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Tax Alert – Canada

Proposed changes to employee stock option rules delayed

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On 19 December 2019, federal Finance Minister Bill Morneau released an update on the proposed changes to the tax treatment of employee stock options.

The proposals, which were scheduled to come into force on 1 January 2020, have been postponed.

“The Government will announce details on how it intends to move forward with the measure in Budget 2020. The new coming-into-force date, to be announced in Budget 2020, will provide individuals and businesses time to review and adjust to the new employee stock option tax rules.”

The wording of the announcement suggests that changes to the stock option rules, while postponed, will be forthcoming, potentially with changes to the draft legislation contained within the Notice of Ways and Means Motion (NWMM) introduced on 17 June 2019.

The 2019 Federal Budget proposed changes to the taxation of employee stock options in Canada. The proposals were largely centred around placing a limit on the availability of the 50% stock option deduction for employees of large, mature firms while, at the same time, allowing stock options to remain an attractive form of compensation for employees of start-up companies that lack the cash to attract and retain talented staff.

A NWMM was introduced on 17 June 2019.

The proposals are described more fully in [EY Tax Alert 2019-26](#).

At the time the NWMM was introduced, the government invited public comment on the characteristics of companies that should be considered to be “start-up, emerging and scale-up companies,” which would be exempt from the changes. The proposals were scheduled to come into force on 1 January 2020; however, the NWMM “died on the order table” when Parliament was dissolved before the federal election.

In its update, the government announced that the proposals will not come into force on 1 January 2020. The government also indicated that details on how it intends to move forward will be announced in [Budget 2020](#). The NWMM contained detailed notification and tracking requirements to be carried out by employers granting stock options. Despite the delay, the wording of the release suggests that there will be changes to the existing stock option regime (in other words, it does not appear that the government has decided to change course and abandon the proposals in their entirety).

Separately, the government of Quebec [stated](#) that it will make it known at a later date whether it will harmonize with the proposed federal measures. Presumably, the government of Quebec is waiting for further details, which may be announced in Budget 2020. In the event of a harmonization, the changes to the Quebec tax system may be applicable on the same date as set for the federal proposed changes.

This announcement should be a relief for the many companies who may not yet have developed processes to track and notify employees. We are also hopeful that the government will take advantage of the delayed implementation to address a number of inequities contained within the proposals.

Implications

Based upon the assumption that the proposals will apply on a prospective basis, companies planning to grant stock options in 2020 may wish to investigate whether it makes sense to accelerate grants such that they occur prior to Budget 2020.

Companies should continue to monitor developments in this area and be ready to develop notification and tracking systems, which will likely be required under the new proposals.

Learn more

For more information, please contact your EY or EY Law advisor or one of the following professionals:

Toronto

Lawrence Levin

+1 416 943 3364 | lawrence.levin@ca.ey.com

Edward Rajaratnam

+1 416 943 2612 | edward.rajaratnam@ca.ey.com

Leah Shinh

+1 519 571 3325 | leah.c.shinh@ca.ey.com

Jo-Anne VanStrien

+1 416 943 3192 | jo-anne.vanstrien@ca.ey.com

Montreal

Danielle Laramée

+1 514 874 4360 | danielle.laramee@ca.ey.com

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