Update

April 21, 2015

Budget Briefing 2015

Canada's Economic Action Plan has been underpinned by prudent fiscal management and the Government's low-tax plan for families and businesses. Since 2006, the Government's priorities have been to create well-paying and secure jobs for Canadians, lower taxes for Canadian families and businesses, and balance the budget.

– Economic Action Plan 2015: The Budget in Brief

The Honourable Joe Oliver, Minister of Finance, tabled Canada's federal budget for 2015 on April 21, 2015 (Budget 2015). In his budget speech, the Minister repeated the government's commitment to maintaining low taxes, balancing the budget and returning Canada to a position of fiscal strength after the 2008-2009 recession. Budget 2015 includes targeted initiatives related to job creation and infrastructure. Announced measures include:

- an additional $750 million over two years and $1 billion per year ongoing thereafter for a new Public Transit Fund
- $5.35 billion per year on average for provincial, territorial and municipal infrastructure under the New Building Canada Plan
- $5.8 billion in investments over six years to build and renew federal infrastructure and on-reserve schools
- an additional $1.33 billion over six years to the Canada Foundation for Innovation to support advanced research infrastructure at universities, colleges and research hospitals
- $100 million over five years for a new Automotive Supplier Innovation Program to support the auto parts industry

The government expects a deficit of $2 billion for fiscal 2014-2015. The government also projects a surplus of $1.4 billion for 2015-2016 and surpluses thereafter increasing to $4.8 billion for 2019-2020.

Budget 2015 contains a number of tax measures including a proposed rate reduction for qualifying active business income of certain private corporations. Following the tradition of past federal budgets, Budget 2015 also includes proposals that are stated to close tax loopholes in, and improve existing anti-avoidance rules of, the *Income Tax Act* (Canada) (ITA).

In this Budget Briefing 2015, we summarize the more significant tax proposals included in Budget 2015.

BUSINESS INCOME TAX MEASURES

General Corporate Tax Rate

Budget 2015 does not propose to change the general corporate income tax rate, which remains at 15% at the federal level for 2015.

Small Business Tax Rate

Budget 2015 proposes to decrease the small business tax rate applicable to the first $500,000 of qualifying active business income of Canadian-controlled private corporations from the current 11% to 9% as follows:

- January 1, 2016, the rate will be reduced to 10.5%
- January 1, 2017, the rate will be reduced to 10%
- January 1, 2018, the rate will be reduced to 9.5%
- January 1, 2019, the rate will be reduced to 9%

The reduction in the small business rate will be pro-rated for corporations with taxation years that do not coincide with the calendar year.

Non-Eligible Dividend Adjustments

In conjunction with the proposed reduction in the small business tax rate, Budget 2015 also proposes to adjust the gross-up factor and dividend tax credit (DTC) rate applicable to non-eligible dividends received by individuals (i.e., dividends paid out of income that was taxed at a lower rate, generally being the small business income tax rate). As a result, the effective rate of the DTC in respect of such dividends will be reduced in line with the proposed reductions to the small business tax rate. The effective rate of tax on such dividends will therefore increase. Budget 2015 proposes to reduce the effective DTC rate (expressed as a percentage of the grossed-up dividend) from 11% in the 2015 calendar year as follows:

	2016	2017	2018	As of 2019
DTC Effective Rate	10.5%	10%	9.5%	9%

Manufacturing and Processing Machinery and Equipment: Accelerated Capital Cost Allowance

Budget 2015 proposes new capital cost allowance (CCA) Class 53 to provide an accelerated CCA rate of 50% on a declining-balance basis for machinery and equipment acquired by a taxpayer after 2015 and before 2026 primarily for use in Canada for the manufacturing and processing of goods for sale or lease. Eligible assets are those that would currently be included in Class 29 (with a CCA rate of 50% on a straight-line basis). The so-called

"half-year rule," which limits CCA deductions to 50% of the amount otherwise available in the taxation year in which an asset is first available for use by the taxpayer, will apply to this new class. These assets will be considered "qualified property" for the purpose of the Atlantic Investment Tax Credit.

Tax Avoidance of Corporate Capital Gains (Section 55)

Very generally, subsection 55(2) of the ITA is an important anti-avoidance provision whereby an inter-corporate dividend (which is generally deductible by a corporate recipient and is thus received effectively tax-free) can be deemed to be proceeds of disposition or a capital gain, if one of the purposes of the dividend was to effect a significant reduction in a capital gain on shares (except for the portion of the dividend reasonably attributable to so-called "safe-income"). However, current subsection 55(2) does not apply to dividends that produce or increase a capital loss on shares. Such loss would, however, ordinarily be denied under subsection 112(3) of the ITA on the disposition of the shares on which the dividend was paid.

Budget 2015 proposes to expand the application of subsection 55(2) to a circumstance where one of the purposes of the dividend is either to effect (i) a significant reduction in the fair market value of any share or (ii) a significant increase in the total cost of properties of the dividend recipient. In addition, Budget 2015 would amend subsection 55(2) so that all recharacterized dividends are deemed to be capital gains (and not proceeds of disposition, as is the case in some circumstances under the existing rule).

The proposed amendments target situations in which, as a result of the payment of a dividend, an unrealized capital loss is created on shares that the shareholder can use to shelter an unrealized capital gain on another property (e.g., by transferring that property on a tax deferred basis to the dividend paying corporation). The example given in Budget 2015 is the following:

> Corporation A wholly owns Corporation B, which has one class of shares. These shares have a fair market value of $1 million and an adjusted cost base of $1 million.
>
> Corporation A contributes $1 million of cash to Corporation B in return for additional shares of the same class, with the result that Corporation A's shares of Corporation B have a fair market value of $2 million and an adjusted cost base of $2 million.
>
> If Corporation B uses its $1 million of cash to pay Corporation A a tax-deductible dividend of $1 million, the fair market value of Corporation A's shares of Corporation B is reduced to $1 million although their adjusted cost base remains at $2 million.

> At this point, Corporation A has an unrealized capital loss of $1 million on Corporation B's shares.
>
> If Corporation A transfers an asset having a fair market value and unrealized capital gain of $1 million to Corporation B on a tax-deferred basis, Corporation A could then sell its shares of Corporation B for $2 million and take the position that there is no gain because the adjusted cost base of those shares is also $2 million.

The above example would therefore result in a "significant reduction in the fair market value" of the shares of Corporation B.

It should however be noted that these rules would apply even if no transfer of assets with an accrued gain occurs. As such, if a dividend is paid on shares that do not have an accrued gain, the taxpayer would have to demonstrate that the purpose test is not met in order to avoid the application of these rules. It is furthermore debatable whether the proposed amendments represent the most focused solution to the perceived abuse, as a reduction in the adjusted cost base of the shares would achieve the same objective.

Budget 2015 also proposes other amendments intended to prevent the circumvention of subsection 55(2) by the use of, among other things, stock dividends and dividends paid on shares whose value is or becomes nominal.

Finally, Budget 2015 also proposes to amend paragraph 55(3)(a), which is another exception to the application of subsection 55(2) and is aimed at intra-group dividends when an unrelated party does not acquire a significant interest as part of the series of transactions. Budget 2015 announces that this exception will now only apply to deemed dividends arising on a redemption of shares.

These proposed changes will apply to dividends received on or after April 21, 2015 (Budget Day). Budget 2015 also provides that other changes of a consequential nature are envisaged.

Synthetic Equity Arrangements

The ITA contains "dividend rental arrangement" rules that deny the inter-corporate dividend deduction to a shareholder where the main reason for an arrangement is to enable the shareholder to receive a dividend on a share and the shareholder's risk of loss and opportunity for gain in respect of the share accrues to someone else.

Budget 2015 proposes to broaden the dividend rental arrangement rules to deny the inter-corporate dividend deduction on dividends received by a taxpayer on a Canadian share where the taxpayer (or a non-arm's length person) enters into a "synthetic equity arrangement." A synthetic equity arrangement is generally defined as one or more

agreements or other arrangements that have the effect of transferring all or substantially all of the risk of loss and opportunity for gain (which includes not just appreciation but also dividends on the share) in respect of the share to a counterparty or affiliated group of counterparties.

The following are expressly carved out from being synthetic equity arrangements:

- derivative agreements that are traded on a recognized derivatives exchange unless the identity of the counterparty is known to the taxpayer
- certain agreements establishing a short position (with respect to a share) that is offset by a corresponding long position
- certain agreements whose settlement obligations reference the performance of an index that reflects long-only positions in a portfolio of largely non-Canadian securities

If a taxpayer has entered into a synthetic equity arrangement with respect to a dividend-paying Canadian share, the inter-corporate dividend deduction would be denied. By way of exception, the rule would not apply where a taxpayer can establish that no "tax-indifferent investor" (or group of such investors) has all or substantially all of the risk of loss and opportunity for gain in respect of the share by virtue of the synthetic equity arrangement or a related equity derivative. The proposed exception would be presumed to be satisfied where the taxpayer obtains certain representations from the counterparty (although the exception would not apply if the representations later prove to be inaccurate), including a representation that the counterparty is not a "tax-indifferent investor," which generally includes a tax-exempt person or a non-resident person, as well as certain trusts and partnerships that are held by tax-indifferent investors.

Budget 2015 proposes for public comment an alternative and simpler version of the proposed rule that would not contain any exception for "tax-indifferent investor" counterparties.

The proposed measures apply to dividends that are paid or become payable after October 2015.

Agricultural Cooperatives: Deferral of Tax on Patronage Dividends Paid in Shares

Budget 2015 proposes to extend the temporary tax deferral that applies to patronage dividends paid to members by an eligible agricultural cooperative in the form of eligible shares, so that it will continue to apply in respect of eligible shares issued before 2021.

Quarterly Remitter Category for New Employers

Budget 2015 proposes to decrease the required frequency of employee source deduction remittances for the smallest new employers by allowing eligible employers to remit on a quarterly basis. Eligible employers will be new employers with withholdings of less than $1,000 in respect of each month. This measure will apply in respect of withholding obligations that arise after 2015.

Small Business Deduction: Consultation on Active vs. Investment Business

The small business deduction is available on up to $500,000 of qualifying active business income of a Canadian-controlled private corporation. Active business income does not include income from a "specified investment business," which is generally a business the principal purpose of which is to derive income from property. A "specified investment business" does not include a business that has more than five full-time employees, with the result that income earned from such a business is eligible for the small business deduction even though its principal purpose is to derive income from property. Stakeholders have expressed concern as to the application of these rules in cases such as self-storage facilities and campgrounds. Budget 2015 announces a review of the circumstances in which income from a business, the principal purpose of which is to earn income from property, should qualify as active business income. Interested parties are invited to submit comments by August 31, 2015.

Consultation on Eligible Capital Property

Budget 2014 announced a public consultation on the proposal to repeal the eligible capital property (ECP) regime and replace it with a new CCA class. Generally, ECP means intangible capital property (including, notably, goodwill) and excludes depreciable capital property already subject to the CCA rules under the ITA. For more information regarding the Budget 2014 proposals regarding ECP, please see the Osler Budget Briefing 2014. The government has heard from a number of stakeholders and continues to receive submissions on the proposal. All representations will be considered in the development of the rules relating to the new CCA class as well as the transitional rules. The government intends to release detailed draft legislative proposals for stakeholder comment before their inclusion in a bill. No timeline is given for such release.

INTERNATIONAL TAX MEASURES

Withholding Requirements for Non-Resident Employers

Non-residents are subject to tax in Canada under the ITA on employment income earned in Canada. Provided certain conditions are met, employment income earned in Canada by a non-resident may be exempt from Canadian tax under a tax treaty between Canada and the country of residence of the non-resident employee. In the absence of a waiver issued

by the Canada Revenue Agency (CRA), an employer (including a non-resident employer) is generally required to withhold and remit Canadian tax on account of the employee's potential Canadian tax liability even if the employee is exempt from Canadian tax because of a tax treaty between Canada and the employee's country of residence. Non-resident employers and employees have in many cases found it administratively difficult to obtain a treaty-based waiver from the CRA.

Budget 2015 proposes an exemption to the withholding obligation for payments made by qualifying non-resident employers to qualifying non-resident employees. An employee will be a qualifying non-resident employee if the employee (i) is exempt from Canadian tax in respect of the payment because of a tax treaty between Canada and the country of residence of the employee; and (ii) is not present in Canada for 90 days or more in any 12-month period that includes the time of payment. An employer will be a qualifying non-resident employer if the employer (i) is resident in a country with which Canada has a tax treaty; (ii) does not carry on business in Canada through a permanent establishment; and (iii) is certified by the Minister at the time of the payment. Special rules apply where the employer is a partnership. The qualifying non-resident employer will continue to be required to comply with the reporting requirements under the ITA with respect to the payments.

This measure will apply to payments made after 2015.

Captive Insurance

Generally, the income of a controlled foreign affiliate (CFA) of a Canadian taxpayer from the insurance or reinsurance of Canadian risks is included in the foreign accrual property income (FAPI) of the CFA and, hence, in the Canadian taxpayer's income for Canadian tax purposes. Budget 2014 introduced specific rules that include in FAPI the income of a foreign affiliate from certain "insurance swaps." Budget 2015 proposes to augment these rules, effective for taxation years of a taxpayer beginning on or after Budget Day, to include in FAPI the income of a foreign affiliate in respect of ceding Canadian risks. This measure is intended to cause the difference between the fair market value and the cost of the Canadian risks to be included in FAPI.

Update on Tax Planning by Multinational Enterprises

Budget 2015 comments on the OECD's action plan on base erosion and profit shifting (BEPS) in the Canadian context. BEPS refers to legal tax planning arrangements that exploit the interaction between domestic and international tax rules to shift profits away from the countries where income-producing activities take place. The Budget does not contain any concrete proposals regarding BEPS-related items. Nor does it indicate any precise timetable or action plan for implementing any final recommendations that may result from G-20 deliberations. Rather the government's focus is on process, highlighting

both input received from stakeholders that contributes to Canada's ongoing participation in BEPS discussions, as well as Canada's interaction with other participants in the ultimate formulation of suggested changes to the international tax system.

The Budget emphasizes, however, that preserving the competitiveness of the Canadian tax system remains the government's priority, in a context where tax considerations are inevitably a main factor in determining business investment decisions. Consequently, any future actions taken by the government in this area will seek to further Canada's tax competitiveness while maintaining its ongoing commitment to international tax fairness.

Update on Automatic Exchange of Information for Tax Purposes

The government has undertaken as part of an OECD/G-20 process to provide for the automatic exchange with other countries of tax information respecting financial accounts. This exchange of information will be reciprocal and bilateral, and will occur on the basis of a common reporting standard. Budget 2015 contains important details regarding the manner in which the government envisages implementing its undertaking.

The OECD's common reporting standard is modelled on U.S. tax information reporting and withholding rules commonly known as "FATCA," as well as the intergovernmental agreements that the United States has entered into with Canada and other jurisdictions to create information reporting obligations with respect to financial accounts under the domestic laws of those non-U.S. jurisdictions. Under the FATCA-related rules in the ITA and a related agreement between Canada and the United States, information on certain U.S. account holders (including U.S. citizens resident in Canada) in Canadian financial institutions is provided to the CRA and automatically exchanged with the Internal Revenue Service.

The OECD common reporting standard represents a multilateral globalization of FATCA-type rules, with information on non-resident account holders of accounts with Canadian financial institutions being exchanged with tax authorities of a number of participating countries. Financial institutions in Canada will be required to identify any such accounts held by non-residents of Canada and report certain related information to the CRA. The common reporting standard will be effective starting on July 1, 2017, with exchange of information starting in 2018.

Importantly, accounts held by Canadian residents who are also citizens of foreign countries will not be reportable. Furthermore, safeguards will be put in place to protect taxpayer confidentiality and to restrict the use of information sent to foreign tax authorities to tax purposes only.

Draft legislation giving effect to this budgetary proposal will be released in the coming months.

Reporting Requirements for Specified Foreign Property

Canadian resident individuals, corporations or trusts that hold specified foreign property with a cost amount exceeding $100,000 at any time in the year are required to file a Form T1135 (Foreign Income Verification Statement) with the CRA. Specified foreign property generally includes funds and investments held outside of Canada.

Budget 2015 proposes to simplify the reporting requirements for taxpayers holding specified foreign property with an aggregate cost to the taxpayer of less than $250,000 throughout the year. This new measure will apply for taxation years beginning after 2014.

CHARITIES

Investments by Registered Charities in Limited Partnerships

Canadian registered charities (including charitable organizations and public and private foundations) are subject to adverse tax consequences if they carry on a business (other than, in some cases, a "related business"). There has long been a concern that a registered charity that invests in a partnership, including as a limited partner in a limited partnership, carries on the business of the partnership. This has discouraged registered charities from investing in certain alternative funds (e.g., private equity, infrastructure or real estate funds) organized as limited partnerships.

Budget 2015 proposes to amend the ITA to expressly permit registered charities and registered Canadian amateur athletic associations to hold limited partnership interests without being considered to be carrying on the business of the partnership.

The amendment is intended to apply only to passive investments, and to achieve this objective will only permit investment in a limited partnership by a registered charity if (i) the charity and non-arm's length entities hold 20% or less of the interests in the limited partnership; and (ii) the charity deals at arm's length with the general partner(s). This measure will be effective for investments made on or after Budget Day.

Certain other rules related to charities and foundations – namely excess corporate holdings, qualifying security, and loanback rules – will be amended to facilitate investment in, and donation of, limited partnership interests.

Donations Involving Private Corporation Shares or Real Estate

Budget 2015 proposes to exempt dispositions of private corporation shares and real estate from capital gains taxation where (i) cash proceeds of such a disposition are donated to a qualified donee within 30 days of the disposition; and (ii) the property is sold to a party that deals at arm's length with the donor and qualified donee. This amendment will provide these forms of property with similar treatment to publicly traded shares and certain ecological and cultural properties. This measure will be effective for dispositions occurring after 2016.

This measure will be coupled with anti-avoidance rules that will deny the exemption when, within five years, the donor reacquires the property (directly or indirectly, including substituted property) or the corporation redeems the shares at a time when the donor and corporation do not deal with each other at arm's length.

Gifts to Foreign Charitable Foundations

Budget 2015 proposes to extend to certain foreign charitable foundations a favourable tax status potentially available to foreign charitable organizations under existing law. Broadly speaking, charitable organizations must carry on charitable activities, whereas charitable foundations need not do so directly (but can devote their resources to funding the conduct of charitable activities by others). The ITA currently provides for the discretionary registration of foreign charitable organizations as "qualified donees" for a 24-month period, meaning that like Canadian registered charities, such registered foreign organizations can receive tax-deductible donations from Canadian residents. In order for the foreign charitable organization to be eligible, it must receive a donation from the Canadian government and be engaged in disaster relief, humanitarian aid or activities in Canada's national interest. Under the proposed amendment in Budget 2015, foreign charitable foundations would, like foreign charitable organizations, be eligible to be registered as qualified donees for a 24-month period provided they meet the same conditions. This measure will be effective on Royal Assent.

PERSONAL INCOME TAX MEASURES

Tax-Free Savings Account

Budget 2015 increases the annual contribution limit for Tax-Free Savings Accounts from $5,500 to $10,000 for each year after 2014. The contribution limit will no longer be indexed to inflation.

Home Accessibility Tax Credit

Budget 2015 introduces a new non-refundable Home Accessibility Tax Credit for certain seniors and persons with disabilities ("qualifying individuals"), as well as certain of their relatives. Very generally, the credit is equal to 15% of the costs of certain renovations or alterations that improve access to, or mobility in, a dwelling that is the principal residence of a qualifying individual or is ordinarily inhabited by a qualifying individual and owned by an eligible individual. The credit applies to a maximum of $10,000 of eligible expenditures in a calendar year per qualifying individual, and to a maximum of $10,000 of eligible expenditures in a calendar year per eligible dwelling. The credit will apply in respect of expenditures for goods and services acquired after 2015.

Minimum Withdrawal Factors for Registered Retirement Income Funds

When the holder of a Registered Retirement Savings Plan (RRSP) reaches the age of 71, the RRSP must be converted to a Registered Retirement Income Fund (RRIF). In subsequent years, a minimum amount must be withdrawn from the RRIF each year according to a formula that is based on the age of the RRIF holder or their spouse or common-law partner. Budget 2015 proposes to adjust the formula for calculating the minimum amount that must be withdrawn each year from a RRIF, with the effect of reducing the minimum withdrawal amount for holders of such funds and plans between the ages of 71 and 94. Similar amendments are proposed for minimum withdrawals from defined contribution Registered Pension Plans and Pooled Registered Pension Plans. These changes will apply to the 2015 and subsequent taxation years.

Lifetime Capital Gains Exemption for Qualified Farm or Fishing Property

The ITA currently provides for a lifetime capital gains exemption of $800,000, indexed to inflation ($813,600 in 2015), for the disposition of qualified farm or fishing property. Budget 2015 proposes to increase the exemption to the greater of that indexed amount and $1 million for dispositions of such properties that occur on or after Budget Day.

Registered Disability Savings Plan – Legal Representation

Budget 2012 introduced temporary measures that permitted a qualifying family member to become the holder of a Registered Disability Savings Plan for an adult who may lack the capacity to enter into a contract. Budget 2015 proposes to extend these measures to 2018.

Transfer of Education Credits – Effect on the Family Tax Cut

Very generally, the previously announced Family Tax Cut effectively allows income splitting by couples with children under the age of 18 up to a maximum credit of $2,000. The credit is proposed to apply for the 2014 and subsequent taxation years. Budget 2015 proposes to revise the calculation of the Family Tax Cut for the 2014 and subsequent taxation years to ensure that couples claiming the Family Tax Cut who transfer education-related credits between themselves receive the appropriate amount of credit.

ADMINISTRATIVE MEASURES

Alternative Arguments in Support of Assessments

Budget 2015 proposes to clarify that the Minister of National Revenue and the courts may increase or adjust an amount included in an assessment that is under objection or appeal at any time, provided the total amount of the assessment does not increase. The proposal is a legislative reversal of the Federal Court of Appeal's recent decision in *Canada v. Last*.

A well-settled principle in tax litigation is that the appeal of an assessment cannot result in a higher amount of tax than was assessed. However, the ITA and the *Excise Tax Act* (Canada) (ETA) allow the Minister of National Revenue to advance a new argument in support of an assessment at the litigation stage, even if the argument had never previously been raised and the limitation period for reassessments has expired.

The *Last* case dealt with an assessment with respect to two separate income sources. The Minister of National Revenue tried to rely on a new argument that would have increased the amount of the assessment for one of the sources, arguing that the ITA permitted doing so as long as the overall amount of tax was not increased from the assessment. The Federal Court of Appeal disagreed, concluding that the amount of tax per source cannot increase. Budget 2015 reverses the conclusion in *Last* for appeals instituted (under the ITA or ETA) after Royal Assent is given to the Budget.

Repeated Failures to Report Income

Budget 2015 proposes to amend the penalty for repeated failures to report income in order to provide relief for lower income taxpayers. The rule will now only apply where the amount of income not reported is at least $500. The penalty is also changed to be the lesser of (i) 10% of the amount of the unreported income (the current penalty), and (ii) 50% of the understatement of tax related to the failure to report (net of source deductions in respect of the unreported amount). These changes will apply to taxation years that begin after 2014.

Information Sharing for the Collection of Non-Tax Debts

Budget 2015 proposes to amend the ITA to permit the sharing of taxpayer information within the CRA for purposes of collecting non-tax debts owing under certain federal and provincial laws. Similar measures will be introduced to the ETA in relation to the Goods and Services Tax/Harmonized Sales Tax (GST/HST) and also to the *Excise Act, 2001* in relation to certain excise duties.

OUTSTANDING TAX MEASURES

Budget 2015, in accordance with the government's customary disclosure of previously announced measures, confirms the government's intention to proceed with the following previously announced tax and related measures, as modified to take into account consultations and deliberations since their release:

- legislative proposals released on July 12, 2013, providing new rules to ensure an appropriate income inclusion for stub-year FAPI on dispositions of foreign affiliate shares
- legislative amendments proposed in Budget 2014 to ensure that the Office of the Chief Actuary can efficiently and effectively deliver its services to key clients

- measures announced in Budget 2014 to the GST/HST election relating to joint ventures
- a proposed change announced on December 23, 2014 to the limit on the deduction of tax-exempt allowances paid by employers to employees that use their personal vehicle for business purposes
- regulatory proposals released on February 19, 2015, establishing a CCA rate of 30% for equipment used in natural gas liquefaction and 10% for buildings at a facility that liquefies natural gas
- measures announced on March 1, 2015 in relation to Canadian mining
    - extending the 15% mineral exploration tax credit for investors in flow-through shares for an additional year, until March 31, 2016
    - ensuring that the costs associated with undertaking environmental studies and community consultations that are required in order to obtain an exploration permit will be eligible for treatment as Canadian exploration expenses
- measures to make the family caregiver relief benefit and critical injury benefit, announced on March 17, 2015 and March 30, 2015, non-taxable to veterans

Stub Period FAPI

A taxpayer's share of FAPI earned by a CFA of the taxpayer is included in the taxpayer's income in the year in which the CFA's taxation year ends. Where a CFA does not have a taxation year-end in a year (e.g., because it is sold in the year), no FAPI is included in the taxpayer's income. In addition, the taxpayer's share of FAPI is determined by reference to its interest in the CFA at the end of the CFA's year. If there is a reduction in such interest during the year (e.g., because some shares are sold), there is no mechanism to take into account the taxpayer's greater interest during a portion of the year. In 2013, the government proposed new rules "to ensure an appropriate income inclusion for stub-year [FAPI] on dispositions of foreign affiliate shares." Several technical issues were identified with these proposals, and they were not included as part of the legislation that enacted the other 2013 foreign affiliate proposals. Budget 2015 confirms that the government intends to proceed with these proposals (although it is possible that amendments may be made to address some of the issues with the 2013 proposals).

GST/HST Joint Venture Election

Budget 2015 confirms the government's intention to proceed with the measure announced in Budget 2014 relating to the GST/HST joint venture election. The existing election simplifies compliance for joint venture participants by allowing them to elect to have one person (the operator) be responsible for all of the GST/HST accounting and

filing in connection with the joint venture. Currently, the election is available only in respect of a limited number of prescribed joint venture activities. The amendment that was announced last year, and to which the government is re-committing in Budget 2015, would extend the election to any joint venture where the activities of the joint venture, and the activities of each of the participants outside the joint venture, are exclusively commercial activities that do not involve the making of any GST/HST-exempt supplies. In Budget 2014, the government announced that it intended to introduce draft legislative proposals on this measure before the end of 2014; however, no such draft legislation has as yet been released.

To access the 2015 budget, click here.

If you have any questions or require additional analysis on the 2015 budget, please contact any member of our National Tax Department.

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