

# Tax Memo

## 2010 Federal Budget Highlights

Federal Minister of Finance Jim Flaherty presented the minority government's budget on March 4, 2010. The budget does not change corporate or personal tax rates.

The highlights of the federal budget are outlined below. In a few hours, PricewaterhouseCoopers will issue a more detailed *Tax Memo* that discusses the budget.

### International Tax Changes

#### Taxable Canadian property

Commencing March 5, 2010, taxable Canadian property will exclude shares of corporations, and certain other interests, that do not derive their value principally from real or immovable property situated in Canada, Canadian resource property, or timber resource property. Therefore, non-residents will no longer be required to report dispositions of these properties under section 116. Exceptions will apply.

#### Refunds on transactions with non-residents

For applications for refunds claimed in returns filed after March 4, 2010, refunds can be issued for overpayments related to an assessment of:

- a payor of funds to a non-resident service provider; or
- a purchaser of taxable Canadian property from a non-resident.

To get the refund, the non-resident taxpayer must file the return within two years after the date of the assessment.

#### Foreign tax credits

For foreign taxes incurred in respect of taxation years ending after March 4, 2010, claims for foreign tax credits, foreign accrual tax deductions, and deductions for the underlying foreign tax in the case of dividend distributions out of taxable surplus of a foreign affiliate will be denied if they relate to certain schemes referred to as "foreign tax credit generators."

#### Non-resident trusts and foreign investment entities

The "outstanding proposals" for non-resident trusts (NRTs) and foreign investment entities (FIEs) will be simplified and better targeted. The revised proposals will be subject to further public consultation.

The NRT rules will apply commencing 2007. An election will allow a trust to elect to be deemed resident for the 2001 and subsequent years. Changes:

- exempt from the NRT rules entities exempt from tax under section 149;
- refine the definition of exempt foreign trust to broaden the exclusion for commercial trusts;
- attribute income of a deemed resident trust to the resident contributor based on its contributions; and
- provide a foreign tax credit to address possible double taxation.

For taxation years ended after March 4, 2010, the FIE rules have been essentially eliminated. The enacted version of section 94.1 for offshore investment funds property will continue to apply but the prescribed rate for the income inclusion will increase by 2% and the normal reassessment period will be extended by three years for these properties. A taxpayer that filed under the FIE proposals can either have those years reassessed or be entitled to a deduction in the current year for the income previously included.

## Business Tax Changes

### Tax avoidance

A proposed regime will make an “avoidance transaction” that meets certain conditions a “reportable transaction” that must be reported to the Canada Revenue Agency. The proposals (as modified to reflect public consultations) would apply to transactions entered into after 2010 and those that are part of a series of transactions completed after 2010.

### Group taxation

The federal government will explore whether the tax system could be improved by new rules for the taxation of corporate groups, e.g. the introduction of a formal system of loss transfers or consolidated reporting.

### Environmental measures

Environmental measures:

- expand the types of property that are included in Class 43.2 (specified clean energy generation and conservation equipment) generally for assets acquired after March 3, 2010; and
- will allow more corporations to transfer or “renounce” Canadian Renewable and Conservation Expenses to an investor using flow-through shares, retroactive to taxation years ending after 2004.

### Capital cost allowance

Satellite and cable set-top boxes acquired after March 4, 2010 will qualify for a 40% declining balance capital cost allowance rate.

## Specified investment flow-throughs

Measures affecting specified investment flow-throughs (SIFTs) will:

- impose restrictions on the use of losses when units of a SIFT trust or SIFT partnership are exchanged for shares of a corporation; and
- ensure that the acquisition-of-control rules do not inappropriately restrict the use of losses when a SIFT trust is wound-up and distributes the shares of a corporation it holds.

## Specified leasing property rules

For leases entered into after 4:00 p.m. on March 4, 2010, the specified leasing property rules will be extended to otherwise exempt property that is the subject of a lease to a government or other tax-exempt entity, or to a non-resident, subject to a de minimis rule.

## Federal credit unions

The establishment of federal credit unions will be permitted. Federal credit unions that satisfy the definition “credit union” in the *Income Tax Act* will be subject to the same income tax rules as other credit unions.

## Interest on overpaid taxes

Effective July 1, 2010, the interest rate payable to corporations in respect of income tax, Goods and Services Tax/Harmonized Sales Tax among other things, will decrease by 2 percentage points.

## Personal Tax Changes

### Employee stock options

For employee stock options disposed after 4:00 p.m. on March 4, 2010:

- the stock option deduction will generally be available only if the employee exercises the options by acquiring the employer’s securities – not when the employee disposes of (cashes-out) the stock options for cash (unless the employer elects not to deduct the cash payment); and
- the tax deferral election will be repealed, subject to relief for stock option benefits for which an election to defer tax has been made, and withholding requirements will be clarified.

### U.S. Social Security benefits

The 50% inclusion rate for Canadian residents who have received U.S. Social Security benefits since before January 1, 1996 (and for their spouses and common-law partners who are eligible to receive survivor benefits) is reinstated for benefits received after 2009.

## Registered Disability Savings Plans

Measures that will benefit individuals with disabilities will:

- extend the Registered Retirement Savings Plan (RRSP) rollover rules to allow a rollover of a deceased individual's RRSP proceeds to the Registered Disability Savings Plan of a financially dependent infirm child or grandchild, for deaths occurring after March 3, 2010; and
- allow a 10-year carry forward of Canada Disability Savings Grant and Canada Disability Savings Bond entitlements, starting 2011.

## Mineral exploration tax credit

The mineral expense tax credit for flow-through shares is extended by one year to flow-through share agreements entered into before April 1, 2011.

## Commodity Tax Changes

### Tariff reductions

The remaining tariffs on manufacturing inputs and machinery and equipment will be eliminated before 2015.

## Other Tax Changes

### Online notices

Amendments will allow the electronic issuance of notices that are currently sent by ordinary mail pursuant to the *Income Tax Act*, *Excise Tax Act* among other things. The application date of this change will be announced.

### Charities

For fiscal years ending after March 3, 2010:

- the charitable expenditure rule will be repealed;
- the capital accumulation rule is modified; and
- the anti-avoidance rules for charities are strengthened.

### Tax evasion

Additional support will be provided for international efforts to counter criminal and terrorist activities and the rules concerning the application of the proceeds of crime and money laundering will be rationalized.

## For More Information

For more information on how the budget changes affect you or your business, please contact:

- your PricewaterhouseCoopers tax adviser;
- any of the individuals listed at [www.pwc.com/ca/taxcontacts](http://www.pwc.com/ca/taxcontacts); or
- a member of PricewaterhouseCoopers' Canadian National Tax Services (CNTS).<sup>1</sup> For more on CNTS and its members, go to: [www.pwc.com/ca/cnts](http://www.pwc.com/ca/cnts).

1. Canadian National Tax Services (CNTS) is a group of tax specialists from a variety of professional backgrounds, including government, with the mandate to enhance the overall value and scope of tax services PricewaterhouseCoopers provides to its clients.

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