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2017 FEDERAL BUDGET SUMMARY

On March 22, 2017, Finance Minister Bill Morneau tabled the Liberal government's 2017 federal budget.

The budget estimates a deficit of $23.0 billion for 2016-2017 and projected deficit of $28.5 billion for 2017–18, declining to $18.8 billion by 2021–22. Instead of planning to eliminate the deficit as previously proposed, the government says it will maintain a balanced net debt-to-GDP ratio of around 31 per cent over the next five years.

The budget does not propose changes to corporate or personal income tax rates or the corporate small business deduction threshold. Furthermore, there are no proposed changes to the capital gains inclusion rate, which is currently 50%. However, the government did indicate it will release more details on its plans to limit tax-planning strategies later this year.

In order to advance its goals of reducing tax evasion and improving compliance, the government plans to give the Canada Revenue Agency an additional $523.9 million over the next five years. The government anticipates the CRA will recover $2.5 billion for its efforts.

BUSINESS INCOME TAX MEASURES

Tax Planning Using Private Corporations

The government is further reviewing the use of private corporation tax planning strategies that may reduce the personal tax of high-income earners in a manner considered inappropriate. In particular, the government has identified the following strategies for review:

- Income sprinkling — causing income (via dividends and capital gains) that would be taxable to an individual at a high rate to be realized by family members subject to a lower marginal tax rate,

- Holding of portfolio investments — corporate tax rates on ordinary business income are generally much lower than personal rates; retaining income in a private corporation can therefore facilitate accumulation of a larger pool of funds for investment

- Conversion of regular income into capital gains — causing income that would normally be paid to the shareholder as salary or dividend to be converted to capital gains, taxed at a significantly lower tax rate

The government will also examine current legislation in connection with inter-generational transfers of family businesses.

In the coming months, a paper will be released that will review these issues in detail and provide proposed policy responses.

Billed-Basis Accounting

Members of designated professions (accountants, dentists, lawyers, medical doctors, veterinarians and chiropractors) may elect to exclude the value of their work in progress (WIP) in computing their income. Where this election is made, a tax deferral is achieved as the costs associated with the WIP are deducted as incurred, whereas the revenue is recognized only when the WIP is actually billed to clients.

The Budget proposes to eliminate the WIP exclusion over a two-year period, effective for taxation years beginning after March 21, 2017.

Meaning of Factual Control

There are two main definitions of control for tax purposes — de jure or legal control and de facto or factual control.

De facto control is broader than legal control and takes into account influence that, if exercised, would result in control in fact of a corporation. It is particularly relevant for purposes of determining whether or not corporations are associated and therefore required to share the annual $500,000 small business deduction limit and certain other limits.

For taxation years beginning after March 21, 2017, all factors relevant in the particular situation, not just those that meet the criteria set out in the recent jurisprudence, shall be included in assessing whether or not de facto control is present.

Distribution of T4 Information Slips

Effective for 2017, employers will not be required to obtain express consent from employees to electronically distribute T4s (Statement of Remuneration Paid). Employers must ensure that privacy policy safeguards specified by the Minister of National Revenue are in place before an employer can electronically distribute T4s without employee consent.

Timing of Recognition of Gains and Losses on Derivatives

Derivatives are sophisticated financial instruments whose value is derived from the value of an underlying security. The Budget proposes two measures that clarify the timing of the recognition of gains and losses from derivatives held on income account.

To provide certainty regarding the choice of using the mark-to-market method, the Budget proposes an elective mark-to-market regime for derivatives held on income account so that taxpayers will be allowed to mark to market all of their eligible derivatives for taxation years beginning after March 21, 2017. Once made, the election will remain effective for all subsequent years unless revoked with the consent of the Minister of National Revenue.

The Budget proposes to introduce a specific anti-avoidance "stop-loss" rule, which will effectively defer the realization of any loss on the disposition of a position to the extent of any unrealized gain inherent in an offsetting position. This transaction is typically referred to as a "straddle transaction." This proposal will apply to any loss realized on a position entered into after March 21, 2017.

Clean Energy Generation Equipment

Capital cost allowance (CCA) classes 43.1 and 43.2 provide for accelerated CCA on clean energy generation equipment. The Budget expands the assets qualifying for these classes to include geothermal energy equipment used primarily for the purpose of generating heat or a combination of heat and electricity and certain equipment in district energy systems that use geothermal heating as an energy source.

The Budget proposes to allow expenses incurred to determine the quality and extent of geothermal resources and the cost of geothermal drilling for electricity and heating projects in this category as a deduction in the year incurred or carried forward indefinitely for use in future years.

The measures are applicable for new property acquired for use and expenses incurred after March 21, 2017.

Resource Measures

Expenditures in respect of drilling or completing a discovery well, including building access roads to or preparing the site for such wells, are currently classified as Canadian exploration expense (CEE, fully deductible in the year incurred). The Budget proposes to classify these expenditures as Canadian development expense (CDE, deductible on a 30 per cent declining-balance basis). This measure will apply to expenses incurred after 2018.

Eligible small oil and gas corporations will no longer be able to treat their first $1 million of CDE as CEE.

Child Care Space Investment Tax Credit

The Budget eliminates the investment tax credit for child care space expenditures incurred after March 21, 2017. Expenditures incurred before 2020 pursuant to written agreements entered into before March 22, 2017 will still be eligible for the investment tax credit.

PERSONAL INCOME TAX MEASURES

Tuition Tax Credit

Effective January 1, 2017, the Budget proposes to expand the types of courses that are eligible for the Tuition Tax Credit.

Occupational skills courses that are not at the post-secondary level taken at a college or university or other post-secondary institution will now be eligible for the credit. Furthermore, the scholarship exemption for bursaries related to such courses will be allowed provided that all other conditions for the exemption are met.

Simplifying the Caregiver Credit System

The Budget proposes to simplify the Caregiver Credit, Infirm Dependent Credit and Family Caregiver Tax Credit, by replacing them with a single new, non-refundable credit, the Canada Caregiver Credit.

This new credit will provide tax relief of up to 15 per cent of $6,883 (in 2017) for expenses for care of dependent relatives with infirmities, and up to 15 per cent of $2,150 (in 2017) for expenses for care of a dependent spouse/common-law partner or minor child with an infirmity.

This new credit will start to be reduced when the dependent’s net income is above $16,163 (in 2017).

There is no requirement for the dependent to live with the caregiver to claim the credit.

Disability Tax Credit — Certification by Nurse Practitioners

The Budget proposes to allow nurse practitioners to certify impairments for purposes of the Disability Tax Credit. This measure will be effective for certifications made after March 21, 2017.

Medical Expense Tax Credit — Fertility-Related Expenses

For the 2017 taxation year and beyond, persons who require medical intervention to conceive, even if not infertile, will explicitly be allowed to claim the credit for expenses that would generally be eligible for someone who has an infertility condition.

Mineral Exploration Tax Credit for Flow-Through Share Investors

Eligibility for the Mineral Exploration Tax Credit is proposed to be extended for one year under the Budget. The credit will apply to flow-through share agreements entered into on or before March 31, 2018.

Public Transit Tax Credit

The Public Transit Credit is proposed to be eliminated under the Budget for transit use after June 30, 2017.

Home Relocation Loans Deduction

The Budget proposes to eliminate the home relocation loans deduction for benefits realized on January 1, 2018, and beyond. Accordingly, an individual who receives a loan from their employer that qualifies as an eligible home relocation loan will no longer be entitled to offset any imputed interest benefit in the 2018 taxation year and beyond.

Anti-avoidance Rules for Registered Plans

The anti-avoidance rules that currently exist for Registered Retirement Savings Plans and Tax-Free Savings Accounts are proposed to be extended to RESPs and RDSPs under the Budget. These changes will apply to transactions occurring after March 22, 2017, with the following exceptions.

First-Time Donor's Super Credit

The Budget confirms the expiration of the First-Time Donor's Super Credit, as planned, after 2017.

SALES TAX, EXCISE TAX AND OTHER MEASURES

Taxi and Ride-Sharing Services

To ensure that the GST/HST applies consistently to taxi services and ride-sharing services, effective July 1, 2017, the definition of a taxi business will be amended to require providers of ride-sharing services to register for the GST/HST and charge tax on their fares in the same manner as taxi operators.

Tobacco and Alcohol Taxation

Effective March 23, 2017, the Budget proposes to repeal the 10.5 per cent surtax on manufacturers of tobacco products with a coordinated increase to the excise duty rates on tobacco.

Excise duties on alcohol products are proposed to be increased by two per cent, effective March 23, 2017, with annual indexing of rates thereafter.

Custom Tariff and Special Import Measures

The Budget proposes a number of amendments to the Special Import Measures Act and related regulations which are intended to strengthen Canada's trade remedy system and ensure that it is aligned with Canada's obligations under World Trade Organization rules.

Prior to implementing any strategies, individuals and corporations should consult a qualified tax advisor. If you would like to further discuss your personal situation, contact us.