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Canadian federal government releases significant package of draft tax legislation

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On February 4, 2022 the federal government released a package of draft legislation to implement various tax measures (Proposals), including some previously announced in the 2021 Federal Budget. The Proposals include amendments to both the *Income Tax Act* (ITA) and the *Excise Tax Act* (ETA). The news release that accompanied the Proposals invites Canadians to make submissions in respect of the Proposals, with different deadlines for the different measures.

The Proposals do not address all measures announced or carried over in Budget 2021, including anti-hybrid measures, a tax on select luxury goods, investment tax credit for carbon capture, utilization and storage, and public consultations on the general anti-avoidance rule and the transfer pricing rules. The Proposals and Bill C-8 (which notably includes the new *Underused Housing Tax Act*) cover several of these measures, but a number of others remain outstanding.

This Update provides the background and features of the following key measures included in the package:

Proposal	Effective date	Comment deadline
Excessive interest and financing expenses limitation (earnings stripping)	Generally, tax years beginning after December 31, 2022	May 5, 2022
Mandatory disclosure rules	Generally, tax years beginning after 2021	April 5, 2022
Audit authorities	Royal assent	April 5, 2022
Penalty tax applicable to registered investments	Months post-2020 plus certain months pre-2021	April 5, 2022
Mutual funds: allocation to redeemers	Tax years beginning after December 15, 2021	April 5, 2022
Immediate expensing for small and medium Canadian business investment	Investments made on or after January 1, 2022 and available for use before 2024 or 2025 (as applicable)	March 7, 2022
Clean energy incentives	Various	March 7, 2022
Trust beneficiary reporting	Tax years ending after December 30, 2022	April 5, 2022
Avoidance of tax debts	April 19, 2021	April 5, 2022
GST/HST treatment of cryptoasset mining	February 5, 2022 (limited grandfathering)	April 5, 2022

Earnings stripping proposals: excessive interest and financing

expenses limitation

The Proposals contain limitations intended to address the deduction of excessive interest and financing expenses (EIFEL). Generally, these limitations apply where net interest and financing expenses exceed a fixed ratio equal to 30% of tax-adjusted earnings before interest, taxes, depreciation and amortization (EBITDA). The stated objective of the EIFEL proposals is to address concerns raised by the OECD in BEPS Action 4. These concerns focus on taxpayers deducting, for income tax purposes, interest and other financing costs that are perceived by the OECD and tax authorities as excessive, principally in the context of multinational enterprises and cross-border investments. The OECD BEPS Action 4 report recommended a fixed-ratio approach to limiting an entity's net deductions for interest and payments economically equivalent to interest to a percentage of its EBITDA. The EIFEL proposals would adopt this approach by restricting a taxpayer's (or group's) deductions for interest expense and other financing costs to a percentage of tax-adjusted EBITDA (defined in the proposals as "adjusted taxable income") that is intended to be commensurate with the taxable income generated by activities in Canada.

Although the OECD BEPS Action 4 did not recommend any additional restrictions on interest deductibility, Canada is proposing to retain its other restrictions on interest deductibility, including the thin capitalization rules and the general rules on interest deductibility in paragraph 20(1)(c) of the ITA as well as the transfer pricing regime and the foreign affiliate dumping rules.

The EIFEL proposals are extensive and detailed, running to 27 pages of draft legislation. A general summary is as follows:

Affected taxpayers: any taxpayer earning income from a business or property that is not an "excluded entity", as defined in the Proposals, is in scope of the proposed EIFEL rules. An "excluded entity" is:

- a Canadian-controlled private corporation (CCPC) that, together with any associated corporations, has taxable capital employed in Canada of less than $15 million (intended to reflect the top end of the phase-out range for the small business deduction);
- a corporation or trust having, together with certain Canadian-resident corporations or trusts with which it forms a group (defined in the Proposals as "eligible group entities"), aggregate net interest expense of $250,000 or less; and
- Canadian-resident corporations and trusts, and groups consisting exclusively of Canadian-resident corporations and trusts that carry on substantially all of their business in Canada, provided no non-resident is a foreign affiliate of, or holds a significant interest in, any group member, and no group member has any significant amount of interest and financing expenses payable to a "tax indifferent investor", as currently defined in the ITA to include non-residents of Canada and tax-exempt entities.

No exemption is provided for either public-benefit projects (as suggested under OECD BEPS Action 4) or for regulated utilities (similar to the exemption provided under the U.S. earnings stripping rules).

Fixed ratio: Defined in the Proposals as "ratio of permissible expenses", the fixed ratio would be 30%. For purposes of transition, a higher fixed ratio of 40% would apply for taxation years beginning on or after January 1, 2023, and before January 1, 2024. This is consistent with the

measures announced in Budget 2021. An anti-avoidance rule applies if taxpayers attempt to extend the transition period (such as through changes in year ends).

Affected interest and other expenses: Formulaically determined in the proposed definition of "interest and financing expenses", these would be in scope only if otherwise deductible, confirming that the proposals are intended to apply only after other limitations on deductibility (e.g., transfer pricing rules, paragraph 20(1)(c), and the thin capitalization rules). Such expenses are expenses incurred in obtaining financing, including interest and financing expenses that are capitalized and deducted as capital cost allowance; amounts in respect of resource expenditure pools; amounts paid or payable, or losses incurred, under certain agreements or arrangements that can reasonably be considered to be part of the cost of funding of the taxpayer or a non-arm's length person or partnership and expenses related thereto (including amounts paid or payable under certain hedging or funding derivatives), and imputed interest in respect of certain finance leases. The amount of a taxpayer's interest and other expenses would be reduced by amounts received or receivable, or a gain of the taxpayer, in connection with an agreement or arrangement that can reasonably be considered to be part of the cost of funding of the taxpayer or a non-arm's length person or partnership (including amounts received or receivable under certain hedging derivatives).

Interest and financing income: In effect, the EIFEL proposals would apply to a taxpayer's net interest and financing expenses, being its "interest and financing expenses" minus its "interest and financing revenues". The definition of "interest and financing revenues" is formulaically determined to include certain interest income, income from guarantee and similar fees, certain lease financing amounts, and certain net amounts earned from agreements or arrangements entered into in relation to a loan made, or other financing provided by the taxpayer.

Tax-adjusted EBITDA: The proposed definition of "adjusted taxable income", multiplied by the "ratio of permissible expenses" (i.e., 30% after the 40% transition period) determines what portion of a taxpayer's net interest and financing expenses would be deductible. As defined in the Proposals, "adjusted taxable income" means taxable income (or, in the case of a non-resident taxpayer, taxable income earned in Canada) determined under Part I of the ITA, as adjusted for certain items, including non-capital and net capital losses. Upward adjustments would add amounts to taxable income to effectively reverse deductions for the taxpayer's interest and financing expenses, certain tax expenses and capital cost allowance, as well as certain other amounts. Downward adjustments would subtract amounts to effectively reverse inclusions in taxable income for interest and financing revenues and untaxed income, as well as certain other amounts. Explanatory Notes released with the Proposals indicate that, because the definition of "adjusted taxable income" is based on taxable income, it reflects deductions for dividends received under sections 112 (for inter-corporate dividends) and 113 (for dividends received from foreign affiliates). Thus, the new rules can limit the deductibility of interest expense incurred to invest in shares that produce such dividends.

Groups: The EIFEL proposals contain rules applicable to groups. These rules generally would permit the amount of interest and financing expenses deductible by consolidated group members to be determined as the total of each Canadian group member's "adjusted taxable income" multiplied by the "group ratio". It is possible for the "group ratio" to exceed the "ratio of permissible expenses" otherwise applicable to a taxpayer (i.e., 30% after the 40% transition period), provided the taxpayer is a member of a "consolidated group", defined in the Proposals, whose ratio of net third-party interest expense to book EBITDA exceeds the "ratio of permissible expenses" and the group is able to demonstrate this based on "consolidated financial statements", as defined in the Proposals. A "group ratio" election would permit the allocation of this maximum deductible amount among Canadian group members. However, since the group ratio is based on the applicable accounting rules, rather than taxable income, it will not always be available to a particular group due to various book-to-tax differences that

may arise.

Carryforward of excess capacity: Under the Proposals, to the extent a taxpayer has not applied a "group ratio", and has "excess capacity" in the three immediately preceding taxation years, such "excess capacity" may be applied to permit the deduction of otherwise-denied interest and financing expenses. A group generally includes related corporations. The term "excess capacity" for a taxation year is generally the amount by which the maximum amount a taxpayer is permitted to deduct in respect of interest and financing expenses for the year exceeds its actual interest and financing expenses for that year. The amount of "excess capacity" that is subsequently used by a taxpayer is called "absorbed capacity". One or more members of a Canadian group of which the taxpayer is a part may also transfer "cumulative unused excess capacity" to the taxpayer. A "relevant financial institution" (defined to include, among other things, a bank, insurance company, and certain investment funds) is precluded from making such a transfer (reflecting the assumption that such institutions will regularly earn interest and financing income that exceeds their interest and financing expenses). Transitional rules would permit the calculation of "excess capacity" for years in which the proposed EIFEL rules were not in effect. The rules contemplate that payments may be made between entities for the use of excess capacity by another member of the group.

Carryforward of denied expenses: Interest and financing expenses denied under the EIFEL rules are permitted to be carried forward for up to 20 years in computing taxable income. This carryforward is permitted to the extent a taxpayer has "excess capacity" for a subsequent taxation year, or to the extent it has "received capacity" for a taxation year as a result of having received a transfer out of the cumulative unused "excess capacity" of a group member.

In-force date: The EIFEL proposals will generally apply in respect of taxation years that begin on or after January 1, 2023. The rules apply to interest and other financing expenses for new and existing borrowings.

The deadline for making submissions in respect of the EIFEL proposals is May 5, 2022.

Mandatory disclosure rules

Budget 2021 proposed to expand the mandatory disclosure rules contained in the ITA in order to respond to aggressive tax planning in a timely fashion through audits and legislative changes. The announced measures proposed to expand the scope of the concept of a "reportable transaction" and introduced disclosure obligations for "notifiable transactions" and uncertain tax positions. The Proposals implement the Budget measures, though in some cases with modifications.

While the rules are intended to encourage disclosure of aggressive tax planning, the text of the draft rules is unclear and it is possible that the CRA will attempt to apply them in a variety of instances that go beyond what may be their intended scope. Future developments in this area will be of key importance to taxpayers trying to organize their affairs to comply with the new rules.

The Proposals apply to taxation years, and transactions occurring in taxation years, that begin after 2021. They do not apply to transactions occurring in prior years. The Department of Finance requests comments by April 5, 2022.

Reportable transactions

As their name suggests, reportable transactions must be reported to the CRA. The reporting is done on an information return that, under current law, must be filed by June 30 of the calendar year following the calendar year in which the transaction first became a reportable transaction.

Currently, in order for a transaction to be subject to the "reportable transaction" rules in section 237.3 of the ITA, it must be an "avoidance transaction" (as defined for purposes of the general anti-avoidance rule (GAAR) in section 245 of the ITA) and the transaction must bear at least two of three generic hallmarks. Very generally, these three hallmarks are: (1) a promoter or tax advisor is entitled to contingent fees in respect of the transaction based on tax benefits obtained under the transaction or the number of taxpayers who participate; (2) a promoter or tax advisor requires "confidential protection" with respect to the transaction; and (3) the taxpayer or certain other persons obtain "contractual protection" in respect of the transaction, including certain forms of insurance against a failure to achieve the intended tax benefit.

Consistent with the proposals set out in Budget 2021, the Proposals amend the existing definition of "reportable transaction" to lower the threshold for disclosure and expand the compliance obligations. The key changes to the reportable transaction rules are summarized below:

- The "reportable transaction" definition is amended so that only *one* of the generic hallmarks is required for a transaction to be a reportable transaction.
- The definition of "avoidance transaction" is amended so that a transaction is considered an avoidance transaction if it *can reasonably be concluded* that *one of the main purposes* of entering into the transaction is to obtain a tax benefit. Under the current definition, a transaction is only an "avoidance transaction" if it is undertaken *primarily* for the purpose of obtaining a tax benefit. As a result of this amendment, the fact that the transaction may not be an avoidance transaction for purposes of the GAAR — in that it was carried out primarily for non-tax purposes — is insufficient to avoid the mandatory disclosure rules. To not be a reportable transaction, it would appear to be necessary to establish that none of the main purposes for carrying out the transaction was to obtain the tax benefit. We note that there is judicial authority for the proposition that a transaction can have more than one "main" purposes. Such a determination would be made having regard to subjective and objective factors.
- The penalties for failing to satisfy the disclosure requirements are increased (see below for summary).
- The deadlines for filing an information return disclosing the reportable transaction to the CRA are accelerated and rendered more complex. The deadline now differs depending on the type of party involved and certain contractual facts. For example, there are two possible deadlines for a person who derives a tax benefit from the particular reportable transaction in question, a series of transactions that includes that reportable transaction, or any other reportable transaction that is part of that series. At a high level, such a person

must file an information return disclosing significant information in respect of the reportable transaction within 45 days of the earlier of: (i) the day the person becomes contractually obligated to enter into the transaction, and (ii) where there is no contractual obligation predating the transaction, the day the person enters into the transaction. Similarly accelerated deadlines apply to others required to disclose the reportable transaction, such as advisors or promoters.

- Reporting by one person will no longer discharge another's obligation to report. Under the current rules, if multiple parties are subject to the reportable transaction rules in respect of an avoidance transaction, disclosure by one party is treated as disclosure by all parties subject to the provision. That relieving rule is eliminated.

The Proposals also amend the "contractual protection" definition (one of the three generic hallmarks of a reportable transaction) to exclude, as stated in the explanatory notes, certain types of contractual protections that are "offered in the context of normal commercial transactions to a wide market". Specifically, the amendment excludes contractual protection in the "form of insurance, protection or undertaking … that is offered to a broad class of persons and in a normal commercial or investment context in which parties deal with each other at arm's length and act prudently, knowledgably and willing" from the reporting requirements.

There had been a concern that under the current rules, representation and warranty (R&W) insurance and transactional tax insurance could be considered forms of "contractual protection" and thereby trigger the contractual protection hallmark. Though the wording could be clearer, the proposed new exclusion appears to be intended to address such concerns. R&W insurance that is taken out, for example, in the context of an M&A transaction to protect buyers and sellers against inaccuracies in tax representations and warranties or to reduce indemnity obligations with respect to general or specific tax risks is a "form of insurance" that is generally offered in a normal commercial context and is "offered to a broad class of persons" in the sense that it can be purchased by many different types of taxpayers. The same can be said of issue-specific tax insurance (whether or not being purchased in the M&A context). This is a form of insurance product that is increasingly being strategically used by large businesses as a risk mitigation tool (like, say, insurance for potential environmental liabilities).

Notifiable transactions

To further assist the CRA in identifying persons engaging in specific tax-avoidance transactions and other transactions of interest on a timely basis, the Budget 2021 proposals contemplated providing the Minister of National Revenue with the authority to designate, with the concurrence of the Minister of Finance, certain types of transactions and series of transactions as requiring disclosure by taxpayers, advisers, promoters and certain other persons. Budget 2021 did not identify which types of transactions might be identified as notifiable transactions, but it did note that the descriptions would set out the fact patterns or outcomes that constitute the transaction in sufficient detail to enable taxpayers to comply with the disclosure rule.

The draft proposals contain samples of notifiable transactions that are indicated as having been designated as notifiable transactions by the Minister of National Revenue. The sample notifiable transactions fall into six categories:

- manipulation of Canadian-controlled private corporation (CCPC) status to avoid anti-

deferral rules applicable to investment income

- straddle loss creation transactions using a partnership
- avoidance of deemed disposition of trust property
- manipulation of bankrupt status to reduce a forgiven amount in respect of a commercial obligation
- reliance on purpose tests in the loss restriction rules (section 256.1 of the ITA) to avoid a deemed acquisition of control
- back-to-back arrangements intended to circumvent the thin capitalization rules and Part XIII withholding tax

The requirement to disclose is not restricted to transactions that are the same as a sample designated transaction. Disclosure is also required in respect of a transaction, or series of transactions, that is *substantially similar* to a transaction, or a series of transactions, so designated by the Minister of National Revenue. For these purposes, any transaction or series of transactions that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or a similar tax strategy is considered to be substantially similar. Further, the Proposals provide that the term "substantially similar" is to be interpreted broadly in favour of disclosure. These interpretive rules considerably expand the scope of transactions required to be disclosed as a notifiable transaction beyond the specific transactions described in the samples designated by the Minister of National Revenue.

In 2021, Revenu Québec released its preliminary list of notifiable transactions under its own regime. There is some overlap between the Québec and the federal notifiable transactions — namely, the avoidance of deemed disposal of trust property and tax attribute trading.

Similar to the reportable transactions, a taxpayer who enters into a notifiable transaction, or a transaction that is substantially similar to a notifiable transaction — or another person who enters into such a transaction in order to procure a tax benefit for the taxpayer — would be required to report the transaction in prescribed form to the CRA within 45 days of the earlier of

- the day the taxpayer (or a person who entered into the transaction for the benefit of the taxpayer) becomes contractually obligated to enter into the transaction
- the day the taxpayer (or a person who entered into the transaction for the benefit of the taxpayer) enters into the transaction

A promoter or advisor who offers a scheme that, if implemented, would be a notifiable transaction, or a transaction that is substantially similar to a notifiable transaction — as well as a person who does not deal at arm's length with the promoter or advisor and who is entitled to receive a fee in respect of the transaction — would be required to report within the same time limits. In addition, an exception to the reporting requirement would be available for advisors to the extent that solicitor-client privilege applies.

These proposed amendments are intended to provide information to the CRA and would not change the tax treatment of a transaction.

Every information return required to be filed in respect of a notifiable transaction must

- describe the expected, claimed or purported tax treatment and all potential benefits expected to result from the transaction
- describe any contractual protection with respect to the transaction
- describe any contingent fees with respect to the transaction
- identify and describe the transaction in sufficient detail for the Minister to be able to understand the tax structure of the transaction
- identify the provisions relied upon for the tax treatment of any one or more of the ITA, the Regulations, the Income Tax Application Rules, a tax treaty or any other enactment that is relevant in computing tax or any other amount payable or refundable to a person under the ITA or in determining any amount that is relevant for the purposes of that computation
- identify, to the best knowledge of the person who is filing the return, every person required under subsection 237.4(4) of the ITA to file an information return in respect of the transaction
- provide such other information as is required by the information return

Reporting of uncertain tax positions

The draft legislation confirms the Budget 2021 proposal that certain corporate taxpayers must report their uncertain tax positions to the CRA. Consistent with Budget 2021, the Backgrounder accompanying the draft legislation indicates that this proposal is intended to allow the CRA to "respond quickly to tax risks through informed risk assessments, audits and changes to legislation."

Under International Financial Reporting Standards (IFRS) and certain local country generally accepted accounting principles (GAAP), there is an existing requirement to identify uncertain tax treatments for financial statement purposes. The proposed legislation would require "reporting corporations" to file prescribed information with the CRA in respect of a "reportable uncertain tax treatment" for a taxation year.

A "reporting corporation" is defined as a corporation where

- the corporation, or a consolidated group of which it is a member, has audited financial statements for a period that ends in the taxation year prepared in accordance with IFRS or, for corporations listed on a non-Canadian stock exchange, country-specific GAAP (e.g., U.S. GAAP);
- the carrying value of the corporation's assets (determined under the rules in respect of the defunct large corporations tax) is at least $50 million at the end of the taxation year; and
- the corporation is required to file a Canadian income tax return for the year (i.e., it is a Canadian resident or a non-resident with taxable income earned in Canada).

A "reportable uncertain tax treatment" is a treatment in respect of a transaction, or series of transactions, that the corporation uses or plans to use in an income tax return or information return, in respect of which uncertainty is reflected in the audited financial statements of the

corporation (or its consolidated group) for the year.

Although the Proposals do not specify the prescribed information that would be required to be filed in respect of each uncertain tax treatment, the Backgrounder indicates that such information is expected to include

- the taxation year to which the uncertain tax treatment relates
- a description of the relevant facts
- a description of the provisions relied upon for determining the tax payable (or the refund or other amount) under the ITA
- the differences between the tax payable (or the refund or other amount) under the ITA determined in accordance with the financial statements and the tax treatment of the corporation
- whether those differences represent a permanent or temporary difference, involve a determination of the value of any property, and involve a computation of basis
- such other information required by the CRA

The reporting of uncertain tax positions would be due at the same time as the corporation's Canadian income tax return.

The Proposal specifies that filing an information return in respect of a reportable uncertain tax treatment is not an admission that the tax treatment is not in accordance with the ITA or that any transaction is part of a series of transactions.

Extension of reassessment period and penalties

In support of these rules, where a taxpayer has a reporting requirement in respect of a reportable or notifiable transaction relevant to the taxpayer's income tax return for a taxation year, the normal reassessment period (which generally determines how long a particular transaction may be subject to reassessment by the CRA) would not commence in respect of the transaction until the taxpayer has complied with the reporting requirement. Similarly, if an information return has not been filed in respect of a reportable uncertain tax treatment, the CRA would be able to reassess a corporation for such a year up to three years after the information return is filed, to the extent that the reassessment can reasonably be regarded as relating to a transaction or series to which the uncertain tax treatment relates. As a consequence, these extensions could result in an indefinite extension of the normal reassessment period if the taxpayer does not comply with an applicable mandatory disclosure reporting requirement.

Taxpayers who enter into reportable or notifiable transactions and fail to satisfy the mandatory disclosure requirement would be subject to penalties of up to the greater of: (1) $25,000 (or up to $100,000 for corporations with assets of total carrying value of $50 million or more) or (2) 25% of the tax benefit. Promoters or advisors of reportable or notifiable transactions may also be subject to penalties equal to the *total* of (1) 100% of the fees charged to a person for whom a tax benefit results; (2) $10,000; and (3) $1,000 for each day during which the failure to report continues, up to a maximum of $100,000.

For uncertain tax positions, the Proposals include a penalty for failure by a corporation to file

the required information return of $2,000 per week, up to a maximum of $100,000.

Audit authorities

The Proposals include changes to section 231.1, which is the provision that defines the scope of an auditor's authority to seek in-person assistance and responses to oral questions at a taxpayer's premises. The provision currently authorizes an auditor to enter a taxpayer's business premises to "inspect, audit or examine" the books and records of a taxpayer, and in that context to require the "owner or manager of the property or business and any other person on the premises" to give the auditor "reasonable assistance" and answer "proper questions relating to the administration and enforcement" of the ITA. A separate provision, section 231.2, gives auditors the power to compel taxpayers as well as third parties to provide documents and answer certain questions in writing.

In a 2019 decision, the Federal Court of Appeal found that the audit authority under paragraph 231.1(1)(a) to "inspect, audit or examine" the books and records of a taxpayer did not authorize the CRA to compel persons to submit to oral interviews or to provide answers to wide-ranging questions orally. The Court also suggested that in the context of the provision as a whole, the power to ask questions in paragraph 231.1(1)(d) only allowed the "authorized person" (generally a CRA auditor) to compel answers as to the taxpayer's knowledge of the provenance and location of documents or records, supporting a narrow scope for the ability to compel answers orally. The power to compel assistance under section 231.1 was also limited to the "owner or manager" of the business, or to a person who was on the premises of the property or business where the auditor conducted the examination of records.

The Proposals appear to be designed in response to that decision of the Federal Court of Appeal about the scope of section 231.1. The Proposals

- redefine the category of persons required to provide reasonable assistance and answer questions orally as a "taxpayer or any other person", and not just the "owner or manager" of the business or a person who is on the property or business premises where the auditor conducts an examination of business records
- authorize the auditor to compel the attendance of "a taxpayer or any other person" at a place designated by the auditor (and not just the business premises) or "by video-conference or by another form of electronic communication" to answer to proper questions relating to the administration or enforcement of the ITA
- authorize the auditor to compel the answer to proper questions relating to the administration or enforcement of the ITA in writing "in any form specified" by the auditor
- authorize the auditor to require a taxpayer or any other person to provide "all reasonable assistance with anything the authorized person [i.e., the auditor] is authorized to do" under the ITA

Although the explanatory notes state that the changes are intended to "make clear" that a taxpayer or any other person must provide the assistance and answers required by paragraph 231.1(1)(d) and that the amended provision "confirms" the requirement to answer questions orally, it would be more accurate to state that the legislative amendments are designed to statutorily override certain of the limitations in section 231.1, as determined by the Federal Court of Appeal.

Penalty tax applicable to registered investments

The ITA imposes adverse tax consequences when "registered plans" (meaning registered retirement savings plans, registered retirement income funds, registered education savings plans, registered disability savings plans, deferred profit sharing plans and tax-free savings accounts) acquire an investment that is not a "qualified investment" for such plans. In general, an investment fund organized as a corporation or trust will not be a qualified investment for registered plans unless (a) the fund is a mutual fund corporation or mutual fund trust; (b) the securities of the fund are listed on a designated stock exchange; or (c) the fund has elected to be a registered investment (an RI fund"). For funds that are not publicly traded or do not meet the requirements to be a mutual fund trust or mutual fund corporation, electing RI fund status may be the only means to make its securities eligible to be held in a registered plan. The status, however, has a limitation: an RI fund that acquires property that is not in turn a qualified investment for registered plans is generally subject to a penalty tax under the ITA. Under current law, that penalty tax is equal to 1% of the fair market value of any non-qualified investment held by the RI fund at the end of a given month (to a maximum of 12% each year if the non-qualified investment is held throughout the year). The amount of the penalty tax is not impacted by the number of registered plan investors in the RI fund; it applies even when a RI fund has very few or even no registered plan investors. As such, it is something of a blunt instrument.

The Proposals amend the formula for calculating the amount of penalty tax payable by an RI fund. In general terms, the amended formula prorates the tax based on the extent to which securities of the RI fund are held by investors that are registered plans or are certain other RI funds. For example, if only a quarter of the securities of the RI fund are held by registered plans and/or specified other RI funds at the end of a given month, the monthly penalty tax on the value of non-qualified investments held by the RI fund would be 0.25% rather than the full 1%. Thus, the effect of this measure in the Proposals is to reduce the 1% penalty tax based on the proportion of securities of the RI fund that are held by investors who are not themselves subject to qualified investment rules.

This proposed amendment generally applies to taxes calculated in respect of months after 2020, although special transitional rules may allow an RI fund to apply the amendment to earlier months.

Mutual funds: allocation to redeeming ETF investors

Mutual fund trusts are generally intended to act as tax-neutral vehicles for pooling investor capital. Income earned by a mutual fund trust, including its net taxable capital gains, is deductible to the mutual fund trust when made payable to investors. Amounts distributed by a mutual fund trust may also retain their tax character in the hands of investors by being designated by the mutual fund trust as capital gains, Canadian dividends or foreign-source income. Taken together, these rules permit earnings of the mutual fund trust to be taxed in the hands of investors in a manner similar to how they would have been taxed in the mutual fund trust.

When a mutual fund trust disposes of investments to fund a redemption of its units, any accrued gain on the investments is realized by the trust and is subject to tax. The same gain may be taxed again in the hands of the unitholder who disposes of units since their redemption price would generally reflect this accrued gain. A complex and imperfect capital gains refund mechanism is intended to prevent such double taxation, but in practice often provides only partial relief.

The imperfect nature of the capital gains refund mechanism has led to the practice in the

mutual fund industry of allocating capital gains to investors who redeem their units (the ATR methodology). Under the ATR methodology, a portion of the amount paid to the redeeming unitholder is treated as a distribution out of the fund's capital gains and reduces the investor's proceeds of redemption. The allocated amount retains its character as a capital gain in the hands of the redeeming investor, and the mutual fund trust deducts the allocated net taxable capital gain in computing its income.

Budget 2019 introduced a measure to place a limit on the deductibility of net taxable capital gains allocated to redeeming unitholders of mutual fund trusts. Those rules, now found in subsection 132(5.3) of the ITA, generally deny a deduction for capital gains allocated to redeeming unitholders in excess of the capital gains that, absent the allocation, would otherwise have been realized by these unitholders on the redemption of their units. As this rule requires the mutual fund trust to know the cost amount of the unitholder, the mutual fund industry obtained a deferral of the application of the new rules for mutual fund trusts that issue units that are listed and in continuous distribution funds (exchange traded funds, or ETFs). The deferral was granted because ETFs generally do not know the identity of their investors, much less the price those investors paid for their units, when those investors purchased their units in a secondary market (namely, a stock exchange). Moreover, the deferral of the application of subsection 132(5.3) to ETFs recently expired. While sales in the secondary market are the primary liquidity mechanism for retail investors, there is also a "primary market", which consists of market makers and other financial intermediaries subscribing for large numbers of newly created ETF units and similarly redeeming units in large numbers. ETFs pay for such large redemptions either in kind (with securities held in the ETF's portfolio) or in cash, which generally would be raised by selling portfolio securities. Thus, ETFs can realize large amounts of capital gains in connection with such redemptions but, under subsection 132(5.3), were left without an effective method of eliminating the double taxation associated with such capital gains.

The Proposals introduce a new rule that would apply in lieu of subsection 132(5.3) to limit deductions claimed in connection with the ATR methodology by (1) mutual fund trusts that issue only units that are listed and in continuous distribution (ETF units); and (2) funds that issue both ETF units and non-ETF units.

For a fund that issues only ETF units, the new rule in proposed paragraph 132(5.31)(a) generally denies the fund a deduction in computing its income for a taxation year to the extent that the total allocated amounts paid out of the ETF's net taxable capital gains exceed a portion of those gains, as determined by a formula. It is beyond the scope of this Update to go into the details of this formula. At a high level, the rule may be summarized as follows: the maximum deduction the ETF may claim in respect of net taxable capital gains allocated to redeeming unitholders in a taxation year cannot exceed an amount equal to total net taxable capital gains of the ETF for the year multiplied by a fraction. The fraction is simpler to describe in situations where total amounts paid to redeeming unitholders for the year do not exceed the net asset value of the ETF (measured at both the end of the year and the end of the preceding year, with the greater of the two amounts being used for this purpose). In such circumstances, the above-mentioned fraction is the total redemption payments divided by the sum of such payments and year-end net asset value. (The fraction is more complex for taxation years where redemption payments exceed both of the two year-end net asset value measures.)

The Proposals provide the following example:

A trust that is an ETF has a net asset value of $800 at the end of its current taxation year. The net asset value of the trust was $700 at the end of the immediately preceding taxation year. The trust disposed of assets during the taxation year resulting in net taxable capital gains for the year of $100. In the same taxation year, some beneficiaries of the trust redeemed their units and the trust paid a total of $500 to these beneficiaries on such redemptions. Using

allocations to redeemers, the trust treats $200 of the $500 paid on redemptions as the total allocated amount, so that $100 is the portion of the total allocated amount that is paid out of the taxable capital gains of the trust.

Applying the simplified paraphrase of the paragraph 132(5.31)(a) formula set out above, the ETF can only deduct net taxable capital gains allocated to redeeming unitholders up to an amount equal to total net taxable capital gains of the ETF for the year ($100) multiplied by the fraction equal to total redemption payments ($500) divided by the sum of such payments and year-end net asset value ($500 + $800). Thus, even though $100 is the allocated amount that is paid out of the taxable capital gains of the trust by the ETF, the deduction will be limited to $38.46 ($100 × ($500 / [$500 + $800]). As a denied deduction would be the result of this "over-allocation" of capital gains to redeeming unitholders, there would be entity-level tax borne by the ETF. To avoid such tax at the level of the ETF, it would be necessary instead to allocate to redeeming unitholders only the deductible portion and to non-redeeming unitholders the remaining portion, which then would become deductible.

For combined funds — i.e., ones that issue both ETF units and non-ETF units — the Proposals apply a hybrid approach. A modified version of new paragraph 132(5.31)(a) is applied to determine deductibility of capital gains allocated to redeemers of ETF units, with only the net asset value and net taxable capital gains of the fund that are referable to the ETF units being taken into account in the formula. For redemptions of non-ETF units, existing paragraph 132(5.3)(b) would apply (the same rule that already applies to mutual fund trusts generally and requires knowledge of the redeeming unitholders' cost amount).

The Proposals also include an amendment to paragraph 107(2.1)(c) of the ITA, a provision which generally operates to reduce a redeeming unitholder's proceeds on a redemption of its units paid for by the trust with appreciated property. The Proposals make paragraph 107(2.1)(c) inapplicable to trusts that are mutual fund trusts (whether they issue ETF units or not). As a result, unitholders of a mutual fund trust that receive in-kind redemption payments will not have their proceeds reduced by the amended provision. Given the role played by unitholders' proceeds of redemption in the "capital gains redemption" formula, this amendment could, in some circumstances, have the favourable result of increasing the amount refundable to a mutual fund trust under the capital gains refund mechanism.

These amendments apply to taxation years of ETFs and combined funds (which qualify as mutual fund trusts) that begin after December 15, 2021.

Immediate expensing for small and medium Canadian business investment

Budget 2021 included proposals to provide a temporary 100% capital cost allowance (CCA) deduction in respect of "eligible property" acquired by a CCPC. Eligible property is capital property that is subject to the CCA rules, other than property included in CCA classes 1 to 6, 14.1, 17, 47, 49 and 51. These excluded asset classes are generally for long-lived assets (including infrastructure-type assets and goodwill).

Eligible property must be acquired by a CCPC on or after April 19, 2021, and become available for use before January 1, 2024. In addition, the property must not previously have been used or the subject of a CCA claim. Eligible property may be acquired from a related party. Immediate expensing would be available only in the year in which a property becomes available for use, and may only apply to a maximum of $1.5 million of capital costs per year (prorated for short taxation years) with no carryforward of unused capacity, and with the cap to be shared among associated corporations. The CCPC would be able to choose to which class(es) of capital property to apply immediate expensing. Any capital cost in excess of the

immediate expensing limit would be subject to the normal CCA rules (including any other applicable accelerated CCA, and the half-year rule that would otherwise apply in the year that depreciable capital property becomes available for use).

The Proposals expand the eligibility of immediate expensing to include investments in eligible property made by unincorporated businesses carried on directly by Canadian resident individuals (other than trusts) and certain single-tier partnerships in which each partner would have been eligible for the measure if they had carried on the business of the partnership directly. The expanded eligibility would apply for investments made on or after January 1, 2022, that become available for use before 2025 (in the case of an individual or a partnership in which all the members are individuals) or before 2024 (for other partnerships). Individuals and partnerships with individuals members would not be able to claim the immediate expensing deduction to the extent that it would create a loss. To ensure that each proprietor, partnership, partnership member and each of their respective economic groups adheres to the $1.5-million limit, the Proposals set out rules for determining whether proprietors and partnerships are "associated" for purposes of applying this limit.

Clean energy incentives

Rate reduction for income from zero-emissions technology manufacturing

Budget 2021 proposed a temporary reduction of the corporate income tax rate for income from qualifying zero-emission technology manufacturing. Taxpayers would be eligible for a 7.5% reduction on eligible income where the income would otherwise be taxed at the 15% general corporate rate, and a 4.5% reduction where the income would otherwise be taxed at the 9% small business tax rate for CCPCs.

The reduced tax rates would apply to eligible income for taxation years that begin after 2021. The reduced rates would gradually be phased out starting in taxation years beginning in 2029, and would be fully phased out for taxation years beginning after 2031. Budget 2021 noted that due to the targeted and temporary nature of the proposed measure, there would be no changes to the dividend tax credit rates and gross-up factors that would apply to dividend distributions of the reduced-rate income (e.g., income subject to the general corporate income tax rate that is reduced will give rise to eligible dividends and the enhanced dividend tax credit corresponding to a 15% tax rate).

A taxpayer will only qualify for the rate reduction if at least 10% of its gross revenue from all active business carried on in Canada is derived from eligible activities. The temporary rate reduction is structured as a deduction against taxes payable and computed by reference to a taxpayer's income from "zero-emission technology manufacturing profits" (ZETMP). The proposed legislation confines ZETMP to an amount that, in general terms, is a corporation's active business income from a business carried on in Canada reduced to the extent of its "resource profits", multiplied by the proportion of the corporation's total labour and capital costs for the taxation year that is incurred in "qualified zero-emission technology manufacturing activities" (except that proration would not apply where such activities account for over 90% of labour and capital costs).

The measure would apply in respect of income from various qualifying zero-emission technology manufacturing and processing activities performed in Canada in respect of

- the manufacturing of

  - solar, wind energy and water conversion equipment
  - geothermal energy equipment and equipment for ground source heat pump systems
  - electrical energy storage equipment used for storage of renewable energy or for providing grid-scale storage or other ancillary services, including battery, compressed air and flywheel storage systems
  - equipment used to charge, or dispense hydrogen to, a zero-emission vehicle (including a plug-in hybrid vehicle subject to prescribed conditions)
  - powertrain components for zero-emission vehicles
  - equipment used for the production of hydrogen by electrolysis of water

- the assembly of zero-emission vehicles, and converting vehicles into zero-emission vehicles
- the production of certain gases and fuels, including generally
  - hydrogen produced by electrolysis of water
  - gaseous biofuel, liquid biofuel and solid biofuel, in each case as defined in subsection 1104(13) of the Regulations

Subsection 1104(13) of the Regulations is proposed to be amended (a) to address whether activities related to biofuels constitute "qualified zero-emission technology manufacturing activities" for purposes of the temporary rate reduction for income therefrom; and (b) to extend eligibility for CCA Classes 43.1 and 43.2 treatment to equipment used to convert specified waste materials into liquid and solid biofuels (as described below). Included in these amendments are definitions of "specified waste material", "liquid biofuel", "solid biofuel" and "gaseous biofuel", as well as various related amendments to other definitions.

Capital cost allowance for clean energy equipment

Budget 2021 proposed to expand CCA Classes 43.1 and 43.2, which provide accelerated CCA rates of 30% and 50% respectively and can also qualify certain associated intangible start-up expenses as deductible Canadian Renewable and Conservation Expenses. Specifically, Class 43.1 (and indirectly Class 43.2) is proposed to be amended to include or expand several categories of property:

- pumped hydroelectric energy storage installations
- certain electricity generation equipment that uses water current, wave or tidal energy
- active solar heating systems, ground source heat pump systems and geothermal energy systems that are used to heat water for a swimming pool
- equipment used to convert specified waste material into solid biofuel
- equipment used to convert specified waste material or carbon dioxide into liquid biofuel
- equipment used for the production of hydrogen by electrolysis of water

- certain hydrogen refueling equipment for use in hydrogen powered vehicles

The amendments to expand Classes 43.1 and 43.2 apply to property acquired after April 18, 2021, that has not been used or acquired for use before that time.

Class 43.1 (and, indirectly, Class 43.2) are also amended to restrict eligibility for inclusion in Class 43.1 and Class 43.2 of certain cogeneration systems, specified waste-fuelled heat production equipment and producer gas generating equipment. Generally, these amendments (applicable to property of taxpayer that becomes available for use after 2024) would restrict eligibility to systems where no more than 25% of the energy content of the feedstock for the system (expressed as the higher heating value) is from fossil fuel.

In addition, a higher fuel efficiency is mandated for cogeneration systems included in Class 43.1 (being equal or less than 11,000 BTUs per kilowatt-hour on an annual basis), and the more stringent threshold for Class 43.2 (which includes some of the properties described in Class 43.1 if acquired after February 22, 2005, and before 2025) is consequentially removed.

The amendments to restrict Class 43.1 (and, indirectly, Class 43.2) eligibility generally apply to property that becomes available for use after 2024, subject to some exceptions.

The amendments giving effect to the clean energy measures, including the amendments to Regulation 1104(13) and Class 43.1 and 43.2, are highly technical and complex. Taxpayers are encouraged to review them carefully with reference to the technical aspects of any current or contemplated project. The deadline for providing comments to the Department of Finance on these proposals is March 7, 2022.

Trust beneficiary reporting

Proposed federal trust filing and reporting measures

The Proposals shed some light on uncertainties regarding unenacted trust beneficiary reporting rules announced in 2018 that were originally intended for taxation years of trusts that ended after December 30, 2021. The Proposals followed shortly after a statement by the CRA published on January 14, 2022, where the CRA confirmed it will administer the new reporting and filing requirements once there is supporting legislation that receives Royal Assent while continuing in the meantime to administer the existing rules for trusts. The wording in the January 14, 2022, statement released by the CRA raised some concern that the trust disclosure rules, once enacted, might require “catch up” reporting for 2021. However, as set out below, the Proposals are clear that the reporting rules only apply prospectively, starting only with taxation years of trusts that end after December 30, 2022.

The draft amendments to the ITA and related regulations were first released on July 27, 2018, and provided that

- trusts resident in Canada will be required to file a T3 trust income tax and information return every year regardless of whether the trust has tax payable or distributes any portion of its income
- trusts resident in Canada and non-resident trusts that are required to file a T3 return will be required to list in the return each person who at any time in the year was a trustee, beneficiary or settlor, or had the ability to exert control over trustee decisions over the

allocation of trust income or capital, and to provide certain personal information about those persons (name, address, date of birth [for individuals], jurisdiction of residence and social insurance number or other applicable taxpayer identification number) (Beneficial Ownership and Control Information)

- new penalties will be introduced for failure to file a T3 return containing trust Beneficial Ownership and Control Information — including, notably, a penalty of no less than 5% of the highest fair market value of the trust property during the year where the failure to file was done knowingly, or due to gross negligence

Pursuant to the draft legislation released on February 4, 2022, disclosure of information on a T3 return, including Beneficial Ownership and Control Information, is not required if the information is subject to solicitor-client privilege.

The draft legislation also provides that an arrangement under which a trust can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property (commonly referred to as a "bare trust") is now explicitly subject to the new trust filing and reporting measures. Previously, bare trusts were generally not required to file T3 returns.

Under the 2018 draft amendments, certain types of trusts are exempted from the expanded filing and reporting requirements, including mutual fund trusts, segregated funds, master trusts and trusts governed by registered plans. Investment funds organized as trusts that do not qualify as "mutual fund trusts" are not exempt. However, in a notable change from the 2018 draft, the draft legislation released on February 4, 2022, adds that a trust, all the units of which are listed on a designated stock exchange, is also exempted from the expanded filing and reporting requirements. This change will be welcome news to trusts that, though publicly listed, are not widely held enough to qualify as mutual fund trusts.

When is the new reporting required?

The 2018 draft amendments provided that the new trust filing and reporting measures were to take effect for taxation years of trusts that ended after December 30, 2021. The Proposals now provide that the new trust filing and reporting measures will take effect for taxation years of trusts that end after December 30, 2022. Since Canadian-resident trusts (other than certain mutual fund trusts) generally must use December 31 as their taxation year end, this update means that trust Beneficial Ownership and Control Information reporting will generally commence for the 2022 taxation year. The first T3 tax returns in which trust Beneficial Ownership and Control Information would have to be reported to the CRA are those to be filed in early 2023 for the 2022 taxation year. For now, trustees and others engaged in trust tax compliance have another year to collect the required personal information on beneficiaries and other required persons.

Timing for reporting in Québec

In addition to having to file a federal income tax return, trusts that are subject to Québec income tax must file a separate provincial tax return.

In the Québec 2021–2022 provincial Budget, the Québec government announced that it will harmonize the Québec tax system with the federal trust disclosure rules, in accordance with its general principles, with such measures to take effect when the federal rules receive royal assent. Toward the end of last year, Revenu Québec published the 2021 provincial Trust

Income Tax Return TP-646-V. Unlike its federal counterpart, the Québec form included a section for disclosure of trust Beneficial Ownership and Control Information.

However, Revenu Québec responded to the CRA announcement published on January 14, 2022, with an announcement on its website that "For 2021, we are relaxing the obligation for trusts to provide the additional information requested in Part 6 and Schedule G of the return."

It therefore appears that the first TP-646-V tax returns in which trust Beneficial Ownership and Control Information would have to be reported to Revenu Québec are those to be filed in early 2023 for the 2022 taxation year.

Avoidance of tax debts

Section 160 is a tax debt collection provision applicable to persons who receive a transfer of property from a non-arm's length person for insufficient consideration. In these circumstances, section 160 makes the transferee jointly liable for the transferor's tax debts that arise before the end of the tax year in which the transfer was made, with such liability being limited to the lesser of (1) the insufficiency of the consideration given by the transferee; and (2) the amount of the transferor's tax debt.

The proposed amendments are made following the recent decisions of the Federal Court of Appeal in *Eyeball Networks Inc. v. Canada* and the Tax Court in *Damis Properties Inc. v. The Queen*, which applied the existing provision more narrowly than asserted by the CRA on audit.

Proposed subsection 160(5) introduces three technical changes to section 160:

- Paragraph 160(5)(a) deems the transferor and transferee not to deal with each other at arm's length at all times in the transaction or series of transactions if: (1) at any time in the period starting immediately before the transaction or series and ending immediately after the transaction or series, the transferor and transferee do not deal with each other at arm's length; and (2) it is reasonable to conclude that one of the purposes of the transaction or series of transactions is to avoid the joint liability of the transferee and transferor.
- Paragraph 160(5)(b) deems a tax debt to arise before the end of the tax year in which a transfer of property occurs if it is reasonable to conclude that there would be a tax amount owing by the transferor and where one of the purposes for the transfer of property was to avoid the payment of the future tax debt.
- Paragraph 160(5)(c) changes the calculation of the insufficiency of consideration used in calculating the transferee's maximum section 160 liability. Previously, the insufficiency of the consideration was tested at the time when the transferee received the transfer property. Under new paragraph 160(5)(c), the fair market value of the consideration given by the transferee for the property will be the lowest fair market value of the consideration (that is held by the transferor) given for the property at any time in the period starting immediately before the transaction or series of transactions and ending immediately after the transaction or series, and if the consideration is in a form that is cancelled or

extinguished in that period, nil.

The parenthetical "(that is held by the transferor)" in paragraph 160(5)(c) introduces an element of ambiguity in determining how and where to value the consideration given by a transferee to a counterparty other than the transferor (tax debtor) in a series of transactions. The breadth of the amended language also introduces some uncertainty about the potential application of section 160 regardless of whether there is an intention to avoid the payment of a tax debt or whether the transferee is aware that the property it received was derived indirectly from a tax debtor.

Proposed section 160.01 imposes an aggressive third-party civil penalty regime for planning activity that the planner knows or should have known has as one of its main purposes the reduction of a transferee's section 160 liability. This penalty would be the lesser of (1) the total of $100,000 plus the planner's fees; and (2) 50% of the tax that is attempted to be avoided through the planning.

The proposed avoidance of tax provisions will apply effective April 19, 2021.

GST/HST treatment of cryptoasset mining

Historically, the CRA has taken the position that the purchase and sale of cryptocurrencies is the supply of intangible personal property for GST/HST purposes. The Canadian Department of Finance released draft legislative proposals on May 17, 2019, proposing to treat many virtual currencies (such as Bitcoin) as financial instruments for GST/HST purposes, such that the purchase and sale of these cryptocurrencies (called "virtual payment instruments") would generally be exempt from GST/HST. However, while the 2019 legislation dealt with the purchase and sale of virtual payment instruments, it generally did not deal with the "mining" of cryptocurrencies.

The Proposals create a deeming rule where the mining of cryptoassets will generally be considered not to be a supply for GST/HST purposes. Mining activity is defined to mean an activity in respect of a "cryptoasset" that is "(a) validating transactions and adding them to the publicly distributed ledger on which the cryptoasset exists at a digital address; (b) maintaining and permitting access to the publicly distributed ledger on which the cryptoasset exists at a digital address; or (c) allowing computing resources to be used for the purpose of, or in connection with, performing activities described in paragraph (a) or (b) in respect of the cryptoasset." This proposal will mean that, subject to certain limited exceptions, persons engaged in mining activities relating to cryptoassets will not have to charge any GST/HST on any mining activity. However, they will also generally not be able to claim any input tax credits in respect of their costs of performing the mining activities (such as computers, rent, electricity, etc.). The result of this legislation is that the cost of mining activities relating to cryptoassets will now have to include unrecoverable GST/HST, and crypto miners in Canada will need to factor in these additional costs when determining whether to continue to do business in Canada, and in which provinces they should be operating.

The restrictions on claiming input tax credits for mining activities relate to activities in respect of the newly defined "cryptoassets", and not "virtual payment instruments". Cryptoasset is broadly defined to mean property "that is a digital representation of value and that only exists at a digital address of a publicly distributed ledger." While the previously announced rules provide that "virtual payment instruments" are financial instruments, the more broadly defined cryptoassets may not be.

The definition of virtual payment instruments is similar to that of cryptoassets, but more limited since it excludes certain property (such as property that can be exchanged or

redeemed for money or specific property or services, and property that is primarily for use within, or as part of, a gaming platform, an affinity or rewards program or a similar platform or program). Companies that produce cryptoassets that do not meet the definition of virtual payment instruments (e.g., because they are used in a gaming platform) will need to review the proposed legislation to make sure that they do not end up in a situation where some of their input tax credits are denied (as they are seen as engaging in mining activities relating to cryptoassets), but they are required to charge GST/HST on their supplies of the cryptoassets (as they do not fall within the definition of virtual payment instrument).

Measures not covered in this Update

The Proposals also include a number of other measures that are not addressed in this Update:

Proposal	Effective date	Comment deadline
Electronic filing and certification of tax and information returns	Information returns filed after 2021	March 7, 2022
Disability tax credit changes	2021 and subsequent taxation years in respect of certificates filed post Royal Assent.	March 7, 2022
April 2020 one-time additional GST/HST credit payment — amendment to formula	March 25, 2020	March 7, 2022
Film or video production tax credits changes	Royal assent	March 7, 2022
Postdoctoral fellowship income — RRSP contribution limit	Income received in 2021 and forward; election for income received after 2010 and before 2021	March 7, 2022
Fixing contribution errors in defined contribution pension plans	January 1, 2021	March 7, 2022
Registration and revocation rules applicable to charities changes	June 29, 2021	March 7, 2022
Miscellaneous administration and enforcement provisions in the ETA and other statutes	Royal assent	March 7, 2022
Electronic payments and electronic filing	Payments and reporting periods after 2021	March 7, 2022
Non-arm's length transfers and anti-avoidance rules in the ETA and other statutes	April 19, 2021	March 7, 2022

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