



## Budget 2024 Tax Measures

### IN THIS ISSUE

#### International Tax Measures

#### Business Income Tax Measures

##### Clean Electricity Investment Tax Credit

Budget 2024 provides the design and implementation details of the Clean Electricity investment tax credit announced in Budget 2023. Eligible corporations must be:

- taxable Canadian corporations;
- provincial or territorial Crown corporations;

- corporations owned by municipalities;
- corporations owned by Indigenous communities; or
- pension investment corporations.

The following types of equipment would be eligible for the credit:

- equipment used to generate electricity from solar, wind, or water energy;
- concentrated solar energy equipment, but limited to equipment used to generate electricity;
- 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 and equipment used for pumped hydroelectric energy storage, but excluding equipment that uses any fossil fuel in operation;

- equipment that is part of an eligible natural gas energy system; and
- equipment and structures used for the transmission of electricity between provinces and territories.

Qualifying expenditures could include capital expenditures to refurbish existing facilities.

The 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
- not part of a project that began construction before March 28, 2023.

### **Clean Technology Manufacturing Investment Tax Credit**

Budget 2024 proposes adjustments to the Clean Technology Manufacturing investment tax credit to provide greater support to businesses engaged in the production of qualifying materials at polymetallic projects. Budget 2024 proposes to clarify that the value of qualifying materials would be used as the appropriate output metric when assessing the extent to which property is used or is expected to be used for qualifying mineral activities producing qualifying materials.

Budget 2024 also proposes to modify 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. The “primarily” test would generally mean that eligible property must be used or expected to

be used for activities in which 50% or more of the financial value of the output comes from qualifying materials.

To mitigate against the effects of mineral price volatility on the potential recapture of the tax credit, Budget 2024 also proposes to provide a safe harbour rule applicable to the recapture rule.

These changes would apply for property that is acquired and becomes available for use on or after January 1, 2024.

### **Accelerated Capital Cost Allowance (“CCA”)**

Budget 2024 proposes to provide an accelerated CCA of 10% for new eligible purpose-built rental housing projects that begin construction on or after April 16, 2024 and before January 1, 2031, and are available for use before January 1, 2036. Projects that convert existing non-residential real estate into a residential complex would be eligible if the conditions are met. The cost of a new addition to an existing structure would be eligible, provided the addition meets the conditions.

### **Immediate Expensing for Productivity-Enhancing Assets**

Budget 2024 proposes to provide immediate expensing for new additions of property in respect of 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), if the property is acquired on or after April 16, 2024 and becomes available for use before January 1, 2027. The enhanced allowance would provide a 100% first-year deduction and would be available only for

the year in which the property becomes available for use.

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 both of the following conditions are met:

- 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 "rollover" basis.

### Canada Carbon Rebate for Small Businesses

Budget 2024 proposes to return a portion of fuel charge proceeds from a province via the new Canada Carbon Rebate for Small Businesses, an automatic, refundable tax credit for eligible businesses sized in proportion to the number of persons they employ in the province.

With respect to the 2019–20 to 2023–24 fuel charge years, the tax credit would be available to a Canadian-controlled private corporation that files a tax return for its 2023 taxation year by July 15, 2024. Additionally, to be eligible for a credit in respect of an applicable fuel charge year, the corporation would need to have had no more than 499 employees throughout Canada in the calendar year in which the fuel charge year begins.

The tax credit amount in respect of 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. The tax credit amount would be 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 tax credit would return proceeds for future fuel charge years, including 2024–25, in a similar manner.

### Interest Deductibility Limits—Purpose-Built Rental Housing

Legislative proposals to implement the excessive interest and financing expenses limitation ("EIF-EL") rules are currently before Parliament in Bill C-59. The EIFEL rules provide an exemption for interest and financing expenses incurred in respect of arm's length financing for certain public-private partnership infrastructure projects. Budget 2024 proposes expanding this exemption to also include an elective exemption 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.

This change would apply to taxation years that begin on or after October 1, 2023.

### Non-Compliance With Information Requests

Budget 2024 proposes several amendments to the information gathering provisions in the *Income Tax Act*. These proposed amendments are intended to enhance the efficiency and effectiveness of tax audits and facilitate the collection of tax revenues on a timelier basis. These amendments would come into force on royal assent of the enacting legislation.

### Avoidance of Tax Debts

Budget 2024 proposes to introduce a supplementary rule to strengthen the tax debt anti-avoidance rule, applicable in the following circumstances:

- 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 has been a separate transfer of property from a person other than the tax debtor to a transferee 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.

Where these conditions are met, the property transferred by the tax debtor would be deemed to have been transferred to the transferee for the purposes of the tax debt avoidance rule.

The *Income Tax Act* contains a penalty for those who engage in, participate in, assent to, or acquiesce in planning activity that they know, or would reasonably be expected to know, is tax debt avoidance planning. Budget 2024 proposes to extend this penalty to tax debt avoidance planning that is subject to the proposed supplementary rule. Budget 2024 further proposes that taxpayers who participate in tax debt avoidance planning be jointly and severally, or solidarily, liable for the full amount of the avoided tax debt, including any portion that has effectively been retained by the planner.

These measures would apply to transactions or series of transactions that occur on or after April 16, 2024.

### **Mutual Fund Corporations**

Budget 2024 proposes amendments to the *Income Tax Act* to preclude a corporation from qualifying as a mutual fund corporation where it is controlled by, or for the benefit of, a corporate group (including a corporate group that consists of any combination of corporations, individuals, trusts, and partnerships that do not deal with

each other at arm's length). Exceptions would be provided to ensure that the measure does not adversely affect mutual fund corporations that are widely held pooled investment vehicles.

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

### **Synthetic Equity Arrangements**

Budget 2024 proposes to remove the tax-indifferent investor exception (including the exchange traded exception) to the anti-avoidance rule. This measure would simplify the anti-avoidance rule and prevent taxpayers from claiming the dividend received deduction for dividends received on a share in respect of which there is a synthetic equity arrangement.

This measure would apply to dividends received on or after January 1, 2025.

### **Manipulation of Bankrupt Status**

Budget 2024 proposes to repeal the exception to the debt forgiveness rules for bankrupt corporations and the loss restriction rule applicable to bankrupt corporations. This change would subject bankrupt corporations to the general rules that apply to other corporations whose commercial debts are forgiven.

These proposals would apply to bankruptcy proceedings that are commenced on or after April 16, 2024.

### **International Tax Measures**

#### **Crypto-Asset Reporting Framework and the Common Reporting Standard**

Budget 2024 proposes to implement the Crypto-Asset Reporting Framework ("CARF") in Cana-

da. Budget 2024 also proposes to implement amendments to the Common Reporting Standard ("CRS") that have been endorsed by the OECD in connection with the CARF.

These measures would apply to the 2026 and subsequent calendar years.

### **Withholding for Non-Resident Service Providers**

Budget 2024 proposes to provide the CRA with the legislative authority to waive the withholding requirement for payments to non-res-

ident service providers, over a specified period, if either of the following conditions are met:

- the non-resident would not be subject to Canadian income tax in respect of the payments because of a tax treaty between its country of residence and Canada; or
- the income from providing the services is exempt income from international shipping or from operating an aircraft in international traffic.

This measure would come into force on royal assent of the enacting legislation.