Attachment # 2

KPMG Tax Implications 2023

Federal Budget Summary

TaxNewsFlash
Canada

2023 Federal Budget Highlights

March 28, 2023
No. 2023-17

Canada's Deputy Prime Minister and Finance Minister Chrystia Freeland delivered the 2023 federal budget on March 28, 2023. The budget expects a deficit of $43 billion for 2022-23 and forecasts deficits of $40.1 billion for 2023-24, and $35 billion for 2024-25. Although the budget does not change the federal personal or corporate tax rates, it does make new changes to broaden the Alternative Minimum Tax (AMT) by disallowing certain deductions and increasing the AMT capital gains inclusion rate to 100% (from 80%), among other adjustments. The budget asks for public feedback on important changes to the general anti-avoidance rule (GAAR) and introduces changes to allow Employee Ownership Trusts (EOTs) to acquire and hold shares of a business.

One major focus of this year's budget is developing Canada's green economy by introducing a slate of corporate tax credits meant to encourage investment in clean energy. In particular, the budget announces new tax credits for clean electricity, and for clean technology manufacturing. In addition, the budget provides additional details on other green credits, including the labour conditions required to claim the full 30% rate under the previously announced Clean Technology Investment Credit and 40% rate under the Clean Hydrogen Investment Tax Credit.

The budget also contains other anticipated measures, including the introduction of a 2% tax on the net value of share repurchases by public corporations in Canada, and adjusts the rules for intergenerational business transfers originally introduced in Bill C-208.

Business tax changes

GAAR

The budget provides draft legislation to amend GAAR. Written representations may be made to Finance by May 31, 2023. Revised legislation and the application date will be

provided after the consultation period. The draft legislation is further to a consultation paper released in 2022.

A preamble has been added to address interpretative issues. The preamble indicates that the GAAR applies to deny the tax benefit of avoidance transactions, that is intended to strike a balance between taxpayer's need for certainty and the responsibility to protect the tax base and can apply regardless of whether a tax strategy is foreseen.

The threshold for the definition of an avoidance transaction has been reduced from a "primary purpose" test to "one of the main purpose tests".

An economic substance test has been added which is to be considered at the "misuse or abuse" state of the GAAR analysis and that a lack of economic substance tends to indicate abusive tax avoidance. The definition of economic substance looks at the opportunity for economic gain, whether the expected value of the tax benefit exceeds the expected non-tax economic return and whether it is reasonable to conclude that the entire, or almost entire purpose was to obtain the tax benefit. The budget indicates that a lack of economic substance will not always mean that a transaction is abusive.

It is not intended that the economic substance test would change the general approach under Canadian income tax law which focuses on legal form.

A penalty has been added equal to 25% of the tax benefit. Where the tax benefit involves a tax attribute that has not yet been used to reduce tax, the amount of the tax benefit would be considered to be nil. The penalty can be avoided if disclosed to CRA under the mandatory disclosure rules or voluntarily.

The reassessment period is extended unless disclosure of the transaction has been made to CRA.

Tax on repurchases of equity

The budget provides the details on the proposed 2% tax on the net value of all types of share repurchases by public corporations in Canada. This was first announced in the 2022 Federal Fall Economic Update.

The tax applies to Canadian-resident public corporations, real estate investment trusts, specified investment flow-through (SIFT) trusts and SIFT partnerships where the shares/units are listed on a designated stock exchange. The tax would not apply to mutual fund corporations.

The tax is equal to 2% of the net value of an entity's repurchase of equity (being shares of the corporation or units of the trust or partnership), which is defined as the fair market value of equity repurchased less the fair market value of equity issued from treasury. This "netting rule" applies on an annual basis. The netting rule takes into account all transactions undertaken by an entity that involve the repurchase of equity or the issuance

of equity from treasury. Normal course issuer bids and substantial issuer bids constitute the repurchase of equity for purposes of the tax.

An exception is provided to the tax in respect of debt-like preferred shares or units with a fixed dividend and redemption entitlement. An exception to the tax is also provided for the issuance and purchase for cancellation of shares or units in certain reorganizations and acquisitions including amalgamations, liquidations and share-for-share exchanges. There is a *de minimis* rule where the total repurchases are less than $1 million during the taxation year.

The legislation includes an anti-avoidance provision which provides that an acquisition of equity by certain affiliates of an entity would be deemed to have been a repurchase of equity by the entity itself.

Certain exceptions to this rule are provided, including those intended to facilitate certain equity-based compensation arrangements, and acquisitions made by registered securities dealers in the ordinary course of business.

The tax applies in respect of repurchases and issuances of equity that occur on or after January 1, 2024.

Dividend received deductions by financial institutions

The budget proposes to deny the dividend received deductions for dividends received by financial institutions on shares that are mark-to-market property.

The mark-to-market rules apply to 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 (in addition to when the property is disposed of). Shares are generally mark-to-market property when a financial institution has less than ten per cent of the votes or value of the corporation that issued the shares ("portfolio shares").

The dividend received deduction is intended to limit the imposition of multiple levels of corporate taxation as funds are distributed through corporate groups.

The elimination of the dividend received deduction results in all income earned by financial institutions in respect of mark-to-market property being taxed as business income.

These changes apply to dividends received after 2023.

Tax treatment of credit unions

The budget eliminates the revenue test from the definition of "credit union". In some cases, credit unions that earn more than 10% of their revenue from certain sources (such as interest income from lending activities to non-members) would not qualify for the definition

and subsequently face unforeseen income tax and GST/HST consequences. The amendment applies for taxation years of a credit union ending after 2016.

Green incentives

Clean Hydrogen Investment Tax Credit

The budget introduces a new refundable Clean Hydrogen Investment Tax Credit up to a maximum rate of 40%. The credit is available for the cost of purchasing and installing eligible equipment for eligible projects. Eligible projects include projects that produce all, or substantially all, hydrogen through their production process (determined without reference to any produced CO_2 that is captured and stored or used, or excess electricity that may be sold to the electricity grid). In particular, these projects must produce hydrogen from electrolysis or natural gas (so long as emissions are abated using carbon capture utilization and storage (CCUS)). The government will review eligibility for other low-carbon hydrogen production pathways. The following rates apply to eligible equipment that becomes available for use in Canada before 2034, based on assessed carbon intensity of the hydrogen produced:

- 40% for a carbon intensity of less than 0.75kg
- 25% for a carbon intensity greater than or equal to 0.75kg but less than 2kg
- 15% for a carbon intensity greater than or equal to 2kg but less than 4kg.

Taxpayers need to assess the project's carbon intensity, which refers to the kg of carbon dioxide equivalent CO_2 per kg of hydrogen, based on the project design using the government's Fuel Life Cycle Assessment (LCA) Model (maintained by Environment and Climate Change Canada). The carbon intensity assessment must be submitted to the government for verification, and once verified, the expected carbon intensity of the produced hydrogen is used to determine the credit rate. Taxpayers with a project that undergo a significant redesign need to have their project reassessed. The budget advises that more specific guidance on how to assess the carbon intensity of a project will be available in the future.

Eligible equipment includes equipment that produces hydrogen from electrolysis if all, or substantially all, of the use of that equipment is to produce hydrogen through electrolysis of water. In addition, eligible equipment includes equipment that produces hydrogen from natural gas with emissions abated using CCUS, but excludes equipment already described in Class 57 or Class 58 (which is eligible for the Investment Tax Credit for CCUS). This type of eligible equipment includes equipment where all, or substantially all, of the use of that equipment is to produce hydrogen through natural gas reformation. Other eligible equipment includes:

- Oxygen production equipment used for hydrogen production, so long as the resulting CO_2 is captured by a CCUS process

- Equipment that produces heat and/or power from natural gas or hydrogen
- Dual use power or heat production equipment in certain circumstances
- Property that converts clean hydrogen to clean ammonia (i.e., clean ammonia equipment).

Expenses that may be related to a hydrogen production project, including feasibility studies, front-end engineering design studies, and operating expenses, is not eligible for the Clean Hydrogen Investment Tax Credit.

Under this credit, businesses must meet certain labour conditions otherwise the credit rate for each carbon intensity tier will be reduced by 10%. These labour requirements (and rate reduction) are also applicable during the credit's phase-out period. The labour conditions include paying prevailing wages and creating apprenticeship opportunities.

To meet the prevailing wage requirement, a business must ensure that all covered workers are compensated at a level that meets or exceeds the relevant wage, plus the substantially similar monetary value of benefits and pension contributions (converted into an hourly wage format), as specified in an "eligible collective agreement". Standard benefits include health, welfare, and vacation benefits. The requirement may be satisfied through different combinations of wages, pension contributions, and benefits.

The relevant eligible collective agreement for a particular worker is that which most closely aligns with the worker's tasks and location, and the relevant wage, pension contributions and benefits within an eligible agreement are those that most closely align with the worker's experience level, type of work (e.g., industrial, commercial) and region in which such work is performed.

To meet the apprenticeship requirement, a business must ensure that no less than 10% of the total labour hours performed by covered workers engaged in subsidized project elements be performed by registered apprentices. Covered workers are those whose duties correspond to those performed by a journeyperson in a Red Seal trade. In addition, there cannot be more apprentices working than are allowed, under applicable labour laws or a collective agreement that applies to the work being performed.

The labour conditions apply to work that is performed on or after October 1, 2023.

Upon operation, taxpayers must demonstrate that the carbon intensity of the hydrogen produced by a project falls into the same tier that the project was assessed at over a certain period of time (i.e., assessment period), using an independent third party, otherwise the credit is subject to a recovery mechanism.

The credit is phased out starting in 2034, with property that becomes available for use in 2034 subject to a credit rate that is reduced by 50%. The credit will fully phase out for property that becomes available for use after 2034. This measure would apply to property that is acquired and that becomes available for use on or after March 28, 2023.

Clean Technology Investment Tax Credit – Geothermal Energy

The budget expands the refundable 30% Clean Technology Investment Tax Credit to include geothermal energy systems that are eligible for Class 43.1 of the capital cost allowance (CCA) regime. Eligible property is expanded to include equipment used primarily for the purpose of generating electrical energy or heat energy, or both electrical and heat energy, solely from geothermal energy, that is described in subparagraph (d)(vii) of Class 43.1. This includes piping, pumps, heat exchangers, steam separators, and electrical generating equipment, but does not include equipment used for geothermal energy projects that will co-produce oil, gas or other fossil fuels.

The budget also changes the phase-out schedule of the Clean Technology Investment Tax Credit (previously announced in the 2022 Federal Fall Economic Update). Instead of the phase out beginning in 2032, the credit rate will be 30% for property that becomes available for use in 2032 and 2033 and is reduced to 15% in 2034. The credit will not be available after 2034.

The budget also provides more detail on the labour conditions that must be met for businesses to qualify for the 30% rate, otherwise the credit rate will be 20% (i.e., the credit rate will be reduced by 10%). These labour requirements (and rate reduction) are also applicable during the credit's phase-out period. These labour conditions include paying prevailing wages and creating apprenticeship opportunities (as discussed above in *Clean Hydrogen Investment Tax Credit*). These labour conditions will be effective October 1, 2023.

Finance previously introduced the Clean Technology Investment Tax Credit, which provides for 30% of the capital cost of certain eligible clean technology equipment, in the 2022 Federal Fall Economic Update. The credit is generally available for the capital cost of a property that is acquired and that becomes available for use on or after March 28, 2023.

The expansion of the Clean Technology Investment Tax Credit applies to property that is acquired and becomes available for use on or after March 28, 2023, where it has not been used for any purpose before its acquisition.

Investment Tax Credit for Clean Technology Manufacturing

The budget introduces a new refundable Investment Tax Credit for clean technology manufacturing and processing, and critical mineral extraction and processing, for up to 30% of the capital cost of eligible depreciable property that is used all or substantially all for eligible activities.

Eligible property generally includes machinery and equipment, including certain industrial vehicles, used in manufacturing, processing, or critical mineral extraction, as well as

related control systems. If eligible property is subject to a change in use or sold within a certain period of time, a portion of the tax credit will be subject to a recovery mechanism. Further, the Investment Tax Credit for Clean Technology Manufacturing is not available for property used in the production of battery cells or modules if such production benefits from direct support through a Special Contribution Agreement with the federal government.

Eligible activities include manufacturing of certain renewable energy equipment (solar, wind, water, or geothermal), nuclear energy equipment, nuclear fuel rods, electrical energy storage equipment used to provide grid-scale storage or other ancillary services, equipment for air and ground source heat pump systems, zero-emission vehicles, batteries, fuel cells, recharging systems, hydrogen refueling stations for zero-emission vehicles and equipment used to produce hydrogen from electrolysis. In addition, eligible activities include processing or recycling of nuclear fuels and heavy water, and manufacturing or processing of upstream components, sub-assemblies, and materials provided that the output would be purpose-built or designed exclusively to be integral to other eligible clean technology manufacturing and processing activities, such as anode and cathode materials used for electric vehicle batteries.

Eligible activities also include the extraction and certain processing activities related to six critical minerals essential for clean technology supply chains: lithium, cobalt, nickel, graphite, copper, and rare earth elements.

The Investment Tax Credit for Clean Technology Manufacturing applies to property that is acquired and becomes available for use on or after January 1, 2024. The credit is gradually phased out starting with property that becomes available for use in 2032 and no longer is available for property that becomes available for use after 2034. In particular, the credit rate is 30% for investments in property that becomes available for use in 2024 to 2031, 20% for property that becomes available for use in 2032, 10% for property that becomes available for use in 2033 and 5% for 2034.

Investment Tax Credit for Carbon Capture, Utilization and Storage

The budget expands and changes certain conditions for the refundable Investment Tax Credit for CCUS. Eligible equipment is expanded to include dual-use equipment that produces heat and/or power or uses water, that is used for CCUS as well as another process, provided that it satisfies all other conditions for the credit. The cost of this equipment is eligible on a pro-rated basis in proportion to the expected energy balance or material balance supporting the CCUS process over the first 20 years of the project. Further, such dual use equipment is eligible only if the energy balance is expected to be primarily used (i.e., more than 50%) to support the CCUS process or hydrogen production that is eligible for the Clean Hydrogen Investment Tax Credit.

In addition, British Columbia is added to the list of eligible jurisdictions for dedicated geological storage, applicable to expenses incurred on or after January 1, 2022. The budget also changes the validation requirement for CO_2 storage in concrete, by requiring taxpayers to have their technology validated by a qualified third-party professional or organization to confirm that the process meets the minimum 60% mineralization

requirement (instead of obtaining approval from Environment and Climate Change Canada).

The budget also comments on how to calculate the CCUS tax credit related to eligible refurbishment costs incurred once the project is operating and the recovery mechanism of refurbishment investment tax credits.

The government also intends to apply labour conditions to the CCUS tax credit and provides that details will be announced at a later date.

These measures would apply to eligible expenses incurred after 2021 and before 2041.

Investment Tax Credit for Clean Electricity

The budget introduces a new refundable 15% Investment Tax Credit for Clean Electricity for eligible investments in new projects and the refurbishment of existing facilities. Eligible investments include:

- Non-emitting electricity generation systems: wind, concentrated solar, solar photovoltaic, hydro (including large-scale), wave, tidal, nuclear (including large-scale and small modular reactors)
- Abated natural gas-fired electricity generation (which would be subject to an emissions intensity threshold compatible with a net-zero grid by 2035)
- Stationary electricity storage systems that do not use fossil fuels in operation, such as batteries, pumped hydroelectric storage, and compressed air storage
- Equipment for the transmission of electricity between provinces and territories.

Taxable and non-taxable entities are eligible for this credit, and the Clean Electricity tax credit may be claimed in addition to the Atlantic Investment Tax Credit, but generally not with any other investment tax credit.

Under this credit, eligible entities must meet certain labour conditions to receive the full 15% tax credit, otherwise the credit rate will be 5%. The labour conditions include paying prevailing wages and creating apprenticeship opportunities (as discussed above in *Clean Hydrogen Investment Tax Credit*). These labour conditions will be effective October 1, 2023.

This credit is available as of the day of the 2024 federal budget for projects that did not begin construction before March 28, 2023, and the credit will not be available after 2034.

Interaction with other federal clean energy and technology tax credits

Businesses can claim only one of the Clean Hydrogen Investment Tax Credit, the CCUS tax credit, the Investment Tax Credit for Clean Technologies, the Investment Tax Credit for Clean Electricity or the Investment Tax Credit for Clean Technology Manufacturing, where

a particular property is eligible for more than one of these tax credits. However, multiple tax credits may be available for the same project, if the project includes different types of eligible property.

Businesses may fully benefit from both the Clean Hydrogen Investment Tax Credit and the Atlantic Investment Tax Credit. The Clean Hydrogen Investment Tax Credit does not reduce the cost of the property that is used to determine the amount of the Atlantic Investment Tax Credit.

Zero-emission technology manufacturers

The budget expands the eligible activities that qualify for the reduced tax rates for zero-emission technology manufacturers to include certain nuclear manufacturing and processing activities. Specifically, income from manufacturing of nuclear energy equipment, processing or recycling of nuclear fuels and heavy water, or manufacturing of nuclear fuel rods will qualify for the tax rate reduction. Previously, Finance introduced a temporary measure to reduce the corporate income tax rates for qualifying zero-emission technology manufacturers in respect of eligible zero-emission technology and manufacturing and processing income by 50% in the 2021 federal budget. This expansion of eligible activities for the rate reduction applies for taxation years beginning after 2023.

The budget also extends the availability of these reduced rates by three years. As a result, the planned phase-out will start in taxation years that begin in 2032 (instead of starting in 2029), and the rate reduction will fully phase out for taxation years that begin after 2034.

Flow-through shares and Critical Mineral Exploration Tax Credit — Lithium from brines

The budget amends the Act to include lithium from brines as a mineral resource and expands the eligibility of the Critical Mineral Exploration Tax Credit (CMETC) to include lithium from brines. As a result, relevant principal-business corporations that undertake certain exploration and development activities can issue flow-through shares and renounce expenses to their investors.

Eligible expenses related to lithium from brines made after March 28, 2023, will qualify as Canadian exploration expenses and Canadian development expenses. The expansion of the eligibility of the CMETC to lithium from brines applies to flow-through share agreements entered into after March 28, 2023, and before April 2027.

Personal tax changes

Alternative Minimum Tax for high income individuals

The budget proposes several changes to calculation of the Alternative Minimum Tax (AMT), including to broaden the base on which the tax is calculated, raise the AMT exemption to approximately $173,000 (from $40,000) and increase the AMT rate to 20.5% (from 15%).

The budget broadens the AMT base by further limiting tax preferences (i.e., exemptions, deductions, and credits), including to increase the AMT capital gains inclusion rate to 100% (from 80%). The budget also confirms that the government intends to maintain the inclusion of 30% of capital gains eligible for the lifetime capital gains exemption in the AMT base, consistent with the current AMT rules. In addition, the budget specifies that capital loss carry forwards and allowable business investment losses would apply at a 50% rate, and 100% of employee stock option benefits would be included in the AMT base.

The budget also proposes to include 30% of the capital gains on donations of publicly listed securities in the AMT base. The 30% inclusion rate would also apply to related employee stock option benefits to the extent that a deduction is available because the underlying securities are publicly listed securities that have been donated.

In addition, the budget broadens the base by disallowing 50% of certain deductions and expenses including, among others:

- Employment expenses (other than those to earn commission income),
- CPP and QPP contribution deductions
- Moving expenses
- Child-care expenses
- Interest and carrying charges incurred to earn income from property
- Deductions for limited partnership losses of other years
- Non-capital loss carryovers.

The budget confirms that expenses associated with film property, rental property, resource property and tax shelters currently limited under the AMT would continue to be limited under the amended AMT regime.

The budget also proposes that only 50% of non-refundable tax credits would be allowed to reduce the AMT, subject to certain exceptions. Certain non-refundable credits that are currently disallowed would continue to be disallowed in full, including the Political Contribution Tax Credit, the Labour Sponsored Venture Capital Corporations Credit, and the non-refundable portion of investment tax credits.

The budget notes that additional details will be released later this year and that the government will continue to examine whether additional types of trusts should be exempt from AMT. The proposed changes would come into force for taxation years that begin after 2023.

Intergenerational transfer of businesses

The budget amends the rules introduced in Bill C-208 regarding the intergenerational transfer of businesses.

Generally, 84.1 of the Act is an anti-avoidance provision which recharacterizes certain amounts which would otherwise be taxed at capital gains rates as dividends which are subject to income tax at a higher rate. Bill C-208 provided an exception to the 84.1 recharacterization for certain intergenerational transfers. The changes introduce several new restrictions that must be satisfied in order to qualify for the exception to 84.1.

The budget introduces two transfer options:

- An immediate intergenerational business transfer (three-year test) based on arm's length sales terms, or
- A gradual intergenerational business transfer (five-to-ten year test) based on estate freeze characteristics.

Three-year test

The conditions which must be satisfied are as follows:

- Control of the business – The parent must transfer both legal and factual control, including an immediate transfer of a majority of voting shares and the balance within 36 months.
- Transfer of economic interest – The parent must transfer a majority of the common growth shares, and transfer the balance of common growth shares within 36 months.
- Transfer of management – The parent must transfer management of the business to their child within a reasonable time based on the particular circumstances (with a 36-month safe harbour).
- Child retains control – Child(ren) retains legal control for a 36-month period following the share transfer.
- Child works in the business – At least one child remains actively involved in the business for the 36-month period following the share transfer.

Gradual intergenerational transfer

The conditions which must be satisfied are as follows:

- Control of the business – The parent must transfer legal control, including an immediate transfer of a majority of voting shares and the balance within 36 months.

- Transfer of economic interest – The parent must transfer a majority of the common growth shares, and transfer the balance of common growth shares within 36 months. In addition, within 10 years of the initial sale, parents reduce the economic value of their debt and equity interests in the business to: 50% of the value of their interest in a farm or fishing corporation at the initial sale time, or 30% of the value of their interest in a small business corporation at the initial sale time

- Transfer of management – The parent must transfer management of the business to their child within a reasonable time based on the particular circumstances (with a 36-month safe harbour).

- Child retains control – Child(ren) retains legal control for the greater of 60 months or until the business transfer is completed.

- Child works in the business – At least one child remains actively involved in the business for the 60-month period following the share transfer or until the business transfer is completed.

The transferor and the child (or children must jointly elect for the transfer to qualify). Where the election is made, the children are jointly and severally liable for additional tax owing under section 84.1.

The intergenerational transfer is extended and now applies to children, grandchildren, stepchildren, children-in-law, nieces and nephews and grandnieces and grandnephews.

Relieving changes have been made where there is a subsequent arm's length share transfer or on the death or disability of a child. In addition, the limit on the value of the shares which may be transferred is eliminated.

Where the election is made, the capital gain reserve period is extended to ten years. The limitation period for assessing a return is extended three years in respect of an immediate transfer and ten years in respect of a gradual business transfer.

The changes apply to transactions that occur on or after January 1, 2024.

Employee ownership trusts

The budget introduces new rules to facilitate the use of employee ownership trusts (EOTs) to acquire and hold shares of a business. The new rules extend the five-year capital gains reserve to a ten-year reserve for qualifying business transfers to an EOT. The new rules also introduce a new exception to the current shareholder loan rule to extend the repayment period from one to 15 years for amounts loaned to the EOT from a qualifying business to purchase shares in a qualifying business transfer. In addition, the budget exempts EOTs from the 21-year deemed disposition rule that applies to certain trusts. A

trust that no longer meets the conditions to qualify as an EOT will be subject to the 21-year rule until the trust next meets the EOT conditions.

To qualify as an EOT, the trust must be a Canadian resident trust under common law that satisfies a number of conditions. These conditions include:

- The trust must hold shares of qualifying businesses exclusively for the benefit of certain qualifying employees
- The interest of each beneficiary of the trust must be determined in the same manner, based solely on a reasonable application of any combination of listed criteria that includes the employee's length of service, remuneration, and hours worked
- The trust must hold a controlling interest in the shares of one or more qualifying businesses
- All or substantially all of the trust's assets must be shares of qualifying businesses
- The trustees of the trust must meet certain conditions
- When an existing business is sold to the trust, individuals and their related persons who held a significant economic interest in the existing business prior to the sale must not account for more than 40% of the trustees of the trust, the directors of the board of a corporation serving as a trustee of the trust or directors of any qualifying business of the trust
- The trust must not distribute any shares of qualifying businesses to its beneficiaries.

The budget requires a qualifying business to be a CCPC that meets certain conditions, including that all or substantially all of the fair market value of its assets are attributable to assets used in an active business carried on in Canada and that it does not carry on its business as a partner of a partnership. The budget defines a qualifying business transfer to be a disposition by a taxpayer of shares of a corporation to a trust, or to a CCPC that is controlled and wholly owned by a trust where the trust is an EOT that acquires control of the corporation at the time of the disposition and that meets certain other conditions.

This measure would apply as of January 1, 2024.

Grocery rebate

The budget increases the maximum Goods and Services Tax Credit (GSTC) for January 2023. This increase, which the budget refers to as the Grocery Rebate, would allow eligible individuals to receive an additional GSTC amount up to the following maximum amounts:

- $153 per adult

- $81 per child
- $81 for the single supplement.

The Grocery Rebate would be paid through the GSTC system, once the legislation is passed.

Deduction for tradespeople's tool expenses

The budget increases the employment deduction for tradespeople's tools to $1,000 (from $500) effective for 2023 and subsequent taxation years.

Registered Education Savings Plans — Educational Assistance Payments

The budget allows Registered Education Savings Plans (RESP) to permit Educational Assistance Payments (EAPs) 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 (increased from $5,000 and $2,500, respectively). These changes come into force on March 28, 2023. Individuals who withdrew EAPs prior to March 28, 2023 may be able to withdraw an additional EAP amount, subject to the new limits and the terms of the plan.

Registered Education Savings Plans — Divorced and separated parents

The budget enables divorced or separated parents to open joint RESPs for one or more of their children, or to move an existing joint RESP to another promoter, effective March 28, 2023.

Retirement Compensation Arrangements

The budget provides that fees or premiums paid for the purposes of securing or renewing a letter of credit (or a surety bond) for a Retirement Compensation Arrangement (RCA) that is supplemental to a registered pension plan will not be subject to the 50% refundable tax on those fees and premiums, effective for retirement benefits paid after 2023.

Registered Disability Savings Plans

The budget extends and enhances a temporary measure to allow specific qualifying family members to open an RDSP and be the plan holder for an adult whose capacity to enter into an RDSP contract is in doubt, and who does not have a legal representative to December 31, 2026 (from December 31, 2023). The budget also expands the definition of "qualifying family member" to include brothers and sisters, effective once this amendment receives royal assent. Previously this measure was only available to a parent, spouse or common-law partner.

Taxpayer information sharing for the Canadian Dental Care Plan

The budget allows the CRA to share taxpayer information needed for the permanent Canadian Dental Care Plan with:

- An official of Employment and Social Development Canada or Health Canada solely for the purposes of the administration or enforcement of the Canadian Dental Care Plan; and
- An official of Health Canada solely for the evaluation or formulation of policy for that plan.

This change would come into force upon royal assent.

International tax changes

Reaffirmed commitment to OECD Inclusive Framework

The budget reiterates the government's strong commitment to the Organization for Economic Co-operation and Development (OECD)/Group of 20 (G20) Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework), and specifically Pillars One and Two. The budget provides an update on recent developments on the Inclusive Framework and Canada's upcoming implementation steps in relation to the two Pillars.

The budget indicates that the government is working with its international partners in an OECD-led process to develop the model rules and the multilateral convention needed to establish the Pillar One framework and bring it into effect, with a view to the signing of the convention by mid-2023 and entering into force in 2024. The government intends to release revised draft legislative proposals for a Digital Services Tax (DST) for public comment before introducing a bill in Parliament. Previously, the government released draft legislative proposals for the DST in December 2021. The budget reiterates that the DST could be imposed as of January 1, 2024 in respect of revenues earned as of January 1, 2022, but only if the multilateral convention implementing the Pillar One framework has not come into force.

The budget reaffirms the government's intention to introduce legislation to implement the Income Inclusion Rule (IIR) and a domestic minimum top-up tax applicable to Canadian entities of MNEs that are within the scope of Pillar Two. Finance says it intends to release draft legislative proposals for the IIR and domestic minimum top-up tax for public consultation in the coming months, with draft legislative proposals for the Undertaxed Profit Rule (UTPR) to follow at a later time. The draft implementing legislation will closely follow the detailed model rules, the commentary on the model rules and the administrative guidance agreed by the Inclusive Framework, including all agreed safe harbours, and will take into account the comments received in the public consultation on Pillar Two launched in the 2022 federal budget.

The IIR and the domestic minimum top-up tax would be effective for fiscal years of MNEs that begin on or after December 31, 2023. The UTPR would be effective for fiscal years of

MNEs that begin on or after December 31, 2024. An MNE will be considered to have the same fiscal year as its ultimate parent entity for these purposes.

Indirect tax changes

GST/HST treatment of payment card clearing services

The budget clarifies that payment card clearing services rendered by a payment card network operator are generally subject to the GST/HST. Specifically, the budget excludes these services from the definition of “financial service” under the GST/HST rules.

This measure would apply to a service rendered under an agreement for a supply if any consideration for the supply becomes due, or is paid without becoming due, after March 28, 2023. This measure would also apply to a service rendered under an agreement for a supply if all of the consideration for the supply became due, or was paid, on or before March 28, 2023, except in certain situations, such as where the following conditions are both met:

- The supplier did not, on or before March 28, 2023, charge, collect or remit any amount as or on account of tax in respect of the supply and
- The supplier did not, on or before March 28, 2023, charge, collect or remit any amount as or on account of tax in respect of any other supply that is made under the agreement and that includes the provision of a payment card clearing service.

Alcohol excise duty — Capped inflation adjustment

The budget temporarily caps the inflation adjustment for excise duties on beer, spirits and wine at 2%, for one year only, as of April 1, 2023. As a result, the excise duty rates on alcoholic beverage products as of April 1, 2023 will be as follows:

- Sprits — $13.303 (instead of $13.864 without the cap)
- Wine — $0.702 (instead of $0,731)
- Beer — $35.516 (instead of $37.014).

This measure would come into force on April 1, 2023.

Cannabis duty remittances

The budget allows licensed cannabis producers to remit excise duties on a quarterly basis (rather than a monthly basis), starting from the quarter beginning on April 1, 2023.

Air Travellers Security Charge increases

The budget increases Air Travellers Security Charge (ATSC) rates for air transportation services that include a chargeable emplanement on or after May 1, 2024, for which any payment is made on or after that date. The rates will increase as follows:

- Domestic one-way — Increase to $9.94 (from $7.48)
- Domestic round trip — Increase to $19.87 (from $14.96)
- Transborder — Increase to $16.89 (from $12.71)
- Other international — Increase to $34.42 (from $25.91).

Trade and customs changes

Renewed tariff support for developing countries

The budget renews the General Preferential Tariff (GPT) and Least Developed Country Tariff (LDCT) to the end of 2034 (these programs were scheduled to expire on December 31, 2024). The budget also updates these programs, including to:

- Create a GPT+ program
- Expand benefits for certain import categories
- Simplify administrative requirements for Canadian importers.

Administrative and other changes

Beneficial ownership registry

The budget announces further legislative amendments needed to implement a public, searchable beneficial ownership registry of federal corporations.

Review of the SR&ED tax incentive program

The budget advises that, in the coming months, Finance will continue to engage with stakeholders on the next steps of its planned review of the Scientific Research and Experimental Development (SR&ED) program. This review is intended to ensure that the program is providing adequate support and improving the development, retention, and commercialization of intellectual property, including the consideration of adopting a patent box regime.

Provincial public accounting

The budget announces that the government will consider ways to address an issue related to accessing taxpayer data to estimate provincial corporate income tax revenue.

Automatic tax filing for low-income Canadians

The budget announces that the federal government will increase the number of eligible Canadians for its *File My Return* phone service to 2 million by 2025. In addition, the budget advises that the CRA intends to pilot a new automatic filing service in 2024 for Canadians who currently do not file their taxes to receive the benefits to which they are entitled.

Previously announced tax changes

The budget confirms that Finance intends to proceed with certain previously announced tax measures, as modified by recent consultations and deliberations. These measures include:

- Excessive Interest and Financing Expenses Limitations
- Reporting rules for digital platform operators
- Automatic advance for the Canada Workers Benefit
- Investment Tax Credit for Clean Technologies
- Extension of the residential property flipping rule to assignment sales
- Borrowing by defined benefit pension plans
- Reporting requirements for RRSPs and RRIFs
- Fixing contribution errors in defined contribution pension plans
- Investment tax credit for Carbon Capture, Utilization, and Storage
- Hedging and short selling by Canadian financial institutions
- Substantive Canadian-controlled private corporations
- Mandatory disclosure rules
- Electronic filing and certification of tax and information returns
- Canadian Forces members and veterans amounts
- Other technical amendments proposed on August 9, 2022
- Remaining legislative and regulatory proposals relating to the GST/HST, excise levies and other taxes and charges proposed on August 9, 2022
- Hybrid mismatch arrangements
- GST/HST treatment of crypto-asset mining

- The transfer pricing consultation announced in the 2021 federal budget
- Legislative proposals tabled in a Notice of Ways and Means Motion on December 14, 2021 to introduce the *Digital Services Tax Act*
- Extend the maturation period of amateur athletes trusts maturing in 2019 to nine years (from eight years)
- GST/HST joint venture election.

The budget also confirms the government's commitment to move forward with technical amendments to improve the certainty and integrity of the tax system.

We can help

Your KPMG adviser can help you assess the effect of the tax changes in this year's federal budget on your personal finances or business affairs, and point out ways to realize any benefits or ease their impact. We can also keep you abreast of the progress of these proposals as they make their way into law.

kpmg.ca

Contact Us | KPMG in Canada Privacy Policy | KPMG On-Line Privacy Policy | Legal

Information is current to March 28, 2023. The information contained in this *TaxNewsFlash-Canada* is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2023 KPMG LLP, an Ontario limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.