CIBC MELLON

# *Department of Finance Releases Draft Tax Proposals*

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On February 4, 2022, the Department of Finance Canada (Finance Canada) released for public comment a set of draft legislative proposals including previously announced and other tax measures.

Below is a summary of some of the income tax measures that may impact CIBC Mellon and its clients:

## Trust Reporting

The draft legislation amends the proposed tax reporting requirements announced in the 2018 federal budget, and requires certain trusts to provide additional information on an annual basis. It includes the following changes:

- Extend the effective date by one year so the tax reporting requirements apply to taxation years ending after December 30, 2022. As a result, for trusts with a calendar year-end, the rules will apply beginning with their 2022 taxation year;
- Apply to a trust that includes an arrangement where it can reasonably be considered to act as agent for its beneficiary(s) with respect to all dealings in all of the property of the trust;
- Provide additional exceptions for trusts all the units of which are listed on a designated stock exchange; and
- Introduce additional penalties for failure to comply.

*These requirements apply to trusts for years ending after December 30, 2022.*

## Mutual Funds: Allocation to Redeemers Methodology

Under the previously enacted rules, any capital gains realized by a mutual fund trust in excess of the capital gains realized by redeeming unitholders in that year are taxed either at the mutual fund trust level, or in the hands of the remaining unitholders. These rules deny a deduction for capital gains allocated to redeeming unitholders in excess of the capital gains that, absent the allocation, would otherwise have been realized by these unitholders on the redemption of their units.

The draft legislation expands on the application of the current 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").

*These measures apply to taxation years of mutual fund trusts that begin after December 15, 2021.*

## Mandatory Disclosure

Finance Canada introduced new rules to enhance Canada's mandatory disclosure requirements and provide the Canada Revenue Agency (CRA) earlier access to relevant information on aggressive tax planning or transactions.

**The draft legislation requires taxpayers to disclose:**

| Reportable transactions | Notifiable transactions | Reportable uncertain tax treatments |
| --- | --- | --- |
| "Reportable transactions" such as transactions involving one of contingent fee arrangements, confidential protections or contractual protections where it can reasonably be concluded that one of the main purposes of entering into the transactions is to obtain a tax benefit. | "Notifiable transactions" which include transactions designated by the CRA and Finance Canada. These transactions would include types of transactions that the CRA has found to be abusive, as well as transactions of interest. | "Reportable uncertain tax treatments" used by, or planned to be used by, certain corporations in their income tax filings that is reflected in the audited financial statement of the corporation or a consolidated group of which the corporation is a member where the corporation has assets that have a total of carrying value of $50 million or more in assets at the end of the year. |

A taxpayer who enters into a reportable transaction or a "notifiable" transaction generally will be required to report the transaction within 45 days of the earlier of (i) the day that the taxpayer or other person becomes contractually obligated to enter into the transaction and (ii) the day the taxpayer or other person enters into the transaction. A taxpayer will be required to report uncertain tax treatments at the same time that the taxpayer's corporation income tax return is due.

*These new rules apply to taxation years beginning after 2021, or for transactions entered into after 2021.*

## Other Measures

In addition, Finance Canada released draft legislation to implement other measures including:

- Provide for provisions relating to the correction of contribution errors to defined contribution pension plans;
- Improve the fairness of certain taxes applicable to Registered Investments;
- Improve administration of, and compliance with, electronic payment, signature, filing and correspondence requirements; and
- Ensure the CRA has the authority necessary to conduct audits and undertake other compliance activities.

## Deadlines for Public Comments

**Submissions on the income tax draft legislative proposals must be made by the following dates:**

| | |
| --- | --- |
| **March 7, 2022** | for measures pertaining to electronic payment, signature, filing and correspondence requirements; and contribution errors for defined contribution pension plans. |
| **April 5, 2022** | for measures pertaining to taxes applicable to registered investments; the mandatory disclosure rules; audit authorities; reporting requirements for trusts; and the allocation to redeemers rules for mutual fund trusts. |

# If You Have Further Questions

**For more information, please see Finance Canada's website. If you have further questions, please reach out to your relationship manager.**

**CIBC Mellon is not able to provide tax advice, and this document is provided for information purposes only in order to support clients as they consult their legal, tax and compliance advisors with respect to their specific obligations and duties. If you have questions regarding CIBC Mellon's role as an asset servicing provider, please do not hesitate to react out to your relationship manager.**

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