

FALL 2023

Osler Tax Update

Welcome to the Fall 2023 edition of our National Tax Group's interactive newsletter. As the Canadian tax law landscape continues to evolve, the Osler Tax Group is dedicated to keeping you informed about the latest developments and helping you navigate noteworthy changes and their implications.

Ranked Band 1 by *Chambers Canada* and Tier 1 in Tax, Tax Controversy and Transactional Tax by the *International Tax Review*, the Osler Tax Group is consistently recognized as a top provider of tax law services in the country. From our offices in Toronto, Montréal, Calgary, Ottawa and Vancouver, our tax lawyers operate as an integrated unit and in partnership with our clients to develop sophisticated solutions to their most complex and important taxation issues.

IN THIS ISSUE

Implementation bill for variety of Canadian tax measures introduced

Revised EIFEL legislation in implementation bill

Canada introduces legislation to implement clean technology and carbon capture tax credits and provides update on remaining clean energy tax credits

Fall Economic Statement 2023 Briefing

CRA revises and expands its guidance on mandatory disclosure rules

Osler submission on Canada's draft Global Minimum Tax Act

Draft Canadian Pillar Two global minimum tax legislation and revised DST legislation

Enhanced GST rental rebate for purpose-built rental properties

Canadian federal government releases significant draft tax legislation package

Finance releases further revised EIFEL rules

Canada releases long-awaited draft legislation for tax credits supporting the clean energy sector

Amendments to GAAR: The new presumption and penalty exception – Canadian Tax Focus

Updated tax-avoidance proposals include new penalty – *Advisor's Edge*

Osler receives top rankings in 2024 edition of *Chambers Canada*

Former Chief Justice of the Federal Court of Appeal Marc Noël joins Osler

National Tax Group recognized with four *International Tax Review* awards

Canadian Tax Law Insights webinar series

Doing business in Canada

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COMMENTARY

Implementation bill for variety of Canadian tax measures introduced

The *Fall Economic Statement Implementation Act, 2023* includes a variety of tax measures that were introduced in Parliament on November 30, 2023, as Bill C-59. The bill includes measures first announced in the 2023 Fall Economic Statement (Osler coverage of the Fall Economic Statement is provided in this issue), as well as updated versions of draft legislation released in August 2023, the 2023 federal budget and earlier. The Canadian federal government also released Explanatory Notes in respect of most of the measures in Bill C-59 on the same day.

Read the [full article](#).

Revised EIFEL legislation in implementation bill

Bill C-59 also contains a number of revisions to EIFEL rules first announced in Budget 2021. The proposed EIFEL rules are intended to limit the deduction of interest and financing expenses (IFE), net of interest and financing revenues (IFR), that are considered by the Canadian government to be “excessive” compared to earnings — or, more specifically, based on whether they exceed a fixed ratio equal to 30% of adjusted taxable income (ATI) (or, in some circumstances, a higher group ratio).

Read the [full article](#).

Canada introduces legislation to implement clean technology and carbon capture tax credits and provides update on remaining clean energy tax credits

Bill C-59 includes updated legislation to amend the *Income Tax Act* (Canada) (Tax Act) to implement clean energy related tax measures including the Carbon Capture, Utilization and Storage investment tax credit (CCUS ITC), the Clean Technology investment tax credit (Clean Tech ITC), and the prevailing wages and apprenticeship hour requirements (Labour Requirements) applicable to the Clean Tech ITC, CCUS ITC and several other clean energy investment tax credits that the Government has announced. The Government also set out in the 2023 Fall Economic Statement its process and timeline for implementing the remaining clean energy measures, which include the Clean Hydrogen investment tax credit (Clean Hydrogen ITC), the Clean Electricity investment tax credit (Clean Electricity ITC), and the Clean Technology Manufacturing investment tax credit (Clean Tech Manufacturing ITC). The 2023 Fall Economic Statement provided further details on the Clean Hydrogen ITC, as well as a proposed expansion of the Clean Tech ITC and Clean Electricity ITC to apply to certain equipment that uses waste biomass as a fuel source.

Read the [full article](#).

Fall Economic Statement 2023 Briefing

The Honourable Chrystia Freeland, Deputy Prime Minister and Minister of Finance, tabled the Fall Economic Statement 2023 on November 21, 2023. The Statement provides general economic and fiscal information and projections, and outlines details of its ongoing housing plan. The Statement also provides updates on some previously announced tax measures and international tax reform, including the current state of the new investment tax credit regime for clean energy technologies. A modest number of new tax measures are also introduced.

Read the [full article](#).

CRA revises and expands its guidance on mandatory disclosure rules

On November 2, 2023, the Canada Revenue Agency (CRA) revised and expanded its guidance on the Canadian mandatory disclosure rules (Guidance). The updated Guidance includes important revisions of previously published positions and new positions relating to the reporting obligations in respect of reportable transactions, notifiable transactions and reportable uncertain tax treatments.

Read the [full article](#).

Osler submission on Canada's draft Global Minimum Tax Act

On August 4, 2023, the Department of Finance released draft legislation implementing two key measures of the OECD's Pillar Two global minimum tax in Canada: the income inclusion rule (IIR) and a domestic minimum top-up tax. These rules will apply to fiscal years of qualifying multinational enterprise (MNE) groups beginning on or after December 31, 2023.

Read the [full article](#).

Draft Canadian Pillar Two global minimum tax legislation and revised DST legislation

The August 4 draft legislation would also implement two key measures of the OECD's Pillar Two global minimum tax (GMT) in Canada: the income inclusion rule and a domestic minimum top-up tax that is intended to be a qualified domestic minimum top-up tax, as defined in the GloBE Model Rules. These rules will apply to fiscal years of qualifying MNE groups beginning on or after December 31, 2023, in line with the OECD's recommended timing.

Draft legislation to implement the undertaxed profits rule, which is to be effective one year later, is expected to be released at a later date. The draft Global Minimum Tax Act is a self-contained statute for computing and imposing Pillar Two top-up taxes, including enforcement, assessment, collection and other administrative provisions (with material penalties for non-compliance). A revised draft of Canada's digital services tax, intended to serve as a backstop to the Pillar One proposals, was also released, and is expected to apply as of January 1, 2024, with retroactive effect to 2022.

Read the [full article](#).

Enhanced GST rental rebate for purpose-built rental properties

On September 14, 2023, the Government of Canada announced proposed legislation to enhance the goods and services tax (GST) rental rebate on new purpose-built rental housing (the enhanced GST rental rebate). The government says it hopes the enhanced GST rental rebate will incentivize the construction of rental units to increase supply and provide more affordable homes.

Read the [full article](#).

Canadian federal government releases significant draft tax legislation package

On August 4, 2023, the Canadian federal government released a package of draft legislation to implement various tax measures, update certain previously released draft legislation, and make certain technical changes. The draft legislation includes measures first announced in the 2023 Federal Budget, as well as updated versions of draft legislation released in Budget 2023 or earlier, such as revised amendments to the General Anti-Avoidance Rule, a share buyback tax, employee ownership trusts, the Alternative Minimum Tax, GST/ HST and more. Canadians are invited to make submissions on most aspects of the draft legislation by September 8, 2023.

Read the [full article](#).

Finance releases further revised EIFEL rules

The Department of Finance released further revised draft legislation and explanatory notes for the proposed excessive interest and financing expenses limitation (EIFEL) rules on August 4, 2023. The proposed EIFEL rules contain limitations intended to address the deduction of interest and financing expenses, net of interest and financing revenues, that are considered to be excessive compared to earnings — or, more specifically, that exceed a fixed ratio equal to 30% (or 40%, for taxation years that begin before January 1, 2024) of tax-adjusted earnings before interest, taxes, depreciation and amortization, also known as “adjusted taxable income.”

Read the [full article](#).

Canada releases long-awaited draft legislation for tax credits supporting the clean energy sector

Also included in the release is draft legislation for the Clean Technology Investment Tax Credit first announced in the 2022 Fall Economic Statement, the labour requirements applicable to various clean energy investment tax credits, legislative amendments to the Carbon Capture, Utilization and Storage Investment Tax Credit announced in the 2023 Federal Budget and various other tax supports for the clean energy sector.

Read the [full article](#).



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NEWS

Amendments to GAAR: The new presumption and penalty exception – Canadian Tax Focus

Two new key features of GAAR (general anti-avoidance rule) introduced by the federal government in draft legislation in August are potentially here to stay, writes Osler's Leandra Gupta in her article published in the November edition of *Canadian Tax Focus*.

Read the [full article](#).

Updated tax-avoidance proposals include new penalty – *Advisor's Edge*

Despite the federal government rolling back some elements of its proposed amendments to the general anti-avoidance rule (GAAR), many tax lawyers are concerned that the changes could constitute overreach.

Read the [full article](#).

Osler receives top rankings in 2024 edition of *Chambers Canada*

Osler is proud to have once again been ranked as a leading law firm in the 2024 edition of *Chambers Canada*.

Read the [full article](#).

Former Chief Justice of the Federal Court of Appeal Marc Noël joins Osler

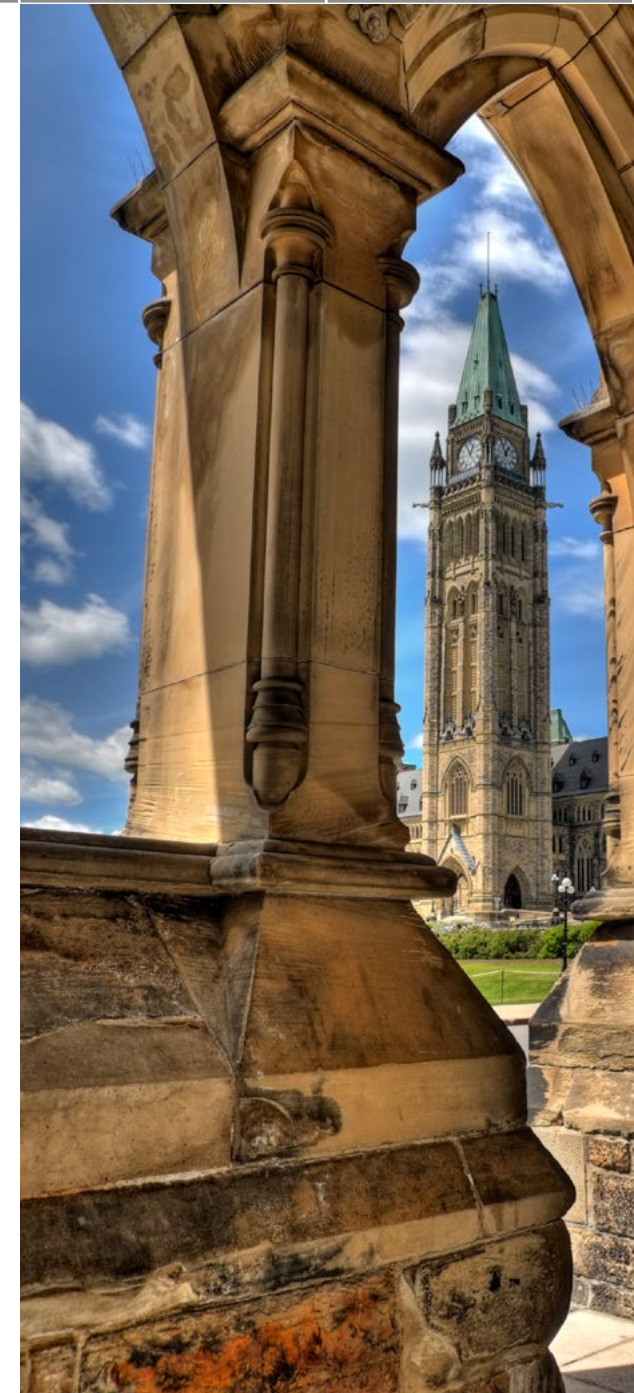
Osler is pleased to welcome the Honourable Marc Noël as a partner in our National Tax Practice. Based in the Ottawa office, Marc brings unmatched experience and a judicial perspective to our tax disputes and litigation team for the benefit of our clients in both English and French.

Read the [full article](#).

National Tax Group recognized with four *International Tax Review* awards

Osler is proud to announce that our National Tax Group has again been recognized as "Canada Tax Disputes Firm of the Year" at the 2023 *International Tax Review* (ITR) Americas Tax Awards.

Read the [full article](#).



WEBINARS

Canadian Tax Law Insights webinar series

Staying on top of changes to the tax regimes and policies that apply to your organization is essential for companies of all sizes and in all sectors. To complement our Osler Updates and other thought leadership, our webinars and videos offer in-depth analyses of specific developments relevant to corporate taxpayers doing business in Canada.

In each session, members of our industry-leading National Tax Group offer their insights into the latest tax issues affecting your business.

[Find out more.](#)



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Interested in starting or expanding a business in Canada? Our customizable, online **Doing Business in Canada guide** provides practical information on how to establish or grow a business in Canada based on specific business needs identified by completing a short questionnaire. The guide includes taxation resources. Access our [Doing Business in Canada guide](#).

Doing Business in Canada

[Initial structuring and income tax considerations](#)

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[Canada's tax system](#)

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[Thin-capitalization rules](#)



Canada proposes significant tax amendments to align with OECD BEPS recommendations – Legal Year in Review 2022

We review significant tax amendments proposed by the federal government during 2022 and examine proposed interest deductibility limits, new anti-hybrid rules, mandatory disclosure rules, international tax reform and the GAAR consultation process.

Read the [full article](#).

INDUSTRY RECOGNITION

International Tax Review: World Tax Guide: Osler earns Tier 1 ranking in Tax, Tax Controversy and Transactional Tax.

“Canada Tax Disputes Firm of the Year” award at the 2023 *International Tax Review* (ITR) Americas Tax Awards.

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Osler is a leading law firm with a singular focus – your business. From Toronto, Montréal, Calgary, Ottawa, Vancouver and New York, we advise our Canadian, U.S. and international clients on an array of domestic and cross-border legal issues. Our collaborative “one firm” approach draws on the expertise of over 500 lawyers to provide responsive, proactive and practical legal solutions driven by your business needs. For over 150 years, we’ve built a reputation for solving problems, removing obstacles, and providing the answers you need, when you need them.

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