Money MATTERS

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On February 27, 2018 the Honourable Bill Morneau, Minister of Finance, presented the 2018 Federal Budget, Equality + Growth: A Strong Middle Class, to the House of Commons.

The Federal Government notes:

- No change to the personal and corporate tax rates, nor inclusion rate on taxable capital gains.
- $1.4 billion in financing over three years for women entrepreneurs through the Business Development Bank of Canada.
- $116 million over five years to the RCMP to support the National Cybercrime Coordination Unit.
- $100 million over five years directed to Status of Women Canada to enhance the Women's Program (training, skills development, community engagement).
- $100 million for early learning and child care innovation, plus $95 million to better understand what child care looks like in Canada, over eleven years.
- $90.6 million to CRA over five years to address additional cases of potential tax evasion/avoidance identified through enhanced risk assessment systems.

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Personal Income Tax

CANADA WORKERS BENEFIT

Budget 2018 proposes to rename the Working Income Tax Benefit to the Canada Workers Benefit. The amount of the benefit will be equal to 26 percent of each dollar of earned income in excess of $3,000 to a maximum benefit of $1,355 for single individuals without dependants and $2,335 for families (couples and single parents). These amounts are increased from the prior maximum amounts of $1,192 and $2,165, respectively.

The Benefit will be reduced by 12 percent of adjusted net income in excess of $12,820 for single individuals without dependants and $17,025 for families.

Previously, the reduction rate was 14 percent. Each province may arrange variances from these amounts.

Ability to access the Benefit for those that have filed returns, but not claimed the Benefit, will also be improved.

This measure will apply to the 2019 and subsequent taxation years. Indexation of amounts relating to the Canada Workers Benefit will continue to apply after the 2019 taxation year.

MEDICAL EXPENSE TAX CREDIT – ELIGIBLE EXPENDITURES

Budget 2018 proposes to expand the medical expense tax credit to recognize such expenses where they are incurred in respect of an animal specially trained to perform tasks for a patient with a severe mental impairment in order to assist them in coping with their impairment (e.g., a psychiatric service dog trained to assist with post-traumatic stress disorder).

For example, these tasks may include guiding a disoriented patient, searching the home of a patient with severe anxiety before they enter and applying compression to a patient experiencing night terrors. Expenses will not be eligible if they are in respect of an animal that provides comfort or emotional support but that has not been specially trained to perform tasks as described above.

This measure will apply in respect of eligible expenses incurred after 2017.

REGISTERED DISABILITY SAVINGS PLAN (RDSP) – Where the adult individual does not have a legal representative in place, a temporary federal measure exists to allow a qualifying family member (i.e., a parent, spouse or common-law partner) to be the plan holder of the individual's RDSP.

Previously legislated to expire at the end of 2018, Budget 2018 proposes to extend the temporary measure by five years, to the end of 2023. A qualifying family member who becomes a plan holder before the end of 2023 could remain the plan holder after 2023.

Business Income Tax

PASSIVE INCOME

Since Budget 2017 first expressed an intention to reduce the tax benefits of accumulating passive assets in a Canadian-controlled Private Corporation (CCPC), private business owners and their advisors have been faced with a series of proposals and comments on the taxation of passive income.

Budget 2018 includes details of a new passive investment tax regime for CCPCs, proposed to apply to taxation years commencing after 2018. Two significant changes are pro-posed, first a limit in access to the small business deduction for CCPCs generating significant income from passive assets, and second, a new regime to stream the recovery of refundable tax to the payment of specific types of dividends (eligible versus non-eligible).

Access to the Small Business Deduction (SBD)

The first prong of the passive income proposals will reduce access to the SBD for CCPCs having more than $50,000 of passive income. This is consistent with the Government's October, 2017 announcement that the first $50,000 of pas-sive income would be exempt from any new rules.

CCPCs with passive income in excess of $50,000 will lose $5 of business limit for every $1 of additional passive income, such that the entire business limit will be eliminated for CCPCs having $150,000 or more passive income in the year.

Some CCPCs already have a reduced business limit due to high taxable capital. The greater of that reduction and the new reduction for passive income will apply.

Consistent with the existing SBD rules, passive income of all associated corporations will apply to determine the reduced business limit available to the associated group. The prior year's passive income will determine the current year's SBD limit.

What is "Passive Income"?

Certain types of income considered "passive" are subject to different corporate tax rules. Common forms of income sub-ject to existing "passive income" rules include interest, rental income, royalties, dividends from portfolio investments and taxable capital gains.

Various exceptions presently apply, and will also apply to these new rules. For example, income incidental to an active business is excluded.

As well, income which would otherwise be considered passive which is received from an associated corporation generally retains its character as active income. A common example of this exception is rent paid from a corporation carrying on an active business to an associated corporation which owns the business real estate.

For purposes of these new rules, capital gains on certain types of property will also be excluded. These are as follows:

- Capital gains realized on the disposition of property used principally in an active business carried on in Canada. The active business could be carried on by the owner of the asset, or by a related party. Examples of gains which will not count towards passive income under this exception include gains on sale of the goodwill of an active business, and gains on the real estate from which the active business operates.
- Capital gains realized on shares of another CCPC all or substantially all of whose assets are used in an active business carried on in Canada will generally be excluded, provided the seller has a significant interest (generally over 10%) in that corporation.
- Similarly, capital gains realized on an interest in a partnership all or substantially all of whose assets are used in an active business carried on in Canada will generally be excluded where the seller has a significant interest (generally over 10%) in the partnership.

Where capital losses realized in a different taxation year are applied to offset capital gains realized in the current year, these losses will not reduce passive income for these new rules.

Recovering Refundable Taxes

Passive income is subject to a high corporate tax rate. However, a portion of these taxes are refunded when the CCPC pays taxable dividends. The Government had previously suggested eliminating the refundability of this tax. That suggestion has been abandoned.

However, the second prong of the passive income proposals will add a new restriction. Recovering refundable taxes will generally require the payment of non-eligible dividends. These carry a higher personal tax cost than eligible dividends.

The exception will be refundable taxes arising from eligible dividends received. Most public corporations pay eligible dividends. This refundable tax will continue to be recoverable by paying any type of dividends, including eligible dividends.

Additional Complexities

The proposals also include anti-avoidance measures.

While these new rules will generally apply only to taxation years commencing after 2018, they will apply earlier where planning transactions are undertaken to delay their application.

As well, transfers of passive assets between related corporations may result in the transferor and transferee corporations being required to combine their passive income for the purposes of the reduction to their SBD limits. This provision could apply, for example, if a corporation transfers investment assets to a second corporation owned by the spouse or children of the owner of the first corporation.

Cannabis Taxation

Budget 2018 proposes a new federal excise duty framework for cannabis products to be introduced as part of the Excise Act, 2001. The duty will generally apply to all products available for legal purchase, which at the outset of legalization will include fresh and dried cannabis, cannabis oils, and seeds and seedlings for home cultivation.

Cannabis cultivators and manufacturers will be required to obtain a cannabis licence from the CRA and remit the excise duty, where applicable. The framework will come into effect when cannabis for non-medical purposes becomes available for legal retail sale.

The Goods and Services Tax/Harmonized Sales Tax (GST/HST) basic groceries rules of the Excise Tax Act will be amended to ensure that any sales of cannabis products that would otherwise be considered as basic groceries are subject to the GST/HST in the same way as sales of other types of cannabis products.

EXCISE DUTY RATES FOR CANNABIS PRODUCTS

CANNABIS PLANT PRODUCT	FEDERAL RATES *Higher of the Two Rates Apply*		ADDITIONAL RATES in Respect of a Province/Territory *Higher of the Two Rates Apply*	
	Federal Flat Rate	Federal Ad Valorem Rate	PT Additional Flat Rate	PT Ad Valorem Additional Rate
Flower	$0.25/gram	2.5 percent of the dutiable amount of a cannabis product packaged by a cannabis licensee to a purchaser.	$0.75/gram	7.5 percent of the dutiable amount of a cannabis product packaged by a cannabis licensee to a purchaser.
Trim	$0.075/gram		$0.225/gram	
Seed	$0.25/seed		$0.75/seed	
Seedling	$0.25/ seedlng		$0.75/ seedling	

Employment Insurance (EI)

PARENTAL SHARING BENEFIT

Budget 2018 proposes an increase to the duration of EI parental leave by up to five weeks in cases where the second parent agrees to take a minimum of five weeks of the maximum combined 40 weeks available using the standard parental option of 55 percent of earnings for 12 months. In other words, as long as each parent takes at least 5 weeks, the couple will qualify for a total of 40 weeks (35 weeks otherwise).

Alternatively, where families have opted for extended parental leave at 33 percent of earnings for 18 months, the second parent would be able to take up to eight weeks of additional parental leave. In cases where the second parent opts not to take the additional weeks of benefits, standard leave durations (35 weeks and 61 weeks) will apply.

The proposed benefit will be available to eligible two-parent families, including adoptive and same-sex couples, to take at any point following the arrival of their child. The benefit is expected to commence in June of 2019.

WORKING WHILE ON CLAIM

Budget 2018 proposes to make the current EI Working While on Claim pilot rules permanent. The EI Working While on Claim pilot project allows claimants to keep 50 cents of their EI benefits for every dollar they earn, up to a maximum of 90 percent of the weekly insurable earnings used to calculate their EI benefit amount. These provisions were previously scheduled to expire in August 2018.

*"Where do homeless accountants live? ...*In a tax shelter."

 Have questions? Feel free to get in touch!

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