VALENTE CPAs
ADVISORS • TAX • ACCOUNTANTS

April 20, 2021

Dear valued clients and connections:

Re: 2021 Federal Budget Commentary

On April 19, 2021, the Deputy Prime Minister and Finance Minister, the Honourable Chrystia Freeland, presented Budget 2021: A Recovery Plan for Jobs, Growth, and Resilience, to the House of Commons.

No changes were made to personal or corporate tax rates (other than a temporary measure for zero-emission technology manufacturers), nor to the inclusion rate on taxable capital gains.

The Government's fiscal position includes the following projected surplus/(deficit):

Year	Surplus/(Deficit) in Billions	Year	Surplus/(Deficit) in Billions
2020 – 2021	($354.2)	2023 – 2024	($51.0)
2021 – 2022	($154.7)	2024 – 2025	($35.8)
2022 – 2023	($59.7)	2025 – 2026	($30.7)

Some key highlights include:

A. Personal Measures
- The Canada Recovery Benefit and related programs will be extended.
- Individuals will have the option to claim a deduction in respect of the repayment of a COVID-19 benefit amount for the year when the benefit was received.
- Access to the disability tax credit will be broadened.

B. Business Measures
- The Canada Emergency Wage and Rent Subsidies (CEWS and CERS) will be extended.
- The Canada Recovery Hiring Program (CRHP) was introduced.
- The ability to immediately expense 100% of many capital asset purchases was introduced.
- The corporate tax rate on zero-emission technology manufacturing will be halved.
- The disclosure requirements for aggressive tax planning and filing positions will be expanded.

C. International Measures
- A 1% tax on the value of vacant or underused real estate owned by non-residents will be implemented.

D. Sales and Excise Tax
- Access to the GST/HST New Housing Rebate will be broadened for co-owners.
- A new tax of up to 10% will apply to the purchase of luxury vehicles, aircrafts or boats.

E. Electronic Filing, Payments and Certification
- Some CRA communications will be undertaken electronically without the taxpayer's authorization.
- Certain levels of payments will be required to be made electronically.

F. Previously Announced
- Intention to proceed with a number of previously announced measures, such as the accelerated CCA changes for zero-emission vehicles, and expanded disclosure requirements for trusts.

Read on for further details…

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A. Personal Measures

COVID-19 Benefit Amounts – Tax Treatment

Budget 2021 proposes to allow individuals the option to claim a deduction in respect of the repayment of a COVID-19 benefit amount for the year when the benefit was received, rather than the year in which the repayment was made. This option would be available for benefit amounts repaid at any time before 2023.

For these purposes, COVID-19 benefits would include:

- Canada Emergency Response Benefits (CERB) / Employment Insurance Emergency Response Benefits;
- Canada Emergency Student Benefits (CESB);
- Canada Recovery Benefits (CRB);
- Canada Recovery Sickness Benefits (CRSB); and
- Canada Recovery Caregiving Benefits (CRCB).

Individuals may only deduct benefit amounts once they have been repaid. An individual who makes a repayment, but who has already filed their income tax return for the year in which the benefit was received, would be able to request an adjustment to the return for that year.

Canada Recovery Benefits (CRB)

Budget 2021 proposes the following in respect of CRB:

- The maximum CRB would be extended by 12 weeks to a maximum of 50 weeks. The first four additional weeks will be paid at $500 per week, with subsequent weeks paid at $300 per week. All new CRB claims after July 17, 2021 would receive the $300 per week benefit, which will be available until September 25, 2021.
- The maximum Canada Recovery Caregiving Benefit (CRCB) would be extended by 4 weeks, to a maximum of 42 weeks, paid at $500 per week.
- Legislative amendments would be made providing the authority for additional potential extensions of CRB, EI and related programs until November 20, 2021.

Employment Insurance (EI)

Temporary Measures

Budget 2021 proposes to extend many of the temporary EI measures commenced in 2020, including:

- Maintaining a 420-hour entrance requirement for regular and special benefits, with a 14-week minimum entitlement for regular benefits, and a new common earnings threshold for fishing benefits.
- Simplifying rules around the treatment of severance, vacation pay, and other monies paid on separation.
- Extending the temporary enhancements to the Work-Sharing program such as the possibility to establish longer work-sharing agreements and a streamlined application process.

Other Benefits

- Sickness benefits would increase from 15 to 26 weeks, as of summer 2022.
- Self-employed fishers who submit an EI claim for the winter 2021 fishing benefit period would have extended temporary eligibility for the entire benefit period.

Consultation on long-term changes

Consultations on long-term reforms to EI will be commenced, focusing on the need for income support for self-employed and gig workers; how best to support Canadians through different life events such as adoption; and how to provide more consistent and reliable benefits to workers in seasonal industries.

Disability Tax Credit (DTC)

Budget 2021 proposes several changes which would provide broader access to the DTC. These proposals would apply to the 2021 and subsequent taxation years, in respect of DTC certificates filed on or after Royal Assent.

Mental Functions

The DTC is generally available to individuals who are markedly restricted in their ability to perform a basic activity of daily living due to a severe and prolonged impairment in physical or mental functions. Budget 2021 proposes to expand the definition of mental functions necessary for everyday life to include: attention, concentration, memory, judgement, perception of reality, problem-solving, goal-setting, regulation of behaviour and emotions, verbal and non-verbal comprehension, and adaptive functioning.

Life-Sustaining Therapy

Individuals can qualify for the DTC where they undergo therapies that have a significant impact on everyday life. Under current rules, the therapy is required to be administered at least three times/week for a total duration averaging at least 14 hours a week. Also, only certain types of therapy are allowed to be included in this computation.

To better recognize additional aspects of therapy for this computation, Budget 2021 proposes to:

- Expand the types of activities which can be included in the 14 hour per week minimum to include:
    - Medically required recuperation after therapy;
    - Activities related to determining dosages of medication that must be adjusted on a daily basis, or determining the amounts of certain compounds that can be safely consumed;
    - The time reasonably required by another person to assist the individual in performing and supervising the therapy where the individual is incapable of performing therapy on their own due to the impacts of their disability; and
- Reduce the requirement that therapy be administered at least three times each week to two times each week, retaining the requirement that therapy require an average of not less than 14 hours a week.

These proposals would apply to the 2021 and subsequent taxation years, in respect of DTC certificates filed on or after Royal Assent.

Canada Workers Benefit (CWB)

The CWB is a non-taxable refundable tax credit that supplements the earnings of low- and modest-income workers.

Budget 2021 proposes to enhance the CWB by, for example, by increasing the phase-out thresholds for individuals without dependents and families (from $13,194 to $22,944 and from $17,522 to $26,177, respectively in 2021). The phase-out rate is also slightly increased. Corresponding changes would be made to the disability supplement.

Budget 2021 also proposes to introduce a "secondary earner exemption" to the CWB which would allow the spouse or common-law partner with the lower working income to exclude up to $14,000 of their working income in the computation of their adjusted net income, for the purpose of the CWB phase-out.

These measures would apply to the 2021 and subsequent taxation years. Indexation of amounts would continue to apply after the 2021 taxation year, including the secondary earner exemption.

Northern Residents Deductions (NRD)

Budget 2021 proposes to expand access to the travel component of the NRD. Under the current rules, the claim is limited to the amount of employer-provided travel benefits the taxpayer received in respect of travel by that individual. Under the new approach, a taxpayer would have the option to claim, in respect of the taxpayer and each "eligible family member", up to a $1,200 standard amount that may be allocated across eligible trips taken by that individual, allowing individuals with no employment benefits to claim this deduction. For residents of the Intermediate Zone, this effectively becomes a $600 standard amount.

An eligible family member would be an individual living in the taxpayer's household who is the taxpayer’s spouse/common-law partner, their child under the age of 18, or a related individual who is wholly dependent on them for support and is either their parent or grandparent, or dependent by reason of mental or physical infirmity.

Claims would still be limited to the least of this new number, the total expenses paid for the trip and the cost of the lowest return airfare to the nearest designated city.

This measure would apply to the 2021 and subsequent taxation years.

Postdoctoral Fellowship Income

Budget 2021 proposes to include postdoctoral fellowship income in “earned income” for RRSP purposes. This measure would apply in respect of postdoctoral fellowship income received in the 2021 and subsequent taxation years. This measure would also apply in respect of postdoctoral fellowship income received in the 2011 to 2020 taxation years, where the taxpayer submits a request in writing to CRA for an adjustment to their RRSP room for the relevant years.

Defined Contribution Pension Plans – Fixing Contribution Errors

Budget 2021 proposes to provide more flexibility to plan administrators of defined contribution pension plans to correct for both under-contributions and over-contributions. This measure would apply in respect of additional contributions made, and amounts of over-contributions refunded, in the 2021 and subsequent taxation years.

Other Measures

Budget 2021 also announced plans for a wide variety of other programs, including:

- Child Care – Providing new investments totaling up to $30 billion over the next 5 years, and $8.3 billion ongoing for Early Learning and Child Care and Indigenous Early Learning and Child Care, with the goal of providing regulated child care for $10/day on average, within the next five years.
- Student Loans – Extending the waiver of interest accrual on Canada Student Loans and Canada Apprentice Loans until March 31, 2023 and extending the doubling of the Canada Student Grants until the end of July 2023.
- Home Renovation Loans – Providing interest-free loans of up to $40,000 to homeowners and landlords who undertake retrofits identified through an authorized EnerGuide energy assessment. This program will also include funding dedicated to support low-income homeowners and renters

including cooperatives and not-for profit owned housing. The program would be available by summer 2021.

- Old Age Security Enhancements – Providing pensioners who will be age 75 and older as of June, 2022 with a one-time additional payment of $500 in August 2021. Budget 2021 then proposes to increase regular OAS payments for pensioners 75 and over by 10% on an ongoing basis as of July 2022.

B. Business Measures

Canada Emergency Wage Subsidy (CEWS)

Extension and Phase-out for Active Employees

Budget 2021 proposes that CEWS will be extended to September 25, 2021, but will start phasing out after July 3, 2021. Only employers with more than a 10% decline in revenues will be eligible for the wage subsidy as of that date. The rates and limits are as follows:

CEWS Base and Top-up Rates, Periods 17 to 20:

	Period 17 Jun. 6 – Jul. 3	**Period 18 Jul. 4 – Jul. 31**	**Period 19 Aug. 1 – Aug. 28**	**Period 20 Aug. 29 – Sep. 25**
Maximum weekly benefit per employee*	$847	$677	$452	$226
Revenue decline:				
70% and over	75%	60%	40%	20%
>50-69%	40% + 1.75 x (revenue decline - 50%)	35% + 1.25 x (revenue decline - 50%)	25% + 0.75 x (revenue decline - 50%)	10% + 0.5 x (revenue decline - 50%)
>10-50%	0.8 x revenue decline	0.875 x (revenue decline - 10%)	0.625 x (revenue decline - 10%)	0.25 x (revenue decline - 10%)
0-10%	0.8 x revenue decline	0%		
* The maximum weekly benefit per employee is reached when eligible remuneration paid to the employee for the qualifying period is at least $1,129 per week.				

Furloughed Employees

CEWS for furloughed employees would continue to be available to eligible employers until August 28, 2021, ending four weeks earlier than CEWS for active employees. To maintain the alignment of CEWS for furloughed employees with benefits available under EI, Budget 2021 proposes to maintain their weekly wage subsidy at the lesser of:

- The amount of eligible remuneration paid in respect of the week; and
- The greater of:
    - $500; and
    - 55% of pre-crisis remuneration for the employee, up to a maximum subsidy amount of $595.

The wage subsidy relating to the employer’s portion of CPP, EI, the Quebec Pension Plan and the Quebec Parental Insurance Plan in respect of furloughed employees will also remain available.

Reference Periods

The reference periods for determining the revenue decline are as follows:

CEWS Reference Periods, Periods 17 to 20:

	Period 17 Jun. 6 – Jul. 3	**Period 18 Jul. 4 – Jul. 31**	**Period 19 Aug. 1 – Aug. 28**	**Period 20 Aug. 29 – Sep. 25**
General approach	Jun. 2021 over Jun. 2019 **or** May 2021 over May 2019	Jul. 2021 over Jul. 2019 **or** Jun. 2021 over Jun. 2019	Aug. 2021 over Aug. 2019 **or** Jul. 2021 over Jul. 2019	Sep. 2021 over Sep. 2019 **or** Aug. 2021 over Aug. 2019
Alternative approach	Jun. 2021 **or** May 2021 over average of Jan. and Feb. 2020	Jul. 2021 **or** Jun. 2021 over average of Jan. and Feb. 2020	Aug. 2021 **or** Jul. 2021 over average of Jan. and Feb. 2020	Sep. 2021 **or** Aug. 2021 over average of Jan. and Feb. 2020

The approach chosen in the prior periods must be maintained.

Baseline Remuneration

An employer's entitlement to CEWS in respect of an employee may be affected by their baseline remuneration, also known as pre-crisis remuneration. Absent an election, baseline remuneration is calculated using the period beginning January 1, 2020 and ending March 15, 2020. Budget 2021 proposes to allow an eligible employer to elect to use the following alternative baseline remuneration periods:

- March 1 to June 30, 2019 or July 1 to December 31, 2019, for the qualifying period between June 6, 2021 and July 3, 2021; and
- July 1 to December 31, 2019, for qualifying periods beginning after July 3, 2021.

Requirement to Repay Wage Subsidy – Public Corporations

Budget 2021 proposes to require a publicly listed corporation to repay wage subsidy amounts received for a qualifying period that begins after June 5, 2021 in the event that its aggregate compensation for specified executives during the 2021 calendar year exceeds that of the 2019 calendar year.

Specified executives are the Named Executive Officers whose compensation is required to be disclosed under Canadian securities laws in the annual information circular provided to shareholders, or similar executives in the case of a corporation listed in another jurisdiction.

The amount of the wage subsidy required to be repaid would be equal to the lesser of:

- The total of all wage subsidy amounts received in respect of active employees for qualifying periods that begin after June 5, 2021; and
- The amount by which the corporation's aggregate specified executives' compensation for 2021 exceeds that of 2019.

This applies to wage subsidy amounts paid to any entity in the group.

Canada Emergency Rent Subsidy (CERS)

Extension and Phase-out

Budget 2021 proposes that CERS will be extended to September 25, 2021, but will start phasing out after July 3, 2021. Paralleling CEWS, only employers with more than a 10% decline in revenues will be eligible for CERS as of that date. The rates and limits are as follows:

CERS Rate Structure, Periods 10 to 13:

	Period 10 Jun. 6 – Jul. 3	**Period 11 Jul. 4 – Jul. 31**	**Period 12 Aug. 1 – Aug. 28**	**Period 13 Aug. 29 – Sep. 25**
Revenue decline:				
70% and over	65%	60%	40%	20%
>50-69%	40% + 1.25 x (revenue decline - 50%)	35% + 1.25 x (revenue decline - 50%)	25% + 0.75 x (revenue decline - 50%)	10% + 0.5 x (revenue decline - 50%)
>10-50%	revenue decline x 0.8	0.875 x (revenue decline - 10%)	0.625 x (revenue decline - 10%)	0.25 x (revenue decline - 10%)
0-10%	revenue decline x 0.8	0%		

Purchase of Business Assets

An applicant must generally have had a payroll account with CRA to be eligible for CEWS. For CERS, a business number is required. For CEWS, a rule was introduced which provides that an eligible entity that purchases the assets of a seller will be deemed to meet the payroll account requirement if the seller met the requirement. Budget 2021 proposes a similar deeming rule that would apply in the context of the rent subsidy, where the seller met the business number requirement. This measure would be effective as of the start of CERS.

Lockdown Support

Budget 2021 proposes to extend lockdown support to September 25, 2021 at a 25% rate (unchanged).

Canada Recovery Hiring Program (CRHP)

Budget 2021 proposes the new CRHP to provide eligible employers with a subsidy of up to 50% of the incremental remuneration paid to eligible employees between June 6, 2021 and November 20, 2021. The higher of CEWS or CRHP could be claimed for a particular qualifying period, but not both.

Eligible Employers

Employers eligible for CEWS would generally be eligible for CRHP. However, a for-profit corporation would be eligible for the hiring subsidy only if it is a Canadian-controlled private corporation (CCPC). Eligible employers (or their payroll service provider) must have had a CRA payroll account open March 15, 2020.

Eligible Employees

An eligible employee must be employed primarily in Canada by an eligible employer throughout a qualifying period (or the portion of the qualifying period throughout which the individual was employed by the eligible employer). CRHP will not be available for furloughed employees. A furloughed employee is an employee who is on leave with pay, meaning they are remunerated by the eligible employer but do not perform any work for the employer. However, an individual would not be considered to be on leave with pay for the purposes of the hiring subsidy if they are on a period of paid absence, such as vacation leave, sick leave, or a sabbatical.

Eligible Remuneration and Incremental Remuneration

The same types of remuneration eligible for CEWS would also be eligible for CRHP (e.g., salary, wages, and other remuneration for which employers are required to withhold or deduct amounts). The amount of remuneration for employees would be based solely on remuneration paid in respect of the qualifying period.

Incremental remuneration for a qualifying period means the difference between:

- An employer's total eligible remuneration paid to eligible employees for the qualifying period, and
- Its total eligible remuneration paid to eligible employees for the base period.

Eligible remuneration for each eligible employee would be subject to a maximum of $1,129 per week, for both the qualifying period and the base period. Similar to CEWS, the eligible remuneration for a non-arm's length employee for a week could not exceed their baseline remuneration determined for that week. The base period for all application periods is March 14 to April 10, 2021.

CRHP Rates, Periods 17* to 22:

	Period 17 Jun. 6 – Jul. 3	Period 18 Jul. 4 – Jul. 31	Period 19 Aug. 1 – Aug. 28	Period 20 Aug. 29 – Sep. 25	Period 21 Sep. 26 – Oct. 23	Period 22 Oct. 24 – Nov. 20
Hiring subsidy rate	50%	50%	50%	40%	30%	20%
*Period 17 of the CEWS would be the first period of the CRHP.						

Required Revenue Decline

To qualify, the eligible employer would have to have experienced a decline in revenues. For the qualifying periods between June 6, 2021 and July 3, 2021, the decline would have to be greater than 0%. For later periods, the decline must be greater than 10%.

CRHP Reference Periods, Periods 17* to 22:

	Period 17 Jun. 6 – Jul. 3	Period 18 Jul. 4 – Jul. 31	Period 19 Aug. 1 – Aug. 28	Period 20 Aug. 29 – Sep. 25	Period 21 Sep. 26 – Oct. 23	Period 22 Oct. 24 – Nov. 20
General approach	Jun. 2021 over Jun. 2019 **or** May 2021 over May 2019	Jul. 2021 over Jul. 2019 **or** Jun. 2021 over Jun. 2019	Aug. 2021 over Aug. 2019 **or** Jul. 2021 over Jul. 2019	Sep. 2021 over Sep. 2019 **or** Aug. 2021 over Aug. 2019	Oct. 2021 over Oct. 2019 **or** Sep. 2021 over Sep. 2019	Nov. 2021 over Nov. 2019 **or** Oct. 2021 over Oct. 2019
Alternative approach	Jun. 2021 **or** May 2021 over average of Jan. and Feb. 2020	Jul. 2021 **or** Jun. 2021 over average of Jan. and Feb. 2020	Aug. 2021 **or** Jul. 2021 over average of Jan. and Feb. 2020	Sep. 2021 **or** Aug. 2021 over average of Jan. and Feb. 2020	Oct. 2021 **or** Sep. 2021 over average of Jan. and Feb. 2020	Nov. 2021 **or** Oct. 2021 over average of Jan. and Feb. 2020
*Period 17 of the CEWS would be the first period of the CRHP.						

Similar to CEWS and CERS, an application for a qualifying period would be required to be made no later than 180 days after the end of the qualifying period.

Immediate Expensing

Budget 2021 proposes to permit the full cost of "eligible property" acquired by a CCPC on or after Budget Day to be deducted, provided the property becomes available for use before January 1, 2024. Up to $1.5 million per taxation year is available for sharing among each associated group of CCPCs, with the limit being prorated for shorter taxation years. No carry-forward of excess capacity would be allowed.

Eligible Property

Eligible property includes capital property that is subject to the CCA rules, other than property included in CCA classes 1 to 6, 14.1, 17, 47, 49 and 51. The excluded classes are generally those that have long lives, such as buildings, fences, and goodwill.

Interactions of the Immediate Expensing with Other Provisions

Where capital costs of eligible property exceed $1.5 million in a year, the taxpayer would be allowed to decide which assets would be deducted in full, with the remainder subject to the normal CCA rules.

Other enhanced deductions already available, such as the full expensing for manufacturing and processing machinery, would not reduce the maximum amount available ($1.5 million).

Restrictions

Generally, property acquired from a non-arm's length person, or which was transferred to the taxpayer on a tax-deferred "rollover" basis, would not be eligible.

Also, there are several other rules that limit CCA claims that would continue to apply, such as limits to claims on rental losses.

Rate Reduction for Zero-Emission Technology Manufacturers

Budget 2021 proposes a temporary measure to reduce corporate income tax rates for qualifying zero-emission technology manufacturers, halving the tax rate on eligible zero-emission technology manufacturing and processing income to 7.5% on income subject to the general corporate tax rate (normally 15%), and 4.5% where that income would otherwise be eligible for the small business deduction (normally 9%). Provincial taxes would still apply to this income.

For taxpayers with income subject to both the general and the small business corporate tax rates, taxpayers would be able to choose the income on which the rate would be halved.

No changes to the dividend tax credit rates or the allocation of corporate income for the purpose of dividend distributions are proposed. That is, income subject to the general reduced rate would continue to give rise to eligible dividends and the enhanced dividend tax credit, while income subject to the reduced rate for small businesses would continue to give rise to non-eligible dividends and the ordinary dividend tax credit.

This measure would apply in respect of income from numerous zero-emission technology manufacturing or processing activities listed in Budget 2021, including manufacturing or production of:

- Solar energy conversion equipment, excluding passive solar heating equipment;
- Wind energy conversion equipment;
- Water energy conversion equipment;
- Geothermal energy equipment;
- Equipment for a ground source heat pump system;
- Electrical energy storage equipment used for storage of renewable energy or for providing grid-scale storage or other ancillary services;
- Zero-emission vehicles (including conversion of vehicles into zero-emission vehicles);
- Batteries and fuel cells for zero-emission vehicles;
- Electric vehicle charging systems and hydrogen refuelling stations for vehicles;
- Equipment used for the production of hydrogen by electrolysis of water;
- Hydrogen by electrolysis of water; and

- Solid, liquid or gaseous fuel (e.g., wood pellets, renewable diesel and biogas) from either carbon dioxide or specified waste material, excluding the production of by-products which is a standard part of another industrial or manufacturing process.

Manufacturing of components or sub-assemblies will be eligible only if such equipment is purpose-built or designed exclusively to form an integral part of the relevant system. Eligible income would be determined as a proportion of “adjusted business income” determined by reference to the corporation’s total labour and capital costs that are used in eligible activities.

Feedback on the proposed allocation method can be provided by sending written representations to the Department of Finance Canada, Tax Policy Branch at: ZETM-FTZE@canada.ca by June 18, 2021.

The reduced tax rates would require the corporation to derive at least 10% of its gross revenue from all active businesses carried on in Canada from eligible activities. The reduced tax rates would apply to taxation years that begin after 2021. The reduced rates would be gradually phased out starting in taxation years that begin in 2029 and fully phased out for taxation years that begin after 2031.

Capital Cost Allowance (CCA) for Clean Energy Equipment

Under the CCA regime, Classes 43.1 and 43.2 provide accelerated CCA rates (30% and 50%, respectively) for investments in specified clean energy generation and energy conservation equipment. Budget 2021 proposes to expand Classes 43.1 and 43.2 to include a variety of assets used to generate energy from water, solar or geothermal sources or waste material, or related to hydrogen production or utilization. Accelerated CCA would be available in respect of these types of property only if, at the time the property becomes available for use, the requirements of all Canadian environmental laws, by-laws and regulations applicable in respect of the property have been met.

Classes 43.1 and 43.2 currently include certain systems that burn fossil fuels and/or waste fuels to produce either electricity or heat, or both. Budget 2021 notes that the eligibility criteria for these systems have not been modified since they were first set approximately 25 and 15 years ago, and proposes changes in the eligibility criteria for various assets having significant usage of fossil fuels.

The expansion of Classes 43.1 and 43.2 would apply in respect of property that is acquired and that becomes available for use on or after Budget Day, where it has not been used or acquired for use for any purpose before Budget Day.

The removal of certain property from eligibility for Classes 43.1 and 43.2, as well as the application of the new heat rate threshold for specified waste-fuelled electrical generation systems, would apply in respect of property that becomes available for use after 2024.

Film or Video Production Tax Credits

Budget 2021 proposes to temporarily extend certain timelines for the Canadian Film or Video Production Tax Credit and the Film or Video Production Services Tax Credit by 12 months (in addition to certain extensions previously announced). These measures would be available in respect of productions for which eligible expenditures were incurred by taxpayers in their taxation years ending in 2020 or 2021.

Mandatory Disclosure Rules

While past Budgets have proposed specific anti-avoidance provisions, Budget 2021 proposes broad-based disclosure requirements for tax strategies considered aggressive by the government. Certain transactions must presently be reported to CRA. The government is consulting on proposals to enhance Canada’s mandatory disclosure rules. This consultation will address:

- Changes to the reportable transaction rules;

- A new requirement to report notifiable transactions;
- A new requirement for specified corporations to report uncertain tax treatments; and
- Related rules providing for, in certain circumstances, the extension of the applicable reassessment period and the introduction of penalties.

Amendments made as a result of this consultation would not apply prior to January 1, 2022.

Stakeholders are invited to provide comments on the proposals set out below, as well as on draft legislation and sample notifiable transactions which are expected to be released in the coming weeks as part of the consultation, by September 3, 2021. Comments should be sent to:
fin.taxdisclosure-divulgationfiscale.fin@canada.ca.

Reportable Transactions

The Income Tax Act contains rules that require that certain transactions entered into by, or for the benefit of, a taxpayer be reported to CRA. Such transactions must meet the definition of an “avoidance transaction” – generally, undertaken for no bona fide purpose other than obtaining a tax benefit – and bear at least two of the following three generic hallmarks:

- A promoter or tax advisor is entitled to fees attributable to the amount of the tax benefit; contingent upon the obtaining a tax benefit; or attributable to the number of taxpayers who participate in the transaction or receive advice from the promoter or advisor regarding the tax consequences of the transaction.
- A promoter or tax advisor requires “confidential protection” with respect to the transaction.
- The taxpayer, or the person who entered into the transaction for the benefit of the taxpayer, obtains “contractual protection” in respect of the transaction, such as:
  - Insurance (other than standard professional liability insurance) or other protection (including an indemnity, compensation or a guarantee) that protects a person against a failure to achieve the expected tax benefit or reimburses any expense, costs (e.g. fees, taxes, penalties, interest) that may be incurred by a person in the course of a dispute in respect of the expected tax benefit from the transaction; or
  - Any form of undertaking under which a promoter or advisor aids in the course of a dispute in respect of the expected tax benefits.

Budget 2021 proposes that only one such hallmark will be required to make a transaction reportable. It also proposes that the definition of “avoidance transaction” for these purposes be broadened to include any transaction where it can reasonably be concluded that one of the main purposes of entering into the transaction is to obtain a tax benefit (even if there are other bona fide non-tax purposes).

The reporting obligation would extend to the taxpayer, any other person involved in procuring a tax benefit for the taxpayer, and a promoter or advisor (as well as certain other persons who are entitled to receive a fee with respect to the transaction). An exception would apply where disclosure would violate solicitor-client privilege.

Notifiable Transactions

Budget 2021 proposes to introduce a category of specific hallmarks known as “notifiable transactions”. The Minister of National Revenue would have the authority to designate, with the concurrence of the Minister of Finance, a transaction as a notifiable transaction. A taxpayer who enters into a notifiable transaction would be required to report the transaction to CRA. The reporting obligation would extend to the taxpayer, any other person involved in procuring a tax benefit for the taxpayer, and a promoter or advisor (as well as certain other persons who are entitled to receive a fee with respect to the transaction). An exception would apply where disclosure would violate solicitor-client privilege.

Notifiable transactions would include both transactions that CRA has found to be abusive and transactions identified as transactions of interest. The description of a notifiable transaction would set out the fact patterns or outcomes that constitute that transaction in sufficient detail to enable taxpayers to comply with the disclosure rule. It would also include examples in appropriate circumstances. Sample descriptions of notifiable transactions will be issued as part of the consultation.

Uncertain Tax Treatments

An uncertain tax treatment is a tax treatment used, or planned to be used, in income tax filings where there is uncertainty over whether the tax treatment will be accepted as being in accordance with tax law. At present, there is no requirement in Canada to disclose uncertain tax treatments.

Budget 2021 notes that several other countries (e.g. the U.S. and Australia) require disclosure of uncertain tax positions by corporations meeting an asset threshold, and certain other conditions, where either the corporation or a related party has recognized, disclosed or recorded a reserve with respect to that tax position in its audited financial statements. A similar reporting regime is proposed to be implemented in Canada. Canadian public corporations, and those Canadian private corporations that choose to use International Financial Reporting Standards (IFRS), have an existing requirement to identify uncertain tax treatments for financial statement purposes. When such a corporation determines that it is not probable that the taxation authority will accept an uncertain tax treatment, the effect of that uncertainty is reflected in the corporation's financial statements. It is proposed that specified corporate taxpayers be required to report particular uncertain tax treatments to CRA where the following conditions are met:

- The corporation is required to file a Canadian tax return for the taxation year.
- The corporation has at least $50 million in assets. This threshold would apply to each individual corporation.
- The corporation, or a related corporation, has audited financial statements prepared in accordance with IFRS or other country-specific GAAP relevant for domestic public companies.
- Uncertainty in respect of the corporation’s Canadian income tax for the taxation year is reflected in those audited financial statements.

As public corporations are required to use IFRS, they would all be subject to these rules. Private corporations using Accounting Standards for Private Enterprise (ASPE) would not. The reporting requirement would also apply to a corporation that meets the asset threshold if it, or a related corporation, has audited financial statements prepared in accordance with another country-specific GAAP relevant for domestic public corporations.

Reassessment Period

In support of the new mandatory disclosure rules, Budget 2021 proposes that, where a taxpayer has a reporting requirement in respect of a transaction relevant to the taxpayer's income tax return for a taxation year, the normal reassessment period would not commence in respect of the transaction until the taxpayer has complied with the reporting requirement. As a result, if a taxpayer does not comply with a mandatory disclosure reporting requirement for a taxation year, a reassessment of that year in respect of the transaction would not become statute-barred.

Significant penalties would also apply to taxpayers and promoters who fail to file these required disclosures.

Avoidance of Tax Debts

The Income Tax Act has an anti-avoidance rule (Section 160) that is intended to prevent taxpayers from avoiding their tax liabilities by transferring their assets to non-arm’s length persons for insufficient consideration. In these circumstances, the rule causes the transferee to be jointly and severally liable with the transferor for tax debts of the transferor for the current or any prior taxation year, to the extent that the value of the property transferred exceeds the amount of consideration given for the property. Budget 2021 proposes a number of measures to address planning to circumvent this tracing of liability, as well as a penalty for those who devise and promote such schemes.

The specific proposals would apply to arrangements where:

- A tax debt is deferred until after the year in which the assets are transferred;
- Parties cease to be non-arm's length prior to assets being transferred; or
- The overall result of a series of transactions are not consistent with the values at the time of the transfer.

A penalty would also be introduced for planners and promoters of tax debt avoidance schemes, mirroring an existing penalty in the so-called "third-party civil penalty" rules in the Income Tax Act in respect of certain false statements. The rules would apply in respect of transfers of property that occur on or after Budget Day. Similar amendments would be made to comparable provisions in other federal statutes (e.g., the Excise Tax Act for GST/HST).

Audit Authorities

CRA possesses the authority to audit taxpayers. Budget 2021 proposes amendments to confirm that CRA officials have the authority to require persons to answer all proper questions, and to provide all reasonable assistance, and to require persons to respond to questions orally or in writing, including in any form specified by the relevant CRA official. These measures would come into force on Royal Assent.

Other Measures

Budget 2021 also announced plans for a wide variety of other programs, including:

- Employee Ownership Trusts – Engaging with stakeholders to examine what barriers exist to the creation of employee ownership trusts in Canada, and how workers and owners of private businesses in Canada could benefit from the use of employee ownership trusts.
- Federal Minimum Wage – Establishing a federal minimum wage of $15 per hour, rising with inflation, for those workers in the federally regulated private sector.
- Credit Card Transaction Fees – Stakeholder consultations will be undertaken with the expectation to outline detailed next steps in the 2021 Fall Economic Statement.
- Support for Businesses to Adopt New Digital Technologies – Investing $1.4 billion over four years to assist small and medium business to access grants and technical support associated with adopting new technologies.
- Regional Relief and Recovery Fund – Extending the application deadline for similar support to the Canada Emergency Business Account (CEBA) offered under the Regional Relief and Recovery Fund and the Indigenous Business Initiative until June 30, 2021. The CEBA application deadline was previously extended to June 30, 2021.
- Additional Funding for CRA – Including $330.6 million over five years to invest in cybersecurity measures and $41.7 million over three years to reduce processing time for adjustments to personal tax returns.

C. International Measures

Tax on Unproductive Use of Canadian Housing by Foreign Non-resident Owners

Budget 2021 proposes to introduce this new national 1% tax on the value of vacant or underused real estate owned by non-resident, non-Canadians. The tax would be levied annually beginning in 2022.

All owners of residential property in Canada, other than Canadian citizens or permanent residents of Canada, would be required to file an annual declaration for the prior calendar year in respect of each Canadian residential property they own, starting in 2023.

The requirement to file this declaration would apply irrespective of whether the owner is subject to tax in respect of the property for the year. The owner would be required to report information such as the property address, the property value and the owner's interest in the property. A claim exemption may be available, for instance, where a property is leased to one or more qualified tenants in relation to the owner for a minimum period in a calendar year. Where no exemption is available, the owner would be required to calculate the amount of tax owing and report and remit it to CRA by the filing due date.

Penalties and interest would also be applicable, and the assessment period would be unlimited.

In the coming months, the government will release a backgrounder to provide stakeholders with an opportunity to comment on further parameters of the proposed tax.

Digital Services Tax (DST)

Budget 2021 proposes to implement a DST. The tax is "intended to ensure that revenue earned by large businesses – foreign or domestic – from engagement with online users in Canada, including through the collection, processing and monetizing of data and content contributions from those users, is subject to Canadian tax". The DST would apply as of January 1, 2022. A 3% tax is proposed to be imposed on revenues generated from online marketplaces, social media, online advertising, and the sale or licensing of user data. The tax would only apply to businesses with global revenue of €750 million, and Canadian revenue of more than $20 million.

Written representations must be sent by June 18, 2021 to the Department of Finance Canada, Tax Policy Branch at: DST-TSN@canada.ca.

Enhancing Anti-Avoidance Provisions

Budget 2021 proposes measures implementing recommendations of the OECD's "Base Erosion and Profit Shifting" project focusing on:

- Restrictions on the deductibility of interest paid to non-arm's length foreign entities to a fixed ratio of "tax EBIDTA" (earnings before interest, depreciation, tax and amortization), with exceptions for some CCPCs, and groups of Canadian entities whose aggregate net interest expense does not exceed $250,000; and
- Hybrid mismatch arrangements which take advantage of differences in the income tax treatment in different countries, such as situations where the same expense can be deducted in multiple countries, or a deduction is available in one country which is not taxable, within a reasonable period of time, in the other.

These measures will be the subject of draft legislation to be released for consultation in the summer, and would not apply before July 1, 2022.

D. Sales and Excise Tax

GST New Housing Rebate

The GST New Housing Rebate entitles homebuyers to recover 36% of the GST (or the federal component of the HST) paid on the purchase of a new home priced up to $350,000. The maximum rebate is $6,300. The GST New Housing Rebate is phased out for new homes priced between $350,000 and $450,000. There is no GST New Housing Rebate for new homes priced at $450,000 or more. In addition to these price thresholds, several other conditions must be met.

In particular, the purchaser must be acquiring the new home for use as their primary place of residence or as the primary place of residence of a relation (i.e., an individual related by blood, marriage, common-law partnership or adoption, or a former spouse or former common-law partner). Under the current rules, if two or more individuals who are not considered relations for GST New Housing Rebate purposes buy a new home together, all of those individuals must meet this condition – otherwise none of them will be eligible for the GST New Housing Rebate. Budget 2021 proposes to make the GST New Housing Rebate available as long as the new home is acquired for use as the primary place of residence of any one of the purchasers or a relation of any one of the purchasers.

This measure would apply to agreements of purchase and sale entered into after Budget Day. For owner-built homes, the measure would apply where construction or substantial renovation of the residential complex is substantially completed after Budget Day.

Input Tax Credit (ITC) Information Requirements

Businesses can claim ITCs to recover the GST/HST that they pay for goods and services used as inputs in their commercial activities. Businesses must obtain and retain certain information in order to support their ITC claims, such as invoices or receipts.

The information requirements for these documents are graduated, with progressively more information required when the amount paid or payable in respect of a supply equals or exceeds thresholds of $30 or $150. Budget 2021 proposes to increase these thresholds to $100 (from $30) and $500 (from $150).

In addition, under the ITC information rules, either the supplier or an intermediary (i.e., a person that causes or facilitates the making of a supply on behalf of the supplier) must provide its business name and, depending on the amount paid or payable in respect of the supply, its GST/HST registration number, on the supporting documents. However, for the purposes of these rules, an intermediary currently does not include a billing agent (i.e., an agent that collects consideration and tax on behalf of an underlying vendor but does not otherwise cause or facilitate a supply). Instead, the recipient of the supply must obtain the business name and registration number of the underlying vendor. Budget 2021 proposes to allow billing agents to be treated as intermediaries for purposes of the ITC information rules, removing this complexity.

These measures would come into force on the day after Budget Day.

Application of GST/HST to E-commerce

In the Fall Economic Statement 2020, the government proposed a number of changes to the GST/HST system relating to the digital economy, applicable to non-resident vendors supplying digital products or services, shipping goods from Canadian fulfillment warehouses, or facilitating short-term rental accommodation in Canada.

Under the proposals, GST/HST would be required to be collected and remitted by these entities commencing on July 1, 2021. Simplified registration and remittance frameworks would be available to these entities. Budget 2021 proposes amendments to these proposals to take stakeholder feedback into account, including safe harbour rules to protect platform operators who reasonably relied on the information provided by a third-party supplier, and clarifying several aspects of the legislation.

Excise Duty on Vaping Products

Budget 2021 proposes to implement a tax on vaping products in 2022 through the introduction of a new excise duty framework. Feedback from industry and stakeholders on these proposals will be accepted until June 30, 2021 at: fin.vaping-taxation-vapotage.fin@canada.ca.

The new excise duty framework would be similar to existing excise duties on tobacco, wine, spirits, and cannabis products. It would apply to vaping liquids that are produced in Canada or imported and that are intended for use in a vaping device in Canada. These liquids generally contain vegetable glycerin, as well as any combination of propylene glycol, flavouring, nicotine, or other ingredients, all of which must comply with Health Canada regulations. The new duty would apply to these vaping liquids whether or not they contain nicotine. Cannabis-based vaping products would be explicitly exempt from this framework, as they are already subject to cannabis excise duties under the Act.

The proposed framework would impose a single flat rate duty on every 10 millilitres (ml) of vaping liquid or fraction thereof, within an immediate container (i.e., the container holding the liquid itself). This rate could be in the order of $1.00 per 10 ml or fraction thereof. The last federal licensee in the supply chain who packaged the vaping product for final retail sale, including vape shops holding an excise licence, as applicable, would be liable to pay the applicable excise duty.

Registration and licensing would not be required for individuals who mix vaping liquids strictly for their own personal consumption.

Tax on Select Luxury Goods

Budget 2021 proposes to introduce a tax on the retail sale of new luxury cars and personal aircraft priced over $100,000, and boats priced over $250,000, effective as of January 1, 2022. For vehicles, aircraft and boats sold in Canada, the tax would apply at the point of purchase if the final sale price paid by a consumer (not including GST/HST or provincial sales tax) is above the $100,000 or $250,000 price threshold, as the case may be. Importations of vehicles, aircraft and boats would also be subject to the tax.

The tax would apply to:

- <u>Luxury Vehicles</u> – New passenger vehicles typically suitable for personal use, including coupes, sedans, station wagons, sports cars, passenger vans and minivans equipped to accommodate less than 10 passengers, SUVs, and passenger pick-up trucks. It would not apply to motorcycles and certain off-road vehicles, such as all-terrain vehicles and snowmobiles, racing cars (i.e., vehicles that are not street legal and are owned solely for on-track or off-road racing); and motor homes (commonly known as recreational vehicles, or RVs) that are designed to provide temporary living, sleeping, or eating accommodation for travel, vacation, seasonal camping, or recreational use. Off-road, construction, and farm vehicles would fall outside the scope of the tax. Similarly, certain commercial (e.g., heavy-duty vehicles such as some trucks and cargo vans) and public sector (such as buses, police cars and ambulances) vehicles, as well as hearses, would not be subject to the tax.
- <u>Aircraft</u> – New aircraft typically suitable for personal use, including aeroplanes, helicopters and gliders. As a general rule, it would not apply to large aircraft typically used in commercial activities, such as those equipped for the carriage of passengers and having a certified maximum carrying capacity of more than 39 passengers. Smaller aircraft used in certain commercial (such as public transportation) and public sector (police, military and rescue aircraft, air ambulances) activities would also be excluded.
- <u>Boats</u> – New boats such as yachts, recreational motorboats and sailboats, typically suitable for personal use. Smaller personal watercraft (e.g., water scooters) and floating homes, commercial fishing vessels, ferries, and cruise ships would be excluded.

For vehicles and aircraft priced over $100,000, the amount of the tax would be the lesser of 10% of the full value of the vehicle or the aircraft, or 20% of the value above $100,000. For boats priced over $250,000, the amount of the tax would be the lesser of 10% of the full value of the boat or 20% of the value above $250,000.

The tax would generally apply at the final point of purchase of new luxury vehicles, aircraft and boats in Canada. In the case of imports, application would generally be either at the time of importation (in cases where there will not be a further sale of the goods in Canada) or at the time of the final point of purchase in Canada following importation.

Upon purchase or lease, the seller or lessor would be responsible for remitting the full amount of the federal tax owing, regardless of whether the good was purchased outright, financed, or leased over a period of time. Exports will not be subject to the tax.

GST/HST would apply to the final sale price, inclusive of the proposed tax, so GST/HST would also be payable on this new tax. Further details are to be announced in the coming months.

E. Electronic Filing, Payments and Certification

Budget 2021 proposes a number of measures which would better facilitate CRA's ability to operate digitally, while also enhancing security.

Notices of Assessment (NOA)

Budget 2021 proposes to provide CRA with the ability to send certain NOAs electronically without the taxpayer having to authorize CRA to do so. This proposal would apply in respect of individuals who file their income tax return electronically and those who use the services of a tax preparer that files their return electronically. Taxpayers who file their income tax returns in paper format would continue to receive a paper NOA from CRA. This measure would come into force on Royal Assent of the enacting legislation.

Correspondence with Businesses

Budget 2021 proposes to change the default method of correspondence for businesses that use CRA's My Business Account portal to electronic only. However, businesses could still choose to also receive paper correspondence. This measure would come into force on Royal Assent of the enacting legislation.

Information Returns – T4A and T5

Budget 2021 proposes to allow issuers of T4A (Statement of Pension, Retirement, Annuity and Other Income) and T5 (Statement of Investment Income) information returns to provide them electronically without having to also issue a paper copy and without the taxpayer having to authorize the issuer to do so. This measure would apply in respect of information returns sent after 2021.

Electronic Filing Thresholds

Budget 2021 proposes a number of measures which would limit the ability to file paper returns, including:

- Persons or partnerships that file more than 5 (reduced from 50) information returns of a particular type (e.g. T4 or T5 slips) for a calendar year would be required to file them electronically;
- Professional tax preparers would be required to file electronically where they prepare more than a total of 5 (reduced from 10) corporate or income tax returns for a calendar year. The exception for trusts would be removed; and
- Professional tax preparers that file electronically would only be permitted to file a maximum of 5 (reduced from 10) paper returns of each type per calendar year.

These measures would apply in respect of calendar years after 2021.

The mandatory electronic filing thresholds for returns of corporations under the Income Tax Act, and of GST/HST registrants (other than for charities or Selected Listed Financial Institutions) under the Excise Tax Act would be removed, resulting in most corporations and GST/HST registrants being required to file electronically.

Electronic Signatures

Budget 2021 proposes to allow electronic signatures on certain prescribed forms, as follows:

- T183, Information Return for Electronic Filing of an Individual's Income Tax and Benefit Return;
- T183CORP, Information Return for Corporations Filing Electronically;
- T2200, Declaration of Conditions of Employment;
- RC71, Statement of Discounting Transaction; and
- RC72, Notice of the Actual Amount of the Refund of Tax.

This measure would come into force on Royal Assent of the enacting legislation.

Electronic Payments

Budget 2021 proposes that electronic payments be required for remittances over $10,000 under the Income Tax Act and that the threshold for mandatory remittances for GST/HST purposes be lowered from $50,000 to $10,000. Budget 2021 also proposes to clarify that payments required to be made at a financial institution include online payments made through such an institution. This measure would apply to payments made on or after January 1, 2022.

F. Previously Announced Measures

Budget 2021 confirms the government's intention to proceed with the following previously announced tax and related measures, as modified to take into account consultations and deliberations since their release:

- Numerous proposals in respect of the Canada Emergency Wage Subsidy, the Canada Emergency Rent Subsidy and the Lockdown Support.
- Proposals in respect of temporary adjustments due to COVID-19 to the child care expense and disability supports deductions and the automobile standby charge.
- Proposals released on December 16, 2020 extending timelines in respect of flow-through shares by 12 months.
- Proposals released on December 15, 2020 relating to capital cost allowance claims for purchases of zero-emission automotive equipment and vehicles.
- The anti-avoidance rules consultation and the income tax measures announced in the Fall Economic Statement in respect of registered disability savings plans, employee stock options and patronage dividends paid in shares.
- Measures announced in the 2020 Fall Economic Statement regarding GST/HST relief on face masks and face shields.
- Proposals announced on November 27, 2020 to facilitate the conversion of health and welfare trusts to employee life and health trusts.
- Proposals announced on July 2, 2020 providing relief for deferred salary leave plans and registered pension plans during the COVID-19 pandemic.
- Proposals released on April 17, 2020 to clarify support for Canadian journalism.
- The income tax measure announced on December 20, 2019 to extend the maturation period of amateur athletes trusts maturing in 2019 by one year, from eight years to nine years.
- The income tax measure announced on December 9, 2019 to increase the basic personal amount to $15,000 by 2023.
- The income tax measure announced on August 29, 2019 to clarify the definition of a shared-custody parent.
- Proposals released on July 30, 2019 to implement Budget 2019 income tax measures in respect of multi-unit residential properties, permitting additional types of annuities under registered plans, contributions to specified multi-employer pension plans for older members, pensionable service under an individual pension plan, the allocation to redeemers methodology for mutual funds,

character conversion transactions, electronic delivery of requirements for information, the transfer pricing rules, the foreign affiliate dumping rules, and cross-border share lending arrangements.

- Measures released on July 30, 2019 modifying previously enacted measures from the 2018 Fall Economic Statement and Budget 2019, in respect of the accelerated investment incentive, the expensing of the cost of machinery and equipment used in the manufacturing or processing of goods and the cost of specified clean energy equipment, and the expensing of the cost of certain zero-emission vehicles.
- Proposals released on May 17, 2019 and on July 27, 2018 relating to GST/HST.
- Measures announced in Budget 2018 to implement enhanced reporting requirements for certain trusts to provide additional information on an annual basis.
- Measures confirmed in Budget 2016 relating to the GST/HST joint venture election.

If you have any questions or concerns regarding how Budget 2021 will impact you or your business, please reach out to one of our trusted professionals at 519-432-1155.

Yours truly,

Valente CPAs LLP

Valente CPAs LLP