TAX HIGHLIGHTS FROM THE 2022 FEDERAL BUDGET

Canada's Finance Minister, the Honourable Chrystia Freeland, tabled the 2022 federal budget on April 7, 2022.

The Canadian economy returned to its pre-pandemic level of activity in the fourth quarter of 2021. Real GDP also grew 6.7% at an annual rate in the last quarter of 2021. However, the effects of economic uncertainty are evident in measures of consumer and business confidence.

After accounting for Budget 2022 measures and incremental policy actions since the 2021 *Economic and Fiscal Update*, the budgetary balance is expected to remain below what was projected in the 2021 *Economic and Fiscal Update*. This includes a $113.8 billion expected deficit in 2021/2022, improving to a projected deficit of $8.4 billion in 2026/2027, or about 0.3% of GDP. The federal debt is expected to decline from 46.5% of GDP in 2021/2022 to 41.5% of GDP in 2026/2027.

From a tax perspective, apart from a change to the taxable capital limit for access to the small business tax rate, there were no changes to personal or corporate tax rates. The budget does include a new Tax-Free First Home Savings Account to help individuals save for their first home, a residential property flipping rule to ensure profits from flipping residential real estate are always subject to full taxation, and a one-time tax of 15% on bank and life insurer groups.

The following is a summary of significant tax and program changes announced in the budget. Please note that the changes are proposals until they are passed by the federal government.

PERSONAL TAX MATTERS

Personal income tax rates and tax brackets

There were no proposed changes to personal income tax rates. Tax brackets and other amounts have been indexed by 2.4% to recognize the impact of inflation. The table below shows federal personal income tax rates and brackets for 2022.

		2022 TAX RATES		
Taxable income range	Other income	Capital gains	Eligible dividends	Non-eligible dividends
First $50,197	15.0%	7.5%	0.0%	6.9%
Over $50,197-$100,392	20.5%	10.3%	7.6%	13.2%
Over $100,392-$155,625	26.0%	13.%	15.2%	19.5%
Over $155,625-$221,708	29.4%	14.7%	19.8%	23.4%
Over $221,708	33%	16.5%	24.8%	27.6%

The table below shows the highest marginal federal tax rates for various types of income in 2022.

INCOME TYPE	2022 TAX RATES
Regular income	33%
Capital gains	16.5%
Eligible dividends	24.8%
Non-eligible dividends	27.6%

Tax-Free First Home Savings Account

Budget 2022 proposes to create the Tax-Free First Home Savings Account (FHSA), a new registered account to help individuals save for their first home. Contributions to an FHSA would be deductible and income earned in an FHSA would not be subject to tax. Qualifying withdrawals from an FHSA made to purchase a first home would be non-taxable. Some key design features are outlined below.

Eligibility

To open an FHSA, an individual must be a resident of Canada and at least 18 years of age. In addition, the individual must not have lived in a home that they owned either:

- at any time in the year the account is opened, or
- during the preceding four calendar years.

Individuals would be limited to making non-taxable withdrawals with respect to a single property in their lifetime. Once an individual has made a non-taxable withdrawal to purchase a home, they would be required to close their FHSA within a year from the first withdrawal and would not be eligible to open another FHSA.

Contributions

The lifetime limit on contributions would be $40,000, subject to an annual contribution limit of $8,000. The annual contribution limit would be available starting in 2023. Unused contribution room cannot be carried forward, meaning that an individual contributing less than $8,000 in a given year would still face an annual limit of $8,000 in subsequent years.

An individual is permitted to hold more than one FHSA, but the total amount that an individual contributes to all their FHSAs should not exceed their annual and lifetime FHSA contribution limits.

Withdrawals and transfers

Amounts withdrawn to make a qualifying first home purchase would not be subject to tax. Amounts withdrawn for other purposes would be taxable.

To provide flexibility, an individual could transfer funds from an FHSA to a registered retirement savings plan (RRSP) at any time before the year they turn 71, or to a registered retirement income fund (RRIF). Transfers to an RRSP or RRIF would not be taxable at the time of transfer, but amounts would be taxed when withdrawn from the RRSP or RRIF in the usual manner. Transfers would not reduce or be limited by the individual’s available RRSP room. Withdrawals and transfers would not replenish FHSA contribution limits.

If an individual has not used the funds in their FHSA for a qualifying first home purchase within 15 years of first opening an FHSA, their FHSA would have to be closed. Any unused savings could be transferred into an RRSP or RRIF or would otherwise have to be withdrawn on a taxable basis.

Individuals would also be allowed to transfer funds from an RRSP to an FHSA on a tax-free basis, subject to the $40,000 lifetime limit and the $8,000 annual contribution limit. These transfers would not restore an individual’s RRSP contribution room.

Home Buyers’ Plan

The Home Buyers’ Plan (HBP) allows individuals to withdraw up to $35,000 from an RRSP to purchase or build a home without having to pay tax on the withdrawal. Amounts withdrawn under the HBP must be repaid to an RRSP over a period not exceeding 15 years, starting the second year following the year in which the withdrawal was made.

The HBP will continue to be available. However, an individual will not be permitted to make both an FHSA withdrawal and an HBP withdrawal with respect to the same qualifying home purchase.

Effective date

The government will work with financial institutions to have the infrastructure in place for individuals to be able to open and start contributing to an FHSA at some point in 2023.

Home Buyers' Tax Credit

First-time home buyers who acquire a qualifying home can obtain up to $750 in tax relief by claiming the First-Time Home Buyers' Tax Credit (HBTC). Any unused portion of the HBTC may be claimed by an individual's spouse or common-law partner if the combined total does not exceed $750 in tax relief.

An individual is a first-time home buyer if neither the individual nor the individual's spouse or common-law partner owned and lived in another home in the calendar year of the home purchase or in any of the four preceding calendar years. This credit is also available for certain acquisitions of a home by or for the benefit of an individual who is eligible for the Disability Tax Credit, even if the first-time home buyer condition is not met.

Budget 2022 proposes to double the HBTC amount to $10,000, which would provide up to $1,500 in tax relief to eligible home buyers. Spouses or common-law partners would continue to be able to split the value of the credit if the combined total does not exceed $1,500 in tax relief. This measure will apply to acquisitions of a qualifying home made on or after January 1, 2022.

Multigenerational Home Renovation Tax Credit

Budget 2022 proposes to introduce a new Multigenerational Home Renovation Tax Credit. The proposed refundable credit would provide recognition of eligible expenses for a qualifying renovation. A qualifying renovation would be one that creates a secondary dwelling unit to permit an eligible person (a senior or a person with a disability) to live with a qualifying relation. The value of the credit would be 15% of the lesser of eligible expenses and $50,000.

For the purposes of this credit, a qualifying relation, with respect to an eligible person, would be an individual who is 18 years of age or older at the end of the taxation year that includes the end of the renovation period. A qualifying relation could be a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece or nephew of the eligible person, which includes the spouse or common-law partner of one of those individuals.

Where one or more eligible claimants make a claim with respect to an eligible renovation, the total of all amounts claimed for a qualifying renovation must not exceed $50,000. If the claimants cannot agree as to what portion of the amounts each can claim, the Minister of National Revenue would be allowed to fix the portions.

For the purposes of this credit, a qualifying renovation would be defined as a renovation or alteration of, or addition to, an eligible dwelling that is:

- of an enduring nature and integral to the eligible dwelling; and
- undertaken to enable an eligible person to reside in the dwelling with a qualifying relation, by establishing a secondary unit within the dwelling for occupancy by the eligible person or the qualifying relation.

One qualifying renovation would be permitted to be claimed by an eligible person over their lifetime. Eligible expenses would include the cost of labour and professional services, building materials, fixtures, equipment rentals and permits. Items such as furniture, as well as items that retain a value independent of the renovation such as construction equipment and tools, would not be integral to the dwelling and expenses for such items would therefore not qualify for the credit.

Expenses would not be eligible for the Multigenerational Home Renovation Tax Credit if they are claimed under the Medical Expense Tax Credit and/or Home Accessibility Tax Credit.

This measure would apply to the 2023 and subsequent taxation years, with respect to work performed and paid for and/or goods acquired on or after January 1, 2023.

Home Accessibility Tax Credit

The Home Accessibility Tax Credit is a non-refundable tax credit that provides recognition of eligible home renovation or alteration expenses with respect to an eligible dwelling of a qualifying individual. A qualifying individual is an individual who is eligible to claim the Disability Tax Credit at any time in a tax year, or an individual who is 65 years of age or older at the end of a tax year. The value of the credit is calculated by applying the lowest personal income tax rate (15% in 2022) to an amount that is the lesser of eligible expenses and $10,000.

To better support independent living, Budget 2022 proposes to increase the annual expense limit of the Home Accessibility Tax Credit to $20,000. This measure would apply to expenses incurred in the 2022 and subsequent taxation years.

Residential property flipping rule

Property flipping involves purchasing real estate with the intention of reselling the property in a short period of time to realize a profit. Profits from flipping properties are fully taxable as business income, meaning they are not eligible for the 50% capital gains inclusion rate or the Principal Residence Exemption.

The Government is concerned that certain individuals engaged in flipping residential real estate are not properly reporting their profits as business income. Instead, these individuals may be improperly reporting their profits as capital gains and, in some cases, claiming the Principal Residence Exemption.

Budget 2022 proposes to introduce a new deeming rule to ensure profits from flipping residential real estate are always subject to full taxation. Specifically, profits arising from dispositions of residential property, including a rental property that was owned for less than 12 months, would be deemed to be business income.

The new deeming rule would not apply if the disposition of property is in relation to at least one of the life events listed below:

- Death, household addition (e.g., birth of a child, adoption, care of an elderly parent), separation, personal safety, disability or illness, employment change, insolvency or involuntary disposition.

Where the new deeming rule applies, the Principal Residence Exemption would not be available. Where the new deeming rule does not apply because of a life event listed above or because the property was owned for 12 months or more, it would remain a question of fact whether profits from the disposition are taxed as business income.

This measure would apply to residential properties sold on or after January 1, 2023.

Labour Mobility Deduction for Tradespeople

Temporary relocations to obtain employment may not qualify for existing tax recognition for moving or travel expenses, particularly if they do not involve a change in an individual’s ordinary residence and the employer does not provide relocation assistance.

Budget 2022 proposes to introduce a Labour Mobility Deduction for Tradespeople to recognize certain travel and relocation expenses of workers in the construction industry, for whom such relocations are relatively common. This measure would allow eligible workers to deduct up to $4,000 in eligible expenses per year.

Amounts claimed under the Labour Mobility Deduction for Tradespeople would not be deductible under the existing Moving Expense Deduction. Similarly, amounts that are otherwise deducted could not be claimed under the Labour Mobility Deduction for Tradespeople. This measure would apply to the 2022 and subsequent taxation years.

Medical Expense Tax Credit for surrogacy and other expenses

Individuals who intend to be parents may pursue a number of approaches to build their families, including the use of assisted reproductive technologies. Some approaches to building a family involve medical expenses for individuals other than the intended parents. Budget 2022 proposes to broaden the Medical Expense Tax Credit (METC) to recognize these circumstances.

Specifically, the budget proposes to provide a broader definition of patient in cases where an individual would rely on a surrogate or a donor to become a parent. The broader definition would allow medical expenses paid by the taxpayer, or the taxpayer's spouse or common-law partner, with respect to a surrogate mother or donor to be eligible for the METC.

Budget 2022 also proposes to allow reimbursements paid by the taxpayer to a patient to be eligible for the METC, provided that the reimbursement is made with respect to an expense that would generally qualify under the credit. It also proposes to allow fees paid to fertility clinics and donor banks to obtain donor sperm or ova to be eligible under the METC.

All expenses claimed under the METC would be required to be in accordance with the *Assisted Human Reproduction Act* and associated regulations. This measure would apply to expenses incurred in the 2022 and subsequent taxation years.

Amendments to the Children's Special Allowances Act and the Income Tax Act

As a consequence of *An Act Respecting First Nations, Inuit and Métis Children, Youth and Families*, which came into force on January 1, 2020, Budget 2022 proposes legislative amendments to the *Children's Special Allowances Act* and its regulations and the *Income Tax Act (ITA)* to ensure that the special allowance, the Canada Child Benefit and the Canada Workers Benefit amount for families, continue to support children in need of protection. Budget 2022 also proposes to amend the *Income Tax Act* to ensure consistent tax treatment of kinship care providers and foster parents who receive financial assistance from Indigenous communities.

These measures would apply for the 2020 and subsequent taxation years.

Reporting requirements for RRSPs and RRIFs

Financial institutions are currently required to report to CRA annually the withdrawals and contributions into each RRSP and RRIF that they administer. By comparison, financial institutions file a comprehensive annual information return with respect to each Tax-Free Savings Account they administer, which includes the fair market value of property held in the account.

Budget 2022 proposes to require financial institutions to annually report to CRA the total fair market value, determined at the end of the calendar year, of property held in each RRSP and RRIF they administer. This information would assist Canada Revenue Agency in its risk-assessment activities regarding qualified investments held by RRSPs and RRIFs. This measure would apply to the 2023 and subsequent taxation years.

CORPORATE TAX MATTERS

Corporate income tax rates

Apart from extending accessibility to the temporary measure to reduce corporate income tax rates for qualifying zero-emission technology manufacturers and extending the upper limit to the taxable capital threshold to the small business limit (see details below), there were no proposed changes to federal corporate income tax rates or the small business limit for 2022. The table below shows federal tax rates and the small business limit for 2022.

CATEGORY	2022 TAX RATES
General rate	15.0%
Manufacturing and processing rate	15.0%
Small business rate	9.0%
Small business limit	$500,000

Canada Recovery Dividend and additional tax on banks and life insurers

Budget 2022 proposes to introduce the Canada Recovery Dividend (CRD) – a one-time tax of 15% on bank and life insurer groups. A group includes a bank or life insurer and any other financial institution that is related to the bank or life insurer. The CRD applies to a corporation's taxable income in excess of $1 billion for their taxation year ended in 2021 and would be payable in equal amounts over a five-year period.

An additional tax of 1.5% of the taxable income for members of bank and life insurer groups is also proposed. Bank and life insurer groups subject to the additional tax will be allowed to allocate a $100 million taxable income exemption amongst group members. The proposed additional tax would apply to tax years ending after Budget Day. Where the tax year includes Budget Day, the additional tax would be pro-rated based on the number of days in the tax year after Budget Day.

Investment tax credit for Carbon Capture, Utilization and Storage (CCUS)

Budget 2022 proposes to introduce a refundable investment tax credit for CCUS (or the "CCUS Tax Credit") for businesses that incur eligible expenses starting on January 1, 2022. The following rates would apply to eligible expenses incurred after 2021 through to 2030. These rates will be cut in half for eligible expenses incurred after 2030 and through to 2040, as shown in the below brackets:

- 60% (30%) for eligible capture equipment used in a direct air capture project;
- 50% (25%) for all other eligible capture equipment; and
- 37.5% (18.75%) for eligible transportation, storage and use equipment.

CCUS equipment will be included in two new capital cost allowance (CCA) classes with rates of either 8% or 20% applied on a declining balance basis. These classes would be eligible for enhanced first year depreciation under the Accelerated Investment Incentive (AII). A recovery of the CCUS Tax Credit would be calculated if the portion of CO_2 going toward ineligible use is more than 5% higher than what was set out in the initial project plans (i.e., the basis on which the CCUS Tax Credit was paid). A mechanism to calculate any recovery will be released at a later date.

Eligibility for the CCUS Tax Credit requires taxpayers to report how their corporate governance, strategies, policies and practices will help manage climate-related risks and opportunities and contribute to achieving Canada's commitments under the Paris Agreement and goal of net zero emissions by 2050. In addition, CCUS projects that expect to have eligible expenses of at least $250 million over the life of the project would be required to contribute to public knowledge sharing in Canada.

Capital cost allowance for clean energy equipment

Budget 2022 proposes to expand eligibility under Capital Cost Allowance (CCA) Classes 43.1 and 43.2 to include air-source heat pumps primarily used for space or water heating. Eligible property would include equipment that is part of an air-source heat pump system that transfers heat from the outside air, including refrigerant piping, energy conversion equipment, thermal energy storage equipment, control equipment and equipment designed to enable the system to interface with other heating and cooling equipment. Eligible property would not include buildings, equipment that backs up an air-source heat pump system, or equipment that distributes heated or cooled air or water within a building. This expansion of Classes 43.1 and 43.2 would apply to property that is acquired and becomes available for use on or after Budget Day.

Rate reduction for zero-emission technology manufacturers

Budget 2021 proposed to temporarily reduce corporate income tax rates on eligible zero-emission technology manufacturing and processing income to:

- 7.5% where that income would otherwise be taxed at the 15% general corporate tax rate; and
- 4.5% where that income would otherwise be taxed at the 9% small business tax rate.

The reduced tax rates would apply to taxation years that begin after 2021, subject to a phase-out starting in taxation years that begin in 2029 and would be fully phased out for taxation years that begin after 2031. Budget 2022 proposes to include the manufacturing of air-source heat pumps used for space or water heating as an eligible zero-emission technology manufacturing or processing activity.

Critical Mineral Exploration Tax Credit

The Mineral Exploration Tax Credit (METC) is an income tax benefit for individuals who invest in mining flow-through shares, in addition to the deductions that are flowed through. The METC equals 15% of specified mineral exploration expenses incurred in Canada and renounced to flow-through share investors. METC facilitates the raising of equity to fund exploration by enabling companies to issue shares at a premium.

Budget 2022 proposes to introduce a new 30% Critical Mineral Exploration Tax Credit (CMETC) for specified minerals that typically are used to produce batteries and permanent magnets, both of which are used in zero-emission vehicles, or to produce or process advanced materials, clean technology, or semi-conductors. Eligible expenditures would not benefit from both the proposed CMETC and the METC. The CMETC would apply to expenditures renounced under eligible flow-through share agreements entered into after Budget Day, and on or before March 31, 2027.

Flow-through shares for oil, gas, and coal activities

Budget 2022 proposes to eliminate the flow-through share regime for oil, gas, and coal activities by no longer allowing oil, gas and coal exploration or development expenditures to be renounced to a flow-through share investor. This change is proposed to apply to expenditures renounced under flow-through share agreements entered into after March 31, 2023.

Small Business Deduction (SBD)

The reduced corporate income tax rate of 9% is provided through the “small business deduction” and applies on up to $500,000 per year of qualifying active business income (i.e., the “business limit”) of a Canadian-controlled private corporation (CCPC). The business limit must be allocated among associated CCPCs and is reduced on a straight-line basis when:

- the combined taxable capital employed in Canada of the CCPC, and its associated corporations is between $10 million and $15 million; or
- the combined “adjusted aggregate investment income” of the CCPC and its associated corporations is between $50,000 and $150,000.

Budget 2022 proposes to extend the upper threshold over which the business limit is reduced based on the combined taxable capital employed in Canada of the CCPC and its associated corporations, from $15 million to $50 million. This will allow more medium-sized CCPCs to benefit from the SBD and would apply to tax years beginning on or after Budget Day.

Application of the General Anti-Avoidance Rule (GAAR) to tax attributes

The GAAR is intended to prevent abusive tax avoidance transactions and is generally applied by the CRA on an assessment of tax. If abusive tax avoidance is established, the GAAR can deny the tax benefit created by the abusive transaction. A 2018 Federal Court of Appeal decision held that the GAAR did not apply to a transaction that resulted in an increase in a tax attribute that had not yet been utilized to reduce taxes. Budget 2022 proposes to amend the *Income Tax Act* to provide that GAAR can apply to transactions that affect tax attributes not yet relevant to the computation of tax. This measure would apply to notices of determination issued on or after Budget Day. Determinations made before Budget Day, where the rights of objection and appeal to determination were exhausted before Budget Day, would remain binding on taxpayers and the CRA.

Genuine intergenerational share transfers

Budget 2022 announces a consultation process for Canadians to share views as to how existing tax rules could be changed to protect the integrity of the tax system, while continuing to facilitate genuine intergenerational business transfers. The government intends to table a bill in the fall after the conclusion of the consultation process. The Department of Finance invites comments from all interested stakeholders until June 17, 2022.

Substantive CCPCs

Deferring tax using foreign entities

Budget 2022 proposes to amend the ITA so that investment income earned and distributed by substantive CCPCs would be subject to the same anti-deferral and integration mechanisms as CCPCs, with respect to such income. This means that investment income of substantive CCPCs would become subject to a federal tax rate of 38 ⅔%, of which 30 ⅔% would be refundable upon payment of taxable dividends to shareholders. Further, investment income earned by substantive CCPCs would be added to their “low rate income pool” preventing shareholders from claiming the enhanced dividend tax credit with respect to such dividends received. These changes would ensure that private corporations cannot effectively opt out of CCPC status and inappropriately circumvent the existing anti-deferral rules applicable to CCPCs.

Substantive CCPCs would be private corporations resident in Canada (other than CCPCs) that are ultimately controlled (in law or in fact) by Canadian-resident individuals. These measures address tax planning that manipulates CCPC status without affecting genuine non-CCPCs (e.g., private corporations ultimately controlled by non-resident persons and subsidiaries of public corporations). Substantive CCPCs would continue to be treated as non-CCPCs for all other purposes of the ITA.

Deferring tax using foreign resident corporations

Budget 2022 proposes targeted amendments to the ITA to eliminate the tax-deferral advantage available to CCPCs and their shareholders earning investment income through controlled foreign affiliates. The deferral advantage would be addressed by applying the same relevant tax factor to individuals, CCPCs and substantive CCPCs (i.e., the relevant tax factor currently applicable to individuals). This relevant tax factor is calibrated based on the highest combined federal and provincial or territorial personal income tax rate and would eliminate any tax incentive for CCPCs and their shareholders to earn investment income in a controlled foreign affiliate.

Tax credit for investments in clean technology

The budget announces a new investment tax credit of up to 30% on net-zero technologies, battery storage solutions and clean hydrogen. Additional details will be provided in the 2022 fall economic update.

SALES & EXCISE TAX MEASURES

GST/HST on assignment sales by individuals

Continuing with the theme of making housing more affordable, the government is proposing GST/HST measures on an assignment sale of a new home. The assignment sale of a residential home generally involves a purchaser (an assignor) under an agreement of purchase and sale with a builder of a new home who sells their right and obligations under the agreement to another period (an assignee).

Based on the current GST/HST rules, an assignment sale may be either taxable or exempt. Budget 2022 proposes to bring certainty to the GST/HST treatment by making all assignment sales of newly constructed or substantially renovated residential housing taxable for GST/HST purposes. This would mean that the GST/HST would apply to the total amount paid for a new home by its first occupant. As assignor remains responsible for collecting and remitting the GST/HST to the CRA. These changes may affect the amount of a GST/HST New Housing Rebate that may be available with respect to a new home.

This measure would apply effective May 7, 2022.

GST/HST health care rebate

The current GST/HST rules allow hospitals to claim an 83% rebate and charities to claim a 50% rebate of the GST or federal component of the HST they pay on purchases in their exempt supplies.

This measure proposes to amend the GST/HST eligibility rules for the expanded hospital rebate. The proposal provides the rebate to the organization if the healthcare services are delivered with the active involvement of, or on the recommendation of, either a physician or a nurse practitioner, irrespective of their geographical location. The expanded hospital rebate no longer distinguishes between healthcare services provided by physicians or nurse practitioners.

This measure would apply to rebate claim periods ending after Budget Day with respect to the tax paid or payable after that date.

Vaping products

Based on the public consultation received by the government on a previous proposal, Budget 2022 proposes to implement the excise duty on vaping products. The proposal includes a federal excise duty rate starting from $1 per 2ml for containers with less than 10ml of vaping liquid.

The government is aiming to work together with its provincial and territorial counterparts to implement a coordinated vaping taxation framework, resulting in an additional duty equal to the proposed federal rate.

The proposal introduces provisions allowing duty-free importation by travellers returning to Canada on unstamped vaping products for personal use. The number of products and volume allowed to be imported depends on their time spent outside of Canada.

The proposal would come into force on October 1, 2022.

Cannabis taxation framework

Budget 2022 proposes launching a new cannabis strategy table that will support an ongoing dialogue with businesses and stakeholders in the cannabis sector.

In addition, changes are proposed to the cannabis excise duty framework allowing licensed cannabis producers with less than $1 million in excise duties to remit the duties on a quarterly basis (instead of monthly). The proposal is applicable for quarter that began on April 1, 2022.

The proposal also includes certain other technical amendments, including a penalizing provision to the excise duty framework, applicable to the cannabis sector.

Canadian wine exemption and beer

Effective July 1, 2022, the budget proposes to eliminate excise duty on low-alcohol beer (containing no more than 0.5% alcohol by volume).

In addition, the budget repeals the current excise duty exemption on Canadian wine. The proposal would come into force on June 30, 2022.

OTHER PROPOSALS

The role of big corporations in residential housing

Budget 2022 announces a federal review of housing as an asset class to better understand the role of large corporate players in the market and their impact on Canadian renters and homeowners. This will include the examination of a number of options and tools, including potential changes to the tax treatment of large corporate players that invest in residential real estate. Further details on this review will be released later this year, with potential early actions to be announced before the end of the year.

A ban on foreign investment in Canadian housing

To ensure that housing is owned by Canadians instead of foreign investors, Budget 2022 announces the government's intention to propose restrictions that would prohibit foreign commercial enterprises and people who are not Canadian citizens or permanent residents from acquiring non-recreational residential property in Canada for a period of two years (with certain exceptions). The government will continue to monitor the impact that foreign money is having on housing costs across Canada and may come forward with additional measures to strengthen the enforcement of the proposed ban, if necessary.

Employee ownership trusts

Employee ownership trusts encourage employee ownership of a business and facilitate the transition of privately owned businesses to employees. Budget 2021 announced that the government would engage with stakeholders to examine what barriers exist to the creation of these trusts in Canada. The consultations revealed that the main barrier to the creation of employee ownership trusts in Canada was the lack of a dedicated trust vehicle under current tax legislation, tailored to the requirements of these structures.

Budget 2022 proposes to create the Employee Ownership Trust – a new, dedicated type of trust under the *Income Tax Act* to support employee ownership. The government will continue to engage with stakeholders to finalize the development of rules for the Employee Ownership Trust and assess any remaining barriers to the creation of these trusts.

Interest coupon stripping

Interest paid by Canadian residents to non-resident lenders is often subject to a 25% withholding tax. The withholding tax rate is generally reduced for interest paid to a resident of a country with which Canada has a tax treaty. The budget proposes rules to mitigate arrangements where a non-resident lender (could be resident of a non-treaty or treaty country) sells its right to receive future interest (interest coupon) payments for a loan it made to a related Canadian resident to a party that is not subject to withholding tax. In these arrangements, the non-resident lender generally continues its right to the principal amount of the loan.

The proposal introduces rules to ensure that the total interest withholding tax paid under an interest coupon stripping arrangement is the same as if the interest had been paid to the non-resident lender and not the third party to whom the interest coupon is sold. For most situations, this measure would apply on or after Budget Day.

Exchange of tax information on digital economy platform sellers

Generally, taxpayers earning business income, including those conducting business through online platforms (i.e., platform sellers) are required to report to Canada Revenue Agency the income they have earned. However, not all platform sellers are aware of the tax implications of their online activities. In addition, transactions occurring digitally through online platforms may not be visible to tax administrations, making it difficult for CRA to identify non-compliance.

To address these concerns, the Organization for Economic Co-operation and Development (OECD) has developed model rules for reporting by digital platform operators with respect to platform sellers. The model rules require online platform operators to collect and report relevant information to tax administrations to ensure that revenues earned by taxpayers through those platforms can be properly taxed.

Budget 2022 proposes to implement the model rules in Canada, requiring platform operators that provide support to reportable platform sellers for relevant activities, to determine the jurisdiction of residence of their reportable sellers and report their information to CRA. The platform operator would also be required to provide the same information to the reportable seller.

The CRA would automatically exchange the shared information with partner-relevant jurisdictions pursuant to the provisions of tax treaties and similar international instruments.

The measure would generally apply to platform operators that are engaged in:

- contracting directly or indirectly with sellers to make the software that runs a platform available for the sellers to be connected to other users; or
- collecting compensation for the relevant activities facilitated through the platform.

This measure would apply to calendar years beginning after 2023.

International tax reform

Being a member of the OECD’s Group of 20, Canada has joined a two-pillar plan for international tax reform agreed to in October 2021.

Pillar One (Reallocation of Taxing Rights) is intended to reallocate a portion of taxing rights over the profits of the largest and most profitable multinational enterprises (MNEs) to market countries (i.e., where their users and customers are located). The intention is for such enterprises to pay their fair share of tax in the jurisdiction where their users and customers are located. Historically, a country would generally only have the right to tax profits of an enterprise that can be attributable to the enterprise’s physical presence in the country. With the digitalization of the economy, this concept of local taxable presence is becoming dated. The government anticipates to implement legislation after the terms are agreed upon multilaterally.

Pillar Two (Global Minimum Tax) is intended to ensure that the profits of large MNEs are subject to an effective minimum tax rate of at least 15%, regardless of where they are earned. Budget 2022 proposes to implement Pillar Two, along with a domestic minimum top-up tax that would apply to Canadian entities of MNEs that are within the scope of Pillar Two. The government anticipates that the relevant legislation would be released for public consultation with the intention to come into effect in 2023, with the secondary rules effective after 2023.

Charities' annual disbursement quota

Budget 2022 proposes to increase the disbursement quota to ensure that charitable donations are invested into communities. The disbursement quota is a minimum amount that charities are required to spend each year. The current disbursement quota is 3.5% of the charity's property not used directly in charitable activities or administration. The budget proposes to increase the disbursement quota to 5% for the portion of property not used in charitable activities or administration that exceeds $1 million.

Relief measures are present in situations where a charity is unable to meet the disbursement quota requirement. The proposal allows CRA the authority to grant reduction in a charity's disbursement quota for any particular year. In addition, the CRA will be allowed to publicly disclose if a charity has been granted a reduction to their disbursement quota.

The measure would apply to charities in their fiscal years beginning on or after January 1, 2023.

Charitable partnerships with non-qualified donees

The current rules allow charities to devote their resources to charitable activities they carry on themselves or provide gifts to qualified donees. Charities are required to maintain sufficient control and discretion if the activities are carried out by an intermediary organization that is not a qualified donee.

Budget 2022 proposes to allow charities to make qualified disbursements to organizations that are not qualified donees, provided that certain accountability requirements are met. The proposal requires charities to take all reasonable steps to obtain receipts, invoices or other documentary evidence from grantees to demonstrate amounts were spent appropriately. In addition, the charities will be required to publicly disclose on their annual information return, key information relating to grants made above $5,000.

These changes would apply as of royal assent of the enacting legislation.

PREVIOUSLY ANNOUNCED MEASURES

Budget 2022 confirms the government's intention to proceed with the following previously announced tax and related measures, as modified to consider consultations and deliberations since their release:

- Legislative proposals relating to the Select Luxury Items Tax Act released on March 11, 2022
- Legislative proposals released on February 4, 2022, with respect to the following measures:
  - electronic filing and certification of tax and information returns;
  - immediate expensing;
  - the Disability Tax Credit;
  - a technical fix related to the GST credit top-up;
  - the rate reduction for zero-emission technology manufacturers;
  - film or video production tax credits;
  - post-doctoral fellowship income;
  - fixing contribution errors in registered pension plans;
  - a technical fix related to the revocation tax applicable to charities;
  - capital cost allowance for clean energy equipment;
  - enhanced reporting requirements for certain trusts;
  - allocation to redeemers methodology for mutual fund trusts;
  - mandatory disclosure rules;
  - avoidance of tax debts;
  - taxes applicable to registered investments;
  - audit authorities;

- interest deductibility limits; and
- crypto asset mining.

- Legislative proposals tabled in a Notice of Ways and Means Motion on December 14, 2021, to introduce the Digital Services Tax Act.
- Legislative proposals released on December 3, 2021, with respect to Climate Action Incentive payments.
- The income tax measure announced in Budget 2021 with respect to Hybrid Mismatch Arrangements.
- The transfer pricing consultation announced in Budget 2021.
- The anti-avoidance rules consultation announced on November 30, 2020, in the Fall Economic Statement.
- The income tax measure announced on December 20, 2019, to extend the maturation period of amateur athletes' trusts maturing in 2019 by one year, from eight years to nine years.
- Measures confirmed in Budget 2016 relating to the Goods and Services Tax/ Harmonized Sales Tax joint venture election.

Budget 2022 also reaffirms the government's commitment to move forward as required with technical amendments to improve the certainty and integrity of the tax system.

WE CAN HELP

Your Assante advisor can help you assess the impact of these proposals on your personal finances or business affairs and show you ways to take advantage of their benefits or ease their impact. The resources available to you and your advisor include CI Assante Private Client's Wealth Planning Group, a multi-disciplinary team of accountants, lawyers and financial planners.

For more information, we encourage you to speak to your advisor or visit us at assante.com

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