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2024 Federal budget: notable measures

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Federal Minister of Finance and Deputy Prime Minister, the Honourable Chrystia Freeland, tabled *Budget 2024, Fairness for Every Generation* (Budget) on April 16, 2024.There were many notable items in the Budget, including:

- Changes to the tax treatment of capital gains
- Pension investment proposals
- New crypto-asset reporting requirements
- Changes to federal labour standards

This *FYI* provides an overview of these and other Budget measures and discusses their impact on employers and plan sponsors.

Capital gains changes

In a significant announcement, designed to improve the fairness of Canada's tax system, the Budget proposes amending the *Income Tax Act* (ITA) to:

- Increase the tax on capital gains (i.e., the inclusion rate)
- Increase the lifetime capital gains exemption (LCGE)
- Introduce an Employee Ownership Trust Exemption (EOTE)
- Introduce the Canadian Entrepreneurs' Incentive (CEI)

Additional information on these measures is provided below.

Inclusion rate

The Budget proposes increasing the inclusion rate on capital gains from one-half (i.e., 50%) to two-thirds (i.e., 66.67%) effective June 25, 2024. The new inclusion rate will apply as follows:

- *Individuals:* Capital gains realized annually above $250,000 (capital gains up to this amount will remain at 50%)
- *Corporations and trusts:* All capital gains realized

The $250,000 threshold applies to capital gains realized by an individual, either directly or indirectly (e.g., via a partnership or trust), net of any current-year capital losses, capital losses of other years applied to reduce current-year capital gains, and capital gains in respect of which the LCGE, the proposed EOTE or the proposed Canadian Entrepreneurs' Incentive (all discussed below) is claimed.

Individuals claiming an employee stock option deduction will receive a one-third deduction of the taxable benefit to reflect the new capital gains inclusion rate, but will be entitled to deduct half the taxable benefit up to a combined limit of $250,000 for both employee stock options and capital gains.

As a result of the changes, two different inclusion rates will apply for capital gains and losses in tax years beginning before and ending on or after June 25, 2024 (i.e., the effective date), as follows:

- Period 1: Gains/losses realized before the effective date
- Period 2: Gains/losses realized on or after the effective date

The Budget notes that other consequential ITA amendments will be required to reflect the new inclusion rate – additional information will be released in the coming months.

The following are not impacted by the above changes:

- Capital gains from the sale of a taxpayer's principal residence
- Income (including capital gains) earned in a tax-sheltered savings account, including a registered retirement income fund (RRIF), registered retirement savings plan (RRSP), or tax-free savings account (TFSA)
- Pension income or capital gains earned by a taxpayer or their spouse from a registered pension plan, Canada Pension Plan (CPP), or Quebec Pension Plan

LCGE increase

In a related measure, the lifetime capital gains exemption will increase from $1,016,836 to $1.25 million, effective June 25, 2024. Increases after this date will be indexed to inflation starting in 2026.

EOTE

Employee Ownership Trusts (EOTs) were first proposed in the 2023 Budget; related legislation (i.e., Bill C-59, the *Fall Economic Statement Implementation Act, 2023*) is currently before the Standing Committee on Finance. The Budget provides details on the government's proposal, first announced in the 2023 Fall Economic Statement, to exempt the first $10 million in capital gains realized on the sale of a business to an EOT from taxation, subject to certain conditions. Specifically, the Budget provides information on:

- The qualifying conditions that must be met for the exemption to be available to an individual (other than a trust) on the sale of shares to an EOT
- The disqualifying events that, if they occur within 36 months of a transfer, will prevent it from qualifying for the exemption
- Details of the 30% alternative minimum tax that will apply to the exempted capital gains subject to an inclusion rate of 30% for purposes of an alternative minimum tax, similar to the treatment of gains eligible for the LCGE
- EOTE administration requirements

Once enacted, this measure will apply to qualifying dispositions of shares that occur between January 1, 2024 and December 31, 2026.

CEI

Finally, the Budget proposes the new CEI to encourage entrepreneurship. This incentive will reduce the inclusion rate to 33.3% on the disposition of qualifying shares by an eligible individual on up to $2 million in capital gains over their lifetime. This measure will apply in addition to any available capital gains exemption. The government proposes phasing-in the lifetime limit by increments of $200,000 per year beginning on January 1, 2025, reaching $2 million by January 1, 2034. Once implemented, this measure will apply to dispositions that occur on or after January 1, 2025.

Pension/Retirement measures

Qualified investments for registered plans

The qualified investment rules set out permissible investments for a range of registered plans, including RRSPs, RRIFs, TFSAs, and Deferred Profit-Sharing Plans (DPSPs). The Budget notes that the incremental evolution of these rules have resulted in a system that can sometimes be inconsistent or difficult to understand. As a result, the government is requesting stakeholder input on modernizing the qualified investment rules to improve their clarity and coherence. Issues under consideration include:

- Whether annuities that are qualified investments only for RRSPs, RRIFs and RDSPs should continue to be qualified investments
- Whether crypto-backed assets are appropriate qualified investments for registered savings plans

- Whether the conditions currently applicable to certain pooled investment products are appropriate

Comments are due July 15, 2024.

Strengthening the CPP

As part of the 2022-24 Triennial Review of the CPP, the Budget announces that, in consultation with the provinces, the federal government will propose technical amendments to the CPP. These amendments will:

- Top-up the death benefit for certain contributors
- Introduce a partial children's benefit for part-time students
- Extend eligibility for the disabled contributors children's benefit when a parent reaches age 65
- End eligibility for a survivor pension to people who are legally separated after a division of pensionable earnings

Encouraging pension fund investment in Canada

The government believes that encouraging pension funds to increase their investment in Canada will help grow the Canadian economy while providing the stable long-term returns needed for pension plan members.

The 2023 Fall Economic Statement included the federal government's commitment to work collaboratively with Canadian pension funds to encourage and identify more domestic investment opportunities for such funds (and other institutional investors), while improving transparency regarding pension fund investments. To support this initiative, the Budget announces the planned creation of a working group led by Stephen Poloz, the former Governor of the Bank of Canada, to explore how best to create greater domestic investment opportunities for Canadian pension funds. The group will focus on investment areas including digital infrastructure and artificial intelligence (AI) investment, physical infrastructure and home building. It will also consider removing the 30% investment cap on domestic investments.

In a related measure, the Budget announces proposals to amend the *Pension Benefits Standards Act, 1985* (PBSA) to require that the Office of the Superintendent of Financial Institutions (OSFI) publicly release plan investment information for large federally regulated pension plans. While the required disclosures will be set out in future regulations, the Budget notes that they will include the distribution of plan investments by jurisdiction and, within each jurisdiction, by asset class. Similar disclosures will be required for members of pooled registered pension plans. Finally, the federal government will engage with its provincial counterparts on similar disclosures for large provincially regulated plans.

Expanding crypto asset transparency

The rapid growth of crypto-assets (including stablecoins, derivatives issued in the form of a crypto-asset, and certain non-fungible tokens) and related markets poses significant risks of tax evasion. To address these risks, and promote fairness of tax systems worldwide, the Organization for Economic Cooperation and Development (OECD) has agreed to a new reporting *Crypto-Asset Reporting Framework* (CARF), plus improvements to the Common Reporting Standard (CRS) to ensure that new digital technologies cannot be used to avoid existing reporting requirements. The Budget announces that the government intends to implement CARF and the amended CRS effective 2026.

The implementation of CARF will impose new annual reporting requirements in the ITA on entities and individuals (referred to as crypto-asset service providers) that are resident in Canada, or that carry on business in Canada, and that provide business services effectuating exchange transactions in crypto-assets. This includes crypto exchanges, crypto-asset brokers and dealers, and operators of crypto-asset automated teller machines. Crypto-asset service providers would be required to report specific information on each customer and each crypto asset to the Canada Revenue Agency (CRA). This reporting will be required for both Canadian resident and non-resident customers.

The amendments to the CRS will broaden its scope to include specified electronic money products and central bank digital currencies that are not covered by the CARF. They will also ensure effective coordination between the CRS and CARF, limit duplicate reporting, require reporting of additional information for financial accounts and account holders, and strengthen the due diligence procedures required of financial institutions. In response to recommendations of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, the Budget proposes further amendments to the CRS to:

- Remove Labour-Sponsored Venture Capital Corporations (LSVCCs) from the list of non-reporting financial institutions and treat a non-registered account held in an LSVCC as an excluded account provided that annual contributions to the account do not exceed US $50,000. Excluded accounts are not subject to due diligence and reporting requirements. As a result of this amendment, non-registered accounts will generally receive the same treatment as registered accounts such as RRSPs.
- Amend the CRS's anti-avoidance provision to clarify that it applies when an individual or any entity enters into an arrangement or engages in a practice, if it can reasonably be considered that the primary purpose is to avoid an obligation of any person under the CRS.

Once enacted, the above measures will apply to 2026 and subsequent calendar years, meaning that the first reporting and exchange of information under the CARF and amended CRS will occur in 2027 with respect to the 2026 calendar year.

Employment standards measures

The Budget contains the following announcements impacting federally regulated employees and workplaces:

- *Combatting workplace sexual harassment:* To support access to justice for people who experience sexual harassment and to work toward safer workplaces, the Budget proposes additional funding of $30.6 million over three years, starting in 2024-25, to Justice Canada to continue funding legal advisory and education services for victims of workplace sexual harassment.

- *Right to disconnect*: The Budget announces planned amendments to the *Canada Labour Code* (CLC) to require that federally regulated employers establish a "right to disconnect" policy. Designed to restore work-life balance for workers in federally regulated industries, the policy will limit work-related communication outside of scheduled working hours.

- *Technical CLC amendments*: The government plans to make technical amendments to the CLC to recover unpaid termination and severance pay, provide adequate enabling regulatory authority for section 13 of the Policy Committees, Work Place Committees, and Health and Safety Representatives Regulations, and to make minor housekeeping amendments to the English version of the statute.

Pharmacare update

The government introduced Bill C-64, the *Pharmacare Act*, February 29, 2024. If passed it will introduce the first phase of national pharmacare by providing universal, single-payer coverage for a number of contraception and diabetes medications. The government also announced plans to establish a fund to support access to diabetes devices and supplies. Additional information on this fund will be provided after the conclusion of discussions with provincial and territorial governments. The first phase of pharmacare will be delivered through existing provincial and territorial pharmacare programs, following negotiations. New federal funding will expand and enhance existing provincial/territorial spending on public drug benefit programs.

To help launch pharmacare, the Budget announces funding to Health Canada of $1.5 billion over five years, starting in 2024-25.

The Budget also notes that the government will continue the work of the Menstrual Equity Fund pilot project to make essential menstrual products more accessible. Additional information will be provided in the 2024 Fall Economic Statement.

Miscellaneous

- *Amendments to the Public Sector Pension Investment Board Act (PSPIBA)*: The government intends to amend the PSPIBA to facilitate the transfer of funds between the Public Sector Pension Investment Board and government employee pension accounts.

- *Canada Disability Benefit (CDB):* The Budget proposes funding of $6.1 billion over six years, starting in 2024-25, to implement the CDB. This benefit, which is designed to supplement existing provincial/territorial income supports, provides a direct benefit for low-income working-age persons with disabilities. Related legislation, the *Canada Disability Benefit Act*, is expected to come into force in June 2024. Once the legislative framework is implemented, eligible Canadians will begin receiving CDP payments starting in July 2025. Additional funding of $243 million over six years is provided to cover the cost of the required medical forms. The proposed CDB design is based on a maximum benefit amount of $2,400 per year for low-income persons with disabilities between the ages of 18 and 64. The Budget also calls on the provincial/territorial governments to exempt CDB payments from the definition of income for their support programs, so that eligible individuals will not experience benefit claw backs.

- *Clean Electricity Investment Tax Credit (CEITC):* The 2023 Budget announced the CEITC and the 2024 Budget announces the design and implementation details, which are a temporary 15% refundable tax credit for eligible investments in new equipment or refurbishments related to specified clean energy systems. It will be available to certain taxable and non-taxable corporations, including corporations owned by municipalities or Indigenous communities, and pension investment corporations. If additional conditions are met, the CEITC is also available to provincial and territorial Crown corporations investing in that province or territory. In order to receive the full credit, the system must pay prevailing union wages and create apprenticeship opportunities. The CEITC is available to property that is acquired and becomes available for use on or after April 16, 2024, for projects that did not begin construction before March 28, 2023. The credit would no longer be in effect after 2034.

- *Dental benefit update*: While the Budget contains no new dental care announcements, it does provide an update on the roll-out of the Canadian Dental Care Plan (CDCP). All seniors aged 65 and over will be able to apply by May 2024, with eligible seniors able to visit an oral health professional under the CDCP as early as that month. All uninsured Canadians between the ages of 18 and 64, with a family income of up to $90,000, will be able to apply and (if approved) obtain coverage in 2025. Ultimately, the government expects that up to nine million uninsured Canadians will receive dental coverage through the CDCP.

- *Diversity disclosure in Financial Institutions Statutes (FIS):* The government intends to amend the FIS to adopt the diversity disclosure model in the *Canada Business Corporations Act* (CBCA), which requires annual board and senior management diversity disclosure, for federally regulated financial institutions.

- *Employment equity:* The government plans to modernize the *Employment Equity Act*, including by expanding designated equity groups.

- *Ensuring access to essential drugs and medical devices:* To mitigate the effects of increasingly frequent shortage of health care products due to recurring global supply chain disruptions, the Budget proposes funding of $3.2 million over three years, starting in 2024-25, to upgrade Health Canada's supply management capacity for drugs and medical devices.

- *Youth Mental Health Fund (Fund):* The Budget proposes funding of $500 million over five years, starting in 2024-25, for the creation of the new Fund to help younger Canadians access necessary mental health care.

In closing

The full scope and impact of many of the measures discussed above can only be determined once the related legislation and/or regulations are released. We will keep you apprised of any new developments as confirmed information becomes available.

This *FYI* was prepared with the assistance of the following contributors: Judy Buckley, Mark Dowdell, Jennifer Dunk, Jonathan Foster, Deric Jacklin, Ezaque Lopes, Tom Mudrinic, Alfonse Souka, and Sue Torok.

For more information on the Budget and the impact of its proposals on your plan, members, and/or organization, talk to your Buck consultant or contact the Knowledge Resource Centre at talktocanada@buck.com or +1 866 355 6647.