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Tax Alert – Canada

2024 budget implementation bill no. 1 introduced in House of Commons

On 2 May 2024, Bill C-69, *Budget Implementation Act, 2024, No. 1*, received first reading in the House of Commons. Bill C-69 implements the measures contained in the detailed notice of ways and means motion (NWMM) that was tabled on 30 April 2024, including certain tax measures announced in the 2024 federal budget and the 2023 federal fall economic statement, as well as various other tax measures (such as the implementation of Canada's *Global Minimum Tax Act* (GMTA)) that were previously released in draft legislation on 20 December 2023 and 4 August 2023. In addition, the bill includes some technical amendments to the carbon capture, utilization and storage investment tax credit (ITC) and the clean technology ITC. The previously released measures have been amended (where applicable) to take into account comments received since their initial release.[1]

Bill C-69 does not include the measures dealing with the capital gains inclusion rate that were proposed in the 2024 federal budget.

The following is a summary of the income tax measures contained in Bill C-69.
The measures dealing with the implementation of the GMTA will be covered in additional detail in a separate upcoming tax alert.

[1] For more information, see EY Tax Alert 2024 Issue No. 24, EY Tax Alert 2023 Issue No. 42, and EY Tax Alert 2023 Issue No. 31.

Business and international tax measures

Because of the minority status of the federal government, the business income tax measures contained in Bill C-69 will be considered substantively enacted (for financial reporting purposes) when the bill passes third reading in the House of Commons.

Bill C-69 includes the following business and international income tax measures:

Measures from the 2024 federal budget

- **Canada carbon rebate for small businesses** — A new refundable tax credit is introduced to return a portion of fuel charge proceeds to eligible businesses. For the 2019–20 to 2023–24 fuel charge years, businesses eligible to receive the credit are Canadian-controlled private corporations (CCPCs) that have no more than 499 employees throughout Canada in the calendar year in which the fuel charge year begins, and that file a tax return for the 2023 taxation year by 15 July 2024. The credit is based on the number of persons employed by a corporation, in the calendar year in which the fuel charge year begins, in a province in which the federal backstop pollution pricing fuel charge applies (i.e., Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador). The credit amount is calculated on the basis of the number of persons employed in each of these provinces in the calendar year multiplied by payment rates specified by the minister of finance for each of the applicable provinces for the fuel charge year. For 2024–25 and subsequent fuel charge years, the tax credit is determined in a similar manner (i.e., a payment rate will be specified for each applicable province for the particular fuel charge year, and a payment will be made to eligible corporations that have filed a tax return for a taxation year ending in the calendar year in which the fuel charge year begins). Corporations will not have to apply for the credit, which will be determined and paid automatically by the Canada Revenue Agency (CRA).

- **Mandatory disclosure rules** — The failure to file an information return in respect of a reportable or notifiable transaction is removed from the scope of the general penalty under section 238 of the *Income Tax Act* (the Act) for failure to file a return, effective 22 June 2023 (the same date the enhanced mandatory disclosure rules came into effect). Under the mandatory disclosure rules for reportable and notifiable transactions, specific penalties already apply for failure to file an information return.

Measures released as draft legislative proposals on 20 December 2023

- **Clean hydrogen ITC** — A new refundable ITC is introduced for eligible investments in clean hydrogen production, applicable for eligible property that is acquired and becomes available for use after 28 March 2023. This measure was initially announced in the 2022 federal budget and then confirmed in the 2023 federal budget and further detailed in the 2023 fall economic statement. The credit is calculated at the rate of 15%, 25% or 40%, depending on the assessed carbon intensity of the hydrogen produced (e.g., the rate is 40% for a carbon intensity of less than 0.75 kg). Eligible property must be used in an eligible project and must be made available for use in Canada. Eligible property includes equipment all or substantially all of which is used to produce hydrogen from electrolysis or from natural gas, so long as emissions are abated using carbon capture, utilization and storage; it also includes property that is required to convert clean hydrogen to clean ammonia (the applicable tax credit rate is 15%). The credit rate is reduced if certain labour conditions are not met. The credit will be phased out by 50% for property that becomes available for use in 2034 and fully phased out for property that becomes available for use after 2034. Among the various changes made since the last release of the measure are added references to the *Clean Hydrogen Investment Tax Credit – Carbon Intensity Modelling Guidelines* published by the Canadian government, as well as added definitions for "eligible electricity generation source", "eligible hydrocarbon", "input carbon intensity", and "project support equipment", and more details are provided on the calculation of the carbon intensity and determination of the capital cost of clean hydrogen property.

- **Clean technology manufacturing ITC** — A new refundable ITC is introduced for eligible investments in clean technology manufacturing property that is used in qualified zero-emission technology manufacturing activities (as defined in Regulation 5202) and qualifying mineral activities, applicable for eligible property acquired and available for use on or after 1 January 2024. This measure was initially announced in the 2023 budget and expanded in the 2024 budget. The credit is calculated at 30% of the capital cost of eligible property that is used all or substantially all for eligible activities. Eligible property generally includes machinery and equipment, including certain industrial vehicles and related control systems, used in manufacturing, processing or critical mineral extraction and processing. Eligible activities include manufacturing and processing of certain clean technologies (e.g., certain renewable energy equipment, nuclear energy equipment and zero-emission vehicles), as well as qualifying mineral activities (e.g., extraction, processing and recycling) that produce all or substantially all qualifying critical minerals essential for clean technology (i.e., lithium, cobalt, nickel, copper, rare earth elements and graphite). The credit will be gradually phased out for property that becomes available for use in 2032 and fully phased out after 2034.

- **Concessional loans and government assistance** — Relieving amendments are introduced to provide that a bona fide concessional loan with reasonable repayment terms from a public authority (or from a Canadian resident or partnership, if it is reasonable to conclude that the Canadian resident or partnership would not have made the loan but for the receipt of amounts from a public authority) will generally not be treated as government assistance, effective 1 January 2020 (instead of 21 November 2023 as originally proposed), and applicable for loans made after 2019. For purposes of the amendments, "concessional loans" are non-forgivable loans that are essentially non-interest-bearing loans or loans granted at below-market interest rates, and from which the funds are used for the purpose of earning business or property income.

- **International shipping exemption** — The income tax exemption for international shipping income for certain nonresident companies is expanded to include certain Canadian resident companies. This measure will align the treatment of shipping companies with management in Canada under both the pillar two international shipping exclusion, which is to be implemented in Canada's GMTA, and the Act. The measure will apply to taxation years that begin on or after 31 December 2023.

- **Rental expense deduction for non-compliant short-term rentals** — A new rule is introduced to prevent short-term rental operators from claiming an income tax deduction for expenses incurred to earn short-term rental income in any province or municipality that has prohibited short-term rentals. For these purposes, a "short-term rental" is a residential property that is offered for rent for a period of less than 90 consecutive days. The rule applies to interest expenses, as well as to other types of rental expenses. An operator who fails to comply with provincial or municipal licensing, permitting or registration requirements is also unable to claim income tax deductions for a short-term rental. These new restrictions apply to all rental expenses incurred after 2023. For 2024, a short-term rental is deemed to be compliant for these purposes if all registration, licensing and permit requirements are met on 31 December 2024.

Measures announced in the 2023 fall economic statement

- **Canadian journalism labour tax credit** — The tax credit is enhanced by increasing the cap on labour expenditures per eligible newsroom employee from $55,000 to $85,000 and temporarily increasing the tax credit rate from 25% to 35% for a period of four years. These changes apply to qualifying labour expenditures incurred on or after 1 January 2023 (with the tax credit rate returning to 25% for expenditures incurred on or after 1 January 2027). Transitional rules apply to prorate these changes if a qualifying journalism organization's taxation year does not follow a calendar year.

Global minimum tax draft legislative proposals released on 4 August 2023

- **Global minimum tax** — Canada's GMTA is introduced under pillar two of the OECD/G20 BEPS Inclusive Framework. This pillar of the OECD/G20 plan for international tax reform, which was agreed to on 8 October 2021, is intended to ensure that large multinational enterprises (MNEs) (i.e., those with more than €750 million in worldwide revenues on a consolidated group basis) are subject to an effective minimum tax rate of 15%, regardless of where their profits are earned. In general, the framework for pillar two comprises three parts: (1) an optional domestic minimum top-up tax (DMTT), applicable to low-tax constituent entities located in a jurisdiction, that effectively bumps up jurisdictional tax to 15%; (2) an income inclusion rule (IIR) that allows a jurisdiction to apply the DMTT to parent companies of low-tax constituent entities; and (3) an undertaxed profits rule (UTPR) that operates as a backstop (if no top-up tax otherwise applies) by providing for the imposition of a proportion of a DMTT (based on an apportionment approach) to jurisdictional entities that are part of an in-scope MNE group. The GMTA included in Bill C-69 is intended to implement this framework, generally effective for fiscal years of MNEs that begin on or after 31 December 2023 (as announced in the 2022 and 2023 federal budgets and confirmed in the 2024 federal budget). The GMTA covers the detailed rules for the DMTT and IIR. The detailed rules for the UTPR component are expected to be released at a later date and will be effective for fiscal years of MNEs that begin on or after 31 December 2024. Many of the provisions in the GMTA are based on the pillar two global anti-base erosion (GloBE) model rules, GloBE model commentary and related administrative guidance issued by the OECD/G20. In fact, numerous changes included in Bill C-69 have been made to the August 2023 version of the GMTA to reflect additional administrative guidance released by the OECD/G20 that was not already included in the August 2023 version of the GMTA or that was released subsequently (e.g., guidance with respect to the treatment of transferable and other tax credits). For more details on the new changes included in Bill C-69, see our upcoming tax alert.

Technical amendments released as draft legislative proposals on 4 August 2023

- **Various amendments** – Technical amendments are made in relation to the eligible dividend regime and the definition of "eligible refundable dividend tax on hand" in subsection 129(4) of the Act; the employee stock option rules with respect to non-arm's length relationships between mutual fund trusts and corporations and to the security disposition ordering rules; the foreign accrual property income rules and the recharacterization of income as active business income under clause 95(2)(a)(ii)(D) of the Act; a new exception from the taxable treatment of mutual fund corporation switch fund share exchanges; the renunciation of Canadian exploration expenses or Canadian development expenses; relief under the replacement property rules as a consequence of the COVID-19 pandemic; and an amendment to ensure an employer does not receive subsidies under both the Temporary Wage Subsidy and the Canada Emergency Wage Subsidy in respect of the same wages paid.

Personal and other income tax measures

Measures from the 2024 federal budget

- **Employee ownership trust tax exemption** — A temporary exemption is introduced for the first $10 million of capital gains realized on the sale of a business to an employee ownership trust (EOT), applicable for qualifying dispositions of shares between 1 January 2024 and 31 December 2026, as first announced in the 2023 fall economic statement. The exemption is available to an individual (other than a trust), on an elective basis, if the individual disposes of shares of a corporation (other than a professional corporation) to a trust (that is not already an EOT or a similar trust with employee beneficiaries) through a qualifying business transfer (as defined in proposed amendments to subsection 248(1) in Bill C-59, *Fall Economic Statement Implementation Act, 2023*). Throughout the 24-month period immediately before the qualifying business transfer, the shares must have been exclusively owned by the individual claiming the exemption (or by a related person or partnership of which the individual is a member), and more than 50% of the fair market value of the corporation's assets must have been used principally in an active business. In addition, the individual (or the individual's spouse or common-law partner) must have been actively engaged in the business on a regular and continuous basis for at least 24 months at any time prior to the transfer. For more information on the temporary exemption, see our upcoming tax alert. It should be noted that the proposed expansion of the exemption to sales of shares to a worker cooperative, which was also announced in the 2024 federal budget, is not part of Bill C-69 and will need to be legislated at a later time.

- **Alternative minimum tax (AMT)** — Further changes to the AMT calculation are introduced to the legislative proposals that were released on 4 August 2023 to implement the revised AMT regime that was announced in last year's budget. The consolidation of both sets of changes (i.e., the 2023 proposed changes as revised by the 2024 budget changes) is included in Bill C-69. The 2024 revisions included in Bill C-69 allow: (i) individuals to claim 80% (instead of 50%, as previously proposed) of the charitable donation tax credit; (ii) individuals to claim full deductions (instead of the previously proposed 50%) for the Guaranteed Income Supplement, social assistance and workers' compensation payments, and to fully claim (instead of the previously proposed 50%) the federal logging tax credit and the special tax credit under section 119 of the Act for former residents;

(iii) certain disallowed credits under the AMT (i.e., the federal political contribution tax credit, various ITCs and the labour-sponsored funds tax credit), as well as the federal logging tax credit, to be eligible for the AMT carry-forward; (iv) individuals to claim only 50% of unused restricted farm losses and unused farm losses from other years; and (v) EOTs to be fully exempt from the AMT (as well, as currently worded in Bill C-69, exempted capital gains on the sale of a business to an EOT will also not be subject to AMT[2]). The remaining 2023 changes included in Bill C-69 (i) increase the basic exemption amount from $40,000 to $173,205 (for 2024); (ii) increase the AMT rate from 15% to 20.5%; (iii) broaden the AMT base by including additional income items (e.g., by increasing the AMT capital gains inclusion rate from 80% to 100%) and by limiting certain deductions and tax credits (e.g., allowing only 50% of the deduction for moving expenses); and (iv) exempt additional types of trusts from the AMT. All these amendments from both 2023 and 2024 generally apply to taxation years that begin after 31 December 2023. For more information on the amendments, see EY Tax Alert 2024 Issue No. 25, *Federal budget 2024 announces further changes to alternative minimum tax*, and EY Tax Alert 2023 Issue No. 45, *Alternative minimum tax: Significant changes will impact taxpayers in 2024*. It should be noted that the exemption from AMT for certain trusts established for the benefit of Indigenous groups or communities, which was also announced in the 2024 federal budget, is not part of Bill C-69 and will need to be legislated at a later time.

- **Mineral exploration tax credit** — The mineral exploration tax credit, which is equal to 15% of specified mineral exploration expenses incurred in Canada and renounced to flow-through share investors, is extended by one year for flow-through share agreements entered into on or before 31 March 2025.

- **Home Buyers' Plan (HBP)** – The HBP limit is increased by $25,000, allowing first-time home buyers to withdraw up to $60,000 (rather than $35,000) from their RRSPs. This measure applies to 2024 and subsequent calendar years in respect of withdrawals made after 16 April 2024. In addition, individuals who make (or made) an HBP withdrawal from their RRSP between 1 January 2022 and 31 December 2025 are granted an additional three years (for a total of five years) before they need to begin making repayments to their RRSP.

- **Canada Child Benefit (CCB)** – The eligibility for the CCB is extended in respect of a child for six months after the child's death, if the individual would have otherwise been eligible for the CCB in respect of that particular child. The CCB entitlement for each month during the extended period is based on the age of the child at the beginning of the particular month as if the child were still alive and reflects other family circumstances in that month (such as marital status). The extended period also applies to the child disability benefit. This measure is effective for deaths that occur after 2024.

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[2] This represents a modification from what was stated in the 2024 federal budget. Specifically, the 2024 federal budget stated that the exempted capital gains on the sale of a business to an EOT would be subject to an inclusion rate of 30% for AMT purposes, which parallels the AMT treatment with respect to gains eligible for the lifetime capital gains exemption.

- **Tax credits for volunteer firefighters and search and rescue volunteers** – The amount used to calculate these two non-refundable tax credits is increased from $3,000 to $6,000, for 2024 and later years. This results in an increase in these tax credits, from $450 to $900.

- **Indigenous child and family services settlement** – Introduction of an income tax exemption for a trust established under the settlement agreement approved by the Federal Court in October 2023, effective as of 19 April 2023 in respect of class actions relating to the First Nations Child and Family Services, Jordan's Principle and Trout Class. This ensures that payments received by class members as beneficiaries of the trusts will not be included when computing income. This measure is effective as of 1 January 2024.

Technical amendments released as draft legislative proposals on 4 August 2023

- **Various amendments** – Technical amendments are made in relation to the medical expense tax credit, the multigenerational home renovation tax credit, shareholder benefits, qualifying trust annuity, the repayment of certain benefits, registered pension plan annuity contracts, RRSP refunds of premiums, transfers of pension benefits, transfers between RRSPs or RRIFs, retirement compensation arrangements, and interest rate hedging arrangements and unit trusts.

Bill C-69 also includes various other technical and consequential amendments to update certain references, correct typographical errors, better align the French and English versions of the Act and make other minor clarifications.

Learn more

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