KEY TAX CHANGES FOR YOU AND YOUR BUSINESS

Canada’s Finance Minister Joe Oliver presented his Federal Budget on the afternoon of April 21, 2015.

Minister Oliver delivered on his promise to present a balanced budget for 2015-16, but he had to dip into the contingency fund to achieve his objective. Balanced budget legislation has also been promised. A balanced budget is the cornerstone of the Conservative’s majority government’s economic plan in this election year. The Budget also includes a variety of tax cuts, tax credits and other incentives to secure the electoral support of stakeholders from various demographic and business constituencies. Many of the government’s cash expenditure programs do not take effect until after 2015.

BUSINESS INCOME TAX MEASURES

• The federal small business tax rate on the first $500,000 of active business income will be reduced from 11% in 2015 to 10.5% in 2016 with further staged annual reductions to 9% by 2019.

• The dividend tax credit mechanics on dividends received from earnings subject to the reduced small business tax rate will be adjusted with the effect that the top marginal federal tax rate on non-eligible dividends will increase in annual increments from 21.2% in 2015 to approximately 23% by 2019.

• The government continues to hear from stakeholders on its 2014 Budget proposal to reform the system for the tax treatment of Eligible Capital Property (goodwill and certain other intangible assets). We will have to wait to see the direction the government decides to take when it releases legislation.

• Consultations will be held on whether to amend the distinction between active business income and specified investment business income for the purpose of access to the low small business tax rate. Generally, a business that derives its income from property will not qualify for the low rate unless it employs more than five full-time employees. The Budget material cites self-storage facilities and campgrounds as examples of businesses that might benefit from a review of the definitions.
• Enhanced capital cost allowance rates for manufacturing and processing machinery and equipment will be extended in a slightly modified form with the introduction of Class 53 (50% declining-balance) replacing the longstanding Class 29 (50% straight-line) for additions after 2015. Both classes are subject to the half-year rule in the year of additions.

• Starting in 2016, employers may qualify for quarterly source deduction remittances if their total average monthly withholding is less than $1,000. As $1,000 is a low threshold, this proposal will have limited application.

• For 2016 and subsequent years, an exemption from capital gains tax will apply on certain dispositions of private company shares or real estate where the proceeds are donated to a charity or other qualified donee within 30 days.

• The deferral of tax on certain patronage dividends from agricultural cooperatives has been extended to the end of 2021.

• The rules that deny an inter-corporate dividend deduction where a dividend is received as part of a “dividend rental arrangement” will be tightened up for dividends that are paid or payable after October 2015.

PERSONAL INCOME TAX MEASURES

• The maximum annual contribution to Tax-Free Savings Accounts will be increased from $5,500 to $10,000 for 2015 and subsequent years.

• The minimum amount required to be withdrawn from a Registered Retirement Income Fund each year by individuals aged 71 to 94 will be reduced for 2015 and subsequent years. A transitional rule will allow amounts withdrawn in excess of the 2015 minimum to be recontributed by February 29, 2016.

• The personal tax on non-eligible dividends will increase starting in 2016 as noted in the Business section.

• The Budget proposes to streamline the foreign reporting requirements by increasing the threshold for detailed reporting of specified foreign property held during the year to a total cost of $250,000 or more (from $100,000) starting in 2015. A simplified form will be developed to report specified foreign property below the new threshold.

• The lifetime capital gains exemption for qualified farming or fishing property will be increased from the current indexed amount of $813,600 to $1 million for dispositions on or after April 21, 2015.

• A technical problem has been identified with the calculation of the Family Tax Cut introduced for 2014 where education credits are transferred between spouses. This unintended limitation will be fixed retroactively and the Canada Revenue Agency will automatically reassess affected taxpayers.
• A new Home Accessibility Tax Credit has been proposed for 2016 and subsequent years to provide a non-refundable 15% tax credit on up to $10,000 of eligible expenditures each calendar year, per qualifying individual per dwelling.

• For 2016 and subsequent years, an exemption from capital gains tax will apply on certain dispositions of private company shares or real estate where the proceeds are donated to a charity or other qualified donee within 30 days.

• Certain qualifying family members were permitted to become the holders of Registered Disability Savings Plans until 2016. This concession has been extended to the end of 2018.

• Proposed administrative changes to enhance tax compliance and debt collections are discussed in the 2015 Federal Budget Highlights.

CHARITIES AND NON-PROFIT ORGANIZATIONS
• As noted in the Business and Personal sections, for 2016 and subsequent years, an exemption from capital gains tax will apply on certain dispositions of private company shares or real estate where the proceeds are donated to a charity or other qualified donee within 30 days. Detailed rules will discourage abuses.

• Registered charities will be permitted to make certain qualifying investments in limited partnerships on or after April 21, 2015.

• The Budget proposes to allow foreign charitable foundations to be registered as qualified donees in Canada if they receive a gift from the Government and are pursuing disaster relief, urgent humanitarian aid, or are carrying on activities in the national interest of Canada. This measure will apply on Royal Assent.

INTERNATIONAL INCOME TAX MEASURES
• Starting in 2016, non-resident employers may register with the Canada Revenue Agency to gain an exemption from having to make payroll withholdings on salaries and wages paid to employees who are exempt from tax under a bilateral tax treaty and are not in Canada for 90 days or more in any 12 month period that includes the time of payment.

• The government is concerned about the ability of multinational enterprises to shift income from high tax to low tax jurisdictions, but wants to ensure that Canada maintains an internationally competitive tax system. Finance Canada is still considering what steps to take.

• On July 1, 2017, Canada will implement a new common reporting standard for automatic information exchanges with other countries with the first reciprocal exchange in 2018. Financial institutions will be required to have procedures in place to identify accounts held by non-residents and to report the required information to the Canada Revenue Agency.
• Existing anti-avoidance rules pertaining to offshore captive insurance entities will be strengthened for taxation years that begin on or after April 21, 2015.

• The threshold for detailed reporting of specified foreign property on Form T1135 will be increased to $250,000, as noted in the Personal section.

CORPORATE REORGANIZATIONS - ANTI-AVOIDANCE RULE

• Subsection 55(2) of the Income Tax Act is an anti-avoidance provision that is intended to convert tax-free intercorporate dividends into capital gains where the dividend was paid or deemed paid to reduce what would otherwise have been a capital gain. There are two proposed changes to increase the reach of this rule:

  o The exemption for many related party transactions will, after April 21, 2015, not apply to exempt an actual dividend paid, but only to exempt a deemed dividend realized on a share redemption.

  o New rules will be introduced to have subsection 55(2) apply where a dividend or deemed dividend significantly reduces the fair market value of any share, thus creating an artificial capital loss as considered in the 2012 Triad Gestco case, and in situations where the dividend or deemed dividend increases the cost of the property.

SALES AND EXCISE TAX MEASURES

• There are no significant proposals, but certain administrative changes are outlined in the 2015 Federal Budget Highlights.