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Tax Alert — Canada

2022 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 23 June 2022, Bill C-19, *Budget Implementation Act*, 2022, No. 1, received Royal Assent. Bill C-19 implements certain tax measures announced in the 2022 and 2021 federal budgets, as well as various other measures, all of which were included in a detailed notice of ways and means motion tabled in the House on 26 April 2022. The bill includes amendments that were put forward by the House of Commons Standing Committee on Finance, as well as a further amendment, all of which were adopted by the House of Commons on 9 June 2022.

Most notably, Bill C-19 contains new capital cost allowance (CCA) immediate expensing rules for Canadian-controlled private corporations (CCPCs), Canadian-resident individuals (other than trusts), and certain Canadian partnerships; a new rate reduction for zero-emission technology manufacturers; a new labour mobility deduction for eligible tradespeople and apprentices; and certain amendments affecting charities.

The following is a summary of the tax measures contained in Bill C-19.

Building a better working world

Business income tax measures

Because of the minority status of the federal government (and despite the supply and confidence agreement announced on 22 March 2022 between the governing Liberal Party and the opposition New Democratic Party), the business income tax measures contained in Bill C-19 became substantively enacted for Canadian financial reporting purposes on 9 June 2022, when the bill passed third reading in the House of Commons.

The following is a summary of the business income tax measures contained in Bill C-19, as amended (where applicable) to take into account comments received since their initial release as draft legislative proposals on 4 February 2022.

- **Immediate expensing** – Temporary expansion of assets eligible for immediate expensing, up to a maximum of $1.5 million per taxation year, for certain property that is acquired by an eligible person or partnership. An eligible person or partnership includes a CCPC, an individual (other than a trust) resident in Canada, and a Canadian partnership of which all the members are CCPCs or Canadian-resident individuals (other than trusts). To be eligible, the property must first qualify as an immediate expensing property, which, among other conditions, requires that the property is acquired by a CCPC after 18 April 2021 and available for use before January 2024, or acquired after 31 December 2021 by an eligible person or partnership that is an individual or a partnership and available for use before January 2025 (or before January 2024 for partnerships of which at least one member is a CCPC). Immediate expensing property specifically excludes property included in Classes 1 to 6 (e.g., buildings), 14.1 (e.g., goodwill), 17 (e.g., electrical generating equipment), 47 (e.g., transmission or distribution of electrical energy equipment), 49 (e.g., oil and gas pipelines), and 51 (e.g., pipelines). Immediate expensing is available in the year in which the eligible property becomes available for use. The $1.5 million limit per taxation year must be shared among associated eligible persons or partnerships and prorated for short taxation years. No carryforward is available if the full $1.5 million amount is not used in a particular taxation year. Taxpayers must choose which immediate expensing property, if any, they wish to expense under these special rules (by designating the property as a designated immediate expensing property in respect of the year it becomes available for use); other CCA rates or enhanced CCA rates will continue to apply on the property afterwards (provided the total CCA deduction does not exceed the capital cost of the property). For more information on these rules, see EY Tax Alert 2022 Issue No. 30, *Temporary expansion of immediate expensing incentive*.

- **Rate reduction for zero-emission technology manufacturers** – Temporary reduction in the corporate income tax rate for qualifying zero-emission technology manufacturers, applicable for taxation years beginning after 2021. Specifically, a reduced tax rate of 7.5% applies to eligible zero-emission technology manufacturing and processing (M&P) income that would otherwise be subject to the 15% general corporate income tax rate, and a reduced tax rate of 4.5% applies to eligible zero-emission technology M&P income that would otherwise be subject to the 9% small business corporate income tax rate. The reduced tax rates will be gradually phased out for taxation years beginning in 2029 and fully phased out for taxation years beginning after 2031. Eligible zero-emission technology M&P activities (from which eligible income must be derived) include activities such as the manufacturing of energy conversion equipment (e.g., solar, wind, water and geothermal equipment), most manufacturing activities related to zero-emission vehicles (including batteries, fuel cells and charging stations), and activities in connection with the production of hydrogen by electrolysis of water or the production of gaseous, liquid or solid biofuel (the list of eligible zero-emission technology M&P activities is to be further expanded under new proposals announced in the 2022 federal budget). Income eligible for the reduced tax rates is calculated on the basis of the proportion of the taxpayer's total labour and capital costs that are used in eligible zero-emission technology M&P activities; if that proportion is 90% or more, the proportion is deemed to be 100%. The amendments have been modified since their original release on 4 February 2022, in part to correct a technical problem within the calculation of the rate reduction and to remove the minimum 10% gross revenue threshold (in respect of the proportion of eligible activities) to be entitled to the rate reduction. See EY Tax Alert 2022 Issue No. 6, *Proposed rate reduction for zero-emission technology manufacturers*.

- **Accelerated CCA for clean energy equipment** – Expansion of CCA Classes 43.1 and 43.2 to include additional types of clean energy equipment, applicable to property that is acquired and becomes available for use on or after 19 April 2021, provided it has not been used or acquired for use before this date. In addition, certain property that becomes available for use after 2024 is removed from Classes 43.1 and 43.2, and a heat rate threshold is introduced in the classes' eligibility conditions for specified waste-fuelled electrical generation systems, to ensure the incentive provided by these two classes remains consistent with the government's environmental objectives.

- **Film or video production tax credits** – Temporary extension of certain time limits in respect of the Canadian film or video production tax credit (CPTC) and film or video production services tax credit (PSTC), applicable for productions for which eligible labour expenditures are incurred in taxation years ending in 2020 or 2021. Specifically, for the CPTC, a 12-month extension is provided with respect to the periods within which qualifying expenditures may be incurred before principal photography begins, a certificate of completion must be submitted, and the production must be shown in Canada under a written agreement. For the PSTC, a 12-month extension is provided for the period within which aggregate expenditure thresholds must be met. Taxpayers are required to file a waiver of the assessment period for relevant taxation years to take advantage of these extensions.

- **COVID-19 wage, rent and recovery subsidies** – Introduction of a new provision that allows the Minister of National Revenue to extend the time for filing a wage, rent or recovery subsidy application under section 125.7 of the *Income Tax Act* for purposes of determining whether an eligible entity is a qualifying entity, qualifying recovery entity or qualifying renter. This measure applies retroactive to 11 April 2020.

Personal and other income tax measures

The following is a summary of the personal and other income tax measures contained in Bill C-19, as amended (where applicable) to take into account changes that were put forward by the House of Commons Standing Committee on Finance and adopted by the House of Commons on 9 June 2022:

- **Disability tax credit** – Various amendments to improve access to the disability tax credit (DTC) and other tax-related measures that require a DTC certificate. Specifically, the amendments expand the list of "mental functions necessary for everyday life," reduce the requirement for therapy to be administered at least three times each week to two times each week, expand and clarify the list of activities allowed to be counted as time spent receiving "life-sustaining therapy" to recognize certain components of therapy that are excluded under current rules, and allow time required by another person to assist in the therapy to be counted where an individual is incapable of performing therapy on their own. (As recommended by the House of Commons Standing Committee on Finance and adopted by the House of Commons on 9 June 2022, an individual who is diagnosed with type 1 diabetes mellitus will now automatically be deemed to meet the requirement in paragraph 118.3(1)(a.1) that therapy be administered at least two times each week for a total duration averaging not less than 14 hours a week.) These amendments apply to the 2021 and subsequent taxation years in respect of DTC certificates (described in paragraphs 118.3(1)(a.2) or (a.3)) that are filed with the Minister of National Revenue after 23 June 2022.

- **Home accessibility tax credit** – Increase in the annual limit on qualifying expenditures that may be claimed under the credit from $10,000 to $20,000, effective for qualifying expenditures incurred in 2022 and subsequent years.

- **Labour mobility deduction for tradespeople** – Introduction of a new labour mobility deduction for eligible tradespeople and apprentices in the construction industry (referred to in the legislation as an eligible tradesperson) in respect of eligible temporary relocation expenses, effective for 2022 and subsequent years. Certain eligibility conditions must be met, and the amount of the deduction is capped at the lesser of $4,000 and 50% of the individual's employment income from construction activities at all temporary work locations in respect of an eligible temporary relocation.

- **Post-doctoral fellowship income: earned income** – Inclusion of postdoctoral fellowship income in "earned income" for the purpose of determining an individual's contribution limit for a registered retirement savings plan (RRSP). This change applies in respect of postdoctoral fellowship income received in 2021 and subsequent years, and a taxpayer may also request (by filing an election before 2026) an adjustment to their RRSP contribution room in respect of postdoctoral fellowship income received from 2011 to 2020.

- **April 2020 one-time additional GST/HST credit payment** – Retroactive technical amendment to correct the formula relating to the one-time COVID-19 relief provided through a special one-time additional payment under the GST/HST credit rules (effective retroactive from 25 March 2020).

- **Climate action incentive payments** – Change in the delivery of climate action incentive payments from a refundable credit claimed annually on personal income tax returns to quarterly payments made through the benefit system starting in July 2022.

- **Revocation tax rules applicable to charities** – Amendments to ensure that rules that are relevant to the calculation of tax payable due to the revocation of a charity's registration, specifically the determination of the charity's winding-up period, apply when an entity becomes a listed terrorist entity. These amendments apply as of 29 June 2021.

- **Charitable disbursements** – Expansion of allowable charitable disbursements by allowing charities to provide resources to organizations that are not qualified donees (charitable partnerships), provided certain conditions are met. Currently, charities are limited to devoting their resources to charitable activities they carry on themselves or providing gifts to other qualified donees. Under the expanded rules, disbursements to non-qualified donees by a charity must be in furtherance of its charitable purposes, and the charity must ensure that the funds are exclusively applied to charitable activities by the grantee in furtherance of a charitable purpose of the charity. Grantor charities will be required to maintain documentation sufficient to demonstrate the purpose for which the disbursement is made, and that the disbursement is exclusively applied by the grantee organization to charitable activities in furtherance of a charitable purpose of the charity. (As recommended by the House of Commons Standing Committee on Finance and adopted by the House of Commons on 9 June 2022, this general documentation requirement replaces the requirement to meet certain prescribed mandatory accountability conditions that were first announced in the 2022 federal budget and included in the first reading version of Bill C-19.) Finally, charities will be prohibited from accepting gifts that are expressly or implicitly conditional on making a gift to a person other than a qualified donee. These measures apply as of 23 June 2022.

- **Other amendments** – Various amendments relating to the *Children's Special Allowances Act* and kinship care providers and foster parents of Indigenous children, effective retroactive to the 2020 and subsequent years.

For more information on the above-noted income tax measures that were first announced in the 2021 and 2022 federal budgets, see EY Tax Alert 2021 Issue No. 19, *Federal budget 2021-22: A recovery plan for jobs, growth and resilience*, EY Tax Alert 2022 Issue No. 3, *Finance releases draft legislation for 2021 budget measures* and EY Tax Alert 2022 Issue No. 23, *An engine for growth: federal budget 2022-23*.

GST/HST and other tax/duty measures

The following non-income tax measures, first announced in the 2022 federal budget, are also included in Bill C-19, as amended (where applicable) to take into account changes that were put forward by the House of Commons Standing Committee on Finance, and adopted by the House of Commons on 9 June 2022:

- Expansion of the GST/HST health care rebate to no longer distinguish between health care services rendered by physicians and nurse practitioners

- Application of the GST/HST on all assignment sales of newly constructed or substantially renovated residential housing by individuals
- New excise duty on vaping products (as modified since the amendments were initially released on 7 April 2022 to exclude tobacco products from the definition of vaping product)
- Elimination of the excise duty exemption on 100% Canadian wine effective 30 June 2022 (except, as recommended by the House of Commons Standing Committee on Finance and adopted by the House of Commons on 9 June 2022, this elimination of the exemption will not apply to 100% Canadian wine produced from honey or apples)
- Elimination of excise duty for low-alcohol beer effective 1 July 2022
- Various amendments to the *Customs Act* to implement electronic payments and more generally allow for electronic administration and enforcement, as well as to make the importer of record liable to pay duties on imported goods alongside the importer or person authorized to account for the goods, as the case may be, and the goods' owner
- Various trade remedy related amendments to the *Special Import Measures Act* and the *Canadian International Trade Tribunal Act*, including amendments to increase the participation of workers

For more information on the above-noted measures see EY Tax Alert 2022 Issue No. 23, *An engine for growth: federal budget 2022-23*.

New select luxury goods tax

Bill C-19 also includes the *Select Luxury Items Tax Act*, which implements the new tax on select luxury goods that was first announced in the 2021 federal budget. The enacted version of the legislation has been amended to take into account comments received since its initial release as draft legislation on 11 March 2022 (e.g., changes to transitional rules on the application of the tax so that the tax would generally not apply in respect of agreements in writing entered into before 2022 instead of before 20 April 2021). The select luxury goods tax would generally apply to supplies in Canada, as well as importations into Canada, of new vehicles and new aircraft priced over $100,000 and new vessels priced over $250,000. The tax will generally come into force on 1 September 2022. However, as per a further amendment adopted by the House of Commons on 9 June 2022, the coming into force of the tax for subject aircraft has been deferred to a later day or days to be fixed by order of the Governor in Council.

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