TaxNewsFlash
Canada

# 2024 Federal Budget Highlights

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Canada's Deputy Prime Minister and Finance Minister Chrystia Freeland delivered the 2024 federal budget on April 16, 2024. The budget expects a deficit of $40.0 billion for 2023-24 and forecasts deficits of $39.8 billion for 2024-25, and $38.9 billion for 2025-26. Although the budget does not change the federal personal or corporate tax rates, Finance announced that it will increase the inclusion rate for capital gains realized on or after June 25, 2024, in certain circumstances. Specifically, the inclusion rate will increase to 2/3 for corporations and trusts and to 2/3 for individuals on the portion of capital gains realized in the year that exceed $250,000. Finance also provided details on related changes to increase the Lifetime Capital Gains Exemption to $1.25 million and clarified a temporary tax exemption on up to $10 million in capital gains that may be realized when a business is sold to an Employee Ownership Trust (EOT).

One of the major themes of this year's budget is to increase the affordability of housing. In particular, the budget provides several incentives for purpose-built rental housing in Canada, including an elective exemption from the interest deductibility limitation and enhanced Capital Cost Allowance (CCA) for certain new additions of property. There are also new measures intended to benefit first-time homebuyers. Finance's budget also focuses on clean economy changes, including to provide expected detail on the Clean Electricity investment tax credit, among others.

## Capital gains changes

### *Capital gains inclusion rate*

The budget increases the inclusion rate for capital gains realized on or after June 25, 2024. In particular, the budget increases the inclusion rate for corporations and trusts to 2/3 (from

1/2) and for individuals to 2/3 (from 1/2) on the portion of capital gains realized in the year that exceed $250,000.

The budget notes that the $250,000 threshold would effectively apply to capital gains realized by an individual, either directly or indirectly via a partnership or trust, net of any:

- Current-year capital losses
- Capital losses of other years applied to reduce current-year capital gains
- Capital gains in respect of which the Lifetime Capital Gains Exemption, the proposed EOT Exemption or the proposed Canadian Entrepreneurs' Incentive is claimed.

Where an individual claims the employee stock option deduction, the budget provides a 1/3 deduction of the taxable benefit to reflect the new capital gains inclusion rate, but that individual would be entitled to a deduction of 1/2 the taxable benefit up to a combined limit of $250,000 for both employee stock options and capital gains.

The budget notes that net capital losses of prior years would continue to be deductible against taxable capital gains in the current year by adjusting their value to reflect the inclusion rate of the capital gains being offset. As a result, a capital loss realized prior to the rate change would fully offset an equivalent capital gain realized after the rate change.

The budget also provides transitional rules for tax years that begin before and end on or after June 25, 2024 where two different inclusion rates would apply. Effectively, the annual $250,000 threshold for individuals would not be prorated in 2024 and would apply only in respect of net capital gains realized after June 25, 2024.

The budget notes that it intends to make other consequential amendments to reflect the new inclusion rate, and that it will release additional design details soon.

## Personal tax changes

### *Lifetime Capital Gains Exemption*

The budget increases the Lifetime Capital Gains Exemption (LCGE) to $1.25 million (from $1,016,836), with indexation of the LCGE resuming in 2026. This tax measure applies to dispositions that occur on or after June 25, 2024.

### *Canadian Entrepreneurs' Incentive*

The budget introduces the Canadian Entrepreneurs' Incentive that allows an individual taxpayer to use a 1/3 capital gains inclusion rate for the disposition of qualifying shares, subject to a lifetime limit of up to $2 million in capital gains per individual that will be phased in by increments of $200,000 per year. The budget notes that this tax measure applies in addition to any available capital gains exemption.

A share of a corporation is a qualifying share if certain conditions are met, including among others:

- The share must be a share of a “small business corporation” at the time of sale
- The share must be a share of a Canadian-Controlled Private Corporation and more than 50% of the fair market value of the corporation’s assets must generally be used principally in an active business carried on primarily in Canada by the corporation throughout the 24-month period immediately before the disposition of the share
- The taxpayer must be a founding investor at the time the corporation was initially capitalized and must hold the share for a minimum of five years prior to disposition
- The taxpayer must be actively engaged on a regular, continuous and substantial basis in the activities of the business, throughout the five-year period immediately before the disposition of the share
- The share does not represent a direct or indirect interest in certain corporations, including a professional corporation.

This measure applies to dispositions that occur on or after January 1, 2025.

### *Alternative Minimum Tax*

The budget makes further changes to the draft Alternative Minimum Tax (AMT) legislative proposals published for consultation on August 4, 2023. More specifically, the budget allows individual taxpayers to claim 80% of the Charitable Donations Tax Credit when calculating AMT (instead of 50% which was previously proposed). The budget also includes several additional amendments to fully allow certain deductions and exempt Employee Ownership Trusts from AMT, among other changes. In addition, the budget proposes several technical amendments. These amendments apply to taxation years that begin on or after January 1, 2024.

The budget further proposes to exempt certain Indigenous settlement and community trusts from AMT. The budget invites comments on this change from stakeholders by June 28, 2024.

### *Employee Ownership Trust tax exemption*

The budget provides the conditions that a taxpayer must satisfy to claim the temporary tax exemption on up to $10 million in capital gains realized on the sale of a business to an EOT. The conditions to claim the exemption include that:

- The individual, trust or partnership must dispose of shares of a corporation that is not a professional corporation

- The transferred shares must be exclusively owned by the individual claiming the exemption (or a related person or a partnership in which the individual is a member) and over 50% of the fair market value of the corporation's assets must be used principally in an active business, throughout the 24 months immediately prior to the qualifying business transfer

- The individual (or their spouse or common-law partner) must be actively engaged in the qualifying business on a regular and continuous basis for a minimum period of 24 months, at any time prior to the qualifying business transfer

- The individual and the EOT (and any corporation owned by the EOT that acquired the transferred shares) must elect to be jointly and severally, or solidarily, liable for any tax payable by the individual as a result of the exemption being denied due to a disqualifying event within the first 36 months after a qualifying business transfer. A disqualifying event would occur if an EOT loses its status as an EOT or if less than 50% of the fair market value of the qualifying business' shares is attributable to assets used principally in an active business at the beginning of two consecutive taxation years of the corporation. If the disqualifying event occurs more than 36 months after a qualifying business transfer, the EOT would be deemed to realize a capital gain equal to the total amount of exempt capital gains.

The budget notes that multiple individuals may claim the exemption for a qualifying business transfer, but the total exemption for that transfer cannot exceed $10 million. The individuals must agree on how to allocate the exemption.

The budget notes that capital gains exempted under this measure will be subject to a 30% inclusion rate for alternative minimum tax purposes. The budget also extends the normal reassessment period of an individual for a taxation year in respect of this exemption by three years.

In addition, the budget expands qualifying business transfers to include the sale of shares to a "worker cooperative" corporation as defined under the *Canada Cooperatives Act*. The government indicates that additional details will be released in the coming months.

This tax measure applies to qualifying dispositions of shares that occur between January 1, 2024 and December 31, 2026.

### *Home buyers' plan*

The budget increases the withdrawal limit under the home buyers' plan to $60,000 (from $35,000) for 2024 and subsequent calendar years in respect of withdrawals made after April 16, 2024. This increase would also apply to withdrawals made for the benefit of a disabled individual.

The budget also temporarily defers the start of the 15-year repayment period to the fifth year following the year in which a first withdrawal was made (from the second year) for participants making a first withdrawal between January 1, 2022 and December 31, 2025.

### *Mineral Exploration Tax Credit*

The budget extends eligibility for the Mineral Exploration Tax Credit for one year, to flow-through share agreements entered into on or before March 31, 2025 (instead of March 31, 2024).

### *Qualified investments for registered plans*

The budget asks for stakeholder feedback on the qualified investment rules to improve the clarity and coherence of the registered plans regime. In particular, Finance is seeking input on issues including harmonizing the rules relating to investments in small businesses and whether annuities that are qualified investments only for RRSPs, RRIFs, and RDSPs should continue to be qualified investments, among other considerations.

### *Deduction for tradespeople's travel expenses*

The budget announces that the government will consider providing for a single, harmonized deduction for tradespeople's travel, in response to a private member's bill to enact an alternative deduction for certain travel expenses of tradespeople in the construction industry, with no cap on expenses, retroactive to the 2022 taxation year.

### *Volunteer Firefighters Tax Credit and the Search and Rescue Volunteers Tax Credit*

The budget increases the Volunteer Firefighters Tax Credit and the Search and Rescue Volunteers Tax Credit to $6,000 (from $3,000). This measure applies to the 2024 and subsequent tax years.

### *Canada Child Benefit*

The budget extends eligibility for the Canada Child Benefit for six months after a child's death, for individuals that would have otherwise been eligible for the Benefit in respect of that particular child, effective for deaths that occur after 2024. This extension would also apply to the Child Disability Benefit.

### *Disability Supports Deduction*

The budget expands the list of expenses recognized under the Disability Supports Deduction effective for the 2024 and subsequent taxation years. The following expenses would qualify for this deduction, subject to the specified conditions:

- Severe and prolonged impairment in physical functions — The cost of an ergonomic work chair and the cost of a bed positioning device

- Impairment in physical or mental functions — The cost of an alternative input device and the cost of a digital pen device

- Vision impairment — The cost of a navigation device for low vision.

- Impairment in mental functions — The cost of memory or organizational aids.

The budget also expands the list to recognize expenses for certain service animals under this deduction.

## Business tax changes

### *Interest deductibility limits — Purpose-built rental housing*

The budget introduces an elective exemption from the excess interest and financing expenses limitation (EIFEL) rules for certain interest and financing expenses incurred before January 1, 2036, in respect of arm's length financing used to build or acquire eligible purpose-built rental housing in Canada. Eligible purpose-built rental housing is a residential complex:

- With at least four private apartment units (i.e., a unit with a private kitchen, bathroom, and living areas), or 10 private rooms or suites, and

- In which at least 90% of residential units are held for long-term rental.

Consistent with the broader EIFEL rules, this exemption would apply to taxation years that begin on or after October 1, 2023.

### *Accelerated CCA — Purpose-built rental housing*

The budget introduces an accelerated CCA of 10% for new eligible purpose-built rental projects that begin construction on or after April 16, 2024 and before January 1, 2031, and are available for use before January 1, 2036. Eligible property is defined in the same manner as that for the purpose-built rental housing exemption from the EIFEL rules, including projects that convert existing non-residential real estate into a residential complex or add to an existing structure that meets the definition. The accelerated CCA would not apply to renovations of existing residential complexes.

Investments eligible for this measure would continue to benefit from the Accelerated Investment Incentive, to which the half-year rule does not apply for eligible property put in use before 2028. After 2027, the half-year rule would apply.

### *Accelerated CCA — Productivity-enhancing assets*

The budget provides immediate expensing for new additions of property acquired on or after April 16, 2024 and that becomes available for use before January 1, 2027 included in Class 44 (patents or the rights to use patented information for a limited or unlimited period), Class 46 (data network infrastructure equipment and related systems software), and Class 50 (general-purpose electronic data-processing equipment and systems software).

Property that becomes available for use after 2026 and before 2028 would continue to benefit from the Accelerated Investment Incentive. Property that has been used, or acquired for use, for any purpose before it is acquired by the taxpayer would be eligible for the accelerated CCA only if:

- Neither the taxpayer nor a non-arm's-length person previously owned the property; and
- The property has not been transferred to the taxpayer on a tax-deferred basis.

The accelerated CCA would be prorated for short taxation years and would not be available in the following taxation year.

### *Canada Carbon Rebate for Small Businesses*

The budget introduces a new Canada Carbon Rebate for Small Businesses in the form of an automatic refundable tax credit for eligible businesses. The tax credit would be available to a Canadian-controlled private corporation that:

- For the 2019-20 to 2023-24 fuel charge years, files a tax return for its 2023 taxation year by July 15, 2024, and for future fuel charge years, files a tax return for a taxation year ending in the calendar year in which the fuel charge year begins, and
- Has no more than 499 employees throughout Canada in the calendar year in which the fuel charge year begins.

The tax credit amount for an eligible corporation for an applicable fuel charge year would be:

- Determined for each applicable province in which the eligible corporation had employees in the calendar year in which the fuel charge year begins, and
- Equal to the number of persons employed by the eligible corporation in the province in that calendar year multiplied by a payment rate specified by the Minister of Finance for the province for the corresponding fuel charge year.

The CRA will automatically determine and pay the tax credit amount to eligible corporations.

### *Mutual fund corporations*

The budget deems a corporation (that might otherwise qualify as a mutual fund corporation) not to be a mutual fund corporation if the corporation is controlled by or for the benefit of one or more members of a "corporate group" (i.e., persons or partnerships, or combinations of persons or partnerships that do not deal with each other at arm's length — "specified persons") that owns shares of the corporation having a fair market value in excess of 10% of the fair market value of all the issued and outstanding shares of the corporation. The rule does not apply if the corporation was incorporated not more than two years earlier, or if the aggregate fair market value of the shares of the corporation owned by specified persons does not exceed $5 million.

This amendment would apply to taxation years that begin after 2024.

### *Synthetic equity arrangements*

The budget modifies an anti-avoidance rule in the synthetic equity arrangements rules that results in the denial of the dividend received deduction in circumstances where there is a compensation payment to the counterparty to the arrangement. Specifically, the budget removes the so-called "tax-indifferent investor exception" to this anti-avoidance rule that denies the dividends received deduction on a share in respect of which there is a synthetic equity arrangement. This amendment applies to dividends received on or after January 1, 2025.

### *Manipulation of bankrupt status*

The budget removes the exception to the debt forgiveness rules for bankrupt corporations (but not for individuals) and the loss restriction rule applicable to bankrupt corporations. As a result, the general rules that apply to other corporations whose commercial debts are forgiven would apply to bankrupt corporations, as would other relief available for insolvent corporations. These changes apply to bankruptcy proceedings that are commenced on or after April 16, 2024.

## Clean economy incentives

### *Clean Electricity investment tax credit*

The budget provides additional details on the Clean Electricity investment tax credit, which allows eligible entities to claim 15% of the capital cost of eligible property. The budget includes new information on which entities and property are eligible for the credit, the associated labour requirements and potential repayment obligations, among other details. In general, the Clean Electricity investment tax credit would apply to eligible property that is acquired and becomes available for use on or after April 16, 2024 and before 2035, provided it has not been used for any purpose before its acquisition, and was not part of a project that began construction before March 28, 2023.

The eligibility requirements for the Clean Electricity investment tax credit are long and complex, and discuss many special situations. Very generally, the credit is available to taxable Canadian corporations, provincial and territorial Crown corporations, and corporations owned by municipalities or Indigenous communities and pension investment corporations. Eligible property owned by a partnership may also be eligible for the credit. The equipment eligible for the Clean Electricity investment tax credit includes:

- Equipment used to generate electricity from solar, wind, or water energy
- Concentrated solar energy equipment
- Equipment used to generate electricity, or both electricity and heat, from nuclear fission
- Equipment used for the purpose of generating electricity, or both electricity and heat, solely from geothermal energy
- Equipment that is part of a system used to generate electricity, or both electricity and heat, from specified waste materials
- Stationary electricity storage equipment
- Equipment that is part of an eligible natural gas energy system
- Equipment and structures used for the transmission of electricity between provinces and territories.

In order to qualify for this tax credit at the 15% rate, taxpayers must meet the proposed labour requirements that apply to other related clean economy credits. Further, a taxpayer can only claim one credit for a particular expenditure that is also eligible for other clean economy credits (except for the Atlantic investment tax credit in certain situations).

### *Clean Technology Manufacturing investment tax credit*

The budget extends the Clean Technology Manufacturing investment tax credit to businesses engaged in polymetallic extraction and processing, effective for property that is acquired and becomes available for use on or after January 1, 2024.

Among other changes, the budget modifies eligible expenditures to include investments in eligible property used in qualifying mineral activities that are expected to produce primarily qualifying materials at mine or well sites, including tailing ponds and mills located at these sites (i.e., eligible property must be used or be expected to be used for activities in which 50% or more of the financial value of the output comes from qualifying materials). The tax credit could generally be subject to recapture when, within a 10-year period following its acquisition, it is converted for use in a non-qualifying activity.

### *Electric Vehicle Supply Chain investment tax credit*

The budget announces the government intends to introduce a new 10% Electric Vehicle Supply Chain investment tax credit on the cost of buildings used in key segments of the electric vehicle supply chain, for businesses that invest in Canada across the following supply chain segments:

- Electric vehicle assembly
- Electric vehicle battery production
- Cathode active material production.

## International tax changes

### *Withholding for non-resident service providers*

The budget provides that the CRA may waive the requirement for a person who pays a non-resident for services provided in Canada to withhold 15% of the payments and remit it to the CRA, over a specified period, provided that:

- The payments are exempt from Canadian income tax because of a tax treaty between the non-resident's country of residence and Canada or are exempt income from international shipping or from operating an aircraft in international traffic, and
- The conditions established by the CRA are met.

This proposal would allow the CRA to waive the withholding requirement on multiple transactions with a single waiver. This measure would come into force on royal assent of the enacting legislation.

### *Crypto-Asset Reporting Framework*

The budget implements the Crypto-Asset Reporting Framework (CARF) developed by the OECD. Crypto-asset service providers that are resident in Canada or carry on business in Canada will be required to report annually to the CRA for each Canadian resident and non-resident customer and each crypto-asset, the annual value of specified crypto-asset transactions. Reportable crypto-assets would exclude central bank digital currencies and specified electronic money products required to be reported under the Budget 2024 amendments to the Common Reporting Standard (CRS). Crypto-asset service providers will also have to obtain and report information on each of their customers, including information on natural persons who exercise control over customers that are corporations or other legal entity.

### *Common Reporting Standard*

The budget amends the CRS to:

- Include specified electronic money products and central bank digital currencies which are not covered by the CARF

- Require that additional information be reported for financial accounts and account holders
- Strengthen the due diligence procedures financial institutions are required to follow
- Remove Labour-Sponsored Venture Capital Corporations (LSVCC) from the list of non-reporting financial institutions and treat a non-registered account held in an LSVCC as an excluded account provided that annual contributions to the account do not exceed US$50,000, and
- Provide that the anti-avoidance provision of the CRS applies to where it can reasonably be considered that the primary purpose of a practice or an arrangement is to avoid an obligation of any person under the CRS.

The CARF and the amended CRS would apply to the 2026 and subsequent calendar years, with the first reporting and exchange of information under the CARF and amended CRS to take place in 2027 for the 2026 calendar year.

### *Pillar One, Pillar Two and Digital Services Tax*

The budget reaffirms Canada's commitment to Pillar One. However, in view of delays in implementing the Pillar One multilateral treaty, the budget reiterates the government's plan to enact a digital services tax, which is currently before Parliament in Bill C-59. The Digital Services Tax would begin to apply for calendar year 2024, with that first year covering taxable revenues earned since January 1, 2022.

The budget also reiterates the government's intention to introduce Global Minimum Tax legislation in Parliament to implement Pillar Two.

## Indirect tax changes

### *Extending GST relief to student residences*

The budget allows universities, public colleges, and school authorities to effectively qualify for the 100% GST Rental Rebate for new qualifying purpose-built rental student housing projects. The budget also relaxes the rebate conditions for new student housing provided by universities, public colleges, and school authorities that operate on a not-for-profit basis to allow these entities to claim the rebate for any new student residence that they acquire or construct, provided it is primarily for the purpose of providing a place of residence for their students.

These measures apply to student residences that begin construction after September 13, 2023 and before 2031, and that complete construction before 2036.

### *Tobacco tax*

The budget increases the tobacco excise duty rate by $4 per carton of 200 cigarettes, effective April 17, 2024. The rate will increase as follows:

- Cigarettes (per five cigarettes or fraction thereof) — Increase to $0.92883 (from $0.82883)
- Tobacco Sticks (per stick) — Increase to $0.18576 (from $0.16576)
- Manufactured Tobacco (per 50 grams or fraction thereof) — Increase to $11.61031 (from $10.36032)
- Cigars — Increase to $40.43121 per 1,000 cigars plus the greater of $0.14533 per cigar and 88% of the sale price or duty-paid value (from $36.07829 per 1,000 cigars plus the greater of $0.12968 per cigar and 88% of the sale price or duty-paid value).

The budget notes that cigarettes held by certain manufacturers, importers, wholesalers and retailers at the beginning of April 17, 2024 would be subject to an inventory tax of $0.02 per cigarette (subject to certain exemptions) to account for the $4 increase. Taxpayers would have until June 30, 2024 to file a return and pay the cigarette inventory tax.

### *Vaping product tax*

The budget increases the vaping product excise duty rate, effective July 1, 2024. This proposed increase would also apply to the additional duty imposed in respect of participating jurisdictions under the coordinated vaping product taxation framework. The rate will increase as follows:

- Non-participating jurisdictions — $1.12 per 2 ml or fraction thereof for the first 10 ml of vaping substance in the vaping device or immediate container, and $1.12 per 10 ml or fraction thereof for amounts over the first 10 ml.
- Participating jurisdictions — $2.24 per 2 ml or fraction thereof for the first 10 ml of vaping substance in the vaping device or immediate container, and $2.24 per 10 ml or fraction thereof for amounts over the first 10 ml.

Currently, the excise duty rates are $1 per 2 ml or fraction thereof for the first 10 ml of vaping substance in the vaping device or immediate container, and $1 per 10 ml or fraction thereof for amounts over the first 10 ml for both participating and non-participating jurisdictions.

### *Other tobacco and vaping product taxation changes*

The budget proposes other tobacco and vaping product taxation changes, including to:

- Provide a new prescribed limit of up to 2500 grams of packaged raw leaf tobacco for importation for personal use, and amend the definition of "packaged", effective on the first day of the month following royal assent to the enabling legislation
- Allow the CRA to share confidential information for the purposes of the administration or enforcement of the Tobacco and Vaping Products Act, effective upon royal assent to the enabling legislation
- Require tobacco prescribed persons to file information returns for tobacco excise stamps, effective on the first day of the month following royal assent to the enabling legislation
- Authorize the CRA to specify the brands of tobacco products for export that are exempted from the special excise duty and marking requirement, effective on the first day of the month following royal assent to the enabling legislation.

### *GST/HST on face masks and face shields*

The budget repeals the temporary zero-rating of certain face masks or respirators and certain face shields under the GST/HST, effective for supplies made on or after May 1, 2024.

### *Fuel, alcohol, cannabis, and tobacco sales tax framework*

The budget provides additional flexibility to Indigenous governments seeking to exercise tax jurisdiction on their lands. Specifically, the amendments would enable Indigenous governments to enact a value-added sales tax, under their own laws, on fuel, alcohol, cannabis, tobacco, and vaping (FACT) products within their reserves or settlement lands.

## Administrative changes

### *Charities and qualified donees*

The budget modifies the operation of the rules for registered charities and other qualified donees. Among other changes, the budget proposes to allow the CRA to communicate certain official notices digitally to charities. The budget also removes the requirement that donation receipts contain certain information (e.g., the place of issuance of the receipt). These proposed legislative amendments generally apply upon royal assent.

### *Non-compliance with information requests*

The budget includes several amendments to the information gathering powers in the *Income Tax Act*.

First, the budget gives the CRA the authority to issue a notice of non-compliance to a person where the Minister believes that the person has not complied with a requirement to provide assistance or information. A person who receives a notice may, within 90 days of receiving the notice, request in writing that the Minister review the notice. Within 180 days of receiving the request to review the notice, the Minister must confirm, vary or vacate the notice, and must vacate the notice if the Minister determines that the notice was unreasonable or that the person had already reasonably complied with the request for assistance or information. After the person receives notification of the Minister's decision, the person may, within 90 days, apply to a judge to review the Minister's decision. While a notice is outstanding, the person served with the notice is liable for a penalty of $50 for each day of non-compliance, to a maximum of $25,000. Also, if a notice related to a taxpayer is issued to the taxpayer or to a person who does not deal at arm's length with the taxpayer, the normal reassessment period for the relevant taxation years of the taxpayer is suspended.

In addition, the budget allows the Minister to include in a requirement or notice for information or documents under the Minister's general audit power, the Minister's domestic requirement power, or the Minister's foreign-based information or document requirement power, an explicit requirement that the person provide any answers to questions, information or documents sought by the Minister orally, under oath or affirmation, or by affidavit.

Further, the budget gives the Minister the power to seek a compliance order from the Court for the alleged failure to comply with a requirement for foreign-based information or documents. Previously, the Minister had the power to seek a compliance order in relation to requests under the Minister's general audit power and domestic requirement letters, but not for requests for foreign-based information or documents.

The budget also introduces a new penalty where the Minister obtains a compliance order against a taxpayer. The penalty is 10% of the aggregate tax payable by the taxpayer for the relevant taxation years, if the tax payable for one of the taxation years to which the compliance order relates is $50,000 or more. Previously, the primary consequences of non-compliance with a compliance order was a contempt order.

The budget expands the circumstances in which a taxpayer's normal reassessment period is suspended where a taxpayer or non-arm's length person contests a Minister's requirement for documents or information by way of an application for judicial review or in other circumstances. The normal reassessment period will be suspended where:

- A taxpayer or non-arm's length person contests a requirement for information or documents under the Minister's general audit power

- The period during which a person contests a requirement for foreign-based information or documents
- The period during which a taxpayer or non-arm's length person contests a notice of non-compliance; and,
- The period during which a notice of non-compliance remains outstanding (as noted above).

Finally, the budget gives the Minister the explicit power to require the provision or delivery, in a reasonable manner and within a reasonable period of time and without costs to the Minister, of documents or information. This change applies both for domestic and foreign-based information requests.

The budget makes similar changes to other taxation statutes, including the *Excise Tax Act*.

These changes would come into force on royal assent of the enacting legislation.

### *Avoidance of tax debts*

The budget expands the circumstances in which there will be joint and several, or solidary, liability (under section 160 of the *Income Tax Act*) where property of a tax debtor is transferred to a non-arm's length transferee. The rules in section 160 will now apply where there has been a transfer of property from a tax debtor to another person, as part of the same transaction or series of transactions there is a separate transfer of property from a person other than the tax debtor to a person that does not deal at arm's length with the tax debtor, and one of the purposes of the transaction or series is to avoid joint and several, or solidary, liability. If these conditions are met, the property transferred by the tax debtor will be deemed to have been transferred to the ultimate non-arm's length transferee.

In addition, the existing penalty for those who engage in, participate in, assent to, or acquiesce in what the budget calls "section 160 avoidance planning" is expanded to include the new circumstances described above. Moreover, a taxpayer who participates in such avoidance planning will be jointly and severally, or solidarily, liable for the full amount of the avoided tax debt, including any amounts retained by a planner that facilitated such planning.

The budget makes similar changes to other taxation statutes, including the *Excise Tax Act*.

This rule applies in respect of a transaction or series of transactions that occurs on or after April 16, 2024.

### *Reportable and notifiable transactions penalty*

The budget amends the general provision that subjects a person who fails to file or make a return liable for a penalty up to $25,000, imprisonment, or both. Specifically, the budget removes from the scope of this provision the failure to file information returns under the reportable transactions rules (in section 237.3 of the *Income Tax Act*) and the notifiable transactions rules (in section 237.4 of the *Income Tax Act*) because these two sets of mandatory disclosure rules already contain specific penalties.

This amendment would be deemed to have come into force on June 22, 2023.

### *Other administrative changes*

The budget also announces specific administrative changes, including:

- New investments to simplify tax services and deliver benefits and services through modern technologies that are designed to meet the evolving needs of Canadians
- The piloting of new automatic filing services (SimpleFile Digital and SimpleFile by Paper) in summer 2024.

## Consultations

The budget announces that the government intends to launch several new consultations including on:

- A new tax on residentially zoned vacant land
- Expanding access to alternative financing products, like halal mortgages
- A CRA tool to complement the existing strategies of financial institutions to verify borrower income for mortgages.
- R&D and intellectual property retention (a second phase of consultations), including exploring how Canadian public companies could be made eligible for the enhanced Scientific Research and Experimental Development credit.

## Previously announced tax changes

The budget confirms that Finance intends to proceed with certain previously announced tax measures, as modified by recent consultations and deliberations. These measures include:

- Clean Hydrogen investment tax credit
- Clean Technology Manufacturing investment tax credit
- Concessional loans
- Short-term rentals
- Canadian journalism labour tax credit
- GST/HST joint venture election

- Enhanced (100%) GST Rental Rebate to qualifying co-operative housing corporations
- Proposals relating to the Underused Housing Tax
- Enhanced (100%) GST Rental Rebate for purpose-built rental housing
- Carbon Capture, Utilization, and Storage investment tax credit
- Clean Technology investment tax credit
- Enhancing the reduced tax rates for zero-emission technology manufacturers
- Employee Ownership Trusts
- Retirement Compensation Arrangements
- Intergenerational Business Transfers
- Alternative Minimum Tax
- Tax on Repurchases of Equity
- Modernizing the General Anti-Avoidance Rule
- Global Minimum Tax (Pillar Two)
- Digital Services Tax
- Excessive Interest and Financing Expenses Limitations
- Revised Luxury Tax draft regulations to provide greater clarity on the tax treatment of luxury items
- Transfer pricing
- Dividend Received Deduction by Financial Institutions
- Substantive Canadian-controlled private corporations
- Hybrid mismatch arrangements.

In the budget, the government also reaffirms its commitment to move forward as required with other technical amendments.

## We can help

Your KPMG adviser can help you assess the effect of the tax changes in this year's federal budget on your personal finances or business affairs, and point out ways to realize any benefits or ease their impact. We can also keep you abreast of the progress of these proposals as they make their way into law.

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