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Tax Alert — Canada

Finance releases draft legislation for 2024 budget and other measures

In keeping with what has become a summer tradition, the Department of Finance has released several packages of draft legislative proposals for public comment. The draft legislative proposals released on 12 August 2024 implement most of the remaining tax measures from the 2024 federal budget (Budget 2024), other previously announced tax measures and various tax technical amendments.

The significant summer release of draft legislative proposals includes the following:

- A general package of draft income tax legislative proposals, including amendments relating to most of the remaining Budget 2024 measures, some new amendments relating to the enacted clean economy tax credits, and certain previously announced proposals, such as those relating to the elimination of the tax-deferral advantage for investment income earned by Canadian-controlled private corporations (CCPCs) and substantive CCPCs through controlled foreign affiliates (see *General Package* below)
- Revised draft legislative proposals (and accompanying explanatory notes) to implement changes relating to the increase in the capital gains inclusion rate (including changes relating to the employee security option deduction) and the increase in the lifetime capital gains exemption (see *Capital Gains Package* below)
- A package of draft legislative proposals (and accompanying explanatory notes) relating to various income tax technical amendments, which most notably includes amendments relating to the trust reporting rules (see *Technical Amendments Package* below)

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- A package of draft legislative proposals relating to the *Global Minimum Tax Act* (GMTA), including proposals to reflect additional administrative guidance released by the Organisation for Economic Co-operation and Development (e.g., on securitization entities) as well as expected proposals to implement the undertaxed profits rule, and an amendment to the *Income Tax Conventions Interpretation Act* relating to the application of the GMTA

- A package of draft indirect tax legislative proposals (and accompanying explanatory notes), including certain previously announced changes and various technical amendments, such as GST/HST regulatory changes relating to the temporary 100% GST rebate for purpose-built rental housing and to the selected listed financial institutions attribution method, clarifications on the meaning of *Canadian activity* for purposes of the GST/HST on imported supplies of financial institutions, clarifications on how excise duties apply to cannabis and vaping products that are either taken for use or unaccounted for, and an amendment to various acts to extend the normal reassessment limitation period to dispose of an appeal of a person other than the person who is being reassessed

Interested parties are invited to provide comments on the proposed amendments contained in the above packages of draft legislation (other than the Capital Gains Package) by 11 September 2024. The comment period for the proposed amendments contained in the Capital Gains Package is open until 3 September 2024.

The following is a summary of the main income tax legislative proposals included in the above packages. Some of these tax measures, as well as the measures contained in the GMTA Package, may be discussed in one or more separate upcoming tax alerts.

Capital Gains Package

As noted above, a revised package containing various amendments to implement the increase in the capital gains inclusion rate announced in Budget 2024 was included in the 12 August 2024 release. The Capital Gains Package includes technical and consequential changes that were not included in the notice of ways and means motion tabled on 10 June 2024 (NWMM). Notable changes in the Capital Gains Package include the following:

- **Capital dividend account (CDA)** — Modifications to the rules for the computation of the CDA to, among other things, correct an anomaly in the legislative details contained in the NWMM (see EY Tax Alert 2024 Issue No. 33, *Government releases legislative details on the proposed changes to the capital gains rules*). Specifically, for a taxation year that ends after 24 June 2024 and includes 25 June 2024 (i.e., a "straddle year"), the revised draft legislative proposals will apply a deemed inclusion rate of one-half of a capital gain (or capital loss) realized by a Canadian private corporation before 25 June 2024 and two-thirds of a capital gain (or capital loss) realized after 24 June 2024, rather than a blended inclusion rate (as originally proposed), to determine the non-taxable (or allowable) portion to be added to (or, in the case of a loss, deducted from) the corporation's CDA at a point in time. However, to maintain integration, special rules provide for a further adjustment to the CDA at the end of the straddle year if the corporation's inclusion rate for the year calculated under the transitional rules differs from the deemed one-half or two-thirds inclusion rate used during the year to compute a corporation's CDA.

- **Alternative minimum tax (AMT)** — Various consequential changes to the AMT, including to maintain the inclusion rates that were included in Bill C-69, *Budget Implementation Act, 2024, No. 1*.[1] Notably, the exempted capital gains on the sale of a business to an employee ownership trust (EOT) or a worker cooperative will be fully excluded for AMT purposes. Additionally, the inclusion rate for capital gains that are subject to the lifetime capital gains exemption and income from donated stock options will continue to be 30% for AMT purposes. These amendments, which were not included in the NWMM, are generally applicable to taxation years that begin after 31 December 2023. Transitional rules apply in certain circumstances.

- **Foreign affiliates and hybrid surplus** — Various amendments to implement changes with respect to the computation of hybrid surplus as well as to the deductions in respect of dividends received out of hybrid surplus that were proposed in the backgrounder that was released with the NWMM but were not part of the NWMM.

Additional details on these and other measures relating to the capital gains inclusion rate will be discussed in one or more separate upcoming tax alerts.

As noted above, stakeholders have only until 3 September 2024 to make submissions to the government on the changes to the capital gains inclusion rate and lifetime capital gains exemption.

General Package

The following is a summary of the income tax measures contained in the General Package.

Business income tax measures

Measures from Budget 2024 and 2023 Fall Economic Statement

- **Accelerated capital cost allowance (CCA)** — Temporary increase in CCA rates for certain property, including the following:

    - **Purpose-built rental housing** — Increase in the CCA rate, from 4% to 10%, for buildings or parts of a building that qualify as a new purpose-built residential rental, effective as of 16 April 2024. To qualify as a new purpose-built residential rental, construction must have started after 15 April 2024 and before 2031, and the property must become available for use before 2036. A purpose-built residential rental is a building (or a part of a building) that is situated in Canada, with at least four private apartment units, or 10 private rooms or suites, and at least 90% of the residential units are held for long-term rental (not less than 28 consecutive days). Buildings previously used as commercial property that are substantially renovated for use as a purpose-built residential rental may also be eligible property for the additional CCA. Renovations to existing residential complexes will not be eligible.

[1] For more information on Bill C-69, see EY Tax Alert 2024 Issue No. 36, *2024 federal budget implementation bill no. 1 receives Royal Assent*.

- **Certain productivity-enhancing assets** — Immediate expensing for eligible property in CCA Classes 44 (patents or the rights to use patented information for a limited or unlimited period), 46 (data network infrastructure equipment and related systems software) and 50 (general-purpose electronic data-processing equipment and systems software) that is acquired after 15 April 2024 and becomes available for use before 2027. As a result, such property will be eligible for a CCA rate of 100% in the first year in which it becomes available for use (prorated for short taxation years). Eligible property is property that meets the definition of accelerated investment incentive property.

- **Excessive interest and financing expenses limitation (EIFEL)** — Expansion of the exemption from the EIFEL rules for certain public-private partnership infrastructure projects to include certain interest and financing expenses incurred before 2036, in respect of arm's length financing used to build, convert a property into or acquire a purpose-built residential rental (as defined above under *Accelerated capital cost allowance (CCA)*). The draft legislative proposals further expand the exemption to include certain interest and financing expenses in respect of arm's length financing used for the purpose of earning income from a regulated energy utility business carried on in Canada. These changes apply for taxation years that begin on or after 1 October 2023 (the same time the EIFEL rules became effective).

- **Clean electricity investment tax credit** — Introduction of a 15% refundable investment tax credit for eligible investments in clean electricity property acquired (and that became available for use) after 15 April 2024 and before 2035. The credit is available to qualifying entities, including taxable Canadian corporations, designated provincial Crown corporations (subject to certain requirements), municipal corporations, corporations owned by an Aboriginal government or similar Indigenous governing body, pension investment corporations, as well as trusts that hold an interest in a limited partnership as their sole undertaking and each beneficiary of which is a pension investment corporation. Qualifying entities that are members of a partnership will be entitled to claim their share of the partnership's tax credit, subject to certain allocation rules. The clean electricity property must be situated in Canada and intended for use exclusively in Canada, must not have been used for any purpose before its acquisition, and must not be part of a project that began construction before 28 March 2023. Examples of property that may qualify as clean electricity property include equipment used to generate electricity from solar, wind or water energy; concentrated solar energy equipment used to generate electricity; certain equipment used to generate electricity (or both electricity and heat) from nuclear fission or waste biomass; and certain equipment used exclusively for the purpose of generating electricity (or both electricity and heat) solely from geothermal energy. Certain labour requirements, including prevailing wage and apprenticeship requirements, will need to be met to receive the 15% credit rate. If the labour requirements are not met, a credit rate of 5% will apply. Various annual compliance requirements and recapture rules also apply.

- **Clean technology investment tax credit** — Expansion of the clean technology investment tax credit to include certain equipment that is part of a system that generates electricity or heat (or both) from waste biomass, effective in respect of property that is acquired after 20 November 2023 (provided the property has not been used for any purpose before its acquisition). Consequential amendments requiring environmental compliance also apply, effective 21 November 2023. In addition, various technical amendments have been made to the clean technology investment tax credit rules, such as amendments relating to the payment of tax for recaptured credits (and related joint, several and solidary liability) in the context of a partnership and amendments to ensure that the capital cost of a clean technology property excludes any expenditure incurred for a preliminary work activity (i.e., any activity that is preliminary to the acquisition, construction, fabrication or installation of the property), effective as of 28 March 2023 (the same date the credit became effective).

- **Clean technology manufacturing investment tax credit** — Various amendments to clarify and expand the clean technology manufacturing tax credit. Currently, eligible activities for purposes of the credit include qualifying mineral activities producing all or substantially all qualifying materials (i.e., copper, nickel, cobalt, lithium, graphite and rare earth elements). Since projects may be engaged in the production of multiple metals, amendments have been made to clarify that the value of qualifying materials will be used to assess the extent to which property is used or expected to be used for qualifying mineral activities producing qualifying materials. In addition, eligible expenditures have been expanded to include investments in eligible property used in qualifying mineral activities expected to primarily produce qualifying materials (i.e., 50% or more of the commercial value of output) at mine or well sites, including tailing ponds (subject to certification by an independent qualified professional engineer or professional geoscientist). As well, to mitigate the effects of mineral price volatility, a safe harbour rule applicable to the recapture rules for this credit has been introduced. Under the safe harbour rule, if expected production of qualifying materials is calculated when claiming the credit using specified five-year historical average mineral prices, the same prices will be used to calculate qualifying materials produced over the 10-year recapture period. These changes apply for property that is acquired and becomes available for use on or after 1 January 2024 (the same date the credit became effective). Various other technical amendments have been made to the clean technology manufacturing investment tax credit rules, such as amendments relating to the payment of tax for recaptured credits (and related joint, several and solidary liability) in the context of a partnership, effective as of 1 January 2024.

- **Synthetic equity arrangements** — Removal of the tax-indifferent investor and exchange traded exceptions to the synthetic equity arrangement anti-avoidance rule, applicable for dividends received on or after 1 January 2025.

- **Mutual fund corporations** — Amendments to preclude a corporation from qualifying as a mutual fund corporation if it is controlled by, or for the benefit of, a corporate group (including a corporate group that consists of any combination of corporations, individuals, trusts and partnerships that do not deal with each other at arm's length), applicable for taxation years beginning after 2024. An exception is provided to ensure that widely held pooled investment vehicles are not adversely affected.

- **Manipulation of bankrupt status** — Repeal of the exception to the debt forgiveness rules and the loss restriction rule for bankrupt corporations, applicable to corporate bankruptcy proceedings that commence on or after 16 April 2024. In addition, the exception to the debt forgiveness rules is also removed for bankrupt partnerships and trusts, applicable to partnership and trust bankruptcy proceedings that commence on or after 12 August 2024. As a result, bankrupt corporations, partnerships and trusts will be subject to the general debt forgiveness rules for commercial debts.

- **Non-compliance with information requests** — Various amendments to the administration provisions under the *Income Tax Act* (the Act) with respect to information-gathering powers of the Canada Revenue Agency (CRA). For example, the amendments extend the CRA's powers to the administration and enforcement of a listed international agreement or a tax treaty with another country, introduce a new type of notice that the CRA may issue to a person that has not complied with a requirement or notice by the CRA to provide information or assistance (with related changes to extend the normal reassessment period and impose a penalty for each day the notice of non-compliance remains outstanding), and allow the CRA to demand, in a requirement or notice to provide information or assistance, that any information or documents (provided in written or oral form) be provided under oath or affirmation. Other changes include the introduction of a new penalty where the CRA obtains a compliance order against a taxpayer from a court and the tax owing by the taxpayer in respect of a taxation year to which the compliance order relates exceeds $50,000, and the extension of the CRA's ability to seek a compliance order to situations where a person has failed to comply with a requirement to provide foreign-based information or documents. Amendments also allow the "stop-the-clock" rules that extend the reassessment period when a taxpayer seeks judicial review of a requirement or notice to provide information or assistance to also apply when a taxpayer seeks judicial review of a requirement or notice issued by the CRA in relation to an audit or enforcement process. These measures will come into force on Royal Assent of the implementing legislation.

- **Avoidance of tax debts** — Amendments to strengthen the tax debt anti-avoidance rule, including the introduction of a supplementary rule and expansion of joint and several liability rules, applicable to transactions or series of transactions that occur on or after 16 April 2024. Specifically, the supplementary rule will apply if (1) there has been a transfer of property by a person (the planner) to a person (the transferee); (2) as part of the same transaction or series of transactions, there has been a separate transfer of property from another person (the transferor) to the planner (or any other person); and (3) one of the purposes of the transaction or series of transactions is to avoid joint and several, or solidary, liability of the transferee and the transferor. If these conditions are met, the property transferred by the transferor is deemed to have been transferred to the transferee for purposes of the tax debt anti-avoidance rule. In addition, the penalty in subsection 160.01(2) of the Act is extended to apply to tax debt avoidance planning that is subject to the supplementary rule. As well, taxpayers who participate in tax debt avoidance planning will be jointly and severally, or solidarily, liable for the full amount of the avoided tax debt, including any portion that has effectively been retained by a planner.

- **Withholding for nonresident service providers** — Amendments to allow the CRA to waive, over a specified period, the 15% withholding tax requirement for payments to a nonresident for services provided in Canada, if the nonresident would not be subject to Canadian income tax in respect of the payments because of a tax treaty or because the income is exempt income from international shipping or operating an aircraft in international traffic, effective on Royal Assent of the implementing legislation.

Measures from Budget 2022

- **CCPCs and substantive CCPCs: Deferring tax using foreign resident corporations** – Amendments (including modifications to take into account comments received since their initial release on 9 August 2022) to eliminate the tax-deferral advantage available to CCPCs and their shareholders earning investment income through controlled foreign affiliates, generally applicable for taxation years beginning on or after 7 April 2022. Specifically, the relevant tax factor (RTF) applicable to CCPCs and substantive CCPCs is adjusted from 4 to 1.9 (i.e., the RTF currently applicable to individuals), so that a deduction in respect of foreign tax paid that fully offsets foreign accrual property income (FAPI) inclusions is available only where the foreign tax rate is at least 52.63% (rather than 25%). In addition, amendments have been made to address the integration of FAPI that is repatriated to and distributed by CCPCs and substantive CCPCs to individual shareholders. These amendments include adjustments to the calculation of a CCPC's general rate income pool (GRIP) to generally exclude an amount equal to certain deductions claimed in respect of repatriations of a foreign affiliate's hybrid surplus (under paragraph 113(1)(a.1)) or, in respect of dividends received after 24 June 2024, legacy and successor hybrid surpluses (under proposed paragraphs 113(1)(a.1) and (a.2)) and taxable surplus (under paragraph 113(1)(b)), and in respect of the payment of withholding tax to a foreign government on intercorporate dividends received from a foreign affiliate prescribed to be paid out of taxable surplus (under paragraph 113(1)(c)); the integration of these amounts will instead be addressed through the CDA as mentioned below. Additional amendments similarly exclude from the calculation of a CCPC's GRIP amounts deductible under paragraph 113(1)(d) or subsection 113(2), both of which represent de facto returns of capital rather than actual dividends, effective for taxation years that begin on or after 9 August 2022. As mentioned, amendments have been also made to the CDA of a CCPC (or substantive CCPC) to include, on repatriation, the amount of an intercorporate dividend deduction claimed with respect to a dividend paid out of hybrid surplus (or, in respect of dividends received after 24 June 2024, legacy and successor hybrid surpluses) less the amount of withholding tax paid in respect of the dividend, as well as the amount of an intercorporate dividend deduction claimed with respect to a dividend paid out of taxable surplus, and the amount of a withholding tax deduction claimed, less the withholding tax paid in respect of repatriations of taxable surplus. These amendments also apply for taxation years beginning on or after 7 April 2022.

However, under significant revisions to the proposals, the amendments to the GRIP and CDA pools have been modified by the introduction of one of the two elective carve-outs under new proposed section 93.4, which are effective for taxation years that begin after 2024, unless an election is filed under proposed subsection 93.4(4) or (5) to have the rules apply earlier. Specifically, in broad terms, a CCPC (or substantive CCPC) may elect under new subsection 93.4(3) to have a portion of the intercorporate dividend that is otherwise prescribed to be paid out of taxable surplus to be considered to be paid out of a separate surplus pool, referred to as the foreign affiliate's foreign accrual business income (FABI) surplus pool, and have the underlying foreign tax applicable to that portion of the intercorporate dividend (which portion is referred to as the FABI surplus dividend) calculated using the higher RTF of 4 instead of 1.9. If this election is made, the amount of the intercorporate dividend deduction claimed under paragraph 113(1)(b) with respect to the FABI surplus dividend (also referred to as the high RTF amount) and the amount of the related withholding tax deduction under paragraph 113(1)(c), less the withholding tax paid in respect of the repatriated high RTF amount (or FABI surplus dividend), are included in the calculation of a CCPC's GRIP and are excluded from a CCPC's (or substantive CCPC's) CDA. In addition, under new subsection 93.4(2), a CCPC (or substantive CCPC) may also elect a similar carve-out for purposes of the deduction for foreign taxes under subsection 91(4), so that the portion of the income amount attributable to a controlled foreign affiliate's FABI (the FABI amount) is to be determined separately from the rest of the affiliate's FAPI, and the foreign accrual tax applicable to the FABI amount is to be calculated using the higher RTF of 4. In very broad terms, a foreign affiliate's FABI is essentially its FAPI but only to the extent of amounts in respect of the provision of services under paragraph 95(2)(b) (subject to certain conditions) and its income or loss from an investment business that is a real estate business (subject to certain conditions).

Technical and other new amendments

- **Carbon capture, utilization and storage (CCUS) investment tax credit** — Technical amendments to clarify the definitions of dual-use equipment and qualified carbon capture expenditure for purposes of the CCUS investment tax credit, effective as of 28 March 2023. As well, amendments have been made to the CCUS tax credit recovery rules to clarify application of the rules to a former member of a partnership, effective as of 1 January 2022.

- **Clean hydrogen investment tax credit** — Various technical amendments to clarify and expand the clean hydrogen investment tax credit, effective as of 28 March 2023. Notably, the reference to dual-use hydrogen and ammonia equipment under the definition of eligible clean hydrogen property has been replaced with a reference to oxygen and nitrogen production equipment. Like for dual-use hydrogen and ammonia equipment, oxygen and nitrogen production equipment is equipment that is part of a clean hydrogen project and is used for the generation of oxygen or nitrogen that is used all or substantially all in hydrogen production or ammonia production, as well as (unlike the dual-use hydrogen and ammonia equipment) in electricity or heat production in support of the project or a CCUS process in support of the project. As well, the rules relating to the calculation of carbon intensity of hydrogen produced (and to be produced) by a clean hydrogen project have been expanded. Amendments have also been made to extend the time period in which documentation and information requested by the Minister of Natural Resources must be provided by a taxpayer and to clarify the application of the tax credit recovery rules to a former member of a partnership.

- **Other clean economy tax credit-related proposals** — Introduction of a new rule under the clean economy tax credit partnership rules in section 127.47 of the Act to account for situations where the cost of a particular property that is owned by a partnership is eligible for more than one clean economy tax credit, effective 28 March 2023. In addition, an amendment has been made to the taxpayer information provisions in section 241 to allow the CRA or the Department of Finance to communicate or make public the amount of a clean economy tax credit that has been claimed or received and the province in which the property that is eligible for the tax credit is located, effective as of 16 April 2024. A clarifying amendment has also been made to replace the non-application of the labour requirements under section 127.46 for the acquisition of off-road zero-emission vehicles and for the acquisition and installation of low-carbon heat equipment, with a non-application for the preparation or installation of clean technology property described in subparagraph (d)(i) of Class 43.1 (certain active solar heating equipment and ground source heat pump system equipment) or in Class 56 (zero-emission self-propelled equipment that is not a motor vehicle, including certain additions and alterations) in Schedule II of the *Income Tax Regulations*, effective as of 28 November 2023. Various other provisions throughout the Act have been amended consequential to the introduction of the clean electricity investment tax credit.

Measures affecting individuals and trusts

Measures from Budget 2024 and 2023 Fall Economic Statement

- **Canadian entrepreneurs' incentive** — Introduction of a new incentive reducing the tax rate on capital gains from the disposition of qualifying property by eligible individuals, applicable to dispositions occurring on or after 1 January 2025. Specifically, the incentive provides a Canadian resident individual (other than a trust) with a taxable income deduction (for taxation years beginning after 2024) that effectively reduces the capital gains inclusion rate to one-third on up to $2 million in eligible capital gains over an individual's lifetime. This lifetime limit will be phased in by increments of $400,000 per year (rather than $200,000 per year, as originally announced), beginning on 1 January 2025, until it reaches $2 million on 1 January 2029 (rather than on 1 January 2034). Qualifying Canadian entrepreneur incentive property includes qualified small business corporation shares, as well as qualified farm or fishing property, provided certain conditions are met. In addition to expanding the type of property eligible for the incentive from what was originally announced to include qualified farm or fishing property, the draft legislative proposals also ease some of the conditions. For example, it is no longer necessary for an individual to have been a founding investor of the corporation that is being sold at the time it was initially capitalized and to have held the shares for at least five years prior to disposition. Instead, in the case of shares of a small business corporation, an individual is required to have directly owned 5% or more (rather than 10%, as originally announced) of the issued and outstanding shares (having full voting rights) of the corporation throughout a continuous 24-month period before the disposition. This test is modified for non-share property that may be eligible (such as an interest in a partnership). The individual must also have been actively engaged in the activities of the business on a regular, continuous and substantial basis throughout any combined three-year period since the founding of the business (rather than throughout the five-year period immediately before disposition, as originally announced).
  The incentive will not apply to shares that represent a direct or indirect interest in certain

excluded businesses (such as a professional corporation, a business the principal asset of which is the reputation or skill of one or more employees, or a corporation that carries on a consulting or financial services business).

- **EOT rules and qualifying cooperative conversions** — Expansion of the temporary $10 million capital gains exemption and 10-year capital gains reserve for qualifying business transfers (under the EOT rules) to qualifying sales of shares to a worker cooperative corporation that meets certain conditions (referred to as a qualifying cooperative conversion in the draft legislative proposals), effective as of 1 January 2024. Consequential amendments have also been made to various provisions of the Act relating to both the EOT rules and qualifying cooperative conversion rules, effective as of 1 January 2024. In addition, various amendments have been made to the formula for determining the amount of the capital gains deduction that may be claimed for both qualifying business transfers and qualifying cooperative conversions to take into account any allowable business investment losses and net investment expenses for the year and any net capital loss carryover claimed in the year, effective as of 12 August 2024. It should be noted that Budget 2024 also announced that the 15-year exception to the shareholder loan and interest benefit rules applicable to qualifying business transfers under the EOT rules would be extended to qualifying sales of shares to worker cooperative corporations; however, amendments to implement this exception are not included in the General Package of draft legislative proposals.

- **Registered education savings plans (RESPs)** — Various amendments to replace the Budget 2024 changes enacted by Bill C-69, *Budget Implementation Act, 2024, No. 1*, which authorize the relevant minister to open and subscribe to an RESP. In addition to reorganizing the amendments, the draft legislative proposals contain new amendments to modify the registration conditions for situations where the subscriber to a plan is a designated subscriber (i.e., the relevant minister), to remove the social insurance number requirement where there is a designation of a beneficiary under a plan with a designated subscriber, and to exempt a designated subscriber from Part X.5 tax (regarding accumulated income payments) and from the various penalty taxes under Part XI.01 (regarding advantages and non-qualified or prohibited investments). These changes will apply upon Royal Assent of the implementing legislation, rather than on a day to be fixed by order of the Governor in Council.

- **Disability supports deduction** – Expansion of the list of expenses recognized under the disability supports deduction, subject to specific conditions, effective for 2024 and subsequent years. Related to this measure, the list of prescribed devices or equipment that may be eligible for the medical expense tax credit is also expanded to include a navigation device for low vision for an individual with a vision impairment, effective for 2024 and subsequent years.

Charity-related measures

Measures from Budget 2024

- **Foreign charities** – Introduction of changes relating to foreign charities, including expansion of the period for which qualifying foreign charities are granted status as a qualified donee from 24 months to 36 months, effective for foreign charities registered after 16 April 2024. In addition, foreign charities will be required to submit an annual information return with prescribed information to the CRA, for taxation years beginning after 16 April 2024.

- **Donation receipts** – Introduction of various changes to simplify the issuance of donation receipts. For example, charities will be permitted to issue official donation receipts electronically with a digital signature, provided the receipts have a unique serial number and are issued and sent in a secure and non-editable format. In addition, certain information (e.g., the place of issuance of the receipt) will no longer be required to be included on the official receipts. These changes will apply upon Royal Assent of the implementing legislation.

- **Administration** – Introduction of various administrative amendments to simplify the way in which the CRA provides services and communicates information relating to registered charities and other qualified donees. For example, the CRA will be permitted to communicate certain official notices digitally, where the charity has opted to receive information from the CRA electronically. These changes will apply upon Royal Assent of the implementing legislation.

Technical Amendments Package

The government also released a package of draft technical amendments to the *Income Tax Act* and *Income Tax Regulations*. In addition to various minor amendments, this package of draft legislative proposals includes a number of more significant technical amendments, as well as new rules.

In particular, the proposals include several relieving changes to the new trust reporting requirements, an extension in the time a graduated rate estate has to elect to carry back a loss under subsection 164(6) from one year to three years, and an amendment to the AMT rules to allow individuals to fully claim various resource expense deductions. Further details on the changes affecting trusts will be provided in a separate upcoming tax alert.

As well, the amendments include clarifications to several recently enacted provisions, such as the EIFEL rules and the tax on repurchases of equity, and other amendments, such as changes to the shareholder debt rules in subsection 15(2) and to the surplus stripping rules in section 212.1 (to address an issue relating to post-mortem pipeline planning for nonresident beneficiaries), are made in response to previously released Department of Finance comfort letters.

A more detailed summary of the more significant technical amendments will be provided in an EY News article available to subscribers of the Federal Income Tax Collection on Canadian Tax Library and Knotia.

Learn more

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