

TAX TALK

2022 FEDERAL BUDGET HIGHLIGHTS

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 announced to the personal or corporate income tax rates, nor the inclusion rate on taxable capital gains. Some highlights include:

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 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 Any unused funds could be transferred into an RRSP or RRIF or would otherwise have to be withdrawn on a taxable basis.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 currently 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 currently 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 home. 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 as capital gains (50% tax) or principal residences (tax free) rather than reporting the gain as business income (100% taxed).

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 treated as 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.

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.

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.
- 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 announced 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.
- 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.

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.

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.

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 eliminate the geographical requirement.

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.

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:

Immediate Expensing

On February 4, 2022, the federal government released draft legislation to implement immediate expensing for small and medium Canadian business investment. Immediate expensing was originally proposed in the 2021 Federal Budget.

As proposed in the Budget 2021, it permits the full cost of “eligible property” acquired by a CCPC on or after April 19, 2021 to be deducted, provided the property becomes available for use before January 1, 2024. Up to \$1.5 million per taxation year is available for sharing among each associated group of CCPCs, with the limit being prorated for shorter taxation years. No carry-forward of excess capacity will be allowed.

Eligible Property

Eligible property includes capital property that is subject to the CCA rules, other than property included in CCA classes 1 to 6, 14.1, 17, 47, 49, and 51. The excluded classes are generally those that have long lives, such as buildings, fences and goodwill.

Interactions of the Immediate Expensing with Other Provisions

Where capital costs of eligible property exceed \$1.5 million in a year, the taxpayer will be allowed to decide which assets will be deducted in full, with the remainder subject to the normal CCA rules.

Other enhanced deductions already available, such as the full expensing for manufacturing and processing machinery, will not reduce the maximum amount available (\$1.5 million).

Restrictions

Generally, property acquired from a non-arm's length person, or which was transferred to the taxpayer on a tax-deferred "rollover" basis, will not be eligible.

Tax on Select Luxury Goods

On March 11, 2022, the federal government released draft legislation to implement a select luxury items tax (Luxury Tax). The Luxury Tax was originally proposed in the 2021 Federal Budget.

As explained in Budget 2021, the Luxury Tax is only intended to apply to certain aircraft, vehicles, and vessels based on their price and use. Budget 2021 originally proposed a starting date of January 1, 2022 for the Luxury Tax. The draft legislation has, unsurprisingly, pushed that start date to September 1, 2022 for the tax on the retail sale of new luxury cars and personal aircraft priced over \$100,000, and boats priced over \$250,000.

The tax will apply to certain luxury vehicles and aircraft priced over \$100,000, the amount of the tax will be the lesser of 10% of the full value of the vehicle or the aircraft, or 20% of the value above \$100,000.

The tax will apply to certain boats priced over \$250,000, the amount of the tax will be the lesser of 10% of the full value boat or 20% of the value above \$250,000.

The tax will generally apply at the final point of purchase of new luxury vehicles, aircraft and boats in Canada. In the case of imports, application will generally be either at the time of importation (in cases where there will not be a further sale of the goods in Canada) or at the time of the final point of purchase in Canada following importation.

Upon purchase or lease, the seller or lessor will be responsible for remitting the full amount of the federal tax owing, regardless of whether the good was purchased outright, financed or leased over a period of time. Exports will not be subject to the tax.

GST/HST will apply to the final sale price, inclusive of the proposed tax, so GST/HST will also be payable on this new tax.

A memorandum of this nature cannot be all-encompassing and is not intended to replace professional advice. Its purpose is to highlight tax planning possibilities and identify areas of possible concern. Anyone wishing to discuss the contents or to make any comments or suggestions about this TaxTalk is invited to contact one of our offices.

Offices: First Canadian Place
100 King Street West, Suite 5700
Toronto, Ontario M5X 1C7
Phone: 416-362-0515

1900 Minnesota Court, Suite 116
Mississauga, Ontario L5N 3C9
Phone: 905-451-4788
Fax: 905-451-3299

TaxTalk is prepared by our Tax Group (taxtalk@mgca.com). Please visit our web site at www.mgca.com.

McCarney Group LLP is an independent member of Morison Global