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Tax Alert – Canada

2021 Budget implementation bill receives Royal Assent

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

On 29 June 2021, Bill C-30, *Budget Implementation Act, 2021*, No.1, received Royal Assent. Bill C-30 implements certain tax measures announced in the 2021 federal budget, the 30 November 2020 federal fall economic statement, and the 2019 federal budget, as well as other previously announced tax measures.

Bill C-30 contains the tax measures that were included in the notice of ways and means motion tabled on 28 April 2021, with one notable addition dealing with the Canada Emergency Wage Subsidy (CEWS) (see below).

The following is a summary of the income tax measures contained in Bill C-30.

Business income tax measures

For financial reporting purposes, the business income tax measures included in Bill C-30 are considered enacted on 29 June 2021, and because the federal government is a minority government, the measures are considered substantively enacted on 23 June 2021, when the bill passed third reading in the House of Commons.

The bill includes the following business income tax measures that were announced in the 2021 federal budget:

- ▶ **Canada Emergency Wage Subsidy** – Extension of the CEWS until 25 September 2021, with the possibility of further extension to 20 November 2021. Beginning on 4 July 2021 (period 18), only employers with a decline in revenue in excess of 10% will be eligible for the CEWS. In addition, subsidy rates will gradually decline over the period from 4 July to 25 September 2021 (periods 18 to 20), from a maximum combined CEWS rate for active employees of 75% in period 17 (i.e., the 40% maximum base subsidy plus the 35% maximum top-up subsidy) to a maximum combined rate of 20% (i.e., a 10% maximum base subsidy plus a 10% maximum top-up subsidy). Other changes to the CEWS include the following:
 - ▶ *Current and prior reference periods* – Amendments to the definitions of “current reference period” and “prior reference period” for the purpose of determining an employer’s decline in revenue for qualifying periods beginning after 5 June 2021 (periods 17 to 20). The current reference periods will be June 2021 (for period 17), July 2021 (for period 18), August 2021 (for period 19), and September 2021 (for period 20). Prior reference periods under the general approach for each new qualifying period will be the same calendar month as the current reference periods for these qualifying periods, but in 2019 instead of 2021.
 - ▶ *Baseline remuneration periods* – Introduction of alternative baseline remuneration periods for the new qualifying periods, to ensure that the alternative baseline remuneration periods for a particular qualifying period continue to generally reflect corresponding (pre-crisis) calendar months covered by the qualifying period. Specifically, for the qualifying period between 6 June and 3 July 2021 (period 17), an eligible employer will be able to elect to use the alternative baseline remuneration period of 1 March to 30 June 2019, or 1 July to 31 December 2019. For qualifying periods beginning after 3 July 2021 (periods 18 to 20), an eligible employer will be able to elect to use the alternative baseline remuneration period of 1 July to 31 December 2019.
 - ▶ *Furloughed employees* – Amendments to maintain the separate subsidy rate structure for furloughed employees. The weekly subsidy for furloughed employees from 6 June to 28 August 2021 (periods 17 to 19) will be the greater of \$500 and 55% of the employee’s baseline remuneration up to \$595, or the amount of eligible remuneration paid to the employee in respect of the week if that amount is lower. This amendment is intended to ensure that the wage subsidy for furloughed employees remains aligned with benefits available under Employment Insurance (EI).
 - ▶ *Executive compensation repayment rule* – Amendments to require a publicly listed corporation to repay CEWS amounts received for qualifying periods beginning after 5 June 2021 (period 17), if the corporation’s aggregate executive remuneration for the 2021 calendar year exceeds aggregate executive remuneration for the 2019 calendar year. “Executive remuneration” for this purpose is the amount of compensation reported on the corporation’s Statement of Executive Compensation for Named Executive Officers under National Instrument 51-102 or, where

applicable, reported in similar disclosures required to be made to shareholders under the laws of another jurisdiction. The amount of the CEWS that will be required to be repaid is the lesser of the total of all CEWS amounts received in respect of active employees for qualifying periods beginning after 5 June 2021, and the amount by which the corporation's aggregate executive remuneration for 2021 exceeds its aggregate executive remuneration for 2019. If the entity is part of a corporate group, this repayment requirement will be applied at the group level and will be applicable to CEWS amounts received by any entity in the group.

It should be noted that on 27 May 2021, the House of Commons Standing Committee on Finance adopted an amendment to Bill C-30 (brought forward by the New Democratic Party) to require the Minister of Finance to prepare a report on proposed measures to prevent publicly traded companies and their subsidiaries from paying dividends or repurchasing their own shares while receiving the CEWS after the tabling of the report, and to recover wage subsidy amounts from publicly traded companies and their subsidiaries that have paid dividends or repurchased their own shares while receiving the CEWS prior to the tabling of the report.

The report required by this amendment is to be tabled within 30 days of Bill C-30 receiving Royal Assent or, if the House is not sitting at that time, within 15 days of when the House of Commons next sits. Although such amendment is part of the amended Bill C-30 reported by the Committee to the House of Commons on 7 June 2021 and is part of the assented version of the bill, it is important to recognize that the amendment simply requires the tabling of a report by the Minister of Finance and does not necessarily equate to or guarantee any future change to the CEWS provisions of the *Income Tax Act* (the Act). Further, as the House of Commons has adjourned until September 20, 2021, this report is not expected to be presented until the fall.

- ▶ **Canada Emergency Rent Subsidy (CERS)** – Extension of the CERS until 25 September 2021, with the possibility of further extension to 20 November 2021. Beginning on 4 July 2021 (period 18), only entities with a decline in revenue in excess of 10% will be eligible for the CERS. Base subsidy rates under the CERS will gradually decline over the period from 4 July to 25 September 2021 (periods 18 to 20), so that the maximum base subsidy rate will decrease from 65% in period 17 to 20%. The top-up (lockdown) subsidy rate, however, will remain at 25% during that period. Other amendments will provide that if an eligible entity purchases the assets of another business (and certain conditions are met), the requirement to have a business number with the Canada Revenue Agency (CRA) will be deemed to be met where it was previously met by the seller.
- ▶ **Canada Recovery Hiring Program (CRHP)** – Introduction of a new alternative temporary wage subsidy, providing eligible employers with a subsidy on incremental remuneration paid to eligible employees between 6 June and 20 November 2021. Employers eligible for the CRHP will generally be those that are eligible for the CEWS, with one of the main exceptions being that in the case of for-profit corporations, only Canadian-controlled private corporations (CCPCs) will be eligible for the CRHP. To qualify for the CRHP, an eligible employer must have experienced a revenue reduction of more than 0% for the qualifying period from 6 June to 3 July 2021 (period 17), or more than 10% for any of the remaining qualifying periods from 4 July to 20 November 2021 (periods 18 to 22),

calculated in the same manner as the revenue reduction under the CEWS. The CRHP subsidy will be available at the rate of 50% of incremental remuneration paid to eligible employees for qualifying periods between 6 June and 28 August 2021 (periods 17 to 19), with the rate gradually declining over the remaining three qualifying periods until it reaches 20% (in period 22). “Incremental remuneration” is defined to mean the difference between an eligible employer’s total eligible remuneration paid to eligible employees for the qualifying period and the employer’s total eligible remuneration paid to eligible employees for the baseline period of 14 March to 10 April 2021 (period 14), to a maximum of \$1,129 per week per eligible employee for both the qualifying and baseline periods (and to a maximum of the baseline remuneration for the week for non-arm’s length employees). An eligible employer will be permitted to claim either the CRHP subsidy or the CEWS for a qualifying period, but not both. Therefore, eligible employers will need to choose between claiming the CEWS or the CRHP subsidy (which is not available for furloughed employees) in respect of each qualifying period. As with the CEWS, application for the CRHP subsidy for a qualifying period must be made no later than 180 days after the end of the qualifying period.

Bill C-30 also includes the following previously announced business income tax measures:

- ▶ **Accelerated investment incentive for depreciable property and resource expenditures** – Various technical amendments (previously released as part of the 30 July 2019 draft legislative proposals) relating to the accelerated investment incentive rules and accelerated capital cost allowance (CCA) for zero-emission vehicles, including:
 - ▶ Amendment to ensure the short-taxation-year rule in subsection 66(13.1) of the Act applies in determining the amount of a taxpayer’s accelerated Canadian development expense and accelerated Canadian oil and gas property expense (applicable for taxation years that end after 30 July 2019)
 - ▶ Amendments to ensure the appropriate factors apply to the calculation of accelerated CCA for property included in Class 43, 43.2 or 53 in a taxation year prior to when the property becomes available for use (since inclusion in these classes depends on the date of acquisition, whereas the accelerated investment incentive factor depends on when the property becomes available for use)
 - ▶ Amendment to the definition of “accelerated investment incentive property” to ensure the exclusion of property for which CCA has been claimed by any person or partnership (including the taxpayer) in a taxation year ending prior to the acquisition of the property
 - ▶ Introduction of new rules (in new Regulation 1104(4.1)) to ensure the accelerated investment incentive property rules apply appropriately in circumstances where property is constructed over multiple taxation years and is transferred between non-arm’s length parties before being put into use
 - ▶ Amendments to the rules in Regulation 1100(2.02), which ensure that the full expensing or accelerated investment incentive is generally not available in respect of certain property acquired after 20 November 2018, from a non-arm’s length person or partnership

- ▶ Broadening of the anti-avoidance rule in new Regulation 1102(20.1) to prevent taxpayers from entering into artificial arrangements with a view to satisfying the arm's length condition in new Regulation 1100(2.02) to benefit from the accelerated CCA treatment on certain arm's length property transfers (applicable in respect of property acquired after 30 July 2019)
- ▶ Amendments to the calculation of the taxpayer's proceeds of disposition for a zero-emission passenger vehicle (where the cost to the taxpayer of the vehicle exceeds the prescribed amount that is eligible for Class 54 treatment and the disposition is to an arm's-length person or partnership) to take into account any government assistance received or repaid in respect of the vehicle (applicable in respect of dispositions made on or after 30 July 2019)

Unless otherwise indicated above, the amendments apply in respect of property acquired after 20 November 2018.

- ▶ **Accelerated CCA for zero-emission vehicles** – Amendments (previously released as part of the 15 December 2020 draft legislative proposals) to expand eligibility for the temporary enhanced first-year CCA rate of 100% to certain off-road and other automotive vehicles and equipment by introducing new Class 56, as well as by expanding eligibility for inclusion in Classes 54 and 55 by removing certain restrictions. To qualify for inclusion in new Class 56, the vehicle or equipment must be acquired, and become available for use, after 1 March 2020, and before 2028, and must be automotive equipment (other than a motor vehicle) that is fully electric or powered by hydrogen and that would otherwise qualify as an accelerated investment incentive property (were it not for its inclusion in Class 56). Class 56 automotive equipment and vehicles will be eligible for a temporary enhanced first-year CCA rate of 100%, subject to a phase-out for vehicles and equipment that become available for use after 2023. After applying the first-year enhanced allowance, the undepreciated capital cost of Class 56 property will be subject to a declining-balance rate of 30% for subsequent years. In addition, the requirement that a zero-emission vehicle eligible for inclusion in Class 54 or 55 be newly acquired (i.e., not previously used, or acquired for use, for any purpose before it was acquired by the taxpayer) is eliminated, effective for eligible vehicles acquired after 1 March 2020, and a zero-emission vehicle will no longer automatically be disqualified from inclusion in Class 54 or 55 if CCA or a terminal loss has previously been claimed in respect of the vehicle by another person or partnership.
- ▶ **Character conversion transactions** – Amendments (previously released as part of the 30 July 2019 draft legislative proposals) to the definition of "derivative forward agreement" to ensure certain transactions (designed to take advantage of the existing commercial transaction exception in the definition) are not undertaken to avoid application of the character conversion rules. Specifically, additional conditions are added to ensure that the commercial transaction exception does not apply if the agreement is an agreement to acquire a Canadian security (or a partnership interest that derives its fair market value from a Canadian security) from a tax-indifferent investor or a financial institution, and it can reasonably be considered that one of the main purposes of the series of transactions or events of which the agreement is a part is for a taxpayer to convert into a capital gain amounts paid on the security by the issuer of the security

during the term of the agreement. This change generally applies to transactions entered into on or after 19 March 2019.

- ▶ **Cross-border securities lending arrangements** – Amendments (previously released as part of the 30 July 2019 draft legislative proposals) targeting certain cross-border securities lending arrangements, including the following:
 - ▶ Arrangements involving shares of a Canadian corporation – Amendments to ensure that a dividend compensation payment made under a securities lending arrangement by a Canadian borrower to a nonresident in respect of a Canadian share is always treated as a dividend (and, accordingly, subject to Canadian withholding tax), whether or not the arrangement is “fully collateralized.” As well, amendments extend the characterization rules to apply to “specified securities lending arrangements.” In general terms, this extends the application of the characterization rules to payments in respect of any arrangement that is substantially similar to a securities lending arrangement but that, as a technical matter, fails certain conditions required to meet the definition of “securities lending arrangement.” Additional amendments ensure that the securities lending arrangement rules cannot be used to obtain other unintended withholding tax benefits. These measures apply to compensation amounts paid, payable or credited after 18 March 2019, unless a securities loan was in place before this date, in which case the amendments apply to compensation payments made after September 2019.
 - ▶ Arrangements involving shares of a nonresident corporation – Broadening of the withholding tax exemption for dividends to include any dividend compensation payment made by a Canadian borrower to a nonresident under a securities lending arrangement or a specified securities lending arrangement, if either the arrangement is “fully collateralized” or the borrower and lender are dealing at arm’s length, and the lent security is a foreign share. This measure applies to dividend compensation amounts paid, payable or credited after 18 March 2019.
- ▶ **Employee life and health trusts** – Transitional measures (with some modifications since their previous release as part of the 27 November 2020 draft legislative proposals) relating to the discontinuation of the administrative positions of the CRA on health and welfare trusts (HWTs), as well as other measures concerning employee life and health trusts (ELHTs). The transitional measures are intended to facilitate the conversion of certain existing HWTs into ELHTs by extending the application of the ELHT rules to trusts created before 2010 and permitting existing HWTs that satisfy certain conditions to elect to continue as ELHTs without having to create a new trust and without any adverse tax consequences, up until 31 December 2022. An HWT that converts into an ELHT will generally be required to notify the CRA (in prescribed form) of the conversion on or before its first filing due date after 2021. In addition, the existing rules (in paragraph 144.1(2)(h) of the Act) that prohibit an ELHT from making certain loans or investments are replaced, effective retroactive to 2014, with a new Part XI.5 tax equal to 50% of the fair market value of a prohibited investment (and any income from it or taxable capital gain from its disposition) when such an investment is acquired by an ELHT. Finally, various other measures are introduced to enhance the existing ELHT rules (effective retroactive to 27 February 2018), including changes relating to added employee

benefits, the purpose-of-the-trust test, nonresident trust eligibility, the class-of-beneficiaries 25% and 75% tests and key employees, ELHT income deductions, the majority-of-trustees requirement, the deduction of employers' contributions, and the carryforward of non-capital losses.

- ▶ **Electronic delivery of requirements for information** – Amendments (with some modifications since their previous release as part of the 30 July 2019 draft legislative proposals) to allow the CRA to send requirements for information in respect of third-party financial information or documents, or foreign-based information or documents, to banks and credit unions electronically, effective as of 29 June 2021. To receive such requirements electronically, the bank or credit union must notify the CRA that it consents to this method of service.
- ▶ **Employee stock options** – Introduction of a \$200,000 annual limit on employee stock options that may benefit from the tax-preferred treatment under the current employee stock option rules, effective for options granted after June 2021 (subject to certain exceptions). The changes, which include some modifications since their rerelease as part of the 30 November 2020 draft legislative proposals (for example, in respect of cashout rights), are intended to restrict the preferential treatment of stock options for employees of large, long-established, mature firms, while continuing to provide full tax benefits for persons employed in connection with start-up, scale-up or emerging Canadian businesses. Related amendments permit an employer deduction equal to the amount of the benefit received by an employee where the employee cannot claim a paragraph 110(1)(d) deduction in respect of a stock option as a result of the new \$200,000 annual limit (non-qualified securities), or following an employer's designation of non-qualified securities, and introduce notification requirements for employers. For more information, see [EY Tax Alert 2020 Issue No. 59, Stock option proposals reintroduced](#).
- ▶ **Extended reassessment period** – Expansion of the extended three-year reassessment period for reassessments made as a consequence of a transaction involving a taxpayer and a non-arm's length nonresident, to apply to a "transaction" as defined in subsection 247(1) of the Act. The expanded definition of "transaction" includes an arrangement or event. As a result of this amendment, which was previously released as part of the 30 July 2019 draft legislative proposals, the extended reassessment period applies to a reassessment made as a consequence of a transaction, arrangement or event involving a taxpayer and a nonresident with whom the taxpayer does not deal at arm's length. This measure applies to taxation years for which the normal reassessment period ends after 18 March 2019.
- ▶ **Flow-through shares** – Amendments to the flow-through share rules (previously released as part of the 16 December 2020 draft legislative proposals) to temporarily allow issuers additional time to incur eligible expenditures. Specifically, the period within which a mining corporation must incur eligible flow-through share expenses under the general and look-back rules for renouncing Canadian exploration expenses is extended by 12 months. This extension applies to flow-through share agreements entered into on or after 1 March 2018 and before 2021 under the general rule and agreements entered into in 2019 or 2020 under the look-back rule. In addition, the Part XII.6 flow-through shares tax is amended to apply as if expenditures were incurred up to one year earlier than actually incurred for agreements entered into in 2019 or 2020, and thus to provide for a

reduction in the Part XII.6 tax that would otherwise be payable. However, if amounts are not expended by the end of 2021 for agreements entered into in 2019, or by the end of 2022 for agreements entered into in 2020, the additional 10% tax under Part XII.6 (which applies on unspent amounts at the end of the calendar year following the calendar year in which the agreement was entered into) will apply. The filing and payment deadline for Part XII.6 tax is also extended by one year. For more information, see [EY Tax Alert 2020 Issue No. 63, Finance releases legislative proposals on extension to incur flow-through share expenditures](#).

- ▶ **Foreign affiliate dumping** – Expansion of the foreign affiliate dumping rules in section 212.3 of the Act to apply to a corporation resident in Canada that is controlled by a nonresident individual, a nonresident trust, or a group of non-arm's length persons that includes any combination of nonresident corporations, nonresident individuals and nonresident trusts. In addition, the meaning of "related" for this and other specified purposes is extended to ensure that a nonresident trust will be considered related to another nonresident person in circumstances similar to those in which a nonresident corporation would be so related. These measures, which were part of the 30 July 2019 draft legislative proposals, apply to transactions or events that occur on or after 19 March 2019.
- ▶ **Measures to support Canadian journalism** – Various amendments (initially released as part of the 17 April 2020 draft legislative proposals) to the tax measures that were previously introduced to support Canadian journalism, including changes to the Canadian journalism labour tax credit, qualified Canadian journalism organization status and the digital news subscription tax credit. The amendments generally apply retroactive to the coming-into-force dates for the original measures (i.e., 1 January 2019 for the Canadian journalism labour tax credit and qualified Canadian journalism organization status and generally 1 January 2020 for the digital news subscription tax credit).
- ▶ **Mutual funds: "allocation to redeemers" methodology** – Introduction of a new rule that denies a mutual fund trust a deduction in respect of the portion of an allocation made to a unitholder on a redemption of a unit of the mutual fund trust that is greater than the capital gain that would otherwise have been realized by the unitholder on the redemption, if the allocated amount is a capital gain and the unitholder's redemption proceeds are reduced by the allocation. This measure, which includes some modifications since its previous release as part of the 30 July 2019 draft legislative proposals, ensures that any capital gains realized by a mutual fund trust in a taxation year in excess of the capital gains realized by redeeming unitholders in that year are taxed in that year either at the mutual fund trust level or in the hands of the remaining unitholders. Similarly, to prevent the conversion of ordinary income to capital gains for the remaining unitholders (i.e., in circumstances where the redeeming unitholders hold their units on income account and the remaining unitholders hold their units on capital account), a new rule is introduced to deny a mutual fund trust a deduction in respect of an allocation made to a unitholder on a redemption if the allocated amount is ordinary income and the unitholder's redemption proceeds are reduced by the allocation. These measures apply to taxation years of mutual fund trusts that begin on or after 19 March 2019, subject to certain transitional rules that have been extended.

- ▶ **Tax deferral regarding agricultural cooperatives** – Extension of the tax deferral that applies to patronage dividends paid by an eligible agricultural cooperative to its members in the form of eligible shares to shares issued before 2026 (the previous extension of the deferral was to shares issued before 2021). This measure was previously released as part of the 30 November 2020 legislative proposals.
- ▶ **CEWS and CERS** – Addition of a new elective alternative baseline remuneration period for periods 14 to 16 (i.e., from 14 March to 5 June 2021), which was previously released as part of the 3 March 2021 draft legislative proposals, and technical amendments previously released as part of the 24 February 2021 draft legislative proposals in respect of the reduction-in-revenue deeming rule and increased accessibility to the CERS lockdown support.
- ▶ **Transfer pricing** – Amendments (with some modifications since their previous release as part of the 30 July 2019 draft legislative proposals) to clarify the interaction between the transfer pricing rules in section 247 of the Act and the application of other provisions in the Act, including provisions relating to income computation in Part I. The current exceptions to the application of the transfer pricing rules that pertain to situations in which a Canadian resident corporation has an amount owing from, or extends a guarantee in respect of an amount owing by, a controlled foreign affiliate will continue to apply. This measure applies to taxation years that begin on or after 19 March 2019.

Tax measures for individuals

Bill C-30 includes the following personal income tax measures that were announced in the 2021 federal budget:

- ▶ **Canada workers benefit (CWB)** – Various enhancements to the CWB, effective for 2021 and later taxation years. The enhancements include an increase in the rate at which the CWB grows from 26% to 27% for every dollar of working income in excess of \$3,000, up to the maximum entitlement amount, as well as a corresponding change to the disability supplement phase-in rate. In addition, the income thresholds at which the CWB begins to be phased out, as well as the phase-out rate, are increased, and a secondary earner exemption is introduced to allow the spouse or common-law partner with the lower working income to exclude up to \$14,000 of their working income from their adjusted net income for purposes of the CWB phase-out.
- ▶ **COVID-19 benefit amounts** – Amendments to allow individuals who repay certain COVID-19 benefits before 2023 to claim a deduction in computing income for the year in which the benefit was received, rather than in the year the repayment was made. If the individual makes the repayment after filing their income tax return reporting the income inclusion, the individual who claimed the deduction will be able to file an adjustment. Other amendments ensure that COVID-19 benefits received by individuals who are considered nonresident persons for income tax purposes are included in their taxable income earned in Canada.

For more information on the above-noted budget measures, see [EY Tax Alert 2021 Issue No. 19, Federal budget 2021-22.](#)

Bill C-30 also includes the following previously announced personal income tax measures:

- ▶ **Increase in basic personal amount and related credits** – Amendments that were part of the 9 December 2019 notice of ways and means motion to gradually increase the basic personal amount, beginning in 2020, until it reaches \$15,000 in 2023. The additional amount (in each year) is phased out for individuals earning more than the bottom threshold for the fourth income bracket (e.g., \$151,978 for 2021) and fully eliminated for individuals earning more than the bottom threshold for the top income bracket (e.g., \$216,511 for 2021). The maximum amount of the basic personal amount (i.e., \$15,000) will be indexed to inflation after 2023. Amendments are also made to provide a corresponding increase in the spouse or common-law partner amount and eligible dependent amount, and to make consequential amendments to various provisions in order to change the reference to the existing basic personal amount to the new increased basic personal amount for the relevant year for purposes of determining financial dependence.
- ▶ **Automobile standby charge (COVID-19) benefit** – Amendments that were part of the 21 December 2020 draft legislative proposals to allow employees to use their 2019 automobile usage to determine whether an employer-provided automobile is used primarily for business purposes in order to access the reduced standby charge (taxable benefit calculation) for the 2020 and 2021 taxation years. The same change will apply for purposes of using the optional method for calculating the operating expense benefit as 50% of the standby charge. To be eligible to use the 2019 automobile usage in 2020 and 2021, an employee must be working for the same employer as in 2019. These proposals are intended to address the impact of COVID-19 lockdowns and public health measures on an employee's business or personal mileage as compared with a normal year.
- ▶ **Adjustment to certain deductions for EI and COVID-19 benefits** – Amendments that were part of the 19 January 2021 draft legislative proposals to temporarily allow individuals who receive EI benefits, EI special benefits, Quebec Parental Insurance Plan benefits and certain financial assistance to deduct eligible child care and disability supports expenses against benefit income, in the same way as those who receive the Canada Emergency Response Benefit and other federal COVID-19 emergency income benefits. The adjustments will apply for the 2020 and 2021 taxation years.
- ▶ **Canada child benefit: shared-custody parent** – Amendment that was part of the 29 August 2019 draft legislative proposals to replace the "equal or near equal" test under the definition of "shared-custody parent" for purposes of the Canada child benefit, with two new tests, applicable retroactive to 1 July 2011. The first test is intended to provide certainty for taxpayers and provides that where each parent resides with the qualified dependent at least 40% of the time (i.e., they both reside between 40% and 60% of the time), they may qualify as shared-custody parents (provided other relevant conditions are met). The second test is intended to provide additional flexibility in the determination of who qualifies as a shared-custody parent. As a result, parents who reside with the qualified dependent less than 40% of the time but still on an "approximately equal basis" may also qualify as shared-custody parents.

- ▶ **Change-in-use rules for multi-unit residential properties** – Amendments that were part of the 30 July 2019 draft legislative proposals to ensure that the tax treatment for owners of multi-unit residential properties is consistent with tax treatment for owners of single-unit residential properties when there is a change in use of the property. Specifically, the amendments will allow a taxpayer to elect that the deemed disposition that normally applies on a change in use of part of a property not apply (applicable in respect of a change in use of property that occurs on or after 19 March 2019).
- ▶ **Pensionable service under individual pension plans (IPPs)** – Amendments that were part of the 30 July 2019 draft legislative proposals to prohibit tax-deferred transfers to an IPP in respect of past years of employment that were pensionable service under a defined benefit plan of an employer other than the IPP's participating employer (or its predecessor employer). Any assets transferred from a former employer's defined benefit plan to an IPP that relate to benefits provided in respect of prohibited service will be considered to be a non-qualifying transfer that is required to be included in the income of the member for income tax purposes. This measure generally applies as of 19 March 2019.
- ▶ **Registered disability savings plans (RDSPs)** – Amendments that were part of the 30 July 2019 and 30 November 2020 draft legislative proposals to remove the time limitation on the period that an RDSP may remain open after a beneficiary ceases to be eligible for the disability tax credit (DTC), and to remove the requirement for medical certification that the beneficiary is likely to become DTC-eligible in the foreseeable future, effective as of 1 January 2021. As a transitional measure, an RDSP issuer will not be required to close an RDSP after 18 March 2019 and before 2021 solely because an RDSP beneficiary ceases to be eligible for the DTC or a previous election to allow an RDSP holder to keep an RDSP open ceases to be valid. Amendments will also permit a rollover of proceeds from a deceased individual's registered retirement savings plan (RRSP), registered retirement income fund (RRIF), pooled registered pension plan (PRPP) or registered pension plan (RPP) to the RDSP of a financially dependent infirm child or grandchild that is not DTC-eligible provided the rollover occurs by the end of the fourth calendar year following the first full year throughout which the beneficiary is ineligible for the DTC (effective as of 19 March 2019).

- ▶ **Registered plans: additional types of annuities** – Introduction of two new types of permitted annuities for certain registered plans (that were part of the 30 July 2019 draft legislative proposals, as subsequently amended), effective as of 1 January 2020, including:
 - ▶ *Advanced life deferred annuities* – Amendments will permit an advanced life deferred annuity (ALDA) to be a qualifying annuity purchase under an RRSP, an RRIF, a deferred profit sharing plan, a PRPP and a defined contribution RPP, as well as a qualified investment for a trust governed by an RRSP or RRIF. An ALDA will be a life annuity, the commencement of which may be deferred until the end of the year in which the annuitant turns 85. Individuals will be subject to both a lifetime ALDA limit in relation to a transfer from a particular qualifying plan (referred to as an “excess ALDA transfer”), as well as a comprehensive lifetime ALDA dollar limit of \$150,000 for all qualifying plans (indexed to inflation for taxation years after 2020, rounded to the nearest \$10,000)
 - ▶ *Variable payment life annuities* – Amendments will permit PRPPs and defined contribution RPPs to provide a variable payment life annuity (VPLA) to members directly from the plan. A VPLA will provide payments that may be adjusted annually depending on the investment performance of the underlying annuities fund and on the mortality experience of VPLA annuitants. Subject to certain requirements being met, administrators of a PRPP or defined contribution RPP will be allowed to establish a separate annuities fund under the plan to receive transfers of amounts from members’ accounts to provide VPLAs (i.e., direct employee and employer contributions to the annuities fund will be prohibited)
- ▶ **Specified multi-employer plan (SMEP) contributions** – Amendments that were part of the 30 July 2019 draft legislative proposals to prohibit contributions to an SMEP for a member of the plan after the calendar year in which the member turns 71, and to a defined benefit provision of an SMEP during a period (other than a qualifying period) in which the member is in receipt of retirement benefits from a defined benefit provision of the plan. A qualifying period generally refers to a period in which the member is employed by an employer who participates in the plan. These amendments apply in respect of contributions made pursuant to any collective bargaining agreement entered into after 2019 (other than to contributions made on or before the date the agreement is entered into)

Measures concerning charities

Bill C-30 also contains the following measures concerning charities announced in the 2021 federal budget:

- ▶ **Charitable registration status** – Amendments to allow the minister to immediately revoke the charitable status of a registered charity or other qualified donee should it become a listed terrorist entity under the Criminal Code. The amendments also prevent individuals with a known history of supporting terrorism from becoming directors, trustees or similar officials of registered charities by expanding the definition of an ineligible individual. These amendments apply as of 29 June 2021.

- ▶ **False statements made for the purpose of maintaining charitable registration** – Amendment to allow the minister to suspend a charity’s ability to issue official donation receipts for one year or to revoke an organization’s charitable status where a false statement amounting to culpable conduct was made for the purpose of maintaining charitable registration. The rules currently allow for revocation of charitable status where a false statement is made for the purpose of obtaining charitable registration. This amendment applies as of 29 June 2021.

Indirect tax measures

Bill C-30 includes the following GST/HST measures that were either announced in the 2021 federal budget or previously announced:

- ▶ **Electronic commerce** - Amendments to ensure that GST/HST applies fairly and effectively in the context of an increasingly digital economy. Specifically, nonresident vendors supplying services and digital products to consumers in Canada would be required to register for, collect and remit GST/HST, effective 1 July 2021. Similar requirements would apply to supplies of short-term accommodation made through digital accommodation platforms, as well as to goods supplied through fulfillment warehouses. To support compliance, a simplified GST/HST registration and remittance framework would be available to nonresident vendors, nonresident distribution platform operators and nonresident accommodation platform operators that are not carrying on business in Canada. These amendments modify the draft proposals released on 30 November 2020 to account for comments received from stakeholders since their release.
- ▶ **New housing rebate** - Amendments announced in the 2021 federal budget to ensure the GST/HST new housing rebate remains available if two or more individuals who are not considered to be related purchase a home together, as long as the new home is acquired for use as the primary place of any one of the purchasers or a relation of the purchasers. These amendments will generally apply to a supply made under an agreement of purchase and sale entered into after 19 April 2021.
- ▶ **Zero-rating of face masks and face shields** - Amendments (that were part of the 30 November 2020 draft legislative proposals) to provide temporary GST/HST relief by zero-rating supplies of certain face masks and face shields, applicable to supplies made after 6 December 2020 and intended to remain in effect until public health officials no longer broadly recommend their use for the COVID-19 pandemic.
- ▶ **Freight transportation service** - Expansion, included in the 17 May 2019 draft legislative proposals, of the definition of a “freight transportation service” to include certain driving services, so that existing relief and other measures for international freight transportation services also apply to international driving services. This measure is generally deemed to have come into force on 18 May 2019.
- ▶ **Extension of drop-shipment rules** - Extension, included in the 17 May 2019 draft legislative proposals, of the application of the drop-shipment rules so that existing relief and other measures under the rules also apply to commercially interchangeable or fungible goods. This measure generally applies in respect of any supply of a service made after 17 May 2019.

- ▶ **Virtual currency** – Amendments, included in the 17 May 2019 draft legislative proposals, to treat virtual currency as a financial instrument for GST/HST purposes so that suppliers will not be required to charge and collect GST/HST on supplies of virtual currency. These amendments are deemed to have come into force on 18 May 2019.
- ▶ **Extension of holding corporation rules** - Extension of the GST/HST holding corporation rules to holding partnerships and trusts. The amendments, which were included in the 17 May 2019 draft legislative proposals, modify the legislative proposals released on 27 July 2018 respecting these rules, to account for consultations and deliberations since their release. These amendments apply on various dates (e.g., in respect of any property or service acquired, imported or brought into a participating province after 27 July 2018, or after 17 May 2019).

The bill also includes the following measures in respect of indirect tax legislation:

- ▶ **Excise duty on tobacco increased** - Increase announced in the 2021 federal budget in the excise duty on tobacco by \$4 per carton of 200 cigarettes (as well as an inventory tax of \$0.02 per cigarette), along with corresponding increases to excise duty rates for other tobacco products, effective 20 April 2021.
- ▶ **Electronic transmission of requirements for information** - Similar to the amendments made to the Act mentioned above, amendments (with some modifications since their previous release as part of the 30 July 2019 draft legislative proposals) to the *Excise Tax Act*, the *Excise Act, 2001*, the *Air Travellers Security Charge Act*, and the *Greenhouse Gas Pollution Pricing Act* to allow the CRA to send requirements for information to banks and credit unions electronically, in respect of third-party financial information, effective as of 29 June 2021.

See [EY Tax Alert 2021 Issue No. 19, Federal budget 2021-22](#), [EY Tax Alert 2020 Issue No. 58, Federal government announces specified GST/HST regime for e-commerce supplies](#), [EY Tax Alert 2019 Issue No. 30, Finance releases draft legislation for 2019 budget measures](#) and [EY Tax Alert 2019 Issue No. 24, Finance releases draft amendments and proposals for ETA section 186 holding corporation rules: update](#).

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