CORPORATE Newsletter

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2014 Budget Measures That May Affect Your Business

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Budget Details

To date, the federal Budget and most of the provincial and territorial budgets have been presented. The only exceptions are Ontario and Nunavut. There have been very few significant tax changes this year even at the federal level, with some of the provincial budgets being presented with no income tax changes at all. The federal Budget continues to tighten the tax evasion rules and plug miscellaneous tax loopholes. The biggest change centered on the taxation of estates and trusts. With most economies struggling to show much improvement, most governments chose not to make many changes. The following commentary highlights the major tax changes that may affect your business.

Federal

The federal Budget contained no corporate tax rate changes.

Farmers and Fisherman Capital Gains Exemption

A clarification has been made so that property used primarily in farming and fishing is included in the rollover provision available on the death of a taxpayer farmer. Previously, the application of these rules had only applied to a farming operation or a fishing operation. This correction now allows a farmer who is involved in both farming and fishing to apply the rollover provisions. These new rules apply to 2014 and subsequent years.

Captive Insurance

The Canadian foreign affiliate system is designed to preclude taxpayers from shifting certain Canadian-source income to no-tax or low-tax jurisdictions. Under these rules, certain passive or similar income earned by a controlled foreign affiliate of a taxpayer resident in Canada constitutes Foreign Accrual Property Income ("FAPI"), and is taxable in the hands of the Canadian taxpayer on an accrual basis.

The specific rule in the *Income Tax Act* is intended to prevent Canadian taxpayers, such as financial institutions, from shifting income from the insurance of Canadian risks (i.e., risks in respect of persons resident in Canada, property situated in Canada, or businesses carried on in Canada) to a foreign jurisdiction. This rule provides that income from the insurance of Canadian risks constitutes FAPI where 10% or more of the gross premium income (net of reinsurance ceded) of a foreign affiliate of the Canadian taxpayer, in respect of all risks insured by the affiliate, is premium income from Canadian risks. The

sections of the Act that deal with these provisions are being extended to capture in FAPI any such income that is earned by the foreign affiliate through connected agreements or arrangements. Although the Canada Revenue Agency is challenging some of these arrangements under the existing provisions of the *Income Tax Act*, including under the general anti-avoidance rule, the government has decided to undertake specific legislative action to provide that these arrangements give rise to FAPI.

The proposed amendment will apply to taxation years of taxpayers that begin on or after February 11, 2014.

Back-to-Back Loans

As with the previous provision, the government is moving to introduce more forceful anti-avoidance measures to preclude the use of back-to-back loan arrangements by adding a specific anti-avoidance rule in the Act. It will spell out in detail where unacceptable transactions occur. Back-to-back loan arrangements are sometimes used by certain taxpayers to avoid the non-resident tax and certain interest payments where loans are made by non-residents.

British Columbia

The B.C. Budget contained no corporate tax rate changes.

LNG Tax

Later this year, the government will introduce legislation to implement LNG Income Tax which will be a two-tier tax with a Tier 1 rate of 1.5% and a Tier 2 rate of up to 7%. Regulations and additional legislation will follow in 2015.

The LNG Income Tax will apply to income from liquefaction of natural gas at LNG facilities in British Columbia.

Corporate Income Tax Preference for Credit Unions Phased Out

As announced March 20, 2013, the federal government is phasing out its preferential income tax treatment for credit unions over five years beginning in 2013. The provincial Income Tax Act will be amended to correspondingly phase out the preferential income tax treatment for credit unions over five years, beginning in 2016.

Distant Location Tax Credit Extended to Capital Regional District

The Film and Television Production Regulation will be amended to include the Capital Regional District ("CRD") as a distant location for the purposes of the distant location tax credit. Effective for productions with principal photography beginning on or after February 19, 2014, the distant location tax credit will apply in the CRD.

Scientific Research and Experimental Development Tax Credit Extended

The British Columbia scientific research and experimental development tax credit is extended for an additional three years to September 1, 2017.

Alberta

The Alberta Budget contained no corporate tax rate changes.

Qualifying Environmental Trusts

Effective January 1, 2014, Alberta will parallel the federal Qualifying Environmental Trusts tax regime. Qualifying Environmental Trusts in Alberta will now be required to pay tax at the corporate rate on their annual income, and corporate beneficiaries will be eligible to receive refundable tax credits equal to the amount of tax paid by their Qualifying Environmental Trusts to Alberta.

Small Business Dividend Tax Credit

The federal government introduced measures for 2014 that lower the gross-up factor for dividend tax credits from 25% to 18%, applicable to dividends paid out of income and taxed at the small business rate. As a consequence, Alberta will adjust the dividend tax credit rate for dividends paid out of income and taxed at the small business rate to 3.1%, starting in 2014.

Saskatchewan

The Saskatchewan Budget contained no corporate tax rate changes.

Credit Union Tax Reduction

Saskatchewan will maintain the provincial income tax reduction for credit unions, despite the phase-out of the equivalent federal tax reduction. Therefore, Saskatchewan legislation will be amended to maintain the current level of provincial taxation.

Manitoba

The Manitoba Budget contained no corporate tax rate changes.

Small Business Venture Capital Tax Credit

The small business venture capital tax credit for eligible shares issued after 2014 will see a credit increase from 30% to 45%, and the maximum credit increase from $45,000 to $67,500. As well, the lifetime limit on eligible shares that can be issued will double from $5 million to $10 million.

Community Enterprise Development Tax Credit

The community enterprise development tax credit, which was scheduled to expire at the end of 2014, will be extended until December 31, 2019.

Co-op Education and Apprenticeship Tax Credit

The co-op education and apprenticeship tax credit, which was scheduled to expire at the end of 2014, will be extended indefinitely. Improvements are also being introduced for employers with a taxation year ending after 2014.

Cultural Industries Printing Tax Credit

Changes were announced to cap the cultural industries printing tax credit at $30,000 per book title. Requirements for an eligible book will also be amended.

Tax Credits Extended

The mineral exploration tax credit will be extended to cover flow-through share agreements entered into before April 1, 2018.

In addition, the following tax credits, which were scheduled to expire at the end of 2014, have been extended to December 31, 2017:

- manufacturing investment tax credit;
- book publishing tax credit; and
- odour control tax credit.

Rental Housing Construction Tax Credit

The Budget announced that provisions relating to the rental housing construction tax credit will be amended to clarify the affordable unit requirements and the certification process.

Tax Discounters

The Budget announced changes that will allow a tax discounter's licence to be withheld or withdrawn for repeatedly filing inaccurate tax credit claims.

Quebec

The Quebec Budget contained no corporate tax rate changes.

Capital Régional et coopératif Desjardins Shares

The government announced that Capital Régional et coopératif Desjardins (CRCD) may issue $150 million in shares for 2014, irrespective of the formula that would limit such an issue, to enable CRDC to maintain financing activities in Quebec's remote regions at the current levels. The government also intends to allow the CRDC to help finance businesses located in 16 additional regions facing economic difficulties.

Tax Credit to Foster the Modernization of the Tourism Industry

Qualifying tourist accommodation establishments can claim a credit of 25% of the amount by which the total of such qualified expenditures exceeds an annual threshold of $50,000 for the year. It is proposed that the annual threshold of $50,000 will be replaced with a single threshold of $50,000 which can be incurred in the current year or in a prior year. Once the single threshold of $50,000 is reached, no further threshold will apply. This will apply to corporate taxation years ending after February 20, 2014

New Fund of Venture Capital Funds in Quebec

It was also announced that the government, in collaboration with partners in the private sector, will assist in the creation of a new fund of venture capital funds in Quebec. For its part, the Quebec government will invest $50 million in this endeavour.

Harmonization with Tax Measures of the 2014 Federal Budget

Quebec will harmonize with most of the initiatives brought forth by the recent federal Budget. It proposes to adopt the following corporate tax initiatives:

- registering organizations or associations that receive gifts from foreign states that support terrorism;
- making changes to the anti-avoidance rule concerning captive insurance corporations;
- adding new eligibility conditions to the exception relating to offshore regulated financial institutions;
- making changes to the anti-avoidance rule currently contained in the thin capitalization rules;
- increasing the thresholds determining how frequently employers must remit withholdings at source; and

- making changes concerning the accelerated capital cost allowance for clean energy generation equipment to include water-current energy equipment and gasification equipment.

The Fight Against Tax Evasion

The government vows to continue the fight against corruption and evasion in the tax reporting regime through the following initiatives:

- installing sales recording modules in all bars and resto-bars;
- implementing a system of attestation for employment agencies;
- implementing a system of attestation for the construction industry;
- increasing the number of inspections carried out by government agencies; and
- increasing the case management capacity of the financial penal system.

New Brunswick

The New Brunswick Budget contained no corporate tax changes.

Nova Scotia

Harmonized Sales Tax will remain at 15%. This is a reversal of the previous NDP government's commitment to reduce the rate to 14% on July 1, 2014, and 13% on July 1, 2015.

Prince Edward Island

The P.E.I. Budget contained no corporate tax changes.

Newfoundland and Labrador

Newfoundland and Labrador's small business corporate income tax rate will be reduced from 4% to 3%, effective July 1, 2014.

Yukon

The small business tax rate is being reduced from 4% to 3%.

Northwest Territories

The Northwest Territores Budget contained no corporate tax changes.

Nunavut

As of the date of the composition of this article, Nunavut had yet to present its 2014-2015 Budget.

Ontario

As of the date of the composition of this article, Ontario had yet to present its 2014-2015 Budget..