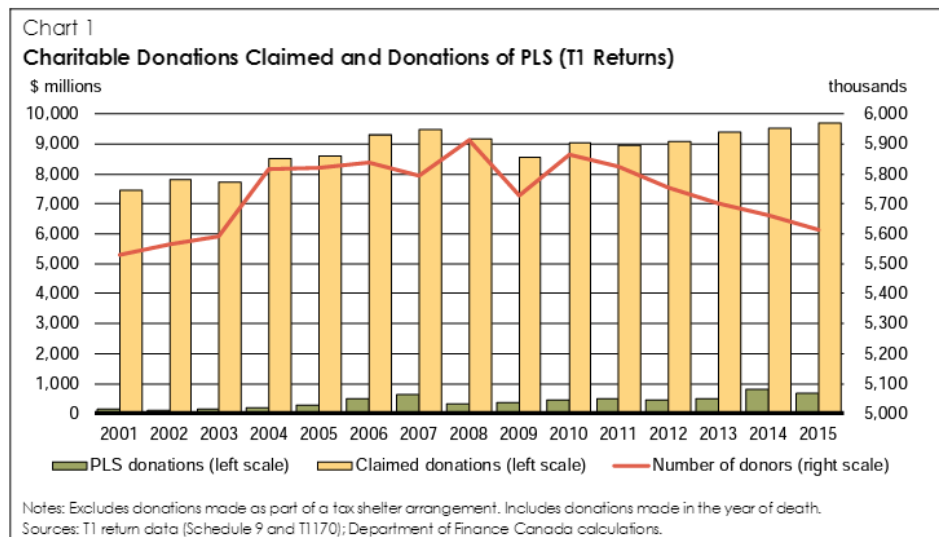
Here is a report by Finance in 2018 on Federal tax expenditure cost (does not include forgone revenue from provincial costs):

#### Evaluation of the Non-Taxation of Capital Gains on Donations of Publicly Listed Securities

[https://www.canadiancharitylaw.ca/uploads/Report\\_on\\_Federal\\_Tax\\_Expenditures\\_Concepts,\\_Estimates\\_and\\_Evaluations\\_from\\_Finance\\_Canada\\_2018.pdf](https://www.canadiancharitylaw.ca/uploads/Report_on_Federal_Tax_Expenditures_Concepts,_Estimates_and_Evaluations_from_Finance_Canada_2018.pdf) (page 293)

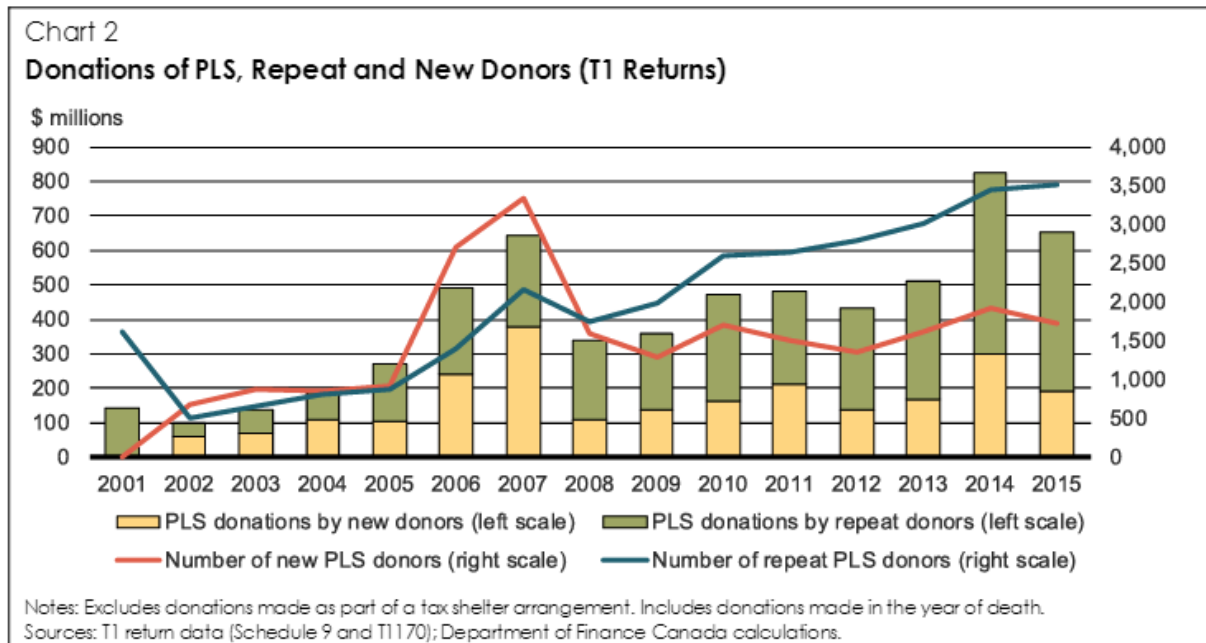
This chart below is personal returns. Corporations are not affected by AMT and not included in this chart. Green below is publicly listed securities compared to all donations claimed by individuals of their forms.

“Chart 1 illustrates the total value of claimed eligible donations and gifts of PLS between 2001 and 2015. The number of individuals claiming donations in each year is also represented. In real terms, total claimed donations grew from an estimated \$7.47 billion in 2001 to \$9.48 billion in 2007. ... Donations of PLS, while modest relative to claimed donations, grew rapidly between 2001 to 2007, from \$144 million to \$643 million. Despite a near-halving of value the following year, gifts of securities recovered to reach a maximum of \$822 million in 2014. Moreover, between 2001 and 2015, gifts of securities grew from 1.9% to 6.7% as a share of claimed donations. “



[https://www.canadiancharitylaw.ca/uploads/Report\\_on\\_Federal\\_Tax\\_Expenditures\\_Concepts,\\_Estimates\\_and\\_Evaluations\\_from\\_Finance\\_Canada\\_2018.pdf](https://www.canadiancharitylaw.ca/uploads/Report_on_Federal_Tax_Expenditures_Concepts,_Estimates_and_Evaluations_from_Finance_Canada_2018.pdf) (page 294)

You can see in 2013 -2015 it is around 500, 822 and 649 million.

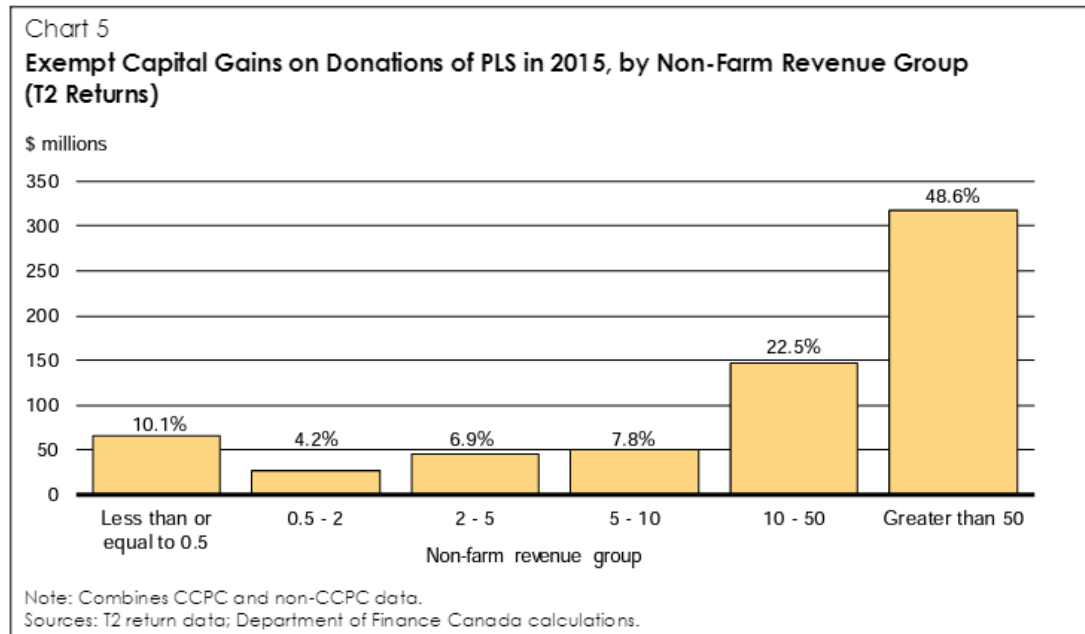


In 2015 claimed donations were \$9.71 billion. In 2015 gifts of securities were about 6.7% of “claimed donations” by individuals. If you look at our [Blumbergs’ Canadian Charity Sector Snapshot 2015](#) charities issued in 2015 about \$16.4 billion in receipts. If \$9.71 billion are claimed on personal tax returns, some are claimed on corporations as a credit and some tax receipts are not used. To put this in perspective, the total revenue of the charity sector was \$251 billion in 2015.

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It looks like corporations are giving about \$300 million of the amount – mainly larger corporations with income greater than 50m, and corporations with income between 10-50m per year.

[https://www.canadiancharitylaw.ca/uploads/Report\\_on\\_Federal\\_Tax\\_Expenditures\\_Concepts,\\_Estimates\\_and\\_Evaluations\\_from\\_Finance\\_Canada\\_2018.pdf](https://www.canadiancharitylaw.ca/uploads/Report_on_Federal_Tax_Expenditures_Concepts,_Estimates_and_Evaluations_from_Finance_Canada_2018.pdf) (page 303)




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[https://www.canadiancharitylaw.ca/uploads/Report\\_on\\_Federal\\_Tax\\_Expenditures\\_Concepts,\\_Estimates\\_and\\_Evaluations\\_from\\_Finance\\_Canada\\_2018.pdf](https://www.canadiancharitylaw.ca/uploads/Report_on_Federal_Tax_Expenditures_Concepts,_Estimates_and_Evaluations_from_Finance_Canada_2018.pdf) (page 186)

On page 186 it discusses the “Non-taxation of capital gains on donations of publicly listed securities”

“Number of beneficiaries

This measure provided tax relief to about 790 corporations in 2015. The number of individuals who obtained tax relief is unknown; however, about 5,200 individuals made donations of publicly listed shares in that year.”

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In a 2018 report on tax expenditures, it notes:

[https://www.canadiancharitylaw.ca/uploads/Report\\_on\\_Federal\\_Tax\\_Expenditures\\_Concepts,\\_Estimates\\_and\\_Evaluations\\_from\\_Finance\\_Canada\\_2018.pdf](https://www.canadiancharitylaw.ca/uploads/Report_on_Federal_Tax_Expenditures_Concepts,_Estimates_and_Evaluations_from_Finance_Canada_2018.pdf) (page 80)

<b>Projection method</b>	Projections are obtained using the T1 micro-simulation model in the case of donations other than cultural property and ecologically sensitive land. Projections in respect of donations of cultural property and ecologically sensitive land are made based on the historical trend in the number and value of donations; in particular, projections in respect of cultural property are made based on an average of past donations.
<b>Number of beneficiaries</b>	About 5.6 million individuals claimed this credit in 2015.

**Cost Information:**

Millions of dollars	2012	2013	2014	2015	2016 (P)	2017 (P)	2018 (P)	2019 (P)
<b>By type of donations</b>								
Publicly listed securities	125	145	240	190	215	230	240	255
Ecologically sensitive land	5	5	5	5	10	10	10	10
Cultural property	25	25	30	25	25	20	20	20
Other	2,210	2,365	2,310	2,425	2,350	2,485	2,545	2,605
<b>Total – personal income tax</b>	<b>2,365</b>	<b>2,545</b>	<b>2,585</b>	<b>2,650</b>	<b>2,605</b>	<b>2,745</b>	<b>2,815</b>	<b>2,885</b>

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<https://www.canada.ca/en/departement-finance/services/publications/federal-tax-expenditures/2021/part-4.html#Charitable-Donation-Tax-Credit>

**Cost Information:**

Millions of dollars	2015	2016	2017	2018	2019 (P)	2020 (P)	2021 (P)	2022 (P)
<b>Donations by individuals by type of donations</b>								
Publicly listed securities	190	240	315	270	410	300	340	390
Ecologically sensitive land	5	10	5	10	5	10	10	10
Cultural property	25	25	20	15	10	15	20	20
Other	2,425	2,455	2,560	2,685	2,670	2,745	2,835	2,900
<b>Subtotal – donations by individuals</b>	<b>2,645</b>	<b>2,735</b>	<b>2,900</b>	<b>2,980</b>	<b>3,095</b>	<b>3,070</b>	<b>3,205</b>	<b>3,320</b>
<b>Donations by trusts</b>	<b>15</b>	<b>15</b>	<b>35</b>	<b>35</b>	<b>35</b>	<b>35</b>	<b>35</b>	<b>40</b>
<b>Total – personal income tax</b>	<b>2,660</b>	<b>2,750</b>	<b>2,935</b>	<b>3,015</b>	<b>3,130</b>	<b>3,105</b>	<b>3,240</b>	<b>3,355</b>

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[https://www.canadiancharitylaw.ca/uploads/Report\\_on\\_Federal\\_Tax\\_Expenditures\\_Concepts,\\_Estimates\\_and\\_Evaluations\\_from\\_Finance\\_Canada\\_2018.pdf](https://www.canadiancharitylaw.ca/uploads/Report_on_Federal_Tax_Expenditures_Concepts,_Estimates_and_Evaluations_from_Finance_Canada_2018.pdf) (page 303)

## Charities

Registered charities report the total value of gifts-in-kind received in a year for which tax receipts were issued, and must identify each type of gift-in-kind received (e.g., books, machinery, PLS). However, since only the total value across all gifts-in-kind is specified, it is not possible to determine the value attributable to any particular class of gift. It is

nonetheless possible to construct lower and upper estimates for the true value of gifted PLS. The lower estimate is limited to charities' gift-in-kind value where the only type of gift identified is PLS. The upper estimate also includes the gift-in-kind value for charities which recorded other types of gifts alongside securities.<sup>30</sup> The distribution of gifts of PLS by recipient organization size is shown in Table 13.31 In 2015, **approximately two-thirds of the value of these gifts was received by charities with annual revenue exceeding \$10 million. Moreover, the median donation received by charities of this size was eight times larger than the overall median. By comparison, charities with revenue no greater than \$250,000 received roughly 1% of the value of gifts of PLS.** [my emphasis]

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According to our Blumbergs' Canadian Charity Sector Snapshot for 2021 we note:

<https://www.canadiancharitylaw.ca/wp-content/uploads/2023/03/Blumbergs-Canadian-Charity-Sector-Snapshot-2021.pdf>

The total number of charities in 2021 claiming they got publicly listed securities and issued receipts for them is 2380.

Non-cash gifts		Schedule 5
<b>Important:</b> If you complete this section, you <b>must</b> answer <b>yes</b> to question C11.		
<b>1</b> Select all types of non-cash gifts received for which a tax receipt was issued:		
<b>500</b> <input type="checkbox"/> Artwork/wine/jewellery <b>1296</b>	<b>525</b> <input type="checkbox"/> Ecological properties <b>39</b>	<b>550</b> <input type="checkbox"/> Publicly traded securities/ commodities/mutual funds <b>2380</b>
<b>505</b> <input type="checkbox"/> Building materials <b>909</b>	<b>530</b> <input type="checkbox"/> Life insurance policies <b>549</b>	<b>555</b> <input type="checkbox"/> Books <b>755</b>
<b>510</b> <input type="checkbox"/> Clothing/furniture/food <b>2994</b>	<b>535</b> <input type="checkbox"/> Medical equipment/supplies <b>660</b>	<b>560</b> <input type="checkbox"/> Other <b>5105</b>
<b>515</b> <input type="checkbox"/> Vehicles <b>314</b>	<b>540</b> <input type="checkbox"/> Privately-held securities <b>166</b>	<b>565</b> Specify: _____
<b>520</b> <input type="checkbox"/> Cultural properties <b>149</b>	<b>545</b> <input type="checkbox"/> Machinery/equipment/ computers/software <b>1367</b>	
<b>2</b> Enter the total amount of tax-receipted non-cash gifts .....		<b>580</b> \$ <b>4,243,174,897</b>

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The 2015 numbers for consistency was 2150 charities claiming they issued receipts for PLS for 2015.

[https://www.canadiancharitylaw.ca/uploads/Blumbergs\\_Canadian\\_Charity\\_Sector\\_Snapshot\\_2015.pdf](https://www.canadiancharitylaw.ca/uploads/Blumbergs_Canadian_Charity_Sector_Snapshot_2015.pdf)

Gifts in kind		Schedule 5
<b>1</b> Tick all types of gifts in kind received for which a tax receipt was issued:		
<div style="display: flex; justify-content: space-between;"> <div> <b>500</b> <input type="checkbox"/> Artwork/wine/jewellery 2,800           </div> <div> <b>505</b> <input type="checkbox"/> Building materials 1,422           </div> <div> <b>510</b> <input type="checkbox"/> Clothing/furniture/food 4,839           </div> <div> <b>515</b> <input type="checkbox"/> Vehicles 465           </div> <div> <b>520</b> <input type="checkbox"/> Cultural properties 267           </div> </div>	<div style="display: flex; justify-content: space-between;"> <div> <b>525</b> <input type="checkbox"/> Ecological properties 46           </div> <div> <b>530</b> <input type="checkbox"/> Life insurance policies 673           </div> <div> <b>535</b> <input type="checkbox"/> Medical equipment/supplies 595           </div> <div> <b>540</b> <input type="checkbox"/> Privately-held securities 119           </div> <div> <b>545</b> <input type="checkbox"/> Machinery/equipment/computers/software 2,190           </div> </div>	<div style="display: flex; justify-content: space-between;"> <div> <b>550</b> <input type="checkbox"/> Publicly traded securities/commodities/mutual funds 2,150           </div> <div> <b>555</b> <input type="checkbox"/> Books 1,439           </div> <div> <b>560</b> <input type="checkbox"/> Other 6,561           </div> <div> <b>565</b> Specify: _____           </div> </div>
<b>2</b> Enter the total amount of tax-receipted gifts in kind .....		<b>580</b> \$ 2,889,119,573.00

Mark Blumberg is a lawyer at Blumbergs Professional Corporation in Toronto, Ontario. He can be contacted at [mark@blumbergs.ca](mailto:mark@blumbergs.ca) or at 416-361-1982 or Toll-Free: 1-866-961-1982 or at [https://www.CanadianCharityLaw.ca/contact\\_us](https://www.CanadianCharityLaw.ca/contact_us). To find out more about legal services that Blumbergs provides to Canadian charities and non-profits as well as foreign charities please visit [www.CanadianCharityLaw.ca](http://www.CanadianCharityLaw.ca), [www.SmartGiving.ca](http://www.SmartGiving.ca), or [www.CharityData.ca](http://www.CharityData.ca)

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