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On April 7, 2022, the Deputy Prime Minister and Finance Minister, the Honourable Chrystia Freeland, presented Budget 2022: A Plan to Grow Our Economy and Make Life More Affordable, to the House of Commons.

No changes were made to personal or corporate tax rates, nor to the inclusion rate on taxable capital gains. Some highlights include:

A. Personal Measures

- Several proposals target housing affordability. A Tax-Free First Home Savings Account and a refundable Multigenerational Home Renovation Tax Credit will be introduced. Existing home-related tax credits will also be enhanced.
- Residential real estate sales within a year of purchase will generally be fully taxable, not capital gains and not eligible for the principal residence exemption.

B. Business Measures

- Access to the small business deduction will be enhanced for corporations with taxable capital between $10 million and $50 million.
- Anti-avoidance measures targeting private corporations attempting to avoid the refundable tax regime for investment income will be introduced.
- Tax benefits for flow-through shares will be enhanced for critical mineral exploration and removed for oil, gas and coal.

C. International Measures

- Digital platform operators will be required to disclose details of the activities of Canadian participants in the digital economy.

D. Sales and Excise Tax

- All new residential property assignment sales will be subject to GST/HST.
- An excise tax regime will be introduced for vaping products.

E. Retirement Plans

- The fair market value of RRSP and RRIF assets will be provided to CRA annually.

F. Charities Measures

- The disbursement quota will be increased for many charities.
- New rules will be introduced to allow charities to work with other organizations to fulfill their charitable objectives.

G. Previously Announced Measures

- Intention to proceed with previously announced measures, such as the immediate expensing CCA provisions, the luxury tax, requirements for electronic interaction with CRA and a full review of the employment insurance system.

THE NUMBERS

The Government's fiscal position includes the following projected surplus/deficit:

Year	Surplus/(Deficit) billions
2020–2021	**($327.7)**
2021–2022	**($113.8)**
2022–2023	**($52.8)**
2023–2024	**($39.9)**
2024–2025	**($27.8)**
2025–2026	**($18.6)**
2026–2027	**($8.4)**

A. Personal Measures

Tax-Free First Home Savings Account (FHSA)

Budget 2022 proposes to create the tax-free FHSA to help first-time home buyers save up to $40,000 for their first home. Contributions to an FHSA would be deductible (like an RRSP), and income earned in an FHSA and qualifying withdrawals from an FHSA made to purchase a first home would be non-taxable (like a TFSA).

The lifetime limit on contributions would be $40,000, subject to an annual contribution limit of $8,000. Unused annual contribution room would not be carried forward. Individuals would also be allowed

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to transfer funds from an RRSP to an FHSA tax-free, subject to the $40,000 lifetime and $8,000 annual contribution limits.

Withdrawals for purposes other than to purchase a first home would be taxable. However, an individual could transfer funds from an FHSA to an RRSP (at any time before the year they turn 71) or a RRIF on a non-taxable basis. Transfers would not reduce, or be limited by, the individual's available RRSP room. Withdrawals and transfers would not replenish FHSA contribution limits.

Individuals would not be permitted to make both an FHSA withdrawal and a home buyers' plan withdrawal in respect of the same qualifying home purchase.

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

Eligibility

Individuals eligible to open an FHSA must be at least 18 years of age and resident in Canada. In addition, they must not have lived in a home that they or their spouse owned at any time in the year the account was opened or the preceding four calendar years.

Effective Date

The government would work with financial institutions to allow individuals to open an FHSA and start contributing in 2023.

Home Buyers' Tax Credit

First-time home buyers can obtain up to $750 in tax relief as a non-refundable tax credit by claiming this credit. Budget 2022 proposes to double the Home Buyers' Tax Credit amount, such that tax relief of up to $1,500 can be accessed by eligible home buyers. This measure would apply to acquisitions of a qualifying home made on or after January 1, 2022.

Home Accessibility Tax Credit

The Home Accessibility Tax Credit is a non-refundable tax credit that provides relief of up to $1,500 on eligible home renovations (15% of expenses of up to $10,000) to make the dwelling more accessible to seniors or those eligible for the Disability Tax Credit that reside in the property. Budget 2022 proposes to double the annual expense limit to $20,000, such that the maximum non-refundable tax credit would be $3,000. This measure would apply to expenses incurred in the 2022 and subsequent taxation years.

Multigenerational Home Renovation Tax Credit

Budget 2022 proposes a new refundable tax credit to support constructing a secondary suite for an eligible person to live with a qualifying relation. An eligible person would be a senior (65+ years of age at the end of the tax year when the renovation was completed) or an adult (18+ years of age) eligible for the disability tax credit. A qualifying relation would be 18+ years of age and 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).

This tax credit would provide tax relief of 15% on up to $50,000 of eligible expenditures, providing a maximum benefit of $7,500.

Qualifying Renovation

The renovation must allow the eligible person to live with the qualifying relation by establishing a secondary unit (which must have a private entrance, kitchen, bathroom facilities and sleeping area). The secondary unit could be newly constructed or created from an existing living space that did not already meet the requirements to be a secondary unit. Relevant building permits for establishing a secondary unit must be obtained, and renovations must be completed in accordance with the laws of the jurisdiction in which the eligible dwelling is located.

One qualifying renovation would be permitted to be claimed in respect of an eligible person over their lifetime.

The credit would be claimed in the year that the qualifying renovation passes a final inspection, or proof of completion of the project according to all legal requirements of the jurisdiction in which the renovation was undertaken is otherwise obtained.

Eligible Expenses

Eligible expenses would include the cost of labour and professional services, building materials, fixtures, equipment rentals and permits. Items such as furniture and items that retain a value independent of the renovation (such as construction equipment and tools) would not qualify for the credit.

Goods or services provided by a person not dealing at arm's length with the claimant would not be eligible unless that person is registered for GST/HST. All expenses must be supported by receipts.

Expenses would not be eligible for this credit if claimed as a medical expense tax credit and/or home accessibility tax credit.

Eligible Claimants

The credit may be claimed by the eligible person, their spouse, or a qualifying relation that resides in or intends to reside in the dwelling within 12 months of the renovation. A qualifying relation that owns the dwelling can also make a claim.

Where one or more eligible claimants claim in respect of a qualifying renovation, the total of all amounts claimed for the renovation must not exceed $50,000.

Eligible Dwelling

An eligible dwelling must be owned by the eligible person, their spouse, or a qualifying relation. Within twelve months of the renovation, the eligible person and the qualifying relation must also ordinarily reside or intend to reside in the property.

Effective Date

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

Residential Property Flipping Rule

The government is concerned that taxpayers are inappropriately reporting gains on the disposition of real estate acquired for resale at a profit. In these cases, the profit is fully taxable as business income (100% taxed), and not a capital gain (50% taxed, and potentially eligible for the principal residence exemption).

Budget 2022 proposes to introduce a new rule that all gains arising from dispositions of residential property (including a rental property) that was owned for less than 12 months would be business income.

The new deeming rule would not apply if the disposition related to one of the life events listed below:

- Death: due to, or in anticipation of, the death of the taxpayer or a related person;
- Household addition: due to, or in anticipation of, a related person joining the taxpayer's household or the taxpayer joining a related person's household (e.g. birth of a child, adoption, care of an elderly parent);
- Separation: due to the breakdown of a marriage or common-law partnership;
- Personal safety: due to a threat to the personal safety of the taxpayer or a related person, such as the threat of domestic violence;
- Disability or illness: due to a taxpayer or a related person suffering from a serious disability or illness;
- Employment change: for the taxpayer or their spouse or common-law partner to work at a new location or due to an involuntary termination of employment. In the case of work at a new location, the taxpayer's new home must be at least 40 kms closer to the new work location;
- Insolvency: due to insolvency or to avoid insolvency; and
- Involuntary disposition: a disposition against someone's will, for example, due to expropriation or the destruction or condemnation of the taxpayer's residence due to a natural or man-made disaster.

Properties held for more than 12 months, or meeting one of the exceptions noted above, would continue to generate either business income or a capital gain on the disposition, depending on whether the property was acquired for the purpose of resale at a profit (business income) or was acquired for some other purpose (capital gain). While this measure was reflected as a "personal income tax measure," it is unclear whether the deeming rule will also apply to corporations and other taxpayers.

The measure would apply in respect of residential properties sold on or after January 1, 2023. The government indicates that there will be a consultation when the legislation is drafted.

Labour Mobility Deduction for Tradespeople

Budget 2022 proposes a deduction of up to $4,000/year to recognize certain travel and relocation expenses of workers in the construction industry.

An eligible individual would be a tradesperson or an apprentice who temporarily relocates to enable them to obtain or maintain employment under which the duties performed are temporary in a construction activity at a particular work location. Prior to the relocation, they must also ordinarily reside in Canada, and during the relocation period, at temporary lodging in Canada near that work location.

The temporary lodging must be at least 150 kms closer than the ordinary residence to the particular work location. The particular work location must be located in Canada, and the temporary relocation must be for at least 36 hours.

Eligible expenses would include reasonable amounts for:

- temporary lodging for the eligible individual near the particular work location; and
- transportation and meals for the individual for one round trip between the temporary lodging and where the individual ordinarily resides.

The maximum deduction would be capped at 50% of the worker's employment income from construction activities at the particular work location in the year. Amounts could be claimed in the tax year before or after the year they were incurred, provided they were not deductible in a prior year.

The individual's ordinary residence must remain available to them during the period that they are in the temporary lodging.

Expenses for which the individual received non-taxable financial assistance could not be claimed. Amounts claimed under this deduction would not be eligible under the existing moving expense deduction and vice versa.

This measure would apply to the 2022 and subsequent taxation years.

Medical Expense Tax Credit (METC) for Surrogacy and Other Expenses

Budget 2022 proposes to expand access to the METC in cases where an individual relies on a surrogate or a donor to become a parent. Medical expenses paid by the taxpayer, or the taxpayer's spouse or common-law partner, with respect to a surrogate mother or donor would be eligible for the METC, whereas previously they would generally not have been eligible. For example, expenses paid by the intended parent to a fertility clinic for an in vitro fertilization procedure with respect to a surrogate mother or for hormone medication for an ova donor would be eligible for the METC.

Budget 2022 proposes to allow reimbursements paid by the taxpayer to a patient to be eligible for the METC, provided that the reimbursement is for an expense that would generally qualify under the credit. For example, the METC could be available for reimbursements paid by the taxpayer for expenses incurred by a surrogate mother with respect to an in vitro fertilization procedure or prescription medication related to their pregnancy.

Budget 2022 also proposes to allow fees paid to fertility clinics and donor banks to obtain donor sperm or ova to be eligible under the METC. Such expenses would be eligible where the sperm or ova are acquired for use by an individual to become a parent.

All expenses claimed under the METC would be required to be incurred in Canada and in accordance with the Assisted Human Reproduction Act and associated regulations.

These measures would apply to expenses incurred in the 2022 and subsequent taxation years.

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

Budget 2022 proposes several amendments to ensure that the Children's Special Allowance, the Canada Child Benefit and the Canada Workers Benefit amount for families are appropriately directed in situations involving Indigenous governing bodies. These measures would be retroactive to 2020.

Other Personal Measures

Budget 2022 also proposes a number of measures for individuals for which few details were provided, including the following:

- Dental care would be funded, starting for children under age 12 in 2022, expanding to children under age 18, seniors and disabled individuals in 2023, with full implementation by 2025. Full coverage would be provided for families with under $70,000 of annual income and no coverage would be provided for families with income of $90,000 or more.
- The government intends to continue working towards a universal national pharmacare program, including tabling a Canada Pharmacare bill and working to have it passed by the end of 2023.
- A one-time $500 payment would be made to those facing housing affordability challenges. Timing, eligibility and delivery method are to be announced at a later date.
- The Incentives for Zero-Emission Vehicles program that has offered purchase incentives of up to $5,000 for eligible vehicles since 2019 would be extended until March 2025. Eligibility would be broadened to include more vehicle models, including more vans, trucks and SUVs. Further details will be announced by Transport Canada in the coming weeks.
- Budget 2022 announces the government's commitment to examine a new alternative minimum tax regime, with details on a proposed approach to be released in the 2022 fall economic and fiscal update.

B. Business Measures

Small Business Deduction

Canadian-controlled private corporations (CCPCs) benefit from the small business deduction (SBD), a reduced corporate tax rate on active business income from the 15% general rate to 9% federally. Each province also has an SBD regime. A "business limit" of $500,000 of annual income (shared between associated corporations) limits eligibility to the SBD federally, and in all provinces except Saskatchewan, which has a $600,000 provincial business limit.

The business limit is reduced for corporations or associated groups which have "taxable capital" in excess of $10 million, with the business limit reduced by $1 for every additional $10 of taxable capital over the $10 million threshold, until it is eliminated where taxable capital equals or exceeds $15 million.

Budget 2022 proposes to reduce the business limit by $1 for every $80 of taxable capital in excess of $10 million, such that the limit will be more gradually reduced, and only eliminated where taxable capital equals or exceeds $50 million. This measure is proposed to apply for corporate taxation years beginning on or after April 7, 2022.

No changes are proposed to the parallel reduction to the business limit where adjusted aggregate investment income exceeds $50,000.

Anti-Avoidance Measures – Corporate Investment Income

In addition to being ineligible for the SBD, investment income (such as interest, royalties, rent and taxable capital gains) earned by CCPCs is subject to a significantly higher corporate tax rate of 38 2/3% (plus provincial tax which, in most provinces, results in a combined tax rate of over 50%). A similar regime (Part IV Tax) applies to portfolio dividends received by CCPCs. This is intended to result in corporate taxes similar to the top personal tax rates.

A portion of this tax is refundable when taxable dividends are paid by the corporation to its shareholders, so that the combined corporate taxes after this refund and personal tax paid by the ultimate individual shareholders is comparable to the tax that would have been paid if the investments had been made personally, rather than corporately.

As these special rules apply only to CCPCs, some planning strategies have been developed where corporations are structured to fall outside CCPC status. These include the use of corporations governed by a foreign country's corporate legislation, or the issuance of options or voting shares to non-Canadians. A number of taxpayers who have implemented such strategies have been challenged by CRA, with appeals to be heard by the Tax Court of Canada, however such challenges are both time-consuming and costly for the government.

Budget 2022 proposes that private corporations which are not CCPCs, but are factually controlled by one or more Canadian persons, be subject to the same investment income rules as a CCPC. An anti-avoidance rule will also apply this treatment to any corporation falling outside the technical rules, where it is reasonable to consider that one or more transactions were undertaken to avoid these rules. This measure will generally apply to taxation years that end on or after April 7, 2022, with possible deferral where an arm's length sale pursuant to a written purchase and sale agreement was entered into prior to that date.

Intergenerational Business Transfers

A complex anti-avoidance rule prevents the sale of shares of closely-held corporations by individual shareholders to related corporations from resulting in capital gains, instead causing the seller to realize dividends. In addition to attracting higher taxes than capital gains, dividends are not eligible for the lifetime capital gains exemption (LCGE).

This provision has been a source of frustration for business owners wishing to transition a family business to the next generation, denying them access to the LCGE which would have been available on a similar sale to unrelated parties. On June 29, 2021, legislation (Bill C-208) exempting sales of shares of small business corporations or family farm or fishing corporations from parents to corporations controlled by their children from this provision, allowing the realization of capital gains potentially eligible for the LCGE, was passed into law.

The government had indicated that they were concerned that this legislation could permit transfers beyond genuine intergenerational business successions to benefit from this lower tax cost, a practice commonly referred to as "surplus stripping," and that further amendments would be made to limit these transactions to their intended purpose.

Budget 2022 reiterates the government's intention to amend the legislation to restrict these transactions to genuine intergenerational business transfers, while continuing to facilitate legitimate business successions. It announces a consultation by the Department of Finance, with specific mention of the agriculture sector, to close on June 17, 2022. Comments can be sent to intergenerational-transfers-transfertsintergenerationnels@fin.gc.ca. The government indicated that amending legislation would be included in a bill to be tabled in the fall after the conclusion of the consultation process.

Flow-through Shares

Flow-through share agreements allow corporations to renounce or "flow through" specified expenses to investors, who can deduct the expenses in calculating their taxable income. These are common in the resource sector, where they allow certain resource pools to be claimed by investors, rather than the corporations incurring the costs. A Mineral Exploration Tax Credit equal to 15% of specified mineral exploration expenses incurred in Canada and renounced to flow-through share investors also applies to some flow-through shares.

Increased Credit for Critical Minerals

Budget 2022 proposes to introduce a new 30% Critical Mineral Exploration Tax Credit for specified minerals, specifically copper, nickel, lithium, cobalt, graphite, rare earth elements, scandium, titanium, gallium, vanadium, tellurium, magnesium, zinc, platinum group metals and uranium. These minerals are used in the production of batteries and permanent magnets, both of which are used in zero-emission vehicles, or are necessary in the production and processing of advanced materials, clean technology, or semi-conductors. This will effectively double the credit for exploration expenditures related to such minerals.

This enhanced credit would apply to expenditures renounced under eligible flow-through share agreements entered into after April 7, 2022 and on or before March 31, 2027.

Elimination of Flow-through Shares for Oil, Gas and Coal

Budget 2022 proposes to eliminate the flow-through share regime for oil, gas and coal activities. Such expenditures would not be permitted to be renounced to share purchasers under flow-through share agreements entered into after March 31, 2023.

Other Business Measures

Several business measures proposed in Budget 2022 target specific sectors. These include the following:

Real Estate

- Budget 2022 announces a federal review of housing as an asset class, including the examination of potential changes to the tax treatment of large corporate players that invest in residential real estate. Further details on the review will be released later in 2022, with potential early actions to be announced before the end of the year.
- Budget 2022 announces that anti-money laundering and anti-terrorist financing requirements will be extended to all businesses conducting mortgage lending in Canada.

Green Economy

- Budget 2022 proposes to launch a new purchase incentive program for medium- and heavy-duty Zero-Emission Vehicles (ZEVs). Transport Canada will work with provinces and territories to develop and harmonize regulations and to conduct safety testing for long-haul zero-emission trucks. Natural Resources Canada will expand the Green Freight Assessment Program, which will be renamed the Green Freight Program, to support assessments and retrofits of more vehicles and a greater diversity of fleet and vehicle types.
- Budget 2022 announces a consultation with experts to establish an investment tax credit of up to 30%, focused on net-zero technologies, battery storage solutions and clean hydrogen. Further details will be announced in the 2022 fall economic and fiscal update.
- Air-source heat pumps primarily used for space or water heating acquired and becoming available for use on or after April 7, 2022 will be eligible for inclusion in Class 43.1 or 43.2, special accelerated CCA classes for investments in specified clean energy generation and energy conservation equipment. In addition, the manufacturing of such air-source heat pumps will be included in the definition of eligible zero-emission technology manufacturing or processing activities, eligible for reduced federal tax rates (halved rates for taxation years beginning in 2022 to 2028, then gradually increased to the standard rates, with no reduction for years beginning in 2032 or later).
- A refundable tax credit for the cost of purchasing and installing eligible equipment used in an eligible carbon capture, utilization and storage (CCUS) project will be implemented. Eligible expenses incurred after 2021 until 2030 would benefit from credits ranging from 37.5% to 60%, with expenditures incurred until 2040 eligible for credits at half of these rates. New capital cost allowance classes at rates of 8% and 20% are also proposed for certain CCUS equipment.

Business Investment Initiatives

- Budget 2022 proposes to create the Employee Ownership Trust, a new type of trust to support employee ownership. The government will engage with stakeholders to develop rules for these trusts.
- Budget 2022 proposes the Canada Growth Fund, an independent public investment vehicle that will invest using a broad suite of financial instruments, with the goal that every dollar invested will attract at least three dollars of private capital. Further details will be announced in the 2022 fall economic and fiscal update.

Encouraging Innovation

- Budget 2022 announces an independent federal innovation and investment agency, with further consultation later this year. Support delivered through the innovation and investment agency is expected to enable innovation and growth within the Canadian defence sector and boost investments in Canadian defence manufacturing. Further details will be announced in the 2022 fall economic and fiscal update.
- Budget 2022 announces a review of the Scientific Research and Experimental Development (SR&ED) program, to assess its effectiveness in encouraging R&D that benefits Canada, and to explore opportunities to modernize and simplify the program. As part of this review, the government will also consider whether the tax system can encourage the development and retention of intellectual property, including seeking views on the suitability of adopting a patent box regime.

Financial Sector

- Budget 2022 announces the government's intention to launch a financial sector legislative review focused on the digitalization of money and maintaining financial sector stability and security. The first phase of the review will be directed at digital currencies, including cryptocurrencies and stablecoins.
- A one-time 15% tax on bank and life insurance groups, based on taxable income in excess of $1 billion for taxation years ended in 2021, would be imposed for the 2022 taxation year and payable over five years. For subsequent years, a 1.5% additional tax would apply to income of such corporate groups in excess of $100 million.
- A new accounting policy requirement, IFRS 17, will require insurers to defer recognition of contract service margins (CSMs) for accounting purposes commencing on January 1, 2023. Budget 2022 proposes that this deferral will not be permitted for income tax purposes. The timing of income inclusions for CSMs for income tax purposes will be set by legislation.
- Proposed anti-avoidance measures will impact certain hedging and short-selling transactions undertaken by Canadian financial institutions and registered securities dealers.

Combatting Aggressive Tax Planning

- Budget 2022 proposes to provide $1.2 billion over five years for CRA to expand audits of larger entities and non-residents engaged in aggressive tax planning; increase both the investigation and prosecution of those engaged in criminal tax evasion; and to expand its educational outreach.

- The General Anti-avoidance Rule (GAAR) is proposed to be amended to allow CRA to challenge transactions that affect tax attributes (e.g. asset costs, losses carried forward, paid-up capital, capital dividend account) that have not yet become relevant to the computation of tax. This specific measure overrides a 2018 Federal Court of Appeal decision that held that GAAR could only be applied when the tax attribute was utilized to reduce income taxes.

C. International Measures

Digital Platform Operators – Disclosure Requirements

The digital economy (including the sharing and gig economies, and online sellers of goods) continues to grow at a rapid pace. Participants in the digital economy often make use of digital platforms. Many tax authorities are concerned that not all participants 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.

The Organisation for Economic Co-operation and Development (OECD) has developed model rules for reporting by digital platform operators with respect to platform sellers which require the platforms to collect and report relevant information to tax administrations. The model rules provide for the sharing of information between tax administrations so that an online platform would generally need to report the information to only one jurisdiction, and that jurisdiction would then share the information with partner jurisdictions based on the residence of each person earning revenue through the platform. Jurisdictions which have announced their intention to implement such a framework include the European Union, the United Kingdom and Australia.

Budget 2022 proposes to implement the model rules in Canada. They would require reporting platform operators that provide support to reportable sellers for relevant activities to determine the jurisdiction of residence of their reportable sellers and report certain information on them. Reporting platform operators would be entities that make software that runs a platform available for the sellers to be connected to other users, or to collect compensation through the platform.

The measure would generally apply to platform operators that are resident for tax purposes in Canada, and to platform operators that are not resident in Canada or a partner jurisdiction (one that has implemented similar rules and will share data with CRA on Canadian activity) and that facilitate relevant activities by Canadian residents or with respect to rental of real property located in Canada.

Relevant activities would be sales of goods and relevant services including the following:

- personal services outside of an employment relationship (e.g. transportation and delivery services, manual labour, tutoring, data manipulation and clerical, legal or accounting tasks);
- rental of real property (residential or commercial; parking spaces); and
- rental of means of transportation.

Reporting would not be required in respect of sellers that represent a limited compliance risk, including government entities, publicly listed entities, large providers of hotel accommodation (more than 2,000 per year in respect of a property listing) and, with respect to the sales of goods, sellers who make less than 30 sales a year for a total of not more than 2,000 euro.

Reporting platform operators would be required to provide the required disclosures to CRA by January 31 of the year following the calendar year. CRA would automatically exchange information received on sellers resident in partner jurisdictions. Likewise, CRA would receive information on Canadian sellers from partner jurisdictions. This measure would apply to calendar years beginning after 2023, with the first reporting and exchange of information expected to take place in early 2025 with respect to the 2024 calendar year.

Ban on Residential Real Estate Purchases by Non-residents

The government intends to 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. This would not apply to refugees and people authorized to come to Canada while fleeing international crises, certain international students on the path to permanent residency or individuals on work permits who are residing in Canada.

Other International Measures

International Tax Reform – Base Erosion and Profit Shifting

Canada is one of 137 members of the OECD/Group of 20 (G20) Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework) that have joined a two-pillar plan for international tax reform agreed to on October 8, 2021. Budget 2022 reiterates Canada's commitment to the framework, and its intention to implement the Pillar One (intended to reallocate a portion of taxing rights over the profits of the largest and most profitable multinational enterprises to market countries where their users and customers are located) and Pillar Two (intended to ensure that the profits of large multinational enterprises are subject to an effective tax rate of at least 15%, regardless of where they are earned) initiatives.

Budget 2022 sets out the government's plans for consultation and implementation of these initiatives.

Anti-Avoidance – Interest Stripping

Interest paid from a Canadian resident to a non-arm's length non-resident is generally subject to a 25% flat withholding tax, reduced under various tax treaties (often to either 10% or 15%; generally to nil where paid to U.S. residents). Budget 2022 proposes measures to address certain arrangements (referred to as interest coupon stripping arrangements) to ensure that this withholding tax is not avoided.

D. Sales and Excise Tax

GST/HST on Assignment Sales by Individuals

An assignment sale in respect of residential housing is a transaction in which a purchaser (an "assignor") under an agreement of purchase and sale with a builder of a new home sells their rights and obligations under the agreement to another person (an "assignee"). An assignment sale of newly constructed (or substantially renovated) residential real estate made by an individual would generally be taxable if the individual had originally entered into the agreement of purchase and sale with the builder for the primary purpose of selling their interest in the agreement. Where there was another primary purpose, such as residing in the property, the assignment sale would generally be exempt.

To provide greater certainty on the status of assignment sales, Budget 2022 proposes to make all assignment sales in respect of newly constructed or substantially renovated residential housing taxable for GST/HST purposes. As a result, the GST/HST would apply to the total amount paid for a new home by its first occupant. Typically, the consideration for an assignment sale includes an amount attributable to a deposit that had previously been paid to the builder by the assignor. That deposit would already be subject to GST/HST when applied by the builder to the purchase price on closing. Budget 2022 proposes that the amount attributable to the deposit be excluded from the consideration for a taxable assignment sale.

The assignor in respect of a taxable assignment sale would generally be responsible for collecting the GST/HST and remitting the tax to CRA. Where an assignor is non-resident, the assignee would be required to self-assess and pay the GST/HST directly to CRA.

The amount of a new housing rebate is determined based on the total consideration payable for a newly-constructed home, which would include the consideration for a taxable assignment sale. Accordingly, these changes may affect the amount of a New Housing Rebate that may be available in respect of a new home.

This measure would apply in respect of any assignment agreement entered into on or after May 7, 2022 (one month after Budget Day).

GST/HST Health Care Rebate

Hospitals can claim an 83% rebate and charities and non-profit organizations can claim a 50% rebate of the GST (or federal component of the HST) that they pay on inputs used in their exempt supplies. The 83% hospital rebate also applies to eligible charities and non-profit organizations that provide health care services similar to those traditionally performed in hospitals.

One of the conditions to be eligible for the expanded hospital rebate is that a charity or non-profit organization must deliver the health care service with the active involvement of, or on the recommendation of, a physician, or in a geographically remote community, with the active involvement of a nurse practitioner.

Budget 2022 proposes to allow the 83% hospital rebate to a charity or non-profit organization that delivers health care service with the active involvement of, or on the recommendation of, either a physician or a nurse practitioner, irrespective of their geographical location.

This measure would generally apply to rebate claim periods ending after April 7, 2022 in respect of GST/HST paid or payable after that date.

Excise Tax on Vaping Products

Budget 2021 announced a consultation on a new excise duty on vaping products. Budget 2022 sets out a taxation framework on vaping products that include either liquid or solid vaping substances (whether or not they contain nicotine), with an equivalency of 1 ml of liquid = 1 gram of solids (excluding those already subject to the cannabis excise duty framework).

A federal excise duty rate of $1 per 2 ml, or fraction thereof, is proposed for the first 10 ml of vaping substance, and $1 per 10 ml, or fraction thereof, for volumes beyond that. If a province or territory were to choose to participate in a coordinated vaping taxation regime administered by the federal government as set out in the budget documents, an additional duty rate would be imposed in respect of dutiable vaping products intended for sale in that participating jurisdiction.

Other Excise Tax Measures

Excise Duty Framework

Budget 2022 proposes several amendments to streamline, strengthen, and adapt the cannabis excise duty framework specifically, as well as other excise regimes, including the following:

- allow licensed cannabis producers to remit excise duties on a quarterly rather than monthly basis, starting from the quarter that began on April 1, 2022 where the licensee's required excise duty remittances for the four immediately preceding fiscal quarters were less than $1M in excise duties during the four fiscal quarters;
- allow CRA to approve certain contract-for-service arrangements between two licensed cannabis producers to permit the producers to:

- transfer stamps, and packaged but unstamped products, between them;
- stamp and enter cannabis products into the retail market that have been packaged by the other producer; and
- pay the excise duty on cannabis products that were stamped by the other producer.

- amend the penalty provision for lost cannabis excise stamps so that the higher penalty for losing stamps for a province or territory would only apply where the adjustment rate for that jurisdiction is greater than 0%;
- apply the existing cannabis penalty provisions to situations where unlicensed parties illegally possess or purchase cannabis products, and where licensed parties illegally distribute cannabis products;
- exempt holders of a Health Canada-issue Research Licence or Cannabis Drug Licence from the requirement to be licensed under the excise duty regime;
- in respect of spirits, wine, tobacco and cannabis products:
  - add all cancellation criteria for an excise licence, other than a proactive request by a licensee to cancel its licence, to the criteria that CRA may use to suspend an excise licence;
  - remove cash and transferable bonds issued by the Government of Canada, and add bank drafts and Canada Post money orders, to the types of financial security that could be accepted by CRA; and
  - confirm the ability of CRA to carry out virtual audits and reviews of all licensees.

Except where indicated otherwise, the above proposals would be effective only on Royal Assent.

100% Canadian Wine Exemption

Wine that is produced in Canada and composed wholly of agricultural or plant product grown in Canada (i.e. 100% Canadian wine) is presently exempt from excise duties. However, this exemption was challenged at the World Trade Organization (WTO). In accordance with a settlement reached in July 2020, Budget 2022 proposes to repeal the 100% Canadian wine excise duty exemption effective on June 30, 2022.

Low-alcohol Beer

At present, wine and spirits containing no more than 0.5% alcohol by volume (ABV) are exempt from federal excise duty, however beer containing no more than 0.5% ABV is subject to duty. Budget 2022 proposes to eliminate excise duty for beer containing no more than 0.5% ABV, bringing the tax treatment of such beer into line with the treatment of wine and spirits with the same alcohol content. This measure would come into force on July 1, 2022.

E. Retirement Plans

Borrowing by Defined Benefit Pension Plans

Budget 2022 proposes to provide more borrowing flexibility to administrators of defined benefit registered pension plans (other than individual pension plans) for amounts borrowed on or after April 7, 2022.

Reporting Requirements for RRSPs and RRIFs

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

F. Charities Measures

Annual Disbursement Quota for Registered Charities

Registered charities are generally required to expend a minimum amount each year for charitable purposes, referred to as the disbursement quota (DQ). Presently, the DQ is set at 3.5% of property not used directly in charitable activities or administration.

Budget 2022 proposes to increase the DQ rate from 3.5% to 5% for the portion of property not used in charitable activities or administration that exceeds $1 million. Budget 2022 also proposes to clarify that expenditures for administration and management are not considered qualifying expenditures to satisfy a charity's DQ.

Where a charity cannot meet its DQ, it may apply to CRA and request relief. Budget 2022 proposes to amend the existing rule such that CRA will have the discretion to reduce a charity's DQ obligation for any particular tax year. It also proposes to allow CRA to publicly disclose information relating to such a decision to provide relief.

These measures would apply to charities in respect of their fiscal periods beginning on or after January 1, 2023.

Charitable Partnerships

Budget 2022 proposes to allow a charity to provide its resources to organizations that are not qualified donees, provided that these disbursements further the charity's charitable purposes and the charity ensures that the funds are applied to charitable activities by the grantee.

To be considered a qualifying disbursement, the charity will need to meet mandatory accountability requirements, including, for example:

- conducting a pre-grant inquiry sufficient to provide reasonable assurances that the charity's resources will be used for the purposes set out in the written agreement, including a review of the identity, past history, practices, activities and areas of expertise of the grantee;
- monitoring the grantee, which would include receiving periodic reports on the use of the charity's resources, at least annually and taking remedial action as required; and
- publicly disclosing on its annual information return information relating to grants above $5,000.

In addition, Budget 2022 proposes to require charities to, upon request by CRA, take all reasonable steps to obtain receipts, invoices, or other documentary evidence from grantees to demonstrate amounts were spent appropriately.

Finally, Budget 2022 proposes to prohibit registered charities from accepting gifts, the granting of which was expressly or implicitly conditional on making a gift to a person other than a qualified donee.

These changes would apply as of Royal Assent.

G. Previously Announced Measures

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

- Legislative proposals relating to the Select Luxury Items Tax Act (a tax on certain automobiles, boats and aircrafts) released on March 11, 2022.
- Legislative proposals released on February 4, 2022 in respect of 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;
    - postdoctoral 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, with an expected paper for consultation over the summer of 2022, and legislative proposals tabled by the end of 2022.
- 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 GST/HST joint venture election.

Budget 2022 reiterates the government's intention to return a portion of the proceeds from the price on pollution to small and medium-sized businesses through new federal programming in backstop jurisdictions (Alberta, Saskatchewan, Manitoba and Ontario). Budget 2022 proposes to provide funds, starting in 2022-23, to Environment and Climate Change Canada to administer direct payments to support emission-intensive, trade-exposed small and medium-sized enterprises in those jurisdictions.

Budget 2022 also reaffirms the government's intention to revise the Employment Insurance (EI) system, including its support for experienced workers transitioning to a new career and coverage for seasonal, self-employed and gig workers. A long-term plan for the future of EI will be released after consultations conclude. As an interim measure, Budget 2022 proposes to extend previous expansions to EI coverage for seasonal workers.

The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a newsletter such as this, a further review should be done by a qualified professional.

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