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Tax Alert — Canada

CCA acceleration measures substantively enacted as part of 2019 budget implementation bill

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

On 8 April 2019, Bill C-97, *Budget Implementation Act, 2019, No. 1*, which implements certain tax measures announced in the 2019 federal budget and the 21 November 2018 federal fall economic statement (as well as other previously announced measures), received first reading in the House of Commons. Bill C-97 contains the tax measures that were included in the notice of ways and means motion tabled on 4 April 2019.

As a result, the business income tax measures contained in Bill C-97 are now substantively enacted for financial reporting purposes. Most notably, the capital cost allowance (CCA) acceleration measures that were first announced in the 21 November 2018 federal fall economic statement, including some modifications since their initial release, are now substantively enacted.

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CCA acceleration measures

Bill C-97 includes the following measures, which significantly accelerate CCA for capital investments:

- **Manufacturing and processing (M&P) machinery and equipment** — Amendments to allow for full expensing of M&P machinery and equipment on a temporary basis. Specifically, the amendments suspend application of the CCA half-year rule and provide an enhanced first-year allowance for M&P machinery or equipment acquired after 20 November 2018 that becomes available for use before 2028 (provided the property was not previously owned or acquired by the taxpayer or a non-arm's-length person or partnership, and was not acquired on a tax-deferred rollover basis). The enhanced first-year allowance provides taxpayers with an immediate 100% deduction of the net cost addition for M&P machinery or equipment that becomes available for use before 2024. The enhanced first-year allowance is reduced to 75% for M&P machinery or equipment that becomes available for use in 2024 or 2025, and to 55% for M&P machinery or equipment that becomes available for use in 2026 or 2027. The enhanced first-year allowance is eliminated for property that becomes available for use after 2027.
- **Clean energy equipment** — Amendments to allow for full expensing of clean energy equipment included in Class 43.1 or 43.2 on a temporary basis. Similar to M&P machinery and equipment, the amendments for clean energy equipment suspend application of the CCA half-year rule and provide an enhanced first-year allowance for clean energy equipment acquired after 20 November 2018 that becomes available for use before 2028 (provided the property was not previously owned or acquired by the taxpayer or a non-arm's-length person or partnership, and was not acquired on a tax-deferred rollover basis). The enhanced first-year allowance provides taxpayers with an immediate 100% deduction of the net cost addition for clean energy equipment that becomes available for use before 2024. The enhanced first-year allowance is phased out in the same manner as described above for M&P machinery and equipment.
- **Accelerated investment incentive** — Introduction of an accelerated investment incentive to write off a larger share of the costs of essentially any newly acquired capital assets in the year the investment is made or the asset becomes available for use (excluding property subject to the full expensing measures described above and the zero-emission vehicles described below). In general terms, the accelerated investment incentive is composed of two elements:
  - A 50% increase in the available CCA deduction (calculated on the net capital cost addition to a class) in respect of property acquired after 20 November 2018 that becomes available for use before 2024
  - The suspension of the existing CCA half-year rule in respect of property acquired after 20 November 2018 that becomes available for use before 2028

  The accelerated investment incentive applies to property for which CCA is calculated on a declining-balance basis, as well as for classes of property with straightline depreciation or classes for which depreciation is based on unit of use. In the case of Class 12, which is already eligible for a 100% CCA rate, the incentive applies only to suspend the half-year rule for Class 12 property additions that would otherwise be subject to that rule. As well, the incentive generally applies for certain additional allowances, but with variances. Similar to the full expensing measures, the accelerated investment incentive is completely eliminated for property that becomes available for use after 2027 and is subject to the same restrictions in respect of property acquired on a tax-deferred rollover basis or previously owned or acquired by the taxpayer or a non-arm's-length person or partnership.

- **Zero-emission vehicles** — Introduction of a temporary enhanced first-year CCA rate of 100% for eligible zero-emission vehicles (and other consequential amendments), applicable for eligible vehicles purchased on or after 19 March 2019 and before 1 January 2024, subject to a cap on the cost of passenger vehicles. Eligible vehicles include electric battery, plug-in hybrid (with a battery capacity of at least 15 kWh), or hydrogen fuel cell vehicles, including light, medium and heavy-duty vehicles purchased by a business. This writeoff is phased out for vehicles that become available for use after 2023 and before 2028.

  For purposes of this temporary enhancement, two new CCA classes are created:

  - Class 54, for zero-emission vehicles that would otherwise be included in Class 10 or 10.1: the amount of CCA deductible for vehicles in this class is limited to $55,000 (plus sales taxes) per vehicle. This $55,000 threshold will be reviewed annually.
  - Class 55, for zero-emission vehicles otherwise included in Class 16.

  An election is also introduced for taxpayers that wish to forgo Class 54 or 55 treatment (which also includes the suspension of the application of the CCA half-year rule) and instead includes a zero-emission vehicle in the current applicable class (i.e., Class 10, 10.1, or 16).

Modifications have been made to the original proposals released on 21 November 2018, including the following:

- Technical modifications to the main operating formula for the full expensing and accelerated investment incentive described above (in subsection 1100(2) of the Income Tax Regulations) to incorporate the changes for zero-emission vehicles announced in the 2019 federal budget (as described above) and to reorganize the structure of the provision (without modifying its substance)
- Introduction of special rules to calculate the appropriate amount of accelerated CCA for non-calendar taxation years that straddle 31 December 2023 and 31 December 2025 (in new subsection 1100(2.01) of the Income Tax Regulations)
- Modifications to the definition of "accelerated investment incentive property" (in subsection 1104(4) of the Income Tax Regulations) to allow property to satisfy the definition if the property has not been used for any purpose before the taxpayer acquired it and no CCA or terminal loss was previously deducted by another person or partnership; this is irrespective of the vendor's arm's-length or non-arm's-length status
- Introduction of special rules (in new subsection 1100(2.02) of the Income Tax Regulations) to ensure that the full expensing or accelerated investment incentive is generally not available in respect of certain unused property acquired after 20 November 2018 from a non-arm's-length person or partnership (thus satisfying the definition of "accelerated investment incentive property" in subsection 1104(4) of the Income Tax Regulations solely because of the new condition added to the definition — see above), if that person or partnership incurred the expenditure prior to 21 November 2018
- Introduction of a new anti-avoidance rule (in new subsection 1102(20.1) of the Income Tax Regulations) to prevent taxpayers from contriving arm's-length relationships to benefit from the

accelerated CCA treatment on arm's-length property transfers (i.e., in circumstances where the property would not otherwise have qualified as an accelerated investment incentive property)

- Various other minor consequential amendments

Other business income tax measures

Other business income tax measures contained in Bill C-97 include**:**

- **Other CCA measures** — Expansion of accelerated CCA Classes 43.1 and 43.2 to include electric vehicle charging stations that meet certain power thresholds, a broader range of electrical energy storage equipment, and a broader range of equipment or sources that can be used to produce or generate electricity that is to be used by ancillary electrolysis equipment. These measures were first announced in the 2016 federal budget and generally apply to assets acquired on or after 22 March 2016.
- **Resource expenses** — Introduction of an accelerated investment incentive (similar to that described above) for eligible Canadian development expenses (CDE) and Canadian oil and gas property expenses (COGPE). Eligible expenses (referred to as accelerated CDE and accelerated COGPE) qualify for a first-year deduction of 150% of the 30% or 10% deduction that would otherwise be available for expenses incurred after 20 November 2018 and before 2024, and 125% for expenses incurred after 2023 and before 2028.
- **Small business deduction** – Broadening of the exception from "specified corporate income" for income of a Canadian-controlled private corporation (CCPC) from a farming or fishing business to include sales of farming products or fishing catches to any arm's-length purchaser corporation (thereby eliminating the requirement that these sales be made to a farming or fishing cooperative corporation), effective retroactively for taxation years beginning after 21 March 2016. Consistent with existing rules, amounts allocated to a CCPC as patronage payments from a purchaser corporation do not qualify for this broadened exception. This measure is intended to allow CCPCs carrying on a farming or fishing business to claim the small business deduction in respect of a broader amount of income.
- **SR&ED** — Elimination of the use of taxable income for the previous taxation year as a factor in determining a CCPC's annual expenditure limit for the purpose of accessing the enhanced SR&ED refundable tax credit rate of 35%, effective for taxation years ending on or after 19 March 2019. This measure is intended to provide a more predictable phase-out of the enhanced SR&ED credit for CCPCs.
- **Mineral exploration tax credit** — Amendments to extend eligibility for the mineral exploration tax credit for a further five years. This means that the tax credit applies to flow-through share agreements entered into on or before 31 March 2024.
- **Refundable tax credit for qualifying journalism organizations** — Introduction of a new refundable labour tax credit for qualifying journalism organizations producing original news. The credit is calculated at the rate of 25% on eligible salaries and wages paid to eligible newsroom employees, up to an annual maximum tax credit of $13,750 per eligible employee (or $55,000 of eligible labour costs per eligible employee). The tax credit applies to salary or wages earned in respect of a period on or after 1 January 2019.

- **Canadian film or video production tax credit** — Amendments to add *The Memorandum of Understanding between the Government of Canada and the Respective Governments of the Flemish, French and German-speaking Communities of the Kingdom of Belgium concerning Audiovisual Coproduction* (signed on 12 March 2018) as an instrument under which a film or video production may qualify as a treaty co-production for purposes of the Canadian film or video production tax credit. As a result of this measure, joint projects of producers from Canada and Belgium may qualify for the tax credit, effective 12 March 2018.
- **Salary overpayments** — Amendments to the *Income Tax Act*, *Canada Pension Plan*, and *Employment Insurance Act* with respect to the reimbursement of withholding taxes on salary overpayments to employees. Specifically, the amendments to the *Income Tax Act* allow the minister to reimburse an employer directly for income tax withheld and remitted by the employer in respect of an overpayment of remuneration paid by an employer to an employee in error, provided certain conditions are met. These amendments apply in respect of excess payments of salary, wages or other remuneration made after 2015. Similar amendments are also made with respect to withholdings under the *Canada Pension Plan* and *Employment Insurance Act*. The amendments to the Canada Pension Plan (which is under joint federal and provincial management) will be implemented only after the provinces and territories have consented to the changes.

For more information on the 2019 budget measures, see EY Tax Alert 2019 Issue No. 9, **Federal budget 2019–20: Investing in the middle class**. In addition, for more information on the measures originally announced in the 21 November 2018 federal fall economic statement, see EY Tax Alert 2018 Issue No. 40, **Federal Fall Economic Statement announces significant acceleration of CCA for most capital investments**.

Learn more

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