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## Tax Alert – Canada

### Bill C-32 to implement certain Budget 2022 and other previously announced measures receives Royal Assent

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

On 15 December 2022, Bill C-32, *Fall Economic Statement Implementation Act, 2022*, received Royal Assent. Bill C-32 implements certain non-tax measures announced in the economic and fiscal update (EFU) tabled by the federal government on 3 November 2022, as well as certain previously announced tax measures, which were included in the notice of ways and means motion that was also tabled on that day.

From both an income tax and indirect tax perspective, Bill C-32 includes certain measures that were released as draft legislative proposals on 4 February and 9 August 2022, most of which were first announced in the 2021 and 2022 federal budgets. These measures have been amended (where applicable) to take into account comments received since their initial release. One notable amendment contained in Bill C-32 is the delayed application of the new income tax trust reporting requirements by one additional year.

It is important to note that certain significant tax measures that were previously released as draft legislative proposals on 4 February and 9 August 2022 are not part of Bill C-32. A summary of the tax measures excluded from Bill C-32 is provided below, followed by a summary of the tax measures contained in Bill C-32.

#### 4 February and 9 August 2022 measures excluded from Bill C-32

As indicated above, certain income tax and indirect tax measures previously released on 4 February and 9 August 2022 are excluded from Bill C-32. These measures, which will be introduced at a later time, include the following.

## **Mandatory disclosure rules**

Bill C-32 does not include the proposed mandatory disclosure rules. As announced by the Department of Finance on 3 November 2022, to fully assess the feedback received as part of the public consultation on these rules that was launched on 9 August 2022, the government is delaying the coming-into-force date of the reporting requirements for reportable transactions and notifiable transactions until the date on which the relevant implementing bill receives Royal Assent. The coming-into-force date for uncertain tax treatments will remain the same as described in the 9 August 2022 proposals (i.e., for taxation years beginning after 2022, with penalties only applying after Royal Assent of the implementation bill).

## **Excessive interest and financing expenses limitation (EIFEL) rules**

The EIFEL rules, which were first released as draft legislative proposals on 4 February 2022, are also excluded from Bill C-32. Revised proposals for the EIFEL rules were released for public comment on 3 November 2022 – see EY Tax Alert 2022 Issue No. 43, [Revised EIFEL proposals](#), for more information on the revised proposals.

## **Other income tax measures**

Other 9 August 2022 measures that are not part of Bill C-32 include the new measures concerning substantive CCPCs and eliminating the tax deferral advantage for investment income earned by CCPCs (and, potentially, substantive CCPCs) through controlled foreign affiliates; the new investment tax credit for carbon capture, utilization and storage (CCUS) and the related capital cost allowance (CCA) classes for CCUS property and expenditures; new rules relating to hedging and short selling by financial institutions; changes to electronic filing, payment, signature and correspondence requirements; expanded reporting requirements for RRSPs and RRIFs; as well as amendments relating to defined benefit pension plans, defined contribution pension plans, and veterans' and active service members' benefits. For more information on these measures, see EY Tax Alert 2022 Issue No. 37, [Finance releases draft legislation for remaining 2022 budget measures](#).

Income tax technical amendments that were separately released as draft legislative proposals on 9 August 2022 are also not part of Bill C-32. For more information on these, see EY Tax Alert 2022 Issue No. 40, [Finance releases draft income tax technical amendments](#).

As previously mentioned, Bill C-32 includes only non-tax measures announced in the EFU and does not include any of the income tax measures announced in the EFU. For more information on these measures, see EY Tax Alert 2022 Issue No. 42, [Federal Fall Economic Statement 2022](#).

## Indirect tax measures

Bill C-32 does not include a number of GST/HST measures that were also part of the proposals released on 4 February or 9 August 2022. For example, the proposed GST/HST rules for cryptoasset mining activities, which were introduced on 4 February 2022, are excluded from Bill C-32.

As well, Bill C-32 does not contain a number of GST/HST measures introduced as part of the 9 August 2022 draft legislative proposals, including amendments that specify the requirements for revoking an *Excise Tax Act* (ETA) subsection 150(1) exempt supplies election; expand the concept of a qualifying group for the ETA subsection 156(2) nil consideration election; introduce GST/HST application rules for Lloyd's associations; impose certain information requirements on a participating employer of one or more pension plans; make various changes to the *Selected Listed Financial Institution Regulations*, such as new deemed permanent establishment rules for master pension entities; expand the joint venture election; increase the income threshold at which a financial institution is required to file an annual information return from \$1 million to \$2 million; and make changes to electronic filing and payment thresholds for registrants.

We will continue to monitor future developments relating to these proposals.

## Tax measures included in Bill C-32

The following is a summary of the income and indirect tax measures included in Bill C-32.

### Business and international income tax measures

Because of the minority status of the federal government, the business income tax measures contained in Bill C-32 became substantively enacted for Canadian financial reporting purposes on 8 December 2022, when the bill passed third reading in the House of Commons.

Bill C-32 includes the following business and international income tax measures:

- ▶ **Canada recovery dividend** - Introduction of the Canada recovery dividend in the form of a one-time 15% tax on bank and life insurer groups to be imposed under new Part VI.2 of the *Income Tax Act* (the ITA). For these purposes, a group includes a bank or life insurer and any other financial institution (as defined for purposes of Part VI of the ITA) that is related to the bank or life insurer. The one-time tax applies to the 2020 and 2021 average taxable income of any corporate member in the group that is a bank, life insurer or other related financial institution at any time during its 2021 taxation year. The 2020 and 2021 taxable income (or taxable income earned in Canada in the case of a nonresident member of the group) used in calculating the average taxable income is determined before any non-capital losses or net capital losses are applied to reduce the 2020 or 2021 taxable income. An exemption is available for up to \$1 billion of taxable income, to be shared among group members. The Canada recovery dividend is imposed for the 2022 taxation year and is payable in equal instalments over five successive taxation years (beginning with the 2022 taxation year). If the member of the bank or life insurer group has more than one 2022 taxation year, the tax is imposed for the latest 2022 taxation year.

- ▶ **Additional tax on banks and life insurers** - Introduction of an additional tax of 1.5% on taxable income of members of bank and life insurer groups (determined in the same manner as for the Canada recovery dividend above). An exemption from this tax is available for \$100 million of taxable income, to be shared among group members and prorated for short taxation years. A special anti-avoidance rule is also introduced to prevent certain tax planning (involving the direct or indirect payment of an amount to a non-arm's length person or partnership that is not a bank or life insurer group member) from being undertaken to reduce or eliminate the additional tax payable. The additional tax applies for taxation years ending after 7 April 2022 and is prorated for taxation years straddling this effective date.
  
- ▶ **Accounting for insurance contracts under IFRS 17** - Numerous amendments (updated since their original release on 9 August 2022) related to the adoption of new accounting rules under IFRS 17, *Insurance Contracts*. Under IFRS 17, a new contractual service margin (CSM) reserve is introduced beginning 1 January 2023, generally representing a portion of profits on underwritten insurance contracts that will be deferred for accounting purposes and gradually released into accounting income over the estimated life of an insurance contract. For income tax purposes, various changes and consequential amendments are made, including the introduction of new concepts that are central to the new IFRS 17 accounting rules. Among these changes are amendments that provide that the CSM for a group of insurance contracts (held at the end of the year) is not deductible by life insurers (with the exception of the CSM associated with segregated funds, which will be fully deductible), mortgage insurers and title insurers. However, 10% of the CSM in respect of life (other than segregated funds), accident and sickness (where non-cancellable or guaranteed policies), mortgage and title insurance contracts will be deductible for income tax purposes and will subsequently be included in income when certain conditions are met. In addition, among other changes, certain transitional rules are added for income tax purposes with respect to the accounting transition to IFRS 17, and consequential amendments are made to Part I.3 and Part VI of the ITA. These measures, including transitional rules, apply for taxation years beginning after 2022.
  
- ▶ **CCA for clean energy equipment** - Expansion of CCA classes 43.1 and 43.2 to include certain equipment that is part of an air-source heat pump system that is primarily used for space or water heating, applicable for eligible property that is acquired and becomes available for use on or after 7 April 2022 (and that has not been used or acquired for use for any purpose before 7 April 2022). Amendments are also made to include the manufacturing or processing of air-source heat pumps designed for space or water heating as a qualified zero-emission technology manufacturing activity for purposes of the recently enacted zero-emission technology manufacturing deduction in section 125.2 of the ITA, effective as of 1 January 2022.
  
- ▶ **Critical mineral exploration tax credit** - Introduction of a new 30% tax credit for eligible exploration expenditures in respect of critical minerals that are renounced to flow-through share investors, applicable for expenditures renounced under eligible flow-through share agreements entered into after 7 April 2022 and on or before 31 March 2027. Critical minerals for the purpose of the credit include copper, nickel, lithium, cobalt, graphite, rare earth elements, scandium, titanium, gallium, vanadium, tellurium, magnesium, zinc, platinum group metals and uranium. For expenses to be eligible for the credit, a qualified professional engineer or professional geoscientist is required to certify that the expenditures

to be renounced will be incurred in accordance with an exploration plan that primarily targets critical minerals. Revisions included in Bill C-32 clarify the requirements for being a qualified professional engineer or professional geoscientist, and that the certification must be completed within the 12-month period immediately preceding the time when the flow-through share agreement is made. Expenditures claimed under the new tax credit are not eligible for the existing mineral exploration tax credit.

- ▶ **Flow-through shares for oil, gas and coal activities** - Elimination of the flow-through share regime for oil, gas and coal activities, effective for expenditures renounced under flow-through share agreements entered into after March 2023.
- ▶ **Small business deduction** - Expansion of the range over which the business limit of a Canadian-controlled private corporation (CCPC) is reduced based on the combined taxable capital employed in Canada of the CCPC and its associated corporations, applicable to taxation years that begin on or after 7 April 2022. Under the former rules, a CCPC's business limit (and thus the amount of the small business deduction that may be claimed) was reduced on a straight-line basis when the CCPC and its associated corporations had combined taxable capital employed in Canada greater than \$10 million and was eliminated when taxable capital was \$15 million or more. The amendments provide greater access to the small business deduction by increasing the upper value of this range from \$15 million to \$50 million, so that the small business deduction is eliminated when a CCPC and its associated corporations have combined taxable capital employed in Canada of \$50 million or more.
- ▶ **General Anti-Avoidance Rule (GAAR)** - Amendment to the definition of "tax benefit" 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 ITA) or refund. As a result of this amendment and other related amendments, the GAAR will apply to transactions that affect tax attributes that have not yet become relevant to the computation of tax. The amendments are in response to the decision in *1245989 Alberta Ltd. v. Canada (Attorney General)* (2018 FCA 114), which held that transactions that modify tax attributes do not give rise to a tax benefit under the GAAR until the attribute is applied or used to reduce, avoid or defer tax. The amendments apply to transactions that occur on or after 7 April 2022 and also apply retroactively to transactions that occur prior to 7 April 2022, in respect of any notice of determination issued by the Canada Revenue Agency (CRA) on or after that date (determinations made prior to 7 April 2022, where all objection and appeal rights in respect of the determination have been exhausted before that day, will remain binding on taxpayers and the CRA).
- ▶ **Interest coupon stripping** - Amendments to ensure that the total Part XIII withholding tax paid on interest under an interest coupon stripping arrangement is the same as if the arrangement had not been undertaken (i.e., as if the interest were factually paid or credited to the nonresident lender). In general terms, an interest coupon stripping arrangement is considered to exist if the following conditions are met: (1) a taxpayer (typically a Canadian resident borrower) pays or credits a particular amount to a person or partnership (the interest coupon holder) as interest on a debt (other than a specified publicly offered debt obligation) owed to another person or partnership (the non-arm's length creditor) that is a nonresident person with whom the taxpayer is not dealing at arm's length, or a partnership other than a Canadian partnership; and (2) the withholding tax that would be payable in respect of the particular amount, if the particular amount

were paid or credited to the non-arm's length creditor, is greater than the withholding tax payable on the particular amount paid or credited to the interest coupon holder. If an interest coupon stripping arrangement exists, the taxpayer is deemed, for purposes of the withholding tax rules, to pay an amount of interest to the non-arm's length creditor 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 applies to interest paid or payable by a taxpayer to an interest coupon holder to the extent that the interest accrues on or after 7 April 2022, subject to transitional rules for certain interest coupon agreements or arrangements entered into before that date.

- ▶ **Avoidance of tax debts** - Introduction of new rules (with some minor updates in addition to the updates made in the 9 August 2022 version of the draft legislation) to address arrangements designed to avoid joint and several liability for tax on non-arm's length transfers of property for insufficient consideration, as well as implement a penalty for planners and promoters of such schemes. Specifically, new anti-avoidance rules deem a tax debt to have arisen before the end of the taxation year in which property is transferred (if certain conditions are met), deem a transferor and transferee not to be dealing at arm's length (if certain conditions are met), and require the overall result of a series of transactions to be considered in determining the value of the property transferred and the consideration given for the property. In addition, a new penalty is introduced for planners and promoters of tax debt avoidance schemes that are subject to the new anti-avoidance rules, equal to the lesser of 50% of the tax that is attempted to be avoided and \$100,000 plus compensation received for the scheme. These new rules apply in respect of transfers of property that occur (all or in part) after 18 April 2021.
- ▶ **Section 116 certificates and the underused housing tax** - Introduction of a new exception to the issuance of an ITA section 116 certificate by the CRA in respect of a proposed or actual disposition of real property in Canada. Specifically, the CRA may decline to issue an ITA section 116 certificate in respect of a proposed or actual disposition of a residential property in Canada by a nonresident if the nonresident failed to comply with any requirement to pay tax (or other amounts payable) and/or file a return under the *Underused Housing Tax Act* (UHTA) in respect of the property, effective as of 15 December 2022. Bill C-32 also includes amendments to the UHTA, as described below under "Indirect and other tax measures."
- ▶ **Audit authorities** – Amendments to ensure that the CRA has the authority to require persons to answer all proper questions (orally or in writing) and provide all reasonable assistance to CRA officials for any purpose related to the administration or enforcement of the ITA. These amendments apply as of 15 December 2022.



## Measures concerning trusts

The bill also includes the following measures concerning trusts:

- ▶ **Trust reporting requirements** - Measures (as updated in the 9 August 2022 version of the draft legislation) requiring the filing of a trust return as well as the provision of additional beneficial ownership information for express trusts, with some exceptions, and to impose new penalties for failing to file a trust return (including any required beneficial ownership information) in these circumstances or making a false statement or omission in a return. Revisions in Bill C-32 ensure that these measures will now apply to taxation years ending after 30 December 2023 (rather than after 30 December 2022, as previously proposed); as a result, for trusts with a calendar year-end, these rules will apply one year later, beginning with their 2023 taxation year.
- ▶ **Mutual funds: allocation to redeemers methodology** – Amendments relating to previously enacted rules that ensure that any capital gains realized by a mutual fund trust in a taxation year in excess of the capital gains realized by redeeming unitholders in that year are taxed in that year either at the mutual fund trust level or in the hands of the remaining unitholders. These rules deny a mutual fund trust a deduction in respect of the portion of an allocation made to a unitholder on a redemption of a unit of the mutual fund trust that is greater than the capital gain that would otherwise have been realized by the unitholder on the redemption, if the allocated amount is a capital gain and the unitholder's redemption proceeds are reduced by the allocation. Specifically, the amendments expand application of the rules to deny the deduction of certain amounts allocated to beneficiaries that have redeemed units of a mutual fund trust that is an exchange-traded fund or a fund that offers both listed and unlisted units (a combined fund), including consequential amendments to the qualifying exchange rules in section 132.2 of the ITA, as well as prevent unintended consequences (relating to a mutual fund trust's capital gains refund mechanism and the new rules for exchange-traded funds and combined funds) that may result from the application of existing rules in paragraph 107(2.1)(c) of the ITA. These measures apply to taxation years of mutual fund trusts that begin after 15 December 2021.

## Personal and other income tax measures

In addition to the amendments described above under “Business and international income tax measures” that may also apply to individuals (e.g., the amendment relating to ITA section 116 certificates), the bill includes the following personal and other income tax measures:

- ▶ **Tax-free first home savings account (FHSA)** - Introduction of a new tax-free FHSA to help Canadians save for a down payment on their first home. With this new registered account, prospective first-time home buyers will be able to save up to \$40,000 (the lifetime contribution limit). Annual contributions will be limited to \$8,000, and unused contribution room up to \$8,000 will be allowed to be carried forward to future years. FHSA carryforwards will only begin to accumulate after the opening of an individual's first FHSA. 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. Various other conditions, related rules (such as penalties for

overcontributions) and consequential amendments also apply, as amended since their release on 9 August 2022 (for example, the restriction on using both the FHSA and the Home Buyers' Plan for the same qualifying purchase of a home included in the 9 August 2022 version of the rules has been removed from the updated rules in Bill C-32). These rules enter into force on 1 April 2023 (instead of 1 January 2023, as originally proposed).

- ▶ **Residential property flipping rule** - Introduction of 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 located in Canada (including a rental property) that was owned for less than 365 consecutive days will, subject to certain exceptions, be deemed to be business income (which is not eligible for the 50% capital gains inclusion rate); the property itself will be deemed to be inventory of the taxpayer's business and not capital property of the taxpayer. The exceptions pertain to certain life events, such as the death of the taxpayer or a related person, a separation, a serious illness or disability, and certain employment changes, as well as involuntary dispositions (e.g., an expropriation). Where the new deeming rule applies, the principal residence exemption will not be available; a business loss on the disposition of a flipped property will be denied. If the new deeming rule does not apply because of one of the exceptions or because the property was owned for 365 consecutive days 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 applies in respect of dispositions that occur after 31 December 2022. It should be noted that the EFU proposed to extend this new residential property flipping rule to cover gains from assignment sales. The proposed extension, which is not included in Bill C-32, would also apply in respect of transactions that occur after 31 December 2022. See EY Tax Alert 2022 Issue No. 42, [Federal Fall Economic Statement 2022](#), for more information on the proposed extension.
- ▶ **Multigenerational home renovation tax credit** - Introduction of 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 qualifying expenditures paid after 31 December 2022 for work performed or goods acquired after that date). 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. 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. The start of the renovation period has been revised in Bill C-32 to begin at the time the first qualifying expenditure is made or incurred in respect of the qualifying renovation (rather than when the municipality or local authority permits or authorizes the start of the renovation).
- ▶ **First-time home buyers' tax credit** - Amendments to double the first-time home buyers' tax credit amount from \$5,000 to \$10,000, which result in a \$1,500 tax credit to eligible home buyers. Spouses or common-law partners are able to continue to split the credit, as long as the total combined credit does not exceed \$1,500. This measure applies to qualifying home purchases made on or after 1 January 2022.



- ▶ **Medical expense tax credit** - Amendments to effectively broaden the 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 amendments 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 new rules allow reimbursements paid by the taxpayer to a patient (under the 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 are also eligible for the credit. These changes apply to expenses incurred in the 2022 and subsequent taxation years.
  
- ▶ **Taxes applicable to registered investments** - Amendment to provide for a more equitable method of applying the Part X.2 penalty tax to trusts or corporations that are registered investments. The tax was previously applied without consideration to the extent registered plans were invested in units or shares of the registered investment. The amendment prorates any Part X.2 tax, limiting it to the proportion of the registered investment held by registered accounts. This amendment generally applies after 2020. However, it may also apply retroactively to any month prior to 2021, provided that before 20 April 2021 no notice of assessment for Part X.2 tax had been sent to the taxpayer for the pre-2021 months, or the taxpayer had rights of objection or appeal on 19 April 2021 in respect of an assessment issued for the pre-2021 months. In the context of FHSAs, these rules apply in respect of any months after March 2023.
  
- ▶ **Changes to the disbursement quota of registered charities** - Various changes to the disbursement quota, or minimum annual spending requirement, including:
  - ▶ Increasing the disbursement quota rate from 3.5% to 5% for the portion of property not used directly in charitable activities or administration that exceeds \$1 million, to promote the timely disbursement of funds by larger charities
  - ▶ Ensuring expenditures on administration and management of the charity are not considered to be amounts expended on charitable activities carried on by the charity for satisfying its disbursement quota requirements
  - ▶ Amending the relieving provision that allowed a charity, on approval by the CRA, to report a deemed charitable expenditure for a taxation year where it could not meet its disbursement quota, so that the CRA has, instead, the discretion to grant a reduction in a charity’s disbursement quota obligation for any particular tax year (as was the case with the previous relieving provision, the CRA is allowed to publicly disclose information relating to an approved reduction in a charity’s disbursement quota)
  - ▶ Removing the relieving provision relating to the accumulation of property by a charity (as it is no longer considered necessary)

The disbursement quota changes apply for taxation years beginning on or after 1 January 2023, and the removal of the accumulation of property relieving rule will not apply to approved property accumulations resulting from applications submitted prior to 1 January 2023. The provision dealing with the public disclosure by the CRA enters into force on 1 January 2023.

## Indirect and other tax measures

Bill C-32 includes the following indirect tax measures:

- ▶ **Avoidance of tax debts** - Similar to the income tax amendments described above under “Business and international income tax measures,” amendments to the ETA, the *Excise Act, 2001* and the *Greenhouse Gas Pollution Pricing Act* to address arrangements designed to avoid joint and several liability for tax on non-arm’s length transfers of property for insufficient consideration, as well as amendments to implement a penalty under the ETA for planners and promoters of such schemes. These rules are deemed to have come into force on 19 April 2021.
- ▶ **Audit authorities** - Amendments (similar to the income tax amendments described above under “Business and international income tax measures”) to ensure that the CRA has the authority to require persons to answer all proper questions (orally or in writing) and provide all reasonable assistance to CRA officials for any purpose related to the administration or enforcement of the ETA, the *Excise Act, 2001*, the *Air Travellers Security Charge Act* and the *Greenhouse Gas Pollution Pricing Act*. These amendments apply as of 15 December 2022.
- ▶ **Excise licences or registrations** - Amendments to the *Regulations Respecting Excise Licences and Registrations* to harmonize the grounds for cancelling or suspending a licence or registration under the *Excise Act, 2001*, and to add bank drafts and Canada Post money orders (while removing cash and Government of Canada bonds) as acceptable forms of security under that Act. Amendments are also made to require all excise licensees and excise applicants to comply with federal and provincial legislation and regulations regarding the taxation and control of cannabis products. These amendments apply as of 15 December 2022.
- ▶ **Excise duties on cannabis products** - Various amendments related to the excise duties on cannabis products, including the following:
  - ▶ **Quarterly reporting** - Amendments to the *Excise Act, 2001* to allow cannabis licensees who (with any associated person) are required to remit less than \$1 million in excise duties in any rolling four consecutive quarters to report and remit on a quarterly calendar basis, rather than monthly. This option applies retroactively to the quarter that began on 1 April 2022.
  - ▶ **Service agreements** - Amendments to the *Excise Act, 2001* and the *Stamping and Marking of Tobacco, Cannabis and Vaping Products Regulations* to allow the minister to authorize certain service contract agreements between two cannabis licensees. In broad terms, an authorized service agreement will allow cannabis licensees to transfer stamps (as well as packaged but unstamped cannabis products) between

them, enter cannabis products into the duty-paid market that have been packaged by another cannabis licensee (or that another cannabis licensee has stamped using a stamp issued to the cannabis licensee), and remit the excise duty on cannabis products that were stamped by another cannabis licensee. These amendments apply as of 15 December 2022.

- ▶ **Exemptions** - Amendment to the *Excise Act, 2001* to provide for the non-application of the part of that Act that deals with cannabis products to cannabis products that are in the possession of a holder of a research licence or a cannabis drug licence issued under the *Cannabis Act*. As a result, Health Canada research licensees and cannabis drug licensees no longer require an excise duties licence. This amendment applies as of 15 December 2022.
- ▶ **Licence duration** - Amendment to the *Regulations Respecting Excise Licences and Registrations* to extend for up to five years the duration of an excise duty cannabis licence issued by the CRA. The amendment applies as of 15 December 2022.
- ▶ **Additional penalty amounts** - Amendments to the *Excise Duties on Cannabis Regulations* to designate Ontario, Saskatchewan, Alberta and Nunavut as prescribed specified provinces for the purpose of various offence and penalty provisions under the *Excise Act, 2001*. The amendments apply as of 15 December 2022.
- ▶ **Excise duties on vaping products** - Various amendments related to the excise duties on vaping products, including the following:
  - ▶ **Stamping and marking rules** - Amendments to the *Stamping and Marking of Tobacco, Cannabis and Vaping Products Regulations* to set out the information that must be printed on packages and cases of manufactured or imported vaping products that are entered into the duty-paid market, as well as the information that must be printed on or affixed to containers of vaping products that are entered into an excise warehouse or to containers of imported vaping products that are delivered to an accredited representative or a customs bonded warehouse. The amendments are deemed to have come into force on 1 October 2022.
  - ▶ **Transitional rules** - Amendments to the transitional rules to the excise taxation of vaping products so that excise duties will not apply in respect of the following vaping products that are taken for use or that cannot be accounted for: unstamped vaping products that are manufactured in Canada and packaged before 1 October 2022, and unstamped vaping products that are imported or released before 1 October 2022.
  - ▶ **Forfeiture of goods** - Amendment to the *Storage of Goods Regulations* to include vaping products as goods that are forfeit if they are not removed from a customs office within 14 days after the day on which they were reported under section 12 of the *Customs Act*. The amendment is deemed to have come into force on 1 October 2022.

- ▶ **Underused housing tax** - Various amendments to the underused housing tax imposed under the UHTA for 2022 and later calendar years, including the following:
  - ▶ ***Specified Canadian partnership*** - Amendment to ensure that a partnership is not precluded from being a specified Canadian partnership in respect of a residential property (for purposes of the exemption from the underused housing tax) where a partner who is a citizen or permanent resident of Canada is an owner of the residential property solely in their capacity as a partner of the partnership, effective 1 January 2022.
  - ▶ ***Exemption regarding residential property held as inventory for sale*** – Amendment to correct the time at which construction of a residential property must be substantially completed in order to qualify for the exemption for new property offered for sale to the public, effective 1 January 2022.
  - ▶ ***Regulations*** – Introduction of the *Underused Housing Tax Regulations*, applicable to the tax imposed under the UHTA. The regulations prescribe an exemption for certain vacation or recreational properties, effective for 2022 and later calendar years. As well, the minister may require individuals to provide their social insurance number in underused housing tax returns, effective as of 31 December 2022.

For more information on the underused housing tax, see EY Tax Alert 2022 Issue No. 35, [Canada's new Underused Housing Tax Act receives Royal Assent](#).

## Learn more

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