



TaxNewsFlash

Canada

Highlights of the 2022 Federal Fall Economic Update

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Finance Minister Chrystia Freeland delivered the government's 2022 Fall Economic Update on November 3, 2022. The Update anticipates a deficit of \$36.4 billion for 2022-23 and forecasts deficits of \$30.6 billion for 2023-24 and \$25.4 billion for 2024-25. Although the Update does not include any personal or corporate tax rate changes, Finance also announced that the proposed interest and financing expenses limitation (EIFEL) rules will now only apply to taxation years beginning on or after October 1, 2023 (instead of taxation years beginning in 2023). Similarly, Finance said it would delay the proposed mandatory reporting requirements for certain reportable and notifiable transactions until these changes receive Royal Assent (instead of for transactions after 2022). The Update introduces a refundable Clean Technology Investment Tax Credit and announces Finance's intention to introduce a 2% share buyback tax on certain corporations, among other tax measures.

Although Finance notes that it will provide more specific details on some of these announcements in its 2023 federal budget, Finance did release draft legislation for reporting requirements for digital platform operators and revised draft legislation for the EIFEL rules.

Business tax changes

EIFEL rules

Finance announced that the proposed EIFEL rules will now apply for taxation years beginning on or after October 1, 2023. Previously, these rules were intended to apply to taxation years beginning in 2023. Alongside the Update, Finance also released further revisions to the draft legislation based on issues identified during a recent public

consultation, along with explanatory notes. Finance will accept feedback on this revised draft legislation until January 6, 2023.

These rules are intended to generally limit the amount of interest and other financing expenses that corporations and trusts may deduct for Canadian income tax purposes to a fixed ratio of 30% (40% for taxation years beginning on or after October 1, 2023 and before January 1, 2024) of “adjusted taxable income”, subject to certain exceptions. The rules were initially announced in the 2021 federal budget, and draft legislation was released for public consultation on February 4, 2022.

Mandatory disclosure rules

Finance announced that it will delay the reporting requirements for reportable transactions and notifiable transactions under the mandatory disclosure rules until these changes receive Royal Assent (instead of for transactions after 2022). However, the rules for disclosing uncertain tax treatments will still apply for taxation years beginning after 2022 (with penalties only applying after Royal Assent). Finance advises that it is considering feedback received on the reportable and notifiable transactions.

These rules generally require individuals, corporations, trusts and partnerships to disclose certain transactions to the CRA within 45 days of entering into that transaction. For details, see *TaxNewsFlash-Canada* 2022-43 “[Prepare Now for Upcoming Mandatory Disclosure Rules](#)”.

Digital platforms

Finance has released draft legislative proposals to require digital platform operators to collect and report relevant information about sellers that use their platform to tax authorities, as previously announced in the 2022 federal budget. Finance invites comments from stakeholders on these rules until January 6, 2023.

This measure, which would apply to calendar years beginning after 2023, is based on model rules developed by the OECD to ensure that revenues earned by taxpayers through those platforms can be properly taxed. For more details on this measure, see *TaxNewsFlash-Canada* 2022-24, “[2022 Federal Budget Highlights](#)”.

Share buyback tax

The Update announces a 2% corporate tax on the net value of all types of share buybacks by public corporations in Canada, effective January 1, 2024. Finance notes that it will provide details of this new tax, which will apply when a corporation buys its own stock back from existing shareholders, in the 2023 federal budget.

Clean Technology Investment Tax Credit

The Update introduces a refundable Clean Technology Investment Tax Credit for 30% of the capital cost of certain eligible clean technology equipment. The credit would be available for the capital cost of property that is acquired and that becomes available for use

on or after the day that the 2023 federal budget is released, as long as it has not been used for any purpose before its acquisition. The following types of equipment are eligible for the credit:

- Electricity Generation Systems, including solar photovoltaic, small modular nuclear reactors, concentrated solar, wind, and water (e.g., small hydro, run-of-river, wave, and tidal)
- Stationary Electricity Storage Systems that do not use fossil fuels in their operation (e.g., batteries, flywheels, supercapacitors, magnetic energy storage, compressed air energy storage, pumped hydro storage, gravity energy storage, thermal energy storage)
- Low-Carbon Heat Equipment, including active solar heating, air-source heat pumps, and ground-source heat pumps
- Industrial zero-emission vehicles and related charging or refueling equipment, such as hydrogen or electric heavy-duty equipment used in mining or construction.

The credit is gradually phased out as follows:

Year Property Becomes Available for Use	Credit Rate
2032	20%
2033	10%
2034	5%
2035	0%

Businesses would be able to benefit from the full amount of both the Clean Technology Investment Tax Credit and the Atlantic Investment Tax Credit. Claimants that do not also meet certain labour conditions would only be able to claim the credit at a 20% rate. Finance advises that it will announce additional details on these conditions in the 2023 federal budget after it consults with stakeholders.

Clean Hydrogen Investment Tax Credit

The Update states that Finance intends to soon launch a consultation on an investment tax credit for clean hydrogen, which will be a refundable tax credit of at least 40%, in line with a previous announcement in the 2022 federal budget. To receive the maximum rate, claimants will have to meet certain labour conditions. The credit will be phased out after 2030.

SR&ED review

The Update notes that Finance will proceed with its review of the Scientific Research and Experimental Development (SR&ED) program, including consideration of a patent box regime, which was announced in the 2022 federal budget. Finance notes that it will provide further details in the 2023 federal budget.

Personal tax changes

Minimum tax for high earners

The Update reaffirms Finance's commitment to examine a new minimum tax regime for wealthy individuals, as announced in the 2022 federal budget. Finance advises that it will release a detailed proposal for the minimum tax and a path for implementation in the 2023 federal budget.

Extension of the Residential Property Flipping Rule to assignment sales

The Update extends the Residential Property Flipping Rule to profits arising from the sale of an assignment on or after January 1, 2023. Specifically, this extended rule deems profits arising from the disposition of the rights to purchase a residential property via an assignment sale to be business income, where the rights were assigned after these rights were owned for less than 12 months, subject to exceptions for certain life events. This rule, which was originally proposed in the 2022 federal budget, deems profits from "flipping" residential real estate as business income, subject to certain exemptions.

Automatic advance for the Canada Workers Benefit

The Update provides individuals who received the Canada Workers Benefit for the previous year with automatic quarterly advance payments for the current year, once the CRA has received and assessed their income tax return for the previous year by November 1 of the current year. Advance payments would be issued automatically starting in July 2023 for the 2023 taxation year, and the option to apply for an advance payment under the existing provision would no longer be available after January 1, 2023.

International tax changes

Commitment to Pillars One and Two

The Update reiterates the government's commitment to Pillars One and Two of the Organization for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework). The Update states that the government is actively working with its international partners to implement this framework.

Outstanding measures

In the Update, Finance confirms its intention to proceed with a broad range of previously announced tax measures including notable changes or new rules related to:

- Enhanced reporting requirements for trusts
- Canada Recovery Dividend and the additional tax on banks and life insurers
- Small Business Deduction
- Substantive Canadian-Controlled Private Corporations
- Mandatory disclosure rules
- Hybrid mismatch arrangements
- Digital Services Tax Act
- Interest deductibility limits (EIFEL rules).

Finance also signals that it will proceed with other previously announced tax measures including:

- International Financial Reporting Standards (IFRS 17)
- Hedging and short-selling by Canadian financial institutions
- Application of the General Anti-Avoidance Rule (GAAR) to tax attributes
- Interest coupon stripping
- Tax-Free First Home Savings Account
- First-Time Home Buyers' Tax Credit
- Multigenerational Home Renovation Tax Credit
- Residential Property Flipping Rule
- Medical Expense Tax Credit for Surrogacy and Other Expenses
- Borrowing by defined benefit pension plans
- Annual disbursement quota for registered charities
- Reporting requirements for Registered Retirement Savings Plans (RRSPs) and Registered Retirement Income Funds (RRIFs)

- Fixing contribution errors in defined contribution pension plans
- Investment Tax Credit for Carbon Capture, Utilization and Storage
- Clean technology tax incentives for air-source heat pumps
- Critical Mineral Exploration Tax Credit
- Eliminating flow-through shares for oil, gas and coal activities
- Quarterly remittances and technical amendments to the Cannabis Taxation Framework
- Avoidance of tax debts
- Electronic filing and certification of tax and information returns
- Vaping taxation framework changes related to marking, customs storage, and duty liability
- Underused Housing Tax
- GST/HST, excise levies and other taxes and charges
- Allocation to redeemers methodology for mutual fund trusts
- Taxes applicable to registered investments
- Audit authorities
- Crypto asset mining
- Transfer pricing consultation
- GAAR consultation
- Amateur athletes trusts
- GST/HST joint venture election
- Tax measures and consultations announced in the 2022 federal budget for which it has not yet released legislative proposals
- Other technical amendments, including those proposed on August 9, 2022.

We can help

Your KPMG adviser can help you assess the effect of the tax changes in this year's Fall

Economic Update on your personal finances and business affairs. We can also keep you abreast of the progress of these proposals as they make their way into law.

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