

SLF

2017 FEDERAL BUDGET SUMMARY

March 22, 2017

TABLE OF CONTENTS

Introduction

Personal Income Tax Measures

Business Income Tax Measures

International Taxation

Sales and Excise Tax Measures

Other Measures

Customs Tariff Measures

Notice to Users

INTRODUCTION

Today, Finance Minister Bill Morneau tabled the Government's second budget – Building a Strong Middle Class – which continues to invest in middle class Canadians

Here are the highlights of the 2017 budget.

PERSONAL INCOME TAX MEASURES

Disability tax credit – nurse practitioners

The budget proposes to add nurse practitioners to the list of medical practitioners that could certify eligibility for the disability tax credit. A nurse practitioner would be permitted to certify for all types of impairments that are within the scope of their practice.

This measure will apply to disability tax credit certifications made on or after March 22, 2017.

Medical expense tax credit – eligible expenditures – treatment of fertility-related expenses

The budget proposes to clarify the application of the Medical Expense Tax Credit so that individuals who require medical intervention in order to conceive a child are eligible to claim the same expenses that would generally be eligible for individuals on account of medical infertility.

This measure could concern, for example, persons without a spouse or same sex couples, for whom the use of reproductive technologies, even where such treatment is not medically indicated because of a medical infertility condition.

This measure will apply to the 2017 and subsequent taxation years. A taxpayer will be entitled to elect in a year for this measure to apply for any of the immediately preceding ten taxation years in their return of income in respect of the year.

Consolidation of caregiver credits

The budget proposes to simplify the existing system of tax measures for caregivers by replacing the existing caregiver credit, infirm dependant credit and family caregiver tax credit with a new Canada Caregiver Credit.

The budget proposes that the new Canada Caregiver Credit amount will be:

- > \$6,883 in respect of infirm dependants who are parents/grandparents, brothers/sisters, aunts/uncles, nieces/nephews, adult children of the claimant or of the claimant's spouse or common law partner.

> \$2,150 in respect of:

- an infirm dependent spouse or common-law partner in respect of whom the individual claims the spouse or common-law partner amount,
- an infirm dependant for whom the individual claims an eligible dependant credit, or
- an infirm child who is under the age of 18 years at the end of the tax year.

The Canada Caregiver Credit will be reduced dollar-for-dollar by the dependant's net income above \$16,163 (in 2017). The dependant will not be required to live with the caregiver in order for the caregiver to claim the new credit.

The Canada Caregiver Credit will no longer be available in respect of non-infirm seniors who reside with their adult children.

The Canada Caregiver Credit will apply for the 2017 and subsequent taxation years.

Mineral exploration tax credit for flow-through share investors

The Government proposes to extend eligibility for the mineral exploration tax credit for an additional year, to flow-through share agreements entered into on or before March 31, 2018.

Electronic distribution of T4 information slips

The budget proposes to allow employers to distribute T4 (Statement of Remuneration Paid) information slips electronically to current active employees without having to obtain express consent from those employees in advance.

This measure will apply in respect of T4s issued for the 2017 and subsequent taxation years.

Tuition tax credit

The budget proposes to extend the eligibility criteria for the tuition tax credit to fees for an individual's tuition paid to a university, college or other post-secondary institution in Canada for occupational skills courses that are not at the postsecondary level (e.g., training in a second language or in basic literacy and numeracy to improve job skills).

This measure will apply in respect of eligible tuition fees for courses taken after 2016.

To improve fairness, The budget proposes to expand the range of courses eligible for this credit to include occupational skills courses that are undertaken at a post-secondary institution in Canada, and to allow the full amount of bursaries received for such courses to qualify for the scholarship exemption (where conditions are otherwise met).

This measure will apply to the 2017 and subsequent taxation years.

Ecological gifts program

The budget proposes a number of measures in order to better protect gifts of ecologically sensitive land.

Public transit tax credit

The budget proposes that the public transit tax credit be eliminated, effective as of July 1, 2017.

Specifically, the cost of public transit passes and electronic fare cards attributable to public transit use that occurs after June 2017 will no longer be eligible for the credit.

Allowances for members of legislative assemblies and certain municipal officers

The budget proposes to require that non-accountable allowances paid to certain officials be included in income.

The reimbursement of employment expenses will remain a non-taxable benefit to the recipient.

The officials concerned by this measure are, notably:

- > elected members of provincial and territorial legislative assemblies and officers of incorporated municipalities;
- > elected officers of municipal utilities boards, commissions, corporations or similar bodies; and
- > members of school boards.

This measure will apply to the 2019 and subsequent taxation years.

Home relocation loans deduction

The value of any portion of the benefit that is in respect of an eligible home relocation loan may

be deductible from taxable income. However, the amount deductible is generally limited to the annual benefit that would arise if the amount of the loan were \$25,000. The budget proposes to eliminate the deduction in respect of eligible home relocation loans.

This measure will apply to benefits arising in the 2018 and subsequent taxation years.

Anti-avoidance rules for registered plans

The budget proposes to extend the anti-avoidance rules listed below to RESPs and RDSPs:

- > the advantage rules, which help prevent the exploitation of the tax attributes of a registered plan;
- > the prohibited investment rules; and
- > the non-qualified investment rules, which restrict the classes of investments that may be held.

Subject to certain exceptions, this measure will apply to transactions occurring, and investments acquired, after March 22, 2017.

For this purpose, investment income generated after March 22, 2017 on previously acquired investments will be considered to be a "transaction occurring" after March 22, 2017.

BUSINESS INCOME TAX MEASURES

Investment fund mergers

Merger of switch corporations into mutual fund trusts

The budget proposes to extend the mutual fund merger rules to facilitate the reorganization of a mutual fund corporation that is structured as a switch corporation into multiple mutual fund trusts on a tax-deferred basis.

This measure will apply to qualifying reorganizations that occur on or after March 22, 2017.

Segregated fund mergers

The budget proposes to allow insurers to effect tax-deferred mergers of segregated funds.

This measure will apply to mergers of segregated funds carried out after 2017 and to losses arising in taxation years that begin after 2017.

Clean energy generation equipment: geothermal energy

The budget proposes three changes:

- > Eligible geothermal energy equipment under Classes 43.1 and 43.2 will be expanded to include geothermal equipment that is used primarily for the purpose of generating heat or a combination of heat and electricity.
- > Geothermal heating will be made an eligible thermal energy source for use in a district energy system:
 - Equipment that uses geothermal energy used primarily for heating purposes will be included in category 43.1 (rate of 30%) or 43.2 (rate of 50%) instead of category 1 (rate of 4%).
- > Expenses incurred for the purpose of determining the extent and quality of a geothermal resource and the cost of all geothermal drilling (e.g., including geothermal production wells), for both electricity and heating projects, will qualify as a Canadian renewable and conservation expense.
 - These expenses will be entirely deductible in the year they are incurred where certain conditions are met.

The measures will apply in respect of property acquired for use on or after March 22, 2017 that has not been used or acquired for use before March 22, 2017.

Canadian exploration expense: oil and gas discovery wells

The budget proposes that expenditures related to drilling or completing a discovery well (or in building a temporary access road to, or in preparing a site in respect of, any such well) generally be classified as a Canadian development expense (CDE) at a rate of 30% instead of a Canadian exploration expense (CEE) at a rate of 100%.

This measure will apply to expenses incurred after 2018. However, the measure will not apply to expenses actually incurred before 2021 where

the taxpayer has, before March 22, 2017, entered into a written commitment to incur those expenses.

Reclassification of expenses renounced to flow-through share investors

The budget proposes to no longer permit eligible small oil and gas corporations to treat the first \$1 million of CDE as CEE. This measure will apply in respect of expenses incurred after 2018, with the exception of expenses incurred after 2018 and before April 2019 that are renounced under a flow-through share agreement entered into after 2016 and before March 22, 2017.

Meaning of factual control

The budget proposes that the *Income Tax Act* be amended to clarify that, in determining whether factual control of a corporation exists, factors may be considered that are not limited to a legally enforceable right and ability to effect a change to the board of directors or its powers, or to exercise influence over the shareholder or shareholders who have that right and ability.

This measure will apply in respect of taxation years that begin on or after March 22, 2017.

Timing of recognition of gains and losses on derivatives

Elective use of the mark-to-market method

The budget proposes to introduce an elective mark-to-market regime for derivatives held on income account. Specifically, an election will allow taxpayers to mark-to-market all of their eligible derivatives. Once made, the election will remain effective for all subsequent years unless revoked with the consent of the Minister of National Revenue.

Furthermore, the recognition of any accrued gain or loss on an eligible derivative (that was previously subject to tax on a realization basis) at the beginning of the first election year will be deferred until the derivative is disposed of.

This election will be available for taxation years that begin on or after March 22, 2017.

Straddle transactions

The budget proposes to introduce a specific anti-avoidance rule; more particularly a stop-loss rule. This will effectively defer the realization of any loss on the disposition of a position to the extent of any unrealized gain on an offsetting position.

A gain in respect of an offsetting position would generally be unrealized where the offsetting position has not been disposed of and is not subject to mark-to-market taxation.

This measure will apply to any loss realized on a position entered into on or after March 22, 2017.

Additional deduction for gifts of medicine

The budget proposes to eliminate the deduction for gifts of medicine from a corporation to a registered charitable organization.

This measure will apply to gifts of medicine made on or after March 22, 2017.

Investment tax credit for child care spaces

The budget proposes to eliminate the investment tax credit for child care spaces.

This measure will apply in respect of expenditures incurred on or after March 22, 2017. To provide transitional relief, the credit will be available in respect of eligible expenditures incurred before 2020 pursuant to a written agreement entered into before March 22, 2017.

Insurers of farming and fishing property

The budget proposes to eliminate the tax exemption for insurers of farming and fishing property.

This measure will apply to taxation years that begin after 2018.

Billed-basis accounting (deferral of work in progress)

The budget proposes to eliminate the ability for designated professionals (dentists, accountants, lawyers, doctors, chiropractors, and veterinarians) to elect to use billed-basis accounting to defer the taxation of their work in progress.

This measure will apply to taxation years that begin on or after March 22, 2017.

To mitigate the effect on taxpayers, a transitional period will be provided to phase in the inclusion of work in progress into income.

For the first taxation year that begins on or after March 22, 2017, 50 per cent of the lesser of the cost and the fair market value of work in progress will be taken into account for the purposes of determining the value of inventory held by the business under the *Income Tax Act*.

For the second, and each successive, taxation year that begins on or after March 22, 2017, the full amount of the lesser of the cost and the fair market value of work in progress will be taken into account for the purposes of valuing inventory.

Consultation on cash purchase tickets

The budget launches a consultation on the income tax deferral available in respect of deferred cash purchase tickets for deliveries of listed grains.

INTERNATIONAL TAXATION

Extending the base erosion rules to foreign branches of life insurers

The budget proposes to amend the *Income Tax Act* to ensure that Canadian life insurers are taxable in Canada with respect to their income from the insurance of Canadian risks.

It is further proposed that complementary anti-avoidance rules be introduced to ensure the integrity of the proposed rule.

This measure will apply to taxation years of Canadian taxpayers that begin on or after March 22, 2017.

SALES AND EXCISE TAX MEASURES

Taxi and ride-sharing services

To ensure that the GST/HST applies consistently to taxi services and ride-sharing services, the budget proposes to amend the definition of a taxi business to require providers of ride-sharing services to register for the GST/HST and charge

tax on their fares in the same manner as taxi operators.

These changes will only apply to transportation that is supplied in the course of a commercial activity. These changes will not apply to a school transportation service for elementary or secondary students or a sightseeing service.

The amendment will be effective as of July 1, 2017.

GST/HST rebate to non-residents for tour package accommodations

The budget proposes to repeal the GST/HST rebate available to non-residents for the GST/HST that is payable in respect of the accommodation portion of eligible tour packages.

This repeal will generally apply in respect of supplies of tour packages or accommodations made after March 22, 2017. As a transitional measure, the rebate will continue to be available in respect of a supply of a tour package or accommodations made after March 22, 2017 but before January 1, 2018 if all of the consideration for the supply is paid before January 1, 2018.

Tobacco taxation

The budget proposes to eliminate the tobacco manufacturers' surtax. In order to maintain the intended tax burden of the manufacturers' surtax on tobacco products, The budget also proposes to adjust tobacco excise duty rates.

Alcohol taxation

The budget proposes that excise duty rates on alcohol products be increased by 2 per cent effective March 23, 2017, in respect of duty that becomes payable after that date.

OTHER MEASURES

Expanding employment insurance benefits to offer more flexibility for families

To better support caregivers, The budget proposes to create a new EI caregiving benefit of up to 15 weeks.

The budget proposes to make employment insurance (EI) parental benefits more flexible. Proposed changes will allow parents to stagger

EI parental benefits over an extended period of up to 18 months at a lower benefit rate of 33 per cent of average weekly earnings. EI parental benefits will continue to be available at the existing benefit rate of 55 per cent over a period of up to 12 months.

The budget also proposes to allow women to claim EI maternity benefits up to 12 weeks before their due date – expanded from the current standard of 8 weeks – if they so choose.

A tax system that's fair for middle class Canadians

Tax planning using private corporations

The review of federal tax expenditures highlighted a number of issues regarding tax planning strategies using private corporations. These strategies include:

- > *Sprinkling income using private corporations*, which can reduce income taxes by causing income that would otherwise be realized by an individual facing a high personal income tax rate to instead be realized.
- > *Holding a passive investment portfolio inside a private corporation*, which may be financially advantageous for owners of private corporations compared to otherwise similar investors.
- > *Converting a private corporation's regular income into capital gains*, which can reduce income taxes by taking advantage of the lower tax rates on capital gains.

The Government intends to release a paper in the coming months setting out the nature of these issues in more detail, including family-owned business transfers, as well as proposed policy responses.

NOTICE TO USERS

The information contained in this budget release is intended solely to provide general guidance on matters of interest for the personal use of the reader, who accepts full responsibility for its use. The information in this document is provided with the understanding that the authors and publishers are not herein engaged in rendering legal, accounting, tax, or other professional advice or services. As such it should not be used as a substitute for consultation with your Schwartz Levitsky Feldman s.e.n.c.r./s.r./LLP advisor.

Schwartz Levitsky Feldman S.E.N.C.R./s.r./LLP

Montréal

1980, Sherbrooke Street West
10th floor
Montréal, Québec
H3H 1E8
Tel: 514-937-6392

Toronto

RioCan Eglinton Centre
2300 Yonge Street, Suite 1500
Toronto, Ontario
M6A 2X1
Tel: 416-785-5353