

Tax Management and Accounting Services (TMAS)

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Corporate Tax Rates and Legislation —Status for Accounting Purposes (September 30, 2009)

New quarterly update!

The PricewaterhouseCoopers Tax Management and Accounting Services (TMAS) team will issue quarterly updates that will discuss developments related to the accounting for income taxes. This first quarterly update includes:

- legislative changes released from January 1, 2009, to September 30, 2009, that affect income or capital taxes; and
- the accounting status of Canadian federal, provincial and territorial corporate income tax rates (other than Canadian-controlled private corporation small business rates and thresholds) from January 1, 2006, to September 30, 2009, see the **Appendix** on page 4.

Background

For accounting purposes, knowing which income tax changes are considered "substantively enacted" for Canadian purposes and "enacted" for U.S. purposes can be important.

Under Canadian generally accepted accounting principles (GAAP), U.S. GAAP and International Financial Reporting Standards (IFRS), a future tax asset or liability is measured using the future tax rate and tax law expected to apply to taxable income in the periods when the underlying temporary difference is expected to be settled or realized (or simply reversed).

For purposes of calculating future tax balances:

- Canadian GAAP requires the use of future tax rates and tax laws that were "enacted" or "substantively enacted" at the balance sheet date;
- U.S. GAAP requires the use of "enacted" tax rates and tax laws; and
- IFRS, similar to Canadian GAAP, requires the use of "substantively enacted" or "enacted" tax rates and tax laws.

In this context, "substantive enactment" does not occur until draft legislation is tabled for first reading. However, in the case of a minority government, proposed income tax amendments would not normally be considered substantively enacted until the proposals have passed third reading. For example, in the current federal minority government, proposed amendments to the *Income Tax Act* must pass third reading in the House of Commons to be considered substantively enacted.

Canada Revenue Agency review of IFRS

The Canada Revenue Agency (CRA) plans to issue an Income Tax Technical News (ITTN) bulletin later in 2009 that will address general filing requirements and the expected effect of IFRS on the determination of taxable income. When the ITTN is released, PricewaterhouseCoopers LLP will inform you of the views it contains.

IFRS Income Taxes Exposure Draft

On March 31, 2009, the International Accounting Standards Board (IASB) released an exposure draft of its proposed IFRS on income tax. The exposure draft proposes significant changes to the current IFRS standard (IAS 12) and will pose adoption challenges for companies that are moving to IFRS from Canadian or U.S. GAAP. The comment period on the exposure draft ended July 31, 2009. PricewaterhouseCoopers has made a written submission to the IASB. Shortly, the TMAS team will release a *Tax Memo* that comments on the exposure draft and outlines the highlights of our submission.

Legislative changes—January 1, 2009 to September 30, 2009

Legislative developments from January 1, 2009 to September 30, 2009, that affect income or capital taxes are outlined below.

Capital cost allowance changes

		Date recognized for accounting purposes	
		Canada	U.S.
Capital cost allowance (CCA) proposals announced in the:	2007 federal budget (other than the gradual phase-out of accelerated CCA for oil sands projects from 2011 to 2015)	April 23/09 ¹	
	2008 federal budget (other than proposals relating to clean energy generation—Class 43.1 and Class 43.2)	April 30/09 ²	
	2009 federal budget	May 28/09 ³	

1. SOR/2009-115, *Regulations Amending the Income Tax Regulations (Capital Cost Allowance – 2007 Budget Measures)*

2. SOR/2009-126, *Regulations Amending the Income Tax Regulations (Capital Cost Allowance – 2008 and 2009 Budget Measures)*

3. SOR/2009-155, *Regulations Amending the Income Tax Regulations (Capital Cost Allowance – 2009 Budget Measure, Miscellaneous Program)*

Non-resident trust and foreign investment entity rules

The January 27, 2009 federal budget announced that the federal government will review the non-resident trust (NRT) and foreign investment entity (FIE) proposals before proceeding with them. No specifics were provided. These rules are included in Bill C-10 (2007), which died on the parliamentary order paper on September 7, 2008, when the October 14, 2008 federal election was called.

As a result of the budget announcement, our view is that the FIE and NRT rules in Bill C-10 (2007) are no longer substantively enacted on the grounds that it is unclear whether the federal government will proceed with the proposals without substantive changes. (We had previously reported that the FIE and NRT rules were substantively enacted as of June 15, 2007.)

Bill C-10 (2007)

In addition to the NRT and FIE proposals (see above), Bill C-10 (2007) also includes various technical amendments, some of which:

- limit the tax shelter benefits to a taxpayer that acquires the future business income of another person;
- ensure that payments received for agreeing not to compete are taxable;
- target tax incentives for certified Canadian films;
- limit the tax benefits of charitable donations made under certain tax shelter and other gifting arrangements; and
- relate to the cost of property acquired in certain option and similar transactions.

These provisions will continue to be considered substantively enacted as of June 15, 2007, unless the government has indicated that they will be substantially revised or not reintroduced. Readers should contact their PricewaterhouseCoopers adviser to discuss specific tax provisions in Bill C-10 (2007) and their status for accounting purposes.

Quebec permanent establishment requirement for claiming R&D tax credits

Quebec's Bill 2 allows corporations that do research and development (R&D) in the province to claim the Quebec refundable R&D wage tax credit, even if they do not have a permanent establishment in Quebec. This change is retroactive to R&D expenditures incurred after April 21, 2005, and reverses a 2005 Quebec budget amendment that required a business to be carried on through a Quebec permanent establishment to qualify for the R&D wage tax credit. It is considered substantively enacted as of March 17, 2009, and enacted as of May 15, 2009.

Federal and provincial/territorial legislation

The following table lists legislation (not mentioned above) that was tabled or received royal assent from January 1, 2009, to September 30, 2009, which includes income tax rate changes, other income tax changes (e.g., for research and development) or capital tax changes.

	Legislation		Date recognized for accounting purposes	
	Bill #	Bill name	Canada	U.S.
Federal	C-10 ¹	<i>An Act to Implement Certain Provisions of the Budget Tabled in Parliament on January 27, 2009 and Related Fiscal Measures</i>	March 4/09	March 12/09
	n/a	SOR/2009-222, "Regulations Amending the Income Tax Regulations (Securities Held by Financial Institutions)"	April 11/09	July 30/09
Alberta	37	<i>Alberta Corporate Tax Amendment Act, 2009</i>	April 20/09	June 4/09
British Columbia	2 ¹	<i>2009 Budget Measures Implementation Act, 2009</i>	February 17/09	March 12/09
	2	<i>Budget Measures Implementation Act (No. 2), 2009</i>	September 1/09	Not as of September 30/09
Manitoba	30	<i>The Budget Implementation and Tax Statutes Amendment Act, 2009</i>	April 30/09	June 11/09
New Brunswick	46 ¹	<i>An Act to Amend the New Brunswick Income Tax Act</i>	April 14/09	June 19/09
Nunavut	4	<i>An Act to Amend the Income Tax Act</i>	June 16/09	
Ontario	162	<i>Budget Measures Act, 2009</i>	March 26/09	June 5/09
Quebec	2 ¹	<i>An Act Giving Effect to the Budget Speech Delivered on 24 May 2007, to the 1 June 2007 Ministerial Statement Concerning the Government's 2007-2008 Budgetary Policy and to Certain Other Budget Statements</i>	March 17/09	May 15/09
	37	<i>An Act Giving Effect to the Budget Speech Delivered on 13 March 2008 and to Certain Other Budget Statements</i>	May 7/09	June 4/09
Saskatchewan	87	<i>The Income Tax Amendment Act, 2009</i>	March 31/09	May 14/09

1. See the Appendix for income tax rate changes (other than CCPC small business rate and threshold changes) included in this bill.

Appendix

Corporate tax rates – Accounting status (January 1, 2006, to September 30, 2009)

This Appendix outlines the accounting status of Canadian federal, provincial and territorial corporate income tax rates (other than Canadian-controlled private corporation small business rates and thresholds) from January 1, 2006, to September 30, 2009. When the date of recognition for accounting purposes is from January 1, 2009, to September 30, 2009, the row is shaded.

		Effective date	Rate	Date recognized for accounting purposes		Bill #
				Canada	U.S.	
Federal	General and M&P (rates exclude 1.12% surtax)	Before January 1/06	21%	Before January 1/06		N/A
		January 1/08	19.5%	December 13/07	December 14/07	C-28
		January 1/09	19%			
		January 1/10	18%			
		January 1/11	16.5%			
	January 1/12	15%	Before January 1/06		N/A	
	Federal surtax	Before January 1/06	1.12%	Before January 1/06		N/A
		January 1/08	Nil	June 6/06	June 22/06	C-13
	Provincial SIFT tax factor/rate ²	2007 taxation years	13%	June 12/07	June 22/07	C-52
		2009 taxation years ²	varies ²	March 4/09	March 12/09	C-10 ¹
Alberta	General and M&P	Before January 1/06	11.5%	Before January 1/06		N/A
		April 1/06	10%	April 10/06	May 24/06	34
British Columbia	General and M&P	Before January 1/06	12%	Before January 1/06		N/A
		July 1/08	11%	February 19/08	May 1/08	2
		January 1/10	10.5%	February 17/09	March 12/09	2 ¹
		January 1/11	10%			
Manitoba	General and M&P	Before January 1/06	15%	Before January 1/06		N/A
		January 1/06	14.5%	June 5/06	June 13/06	42
		January 1/07	14%			
		July 1/08	13%	October 17/07	October 25/07	28
		July 1/09	12%	May 26/08	June 5/08	44
		No date announced	11%	Not as of September 30/09		None
New Brunswick	General and M&P	Before January 1/06	13%	Before January 1/06		N/A
		January 1/07	12%	June 6/06	June 22/06	77
			13%	May 8/07	July 6/07	58
		July 1/09	12%	April 14/09	June 19/09	46 ¹
		July 1/10	11%			
		July 1/11	10%			
		July 1/12	8%			
Newfoundland and Labrador	General M&P	January 1/06	14%	Before January 1/06		N/A
			5%			
Northwest Territories	General and M&P	Before January 1/06	14%	Before January 1/06		N/A
		July 1/06	11.5%	March 1/06	March 2/06	20
Nova Scotia	General and M&P	Before January 1/06	16%	Before January 1/06		N/A
Nunavut	General and M&P	Before January 1/06	12%	Before January 1/06		N/A
Ontario	General	Before January 1/06	14%	Before January 1/06		N/A
		July 1/10	12%	Not as of September 30/09	None	
		July 1/11	11.5%			
		July 1/12	11%			
	July 1/13	10%				
	M&P	Before January 1/06	12%	Before January 1/06		N/A
		July 1/10	10%	Not as of September 30/09		None
Prince Edward Island	General and M&P	Before January 1/06	16%	Before January 1/06		N/A

		Effective date	Rate	Date recognized for accounting purposes		Bill #
				Canada	U.S.	
Quebec	General and M&P ³	Before January 1/06	8.9%	Before January 1/06		N/A
		January 1/06	9.9%			
		January 1/08	11.4%			
		January 1/09	11.9%			
	Inactive rate	Before January 1/06	16.25%	Before January 1/06		N/A
		February 21/07	9.9%			
		January 1/08	11.4%			
SIFT Distribution Tax	January 1/09	11.9%	March 17/09	May 15/09	2 ¹	
	2007 taxation years	varies ⁴				
Saskatchewan	General	Before January 1/06	17%	Before January 1/06		N/A
		July 1/06	14%			
		July 1/07	13%			
		July 1/08	12%			
M&P	Before January 1/06	10%	Before January 1/06		N/A	
Yukon	General	Before January 1/06	15%	Before January 1/06		N/A
	M&P	Before January 1/06	2.5%			

1. See **Federal and provincial/territorial legislation** on page 3 for the bill name.
2. The effective date for the "provincial Specified Investment Flow-Through (SIFT) tax rate" is 2007 or 2008 taxation years if an election is filed. Except for Quebec, this rate will be based on the general provincial corporate income tax rate for each province in which the SIFT has a permanent establishment and 10% for SIFTs that do not have a permanent establishment in a province.
3. For Quebec, exceptions to the general rate follow:

	Effective date	Rate	Date recognized for accounting purposes		Bill #
			Canada	U.S.	
Financial institutions (other than insurance companies) and oil refining companies	Before January 1/06	8.9%	Before January 1/06		N/A
	January 1/06	9.9%			
	June 1/07	11.9% (a)			
Deposit insurance companies	Before January 1/06	5.75%	Before January 1/06		N/A
	June 23/09	11.9%	Not as of September 30/09		(c)

- (a) The rate was to have increased from 9.9% to 11.4% on January 1, 2008, and to 11.9% on January 1, 2009.
- (b) See footnote (1) above.
- (c) Quebec Information Bulletin 2009-4 (June 23, 2009).

4. Quebec's SIFT Distribution Tax equals the Quebec corporate income tax rate that would apply if the SIFT were a corporation.

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