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Global Tax Alert

News from Americas Tax Center

Canada's CCA acceleration measures enacted as part of 2019 budget implementation bill

Executive summary

On 21 June 2019, Bill C-97, *Budget Implementation Act, 2019, No. 1*, which implements certain tax measures announced in Canada's 2019 federal budget and the 21 November 2018 federal fall economic statement (as well as other previously announced measures), received Royal Assent. 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 enacted for US GAAP financial reporting purposes (subject to some exceptions, they were substantively enacted on 8 April 2019 for Canadian 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 enacted.

Detailed discussion

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; and
  - 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 the CCA is calculated on a declining balance basis, as well as for classes of property with straight-line 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 7 kWh[1]) or hydrogen fuel cell vehicles, including light-, medium- and heavy-duty vehicles purchased by a business. This write-off 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 CA$55,000[2] (plus sales taxes) per vehicle. This $55,000 threshold will be reviewed annually; and
  - 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 include a zero-emission vehicle in the current applicable class (i.e., Class 10, 10.1 or 16).

Modifications have been made to these measures since their release, including, for example, the introduction of special rules for taxation years that straddle 31 December 2023. For more details on these modifications, see EY Global Tax Alert, *Canada: CCA acceleration measures substantively enacted as part of 2019 budget implementation bill*, dated 10 April 2019.

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.
- **Scientific Research and Experimental Development (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 labor 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 labor 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.

Other tax measures

Bill C-97 also includes personal income tax measures (i.e., dealing with the Canada training tax credit, the home buyer's plan, kinship care providers, the medical expense tax credit, TFSAs, the tax credit for digital subscriptions, communal organizations, and registered pension plans), charities income tax measures (i.e., dealing with the donation of cultural properties and journalism organizations as qualified donees), as well as indirect tax measures (i.e., dealing with GST/HST health measures, zero-emission passenger vehicles, cannabis taxation, and the application of the interest provisions of the *Excise Act, 2001*). Most of these measures were announced in the 2019 federal budget.

For more information on the 2019 budget measures, see EY Global Tax Alert, *Canada issues Federal Budget 2019/20: Investing in the middle class*, dated 20 March 2019. In addition, for more information on the measures originally announced in the 21 November 2018 federal fall economic statement, see EY Global Tax Alert, *Canada: Federal Fall Economic Statement announces significant acceleration of CCA for most capital investments*, dated 26 November 2018.

Endnotes

1. Reduced from 15 kWh, as adopted by the House of Commons on 5 June 2019 following the recommendation of the House of Commons Standing Committee on Finance – this amendment was substantively enacted as of that date for financial reporting purposes.
2. Currency references in this Alert are to CA$.

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