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FEDERAL BUDGET 2019

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2019 Canadian Federal Budget Commentary – Tax Initiatives

INTRODUCTION

On March 19, 2019 (Budget Day), Finance Minister Bill Morneau tabled in the House of Commons the Liberal Government's fourth budget, *Investing in the Middle Class* (Budget 2019). This follows *Equality & Growth: A Strong Middle Class* (Budget 2018), *Building a Strong Middle Class* (Budget 2017) and *Growing the Middle Class* (Budget 2016).

Consistent with a focus on the middle class and (no doubt) its voting power, Budget 2019, the last budget before the upcoming federal election, proposes no increases in tax rates and contains many of the measures predicted by various pundits, including measures supporting students, first-time home buyers, retirees and those undertaking job retraining. Notably absent were any measures to increase Canada's tax competitiveness (a concern of many business leaders, economists and the Federal Finance Committee).

Our commentary on the tax initiatives in Budget 2019 follows. Unless otherwise stated, all statutory references are to the *Income Tax Act* (Canada) (Tax Act).

INTERNATIONAL TAX MEASURES

Foreign Affiliate Dumping

The foreign affiliate dumping (FAD) rules were enacted following Budget 2012. As explained in Budget 2019:

> The foreign affiliate dumping rules […] are intended to counter erosion of the tax base resulting from transactions in which a corporation resident in Canada (CRIC) that is controlled by a non-resident buys or otherwise invests in a foreign affiliate using borrowed, or surplus funds. One example of a foreign affiliate dumping transaction involves a CRIC using retained earnings to acquire shares of a foreign affiliate from its foreign parent corporation. Absent the foreign affiliate dumping rules, this transaction would provide a mechanism for the foreign parent corporation to, in effect, extract surplus from the CRIC free of dividend withholding tax.

As currently drafted, the FAD rules apply only to CRICs that are controlled by non-resident corporations or by a related group of non-resident corporations. Budget 2019 notes that similar concerns regarding erosion of the tax base arise where a CRIC that is controlled by a non-resident individual or trust makes an investment in a foreign affiliate.

Accordingly, Budget 2019 proposes to extend the application of the FAD rules to CRICs that are controlled by a non-resident individual, a non-resident trust or a group of persons that do not deal with each other at arm's length and that is comprised of any combination of non-resident corporations, non-resident individuals and non-resident trusts.

For purposes of determining whether two persons are related to each other or whether any person is controlled by any other person or group of person for purposes of the FAD rules, Budget 2019 proposes to amend the Tax Act to provide a special rule for trusts. Very generally, this new rule provides that, in making such determinations for purposes of the FAD rules, it shall be assumed that

- the trust is a corporation with a single class of 100 voting shares;
- each beneficiary holds shares of the assumed corporation based upon the proportion of the fair market value (FMV) of the beneficiary's interest to the FMV of all beneficiaries' interests; and
- if the beneficiary's share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power (i.e., if the beneficiary has a discretionary interest in the trust), the beneficiary will be treated as owning all of the voting shares of the assumed corporation (without affecting the deemed ownership of shares by other beneficiaries).

This rule could cause the FAD rules to be engaged in circumstances a planner might not have anticipated, having regard to the policy intent of the rules (e.g., where shares of a CRIC are owned by a discretionary family trust (whether resident in Canada or not) and the potential beneficiaries of the trust include a non-resident).

The legislative proposals that accompany Budget 2019 are surprisingly complex and, on an initial reading, may cause the FAD rules to apply in ways and in circumstances that were not intended. It is hoped that the proposed legislation will be revised somewhat prior to implementation to make it more targeted to the concerns identified by the Government in Budget 2019.

Budget 2019 provides that the FAD changes will apply to transactions and events that occur on or after Budget Day.

Cross-Border Share Lending Arrangements

Section 260 of the Tax Act contains rules applicable to certain securities lending arrangements relating to qualified securities that meet the definition of a "securities lending arrangement" (SLA). Certain of these rules now apply to "specified securities lending arrangements" as a result of Budget 2018.

In order for an arrangement to be within the definition of SLA, the borrower of the securities must make compensation payments to the lender equal to amounts that would have been received by the borrower during the term of the arrangement if the borrower had held the security throughout the term of the arrangement.

The Tax Act defines an "SLA compensation payment" as an amount paid pursuant to an SLA or specified securities lending arrangement as compensation for an underlying payment.

Typically under such arrangements, a borrower is required by the lender to post security in order to secure the borrower's obligation to return identical securities to the lender.

In the cross-border context, the withholding taxes on compensation payments are determined (in part) by the nature of the collateral arrangements.

Where the arrangement is fully collateralized (as contemplated by paragraph 260(8)(c)), an SLA compensation payment in respect of a share is deemed to be a payment made by the borrower as a dividend on the share. Paragraph 260(8)(c) contemplates the provision of collateral by the borrower that is money or government debt obligations with a value of 95%

or more of the loaned securities during the term of the arrangement where the borrower is entitled to the benefits of all or substantially all of the income from, and opportunity for gain with respect to, the collateral.

If the arrangement is not fully collateralized, the SLA compensation payment is deemed to be a payment of interest made by the Canadian borrower to the lender, which would generally be exempt from withholding tax in arm's length circumstances.

The Government asserts that non-resident lenders of Canadian shares have avoided withholding taxes on dividends by entering into SLAs that are not fully collateralized (so that the SLA compensation payments are treated as interest) or by structuring the arrangement to fall outside the definition of SLA such that the dividend compensation payment is a payment under a derivative not subject to withholding tax.

While the Government asserts in Budget 2019 that, depending on the particular facts, these transactions can be challenged based on existing rules in the Tax Act, it is proposing specific legislation.

In brief, "Budget 2019 proposes an amendment to ensure that a dividend compensation payment made under a SLA by a Canadian resident to a non-resident in respect of a Canadian share is always treated as a dividend under the characterization rules and, accordingly, always subject to Canadian dividend withholding tax." In addition, Budget 2019 proposes that these rules apply to specified securities lending arrangements. The proposed amendments are to apply to compensation payments that are made on or after Budget Day unless the securities loan was in place before Budget Day. However, if the compensation payments are made pursuant to a written arrangement entered into before Budget Day, the amendments will only apply to compensation payments made after September 2019.

A definition of "fully collateralized arrangement" will be added to subsection 248(1). An SLA or specified securities lending arrangement will be fully collateralized if the arrangements with respect to collateral are as described in current paragraph 260(8)(c).

Subparagraph 260(8)(a)(ii) will provide that an SLA compensation payment in respect of a share is deemed, to the extent of the amount of the dividend paid in respect of the share, to be a payment made by the borrower to the lender of a dividend payable on the share. The deemed dividend will be subject to withholding tax under subsection 212(2). New subsection 260(8.3) provides that, if the share that is the subject of the arrangement is issued by a corporation resident in Canada, in determining the withholding rate that Canada may impose under the dividend article of a tax treaty, the SLA compensation payment is deemed to be paid by the issuer of the share, the lender is deemed to be the beneficial owner of the share and if the SLA or specified securities lending arrangement is not a fully collateralized arrangement and the borrower and lender do not deal at arm's length, the lender is deemed to own shares with less than 10% of the votes and value of the issuer.

Budget 2019 does propose one relieving amendment. The characterization rules in subsection 260(8) apply equally to underlying shares issued by Canadian residents and those issued by non-residents. A non-resident lender may be subject to Part XIII withholding tax in respect of a dividend compensation payment when it would not have been subject to Canadian withholding had it continued to hold the underlying share directly (i.e., if the underlying share is issued by a non-resident corporation). Subsection 212(2.1) provides an exemption from dividend withholding tax if the SLA was entered into by the borrower in the course of carrying on business outside Canada and the underlying share is issued by a non-resident corporation. Subsection 212(2.1) will be amended to expand the exemption so that withholding tax on a dividend compensation payment is not required where the underlying share is issued by a non-resident corporation and the SLA or specified securities lending arrangement is a fully collateralized arrangement. This exemption applies to amounts paid or credited on or after Budget Day.

However, if the arrangement is not a fully collateralized arrangement, new subsection 260(8.4) provides that, in determining the withholding rate that Canada may impose under the dividend article of a tax treaty, the lender is deemed to own shares with less than 10% of the votes and value of the borrower if the borrower and lender do not deal at arm's length.

Transfer Pricing Measures

The Tax Act's transfer pricing regime, found in Part XVI.1, is intended to ensure that prices charged on cross-border transactions between non-arm's length parties reflect prices that would have been charged had those persons dealt with each other at arm's length.

Budget 2019 proposes two new measures applicable to the transfer pricing regime.

The first measure provides for the priority of the transfer pricing rules over other provisions of the Tax Act. Specifically, Budget 2019 proposes adding new subsection 247(1.1), which will provide that "[f]or the purposes of applying the provisions of this Act, the adjustments under Part XVI.1 shall be made before any other provision of the Act is applied." As a consequence, Budget 2019 also proposes to repeal subsection 247(8), which is a narrower ordering provision.

The new provision may result in increased transfer pricing penalties. Subsection 247(3) imposes a 10% penalty on a taxpayer where the amount of the taxpayer's transfer pricing capital and income adjustments in a year exceed a *de minimis* amount, being the lesser of 10% of the taxpayer's gross revenue for the year and $5 million (the Threshold). If an amount could have been included in a taxpayer's income under the transfer pricing provisions and under another provision of the Tax Act, including it as a transfer pricing income or capital adjustment may cause the Threshold to be exceeded.

This proposed new measure will apply to taxation years beginning on or after Budget Day.

The second measure broadens the extended reassessment period applicable to assessments under the transfer pricing provisions.

Budget 2019 explains that while the Tax Act currently provides for "an extended three-year reassessment period […] in respect of a reassessment made as a consequence of a transaction involving a taxpayer and a non-resident with whom the taxpayer does not deal at arm's length," this extended reassessment period does not currently adopt the expanded definition of "transaction," which includes an arrangement or event, that applies generally for purposes of the transfer pricing regime. Under the new measure, the definition of "transaction" used in the transfer pricing rules will also be used for the purposes of the extended reassessment period.

This measure will apply to taxation years for which the normal reassessment period ends on or after Budget Day. Accordingly, the new measure may apply on a retrospective basis to arrangements or events that occurred prior to Budget Day where they are in respect of taxation years for which the normal reassessment period ends on or after Budget Day.

Ongoing Base Erosion and Profit Shifting Project

Canada has been a participant in the Organisation for Economic Co-operation and Development/Group of Twenty (OECD/G20) project to address what is, in the Government's view, the inappropriate shifting of profits offshore and other international planning.

In Budget 2019, the Government states that Canada is taking the "necessary steps" to enact and ratify the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (MLI). The Bill to ratify the MLI was considered by the Standing Committee on Finance and presented to the House of Commons on March 1, 2019. The Government also states in Budget 2019 that the first exchanges of country-by-country reports took place in 2018, and that Canada is participating in an OECD review of the standards for such reports, which is scheduled to be completed in 2020.

BUSINESS TAX MEASURES

Character Conversion Transactions

In Budget 2013, the Government introduced the “derivative forward arrangement” (DFA) rules to address certain character conversion transactions. In a simple form of a character conversion transaction, a mutual fund trust would enter into a forward sale agreement with a financial institution under which the mutual fund trust would agree to purchase on a future date for a fixed amount (the purchase price) a basket of “Canadian securities” that had a value on that date equal to the value of a notional investment of an amount equal to the purchase price invested in another property (the Reference Fund). Assuming that the notional investment in the Reference Fund had appreciated in value at maturity, the mutual fund trust would receive from the financial institution Canadian securities at a cost equal to the purchase price. Those Canadian securities would be sold and the resulting gain treated as a capital gain because the mutual fund trust would typically have made an election under subsection 39(4) of the Tax Act to treat gains on Canadian securities as capital gains. If the Reference Fund, for example, invested in fixed income securities and made regular income distributions, the income distributions were effectively “converted” to capital gains that would be realized only at maturity.

The DFA rules would treat the arrangement described above as a DFA if its term exceeded 180 days since the difference between the FMV of the property delivered on settlement of the agreement and the amount paid for the property would be attributable, in whole or in part, to an underlying interest (i.e., the Reference Fund). On maturity, the DFA rules would treat the accrued gain on the sale of the Canadian securities as ordinary income. The DFA rules also apply to arrangements involving the sale of property for a price determined with reference to an underlying interest.

The definition of DFA, however, currently excludes an interest where the economic return from the purchase agreement is based on the economic performance of the actual property being purchased. The Government asserts that this exception was intended to exclude certain commercial transactions (e.g., merger and acquisition transactions) from the scope of the DFA rules.

The Government asserts that a new transaction has been developed that “attempts to misuse this commercial transaction exception.” Under this alternative transaction, a mutual fund enters into a forward purchase agreement with a counterparty pursuant to which the mutual fund agrees to acquire units of the Reference Fund at a specified future date, for a purchase price equal to the value of such units at the date the forward purchase agreement is entered into. The units of the Reference Fund are Canadian securities (e.g., a Canadian mutual fund trust that invests in fixed income securities). On settlement of the forward purchase agreement, the mutual fund acquires the units of the Reference Fund and treats their cost as being equal to the purchase price under the forward purchase agreement. The Reference Fund units are sold or redeemed and the gain is treated as a capital gain by virtue of making an election under subsection 39(4) of the Tax Act.

Pursuant to the existing rules, the forward purchase agreement does not give rise to a DFA since the economic return under the forward purchase agreement is based solely on the economic performance of the acquired units of the Reference Fund over the term of the agreement.

While the Government asserts that this transaction can be challenged based on existing rules in the Tax Act, it states that these challenges could be both time-consuming and costly (and, while not stated, unsuccessful).

Consequently, Budget 2019 proposes an amendment to narrow the scope of the exception applicable where the economic return from the purchase or sale agreement is based on the economic performance of the actual property being purchased. The exception will not apply if three conditions are met:

- the subject property is a Canadian security or an interest in a partnership the FMV of which is derived in whole or in part from a Canadian security (there is no *de minimis* test);
- the counterparty to the purchase agreement is either a “tax-indifferent investor” or a “financial institution”; and

- it can reasonably be considered that one of the main purposes of the series of transactions of which the purchase agreement is a part is for all or a portion of the capital gain on the disposition of such Canadian security to be attributable to amounts paid or payable on the Canadian security by the issuer as interest, dividends or income (other than taxable capital gains) of a trust.

This proposal will apply to transactions entered into on or after Budget Day.

It will also apply after December 2019 to transactions that were entered into before Budget Day, including those that extended or renewed the terms of the agreement on or after Budget Day. This grandfathering is to incorporate the same growth limits used under the transitional relief provided under the DFA rules introduced in 2013 to ensure that no new money flows into grandfathered transactions on or after Budget Day.

Business Investment in Zero-Emission Vehicles

Overview

Budget 2019 includes a number of measures intended to incentivize Canadian businesses to adopt zero-emission and certain plug-in hybrid vehicles. These measures include government investments in charging and refuelling infrastructure, automotive manufacturing under the Strategic Innovation Fund and the provision of $300 million to Transport Canada to introduce a new federal purchase incentive program, the details of which have not yet been released, but which is expected to include purchaser incentives of up to $5,000 for qualifying vehicles with a manufacturer's suggested retail price of less than $45,000 (Transport Canada Incentive).

The measures also include the creation of two new depreciable property classes for zero-emission vehicles in Schedule II of the regulations under the Tax Act (Tax Regulations): Class 54 property, which is proposed to have a capital cost allowance (CCA) deduction rate of 30% and Class 55 property, which is proposed to have a CCA deduction rate of 40%. Budget 2019 further proposes to amend the accelerated investment incentive CCA provisions contained in the Notice of Ways and Means Motion to amend the Tax Act and Tax Regulations tabled in the House of Commons on November 21, 2018 (the Fall Update) to introduce a multiplier for zero-emission vehicles that are Class 54 or Class 55 property and become available for use on or after Budget Day and before 2024 to allow for a 100% deduction of their capital cost in the year they become available for use, similar to the treatment afforded to Class 43.1 property in the Fall Update. The accelerated investment incentive capital cost provisions will be phased out for vehicles that become available for use after 2023 and before 2028.

Class 54 and Class 55 Depreciable Property

Budget 2019 proposes to add two new definitions to subsection 248(1) of the Tax Act. A "zero-emission vehicle" is a motor vehicle that is a plug-in hybrid vehicle with a battery capacity of at least 15 kWh or that is fully electric or powered by hydrogen. It must have been acquired and become available for use by the taxpayer on or after Budget Day and before 2028 and not have been used or acquired for use for any purpose before it was so acquired.

A vehicle will not qualify as a zero-emission vehicle if

- the government has provided assistance in respect of the vehicle under a prescribed program (currently only the proposed Transport Canada Incentive);
- a person or partnership other than the taxpayer has already either deducted CCA in respect of the vehicle under paragraph 20(1)(a) of the Tax Act or claimed a terminal loss in respect of the vehicle under subsection 20(16); or
- the taxpayer elects that the vehicle not be included in Class 54 or Class 55.

If a zero-emission vehicle would otherwise qualify as Class 16 property (e.g., as a taxicab, motor vehicle acquired for short-term renting or leasing or as a truck or tractor for hauling freight), it will be Class 55 property.

If the zero-emission vehicle is not Class 55 property or Class 16 property, it will be Class 54 property and a zero-emission passenger vehicle for the purposes of the Tax Act.

Prescribed Amount Limit for Class 54 Zero-Emission Passenger Vehicles

Budget 2019 proposes to limit the accelerated capital cost deductions available in respect of Class 54 "zero-emission passenger vehicles" to a prescribed amount, which Budget 2019 has set at $55,000 plus the proportionate amount of any federal and provincial sales taxes payable thereon.

Any zero-emission passenger vehicles acquired at a cost of greater than the prescribed amount will be deemed, for CCA purposes, to have a capital cost equal to the prescribed amount.

To achieve symmetry, Budget 2019 proposes to prorate the proceeds of disposition of Class 54 property in certain circumstances.

Ancillary Amendments for Class 54 and Class 55 Property

Budget 2019 proposes ancillary amendments to the rules relating to bad debts arising from the sale of Class 54 property, interest deductibility and corporate reorganizations.

Scientific Research and Experimental Development Program

The Tax Act contains a Scientific Research and Experimental Development (SR&ED) incentive that allows a taxpayer to deduct certain qualifying SR&ED expenditures in the taxation year that they are incurred. In addition to being deductible, qualifying SR&ED expenditures are eligible for investment tax credits. The amount of investment tax credits that are available to a taxpayer that has incurred qualifying SR&ED expenditures varies according to the taxpayer's status as a Canadian-controlled private corporation (CCPC) and its size. Corporations that are not CCPCs under the Tax Act and unincorporated businesses generally receive a 15% non-refundable tax credit. In contrast, CCPCs receive a fully refundable enhanced tax credit at a rate of 35% on a maximum of $3 million in qualifying SR&ED expenditures per year. However, the $3 million expenditure limit is reduced based on the CCPC's annual income and taxable capital employed in Canada. The government expressed concern that the reduction based on the CCPC's taxable income produces an undesirable effect at certain income levels where an increase in taxable income produces a disproportionate reduction in the CCPC's SR&ED investment tax credit.

In order to address this and to provide support for businesses as they grow, Budget 2019 proposes to repeal the use of taxable income as a factor in reducing the $3 million expenditure limit for SR&ED.

This measure will apply to taxation years that end on or after Budget Day.

Support for Canadian Journalism

Budget 2019 contains a significant new tax regime designed to provide tax benefits to Canadian journalism, with four main elements:

- granting subsection 149.1(1) qualified donee status to a "registered journalism organization" (RJO);
- specifying that an RJO is tax-exempt under subsection 149(1);
- providing a refundable labour tax credit for certain "qualifying journalism organizations" (QJO); and
- providing a refundable tax credit for persons who subscribe to Canadian digital news services (digital news subscription).

The starting point for each of these benefits is that the organization be a "qualified Canadian journalism organization" (QCJO). A QCJO is a corporation, partnership, or trust: (i) formed in and resident in Canada; (ii) 75% of the directors/officers, partners or beneficiaries (as applicable) of which are citizens of Canada; (iii) that operates, edits and designs content in Canada that is of general interest and not lifestyle related; (iv) that regularly employs two (or more) journalists who deal at arm's length with the organization; (v) that does not promote a specific organization, governmental entity or goods/services; (vi) that is not a governmental corporation; and (vii) that has had its status granted by a designated administrative body (which will be established for this purpose).

Registered / Qualifying Journalism Organization

For qualified donee and tax-exempt status, the organization must be an RJO. An RJO is a QJO that has been registered by the Minister of National Revenue. A QJO is a corporation or trust that: (i) is a QCJO; (ii) is constituted and operated exclusively for journalism, and its business activities are related to that purpose; (iii) is not controlled directly or indirectly in any manner whatever, by a person or by a non-arm's length group; (iv) in general, does not receive gifts from one source which represent more than 20% of its annual revenues (subject to certain exceptions); and (v) provides no personal income benefit element to any member/director/trustee. In addition, to qualify as a QJO, all of the directors/trustees of the corporation or trust (as applicable) must deal at arm's length with each other.

Refundable Labour Tax Credit

Budget 2019 proposes a refundable tax credit of up to $13,750 per eligible newsroom employee (ENE) of a qualifying QCJO. This represents a 25% credit on up to $55,000 of "qualifying labour expenditures."

To be an ENE, the employee must work a minimum of 26 hours per week, be (or reasonably be expected to be) employed for at least 40 consecutive weeks, and spend at least 75% of his or her time preparing news content.

In order to receive the credit, the organization must: (i) be a QCJO that is primarily engaged in producing original written news content; (ii) not carry on broadcasting undertaking; and (iii) not receive aid under the Aid to Publishers section of the Canadian Periodical Fund. Further, if it is a public corporation, it must be listed on a stock exchange in Canada and not be controlled by non-Canadian citizens. If it is a private corporation, it must be at least 75-per-cent owned by Canadian citizens or by public corporations described above.

This measure applies to salary earned after January 1, 2019.

Personal Income Tax Credit for Digital Subscriptions

Budget 2019 proposes a non-refundable tax credit of 15% on up to $500 of expenditure individuals on "qualifying subscription expenses," which are payments for a "digital news subscription" made by the individual to a QCJO.

This credit will be available for amounts paid after 2019 and before 2025.

Small Business Deduction – Farming and Fishing

In 2016, the small business deduction was amended to disqualify "specified corporate income" of a CCPC from the small business deduction. Specified corporate income of a CCPC is defined to include income from the active business of the CCPC from the provision of services or property to a private corporation if the CCPC, one of its shareholders or a person who does not deal at arm's length with the CCPC or one of its shareholders holds a direct or indirect interest in the private corporation.

The definition of "specified corporate income" contains a carve-out for "specified cooperative income," which is defined in subsection 125(7) to include income from the sale of farming products and fishing catches of a selling corporation's farming or fishing business to an arm's length corporation that meets either a modified definition of a "cooperative corporation" or certain enumerated conditions. As a result of this carve-out, "specified cooperative income" is eligible for the small business deduction.

Budget 2019 proposes to replace the carve-out for specified cooperative income with a broader carve-out for income of a CCPC (other than certain patronage payments) from the sale of farming products or fishing catches of the CCPC's farming or fishing business to an arm's length purchaser corporation.

The proposed changes will be effective for taxation years of a CCPC that begin after March 21, 2016.

Intergenerational Business Transfers

In Budget 2019, the Government states that it will work with farmers, fishers and other business owners throughout 2019 to develop new proposals to better accommodate intergenerational transfers of businesses while protecting the integrity and fairness of the tax system.

Canadian-Belgian Co-productions – Canadian Film or Video Production Tax Credit

Budget 2019 proposes to amend the definition of a "treaty co-production" by adding *The Memorandum of Understanding between the Government of Canada and the Respective Governments of the Flemish, French and German-speaking Communities of the Kingdom of Belgium concerning Audiovisual Coproduction* (the Canada-Belgium MOU) to the list of co-production treaties. Consequently, the Canadian film or video production tax credit will be available in respect of co-productions produced under the Canada-Belgium MOU.

The addition of the Canada-Belgium MOU to the list of co-production treaties is proposed to be retroactively effective as of March 12, 2018, the date on which the Canada-Belgium MOU was signed by Canada and Belgium.

PERSONAL INCOME TAX MEASURES

Limits on Stock Options for Employees of Established Businesses

The Tax Act has long provided employees with favourable tax treatment in respect of employee stock options.

The Tax Act currently taxes an employee's benefit derived from the exercise of rights under a stock option (or other agreement with an employer to sell or issue shares). The amount of the benefit under the Tax Act is generally equal to the difference between the value of the shares at the time of acquisition, less the total of the amount that the employee paid to acquire the shares and the amount, if any, the employee paid for the stock option.

While this benefit is deemed by the Tax Act to constitute employment income, where certain conditions are met the employee may deduct 50% of the benefit deemed to have been realized, thereby resulting in the benefit being taxed to the employee at the same tax rates as apply to capital gains. Simplified, this 50% deduction is available:

- in respect of shares of a CCPC that deals at arm's length with the employee, provided that the employee did not dispose of the shares within two years of their acquisition; and
- in respect of ordinary common shares of any corporation, if the amount payable to acquire the share under the employee stock option is not less than the FMV of the share at the time the stock option agreement was made (less the amount, if any, that the employee paid for the stock option).

Although the Tax Act generally deems the benefit to arise on the exercise of the option (or transfer of the option to an arm's length person), the Tax Act provides a deferral for shares of a CCPC that deals at arm's length with the employee. In this case, the benefit is deemed not to arise until the shares acquired are disposed of.

The Tax Act also provides that the employer cannot claim a deduction in respect of the benefit to the employee arising on issuance of the shares.

In explaining the rationale for the favourable tax treatment afforded to employee stock options under the current rules, Budget 2019 states the following:

> Many smaller, growing companies, such as start-ups, do not have significant profits and may have challenges with cash flow, limiting their ability to provide adequate salaries to hire talented employees. Employee stock options can help such companies attract and retain talented employees by allowing them to provide a form of remuneration linked to the future success of the company.

However, Budget 2019 states that a disproportionate share of the tax benefits arising from the current employee stock option provisions accrues to a very small number of very high income optionholders. Budget 2019 notes, for example, that in 2017 6% of stock option claimants – each with a total annual income including stock option benefits of over $1 million – accounted for over $1.3 billion of benefits from the 50% deduction or almost two-thirds of the benefit derived from the 50% deduction. As stated by the Government:

> The public policy rationale for preferential tax treatment of employee stock options is to support younger and growing Canadian businesses. The Government does not believe that employee stock options should be used as a tax-preferred method of compensation for executives of large, mature companies.

Accordingly, while the details are to be released before the summer of 2019, Budget 2019 proposes "changes to limit the benefit of the employee stock option deduction for high-income individuals employed at large, long-established, mature firms." The changes are intended to have regard to two key objectives:

- "to make the employee stock option tax regime fairer and more equitable for Canadians", and
- "to ensure that start-ups and emerging Canadian businesses that are creating jobs can continue to grow and expand".

Although few details are provided, Budget 2019 proposes an annual cap of $200,000 on employee stock option grants (based on FMV of the underlying shares at the time of grant) "that may receive tax-preferred treatment for employees of large, long-established, mature firms". Budget 2019 does not state what is meant by "large, long-established, mature firms", but provides that:

> For start-ups and rapidly growing Canadian businesses, employee stock option benefits would remain uncapped. In this manner, start-ups and emerging Canadian businesses will be protected and maintain the ability to use employee stock options as an effective tool to attract and reward employees and accelerate their growth.

The Government provides some examples of how the proposed new rules will work. The examples apparently make clear that:

- The $200,000 cap will be an employee-by-employee cap;
- The $200,000 cap will be based upon the FMV of the underlying shares at the time of the option grant; and
- To the extent that the cap is exceeded, such that the 50% deduction is not available to the employee, the employer will generally be entitled to deduct the stock option benefit.

Budget 2019 provides that any changes will apply "on a go-forward basis only and would not apply to employee stock options granted prior to the announcement of legislative proposals to implement any new regime."

In light of the coming into force rules applicable to the proposed stock option changes, in circumstances in which the new rules will likely apply, consideration may be given to the viability of making significant grants of stock options prior to legislative proposals being announced.

Mutual Funds: Allocation to Redeemers Methodology

Many investment funds are structured as trusts. The Tax Act treats a trust as a taxpayer but generally allows it to claim as a deduction from income for a taxation year such part of its income (including taxable capital gains) as is payable in the year to its beneficiaries. There is a possibility of double taxation with respect to an investment in an investment trust: appreciation in the trust's portfolio securities also results in appreciation in value of the trust's units. On the redemption of a unit, the unitholder may realize a capital gain and the trust may realize the same gain on the eventual disposition of the portfolio securities. To relieve against double taxation, a trust that is a "mutual fund trust" is entitled to receive a refund of tax otherwise payable on realized capital gains that are retained (i.e., not made payable) to unitholders that is determined on a formula basis taking into account its net realized capital gains for the year, accrued capital gains and amounts paid by it on the redemption of units. The formula is imperfect. The "allocation to redeemers" methodology was developed to supplement or replace the capital gains refund mechanism. It has been the subject of favourable tax rulings from the Canada Revenue Agency (CRA) (as early as 2000) as well as administrative relief. Immediately following the issuance of the favourable rulings, the Government made specific changes to the definition of "capital gains redemptions."

Under the allocation to redeemer's methodology, if a unitholder redeems a unit, the trust treats a portion of the amount paid on redemption as a payment to the redeeming unitholder of the trust's taxable capital gains, and in some structures, of the trust's ordinary income. The amount so payable is included in the redeeming unitholder's income but is excluded from the unitholder's proceeds of disposition.

The Government has expressed concern that the amount allocated as capital gains to a redeeming unitholder may have no relation to the unitholder's accrued capital gain on the units redeemed. In a simple example, if the unitholder's adjusted cost base of the units redeemed is $10 and the units' FMV is $12, the trust could redeem the units for $12 and allocate to the unitholder, say, $8 of capital gains as part of the redemption price of the units. The unitholder would include the $4 taxable portion of the allocation in computing income. The unitholder's proceeds of disposition would be $4, so the unitholder would have a capital loss on the disposition of the unit of $6 ($4 – $10). One-half of the loss, or $3, would be an allowable capital loss and in general could be applied to offset the $4 of taxable capital gains allocated by the trust. This would leave the unitholder with a "net" taxable capital gain of $1, which would be the same as if the unitholder had redeemed the units for $12. On the other hand, the trust would have allocated to the redeeming unitholder an amount of capital gains ($8).

Similarly, the trust could allocate ordinary income to the redeeming unitholder. While the redeeming unitholder would not be indifferent to such an allocation if the units were held as capital property, the unitholder would be indifferent if the units were held on income account. In respect of such an allocation to the redeeming unitholder, the remaining unitholders would benefit as amounts of income distributed to redeeming unitholders would not have to be distributed to remaining unitholders.

The Government proposes to restrict the use of the allocation to redeemers methodology in two ways:

- the trust may not claim a deduction for amounts of ordinary income allocated to a redeeming unitholder that are excluded from the unitholder's proceeds of disposition; and
- the trust may not claim a deduction for a portion of taxable capital gains allocable to a redeeming unitholder where the amount of capital gains allocable to the redeeming unitholder and excluded from the unitholder's proceeds of disposition is greater than the unitholder's accrued gain on the units redeemed.

The proposed measures will apply to taxation years of mutual fund trusts that begin on or after Budget Day.

It is not clear whether the practical effect of the measure will be that mutual fund trusts will have to cease using the allocation to redeemers methodology. Trustees and managers of mutual fund trusts may not know the identity of unitholders when units are held in brokers' accounts. Unitholders may hold units in multiple accounts with different brokers such that the cost base averaging rules would apply. Factors unknown to a fund manager may affect the calculation of an unitholder's cost amount, such as the debt forgiveness rules.

The denial of the deduction for income allocable to a redeeming unitholder may itself lead to arbitrage opportunities: unitholders with large positions on capital account may redeem units before the end of a year to avoid large income distributions at the end of the year.

Of note, the measure applies only to mutual fund trusts and not to investment trusts generally.

Permitting Additional Types of Annuities Under Registered Plans

Advanced Life Deferred Annuities

Under the Tax Act, annuities purchased under, or with funds from, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), deferred profit sharing plans (DPSPs), pooled registered pension plans

(PRPPs) and registered pension plans (RPPs) that are defined contribution plans must commence periodic payments no later than the end of the year in which the annuitant attains 71 years of age.

Budget 2019 proposes amendments to include advanced life deferred annuities (ALDAs) as qualifying annuities under RRSPs, RRIFs, DPSPs, PRPPs and defined contribution RPPs. An ALDA is a life annuity that may defer the commencement of periodic payments until the end of the year in which the annuitant attains 85 years of age.

Under the proposals, annuitants will be subject to a per plan ALDA limit equal to 25% of the sum of: (i) the value of all property (excluding ALDAs and most other annuities) held in the plan as at the end of the previous year and (ii) the aggregate amount of plan funds used to purchase ALDAs in previous years. The test will be applied only when an ALDA is purchased or upsized. Annuitants will also be subject to a comprehensive lifetime ALDA limit for all registered plans of $150,000, indexed to inflation for taxation years after 2020.

Under the proposals, the contract governing a qualifying ALDA must contain certain terms and conditions, including provisions relating to the commencement of periodic payments and the payment of refunds where premiums previously paid exceed the annuitant's ALDA limit. In addition, lump-sum death benefits to beneficiaries may not exceed the premiums paid under the annuity after taking into account payments received by the annuitant (or, in the case of a joint-life contract, the aggregate of payments received by the annuitant and the annuitant's spouse) under the annuity. The annuity contract must not provide for any other payments, such as commutation or cash surrender payments or payments under a guarantee period.

A penalty of 1% per month will apply to the portion of any ALDA in respect of a registered plan in excess of the annuitant's ALDA limit.

Variable Payment Life Annuities

PRPPs and defined contribution RPPs are not permitted to hold "in-plan" annuities. Rather, an amount received as a benefit under any such plan is treated as a non-taxable receipt to the extent that the amount is used to acquire a qualifying annuity from a licensed annuities provider.

Budget 2019 proposes to amend the Tax Act to permit PRPPs and defined contribution RPPs to provide variable payment life annuities (VPLAs) to individuals directly from the plan. A VPLA is a type of annuity under which annuity payments will vary based on the performance of a portfolio of investments held by the plan administrator under a separate annuities fund and the mortality experience of VPLA annuitants in respect of the plan.

No draft legislation was released in connection with the proposed changes relating to annuities under registered plans.

Contributions to a Specified Multi-Employer Plan for Older Members

A specified multi-employer plan (SMEP) is a type of defined benefit RPP sponsored by a union. Generally, under an RPP, a member cannot accrue pension benefits after the end of the year in which the member reaches 71 years old or, if the member has returned to work for the same or a related employer, is receiving pension payments from the plan. SMEPs currently do not have the same restrictions. Budget 2019 will impose similar limitations on SMEPs.

These amendments will apply to contributions made under a collective bargaining agreement entered into after 2019, except in respect of contributions made on or before the date the agreement is entered into.

Pensionable Service Under an Individual Pension Plan

An individual pension plan (IPP) is a defined benefit pension plan with four or fewer members at least one of whom is related to a participating employer.

An amendment is proposed to address certain planning in respect of IPPs whereby the assets of a defined benefit pension plan were transferred to an individual's new IPP. Generally there is a restriction on the amount of accrued pension benefits which can be transferred on a tax deferred basis, with the excess being included in income. For example, moving assets from a defined benefit plan to an RRSP or similar plan can result in up to 50% of the commuted value of the benefits being included in income.

The targeted planning was implemented by establishing a new IPP sponsored by a new corporation controlled by an individual who had terminated employment with their former employer. The individual then transferred the commuted value from their old defined benefit plan to the new IPP. The result was a tax-deferred transfer of 100% of the relevant assets.

To prevent this, Budget 2019 provides that the deferred transfer to an IPP is not available under paragraph 147.3(3)(c) in respect of benefits that are attributable to employment with a former employer that is not a participating employer (or its predecessor employer). Amounts transferred in excess of this are to be included in income.

The provisions will be amended to apply to pensionable service credited under an IPP on or after Budget Day.

Carrying on Business in a Tax-Free Savings Account

Under subsection 146.2(6) of the Tax Act, a trust governed by a tax-free savings account (TFSA) may be liable for tax under Part I in respect of income from a business carried on by the TFSA and income (including the full amount of capital gains) derived by the TFSA from non-qualified investments. The CRA has assessed numerous TFSAs on the basis that their activities with respect to transactions in qualified investments gave rise to business income. The issue does not arise in the case of an RRSP, for example, since the RRSP provisions exclude income from and gains from the disposition of qualified investments. As a technical matter, if the trustee of a TFSA makes a distribution to the holder without obtaining a tax clearance certificate under subsection 159(2) of the Tax Act, the trustee will be personally liable for taxes for which the TFSA is or could reasonably be expected to be liable at the time of the distribution. Trustees of TFSAs generally have not made it a practice to obtain clearance certificates. Where a plan has been terminated, the trustee may therefore face substantial liabilities.

Budget 2019 will amend the Tax Act to provide that the holder of the TFSA is jointly and severally liable with the trust to pay the tax payable that is attributable to a business carried on by the trust so the CRA can assess the holder for the tax. The basis for extending the liability to the holder is that the holder is often in a better position than the trustee to know whether or not the TFSA's activities include carrying on a business.

New subsection 146.3(2) will also limit the trustee's liability for the TFSA's tax under subsection 146.3(6) in respect of a business carried on by the TFSA in a taxation year to the property held in the TFSA at the time the TFSA carries on business plus the amount of any distributions paid by the TFSA after a notice of assessment has been issued. However, this does not satisfactorily address the situation where the value of the property held in the TFSA declines after the time a business is carried on and before a notice of assessment is issued. Moreover, no amendments were proposed to subsections 159(2) and (3). Consequently, it would seem that trustees permitting withdrawals from certain TFSAs without obtaining a clearance certificate are doing so at their peril, an unsatisfactory situation from a commercial perspective.

These proposals will apply in respect of business activities in a TFSA for the 2019 and subsequent taxation years.

Home Buyers' Plan

Budget 2019 proposes two notable changes to the current home buyers' plan, which generally allows individuals to withdraw amounts from their RRSP on a tax-free basis to purchase their first home, provided that such amounts are repaid within a certain period of time.

First, Budget 2019 proposes to increase the withdrawal limit from $25,000 to $35,000. Second, it proposes to extend access to the plan to individuals who have experienced a breakdown of their marriage or common-law partnership and who would otherwise not be eligible for the plan because they do not meet the first-time home buyer requirement.

The increase to the plan withdrawal limit applies to withdrawals made after Budget Day. The extension of the plan to marital and common law breakdowns applies to withdrawals made after 2019.

Medical Expense Tax Credit

As cannabis is now regulated under the *Cannabis Regulations* under the new *Cannabis Act*, paragraph 118.2(2)(u) is replaced to reflect the reference to the new legislation, which came into effect on October 17, 2018. Basically, the holder of a "medical document" as defined under subsection 264(1) of the *Cannabis Regulations* may be eligible for a medical expense credit under subsection 118.2(1) in respect of their cannabis-related expenditures.

This measure is deemed to come into force on October 17, 2018.

Canada Training Credit

Budget 2019 proposes a new refundable credit (Canada Training Credit) for individuals pursuing professional development. An individual will accumulate $250 per year in a notional account if the individual meets certain age, income and residency criteria, up to a maximum amount of $5,000 over the individual's lifetime. No credit will accrue for a taxation year in which the individual's income exceeds the top of the third tax bracket (currently $147,667). An individual will be able to claim a credit for a taxation year in an amount equal to one-half of the eligible fees paid while enrolled at an eligible educational institution up to the individual's notional account balance. Eligible fees generally include tuition fees, ancillary fees and charges, and examination fees. Eligible educational institutions generally include universities, colleges, other educational institutions providing courses at a post-secondary level, and institutions providing occupational skills courses certified by the Minister of Employment and Social Development. The portion of the eligible fees credited under the Canada Training Credit program will not qualify as eligible expenses under the current tuition tax credit rules in the Tax Act.

This measure will apply to 2019 and subsequent taxation years.

Registered Disability Savings Plan – Cessation of Eligibility for the Disability Tax Credit

A registered disability savings plan (RDSP) is a trust arrangement for a beneficiary who qualifies for the disability tax credit (DTC) under the Tax Act. The Government supplements private contributions to a RDSP with grants and bonds provided under the Canada Disability Savings Program. When a beneficiary ceases to be eligible for the DTC, the Tax Act generally requires that the RDSP be closed by the end of the year following the first full year that the beneficiary is not eligible for the DTC. This results in potential repayments of supplemental amounts received from the Government.

A plan holder can elect to extend the period that the RDSP can remain open. However, to qualify for the extension, a medical doctor or nurse practitioner must certify in writing that the nature of the beneficiary's condition is such that it is likely the beneficiary will become a DTC-eligible individual for a future taxation year. The election is valid until the end of the fourth taxation year following the taxation year of the election or until the beneficiary becomes DTC eligible.

Budget 2019 proposes to remove the time limitation on the period that an RDSP may remain open once the beneficiary has become ineligible for the DTC. It also removes the requirement for medical certification that the beneficiary is likely to become eligible for the DTC in a future taxation year. Budget 2019 also proposes that the general rules that apply during the period in which an election is valid will apply in any period that the beneficiary is not eligible for the DTC, with some modifications. If a beneficiary regains eligibility for the DTC, the normal RDSP rules will apply.

This measure will apply after 2020. However, an RDSP issuer will not be required to close an RDSP between Budget Day and the beginning of 2021 solely as a result of the beneficiary of the RDSP no longer being eligible for the DTC.

Tax Measures for Kinship Care Providers

Certain Canadian provinces and territories provide financial assistance to individuals who take care of related children who require temporary out-of-home care, as an alternative to foster or governmental care. These are referred to as kinship care programs (Kinship Care), and Budget 2019 includes certain tax measures to ensure that such payments are non-taxable and do not impair claims for the Canada Workers Benefit or other means-tested credits or benefits retroactive to January 2009.

Change in Use Rules for Multi-Unit Residential Properties

The Tax Act contains rules that provide for a deemed disposition and reacquisition of property at FMV when a taxpayer converts a property from an income-producing property to some other purpose (or *vice versa*). A deemed disposition also occurs when a taxpayer converts only part of the property. In order to defer the gain that would otherwise be realized on the deemed disposition, when the entire property is converted to an income producing property or when an income producing property becomes a principal residence, a taxpayer may file an election that the deemed disposition not apply. However, an election is available only when the entire property is converted. As a result, a taxpayer cannot defer the gain on the change in use of only part of a property.

Budget 2019 proposes to extend the availability of the election to changes in use involving parts of a property. The Government claims this measure will improve the consistency in treatment of multi-unit residential properties.

This measure will apply in respect of changes in the use of property that occur on or after Budget Day.

Donations of Cultural Property

The favourable tax treatment of gifts of certain cultural property exclude from a taxpayer's capital gains any gains realized from the donation of certain cultural property and do not limit the amount of the gift to 75% of income for the purposes of calculating an individual's tax credit under section 118.1, or a corporation's deduction in computing taxable income under section 110.1.

Cultural property for these purposes is property designated by the Canadian Cultural Property Export Review board, pursuant to the *Cultural Property Export and Import Act*, which needs to find that it is of "national importance." A recent decision by the Federal Court of Canada in *Heffel Gallery Limited* v. *Canada* (2018 CarswellNat 2813) questioned whether a painting of foreign origin could be of national importance, noting that the artist and subject matter were not Canadian and that the painting has no connection to the Canadian public or Canadian impressionism.

To ensure that objects of foreign origin are eligible for the favourable tax treatment accorded gifts of cultural property, Budget 2019 proposes to remove the "national importance" requirement.

These amendments are all effective as of Budget Day.

Electronic Delivery of Requirements for Information

These amendments will allow the CRA to send demands for documents and/or information to banks and credit unions by electronic means, instead of by registered mail. This is applicable

- to demands made under sections 231.2 and 231.6 as well as under certain other legislation; but
- only to demands made to banks and credit unions; and
- only if such recipients have notified the CRA in writing that they consent to this new electronic means of service.

This amendment does not modify the scope of information that can be requested, just the method.

In addition to amendments to the Tax Act, amendments will be made to the *Excise Tax Act,* the *Excise Act, 2001, the Air Travellers Security Charge Act* and the *Greenhouse Gas Pollution Pricing Act.*

These amendments will be effective as of January 1, 2020.

MISCELLANEOUS

Increased CRA Funding to Enhance Tax Compliance in the Real Estate Sector, Improve Client Service and Combat Tax Evasion and Aggressive Tax Planning

Budget 2019 proposes to provide the CRA with approximately $317 million of additional funding over five years to support various initiatives. In particular, Budget 2019 proposes to provide the CRA with

- $50 million to create four new dedicated residential and commercial real estate audit teams in Ontario and British Columbia;
- $150.8 million to fund new initiatives and extend existing programs aimed at tax evasion and aggressive tax avoidance, including programs aimed at (i) cryptocurrency transactions and the digital economy, (ii) non-resident withholding, remitting and reporting, and (iii) offshore non-compliance;
- $65.8 million to invest in technology systems to fight tax evasion and aggressive tax avoidance; and
- $50 million to hire additional staff to process adjustments to personal income tax returns, and maintain a dedicated telephone support line for tax service providers.

Strengthening Beneficial Ownership Transparency

The *Canada Business Corporations Act* (CBCA) was recently amended to require federally incorporated corporations to maintain information in respect of beneficial ownership. In Budget 2019, the Government announced that it intends to propose further amendments to the CBCA to make that information more readily available to tax authorities and law enforcement.

SALES AND EXCISE TAX MEASURES

GST/HST Health Measures

In general terms, certain health care services are exempt under the *Excise Tax Act*, while supplies of certain medical items, drugs, biologicals or devices are zero-rated. Budget 2019 proposes to extend tax relief to certain additional health care services and products to modernize the current regime, and to take into account recent developments in health services and medical devices.

Human Ova and In Vitro Embryos

Budget 2019 introduces zero-rating treatment for supplies and imports of human ova and for imports of human *in vitro* embryos. This is consistent with the treatment of supplies of human sperm, which are already zero-rated under the *Excise Tax Act,* and with the increased use of and reliance on biologicals in modern reproductive medicine.

This relief will apply to supplies or imports made after Budget Day.

Prescription Foot Care Devices

Health care services provided by podiatrists and chiropodists are exempt under the *Excise Tax Act*; however, foot care devices supplied on written order of a podiatrist or chiropodist do not qualify for zero-rating treatment. To align with the exempt treatment of services provided by podiatrists and chiropodists, Budget 2019 adds podiatrists and chiropodists to the list of specified professionals who can provide a written order for foot care devices that may qualify for zero-rating treatment under the *Excise Tax Act.*

This relief applies to supplies made after Budget Day.

Multidisciplinary Health Care Services

While certain health care services are exempt under the GST/HST legislation, there is no specific relieving provision for multidisciplinary services provided by different health care professionals that would each be exempt if provided directly by each professional. Budget 2019 will exempt supplies composed of services provided by a team of professionals where such services would be exempt if supplied separately. To qualify for this relief, all or substantially all of the consideration for the supply must be attributable to services that would qualify as exempt in their own right.

This relief and clarification regarding multidisciplinary health care services applies to such supplies made after Budget Day.

Cannabis Taxation

New Product Classes

In December 2018, the Government released draft regulations containing the framework for the production and sale of the following new classes of cannabis products: edible cannabis, cannabis extracts, and cannabis topicals. These new classes of products are in addition to the five existing classes of cannabis products permitted for legal sale in Canada. There will be seven classes of legalized and regulated cannabis products after the new regulations are enacted, because the existing cannabis oil class will be merged into the new cannabis extract class.

Duties on existing classes of legalized cannabis products are imposed at the time of packaging based on the quantity of material in the product or a percentage of the dutiable amount. Such duties are payable when the product is delivered to a purchaser. Budget 2019 proposes a framework to tax the new classes of cannabis products, including cannabis oils. In an effort to simplify compliance and to adjust to new products, Budget 2019 proposes that the new classes of cannabis products be subject to excise duties under the *Excise Act, 2001* based on the quantity of tetrahydrocannabinol (THC) compound found in the final product. The proposed combined federal-provincial-territorial rate for new classes of cannabis products (including cannabis oils) is $0.01 per milligram of total THC. These changes will have no impact on the existing framework for fresh and dried cannabis, and seeds and seedlings.

The proposed changes to the excise duty framework will come into effect on May 1, 2019. Cannabis oil products packaged for retail sales before May 1, 2019 will be subject to the rates currently applicable. As the other new classes of cannabis products become legal and regulated, they will also become subject to the new framework and THC-based excise duty rates.

GST/HST on Zero-Emission Vehicles

The *Excise Tax Act* generally refers to the Tax Act to define input tax credits that registrants may claim to recover the GST/HST paid to acquire passenger vehicles. The accelerated CCA for income tax purposes proposed under Budget 2019 for zero-emission vehicles will therefore have GST/HST implications on businesses acquiring such vehicles and paying the applicable GST/HST. Budget 2019 proposes to amend the *Excise Tax Act* to align to the Tax Act and allow GST/HST registrants to claim increased input tax credits in relation to costs related to acquisitions of zero-emission vehicles (as compared to passenger vehicles that do not qualify for accelerated CCA and that remain subject to limited input tax credits).

This incentive will apply to acquisitions of eligible zero-emission vehicles on or after Budget Day.

PREVIOUSLY ANNOUNCED MEASURES

The Government confirmed its intention to proceed with the following previously announced measures, as modified to take into account consultations and deliberations since their release:

- Budget 2016:
  - measures relating to the GST/HST joint venture election;
  - income tax measures expanding tax support for electric vehicle charging stations and electrical energy storage equipment; and
  - income tax measures relating to information reporting requirements for dispositions of an interest in a life insurance policy.
- Budget 2018:
  - measures to support employees who must reimburse a salary overpayment to their employers due to a system, administrative or clerical error;
  - income tax measures to implement enhanced reporting requirements for certain trusts to provide additional information on an annual basis; and
  - income tax measures to facilitate the conversion of health and welfare trusts to employee life and health trusts;
- July 27, 2018 measures relating to GST/HST;
- September 17, 2018 measures relating to the taxation of cannabis;
- November 21, 2018, Fall Economic Statement income tax measures to:
  - provide for the accelerated investment incentive;
  - permit the write off of the full cost of machinery and equipment used in the manufacturing and processing of goods, and the full cost of specified clean energy equipment;
  - extend the 15 % mineral exploration tax credit for an additional five years; and
  - ensure that business income of communal organizations retains its character when it is allocated to members of the communal organization for tax purposes.