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TAXSTRATEGY

Federal Budget 2022

Unpacking the Personal

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The year 2022 sure has opened with a bang, at least from the CRA's perspective. First we got hit with the February 4 rules which included updated disclosure announcements (but no actual legislation), and then we got a double whammy on April 7 with the release of the 2022 Federal Budget. With the relatively recent news that the Liberals were joining forces with the NDP, there was much speculation about what this year's Budget was going to include. Unlike previous years, there was quite a lot to unpack between the personal measures and corporate measures. So, this article will focus solely on the new and improved personal tax measures under the 2022 Budget.

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Personal Income Tax Measures

So, despite concerns that we would be hit with increased taxes, the 2022 Budget did not actually increase the capital gains rates (the threat of which has been hanging over us for a couple of years) nor did the tax rates themselves change. In fact, there were some interesting new measures aimed at the housing market (and potential buyers) as well as some new tax credits.

Tax-Free First Home Savings Account

The "Tax-Free First Home Savings Account" (FHSA), was introduced under the new Budget. The FHSA is a new registered account to help individuals save for their first home. Similar to other registered accounts, contributions to an FHSA would be deductible and income earned in an FHSA would not be subject to tax, with qualifying withdrawals made to purchase a first home being tax-free (any withdrawals for any other purpose would be subject to tax). Although the specific proposals are not yet released, some key design features of the FHSA were highlighted:

☛ An individual must be a resident of Canada, at least 18 years of age and must not have lived in a home that they owned either (1)at any time in the year the account is opened; or (2) during the preceding four calendar years.

☛ You are limited to making non-taxable withdrawals in respect of a single property in your lifetime.

☛ Once a non-taxable withdrawal has been made to purchase a home, you must close the FHSAs within a year from the first withdrawal, and are not eligible to open another FHSA.

☛ The lifetime limit on contributions would be $40,000, subject to an annual contribution limit of $8,000 (the full annual contribution limit would start in 2023).

☛ Unused annual contribution room cannot be carried forward (unlike an RRSP). So if you don't contribute the full $8,000 in a given year, you are still limited to an annual limit of $8,000 in subsequent years.

☛ You can hold more than

one FHSA, but the total amount contributed to all FHSAs can't exceed the annual and lifetime contribution limits.

To provide flexibility, you can transfer funds from an FHSA to an RRSP (before the year you turn 71) or RRIF. Such transfers would not be taxable at the time of transfer, but amounts would be taxed when eventually withdrawn from the RRSP or RRIF in the usual manner. Transfers would not reduce, or be limited by, the individual's available RRSP room. Withdrawals and transfers would not replenish FHSA contribution limits. And vice versa, you can transfer funds from an RRSP to an FHSA on a tax-free basis (subject to the $40,000 lifetime and $8,000 annual limits), although these transfers do not restore your RRSP contribution room.

It should be noted that if you don't use the funds in your FHSA for first home purchase within 15 years of first opening an FHSA, you have to close your FHSA Any unused savings could be transferred into an RRSP or RRIF, or would otherwise have to be withdrawn on a taxable basis.

The original home buyers' plan (HBP) is still available so that you can also withdraw up to $35,000 from an RRSP to purchase or build a home without having to pay tax on the withdrawal. However, you cannot make both an FHSA withdrawal and an HBP withdrawal in respect of the same qualifying home purchase.

Home Buyers' Tax Credit

And the good news keeps on coming for first-time home Buyers, as the $750 in tax relief available under the First-Time Home Buyers' Tax Credit (HBTC) is doubling to $1,500 as of January 1, 2022. The value of this increased non- refundable credit would be calculated by multiplying the credit amount of $10,000 by the lowest personal income tax rate (15 per cent in 2022). Any unused portion of the HBTC may be claimed by an individual's spouse or common-law partner as long as the combined total does not exceed $1500 in tax relief.

Multigenerational Home Renovation Tax Credit

Budget 2022 proposes to introduce a new Multigenerational Home Renovation Tax Credit, which would provide recognition of eligible expenses for a qualifying renovation (i.e. that creates a secondary dwelling unit to permit an eligible person (a senior or a person with a disability) to live with a qualifying relation (parent, grandparent, child sibling aunt, uncles or niece/nephew who is 18 years of age or older)). The value of the credit would be 15 per cent of the lesser of eligible expenses and $50,000.

Where one or more eligible claimants make a claim in respect of an eligible renovation, the total of all amounts claimed in respect of the qualifying renovation must not exceed $50,000. This would come into effect for expenses incurred as of January 1, 2023 and onwards.

Home Accessibility Tax Credit

To better support independent living, Budget 2022 proposes to increase the annual expense limit of the Home Accessibility Tax Credit to $20,000 (from $10,000). This enhancement would provide additional tax support for more significant renovations undertaken to improve accessibility, such as building a bedroom and/or a bathroom to permit first-floor occupancy for a qualifying person who has difficulty accessing living spaces on other floors. This would apply for expenses incurred in the 2022 and subsequent taxation years.

Ban on Foreign Investment in Canadian Housing

Budget 2022 proposes restrictions that would prohibit foreign commercial enterprises and people who are not Canadian citizens or permanent residents from acquiring non-recreational, residential property in Canada for a period of two years. Exemptions would apply for refugees, international students on the path to permanent residency and individuals on work permits who are residing in Canada.

Residential Property Flipping Rule

Budget 2022 proposes to introduce a new deeming rule to ensure profits from flipping residential real estate are always subject to full taxation (and not as capital gains or sheltering it under the principal residence exemption). Specifically, profits arising from sales of residential property (including a rental property) that was owned for less than 12 months would be deemed to be business income, unless the disposition occurred as a result of death, an addition to your family (i.e., birth, care of an elderly parent), separation, personal safety, disability or illness, change of employment to work at a new location (or due to an involuntary termination of employment), insolvency or involuntary sale (i.e. expropriation or due to a natural or man-made disaster).

Where the new deeming rule does not apply because of a life event listed above or because the property was owned for 12 months or more, it would remain a question of fact whether profits from the disposition are taxed as business income. The measure would apply in respect of residential properties sold on or after January 1, 2023.

Labour Mobility Deduction for Tradespeople

Budget 2022 proposes to introduce a Labour Mobility Deduction for Tradespeople to recognize certain travel and relocation expenses of workers in the construction industry, for whom such relocations are relatively common. This measure would allow eligible workers (i.e. tradesperson or apprentice) to deduct up to $4,000 in eligible expenses per year. The eligible worker must be making a temporary relocation (for a minimum of 36 months and at least 150 km closer to the particular work location in Canada) for purposes of a construction activity. The particular work location must not be in the locality in which the tradesperson principally works, so they cannot deduct travel expenses for commuting.

The expenses would include temporary lodging, transportation for one round trip from the location where the individual ordinarily resides to the temporary lodging. Also included are meals in the course of travel while making one round trip to and from the temporary lodging (but no expenses are allowed for financial assistance from an employer that is not included in income, such as reimbursements).

The maximum amount of expenses that could be claimed is capped at 50 per cent of the worker's employment income at the particular work location in the year (with some flexibility for expenses in the preceding or following year). This measure would apply to the 2022 and subsequent taxation years.

Medical Expense Tax Credit for Surrogacy and Other Expenses

The Medical Expense Tax Credit (METC) is a 15-per-cent non- refundable tax credit, for which certain expenses related to the use of reproductive technologies are eligible. Budget 2022 proposes to broaden the METC to recognize medical expenses related to a surrogate mother or sperm, ova or embryo donor. For example, expenses paid by the intended parent to a fertility clinic for an in vitro fertilization procedure with respect to a surrogate mother or for hormone medication for an ova donor would be eligible for the METC.

Reimbursement of Medical Expenses Incurred by a Surrogate

Mother or Sperm, Ova or Embryo Donor

Although it is illegal in Canada to pay consideration to surrogate mothers or donors, they may receive reimbursement for certain out-of-pocket expenses, including some medical expenses. Under current tax rules, such reimbursements paid by the intended parents are not currently eligible for the METC. Budget 2022 proposes to allow such reimbursements paid to now be eligible for the METC, provided that the reimbursement is made in respect of an expense that would generally qualify under the credit. For example, the METC could be available for reimbursements paid by the taxpayer for expenses incurred by a surrogate mother with respect to an in vitro fertilization procedure or prescription medication related to their pregnancy.

Fees Paid to Acquire Donated Human Sperm or Ova

Budget 2022 also proposes to allow fees paid to fertility clinics and donor banks in order to obtain donor sperm or ova to be eligible under the METC. However, only expenses incurred in Canada would be eligible, which means that all expenses claimed under the METC would be required to be in accordance with the Assisted Human Reproduction Act and associated regulations here in Canada. These new measures would apply to expenses incurred in the 2022 and subsequent taxation years.

Borrowing by Defined Benefit Pension Plans

Currently, there are restrictions with respect to a registered pension plan borrowing money, except in limited circumstances (such as acquiring income-producing real estate where the borrowed amount does not exceed the cost of the property and only the property is used as security for the loan; and where the term of the loan does not exceed 90 days and the property of the plan is not pledged as security for the loan (unless the money is borrowed to avoid the distress sale of plan assets).

Budget 2022 proposes to provide more borrowing flexibility replacing the 90-day term limit with a limit on the total amount of additional borrowed money (for purposes other than acquiring real property), equal to the lesser of: 20 per cent of the value of the plan's assets (net of unpaid borrowed amounts); and the amount, if any, by which 125 per cent of the plan's actuarial liabilities exceeds the value of the plan's assets (net of unpaid borrowed amounts). This new borrowing limit would be redetermined on the first day of each fiscal year of the plan. This measure would apply to amounts borrowed by defined benefit registered pension plans (other than individual pension plans) on or after Budget Day.

Reporting Requirements for RRSPs and RRIFs

Budget 2022 proposes to require financial institutions to annually report to the CRA the total fair market value, determined at the end of the calendar year, of property held in each RRSP and RRIF that they administer. This information would assist the Canada Revenue Agency in its risk-assessment activities regarding qualified investments held by RRSPs and RRIFs. This measure would apply to the 2023 and subsequent taxation years. ❑