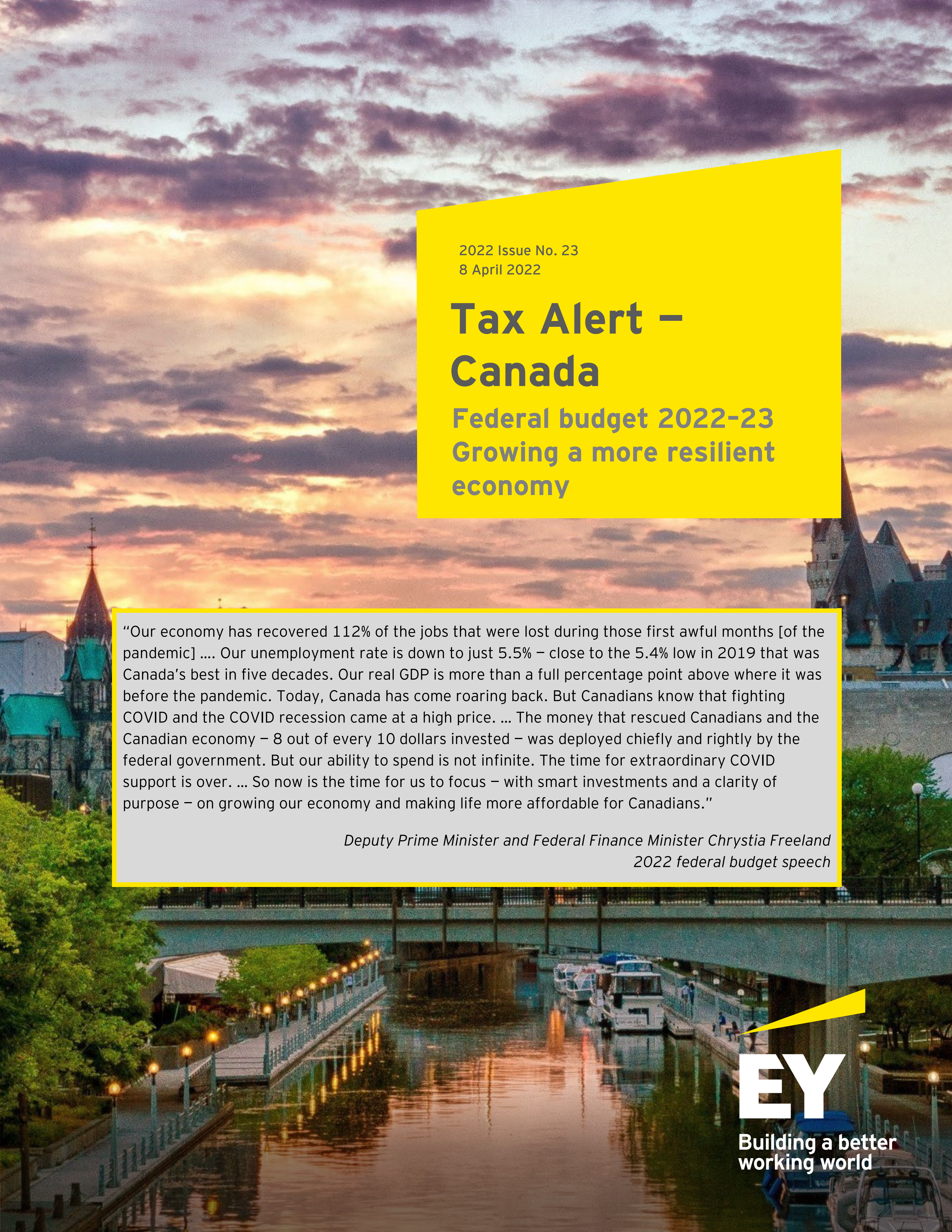

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Tax Alert — Canada

Federal budget 2022-23 Growing a more resilient economy

"Our economy has recovered 112% of the jobs that were lost during those first awful months [of the pandemic] …. Our unemployment rate is down to just 5.5% — close to the 5.4% low in 2019 that was Canada's best in five decades. Our real GDP is more than a full percentage point above where it was before the pandemic. Today, Canada has come roaring back. But Canadians know that fighting COVID and the COVID recession came at a high price. … The money that rescued Canadians and the Canadian economy — 8 out of every 10 dollars invested — was deployed chiefly and rightly by the federal government. But our ability to spend is not infinite. The time for extraordinary COVID support is over. … So now is the time for us to focus — with smart investments and a clarity of purpose — on growing our economy and making life more affordable for Canadians."

Deputy Prime Minister and Federal Finance Minister Chrystia Freeland
2022 federal budget speech

Building a better working world

Tax policy and economic outlook

On April 7, 2022, federal Finance Minister Chrystia Freeland tabled her second budget. This budget focuses on priorities including: investing in building more homes and making the housing market fairer for Canadians; making it easier for skilled immigrants to make Canada their home and to do the jobs they're trained for; making it more affordable for people working in the skilled trades to travel to where the work is; investing in high-quality, affordable child care for more Canadians; investing in Canada's abundant metals and minerals that are essential to the transition to a green economy; making investments in productivity and innovation; and increasing investment in the Canadian Armed Forces and undertaking a defence policy review to respond to the more dangerous geopolitical situation.

In her budget speech, Minister Freeland stated, "Mr. Speaker, let me be very clear: we are absolutely determined that our debt-to-GDP ratio must continue to decline. Our deficits must continue to be reduced. The pandemic debt we incurred to keep Canadians safe and solvent must — and will — be paid down."

The minister anticipates deficits of $113.8 billion for fiscal 2021–22, $52.8 billion for 2022-23 and $8.4 billion by fiscal 2026–27.

Business income tax measures

Corporate tax rates

Budget 2022 proposes raising the general corporate income tax rate by 1.5% (from 15% to 16.5%) on banks and life insurers (and any financial institution that is related to a bank or a life insurer), effective for taxation years ending after April 7, 2022. In addition, a Canada Recovery Dividend in the form of a one-time tax of 15% is proposed to apply to these entities based on taxable income above $1 billion for the 2021 tax year. See **Measures targeting financial institutions** below.

No changes are proposed to the small business rate or to the $500,000 small business limit. However, Budget 2022 proposes to increase the threshold for the complete phase-out of the small business limit from $15 million to $50 million of taxable capital, effective for taxation years beginning on or after April 7, 2022. See **Small business deduction** below.

Current and proposed future corporate income tax rates are summarized in Table A.

Table A – Federal corporate income tax rates*

	Current rate	2022	2023
General corporate rate** General corporate rate for banks and life insurers***	15.0% 15.0%	15.0% 16.1%	15.0% 16.5%
Small-business rate**	9.0%	9.0%	9.0%

*Rates represent calendar-year rates.

** The 2021 federal budget proposed to temporarily reduce the corporate income tax rate for qualifying zero-emission technology manufacturers by 50% (i.e., to 7.5% for eligible income otherwise subject to the 15% general corporate income tax rate or 4.5% for eligible income otherwise subject to the 9% small business corporate income tax rate), applicable for taxation years beginning after 2021. The reduced tax rates are proposed to be gradually phased out for taxation years beginning in 2029 and fully phased out for taxation years beginning after 2031. Draft legislative amendments to implement this proposal were released on February 4, 2022. Refer to EY Tax Alert 2022 Issue No. 6.

*** To apply to banks and life insurers. See discussion below.

Small business deduction

Budget 2022 proposes to provide additional access to the small business deduction for some Canadian-controlled private corporations (CCPCs). Under current rules, the ability to access the $500,000 small business deduction is reduced when a CCPC has taxable capital greater than $10 million. The $500,000 is reduced to nil when the CCPC has taxable capital of $15 million or more. The new proposal will change the formula such that the small business deduction will not be reduced to nil until the CCPC has taxable capital of $50 million.

The new measures are intended to be applicable to taxation years that begin on or after April 7, 2022.

Substantive CCPCs

The *Income Tax Act* imposes Part I refundable tax on investment income (e.g., capital gains, interest and royalties) earned by CCPCs. This regime generally seeks to eliminate the income tax advantage associated with earning investment income in a private corporation compared to earning such investment income personally.

A private corporation that is not a CCPC is not subject to refundable Part I tax, such that in certain circumstances it may be advantageous for a private corporation to cease to be a CCPC. As a result of the different tax treatment afforded to non-CCPCs, tax planning strategies that rely on a loss in CCPC status prior to the realization of investment income have been developed to avoid the application of refundable Part I tax to such investment income.

Budget 2022 proposes amendments to the *Income Tax Act* that seek to eliminate this potential advantage and tax passive income earned by private corporations that have ceased to be CCPCs in the same manner as if they had remained CCPCs. Specifically, Budget 2022 introduces the concept of a "substantive CCPC."

A substantive CCPC is defined to be a private corporation (other than a CCPC) that at any time in a taxation year:

- Is controlled, directly or indirectly, in any manner whatever by one or more Canadian-resident individuals; or

- Would, if all shares held by Canadian-resident individuals were owned by a particular individual resident in Canada, be controlled by that particular individual.

A substantive CCPC will generally be taxed in the same manner as a CCPC with respect to investment income:

- Investment income of a substantive CCPC will be subject to a federal tax rate of 38 2/3%, of which 30 2/3% would be refundable.

- Investment income earned by a substantive CCPC will be added to the substantive CCPC's "low rate income pool."

It is intended that the concept of substantive CCPCs would only be applicable for these purposes, and corporations would continue to be treated as non-CCPCs for other purposes under the *Income Tax Act*.

Budget 2022 indicates that these measures are intended to capture scenarios where CCPC status has been intentionally manipulated, as well as scenarios where CCPC status has been lost due to the existence of a right of a nonresident or public corporation to acquire the shares of the corporation.

These new rules will be accompanied by:

- An anti-avoidance provision intended to address particular arrangements or transactions where it is reasonable to consider that the arrangement, transaction, or series of transactions was undertaken to avoid the anti-deferral rules applicable to investment income.

- Targeted amendments intended to facilitate administration and enforcement of the new rules, including a one-year extension to the normal reassessment period for consequential assessments of Part IV tax arising from a corporation being assessed or reassessed a dividend refund.

These measures are intended to apply to taxation years ending on or after April 7, 2022. However, there is a carve-out for certain transactions entered into before April 7, 2022, where:

- The taxation year of the corporation ends because of an acquisition of control (AOC) arising due to the sale of all or substantially all of the shares of the corporation to an arm's length purchaser.
- The purchase and sale agreement pursuant to which the AOC relates was executed before April 7, 2022.
- The share sale occurs before the end of 2022.

Deferring tax using foreign resident corporations

The foreign accrual property income (FAPI) rules prevent Canadian taxpayers from gaining a tax deferral advantage by earning passive income (e.g., interest, certain dividends, rents, royalties) through a controlled foreign affiliate. Generally, where a controlled foreign affiliate of a Canadian taxpayer has earned FAPI, the rules require that the taxpayer include their relevant share of FAPI in taxable income in the year the income is earned. Where the taxpayer is a CCPC, the FAPI is considered investment income of the CCPC generally subject to Part I refundable tax of 38 2/3%.

To avoid double taxation, the FAPI regime generally permits a Canadian taxpayer to claim a deduction in respect of foreign taxes paid (foreign accrual tax) in respect of such FAPI. This deduction is a proxy for a foreign tax credit on the amount of FAPI included in the Canadian taxpayer's income. The proxy amount is calculated based on the amount of foreign income that was subject to a sufficient level of foreign tax, determined based on the "relevant tax factor," which is presently 4 for corporations (including CCPCs). As a result, where the foreign tax rate applicable to the FAPI was 25% or more, a corporate taxpayer is generally entitled to a full foreign accrual tax deduction in respect of the FAPI.

Where the foreign tax rate applicable is sufficiently high to achieve a full foreign accrual tax deduction but lower than the tax rate applicable to aggregate investment income otherwise earned by a CCPC, a tax deferral may be realized by earning passive investment income through a controlled foreign affiliate. In addition, certain amounts of FAPI are included in the general rate income pool (GRIP) balance of the controlled foreign affiliate's CCPC shareholder, permitting the CCPC to pay eligible dividends to its individual shareholders, which are subject to a preferential tax rate.

Budget 2022 proposes amendments to the *Income Tax Act* intended to align the taxation of investment income earned by CCPCs and their controlled foreign affiliates. These amendments include the following:

- Adjusting the relevant tax factor applicable to CCPCs and substantive CCPCs from 4 to 1.9 (i.e., the relevant tax factor currently applicable to individuals)

- The exclusion from GRIP of an amount equal to inter-corporate dividend deductions claimed in respect of dividends paid out of a foreign affiliate's hybrid surplus and taxable surplus and in respect of the payment of withholding tax to a foreign government on inter-corporate dividends received from a foreign affiliate prescribed to be paid out of taxable surplus
- The introduction of new additions to the capital dividend account (CDA) of CCPCs and substantive CCPCs, including:
  - The amount of any inter-corporate dividend deductions claimed with respect to a dividend paid out of hybrid surplus less the amount of withholding tax paid with respect to such dividend
  - The amount of an inter-corporate dividend deduction claimed with respect to a dividend paid out of taxable surplus
  - The amount of a withholding tax deduction claimed less the withholding tax paid in respect of a dividend paid out of taxable surplus

These measures are intended to apply to taxation years that begin on or after April 7, 2022.

Clean technologies-related investment tax credit

A new tax credit was also announced with the intent of helping Canadian companies adopt clean technologies. The government is engaging with experts in the design of this credit, with details to be announced in the 2022 fall economic statement. Budget 2022 documents do indicate that the credit could be up to 30% and will focus on net-zero technologies, battery storage solutions and clean hydrogen.

Investment tax credit for carbon capture, utilization and storage

Budget 2022 proposes to introduce a refundable investment tax credit for businesses that incur eligible expenditures related to carbon capture, utilization and storage (CCUS). Specifically, eligible expenses will be those in respect of the cost of purchasing and installing eligible equipment used in an eligible CCUS project. The rate of the credit will vary depending on the type of eligible equipment and when the expenditure is incurred, as outlined in Table B.

Table B – Tax credit rates

	Expenditures incurred after 2021 through 2030	Expenditures incurred after 2030 through 2040
Eligible capture equipment used in a direct air capture project	60%	30%
All other eligible capture equipment	50%	25%
Eligible transportation, storage and use equipment	37.5%	18.75%

Eligible equipment is equipment that is used solely to capture, transport, store or use CO_2 as part of an eligible CCUS project and put in use in Canada. Such equipment will be included in two new capital cost allowance (CCA) classes (with 8% and 20% declining-balance basis CCA rates). These classes would be eligible for enhanced first-year depreciation under the Accelerated Investment Incentive. The tax credit can be claimed in respect of the taxation year in which the expenses are incurred, regardless of when the equipment becomes available for use. The extent to which the tax credit is available will depend on the end use of CO_2 being captured, and eligible uses will initially include dedicated geological storage and storage in concrete. Enhanced oil recovery would not be eligible.

CO_2 must be captured in Canada but can be stored or used outside Canada. Initially, for geological storage, the CCUS tax credit will only be available on projects that store the CO_2 in Saskatchewan or Alberta. Storage in concrete will be considered an eligible use provided the process (which must be approved by Environment and Climate Change Canada) can demonstrate that at least 60% of the CO_2 is locked into the concrete produced.

Projects with eligible expenses of $100 million or greater will undergo an initial project tax assessment to identify expenses eligible for the CCUS tax credit and the tax credit rate. Eligible expenses will be verified by Natural Resources Canada as soon as possible after the end of the taxpayer's taxation year, and in advance of filing its tax return, in order for the refund to be processed upon filing. Administrative details of this process will be provided at a later date.

Taxpayers will also be required to produce a climate-related financial disclosure report highlighting how their corporate governance, strategies, policies and practices will help manage climate-related risks and opportunities and contribute to achieving Canada's commitments of net zero by 2050. Details on this process and information will be shared at a later date.

Mineral exploration tax credit

Budget 2022 introduces a new critical mineral exploration tax credit (CMETC) that provides a 30% tax credit on certain specified mineral exploration expenditures renounced to flow-through share investors. Eligible specified mineral exploration expenditures include those related to the exploration of nickel, cobalt, lithium, graphite, copper, rare earth elements, vanadium, tellurium, gallium, scandium, titanium, magnesium, zinc, platinum group metals or uranium. The minerals in this group have been targeted because of their key role in the production and processing of advanced materials, semiconductors and clean technology, including batteries and permanent magnets used in zero-emission vehicles.

The CMETC will generally follow the rules for the existing 15% mineral exploration tax credit, but both credits cannot be earned on the same expenditure. The 30% CMETC only applies to the exploration costs of the specific minerals mentioned above.

For expenses to be eligible for the CMETC, a qualified person (as defined by the Canadian Securities Administrators as of April 7, 2022) must certify that the expenditures that will be renounced will be incurred as part of an exploration project that targets the specified minerals. The CMETC would not be earned if the qualified person fails to demonstrate that there is a reasonable expectation that the minerals targeted by the exploration are primarily specified minerals. The CMETC applies to expenditures renounced under eligible flow-through share agreements entered into after April 7, 2022 and on or before March 31, 2027.

Flow-through shares for oil, gas and coal activities

Budget 2022 proposes to eliminate the flow-through share regime for oil, gas and coal activities, effective for expenditures renounced under flow-through share agreements entered into after March 31, 2023. Flow-through share agreements allow corporations to renounce Canadian exploration expenses and Canadian development expenses to investors, who can then deduct the expenses in calculating their taxable income at a 100% or 30% rate on a declining balance basis, respectively.

International tax measures

International tax reform

Canada is one of 137 members of the Organisation for Economic Co-operation and Development (OECD)/Group of 20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework) that have joined a two-pillar plan for international tax reform agreed to on October 8, 2021. Pillar One is intended to reallocate a portion of taxing rights over the profits of large/profitable multinational enterprises (MNEs) to market countries (i.e., where their users and customers are located). Pillar Two is intended to ensure that the profits of large MNEs are subject to an effective tax rate of at least 15% in each jurisdiction in which the MNE earns profits. In Budget 2022, the government affirms its commitment to move ahead with the two-pillar plan.

Pillar One – Reallocating taxing rights

The traditional approach for taxing business income is that the income must have nexus to the jurisdiction applying the tax, and the income is earned either by a subsidiary or a "permanent establishment" in that country. With the digitalization of the global economy, this traditional approach may limit the taxing rights of market countries, especially on MNEs that may carry out value-generating activities in the country via remote means or that rely on the exploitation of intangible property held outside the country.

Pillar One is intended to provide market countries with expanded taxing rights, where the profit determined is not dependent so much on nexus but relies more on a formulary apportionment approach based on an allocation key. As proposed, in-scope entities generally include MNEs with global revenues above €20 billion and a profit margin above 10%.
The result is to essentially reallocate a portion of profits (so-called "Amount A") to market countries. Implementation will likely require significant changes to global tax treaties through a multilateral convention.

The government indicates that it is "actively working with its international partners to develop the model rules and the multilateral convention needed to establish the new multilateral tax framework" that would be necessary to successfully bring Pillar One into effect.

Digital Services Tax

However, as part of a so-called back-up plan, the government released draft legislation for a Digital Services Tax (DST) in December 2021, followed by a period of consultation that ended in February 2022. The government stated that the DST could be imposed as of January 1, 2024, but only if the multilateral convention implementing the Amount A tax framework has not come into force. It should be noted that if the DST comes into force, amounts under the DST would be payable as of 2024 *in respect of revenues earned as of January 1, 2022*. As such, not only will there be a period of uncertainty as to whether or not the DST will come into force, but if the DST does come into force, the government is indicating that the DST may apply retroactively in respect of transactions arising on or after January 1, 2022 (although not payable until 2024).

Pillar Two – Global minimum tax

Pillar Two is a framework for a minimum tax applicable to MNEs with annual revenues of €750 million or more. It is designed to ensure these MNEs are subject to a minimum effective tax rate (ETR) of 15% on their profits in every jurisdiction in which they operate.

Pillar Two is generally intended to be implemented through changes to domestic tax laws. The Inclusive Framework approved detailed model rules (the Model Rules), published on December 20, 2021, as well as a commentary (the Commentary) providing guidance on their interpretation and operation, published on March 14, 2022. A statement released by the Inclusive Framework in October 2021 (the October Statement) provides that Inclusive Framework countries implementing Pillar Two are required to do so in a way that is consistent with the outcomes provided for under the Model Rules and the Commentary.

Generally speaking, the Pillar Two framework is composed of three charging rules. These include (in general order of application):

(1) At their option, jurisdictions may implement a domestic minimum top-up tax (DMTT) that would apply an additional tax on low-tax constituent entities located in that jurisdiction to effectively bump the jurisdictional ETR to 15%.

(2) An "income inclusion rule" (IIR) that allows jurisdictions to apply the jurisdictional top-up tax to parent companies of low-taxed constituent entities.

(3) An "undertaxed profits rule" (UTPR), which is a backstop rule that generally applies if no top-up tax is otherwise collected under the first two rules, and generally allows all jurisdictions that have implemented a UTPR to divide up and charge entities that are part of the MNE group and located in that jurisdiction a proportion of the top-up tax based on a formulary apportionment approach.

The October Statement provides that countries should implement Pillar Two effective in 2023, with the UTPR coming into effect in 2024.

Budget 2022 proposes to implement Pillar Two, along with a DMTT that would apply to Canadian entities of MNEs that are within the scope of Pillar Two. The government anticipates that draft implementing legislation would be publicly released for consultation and the IIR and DMTT would come into effect in 2023 as of a date to be fixed. The UTPR would come into effect no earlier than 2024.

Further, Budget 2022 is launching a public consultation on the implementation in Canada of the Model Rules and a DMTT. Under the construct of the Model Rules, the IIR must be a "Qualified IIR" in order for other countries to not apply the UTPR to charge the top-up tax, which could otherwise result in the top-up tax being charged more than once. In order for an IIR to be a Qualified IIR, domestic law of a jurisdiction must be implemented and administered in a way that is consistent with the outcomes provided for under the Model Rules and the Commentary. In light of this, the principal purpose of the consultation process is to adapt the Model Rules to the Canadian legal and income tax context, but where Canada's version of the IIR would be a Qualified IIR, and not to seek views on major design aspects or broader policy considerations. Included in the Supplementary Information to Budget 2022 are numerous specific questions. The government invites all parties who are interested in participating in the consultation to send written submissions by July 7, 2022.

Interest coupon stripping

Part XIII of the *Income Tax Act* generally imposes a 25% withholding tax on interest paid or credited by a Canadian resident to a non-arm's length nonresident. However, withholding tax does not generally apply on interest paid to arm's length persons or non-arm's length Canadian residents. Further, the 25% rate is generally reduced for interest paid to a resident in a country with which Canada has a tax treaty. Most notably, a 0% rate generally applies to US residents under the Canada–US tax treaty.

Past amendments to the interest withholding tax rules were made to address so-called coupon stripping arrangements. These targeted arrangements are where a nonresident lender sold its right to receive future interest payments (interest coupons) to nonresident arm's length persons, but where the nonresident lender generally retained its right to the principal amount under the loan. As such, the past amendments ensure that withholding tax that would apply if the interest were paid to the non-arm's length lender continues to apply even if the interest is technically paid to an arm's length person. However, Budget 2022 identified two variations of coupon stripping arrangements in respect of which the past amendments do not apply. The variations include where the interest coupon is sold to, for example, a US resident person (and the US resident claims the 0% rate under the Canada–US treaty rate) or sold to a Canadian resident person (and thus the Part XIII withholding simply does not apply).

Budget 2022 proposes an amendment so as to ensure that total interest withholding tax paid under an interest coupon stripping arrangement is the same as if the arrangement had not been undertaken (i.e., as if the interest was factually paid or credited to the non-arm's length nonresident lender). For these purposes, an interest coupon stripping arrangement would be considered to exist if the following two conditions are satisfied:

- A Canadian-resident borrower pays or credits a particular amount to a person or partnership (interest coupon holder) as interest on a debt (other than a publicly offered debt obligation) owed to a non-arm's length nonresident person (nonresident lender); and

- The withholding tax that would be payable in respect of the particular amount, if that amount were paid or credited to the nonresident lender, is greater than the withholding tax otherwise payable on the particular amount paid or credited to the interest coupon holder.

Where an interest coupon stripping arrangement exists, the Canadian-resident borrower would be deemed, for the purposes of the withholding tax rules, to pay an amount of interest to the nonresident lender such that the withholding tax on the deemed interest payment equals the withholding tax otherwise avoided as a result of the interest coupon stripping arrangement.

This measure would apply to interest paid or payable by a Canadian-resident borrower to an interest coupon holder to the extent that such interest accrued on or after April 7, 2022. However, if the interest payment is in respect of a debt or other obligation incurred by the Canadian-resident borrower before April 7, 2022 — and is made to an interest coupon holder that deals at arm's length with the nonresident lender and that acquired the interest coupon under an agreement entered into, and evidenced in writing, before April 7, 2022 — then the measure would apply to interest paid or payable by the Canadian-resident borrower to the interest coupon holder to the extent that such interest accrued on or after April 7, 2023.

It should be noted that the Supplementary Information also states that depending on the facts, the two variations of interest coupon stripping arrangements could be challenged by the government based on existing rules in the *Income Tax Act*.

Exchange of tax information on digital economy platform sellers

As the digital economy continues to grow rapidly, a rising number of online sellers make use of digital platforms to carry on business through digital platforms. In Canada, the onus is generally on taxpayers earning business income, including platform sellers, to report to the Canada Revenue Agency (CRA) the income they have earned. However, not all online sellers are aware of the tax implications of their activities.

In order to address these concerns, Budget 2022 proposes to implement the model rules developed by the OECD for reporting by digital platform operators with respect to their platform sellers.

As such, it is proposed that "reporting platform operators" that provide support to the "reportable sellers" for "relevant activities" be required to report on an annual basis to the CRA the jurisdiction of residence of their reportable sellers, as well as certain information on them. Very generally, these terms are defined as follows:

- **Reporting platform operators** would be entities that are engaged in (i) contracting directly or indirectly with sellers to make the software that runs a platform available for the sellers to be connected to other users, or (ii) collecting compensation for the relevant activities facilitated through the platform.

Reporting platform operators would generally only be platform operators that are resident of Canada for tax purposes, or platform operators that are not resident of Canada or of a partner jurisdiction that also implemented the OECD model and that facilitate relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada.

- **Reportable sellers** would essentially be active users who are registered on a platform to perform relevant activities. Certain sellers that represent a limited compliance risk will be excluded.

- **Relevant activities** would be relevant services (services involving time, rental of immovable property and rental of means of transportation) and sales of goods.

Reporting platform operators would be required to report to the CRA specified information on reportable sellers by January 31 of the year following the calendar year for which a seller is identified as a reportable seller. As this measure is part of the international OECD initiative, the CRA would automatically exchange information with its partner jurisdictions' tax administrations.

This measure would apply to calendar years beginning after 2023. This would allow the first reporting and exchange of information to take place in early 2025 with respect to the 2024 calendar year.

Measures targeting financial institutions

Budget 2022 introduces two targeted measures aimed at banks and life insurers, originally raised in the 2021 Liberal federal election platform.

Canada Recovery Dividend

The first measure targets corporations in bank and life insurance groups. The Canada Recovery Dividend (CRD) applies a one-time 15% tax to the 2021 taxable income of any members in the group that are banks, life insurers and other related financial institutions as defined for Part VI of the *Income Tax Act*. The group will have a $1b taxable income exemption to be shared between members. The CRD is to be imposed in the 2022 taxation year and payable equally over a five-year period.

Additional tax on banks and life insurers

The second measure to specifically target bank and life insurers groups is to increase the tax rate by 1.5%. As with the CRD, impacted corporations are members of the group that are banks, life insurers and other related financial institutions (as described above). For this additional tax, there is a shareable taxable income exemption of $100 million. This measure applies for taxation years ending after April 7, 2022; the additional tax will be prorated for taxation years straddling this date.

Budget 2022 addresses concerns of aggressive tax planning arrangements by financial institution groups in respect to dividend received deductions.

Hedging and short selling by financial institutions

Subject to certain exceptions, a Canadian corporation that receives a taxable dividend from another Canadian corporation is generally able to claim a deduction for that dividend (dividend received deduction or DRD). Under the securities lending arrangement (SLA) tax regime, dividend compensation payments paid to a lender under an SLA are generally not deductible, except where the amount is paid by a registered securities dealer (RSD). RSDs are permitted a two-thirds deduction.

Budget 2022 proposes new measures to deny the DRD when both a DRD and a two-thirds dividend compensation payment deduction are claimed within a financial institution group that does not have economic exposure to the Canadian share. The budget provides an example where one corporate group has both a Canadian bank that holds shares of a Canadian company and an RSD that borrows identical shares and sells them short, such that the corporate group is not economically exposed. When a dividend is paid on these Canadian shares, the bank claims a DRD and the RSD claims a two-thirds deduction for the dividend compensation payment it makes to the lender.

Under the budget proposals, no DRD will be available on dividends received by a taxpayer on a Canadian share where a non-arm's length RSD hedges the taxpayer's economic exposure and the RSD knows or ought to know that its transaction results in this hedge. A denial of the DRD will also apply in cases where an RSD enters in similar transactions on its own. In these two situations where the DRD is denied, the RSD can claim a full deduction in respect of the dividend compensation payments made.

For hedging transactions in place before April 7, 2022, these amendments will apply to dividends and related dividend compensation payments paid after September 2022. For all other transactions, the proposals will apply to dividends and related dividend compensation payments paid or payable on or after April 7, 2022.

IFRS 17

Effective January 1, 2023, IFRS 17 will be the new accounting standard for insurance contracts and will substantively change the financial reporting for insurance and reinsurance companies. IFRS 17 will introduce a new reserve, the "contractual service margin" (CSM), representing a portion of profits on underwritten insurance contracts that is deferred and gradually released into income over the estimated life of the insurance contracts.

Finance had previously issued a news release supporting the use of IFRS 17 accounting income as a basis to determine income for tax purposes. However, Finance indicated that it would not allow the CSM reserve to be treated as deductible for tax purposes. In the 2022 federal budget, Finance maintains its view with relieving modifications.

Under the budget, CSM will not be deductible for tax purposes for life insurers (with the exception for CSM associated with segregated fund reserves, which will be fully deductible), mortgage insurers and title insurers. However, the budget does allow 10% of CSM to be deducted in respect of life (other than segregated fund reserves), mortgage and title insurance contracts. This deduction is intended to reflect future non-attributable expenses included as part of the CSM. The 10% deductible portion will then be included in income for tax purposes when the non-attributable expenses are incurred in the future.

Three transitional rules were also included in the IFRS 17 measures:

- Five-year transition period for smoothing tax impacts of insurance reserves converting from IFRS 4 to IFRS 17, including the 90% non-deductible portion of the CSM;
- Five-year transition period for potential mark-to-market adjustments on certain fixed-income assets arising on the adoption of IFRS 9; and
- Transitional deduction with respect to reclassification of certain reserves from IFRS 4 insurance contracts to IFRS 17 investment contracts. A deduction for the investment contract amount will be allowed given that the premium income for these contracts was originally taxed.

Property and casualty insurers' current tax treatment will be maintained under the view that the CSM reserve is largely insignificant due to the short-term nature of these insurance contracts; however, a five-year transition period is also available for IFRS 4 to IFRS 17 conversion impacts.

Federal capital tax for large financial institutions under Part VI of the *Income Tax Act* will also be amended to reflect possible tax base erosion due to IFRS 17 financial statement changes. For life insurers, the non-deductible CSM and accumulated other comprehensive income will be required to be added to the tax base, and deferred tax assets will no longer be deducted.

The proposed measures, including the transitional rules, apply as of January 1, 2023.

Anti-avoidance measures

Intergenerational share transfers

Section 84.1 of the *Income Tax Act* is an anti-surplus stripping rule designed to prevent the extraction of corporate surplus as a capital gain and would often apply to the intergenerational transfer of shares of a corporation. On June 29, 2021, private member's Bill C-208, *An Act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation)* received Royal Assent. Bill C-208 contained amendments to section 84.1 including the introduction of an exception to the application of section 84.1 in respect of certain intergenerational transfers. Budget 2022 indicates that this exception may unintentionally permit surplus stripping without requiring a genuine intergenerational business transfer.

The minister announced the commencement of a consultation process soliciting feedback from taxpayers as to how the existing rules could be modified to facilitate genuine intergenerational business transfers while maintaining the integrity of the tax system. Budget 2022 indicates that proposed legislation to address these issues may be introduced in the fall of 2022.

General Anti-Avoidance Rule

In 2018, the Federal Court of Appeal (*1245959 Alberta Ltd. v Canada (Attorney General)*, 2018 FCA 114 [*Perry Wild*]) held that transactions that modify tax attributes did not give rise to a "tax benefit" under the General Anti-Avoidance Rule (GAAR) until the attribute was applied or used to reduce, avoid or defer tax. This meant that in issuing a Notice of Determination with respect to a tax attribute, the CRA could not adjust the attribute by applying the GAAR.

Budget 2022 and the accompanying Notice of Ways and Means Motion proposes to amend the definition of a "tax benefit" for purposes of the GAAR to include any reduction, increase or preservation of an amount that could at a subsequent time be relevant for purposes of computing a taxpayer's tax (or other amount payable under the *Income Tax Act*) or refund.

This measure would come into force on April 7, 2022. However, it would also apply retroactively to transactions prior to April 7, 2022 in respect of any Notice of Determination issued by the CRA on or after that date unless all objection and appeal rights in respect of the determination have been exhausted.

Tax measures for individuals and trusts

Personal income tax rates

There are no individual income tax rate or tax bracket changes in this budget. The brackets will continue to be indexed for inflation. See Table C for the 2022 federal rates and the Appendix for the top combined marginal rates by province and territory.

Table C – Federal personal income tax rates

	2022
Up to $50,197	15.0%
$50,198 to $100,392	20.5%
$100,393 to $155,625	26.0%
$155,626 to $221,708	29.0%
Over $221,708	33.0%

Tax-Free First Home Savings Account

Budget 2022 proposes to introduce a new Tax-Free First Home Savings Account (FHSA) to help Canadians save for a downpayment on their first home. With this new registered account, prospective first-time home buyers will be able to save up to $40,000. Contributions to an FHSA will be tax deductible, and income earned in the account will not be subject to tax. Qualifying withdrawals made to purchase a first home will be non-taxable. These accounts will be available in 2023.

Features of the proposed FHSA announced in Budget 2022 are as follows:

- The FHSA will be available to Canadian residents who are at least 18 years old and have not lived in a home they owned in the year or the preceding four years.
- The lifetime contribution limit will be $40,000, with an annual contribution limit of $8,000 beginning in 2023.
- Unused annual contribution room will not be allowed to be carried forward.
- Amounts withdrawn to make a qualifying first home purchase will not be subject to tax, while amounts withdrawn for other purposes will be taxable.
- An individual may hold more than one FHSA, but total contributions may not exceed the annual and lifetime limits, and non-taxable withdrawals will be limited to a single property in the individual's lifetime.
- Transfers from an FHSA to a registered retirement savings plan (RRSP) or registered retirement income fund (RRIF) will be allowed on a tax-free basis, but amounts will be taxable when withdrawn from the RRSP or RRIF. Such transfers will not affect the individual's available RRSP room.
- Withdrawals and transfers from an FHSA will not replenish FHSA contribution limits.
- Transfers from an RRSP to an FHSA will be allowed on a tax-free basis, subject to the FHSA annual and lifetime contributions limits. Such transfers will not replenish RRSP room.
- After making a withdrawal to purchase a home, an individual will be required to close their FHSAs within one year and will not be permitted to open another FHSA.
- If an individual has not used funds in their FHSA for a qualifying first home purchase within 15 years of first opening the account, the FHSA will have to be closed and unused savings either transferred into an RRSP or RRIF or withdrawn on a taxable basis.

Interaction with the existing Home Buyers' Plan (HBP):

The HBP will continue to be available, under which an individual may withdraw up to $35,000 tax free from an RRSP to purchase or build a home, on the condition that amounts withdrawn be repaid to the RRSP over a period not exceeding 15 years. However, an individual will not be permitted to make both an FHSA withdrawal and an HBP withdrawal in respect of the same home purchase.

Residential property flipping rule

- Budget 2022 introduces a new rule to ensure profits from flipping residential real estate are subject to full taxation and are not eligible for capital gains treatment or the principal residence exemption. Specifically, profits (i.e., gains) that arise from the disposition of residential real estate (including a rental property) that was owned for less than 12 months will, subject to certain exceptions, be deemed to be business income (which is not eligible for the 50% capital gains inclusion rate). Where the new deeming rule applies, the principal residence exemption will not be available.

- Exceptions to the new deeming rule include dispositions of property that occur in relation to at least one of the following life events: the death of the taxpayer or a related person, a household addition (e.g., birth of a child or care of an elderly parent), a separation (where the taxpayer and their spouse or common-law partner have been living separate and apart because of a breakdown in their relationship for at least 90 days), personal safety concerns (e.g., threat of domestic violence), a disability or illness, an employment change (in the case of a new work location, the taxpayer's home must be at least 40 km closer to the new work location), an insolvency (or to avoid insolvency) or an involuntary disposition (e.g., an expropriation).

- If the new deeming rule does not apply because of one of the exceptions listed above or because the property was owned for 12 months or more, it will be a question of fact as to whether the profits from the disposition are taxed as a capital gain or as business income.

- This new rule will apply for residential properties sold after December 31, 2022. The budget papers also indicate that Canadians will be consulted on the draft legislative proposals.

Labour mobility deduction for tradespeople

- It is not uncommon for employees in the construction industry to be required to relocate on a temporary basis in order to work on a particular project. While in certain circumstances allowances paid by an employer for travel and accommodation may be received tax free, where the employee is required to pay such expenses, tax relief may not be available for certain temporary relocations under the current rules. Moving expenses are only deductible in respect of an "eligible relocation," which requires the taxpayer to change the location where they "ordinarily reside."

- Budget 2022 introduces a new labour mobility deduction for eligible tradespeople and apprentices in the construction industry in respect of certain travel and relocation expenses. The proposed deduction imports some of the concepts from the tax-free allowance in subsection 6(6) of the *Income Tax Act*, namely that the workplace must be located in Canada and at least 150 km away, the temporary relocation must be for at least 36 hours and the employee must also maintain their ordinary residence that remains available for the employee's use or that of their immediate family.

- The quantum of the deduction cannot exceed 50% of employment income from construction activities at the particular work location and is capped at $4,000.
- This deduction would apply to 2022 and subsequent taxation years.

Tax credit changes

Budget 2022 includes the following tax credit proposals:

Multigenerational home renovation tax credit

- Budget 2022 introduces a new 15% refundable multigenerational home renovation tax credit (for up to $50,000 in eligible expenses for a qualifying renovation), effective for the 2023 and subsequent taxation years (in respect of work performed and paid for and goods acquired on or after January 1, 2023). A qualifying renovation is a renovation that creates a secondary unit to permit an eligible person (a senior or an adult with a disability) to live with a qualifying relation. A secondary unit is defined as a self-contained dwelling unit with a private entrance, kitchen, bathroom facilities and sleeping area. Eligible expenses (including the cost of labour and professional services, building materials, fixtures, equipment rentals and permits) must be incurred during the renovation period for the purpose of the qualifying renovation and must be reasonable.
- To be an eligible person, the individual must be 65 years of age or older at the end of the taxation year that includes the end of the renovation period, or 18 years of age or older at the end of the taxation year that includes the end of the renovation period and eligible for the disability tax credit at any time in that year. A qualifying relation in respect of the eligible person is an individual who is 18 years of age or older at the end of the taxation year that includes the end of the renovation period and is a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece or nephew of the eligible person (and includes the spouse or common-law partner of one of those individuals).
- The credit may be claimed by an individual who ordinarily resides (or intends to ordinarily reside) in the eligible dwelling within 12 months after the end of the renovation period and is the eligible person, the spouse or common-law partner of the eligible person, or a qualifying relation of the eligible person. The credit may also be claimed by a qualifying relation who owns the eligible dwelling. One qualifying renovation may be claimed in respect of an eligible person over their lifetime.

Home buyers' tax credit

- The home buyers' tax credit (HBTC) is available to first-time home buyers who acquire a qualifying home to occupy as their principal residence. The individual buying the home must be a first-time home buyer, meaning that neither the individual nor the individual's spouse or common-law partner owned and lived in another home in the year or in any of the four preceding years. This condition does not apply if the home is acquired by or for an individual who is eligible for the disability tax credit. The HBTC is calculated as $5,000 multiplied by 15% (the lowest marginal tax rate for 2022), which results in a non-refundable tax credit of $750. The credit may be split between spouses or common-law partners, as long as the total credit does not exceed $750.

- Budget 2022 proposes to double the HBTC amount to $10,000, which would result in a $1,500 tax credit to eligible home buyers. Spouses or common-law partners would continue to be able to split the credit, as long as the total combined credit does not exceed $1,500. This measure would apply to qualifying home purchases made on or after January 1, 2022.

Home accessibility tax credit

- The home accessibility tax credit is a non-refundable tax credit for eligible renovations or alterations to an eligible home that make it more accessible for a qualifying individual. A qualifying individual is one who is eligible to claim the disability tax credit at any time in the year, or who is 65 years of age or older at the end of the year. The credit is calculated by multiplying the amount of eligible expenses up to a maximum of $10,000 by 15% (the lowest marginal rate for 2022).

- Budget 2022 proposes to enhance the credit by increasing the annual expense limit to $20,000 for expenses incurred in 2022 and subsequent taxation years.

Medical expense tax credit

- Budget 2022 proposes to provide a broader definition of "patient" for purposes of the medical expense tax credit where an individual relies on a surrogate or a donor of sperm, ova or embryos to become a parent. The proposal will allow medical expenses incurred in Canada and paid by the taxpayer, or the taxpayer's spouse or common-law partner, with respect to a surrogate mother (e.g., expenses paid by the intended parent to a fertility clinic for an in vitro fertilization procedure with respect to a surrogate mother) or a donor of sperm, ova or embryos to be eligible for the credit.

  In addition, the budget proposes to allow reimbursements paid by the taxpayer to a patient, under this expanded definition, to be eligible for the credit, provided that the reimbursement is made in respect of an expense that would generally qualify under the credit (e.g., reimbursements paid by the taxpayer for expenses incurred by a surrogate mother with respect to an in vitro fertilization procedure or prescription medication related to their pregnancy). Fees paid to fertility clinics and donor banks to obtain donor sperm or ova to become a parent will also be eligible for the credit.

- These measures will apply to expenses incurred in the 2022 and subsequent taxation years.

Other personal tax measures

- **Reporting requirements for RRSPs and RRIFs** – Financial institutions are required to report annually to the CRA the payments out of, and contributions to, each RRSP and RRIF they administer. Budget 2022 proposes to expand the annual reporting required of financial institutions to the CRA to include the total fair market value (determined at the end of the calendar year) of property held in each RRSP and RRIF they administer. This measure would apply to 2023 and subsequent taxation years.

- **Alternative minimum tax** – Budget 2022 indicates that the government will examine a new minimum tax regime that will go further towards ensuring that wealthy Canadians pay their fair share of tax. Details on a proposed new approach will be released in the 2022 fall economic and fiscal update.

- ***Children's Special Allowances Act*** – The children's special allowance provides payments to eligible child protection agencies and institutions in respect of children who are in their care. Budget 2022 proposes various amendments to the *Children's Special Allowances Act* and its regulations, effective retroactively to the 2020 and subsequent taxation years. For example, proposed amendments would allow an Indigenous governing body to be recognized, where all other eligibility requirements are met, as an eligible applicant for the special allowance. The proposals also provide for adjustments to be made to the definition of Indigenous governing body for purposes of the special allowance.

- **Kinship care providers and foster parents of Indigenous children** – Budget 2022 proposes to amend the *Income Tax Act*, effective retroactively to the 2020 and subsequent taxation years, to clarify that a kinship care provider may be considered to be the parent of a child in their care for purposes of the Canada Workers Benefit amount for families and the Canada Child Benefit, regardless of whether they receive financial assistance from an Indigenous governing body, and to ensure that financial assistance payments for the care of a child received by kinship care providers or foster parents from an Indigenous governing body are neither taxable nor included in income for purposes of determining entitlement to income-tested benefits and credits.

Borrowing by defined benefit pension plans

Defined benefit registered pension plans are only permitted to borrow money in very limited circumstances. Except in the case where money is borrowed to purchase income-producing real estate, the term of a loan cannot exceed 90 days and property of the pension cannot be pledged as security for the loan. Budget 2022 proposes to provide more flexibility to administrators of defined benefit pension plans (other than individual pension plans) by replacing the 90-day limit with a limit based on the assets and liabilities of the pension.

This measure would apply to amounts borrowed by defined benefit pension plans (other than individual pension plans) on or after April 7, 2022.

Charities and non-profit organizations

Budget 2022 proposes the following measures relating to charities:

Changes to the disbursement quota of registered charities

- Increase the disbursement quota, or minimum annual spending requirement, from 3.5% to 5% for the portion of property not used in charitable activities or administration that exceeds $1 million, to promote the timely disbursement of funds by larger charities.

- Amend the current relieving provision that allows a charity, on approval by the CRA, to report a deemed charitable expenditure for a taxation year where it cannot meet its disbursement quota. Instead, the CRA will have the discretion to grant a reduction in a charity's disbursement quota obligation for any particular tax year. The CRA may publicly disclose information relating to an approved reduction in a charity's disbursement quota.

- Remove the relieving provision, which is no longer considered necessary, relating to the accumulation of property by a charity. This rule currently allows an accumulation by a charity for a particular purpose by permitting the specific property, and income earned in respect of the property, to be excluded from a charity's disbursement quota.

- The disbursement quota changes will be effective for fiscal periods beginning on or after January 1, 2023. The removal of the accumulation of property rule will not apply to approved property accumulations resulting from applications submitted prior to January 1, 2023.

Expanding allowable charitable disbursements to organizations that are not qualified donees

- The budget proposes to allow charities to provide resources to organizations that are not qualified donees, provided certain requirements are met. Currently, charities are limited to devoting their resources to charitable activities they carry on themselves or providing gifts to other qualified donees.

- Disbursements to non-qualified donees by a charity must be in furtherance of its charitable purposes. The charity must ensure that the funds are appropriately applied to charitable activities by the grantee.

- Grantor charities must meet mandatory accountability requirements, which include:
    - Conducting a pre-grant inquiry that includes a review of the identity, past history, practices, activities and areas of expertise of the grantee
    - Having a written agreement in place that includes specific requirements
    - Monitoring the grantee and taking remedial action as required
    - Demonstrating receipt, review and approval of full and detailed final reports and supporting documentation from the grantee
    - Publicly disclosing on its annual information return information relating to grants above $5,000

- The budget proposes to require charities to, on request by the CRA, take all reasonable steps to obtain relevant documentary evidence from grantees to ensure that the CRA is able to verify that amounts were spent appropriately.

- It also proposes to prohibit charities from accepting gifts that are expressly or implicitly conditional on making a gift to a person other than a qualified donee. This is to reduce the risk that a charity could act as a conduit for making gifts to other organizations.

- The above measures will apply as of Royal Assent of the enacting legislation, and additional measures to ensure compliance by charities with the new rules are forthcoming.

Changes to collection of information from charities

- The budget proposes to expand the collection of information from charities, including whether charities are meeting their disbursement quota, and on information related to investments and donor-advised funds held by charities.

No new income tax measures were introduced in Budget 2022 relating to non-profit organizations.

Sales and excise tax legislative amendments

GST/HST measures

Expansion of the GST/HST health care rebate

Budget 2022 proposes to broaden the GST/HST eligibility rules for the expanded 83% hospital rebate for charities and non-profit organizations that provide health care services similar to those traditionally performed by hospitals.

More specifically, Budget 2022 proposes to amend the GST/HST eligibility rules to recognize the increasing role of nurse practitioners in delivering health care services, including in non-remote areas. As such, it is proposed that, to be eligible for the expanded hospital rebate, a charity or non-profit organization must deliver the health care service with the active involvement of, or on the recommendation of, either a physician or a nurse practitioner, irrespective of their geographic location. Thus, per this proposal, the expanded hospital rebate would no longer distinguish between the active involvement or recommendation by physicians and nurse practitioners.

This measure would generally apply to rebate claim periods ending after April 7, 2022 in respect of tax paid or payable after that date.

GST/HST on assignment sales by individuals

The budget proposes the application of GST/HST on assignment sales of newly constructed or substantially renovated residential housing.

An assignment sale in respect of residential housing is a transaction in which a purchaser (an assignor) under an agreement of purchase and sale with a builder of a new home sells their rights and obligations under the agreement to another person (an assignee).

To avoid uncertainty in respect of the GST/HST treatment of such assignment sales, Budget 2022 proposes to make all assignment sales of newly constructed or substantially renovated residential housing taxable for GST/HST purposes. As a result, the GST/HST would apply to the total amount paid for a new home by its first occupant. The consideration for the assignment sale would, however, exclude deposits previously paid by the assignor to the builder. Previously, assignment sales of newly constructed or substantially renovated residential housing were exempt if the assignor had originally entered into the agreement for the primary purpose of occupying the home as a place of residence.

This measure would apply in respect of any assignment agreement entered into on or after the day that is one month after April 7, 2022.

Excise duty measures

Duties on cannabis

Budget 2022 proposes to introduce four measures to simplify the application of excise duties to cannabis products.

Licensed producers will be able to transfer packaged but unstamped products between them, subject to specific approval from the CRA. This will allow contract manufacturers to produce finally packaged products and send to another licensee unstamped, and allow the other licensee/distributor to stamp and remit duty on the products once the ultimate provincial/territorial destination is known.

- Cannabis licensees who remit less than $1 million in excise duties in any rolling four consecutive quarters may elect to report and remit quarterly instead of monthly.
- Currently, all cannabis licensees are required to hold both a licence from Health Canada and one from the CRA.
    - Health Canada Research licensees and Cannabis Drug licensees will no longer require an Excise Duties licence under the *Excise Act, 2001*.
    - Currently, Health Canada cannabis licences can be for up to five years, and those issued by the CRA under the *Excise Act, 2001* are only for two years. The duration period for the two licences will be harmonized for a period up to five years.
- A higher penalty for lost excise stamps applies in certain provinces if they have opted into the additional cannabis duty adjustment under their agreement with the federal government. This higher penalty for lost excise stamps will be eliminated for provinces and territories where the additional cannabis duty adjustment rate is zero.

New excise duty on vaping products

First announced in Budget 2021, excise duty will be introduced on vaping products effective October 1, 2022. Following the public consultations after Budget 2021, key refinements to the proposed new duty framework are proposed in Budget 2022, including:

- **Tax base**: The taxation base would comprise vaping products that include either liquid or solid vaping substances with an equivalency of 1 millilitre (ml) of liquid = 1 gram (g) of solids. Vaping products would be covered by this new regime irrespective of whether they contain nicotine. However, vaping products that are already subject to the cannabis excise duty framework, as well as those produced by individuals for their personal use, would be excluded.

- **Duty rates**: A federal excise duty rate of $1 per 2 ml, or fraction thereof, is proposed for the first 10 ml of vaping substance, and $1 per 10 ml, or fraction thereof, for volumes beyond that. The duty would be based on the volume of vaping substance in each vaping product (e.g., a pod, a bottle or a disposable vape pen).

  Similar to the GST/HST framework, an additional duty rate would be imposed on dutiable vaping products for sale in a province or territory if the province or territory chooses to participate in a coordinated vaping taxation regime administered by the federal government. Provinces opting in would be required to apply an additional duty rate equal to the proposed federal excise duty rate, such that the combined rate would be doubled (i.e., $2 per 2 ml, or fraction thereof, for the first 10 ml of vaping product, and $2 per 10 ml, or fraction thereof, for volumes beyond that). Licensees would be required to apply an excise stamp with a specific colour and other unique markings indicating the provincial or territorial market in which the vaping product is intended to be sold.

The proposed federal excise duty framework for vaping products would come into force on October 1, 2022. Retailers would be entitled to sell until January 1, 2023 unstamped products that are in inventory as of October 1, 2022.

Excise Act, 2001 administrative changes

- Bank drafts and Canada Post money orders are to be added to the forms of acceptable security to be posted with the CRA under the *Excise Act, 2001*.
- The *Excise Act*, *2001* is to be amended to officially permit the CRA to conduct virtual/remote audits and reviews.
- The grounds for cancellation and suspension of a licence under the *Excise Act*, *2001* are to be harmonized.

Elimination of excise duty for low-alcohol beer

Budget 2022 proposes to amend the *Excise Act*, *2001* to eliminate excise duty for beer containing no more than 0.5% alcohol by volume. As such, the excise tax treatment of low-alcohol beer would be harmonized with the excise tax treatment of low-alcohol wine and spirits.

This measure would come into force on July 1, 2022.

Elimination of the excise duty exemption on 100% Canadian wine

Following a 2018 challenge on the 100% Canadian wine excise duty exemption at the World Trade Organization, and the settlement reached by Canada on this dispute in July 2020, Budget 2022 proposes to amend the *Excise Act*, *2001* to repeal the excise duty exemption effective June 30, 2022.

Customs measures

Budget 2022 contains proposals to strengthen Canada's trade remedy and revenue system.

Strengthening Canada's trade remedy and revenue system

- Budget 2022 announces the government's intention to introduce amendments to the *Special Import Measures Act* and the *Canadian International Trade Tribunal Act* to strengthen Canada's trade remedy system by better ensuring unfairly traded goods are subject to duties and increasing the participation of workers.

- Budget 2022 proposes to provide $4.7 million over five years, starting in 2022–23, and $1.1 million ongoing, to the Canada Border Services Agency to create a Trade Remedy Counselling Unit that will assist companies, with a focus on small and medium-sized enterprises.

- The government also proposes to introduce amendments to the *Customs Act* to implement electronic payments and clarify importer responsibility for duties and taxes.

Pending legislation

The government will proceed with the following pending legislative and regulatory proposals and other previously announced measures, modified to take into account consultations and deliberations since their release.

Income tax

- February 4, 2022 draft legislative proposals:
    - 2021 federal budget corporate income tax measures (CCA immediate expensing for CCPCs, temporary rate reduction for zero-emission technology manufacturers, accelerated CCA for clean energy equipment, film/video production tax credits, mandatory disclosure requirements and interest deductibility limits (earnings stripping)).
    - 2021 federal budget personal income tax measures (disability tax credit, postdoctoral fellowship income, defined contribution pension plans and tax on registered investments).
    - 2021 federal budget administrative measures (audit authorities, avoidance of tax debts, e-filing and certification of tax and information returns).
    - Other income tax measures (July 27, 2018 legislative proposals on trust reporting requirements, mutual fund trusts allocation to redeemers (update), COVID-19 GST/HST credit top-up and charities revocation tax).

  Refer to EY Tax Alert 2022 Issues No. 3, 4, 5, 6 and 13.

- 2022 automobile deduction limits and expense benefit rates announcement (December 23, 2021).

- Bill C-8, *Economic and Fiscal Update Implementation Act, 2021*, including measures from the fall economic and fiscal update announced on December 14, 2021 and other previously announced measures (first reading (House of Commons) December 15, 2021; second reading February 10, 2022). Refer to EY Tax Alert 2021 Issue No. 35.

- Notice of ways and means motion to introduce an *Act to implement a Digital Services Tax* (December 14, 2021). Refer to EY Tax Alert 2021 Issue No. 36.

- Draft legislative proposals regarding the climate action incentive – quarterly payments (December 3, 2021).

- Prescribed drought regions for 2021 (November 15, 2021; August 6, 2021; July 22, 2021).

- Announcement regarding upcoming amendments to enacted Bill C-208, *An Act to amend the Income Tax Act* (transfer of small business or family farm or fishing corporation) (July 19, 2021).

- Final list of prescribed drought regions for 2020 (May 10, 2021).

- Remaining 2021 federal budget tax measures (April 19, 2021) (refer to EY Tax Alert 2021 Issue No. 19) not in February 4 draft legislative proposals (above) or enacted Bill C-30, *Budget Implementation Act, 2021, No. 1*.
    - Corporate income tax measures (employee ownership trusts, hybrid mismatch arrangements, anti-avoidance rules modernization (consultation), and transfer pricing (consultation)).

- 2021, 2020, 2019 and 2018 automobile deduction limits and expense benefit rates announcements (December 21, 2020; December 19, 2019; December 27, 2018; and December 22, 2017, respectively).

- Final list of prescribed drought regions for 2019 and 2018 (February 18, 2020 and October 31, 2018, respectively).

- Draft legislative proposal relating to amateur athlete trusts (extension of trust maturation period from eight years to nine years) (December 20, 2019).

Indirect taxes

- March 11, 2022 draft legislative proposals relating to the *Select Luxury Items Tax Act*.

- February 4, 2022 draft legislative proposals:
    - 2021 federal budget administrative measures (avoidance of tax debts, audit authorities, e-filing). Refer to EY Tax Alert 2022 Issue No. 5.
    - Other indirect tax measures (GST/HST): crypto asset mining

- Bill C-8, *Economic and Fiscal Update Implementation Act, 2021*, including enactment of the *Underused Housing Tax Act* (first reading (House of Commons) December 15, 2021; second reading February 10, 2022). Refer to EY Tax Alert 2021 Issue No. 35.

- Draft regulations amending the Fuel Charge Regulations No. 2 (federal fuel charge – integration of Ontario's Emissions Performance Standards facilities) (December 3, 2021).

- Remaining 2021 federal budget tax measures (April 19, 2021). Refer to EY Tax Alert 2021 Issue No. 19.
    - GST/HST/excise tax measures (input tax credit information requirements and excise tax rebate on goods purchased by provinces).
- Proposed Greenhouse Gas Offset Credit System Regulations (Canada) under the *Greenhouse Gas Pollution Pricing Act* (GGPPA) (March 6, 2021).
- Draft regulations amending various regulations relating to Part I of the GGPPA allowing Alberta TIER facilities to obtain fuel without federal fuel charge applying (December 6, 2019).
- Remaining measures from the 2018 federal budget (tabled February 27, 2018) and from the related July 27, 2018 draft legislation. Refer to EY Tax Alert 2018 Issues No. 7 and 31.
    - GST/HST regulatory change regarding printed books rebate.
- Remaining measures from the 2016 federal budget (tabled 22 March 2016). Refer to EY Tax Alert 2016 Issue No. 14.
    - GST/HST joint venture election (stemming from the 2014 proposals).

Webinars

April 7, 2022 webinar: The evening of the Finance Minister's address, members of the EY Tax team will record their analysis and insights on the tax measures in the 2022 budget. View our webinar at EY.com/ca/Budget.

Learn more

For more information on the above measures or any other topics that may be of concern, contact your EY or EY Law advisor. And for up-to-date information on the federal, provincial and territorial budgets, visit EY.com/ca/Budget.

Appendix

Maximum combined personal marginal income tax rates (as at April 7, 2022)[1]

	Ordinary income			2022		
	2022	2022	Increase (decrease)	Eligible dividends	Ordinary dividends	Capital gains
	%	%	%	%	%	%
Federal only	33.00	33.00	0.00	24.81	27.57	16.50
BC	53.50	53.50	0.00	36.54	48.89	26.75
Alberta	48.00	48.00	0.00	34.31	42.30	24.00
Saskatchewan	47.50	47.50	0.00	29.64	41.82	23.75
Manitoba	50.40	50.40	0.00	37.78	46.67	25.20
Ontario	53.53	53.53	0.00	39.34	47.74	26.76
Quebec	53.31	53.31	0.00	40.11	48.70	26.65
NB	53.30	53.30	0.00	33.51	47.75	26.65
NS	54.00	54.00	0.00	41.58	48.27	27.00
PEI	51.37	51.37	0.00	34.22	47.04	25.69
NL	51.30	54.80	3.50	46.20	48.96	27.40
NWT	47.05	47.05	0.00	28.33	36.82	23.53
Nunavut	44.50	44.50	0.00	33.08	37.79	22.25
Yukon	48.00	48.00	0.00	28.92	44.05	24.00

[1] The income threshold at which the top personal marginal income tax rate applies varies by jurisdiction.

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