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CPA CANADA FEDERAL BUDGET COMMENTARY

INTRODUCTION

The Federal Government presented its 2014 Budget, “The Road to Balance: Creating Jobs and Opportunities,” on Tuesday, February 11. The Budget includes in its 419 pages approximately $280 billion in spending over the next several years. The Government won’t raise personal or corporate taxes in 2014 and predicts a $2.9 billion deficit in 2014–15, leading to a surplus of $6.4 billion the following year and $10.3 billion by 2018–19. The final deficit for 2013–14 was $16.6 billion, less than the $17.9 billion estimated in the fall.

The Budget offers no grand statements, but many targeted measures aimed at increasing revenue, preventing tax evasion, reducing the cost of Government, fostering innovation and supporting job creation through infrastructure spending and incentives for business. CPA Canada approves of the Government’s measured efforts to reduce the deficit and balance the country’s books. Gabe Hayos, CPA Canada’s vice-president of taxation, advises that “Spending shouldn’t pick up until it is clear that the budget is balanced and additional money is available.” However, the Government did not propose any significant measures to make the tax system more efficient and reduce the red tape that businesses face.

Nonetheless, the CPA Canada gives the 2014 Budget a “silver medal” for its efforts in this Olympic year, with the hope that the Government will implement comprehensive tax reform when Canada returns to a surplus position. And there is hope. The Budget commits the Canada Revenue Agency to holding nation-wide consultations every two years to gather ideas on improving services and reducing bureaucracy for small businesses. The Canadian Federation of Independent Business was a stricter judge, giving the Budget a bronze.

The Budget may not thrill Canada’s business community—and some will likely not notice much change at all this year—but many organizations will enjoy benefits. On the other hand, some businesses and non-profits will want to take a look at their governance and accounting practices in order to keep the tax man from knocking on their doors.

Of particular interest to small businesses, the Budget proposes raising the threshold for source deduction remittances and thereby reducing the frequency of remittance. This could result in less paperwork for up to 50,000 small businesses.

The Budget proposes funding to update the Canada Revenue Agency’s information systems in order to accept electronic registrations and annual information returns from charities.

Additional funding would give workers young and old training relevant to the needs of Canadian businesses and help connect them with opportunities. For instance:

- The Budget commits the Government to finally implement the Canada Job Grant, which would provide up to $10,000 in funding to eligible businesses that train unemployed or underemployed individuals for new or better jobs. Employers would contribute up to $5,000, but small businesses could count the trainees’ wages toward their portion. The Government wants the provinces to participate, but promises to open up the program to applications in April, regardless.

- The Budget proposes $15 million over three years to expand job opportunities for Canadians with developmental disabilities (e.g., intellectual disabilities and autism).
- An additional $11.4 million over four years would support job training specifically for Canadians with Autism Spectrum Disorders.
- Five new apprenticeship measures are intended to make it easier for Canadians to enter in-demand trades: 1) the Apprenticeship Incentive Grant would provide an apprentice with $1,000 for each of the first two years of the apprenticeship; 2) the Apprenticeship Completion Grant would be worth $2,000 when an apprentice is certified a journeyman in her or his trade; 3) special employment insurance measures would make apprentices eligible for regular EI benefits during in-class training including waiving the two-week waiting period; 4) might cover other expenses related to training, like basic living expenses, relocation and commuting costs, training materials and child care; and 5) an interest-free apprentice loan of up to $4,000 would offer general support during training.
- $40 million over the next two years would support up to 3,000 internships for post-secondary graduates in “high-demand” fields like science, technology, engineering, mathematics and skilled trades. $30 million of this amount would be dedicated to small and medium businesses engaged in technical research and development projects.
- $11.8 million would go toward implementing an “enhanced job-matching service” and modernizing the national job bank in order to connect workers to relevant jobs in their areas. A further $3.3 million per year would sustain the program.

There is always concern that micro-measures such as the ones in the Government’s 2014 Budget are more burdensome and less effective than broader actions like simply cutting personal and corporate income taxes, but nevertheless, many organizations, large and small, should benefit.

PERSONAL INCOME TAX MEASURES

Tax on Split Income

A “kiddie tax” is levied at the highest federal tax rate on certain income (“split income”) received by minors.

For 2014 and subsequent years, the Budget proposes to expand the definition of split income to include income that is paid or allocated to a minor from a trust or partnership if the income is derived from a business or a rental property and a person related to the minor is actively engaged on a regular basis in the activities of the trust or partnership to earn that business or rental income or the person has, in the case of a partnership, an interest in the partnership.

Medical Expense Tax Credit (METC)

The Budget proposes to expand the definition of an expense eligible for the METC for 2014 and subsequent years for the following expenses.

Design of an individual therapy plan for specialized therapy

The design costs will be eligible for the METC if the therapy would otherwise be eligible for the METC and:

- The therapy plan is required in order for the individual to access public funding for the therapy, or a medical doctor, occupational therapist or psychologist prescribes the therapy plan.
- The individual has a severe and prolonged mental or physical impairment and would be eligible to claim the Disability Tax Credit.
- The preparer of the therapy plan is ordinarily engaged in the business of providing these services to unrelated individuals.

Expenses for service animals

The cost of service animals specifically trained to assist an individual in managing his/her severe diabetes will be eligible for the METC. The cost of the service animal, including care and maintenance, and reasonable travel expenses to attend a training facility that trains the individual in the handling of the service animal will also be eligible for the METC.

Adoption Tax Credit

The federal adoption credit is 15% of eligible expenses to a maximum amount. The current maximum is $1,766 (15% of $11,774). The Budget proposes to increase that maximum to $2,250 (15% of $15,000) in 2014. Thereafter, the maximum amount will be indexed annually to inflation.

Search and Rescue Volunteer Tax Credit (SRVTC)

The Budget proposes a new federal SRVTC of $450 (15% of $3,000) for eligible ground, air and marine search and rescue volunteers, commencing in 2014. A volunteer must annually perform 200 hours of service. If an individual claims the SRVTC, he/she may not claim the existing $1,000 Government honorarium as a tax-free amount.

If an individual claims the SRVTC, he/she may not also claim the Volunteer Firefighters Tax Credit or vice versa.

Mineral Exploration Tax Credit

This credit (15% of specified Canadian mineral exploration expenses) is available to individuals who invest in flow-through shares. The Budget proposes to extend the credit to flow-through share agreements entered into on or before March 31, 2015. Funds raised with the credit during the first three months of 2015 can support eligible exploration until the end of 2016.

Amateur Athlete Trusts

If a qualifying amateur athlete contributes certain amounts (endorsements, prizes, income from public appearances or speeches) to an Amateur Athlete Trust, these amounts are not included in the athlete's income. The athlete includes withdrawals from the trust in income. The athlete must withdraw (or is deemed to withdraw) the funds within eight years after the individual last competed as a Canadian national team member.

The Budget proposes to allow income which is contributed to an Amateur Athlete Trust to qualify as earned income for RRSP purposes for such contributions made after 2013. In addition, where an election is made before March 2, 2015, individuals who contributed income to an Amateur Athlete Trust in 2011, 2012 and 2013, will be permitted to have such income qualify as earned income for RRSP purposes for these years. This additional amount from the earlier years will be added to the individual's RRSP contribution room for 2014.

Pension Transfer Limits

The pension transfer limit formula determines the portion of a lump-sum commutation payment from a defined benefit Registered Pension Plan (RPP), received by a plan member who is leaving the RPP, that may be transferred to an RRSP on a tax-free basis. Where a plan member's commutation payment is reduced due to plan underfunding, the transferrable amount is generally based on the lower commutation payment. Consequently, the portion of the commutation payment which exceeds the transferrable amount must generally be included in the taxpayer's income for the year it is received.

The Budget proposes to extend the circumstances in which the maximum transferrable amount, to allow for a tax-free transfer of the total commutation amount to an RRSP, will not be reduced where the RPP is underfunded in the following situations:

- Where the plan is an RPP, other than an individual pension plan (IPP), the reduction in the estimated pension benefit that results in the reduced commutation payment is approved pursuant to the applicable pension benefits standards legislation.
- Where the plan is an IPP, the commutation payment to the plan member is the last payment made from the plan on the windup of the plan.

The application of this rule must be approved by the Minister of National Revenue and will apply to commutation payments made after 2012.

GST/HST Credit Administration

The Budget proposes to allow the CRA to automatically determine if an individual is eligible to receive the GST/HST credit, without the individual having to apply for this credit. A notice of determination will be sent to each individual who is eligible for such credit. This proposal will apply for income tax returns for 2014 and subsequent years.

TESTAMENTARY TRUSTS

The 2013 budget announced the Government's intention to eliminate the "preferential tax treatment" available to testamentary trusts. The Budget proposes a number of significant changes which will basically transform most testamentary trusts into *inter vivos* trusts for tax purposes.

A trust is taxed as an individual for income tax purposes. Each testamentary trust is generally able to compute its income tax liability using the graduated personal income tax rates. Multiple trusts could be established in a will to magnify this benefit. Only a "graduated rate estate" will now be entitled to this benefit. All other trusts, whether *inter vivos* or testamentary, must use only the highest personal income tax rate (29% federally plus the applicable provincial taxes) to calculate its tax liability. Only the following trusts (known as graduated rate estates) will be entitled to use the graduated rates:

- An estate that is a testamentary trust but only for the first 36 months after the death of the testator. Consequently, an ongoing estate, such as a spouse trust, would only benefit from the graduated tax rates for its first 36 months.
- A testamentary trust for the benefit of a disabled individual who would be eligible for the federal Disability Tax Credit.

If a trust is not a graduated rate estate, it will be subject to the following provisions, which previously did not apply to testamentary trusts. More specifically, the testamentary trust (like *inter vivos* trusts):
Will be required to make quarterly instalments and pay its balance due on March 31 of the following year.

- Must adopt a calendar year end. If a testamentary trust has a non-calendar year-end, it must change its year-end to December 31 in the year in which it ceases to be a graduated rate estate. For example, a testamentary trust created on September 30, 2014, could choose a September year-end. The trust would be a graduated rate estate until September 30, 2017 and would file its September 30, 2017 return using the graduated rates. Thereafter, it must adopt a December 31 year-end.
- Will not be entitled to the $40,000 alternative minimum tax exemption.
- Will be subject to the distribution tax under Part XII.2 of the Income Tax Act.
- May not make investment tax credits available to its beneficiaries.
- Will not be able to apply for a refund after the normal reassessment period of three years, rather than the 10-year period available for individuals and graduated rate estates.
- May only file a Notice of Objection within 90 days of the assessment, rather than one year after its filing date of March 31.

Certain *inter vivos* trusts created before June 17, 1971 will not be graduated rate estate.

These rules will apply after December 31, 2015.

CHARITIES AND NON-PROFIT ORGANIZATIONS

Donations of Ecologically Sensitive Land

The Ecological Gifts Program provides special tax assistance for donations of ecologically sensitive land, or easements, covenants and servitudes on such land, by way of a charitable donation tax credit to individuals and a charitable donation deduction to corporations.

Amounts not claimed in a year can currently be carried forward for up to five years. The Budget proposes to extend the five-year carry-forward period to 10 years for such charitable donations made on or after Budget Day.

Estate Donations

A donation made by a person's will is currently treated for income tax purposes as having been made by the individual immediately prior to his/her death. Similar provisions apply where a qualified donee is designated under an RRSP, RRIF, TFSA or a life insurance policy. The applicable donation tax credit may currently be claimed by the individual in the year of death or the prior year. It is not unusual for there to be unused donation credits. The estate cannot claim the unused donation tax credit which arose for donations made by a person's will.

The Budget proposes, for 2016 and subsequent years, that a donation made by a person's will instead be treated for income tax purposes as having been made by the person's estate and will only be considered to be a qualified donation when the property is actually transferred to the qualified donee.

The estate may claim the donation tax credit, either in the year the donation is made or in an earlier year of the estate. Alternatively, the estate may deem the deceased individual to have made the donation in the year of death or the previous year.

This proposal applies to donations made within 36 months following the individual's death.

Donations of Certified Cultural Property

Gifts of certified cultural property, which are acquired as part of a tax shelter gifting arrangement, are currently exempt from the rule which requires that the value of such a gift be limited to its cost. Consequently, gifts of certified cultural property in this type of scenario are currently treated as having been made at their fair market value, thereby creating a tax benefit. The Budget proposes that gifts of certified cultural property after Budget Day, which are acquired as part of a tax shelter gifting arrangement, be subject to the limitation of being deemed to have been made at not greater than the cost of the property.

State Supporters of Terrorism

The Budget proposes that, where a charity accepts a donation after Budget Day from a foreign state listed as a supporter of terrorism for purposes of the State Immunity Act, the Minister of National Revenue may refuse to register the charity or may revoke its registration.

Consultation of Non-Profit Organizations (NPOs)

There are concerns that some organizations claiming NPO status are either earning profits which are not incidental to their non-profit purposes or are making income available for the personal benefit of members. Consequently, the Budget indicates that the Government intends to review whether the income tax exemption for NPOs remains properly targeted and whether sufficient transparency and accountability provisions are in place. The Government will release a consultation paper for comment.

Electronic Filing

The Government will provide funding to the CRA to enable charities to apply for registration and file their annual information returns electronically.

BUSINESS INCOME TAX MEASURES

Eligible Capital Property (ECP) Consultations

Currently 75% of an eligible capital expenditure is added to the cumulative eligible capital (CEC) pool and is deductible at an annual rate of 7% on a declining-balance basis. In addition, 75% of an eligible capital receipt is first applied to reduce the CEC pool, resulting in recapture of CEC previously deducted. 50% of any excess receipt is included in business income and taxed at the applicable tax rate for business income.

The Budget proposes public consultations to repeal the current ECP regime and replace it with a new capital cost allowance (CCA) class. Under this proposal a new class of depreciable property for CCA purposes would be introduced whereby future eligible capital expenditures would be included at a 100% inclusion rate, as opposed to 75%. The new class would have a 5% annual CCA rate as opposed to 7%. The existing CCA rules would generally apply, including rules relating to recapture, capital gains and the half-year rule.

The proposals also include special rules for goodwill and expenditures and receipts which do not relate to a specific property. Every business would be considered to have goodwill associated with it, even if there had not been an expenditure to acquire goodwill. Consequently, an expenditure that would have been ECP that did not relate to a specific property would increase the capital cost of the goodwill of the business and the balance of the new CCA class. In addition, a receipt that would have been in respect of ECP, but did not relate to a specific property, would reduce the capital cost of the goodwill of the business. Consequently, the balance of the new CCA class would be reduced by the lesser of the capital cost of the goodwill (which could be nil) and the amount of the receipt. The excess of the amount received over the actual cost of the goodwill would be a capital gain. Previously deducted CCA would be recaptured to the extent that the amount of the receipt exceeds the balance of the new CCA class.

This capital gain treatment would expand the ability to shelter such gains with available capital losses. However, the corporate tax rate for a Canadian-controlled private corporation (CCPC) would be higher on a capital gain than it would be on business income. Consequently, this proposal would increase the taxation for sales of goodwill for CCPCs.

There are proposed transitional rules which provide that:

- The CEC pool balance at the implementation date would be transferred to the new CCA class and the CCA rate for the first 10 years would be 7% with respect to expenditures incurred before the implementation date.
- Qualifying receipts which relate to property acquired before the implementation date would reduce the balance of the new CCA class at a 75% rate. This rule would ensure that receipts do not result in excess recapture when applied to reduce the balance of the new CCA class.

Special rules will be considered to simplify the transition for small business.

Remittance Thresholds for Employer Source Deductions

The Budget proposes to reduce the compliance burden with respect to the frequency for the remittance of payroll source deductions for some small businesses by increasing the threshold level of average monthly withholdings. The average monthly withholding threshold for remitting two times per month is proposed to increase from $15,000 to $25,000, and from $50,000 to $100,000 for remitting four times per month. This proposal applies to amounts to be remitted after 2014.

Tax Incentives for Clean Energy

Class 43.2 provides accelerated CCA, 50% on a declining balance basis, for investment in specified clean energy generation and energy conservation equipment. The Budget proposes to expand Class 43.2 to include water-current energy equipment and equipment used to gasify eligible waste fuel for use in a broader range of applications.

Water-current energy equipment will include new equipment acquired on or after Budget Day used primarily for the purpose of generating electricity using the kinetic energy from flowing water, including support structures, submerged cables, transmission equipment and control, conditioning and battery storage equipment, but will not include buildings, distribution equipment or auxiliary electricity-generating equipment.

Gasification equipment will include new equipment acquired on or after Budget Day used primarily to produce producer gas, including related piping, storage equipment, feeding equipment, ash-handling equipment and equipment to remove non-combustibles and contaminants from the producer gas, but will not include buildings or other structures or heat-rejection equipment.

FARMING

Tax Deferral for Farmers and Fishers

Sales of business

There are two mechanisms whereby an individual may defer and/or eliminate the capital gain on the disposition of a farming or fishing business, the intergenerational rollover and the lifetime capital gains exemption. To qualify for these provisions, the individual or a partnership of which the individual is a member, must dispose of assets which are used principally (more than 50%) in either a farming or fishing business. The Budget proposes that after 2013 this 50% test will apply to businesses which are a combination of farming and fishing.

There are similar proposals for corporations carrying on a combination of farming and fishing.

Disposal of bees and breeding horses

Farmers who dispose of breeding livestock due to drought, flood or excess moisture conditions existing in prescribed regions are permitted to defer up to 90% of the sale proceeds until the following year, or until a later year if the conditions persist. The Budget proposes that, commencing in 2014, the 90% deferral of income applicable to breeding livestock will apply to bees and all types of horses over 12 months of age that are kept for breeding.

INTERNATIONAL

Automatic Exchange of Information for Tax Purposes

The Government is tightening various rules in order to curtail international tax avoidance.

In the 2007 budget, the Government announced that future treaties and updated treaties would contain information exchange provisions suggested by the Organisation for Economic Co-operation and Development (OECD).

The U.S. Foreign Account Tax Compliance Act (FATCA) would have required Canadian financial institutions and U.S. persons holding financial accounts in Canada to report certain information to the IRS. On February 5, 2014, the Government signed an agreement with the U.S. that will limit some of the harsher reporting provisions contained in FATCA. Starting in July 2014, the agreement allows larger Canadian institutions to report information concerning U.S. persons to the CRA, which will transmit the information securely to the IRS. Various registered accounts (such as RRSPs, RRIFs etc.) will be exempt from reporting, as will smaller financial institutions (assets less than $175 million). Similar information will flow from the U.S. to the CRA.

Tax Collection

The CRA will not collect U.S. tax owed by a Canadian citizen if the individual was a Canadian citizen when the liability arose.

Non-Resident Trusts

After many years of drafting and redrafting legislation to tighten the rules related to the taxation of income earned by non-resident trusts, the Income Tax Act was finally amended in 2013 to this effect. The new rules generally apply to 2007 and later taxation years.

The new rules retained the 60-month (maximum) exemption from Canadian taxation granted to new immigrants. The Budget proposes to eliminate this exemption. This measure will generally apply to trust taxation years that end on or after Budget Day. However, existing "60-month trusts" will get a slight reprieve. Such trusts will not lose their exemption until taxation years that end after 2014 if they were already entitled to it in 2014 and before Budget Day, and no contributions are made to the trust on or after Budget Day and before 2015.

Treaty Shopping

In the context of this commentary, "treaty shopping" refers to planning where a person who resides in a country with which Canada does not have a favourable tax treaty earns Canadian source income through an entity formed in a country with which Canada does have such a treaty. For example, dividends from Canadian corporations might be directed to a holding company in a country whose tax treaty with Canada specifies a 5% withholding rate rather than the higher rate that would otherwise apply.

Canada considers these arrangements abusive in certain circumstances and is in the process of developing a domestic rule to curtail them. This is in contrast to the approach taken by other countries to renegotiate treaties to discourage abuse. The new rule would be similar to the GAAR for domestic transactions. However, there would be relieving provisions in respect, for example, of ordinary commercial transactions even if one of the considerations (but not the main purpose) for making an investment was treaty relief.

The Government has asked for comments within 60 days after Budget Day.

The OECD is expected to issue recommendations in connection with treaty shopping in September 2014.

Multinational Enterprises (MNEs)

In a related area, the Government has asked that, within 120 days after Budget Day, interested parties submit comments in connection with international tax planning engaged in by MNEs. One specific area that will be addressed is whether non-residents should be subject to GST/HST on e-commerce sales to Canadian residents.

Foreign Accrual Property Income (FAPI)

In broad terms, investment income earned by a controlled foreign affiliate is taxed to its Canadian owner(s) as the income is earned offshore even if it is not repatriated to Canada. For taxation years that begin after 2014, the Budget proposes to ensure FAPI treatment where income is earned offshore:

- From insuring risks in respect of Canadian residents, Canadian property or businesses carried on in Canada.
- By regulated financial institutions in a foreign jurisdiction that are not owned by large regulated Canadian financial institutions.

Thin Capitalization and Withholding Tax: Back-to-Back Loans

The thin capitalization rules restrict the deductibility of interest paid by a corporation or trust to certain non-residents that either hold substantial interests (25%) in a corporation or do not deal at arm's length with a trust. Also, Canadian withholding tax is payable in connection with interest paid to non-arm's-length non-residents. In theory, both sets of rules can be circumvented by interposing an arm's length financial institution between the non-resident lender and the Canadian borrower. The non-resident would lend to the financial institution which would on-lend to the Canadian borrower.

For taxation years that begin after 2014 in the case of the thin capitalization rules, and, where withholding tax is concerned, where interest is paid or credited after 2014, both the thin capitalization rules and withholding tax will, in essence, apply as if the financial intermediary did not exist.

SALES AND EXCISE TAX MEASURES

Improving the Application of the GST/HST to the Health Care Sector

In order to recognize changes in the health care sector, the Budget proposes three changes regarding the application of GST/HST to certain for health-related services. These changes will take effect after February 11, 2014.

Exemption for services rendered by an acupuncturist or naturopathic doctor

In recognition that acupuncturists and naturopathic doctors are now regulated as a health profession in at least five provinces, the Budget proposes to add acupuncture and naturopathic services rendered to an individual by a practitioner to the list of exempt health services.

Exemption for the service of designing training for individuals with a disorder or disability

Currently the Excise Tax Act provides an exemption for training that is specially designed to assist individuals with a disorder or disability in coping with the effects of the disorder or disability or to alleviate or eliminate those effects. Often a separate service is provided to design this training. The Budget proposes to exempt this service in a situation where the design service is supplied:

- By a Government or the cost of the design service is fully or partially subsidized under a Government program; or
- The design service is certified in writing by a recognized health care professional whose services are GST/HST exempt, in the course of a professional-client relationship with an individual coping with a disorder or disability, as being for training that is an appropriate means to assist the individual in coping with the effects of the disorder or disability or to alleviate or eliminate those effects.

Zero-rating of eyewear specially designed to electronically enhance the vision of individuals with vision impairment

A supply of eyeglasses or contact lenses provided under a prescription that are intended to correct a person's vision is zero-rated. The Budget proposes to add legislation to zero-rate a supply of eyewear that is specially designed to treat or correct a defect of vision by electronic means when sold by prescription.

GST/HST Election for Closely Related Persons

Section 156 of the ETA provides for supplies of most property and services made between closely related parties that are resident in Canada and exclusively engaged in commercial activities to not be subject to tax when an election under this section is made. However, for the parties to qualify they must, among other requirements, have either assets or have made taxable supplies. This has always created a problem where a new member of a closely related group is formed and receives a supply of assets from a related entity. The Budget proposes to expand the application of this section to permit a qualifying member who currently does not have any property and has not made any taxable supplies to be party to the election provided that the new member expects to make supplies throughout the next 12 months and expects that all or substantially all of these supplies will be taxable supplies. This will be effective January 1, 2015.

The Budget also proposes to make filing of a prescribed election form with the CRA a requirement. Currently the election form is simply completed and retained with each member's books and records. Effective January 1, 2015, parties to a new election will be required to file that election by the first date on which any of the parties to the election is required to file a return for the period in which the election becomes effective. Parties to an election made before January 1, 2015, that is in effect on January 1, 2015, will have until January 1, 2016, to file the election with the CRA.

The Budget also proposes legislation that will cause the parties to this election which is in effective after 2014 to be jointly and severally liable for any GST/HST owing on supplies made after 2014 between the parties.

Joint Ventures

The Budget announced that the Government intends to propose new legislation later in the year that will significantly expand the availability of the joint venture election so that, provided that the activities of the joint venture are exclusively commercial and the participants are engaged exclusively in commercial activities, the election will be available. Currently, only certain activities are prescribed as eligible activities for purposes of the election significantly limiting the availability of the election.

The joint venture election simplifies compliance by permitting the participants to elect to have a designated operator account for GST/HST on supplies made by and acquired by the joint venture.

Strengthening Compliance with GST/HST Registration

The Budget introduces legislation that permits the CRA to register a person that the CRA believes is required to be registered. The legislation will require the CRA to send a written notice to the person it believes is required to register and the person will have 60 days from the date the notice was sent to either apply for GST/HST registration or indicate why the person is not required to be registered. Where the person has not either registered within the 60 days or satisfied the CRA that it is not required to be registered, the CRA will have the authority to register the person for GST/HST effective 60 days after the notice was sent.

Tobacco Taxation

The Budget introduces several increases in rates of excise duty on tobacco products in an effort to discourage the use of these products among Canadians as part of its health strategy.

Excise duty rate increases are proposed as follows:

- From $0.425 to $0.52575 for each five cigarettes or fraction thereof,
- From $0.085 to $0.10515 per tobacco stick,
- From $5.3125 to $6.57188 per 50 grams or fraction thereof for manufactured tobacco, and
- From $18.50 to $22.88559 per 1,000 cigars, and the additional duty on cigars from the greater of $0.067 per cigar and 67% of the sale price or duty-paid value to the greater of $0.08226 per cigar and 82% of the sale price or duty-paid value.

Duty is imposed on all Canadian-made cigarettes, tobacco sticks and manufactured tobacco for sale in domestic and foreign duty-free shops, as well as on imports of these tobacco products for sale in Canadian duty-free shops or brought into Canada by returning travelers. These “duty-free” rate increases are proposed as follows:

- From $0.374875 to $0.52575 for each five cigarettes or fraction thereof,
- From $0.074975 to $0.10515 per tobacco stick, and
- From $4.685938 to $6.57188 per 50 grams or fraction thereof for manufactured tobacco.

These rate changes will be effective after Budget Day. Going forward, tobacco taxes will be indexed to the consumer price index automatically every five years.

There will also be an inventory tax imposed on inventories of cigarettes held by manufacturers, importers, wholesalers and retailers at the end of February 11, 2014, at a rate of 2.015 cents. This inventory tax will not apply to taxpayers holding 30,000 or fewer cigarettes at the end of February 11 or to cigarettes held in vending machines. The inventory tax on cigarettes will also apply every five years at the time of each inflationary excise duty adjustment. The first inflationary adjustment will be on December 1, 2019.

Standardizing Sanctions Related to False Statements in Excise Tax Returns

The non-GST/HST portions of the ETA do not currently impose administrative monetary penalties or provide for the possibility of indictment and potential prison sentences. Other federal tax legislation currently provides for these measures. The Budget proposes to add a new administrative monetary penalty and to amend relevant criminal offence provisions to be consistent with the GST/HST portion of the ETA. These measures will apply to any excise tax returns filed after the day of Royal Assent to the enacting legislation.

OTHER MEASURES

Aboriginal Tax Policy

The Budget reiterates the Government’s willingness to discuss and put into effect direct taxation arrangements (i.e. Indian bands and self-governing Aboriginal groups levy a sales tax within their reserves or settlement lands or impose personal income taxes on residents within their settlement lands) with interested Aboriginal Governments and its support of direct taxation arrangements between interested provinces or territories and Aboriginal Governments. It has enacted legislation to facilitate such arrangements.

CUSTOMS TARIFF MEASURES

Customs Tariff Treatment of the Govener General

The Budget announced that the Customs Tariff will be amended to make the Governor General subject to the same tariff rules as other Government office holders. In addition, amendments to the GST/HST importation rules will also be proposed to ensure consistent tax and tariff treatment.

Supporting Offshore Oil and Gas Development

The Budget proposes to eliminate the 20% Most-Favoured-Nation rate of duty on imported mobile offshore drilling units (MODUs) in order to permanently eliminate a disincentive to exploration leading to oil and gas discoveries in offshore Atlantic and Arctic regions and to create a level playing field with other major oil and gas countries competing for offshore petroleum industry investment.