Federal Budget 2018: **Individual Tax Measures**

A. BERTUCCI
COMPTABLE PROFESSIONNEL AGRÉÉ - CHARTERED PROFESSIONAL ACCOUNTANT

The 2018-19 federal Budget brought down by Minister of Finance, Bill Morneau, on February 27, 2018 did contain a number of tax measures affecting individuals and those measures were, for the most part, of a relieving nature. However, the measures announced were also very narrowly focused on specific groups of taxpayers, and generally involved enhancement of, or technical or administrative relief with respect to, existing tax or benefit programs, or the renewal of such programs.

There were no individual tax measures of broad general application announced in the Budget — no changes in existing tax rates or tax brackets, and no new tax credit or benefit programs.

Working Income Tax Benefit/Canada Workers Benefit

Lower-income working Canadians (employed or self-employed) may receive an income supplement in the form of the Working Income Tax Benefit. That Benefit is claimed on the annual tax return and paid quarterly.

The Budget included the announcement of three changes to the existing WITB, all of which will be effective starting in 2019. First, the program is to be renamed the Canada Workers Benefit (CWB). Second, the amount of the benefit will be increased to 26% of earned income over $3,000. The maximum benefit which can be received by a single individual without dependants will be $1,355, while families (couples and single parents) may receive up to $2,335.

For single individuals without dependants, the CWB will be reduced by 12% of net income over $12,820, and the same reduction percentage will be applied to families, but on net income over $17,025.

The CWB, like the WITB, will be supplemented for individuals who are eligible for the Disability Tax Credit (generally, those individuals who have a severe and prolonged disability). For such individuals, the amount of the CWB supplement will be increased to $700 in 2019. The income threshold above which such benefits are reduced will be $24,111 for disabled individuals without dependants, and $36,483 for families. The reduction percentage for both individuals and families will be 12%, unless both partners in a family are eligible for the disability supplement. In such instances, the reduction percentage will be 6%.

Finally, in order to receive the WITB, an individual must claim it on the annual tax return. Individuals who are not aware of the program, or of their eligibility for it, and do not apply cannot currently receive the benefit. The federal government has announced a change which will allow the Canada Revenue Agency (CRA), in such circumstances, to determine whether an individual is eligible to receive the CWB and to assess his or her return as if it had been claimed. Schedule 6 to the annual return, on which such claim is made, will nonetheless continue to be part of the return package, and the expectation is that individuals who wish to claim the CWB will do so on that form, so that the amount of any benefit can be properly assessed.

Medical expense tax credit claim expanded

Notwithstanding our publicly funded health care system, there are a number of medical expenses which Canadians must pay for on an out-of-pocket basis (or through private insurance). In many instances, individuals who incur such expenses out-of-pocket can claim a tax credit for that expense. For 2018, that tax credit is available for qualifying medical expenses over the lesser of $2,302 and 3% of the individual's net income.

The list of expenses which qualify for the medical expense tax credit (METC) is lengthy and detailed, and subject to ongoing revision. Those revisions continue with this year's Budget, which has added new categories of expenses to the list.

Under pre-Budget rules, certain expenses incurred for an animal trained to assist an individual coping with blindness or profound deafness, severe autism, diabetes, or epilepsy can qualify for the METC, where that animal is obtained from a person or organization providing such training. For this purpose, qualifying expenses include the initial cost of the animal and costs for its care and maintenance, as well as reasonable travel and accommodation expenses incurred by the disabled individual to obtain training in the handling of the animal.

This year's Budget proposes to expand the list of conditions and circumstances for which such expenses will qualify for the METC. Those additions include animals specially trained to assist individuals who have a severe mental impairment, which would include post-traumatic stress disorder and severe anxiety. The Budget papers specify, however, that expenses will not be eligible in respect of an animal who provides emotional support for its owner but has not been specially trained as a service animal.

The Budget change will take effect for eligible expenses incurred after 2017.

Registered disability savings plans

Canadians who have a severe and prolonged disability may benefit from a tax-deferral plan known as a Registered Disability Savings Plan (RDSP). However, in order to establish such an RDSP, it is necessary to enter into a legal contract, and not all individuals who may be eligible for an RDSP have the capacity to do so.

Where that is the case, it is necessary that the person signing the contract be the disabled individual's legal representative, as that term is defined by the law of the applicable province or territory. However, having an individual named as a legal representative or guardian can be a time-consuming and costly legal process which can have undesirable legal consequences for the individual, unrelated to the establishment of the RDSP.

For that reason, a temporary federal measure was put in place to provide that, in the absence of a legal representative or guardian, a qualifying family member of a disabled individual (i.e. a parent, spouse or common-law partner) could be the plan holder under the RDSP contract.

That temporary measure was to expire at the end of 2018, but the Budget proposes to extend it by five years, to the end of 2023. As well, a qualifying family member who becomes an RDSP plan holder prior to the end of 2023 will be able to remain in that position after that date.

Tax treatment of enhanced Quebec Pension Plan contributions

Recently, the Quebec government announced that the Quebec Pension Plan (QPP) would be enhanced in a manner similar to the enhancement of the Canada Pension Plan (CPP) which was announced in 2016.

When the CPP changes were announced, corollary changes to the Income Tax Act provided for a tax deduction or credit for contributions made by employees and self-employed individuals to the enhanced portion of the CPP. Those contributions will begin in 2019 and be fully phased in by 2025.

In this year's Budget, the federal government announced that similar tax treatment would be provided for enhanced contributions made by employees and by self-employed individuals to the QPP. Such enhanced contributions will commence with the 2019 tax year, and the new measure will apply as of that date.

Changes to retroactive eligibility to Canada Child Tax Benefit

In the 2016 federal Budget, the new Canada Child Benefit (CCB) was introduced and the former Canada Child Tax Benefit (CCTB) program was eliminated. Under the new system, foreign-born status Indians residing legally in Canada who are neither Canadian citizens nor permanent residents can receive the CCB, where all other eligibility requirements are met. However, such individuals were not similarly entitled to receive benefits under the former CCTB system.

In this year's Budget, it was announced that such individuals would be made retroactively eligible for the CCTB and related benefits, where all other eligibility requirements were met. The amendment to the eligibility rules is to be effective as from 2005 to June 30, 2016, when the CCTB program ended.

Mineral exploration tax credit extended

The 2018 Budget included an announcement of a further extension of the mineral exploration tax credit. That credit provides investors in mining flow-through shares of resource companies with a credit of 15% of specified mineral exploration expenses incurred in Canada and renounced by the company to such investors.

The Budget proposes to extend eligibility for the mineral exploration tax credit for an additional year, to flow-through share agreements entered into prior to March 31, 2019. Under the

rules governing the program, funds raised in one calendar year with the benefit of the credit can be spent on eligible exploration up to the end of the following calendar year. Consequently, funds raised during the first three months of 2019 will be able to be used to support eligible exploration until the end of 2020.

Changes to trust reporting requirements

Under current tax rules, a trust that does not earn income or make distributions in a year is generally not required to file an annual tax return. When tax reporting is required, there is no requirement that trust identify its beneficiaries. In the federal government's view, such limitations in the reporting requirements have created significant gaps in the information that is currently collected with respect to trusts.

To address that gap, the Budget proposes that certain additional reporting requirements be implemented, and those requirements will generally impose an obligation on certain trusts to file a T3 annual return where such obligation does not currently exist. As a general rule, the new reporting obligations will apply to express trusts that are resident in Canada and to non-resident trusts that are currently required to file a T3. Express trusts are generally those which are created by the express intent of the individual creating the trust, as distinct from those which arise by operation of law.

The new reporting requirements will oblige trusts to report the identity of all trustees, beneficiaries and settlors of a trust, as well as the identify of any persons who have the ability (as the result of the terms of the trust) to exert control over certain decisions of the trustee(s).

There are a number of types of special purpose trusts which are exempt from the new rules, including mutual fund trusts, registered plan trusts like RPPs, RRSPs, RESPs, RRIFs, RDSPs, etc., lawyers' trust accounts, most estate trusts and trusts that qualify as non-profit organizations.

The new rules will apply as of the 2021 taxation year. New penalties, which are additional to existing penalties for failure to file, will be imposed where the new reporting requirements are not complied with. As well, additional penalties will apply where the failure to comply was done knowingly or was due to gross negligence.

Measures affecting registered charities

Where the registration of a registered charity is revoked, whether at the request of the charity or as the result of its failure to comply with its registration requirements, a revocation tax is imposed, and that tax is equal to 100% of the total net value of the charity's assets. Such revocation tax can be reduced where the charity uses those assets to make qualifying expenditures, which include gifts to "eligible donees". Such eligible donees are generally other registered charities, so that a revoked charity's accumulated property stays within the charitable sector.

In some circumstances, it may not be possible for a charity to locate an eligible done which is willing or able to assume ownership of that property. In such cases, a local municipality may be the most appropriate recipient of such property, despite the fact that it is not a registered charity.

This year's Budget therefore proposes that, on a case-by-case basis, transfers to municipalities of property subject to the revocation tax will be considered to be a qualifying expenditure for purposes of that tax. Each such transfer will be subject to the approval of the Minister of National Revenue, and the new rules will apply to such transfers made on or after February 27, 2018.

More detailed information on these measures can be found in the Budget Papers, which are available on the Finance Canada website at https://www.budget.gc.ca/2018/docs/plan/toc-tdm-en.html.