



2011 Budgets – Measures Affecting Your Business

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The Canada Revenue Agency (CRA) has highlighted a few business measures from the federal government's 2011 Budget on its Web site using a question/answer format. The highlighted measures are summarized in this newsletter.

Partnerships with Corporate Partners

In prior years, corporate members holding a significant interest in a partnership were able to take advantage of tax deferral opportunities due to differing taxation years between the corporation and partnership.

For corporations who are members of a partnership with taxation years ending after March 22, 2011, additional income other than dividends must be accrued from the partnership of which it is a member for the portion of the partnership's fiscal period that falls within the corporation's taxation year (stub period). Generally, the amount of the additional income

accrual is the corporation's estimated share of partnership income related to the stub period. Two formal methods may be used to calculate the stub period accrual income: the formulaic approach or the designation approach.

The *formulaic approach* uses a formula to calculate the stub period accrual income in a taxation year and can be determined as follows:

$$A \times B/C$$

where:

A is the corporation's share of income, other than dividends, from the partnership for the partnership's fiscal periods that end in the taxation year;

B is the number of days in the stub period; and

C is the number of days in the partnership's fiscal periods that end in the taxation year.

The *designation approach* involves choosing to designate a stub period income accrual that is lower than the amount determined under the formulaic approach, but is never less than nil. If the amount designated as stub period accrual income is less than the lesser of the actual amount of the share of partnership income for the stub period and the amount calculated under the formulaic approach, the corporation will have to include an additional income amount in the following taxation year.

A transitional reserve may be available to spread the additional income over the five taxation years ending after the corporation's first taxation year ending after March 22, 2011. For example, a corporation with a December 31, 2011 year-end will

be required to include 15% of additional income in the taxation year ending in 2012, 20% in 2013, 2014, and 2015, and 25% in 2016.

These rules will apply to both single-tier and multi-tier partnership structures. The rules apply to a corporation which is a member of a partnership at the end of the taxation year, as well as having the partnership's last fiscal period beginning in the taxation year ending in a subsequent taxation year of the corporation. Also, the corporation, together with affiliated and related parties, must be entitled to more than 10% of the partnership's income (or assets in the case of a wind-up) at the end of the last fiscal period of the partnership that ended in the corporation's taxation year.

Among other conditions, a partnership may file a one-time election with the Minister of National Revenue to change its fiscal period if all the members of the partnership are corporations.

Hiring Credit for Small Business (HCSB)

Cash flow is particularly crucial in the start-up of a small business. Many entrepreneurs fall into the trap of dipping into their payroll source deduction remittances in order to alleviate cash shortfalls. This can lead to debt, penalties, interest, and multiple audits from the CRA.

One incentive introduced in the most recent federal Budget is a one-time credit of up to \$1,000 based on the increase of an employer's EI premiums paid for 2011 over those paid for 2010. To be eligible for the credit, the total employer's EI premiums paid for 2010 must be a maximum of \$10,000 and 2011 total premiums must have increased over 2010.

The calculation of the credit is simple in that the credit is the difference between 2011 total employer premiums and 2010 total employer premiums, up to maximum of \$1,000. The credit will be initiated by the CRA when the employer's 2011 T4 information return is filed, presumably when due at the end of February 2012. Employers must file their 2011 T4 information return(s) by December 31, 2014 in order to obtain the credit.

If the eligible employer has an existing debt with the CRA, the credit can still be calculated and will be applied towards the debt.

Unfortunately, employers will not be allowed to adjust their 2011 payroll remittances in order to take into consideration the credit they think they will receive. Normal remittance calculations will still need to be made and remitted to the CRA.

Taxpayer Fairness Mechanisms

The CRA endeavors to provide excellent service levels to Canadians. One of their most recent efforts has been in the area of taxpayer fairness.

From independent consultations conducted in 2010, the CRA discovered that there is low public awareness for various taxpayer fairness mechanisms, including from tax professionals who often misunderstand their scope and use. They did confirm that front line CRA employees who provide direct support to the public are indeed appropriately trained on the various fairness policies and that online and published information provided by the CRA is complete. However, this information can be hard to find and there can be confusion over processes to resolve service-related issues and the legislative redress mechanisms.

In response to these consultations, the CRA has developed an action plan to enhance the accessibility to tax fairness mechanisms. Improvements include enhancing the Web site to simplify navigation and search capabilities and to provide specific information to specific stakeholder groups, revising the CRA's guides, pamphlets, and other publications to ensure references to the fairness mechanisms are clear and easy to understand, and finally, using a variety of media to reach out to external stakeholders through professional journals, speaking engagements, Web sites, and other electronic media.

Responses to Enquiries using My Business Account

In recent years, the CRA has aggressively pushed providing information electronically. Their newest initiative, starting in 2012, will be providing written responses to business enquiries on the CRA Web site using My Business Account. Written responses to be provided by the CRA relating to the My Business Account feature will be more specific than general enquiries but less technical than income tax rulings.

Filing Penalty for Information Returns

Currently, if an information return is not filed by the last day of February following the calendar year to which the information return applies, the CRA uses a graduated penalty structure based on the number of information returns/slips outstanding. Penalties range from \$10 to \$75 per day to a maximum penalty of \$1,000 to \$7,500. The CRA received feedback from many small businesses stating that the current penalty structure is not fair, as it is possible to have a disproportionate impact relative to the financial transactions being reported. The CRA will review the current structure and make changes in order to improve fairness in the future.

Redesign of the T4A Slip

Tax return preparers often find interpreting information disclosed on a T4A slip difficult, as most types of income are disclosed as "Other Income—Box 28", with no other additional information to guide tax return preparers on which line to include the income.

The CRA recently redesigned the T4A slip in the hopes of making the slip simpler to read and to provide data quality. In the redesigned version of the slip, a new Box 048 was created so that going forward, the CRA requires all fees for service to be reported in Box 048.

Other Measures

Other business measures proposed by the 2011 federal Budget were not mentioned on the CRA Web site. For example, the Web site did not provide any further information on the proposed exception to the stop-loss rules on the disposition of shares on which a tax-free dividend was received. The Budget proposes to narrow the existing exception and thus broaden the application of the stop-loss rules to any deemed dividend arising on the redemption of shares held by a corporation (whether the shares are held directly or indirectly through a partnership or trust). More information on the measures proposed in the Budget can be found on the Department of Finance Canada Web site.