



Federal Budget 2011

On March 22, 2011, Jim Flaherty, the Minister of Finance presented the 2011 Federal Budget. There were no significant tax savings proposals or tax cut initiatives; rather, the Budget introduced new measures focused on preventing tax avoidance, eliminating tax deferrals and closing other tax “loopholes”. This is the type of Budget filled with proposals that no one will truly miss if an election is called shortly and the Budget bill is never passed. Nonetheless, here are some of the highlights:

Corporate Measures

Elimination of Partnership Deferral

The Budget proposes to eliminate the income tax deferral obtained when a corporation owning a significant interest in a partnership (i.e. the corporation is entitled to more than 10% of the partnership’s income) has a different year-end than the partnership. For taxation years ending after March 22, 2011, corporate partners will be required to accrue their share of the partnership’s income for the Stub Period and this income will be taxable over the next five years (with no income inclusion required in the first year). Partnerships will be able to elect to align its fiscal year-end with the fiscal year-end of one or more of its corporate partners.

Manufacturing and Processing (“M&P”) Capital Cost Allowance (“CCA”)

The Budget proposes that the temporary 50% straight-line CCA rate on M&P equipment be extended two additional years. M&P equipment acquired before 2014 will now be eligible for this accelerated CCA rate. Previously, this measure was to apply only to acquisitions made prior to 2012.

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Stop-Loss Rules

The Budget proposes to reduce a loss incurred by a corporation on the disposition of shares by any tax-free deemed dividends previously received as a result of a redemption of the shares. This measure will not apply where the shares redeemed are shares of a private corporation and the shares were held by a private corporation.

Other

- To encourage hiring, small employers with EI premiums of \$10,000 or less in 2010 will be eligible for a one-time credit of up to \$1,000 against the increase in its 2011 EI premiums.
- The government is concerned EPSPs are not being used to share profits with employees, but rather are being utilized by business owners to avoid CPP and EI, as well as, to share profits with family members. The government is proposing to undertake a review of the EPSP rules.

Individual Measures

Tax on Split Income - Capital Gains

In 2000, the Department of Finance introduced the “kiddie tax” rules (i.e. split income rules) to prevent income splitting with minor children. The “kiddie tax” previously did not apply to capital gains income. Effective March 22, 2011, where a minor has realized a capital gain on the disposition of shares of a corporation to a person that the minor does not deal at arm’s-length with, the minor will now be subject to the highest Federal marginal income tax rate of 29%.

Children's Arts Tax Credit

The Budget proposed to introduce a Children’s Arts Tax Credit which will allow parents to claim a 15% non-refundable tax credit based on an amount of up to \$500 in an eligible program of artistic, cultural, recreational or developmental activities for a child under 16 years of age.

Family Caregiver Tax Credit

Beginning in 2012, caregivers will be able to claim a Family Caregiver Tax Credit for dependants with a mental or physical infirmity, including spouses, common-law partners and minor children. This 15% non-refundable credit will be based on an amount of \$2,000.

Registered Retirement Savings Plans (“RRSP”) - Anti-Avoidance Rules

The Budget proposes to enhance existing RRSP anti-avoidance rules. Effective March 23, 2011, “advantage rules” will be implemented to prevent strip transactions where RRSP assets are removed without any corresponding income tax. In addition, there are proposed

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“prohibited investment rules”, which will attack non-arm’s length debt and investments contributed to an RRSP and “non-qualified investment rules” that will substantially increase penalties where non-qualified investments have been contributed to an RRSP.

Broadening Tuition Tax Credit for Professional Examinations

The Budget proposes an amendment to the Tuition Tax Credit to include amounts paid to an educational institution, trade or professional association, provincial ministry or other similar institution in respect of examinations fees and ancillary charges.

Donations of Flow-Through Shares and Options

The Budget proposes to limit the exemption from capital gains tax on donations of publicly-listed flow-through shares, acquired after March 21, 2011, to the cumulative capital gains realized on these shares in excess of their original cost.

In addition, the government will introduce rules to clarify that the timing of the Charitable Donation Tax Credit (or deduction for corporations) where options are granted by a person to a qualified donee will only be available when the donee has acquired the property under that option.

Individual Pension Plans (“IPPs”)

The Budget proposes effective 2012, that annual minimum amounts will be required to be withdrawn once a plan member reaches age 72, similar the current Registered Retirement Income Fund rules. In addition, contributions made to an IPP after March 22, 2011 that relate to past years of employment will be required to be funded first out of a plan member’s RRSP assets or by reducing his/her RRSP contribution room prior to a deductible contribution being made.

Other

- The Budget will introduce a measure to permit reassessments to disallow a Charitable Donation Tax Credit (or deduction for corporations) where donated property is returned to a donor after March 21, 2011.
- The Budget proposes to remove the \$10,000 limit on eligible expenses that can be claimed under the Medical Expense Tax Credit in respect of a dependent relative, effective for 2011 and subsequent taxation years.
- The Budget proposes to allow transfers between individual Registered Education Savings Plans (“RESPs”) for siblings without tax penalties and without triggering the repayment of any Canada Education Savings Grants, provided that the beneficiary of the plan receiving a transfer of assets has not attained 21 years of age when the plan was opened. This will give individual plans the same flexibility as is currently afforded to family plans.

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- The Budget proposes to reduce the minimum course-duration requirement that a Canadian student at a foreign university must meet in order to claim the Tuition, Education and Textbook Tax Credits from 13 consecutive weeks to 3 consecutive weeks.
- The Budget proposes to allow Registered Disability Saving Plan (“RDSP”) beneficiaries who have shortened life expectancy to withdraw more of their RDSP saving by permitting annual withdrawals without triggering the 10-year repayment rule provided that the total taxable portions of the withdrawals does not exceed \$10,000 annually.
- The Budget proposes to repeal the Income Tax Act provision that limits the number of Child Tax Credit claimants to one per domestic establishment.
- A non-refundable Volunteer Firefighters Tax Credit in the amount of \$3,000 will be available in 2011 and subsequent years to individuals who perform at least 200 hours of volunteer firefighting services in a year.

Measures for Charities

The Budget proposes to create a publically available list of qualified donees to enable taxpayers and other charities to confirm that an organization is a qualified donee. Also, qualified donee status will be made available to registered Canadian amateur athletic organizations, Canadian municipalities, municipal and public bodies performing a function of the government of Canada, low-cost housing corporations, universities outside Canada that ordinarily include students from Canada, and certain other charitable organizations outside of Canada that have received a gift from Her Majesty in Right of Canada.

The Budget proposes to enhance the government’s ability to suspend receipting privileges, extend monetary penalties, and revoke qualified donee status where receipts are issued improperly, there is a failure to file information returns or it is discovered that an individual with a criminal history or past misconduct has significant influence over the organization.

Finally, the Budget proposes that when donated property has been returned to the donor, the donee must issue a revised donation slip. A copy of the revised slip must be forwarded to the Canada Revenue Agency if the amount of the receipt has changed by more than \$50.

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