Gifting tax audits ensnare 170,000 Canadians

Paul Waldie The Globe and Mail Published Wednesday, Sep. 15 2010

The Canada Revenue Agency has targeted roughly 170,000 Canadians who have allegedly claimed $5-billion in bogus charitable donations since 2003 by using controversial tax shelter programs.

The CRA has been concerned about so called "gifting tax shelters" for years and it launched a special audit project in 2003. The audit is one of the largest in the agency's history and it involves a small army of officials who track thousands of contributions.

Since 2003, the CRA has reassessed more than 140,000 taxpayers and officials plan to reassess 30,000 more in the next few months, according to documents obtained under access to information by Ottawa research Ken Rubin. In each audit, the CRA has disallowed all donations, hitting the taxpayer with thousands of dollars in charges. Based on current estimates, the taxpayers who have contributed to these shelters could end up paying as much as $2.5-billion in total to the CRA.

"We've been pretty blunt in saying we will audit you," said David Duff, the manager of the Tax Shelter Audit Section at the CRA. "We are methodically going through them."

Tax shelters tied to charitable donations have been around since the 1990s. They grew in popularity because while traditional tax shelters have been largely aimed at high-income individuals, most gifting tax shelters targeted middle-income earners.

Mr. Duff said the premise behind bogus gifting tax shelters is simple - investors receive a charitable tax receipt for an amount that exceeds the investor's actual donation. Here's an example of how it works: An investor pays $30 to the tax shelter promoter who turns that into a charitable tax receipt for a $100 donation. Depending on the investor's income, that receipt can translate into a tax refund worth as much as $45. Mr. Duff said little if any of the investor's "gift" actually goes to any registered charity, making the program disallowable under CRA rules.

By the early 2000s, the number of these shelters had soared. For example, in 2007 the CRA found 33,000 taxpayers had claimed nearly $1-billion worth of charitable donations through various shelters.`

Changes to tax laws in 2003 made it easier for the CRA to track investors in these shelters and Mr. Duff said his operation has already met with some success. Thanks to the audits and assorted CRA warnings, the number of taxpayers claiming gifts through these shelters has been dropping. Last year, according to CRA figures, 10,500 taxpayers claimed $285-million in donations through shelters. That was down from 17,000 taxpayers in 2008 who claimed $480-million.

The hit to taxpayers can be hefty. Take the example of an investor who contributed $15,000 to a shelter and received a $50,000 charitable tax receipt. That receipt would be worth about a $23,000 tax refund. The CRA's audit will disallow the refund, meaning the investor would have to pay the $23,000 back to CRA. "And the $15,000 that's gone to the promoter, that's just gone," Mr. Duff said.

Many charities and non-profit organizations tied even indirectly to these shelters have also felt the impact of the audit program. Last June, for example, the CRA stripped the Canadian Lacrosse Association of its charitable status over allegations it issued more than $60-million worth of improper receipts connected to a tax shelter. The association has insisted that it believed the tax shelter program, run by an unrelated promoter, was legitimate and would have generated about $20-million for the association over 20 years. It could appeal the CRA's decision or re-apply for charitable status

Mr. Duff makes no apologies for the audit program. "We've made it very clear that with the gifting tax shelter we will audit every one of them," he said.