SPECIAL REPORT:
March 28, 2023

FEDERAL BUDGET

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CANADA'S NEAR-TERM ECONOMIC OUTLOOK REMAINS UNCERTAIN

Budget Highlights Include New Minimum Taxes On High Earners, Succession Planning Options

Canada's near-term economic outlook remains uncertain, according to the **March 28, 2023 Federal Budget** and recent developments in the financial markets have raised the odds of a more pronounced slowdown. Managing the economy is a complex challenge for government.

Aside from navigating the near-term economic challenges of inflation, higher interest rates, and supporting vulnerable Canadians with the rising cost of living at home, the budget notes that a rapidly changing global economy is accelerating the global race to attract investment in clean economies and the growing industries of tomorrow. For these reasons, the budget focuses providing Investment Tax Credits for companies investing in Geothermal Energy, Clean Technology Manufacturing, Zero-Emission Technology Manufacturing and Carbon Capture, Utilization and Flow-through shares and Critical Mineral Exploration Tax Credits. At the same time, qualifying for the credits will include specific labor and wage requirements.

According to the analysis provided in the document, there is continued uncertainty about the impact of higher interest rates on the global economy. Further disruptions in the global financial system could emerge, it states, and an abrupt repricing of risk could trigger a broader tightening of lending standards. This would be bad news for borrowers here in Canada.

It's also not a budget that introduces any new tax deductions or credits, and in fact only enhances two of them; one being the widely-leaked Grocery Rebate will put up to $153 per adult and $81 per child into family pockets and the other that enhances the maximum deduction claimable under the Tradespeople's Tool Expenses from $500 to $1000 .

This federal budget will be known, instead, for a significant reform of the AMT (Alternative Minimum Tax), a much-anticipated revision to Bill C-208, which concerns taxation for intergenerational transfers of small business shares, and new rules to use Employee Ownership Trusts to facilitate business succession planning by acquiring and holding shares of a business. High earners, investors and business owners and their tax and financial advisors, in other words, will need to pay attention.

The economic news in the budget reflects both good news and a more sobering future:

1. **A shallow recession is predicted for 2023**, as growth in the economy has slowed more than predicted in the November Economic Statement.
2. **Real GDP growth falters**. Canada's economy is now 103 % the size it was before the pandemic, which marks the fastest recovery of the last four recessions, and the second strongest recovery in the G7. However, real GDP growth is projected to decelerate from 3.4 % in 2022 to only 0.3% in 2023, before rebounding to only 1.5% in 2024. These are sobering numbers.

3. **Unemployment to rise**. Approximately 830,000 more Canadians are now employed compared to the pre-pandemic period and at 5%, the unemployment rate is near its record low of 4.9%. But as the economy slows, Canada's near record-low unemployment rate is expected to rise to a peak of 6.3% by the end of 2023.
4. **Inflation is stubbornly high**. At 5.2%in February, Canadian consumer price inflation has fallen since its June 2022 peak, but is still too high to rule out the potential for the central bank to increase interest rates in the future, causing continued uncertainty. That said, private sector economists expect Consumer Price Index (CPI) inflation to fall below 3 % in the third quarter of 2023 and to reach about 2 %, the Bank of Canada's target, in the second quarter of 2024. Fingers crossed.
5. **Personal Tax Revenues Will Rise**. Personal income tax revenues are projected to increase by 4.2 % to $206.8 billion in 2022-23 and an expected slowing in 2023-24, PIT revenue growth is projected to average 4.8 %, reflecting steady growth in employment and investment income.
6. **Corporate Tax Revenues Will Retreat**. They are projected rise 11.7 %, to $88 billion in 2022-23, and then retreat by 2.9 % in 2023-24 due to the projected slowdown in economic growth. After this there is a muted average rate of 2.2 % per year for the remainder of the forecast horizon.
7. **Goods and Services Tax (GST)** revenues are forecast to fall 1.6 % to $45.4 billion in 2022-23 and then gain on average 5.5 % per year.
8. **Overall, Tax Revenues will be Lower**. Nominal GDP, the broadest measure of the tax base, is now expected to be $60 billion lower, on average per year, than projected in the fall. This will impact tax receipts and the government revenue outlook while pushing up the debt-to-GDP ratio in 2023-24.
9. **Public Debt and Debt Charges Will Rise.** By the end of the forecast period, 2027/28, the costs to service the debt will rise from $24.% Billion in 2021/22 to $50.3 Billion. The net debt itself continues to rise well over the $1 trillion mark to $1.4 trillion by 2027/28. With continued interest rate hikes, governments too are forced to squeeze out $25 billion of funding for services to people.
10. **Costs of OAS to Rise Significantly.** As of January 2023, there were more than seven million OAS recipients, which includes about 2.4 million GIS recipients, 72,000 Allowance recipients. As OAS is fully indexed to inflation, those pensions are expected to grow in the short term to reach $69.1 billion in 2022-23, up 13.7 % and then by 6.9 % on average, annually after this due to the increasing population of seniors and projected consumer price inflation.

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Outlook for Budgetary Revenues

Table A1.6
The Revenue Outlook
billions of dollars

		Projection					
	2021–2022	2022–2023	2023–2024	2024–2025	2025–2026	2026–2027	2027–2028
Income tax revenues							
Personal income tax	198.4	206.8	213.7	224.5	235.7	246.5	257.9
Corporate income tax	78.8	88.0	85.5	86.3	87.8	90.1	93.1
Non-resident income tax	10.8	13.6	13.7	13.1	12.7	13.0	13.6
Total	288.0	308.3	312.9	323.9	336.3	349.6	364.6
Excise tax and duty revenues							
Goods and Services Tax	46.2	45.4	51.4	53.5	55.5	57.4	59.4

Table A1.5
Summary Statement of Transactions
billions of dollars

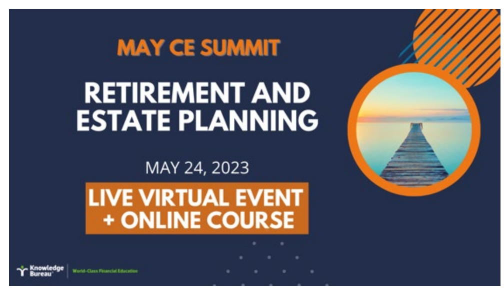
		Projection					
	2021–2022	2022–2023	2023–2024	2024–2025	2025–2026	2026–2027	2027–2028
Budgetary revenues	**413.3**	**437.3**	**456.8**	**478.5**	**498.4**	**521.8**	**542.8**
Program expenses, excluding net actuarial losses	468.8	435.9	446.6	463.3	475.9	489.2	505.4
Public debt charges	24.5	34.5	43.9	46.0	46.6	48.3	50.3
Total expenses, excluding net actuarial losses	**493.3**	**470.4**	**490.5**	**509.3**	**522.5**	**537.6**	**555.7**

Table A1.5
Summary Statement of Transactions
billions of dollars

		Projection					
	2021–2022	2022–2023	2023–2024	2024–2025	2025–2026	2026–2027	2027–2028
Financial Position							
Total liabilities	1,838.7	1,870.0	1,912.0	1,978.5	2,037.1	2,084.3	2,127.6
Financial assets	600.3	578.9	578.4	606.9	635.5	665.5	694.2
Net debt	1,238.4	1,291.0	1,333.6	1,371.6	1,401.7	1,418.8	1,433.4

Finally, it's what's missing from the budget that could spur on continued discussion:

1. No increase in top federal tax rates or capital gains inclusion rates (although high earners may be subject to a 20.5% minimum tax on a recalculated taxable income)
2. No increase in the Canada Child Benefit or Child Disability Benefits
3. No exemption from tax on maternity and parental benefits under the EI Program
4. No career extension tax credit for seniors who continue to work
5. No new medical expenses to be added to the list of qualifying amount
6. No raise to the case of deductible attendant or personal care for families attending to vulnerable seniors
7. No mention of an extension to the CEBA loan repayments due December 31, 2023
8. No increase in the $100,000 insured deposits under the Canadian Deposit Insurance Corporation.



Now, let's look at the personal, business and administrative tax matters in more detail.

PERSONAL TAX MEASURES

Grocery Rebate

Effective: January 1, 2023 (one-time measure)

The January 2023 GST payment will be tripled. This additional payment will be known as the grocery rebate, but there are no limitations on how the rebate can be spent. The maximum January payment will be increased as shown below:

	Regular GST Payment	Grocery Rebate	Total January Payment
Per adult	$77	$153	$230
Per child	$40	$81	$121
Single supplement	$40	$81	$121

Note: at the time of the budget, the January 2023 payment had already been made. Per government sources, the rebate will be paid “as soon as possible following the passage of the legislation.”

Dental Care

Effective: upon Royal Assent

Changes are proposed to allow Canada Revenue Agency to share taxpayer information with Employment and Social Development Canada and Health Canada for the purpose of administering the dental care plan.

The new Canadian Dental Care Plan will start providing dental coverage for uninsured Canadians with annual family income less than $90,000 by the end of 2023 (there no exact details). The current plan is to roll out the coverage to children under age 18 and seniors in 2023, with full implementation in 2025.

In addition, employers and employer pension plans will be required to report dental coverage offered to employees on the T4 and T4A slip.

Automatic Tax Filing

Effective 2024 and 2025

The budget proposes to increase the number of Canadians eligible for *File My Return* to two million by 2025. Also, starting in 2024, CRA will pilot a new automatic filing service who do not file their tax returns and therefore do not receive the benefits to which they are entitled.

Employed/Unemployed

Deduction for Tradespeople's Tool Expenses

Effective Date: January 1, 2023.

The maximum deduction of tradesperson's tool expenses will increase from $500 to $1,000. No changes in the provision that the cost of tools must exceed the Canada employment amount ($1,368 for 2023).

For apprentice vehicle mechanics, the deduction for apprentice vehicle mechanic's tools will be limited to expenses that exceed the Canada employment amount and the tradesperson's tool expense ($1,368 + $1,000 for 2023).

Employment Insurance for Seasonal Workers

Effective October 2023

The current extension of benefits for seasonal workers (maximum 45 weeks), which expires in October 2023, will be extended to October 2024.

Seniors

Retirement Compensation Arrangements

Effective January 1, 2024

Fees or premiums paid for the purposes of securing or renewing a letter of credit (or a surety bond) for an RCA that is supplemental to a registered pension plan will not be subject to the 50% refundable tax.

Students

RESP Withdrawals

Effective: March 28, 2023

The maximum withdrawal from an RESP in respect of the first 13 consecutive weeks of full-time enrolment will increase from $5,000 to $8,000. For part-time enrolment, the maximum withdrawal after the first 13 consecutive weeks will increase from $2,500 to $4,000. Also, effective March 28, 2023, divorced or separated parents will be able to open a joint RESP for their children.

Student Financial Assistance

Effective: August 1, 2023

Canada Student Grants will be increased by 40%. This will provide up to $4,200 for full-time students. Canada Student Loan limit will be increased from $210 per week to $300 per week. Students over age 22 will no longer be subject to credit screening to qualify for Canada Student Grants and Canada Student Loans.

First Home Savings Accounts

April 1, 2023

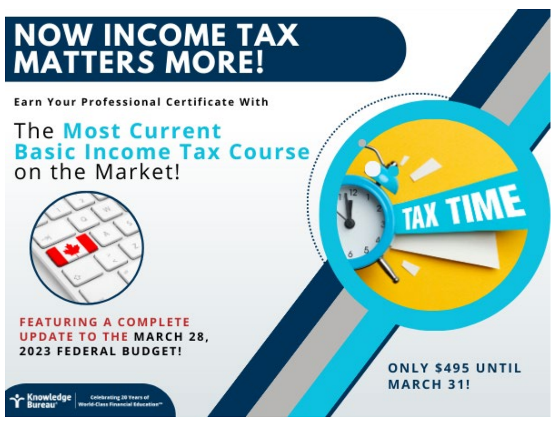
The budget announced that financial institutions will be able to start offering FHSAs to Canadians as of April 1, 2023.

Disabled People

Registered Disability Savings Plans

Effective: January 1, 2024 and Royal Assent

The temporary measures that allow a qualifying family member, who is a parent, spouse or common-law partner, to open an RDSP and be the plan holder for an adult whose capacity to enter into an RDSP contract is in doubt and who does not have a legal representative which expires on December 31, 2023, is extended to the end of 2026. Also, effective with Royal Assent, this measure will apply to siblings of disabled beneficiaries who are over age 18.



Investors for the Capital Gains Rules and Minimum Tax Rules

Alternative Minimum Tax for High-Income Individuals

Effective: January 1, 2024

The existing AMT (Alternative Minimum Tax) computation will be altered as follows:

1. Increase the inclusion rate for capital gains from 80% to 100%
2. 30% of the capital gains on the donation of publicly traded shares will be included in income for minimum tax purposes
3. 50% of the following deductions will be added back to income for minimum tax purposes:
    - Employment expenses (except for commission employees)
    - Deduction for CPP, QPP and PIPP contributions
    - Moving expense

- Child care expenses
- Disability supports deduction
- Deduction for social benefits (worker's compensation, social assistance, GIS, Allowance)
- Canadian arms forces and personnel deduction
- Carrying charges
- Non-capital loss carryovers
- Northern residents deduction
- Most non-refundable credits

4. The $40,000 exemption will be increased to the lower limit of the fourth tax bracket (expected to be about $173,000 for 2024). This will shift the requirement to pay minimum tax away from lower-income Canadians who have a one-time event that would otherwise trigger minimum tax.
5. The AMT rate will increase from 15% to 20.5%

Alternative Minimum Tax Case Study

Taxpayer has income of	$534,500 consisting of
Employment income	$235,000 (none of it is commission income)
Capital gains	$250,000
Dividends	$34,500 (taxable)
Other income	$15,000 ($10,000 self employment and $5,000 worker's compensation)
Taxable Income	$402,024

He is claiming the following deductions:

- Employment expenses $75,000
- Deduction for CPP, QPP and PIPP contributions
- Moving expense $15,000
- Child care expenses $5,000 (wife is full time student)
- Disability supports deduction $5000
- Deduction for social benefits (worker's compensation $5000)
- Canadian arms forces and personnel deduction $5000
- Carrying charges $3,000
- Non-capital loss carryovers $15,000
- Northern residents deduction $4,015
- Most non-refundable credits (personal amount, employment amount, tuition amount $5000, charitable donations $30,000 - $20,000 from publicly traded shares transfer, medical expenses $1000 above the threshold)

Circumstance	AMT prior to 2024	New AMT System	Variances
Regular Taxes Payable	$90,872.59	$90,872.59	$0
Minimum Tax	$60,584.47	$103,664.16	$43,079.69
Taxes Payable	**$90,872.59**	**$103,664.16**	**$12,791.57**

OTHER BUSINESS NEWS

Lowering Credit Card Transaction Fees for Small Businesses

The largest fees paid by small businesses to process credit card transactions are "interchange fees" paid to credit card issuers. The federal government has secured commitments from Visa and Mastercard to lower fees for small businesses, while also protecting reward points for Canadian consumers offered by Canada's large banks. More than 90 per cent of businesses can expect their interchange fees to be reduced by up to 27 per cent from the existing weighted average rate to save approximately $1 billion over five years.

The Ultimate Inflation Reprieve: Alcohol Excise Duty Capped

Alcohol excise duties are automatically indexed to total Consumer Price Index (CPI) inflation at the beginning of each fiscal year (i.e., on April 1st). In good news for those who like to partake, this budget is proposing a temporary cap on the inflation adjustment for duties on beer, wine and spirits – the cap is 2% for one year only as of April 1, 2023. Here's what it will look like:

Proposed Alcohol Excise Duty Rates as of April 1, 2023[1]

	Rate for 2022-2023	Rate for 2023-2024 (had no cap been applied)	Rate for 2023-2024 (proposed 2% adjustment)
Spirits[2]	$13.042	$13.864	$13.303
Wine[3]	$0.688	$0.731	$0.702
Beer[4]	$34.820	$37.014	$35.516

[1] No excise duty is imposed on alcoholic products containing not more than 0.5 per cent alcohol by volume.
[2] Rates per litre of absolute ethyl alcohol. Reduced rates apply to spirits containing not more than 7 per cent alcohol by volume.
[3] Rates per litre of wine. Reduced rates apply to wine containing not more than 7 per cent alcohol by volume.
[4] Rates per hectolitre of beer. Reduced rates apply for domestic brewers to the first 75,000 hectolitres of beer brewed in Canada each calendar year.

CORPORATE TAX MEASURES

A Tax on Share Buybacks

Effective: January 1, 2024

In their 2022 Fall Economic Statement, the government proposed a 2% tax on the net value of share buybacks by public corporations Canada as well as real estate investment trusts, specified investment flow-through (SIFT) trusts and SIFT partnerships if they have units listed on a designated stock exchange.

The budget followed through on this by announcing the tax would apply as of January 1, 2024, based on the annual net value of repurchases of equity. This is defined as FMV of equity repurchased less the FMV of equity issued from treasury. This netting rule will apply annually and correspond to the taxation year for income tax purposes. A business would not be subject to the tax in a year if its gross repurchases of equity were less than $1 million. This would be prorated for short taxation year.

Certain exceptions are proposed in the budget, including buybacks intended to facilitate certain equity-based compensation arrangements, and acquisitions made by registered securities dealers in the ordinary course of business.

In the Fall Statement the government framed the tax as a way to incentivize companies to deploy their profits in their workers and grow their business, rather than paying out those profits to investors.

This proposal is similar to the 1% excise tax on stock buybacks introduced in the United States under President Biden's Inflation Reduction Act (P.L. 117-169). The U.S. excise applies to share buybacks after December 31, 2022, that exceed US$1 million. Many economists, however, estimate that the level of the tax, at 1%, is not sufficient enough to curtail the practice of buybacks happening in the US. During 2022 the leading repurchasers included Apple Inc. (US $21.7B), Alphabet (US $15.2B), Microsoft (US $7.8B), Meta Platforms (US $5.1B) and CIGNA (US $4.5B). If a similar level of buybacks occurs, in the US, the tax would raise approximately $543 million on those companies alone.

The government estimates that the proposal will raise $2.5 billion over the first five years of implementation. The Department of Finance states "*The proposed tax may support income redistribution as revenues generated will contribute to paying for general government programs and expenses, will benefit all Canadians*." Clearly the target of this tax is to increase government revenues in order to finance government spending.

How Stock Buybacks Work

In many instances, when a company has excess cash, it may use the funds to: (i) pay down debt, (ii) re-invest in the company or (iii) it may want to distribute that excess cash to its shareholders. If the company wishes to distribute excess cash to shareholders the company can either pay a dividend or "buy back" its own shares, either on the public market or make an offer to the company's shareholders.

Most corporate dividend policies work to provide an annual and consistent distribution of corporate profits to its shareholders. When a corporation has cash, in excess of its current operational or dividend requirements, it may choose to, instead, undergo a share repurchase or buy back.

Prior U.S. Legislation

The final U.S. tax law is similar to legislation, *The Stock Buyback Accountability Act of 2001*, proposed by U.S. Senators Sherrod Brown (D-Ohio) and Senate Finance Committee Chairman Ron Wyden (D-Ore). That Act proposed a 2% excise tax (instead of the 1% rate under the Inflation Reduction Act. Their rationale was to "*prioritize real investment in the economy over Wall Street shareholder giveaways in the form of stock buybacks*."

Senator Brown described the "problem" as follows: "*Large corporations buy back stock using the capital that could be used to make investments, create new jobs, and raise wages. This practice has further exploded under former President Trump's tax law that overwhelmingly benefited major corporations and the top 1 percent. Stock buybacks also provide a tax arbitrage opportunity for wealthy shareholders, as a means to delay and potentially fully-avoid tax on their share of corporate gains*."

Intergenerational Transfers

Effective: January 1, 2024

An individual may realize a capital gain on the sale of their company's shares. Capital gains are taxed at a lower marginal tax rate than dividends. Sophisticated planning was being undertaken to convert otherwise taxable dividends into capital gains.

On July 7, 2017, the government introduced several tax proposals. One such proposal was to tighten up the perceived abuses of converting income into capital gains by amending Section 84.1 of the *Income Tax Act*. Section 84.1 of the Act is an anti-avoidance rule that prevents an individual from avoiding tax that would ordinarily arise on a taxable dividend by removing corporate surplus through a ***non-arm's length*** transfer of shares.

Section 84.1 applies when a taxpayer resident in Canada that is not a corporation (i.e., an individual, trust or partnership) transfers shares of a Canadian corporation to another corporation on a non-arm's length basis for consideration that can be either a share of the capital stock of the purchaser-corporation of other non-share consideration.

Section 84.1, if it applies, re-characterizes the potential capital gain into a dividend. Section 84.1(1) only, however, applies to ***a non-arm's length share of sales***. The proposal had the unintended effect of making the sale of a shares to an unrelated third party more tax efficient that selling those same shares to a family member. In other words, on an intergenerational sale of the shares of a family business, the seller could receive a dividend as opposed to a capital gain. The tax community was not pleased!

Effective June 29, 2021, a private member's bill (Bill C-208) was passed which introduced an exception to Section 84.1, for certain transfers from parents to corporations owned by their children or grandchildren. The government, however, felt that Bill C-208 did not contain sufficient safeguards and that the exceptions could apply where there has been no transfer of a business to the next generation. In particular, C-208 did not require that:

- The parent cease to control the underlying business of the corporation whose shares are transferred,
- The child have any involvement in the business,
- The interest in the purchaser corporation held by the child continue to have value, or
- The child retain an interest in the business after the transfer.

The budget proposes to amend the rules introduced by Bill C-208 to ensure that they apply (the exemption from Section 84.1) where a genuine intergenerational business transfer takes place. The government proposes two transfer options (of which to be a genuine intergenerational share transfer one of the two transfer options must be met):

- An immediate intergenerational business transfer (three-year test) based on arm's length sale terms or
- A gradual intergenerational business transfer (five-to-ten-year test) based on traditional estate freeze characteristics.

The government proposed that the following table outlines the proposed conditions to qualify as a genuine intergenerational business transfer under both option.

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Proposed Conditions	Immediate Business Transfer (three-year test)	Gradual Business Transfer (five to ten-year test)
1) Transfer of Control of the Business	Parents immediately and permanently transfer **both legal and factual*** control, including an immediate transfer of a majority of voting shares, and a transfer of the balance of voting shares within 36 months *Factual control means economic and other influence that allows for effective control of a corporation (for example, economic dependence on a person who also acts as the controlling mind)	Parents immediately and permanently transfer **only legal**** control, including an immediate transfer of a majority of voting shares (no transfer of factual control), and a transfer of the balance of voting shares within 36 months **Legal control generally means the right to elect a majority of the directors of a corporation
2) Transfer of Economic Interests in the Business	Parents immediately transfer a majority of the common growth shares, and transfer the balance of common growth shares within 36 months (It is expected that the transfers of legal and factual control as well as future growth of the business are sufficient to ensure the parents have transferred a substantial economic interest in the business to their child(ren).)	Parents immediately transfer a majority of the common growth shares, and transfer the balance of common growth shares within 36 months In addition, within 10 years of the initial sale, parents reduce the economic value of their debt and equity interests in the business to: (a) 50% of the value of their interest in a farm or fishing corporation at the initial sale time, or (b) 30% of the value of their interest in a small business corporation at the initial sale time
3) Transfer of Management of the Business	Parents transfer management of the business to their child within a reasonable time based on the particular circumstances (with a 36-month safe harbour)	Parents transfer management of the business to their children within a reasonable time based on the particular circumstances (with a 36-month safe harbour)
4) Child Retains Control of the Business	Child(ren) retains legal (not factual) control for a 36-month period following the share transfer	Child(ren) retains legal (not factual) control for the greater of 60 months or until the business transfer is completed
5) Child Works in the Business	At least one child remains actively involved in the business for the 36-month period following the share transfer	At least one child remains actively involved in the business for the greater of 60 months or until the business transfer is completed

Investments in Clean Energy

Consistent with recent prior budgets, the government continues to introduce or expand various measures to encourage and develop the green economy. Budget 2023 touched on the following:

Introduction of the Clean Hydrogen Investment Tax Credit (CH Tax Credit)

Effective: March 28, 2023

This would provide for a refundable tax credit equal to 15%, 25% or 40% for the cost of purchasing and installing "eligible equipment" for projects that produce hydrogen. The CH Tax Credit would be phased out starting in 2034.

Clean Technology Investment Tax Credit – Geothermal Energy

Effective: March 28, 2023

The budget proposed to expand eligibility of the Credit to include geothermal energy systems that are eligible for Class 43.1of Schedule II of the *Income Tax Regulations*.

Labour Requirements Related to Certain Investment Tax Credits

Effective: October 1, 2023

The government is intending to attach prevailing wage and apprenticeship requirements to the proposed Clean Technology and Clean Hydrogen Investment Tax Credits. Companies that do not meet these requirements would have potential tax credits reduced.

Investment Tax Credit for Clean Technology Manufacturing

Effective: January 1, 2024

Budget 2023 proposes to introduce a refundable investment tax credit for clean technology manufacturing and processing, and critical mineral extraction and processing, equal to 30 per cent of the capital cost of eligible property associated with eligible activities.

Zero-emission Technology Manufacturers

Effective: Taxation years after 2023

Budget 2021 introduced a temporary measure to reduce by one half corporate income tax rates for qualifying zero-emission technology manufacturers. Budget 2023 proposes that income from certain nuclear manufacturing and processing activities would also qualify for the reduced tax rates.

Investment Tax Credit for Carbon Capture, Utilization, and Storage

Effective: After 2021 and before 2024

This credit was introduced in Budget 2022. Further details will be included in legislative proposals to be released at a future date. There were no actual proposals contained in the budget itself.

Flow-Through Shares and Critical Mining Exploration Tax Credit – Lithium from Brines

Effective: March 28, 2023

Flow-through share agreements allow certain corporations to renounce or "flow through" both Canadian exploration expenses and Canadian development expenses to investors, who can deduct the expenses in calculating their taxable income (at a 100-per-cent and 30-per-cent rate on a declining-balance basis, respectively).

In addition to claiming the regular flow-through deductions, individuals (other than trusts) who invest in flow-through shares of a corporation can claim the Critical Mineral Exploration Tax Credit (CMETC) – a 30-per-cent non-refundable tax credit – in respect of specified critical mineral exploration expenses incurred by the corporation and transferred to the individual under a flow-through share agreement.

The budget proposes to add lithium from brines as a mineral resource.

General Anti-Avoidance Rule

Last fall Canadians were asked to weigh in on the "modernization" of GAAR – General Anti Avoidance Rules – after the federal government suffered a series of 24 losses in court. The GAAR has now been introduced in the March 28, 2023 Federal Budget with a period of consultation, ending May 31, 2023 as which point they intend to publish legislative proposals. What was in the March 28, 2023 Budget? The budget aims to

- introduce a preamble to the GAAR to address interpretive issues, specifically three issues
  - GAAR will deny tax benefits sought through abusive tax avoidance transactions
  - Taxpayers may not arrange affairs to obtain benefits not intended by Parliament
  - GAAR will apply whether or not the tax planning strategy used to obtain the tax benefit was foreseen
- change the avoidance transaction standard
  - a "primary purpose" test will be changed to "one of the main purposes test"
- Introduce an economic substance rule
  - This rule will be considered in addition to the object, spirit and purpose of provisions
  - Previously, the onus was on the government to show the object, spirit and purposes of the provisions contravened the intend of the law.
- Introduce a penalty
  - 25% of the amount of the tax benefit; which could be avoided if the transaction is disclosed under the proposed mandatory disclosure rules

- Extend the reassessment period in some cases
    - The normal three-year reassessment rules would be subject to a three year extension unless the transaction was disclosed

The History. Since GAAR was first introduced in 1988 and until March 2021, CRA considered GAAR at the audit stage in about 1,600 cases and applied GAAR in 80% of those cases. GAAR is lucrative for the government: over 6 years (fiscal years 2016 to 2021), $4.1 billion of "tax earned by audit" was assessed using the GAAR (as either the primary or the alternative assessing position).

The Intent. GAAR is not intended to interfere with legitimate tax planning; rather it is meant to curb those who wish to abuse a particular tax provision or the Income Tax Act as a whole.

The Obstacle. Under current rules, the CRA, in applying GAAR, may determine the amount assigned to any tax attribute with a notice of determination *but not until the tax attribute has been realized.*

A 2018 Federal Court of Appeal decision (Wild) held that the GAAR did not apply to a transaction that resulted in an increase in a tax attribute which *has not yet been utilized to reduce taxes* (in other words, there was no immediate tax benefit of the transaction). Subsequent cases have followed this reasoning.

The Government Response. The government believes these rulings run counter to the policy underlying the GAAR and their notice of determination rules. It proposed that the *Income Tax Act* be amended so that GAAR can apply even to transactions that affect tax attributes that have *not yet become relevant* to the computation of tax in real time.

These changes were to apply to notices of determination issued after on or after April 7, 2022; however this was not confirmed in the Budget.

Bottom Line: Tax professionals must be ready to more vigorously defend tax filings as a result of these changes, which could significantly increase the number and cost of tax disputes going forward.

OTHER BUSINESS NEWS

Lowering Credit Card Transaction Fees for Small Businesses

The largest fees paid by small businesses to process credit card transactions are "interchange fees" paid to credit card issuers. The federal government has secured commitments from Visa and Mastercard to lower fees for small businesses, while also protecting reward points for Canadian consumers offered by Canada's large banks. More than 90 per cent of businesses can expect their interchange fees to be reduced by up to 27 per cent from the existing weighted average rate to save approximately $1 billion over five years.

The Ultimate Inflation Reprieve: Alcohol Excise Duty Capped

Alcohol excise duties are automatically indexed to total Consumer Price Index (CPI) inflation at the beginning of each fiscal year (i.e., on April 1st). In good news for those who like to partake, this budget is proposing a temporary cap on the inflation adjustment for duties on beer, wine and spirits – the cap is 2% for one year only as of April 1, 2023. Here's what it will look like:

Proposed Alcohol Excise Duty Rates as of April 1, 2023[1]

	Rate for 2022-2023	Rate for 2023-2024 (had no cap been applied)	Rate for 2023-2024 (proposed 2% adjustment)
Spirits[2]	$13.042	$13.864	$13.303
Wine[3]	$0.688	$0.731	$0.702
Beer[4]	$34.820	$37.014	$35.516

[1] No excise duty is imposed on alcoholic products containing not more than 0.5 per cent alcohol by volume.
[2] Rates per litre of absolute ethyl alcohol. Reduced rates apply to spirits containing not more than 7 per cent alcohol by volume.
[3] Rates per litre of wine. Reduced rates apply to wine containing not more than 7 per cent alcohol by volume.
[4] Rates per hectolitre of beer. Reduced rates apply for domestic brewers to the first 75,000 hectolitres of beer brewed in Canada each calendar year.

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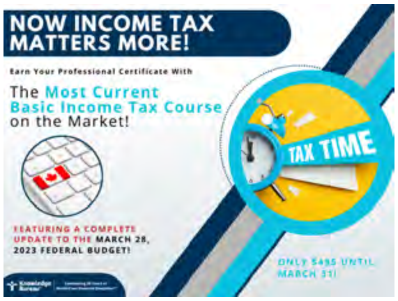

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2023 EDUCATIONAL CALENDAR

Knowledge Bureau Online Courses and Events - Mark Your Calendar Now!

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KB Professional Events: Virtual and In Person

Month	Date of Live/Virtual Event	Starts (CST)	Early Registration	Final Registration
February	Feb 7 - RWM™ Monthly Open Forum	8AM	January 31	February 6
	Feb 7 - CE Summit: Advanced T1 Tax Update: Toronto	8AM	January 31	February 6
March	Mar 7 - RWM™ Monthly Open Forum	8AM	March 3	March 7
	Mar 15 - Sessional Final Deadline	N/A	N/A	N/A
	Mar 22 - RWM™ Meeting of the Minds	12PM	February 24	March 21
April	April 4 - RWM™ Monthly Open Forum	8AM	March 31	April 3
	April 6 - Official Transcript Release Relicensing	10AM	N/A	N/A
	April 11 - Digital Practitioner Webinar	12PM	March 31	April 10
May	May 2 - RWM™ Monthly Open Forum	8AM	April 28	May 1
	May 23 - CES Audience Rehearsal	11AM	May 15	May 22
	May 24 - CE Summit: Retirement & Estate Planning	8AM	May 1	May 22
June	June 6 - KB-Advocis Partner's Conference	12PM	May 26	June 2
	June 6 - RWM™ Monthly Open Forum	8AM	June 2	June 5
	June 15 - Official Transcript Release	N/A	N/A	N/A
	June 15 - Sessional Final Deadline	N/A	N/A	N/A
July	Online Program Registrations Available - Continuous Intake 24/7			
August	Online Program Registrations Available - Continuous Intake 24/7			
September	Sept 19 - CES Audience Rehearsal	11AM	Sept 15	Sept 18
	Sept 15 - Sessional Final Deadline	N/A	N/A	N/A
	Sept 20 - CE Summit: Audit Defence	8AM	August 31	Sept 18
October	Oct 3 - RWM™ Monthy Open Forum	8AM	Sept 29	Oct 2
	Oct 31 - CES Audience Rehearsal	11AM	Oct 16	Oct 30
November	Nov 1 - CE Summit: Year End Tax Planning	8AM	Oct 16	Oct 30
	Nov 7 - RWM™ Monthly Open Forum	8AM	Nov 3	Nov 5
	Nov 12 - DAC at Banff Springs Hotel	12PM	Sept 30	Oct 31
December	Dec 5 - RWM™ Monthly Open Forum	8AM	Dec 1	Dec 4
	Dec 15 - Sessional Final Deadline	N/A	N/A	N/A
January	Jan 17 - CE Summit: Virtual Advanced Tax Update	8AM	Dec 31	Jan 15
	Jan 24 - CE Summit:In Person Advanced Tax Update (Toronto)	8AM	Dec 31	Jan 22
	Jan 26 - CE Summit: In Person Advanced Tax Update (Calgary)	8AM	Dec 31	Jan 24

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