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Summary of Tax Highlights from the 2023 Federal Budget

APRIL 2023

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On March 28, 2023, Deputy Prime Minister and Finance Minister Chrystia Freeland delivered the Canadian Government's 2023 Federal Budget.

A few tax highlights may be relevant for CIBC Mellon clients. As always, we encourage you to contact your legal, tax and compliance advisors for specific advice or guidance with respect to how these and other budget items may impact your organizations.

RETIREMENT COMPENSATION ARRANGEMENTS

Budget 2023 proposes to amend the Income Tax Act so that fees or premiums paid for the purposes of securing or renewing a letter of credit (or a surety bond) for an RCA that is supplemental to a registered pension plan will not be subject to the refundable tax. This change would apply to fees or premiums paid on or after Budget Day.

Budget 2023 also proposes to allow employers to request a refund of previously remitted refundable taxes in respect of fees or premiums paid for letters of credit (or surety bonds) by RCA trusts, based on the retirement benefits that are paid out of the employer's corporate revenues to employees that had RCA benefits secured by letters of credit (or surety bonds). Employers would be eligible for a refund of 50 per cent of the retirement benefits paid, up to the amount of refundable tax previously paid. This change would apply to retirement benefits paid after 2023.

TAX ON REPURCHASES OF EQUITY

The 2022 Fall Economic Statement announced the government's intention to introduce a two per cent tax on the net value of all types of share repurchases by public corporations in Canada. Budget 2023 provides the design and implementation details of the proposed measure.

The tax would apply to public corporations, which for the purpose of this measure refers to Canadian-resident corporations whose shares are listed on a designated stock exchange, but excludes mutual fund corporations.

To ensure comparable treatment among different types of publicly traded businesses, the tax would also apply to the following entities, if they have units listed on a designated stock exchange:

- Real estate investment trusts;
- Specified investment flow-through (SIFT) trusts; and
- SIFT partnerships.

Each of these terms would have the meaning currently provided in the Income Tax Act. In addition, publicly traded entities that would be SIFT trusts or SIFT partnerships if their assets were located in Canada would be subject to the tax.

DIVIDEND RECEIVED DEDUCTION BY FINANCIAL INSTITUTIONS

The Income Tax Act permits corporations to claim a deduction in respect of dividends received on shares of other corporations resident in Canada. These dividends are effectively excluded from income. The dividend received deduction is intended to limit the imposition of multiple levels of corporate taxation.

The mark-to-market rules in the Income Tax Act recognize the unique nature of certain property (mark-to-market property) held by financial institutions in the ordinary course of their business. Under these rules, gains on the disposition of mark-to-market property are included in ordinary income, not capital gains, and unrealized gains are included in computing income annually.

Budget 2023 proposes to deny the dividend received deduction in respect of dividends received by financial institutions on shares that are mark-to-market property. This measure would apply to dividends received after 2023.

REGISTERED EDUCATION SAVINGS PLANS

Budget 2023 proposes to amend the Income Tax Act such that the terms of an RESP may permit EAP withdrawals of up to $8,000 in respect of the first 13 consecutive weeks of enrollment for beneficiaries enrolled in full-time programs, and up to $4,000 per 13-week period for beneficiaries enrolled in part-time programs. These changes would come into force on Budget Day.

GENERAL ANTI-AVOIDANCE RULE

The general anti-avoidance rule (GAAR) in the Income Tax Act is intended to prevent abusive tax avoidance transactions while not interfering with legitimate commercial and family transactions. If abusive tax avoidance is established, the GAAR applies to deny the tax benefit created by the abusive transaction.

Budget 2023 proposes to amend the GAAR by introducing a preamble which indicates that the GAAR applies to deny the tax benefit of avoidance transactions, changing the avoidance transaction standard, introducing an economic substance rule, introducing a penalty equal to 25 per cent of the tax benefit, and extending the reassessment period in certain circumstances.

According to Budget 2023, a three-year extension to the normal reassessment period would be provided for GAAR assessments, unless the transaction had been disclosed to the Canada Revenue Agency. This extension reflects the complexity of many GAAR transactions, along with the difficulties in detecting them.

The Canadian Government states it is interested in stakeholders' views on these proposals, invites interested parties to send written representations to the Department of Finance Canada, Tax Policy Branch at GAAR-RGAE@fin.gc.ca by May 31, 2023.

Previously announced tax changes

The budget confirms that Finance Canada intends to proceeds with certain previously announced tax measures which include:

- Excessive interest and financing expenses limitations
- Fixing contribution errors in defined contribution pension plans
- Borrowing by defined benefit pension plans
- Hedging and short selling by Canadian financial institutions
- Reporting requirements for RRSPs and RRIFs
- Mandatory disclosure rules

If You Have Further Questions

CIBC Mellon is not able to provide tax advice, and this document is provided for information purposes. Clients should 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.

For more information, we encourage you to visit the Government of Canada's website.

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