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TAXSTRATEGY

2021 Federal Budget – The Highlights

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After a long wait, the Canadian government finally released their budget on April 19, 2021. For the two years leading up to it, the biggest question was whether the Liberals would introduce higher taxes, either as a wealth tax, an increase to the capital gains rate, or potentially do away with the principal residence exemption on the sale of your home. . Well, as hinted to in the weeks leading up the release of the budget, none of these changes came to be. That being said, it's been a historic year in our country with the pandemic still in full swing. We saw a central theme in the budget of continuing the fight against COVID-19, and ensuring a resilient economic recovery that creates jobs and growth for Canadians. I've highlighted some of the measures introduced by the government, with a focus on personal and business issues.

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Personal Income Tax Measures

Disability Tax Credit

The Disability Tax Credit (DTC) is a non-refundable tax credit with respect to non-itemizable disability-related costs. For 2021, the value of the credit is $1,299. The 2021 Budget proposed the following changes:

- ☛ updated the list of mental functions of everyday life that is used for the eligibility for the DTC;
- ☛ recognized more activities in determining time spent on life-sustaining therapy;
- ☛ reduced the minimum required frequency of therapy to qualify for the DTC from three times each week to two times each week (although there was no change to the minimum 14 hours of weekly therapy required).

Canada Workers Benefit

The budget also enhanced the Canada Workers Benefit as follows (for 2021 and onwards):

- ☛ the phase-in rate was increased from 26 per cent to 27 per cent for single individuals without dependents as well as families;
- ☛ the phase-out thresholds was increased from $13,194 to $22,944 for single individuals without dependents and from $17,522 to $26,177 for families; and
- ☛ the phase-out rate was increased from 12 per cent to 15 per cent.

A "secondary earner exemption" was also introduced to the CWB, for individuals with an eligible spouse, which allows the lower income earner to exclude up to $14,000 of working income in calculation of the CWB phase-out, also starting in 2021.

Northern Residents Deductions

Individuals who live in prescribed northern areas of Canada for at least six consecutive months beginning or ending in a taxation year can receive the Northern resident deduction. Budget 2021 expanded this deduction to include both a residency component and a travel component.

Postdoctoral Fellowship Income

Postdoctoral fellowship income will be considered to be "earned income" for purposes of determining an individual's contribution limit for a registered retirement savings plan (RRSP), effective for 2021 and subsequent taxation years.

Tax Treatment of COVID-19 Benefit Amounts

Budget 2021 proposes to allow individuals the option to claim a deduction in respect of the repayment of a COVID-19 benefit amount in computing their income for the year in which the benefit amount was received rather than the year in which the repayment was made. This option will be available for benefit amounts repaid at any time before 2023. Previously, a benefit amount was only deductible in the year of repayment.

COVID-19 benefit amounts will also be included in the taxable income of individual benefit recipients who reside in Canada, but are considered non-resident persons for income tax purposes.

Old Age Security

Budget 2021 announced an increase in Old Age Security (OAS) benefits for seniors age 75 and older. A one-time payment of $500 will be available in August 2021 to OAS pensioners over the age of 75 as of June 2022 and regular OAS payments for pensioners 75 and over will be increased by 10 percent on an ongoing basis as of July 2022.

Business Income Tax Measures

Where there were no changes to the corporate tax rates, a number of other, related measures announced.

Emergency Business Supports

The 2021 budget proposes to extend the Canada Emergency Wage Subsidy (CEWS), the Canada Emergency Rent Subsidy (CERS) and the Lockdown Support programs from June 5, 2021 to September 25, 2021. The subsidy rates will gradually decline over the July-to-September period (as discussed further below). The budget also proposes to provide the Government with the legislative authority to add additional qualifying periods until November 20, 2021, should the economic and public health situation warrant it.

☛ CEWS: The maximum subsidy rates will initially be 75 percent, with gradual phasing out starting July 4, 2021. Only employers with a decline in revenues of more than 10 percent will be eligible for the wage subsidy for qualifying periods beginning on or after July 4, 2021.

☛ CERS: The budget proposes to extend the current rate structure for the base rent subsidy from June 6, 2021 to September 25, 2021, with subsidy rates being gradually phased out starting July 4, 2021. A new deeming rule was also introduced whereby the purchaser of the assets of a seller may be deemed to meet the rent-subsidy rules. Further support is available for applicants who qualify for the base rent subsidy in locations that must cease operations or significantly limit their activities under a public health order issued under the laws of Canada, a province or territory. Budget 2021 proposes to extend the current 25-percent rate for the Lockdown Support for the qualifying periods from June 6, 2021 to September 25, 2021.

☛ Canada Recovery Hiring Program (CRHP): The new CRHP was introduced in Budget 2021 to provide eligible employers with a subsidy of up to 50 per cent on the incremental remuneration paid to eligible employees between June 6, 2021 and November 20, 2021. The CRHP is available for essentially the same taxpayers as the CEWS; however, in the case of a corporation, only a Canadian-controlled private corporation will be eligible. The amount of the CRHP will be the incremental eligible remuneration paid to employees in the relevant qualifying period compared to the baseline period of March 14 to April 10, 2021, multiplied by the hiring-subsidy rate (HSR) for the qualifying period.

Eligible employers can claim either the CRHP or the CEWS for a particular qualifying period, but not both.

Immediate Expensing (CCA)

Budget 2021 proposes to provide temporary immediate expensing in respect of certain property acquired by a Canadian-Controlled Private Corporation (CCPC), rather than being subject to the "half-year" rules which limit the amount of CCA that could be claimed in the year of acquisition. This immediate expensing would be available for "eligible property" acquired by a CCPC on or after Budget Day and that becomes available for use before January 1, 2024, up to a maximum amount of $1.5 million per taxation year. The immediate expensing would only be available for the year in which the property becomes available for use. Eligible property would be capital property that is subject to the CCA rules, other than property included in CCA classes 1 to 6, 14.1, 17, 47, 49 and 51, which are generally long - lived assets. Moreover, neither the taxpayer nor a non-arm's length person can previously have owned the property and the property cannot have been transferred to the taxpayer on a tax-deferred "rollover" basis.

Rate Reduction for Zero-Emission Technology Manufacturers

Although the corporate tax rates did not change, Budget 2021 proposes a temporary measure to reduce corporate income tax rates for qualifying zero-emission technology manufacturers as follows:

☛ 7.5 percent, where that income would otherwise be taxed at the 15 percent general corporate tax rate; and

☛ 4.5 percent, where that income would otherwise be taxed at the 9.0 percent small business tax rate.

The reduced rates will apply to taxation years that begin after 2021. The reduced rates will be gradually phased out starting in taxation years that begin in 2029 and fully phased out for taxation years that begin after 2031.

Capital Cost Allowance for Clean Energy Equipment

Budget 2021 proposes to expand CCA certain classes to include investments in specified clean energy generation and energy conservation equipment. Qualifying property will be eligible for accelerated CCA rates of 30 percent and 50 percent, depending on classification.

Film or Video Production Tax Credits

Budget 2021 proposes to temporarily extend certain timelines for the Canadian Film or Video Production Tax Credit (CPTC) and the Film or Video Production Services Tax Credit (PSTC). The CPTC provides a 25% per cent refundable tax credit on qualified labour expenditures and is available to productions certified to be Canadian film or video productions. The PSTC provides a 16 per cent refundable credit on qualified Canadian labour expenditures and is available to foreign films and videos produced in Canada.

For the CPTC, the budget proposes to extend by 12 months the following timelines:

☛ the 24-month period to incur qualifying expenditures before the date that principal photography begins;

☛ the timeline to submit a certificate of completion to the Canadian Audiovisual Certification Office within 24 months of the end of the tax year in which principal photography began (this new 12-month extension would apply in addition to the existing 18-month extension that is available); and

☛ the requirement that there be a written agreement with a Canadian distributor or with a broadcaster licensed by the CRTC to show the production in Canada within 24 months of its completion

For the PSTC, the budget proposes to extend by 12 months the 24-month timelines in respect of when aggregate expenditure thresholds must be met for film or video productions.

Mandatory Disclosure Rules

Budget 2021 launches public consultations on proposals to enhance Canada's income tax mandatory disclosure rules to the CRA with respect to certain transactions or aggressive tax-planning strategies. This consultation will address changes to the Income Tax Act's reportable transaction rules, a new requirement to report notifiable transactions, and a new requirement for specified corporations to report uncertain tax treatments.

Avoidance of Tax Debts

The Income Tax Act has an anti-avoidance rule that is intended to prevent taxpayers from avoiding their tax liabilities by transferring their assets to non-arm's length persons for insufficient consideration. This rule causes the transferee to be jointly and severally liable with the transferor for such tax debts. Budget 2021 proposes a number of measures to address certain tax planning to avoid this rule. For example, rules would be introduced to deem a transferor and transferee to be dealing on a non-arm's length basis at the time of the transfer, and that would clarify the determination of the value of the property transferred and the consideration given. Penalties for planners and promoters would also be introduced.

These proposals will apply in respect of transfers of property made after April 18, 2021

Increased Audit Authorities

Budget 2021 proposes to amend legislation to confirm that CRA officials have the authority to require taxpayers to respond to questions orally or in writing, including in any form specified by the relevant CRA official.

2021 Budget Potpourri

Tax on Foreign Owned Underused Real Estate: Budget 2021 proposes to introduce a new national 1 per cent tax on the value of residential real estate owned by non-resident Canadian that are considered to be vacant or underused. This tax would be levied annually beginning in 2022. Beginning in 2023, all owners of residential property in Canada, other than Canadian citizens or permanent residents of Canada, would be required to file an annual declaration for the prior calendar year with the CRA in respect of each Canadian residential property they own, whether the owner is subject to tax in respect of the property for the year or not.

Sales and Excise Tax Measures: The 2020 Fall Economic Statement announced that the non-residents and distribution platform operators will be required to register for GST / HST under a simplified system when they are selling to consumers in Canada. This includes sales of digital supplies and services, short-term accommodations in Canada and the supply of goods through online platforms. The 2021 budget included with some qualifications and clarifications to the legislation previously released. Canadian organizations who make purchases from suppliers registered under the simplified regime will not be eligible to claim an ITC for tax incurred; rather, by providing their GST/HST number to the supplier, the non-resident will be permitted not to charge the GST/HST (under this simplified regime). The new rules would apply to supplies made on or after July 1, 2021. They will also apply to supplies made prior to July 1, 2021 but that are not payable until July 1, 2021 or afterwards.

Digital Services Tax (DST): The budget proposes a tax on foreign and domestic corporations that earn revenue from engagement with online users in Canada. This new DST will be effective January 1, 2022. The highlights of the DST are as follows:

☛ It will be 3 per cent of in-scope revenue in excess of the threshold
☛ Will apply to entities that have in excess of 750 million euros of revenue and $20 million of in-scope revenue from Canadian users
☛ Will be reviewed on an annual basis, with a separate return required

Tax on Select Luxury Goods: The budget proposes to introduce a tax on sales of luxury cars and personal aircraft for personal use with a retail sale price over $100,000, and boats, for personal use, over $250,000. The tax would be calculated at the lesser of:

☛ 20 per cent of the value above the threshold (i.e. $100,000 for cars and personal aircraft, $250,000 for boats); or
☛ 10 per cent of the full value of the luxury car, boat, or personal aircraft

The tax will apply to the value of the luxury car, boat or personal aircraft above the threshold amount. There will be certain exemptions from the tax. This measure will come into force on January 1, 2022.

Excise Tax Measures: Budget 2021 announced the following measures:

☛ Tobacco: Increased duty rate by $4 per carton
☛ Vaping products – While further information regarding the framework for excise on vaping products won't be released until 2022, it will likely take the form of a tax on volume, for example a flat rate on every 10mL of vaping fluid (amount to be determined, likely in the range of $1 per 10mL)

GST New Housing Rebate: The GST new housing rebate will now be available where two or more individuals buy a new home together, as long as any of one of those individuals is acquiring the new home as their primary residence. This applies whether it will be an owner-built home, purchased from a builder, co-operative housing, and homes constructed on leased land. No change is being made to the threshold or amount of the rebate. This measure will be effective April 20, 2021. ❑