

The upcoming 2012 Canadian Federal Budget

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As mentioned in an [earlier post](#), the Federal Budget is usually the place where most tax proposals arise. Accordingly, tax practitioners are keenly interested in the detailed Budget proposals that get released. However, as we have mentioned in earlier posts, there are also many income tax amendments / proposals and comfort letters released by the [Department of Finance](#) throughout the year. In addition, there are hundreds of cases released by the Courts every year in Canada that affect the practice of tax. Accordingly, while it has long been the tradition by many of our peers to race to release a Federal Budget summary, our approach at Moodys is purposefully different. We will, of course, release a Budget summary but we instead, strive for thoughtful analysis and the timely release of tax information throughout the year; not just once a year.

At the moment, the exact date of the 2012 Federal Budget is not known. However, most speculation points to sometime toward the end of March 2012. As most readers know, the content of the Budget is a closely held secret. However, there always appear to be strategically timed “leaks” where one can safely bet that there will be a proposal that deals with the leaks. In addition, Finance Minister Flaherty has been busy in the last little while completing his “Budget consultations”. Whether such consultations will actually amount to any substantive proposals remains to be seen.

With the above in mind, I will engage in a bit of sport fishing for tax practitioners. It is always fun to guess / speculate what will be in the Federal Budget from a tax perspective. A little caution though....the list below is mine only, is pure speculation and should not be relied upon. I have no inside knowledge whatsoever and, as stated, I am simply speculating.

Scientific research and experimental development (“SR&ED”) tax credit changes

This guess should be of no surprise to people who follow tax. With the release of the [Jenkins Report](#) in October 2011, this should be the impetus for the government to change the existing SR&ED tax credit regime which has long been criticized for being inefficient and overall not being effective. It will be interesting to see how the government intends to change / improve the existing system.

Charitable tax credit changes

Many of the recent Federal Budgets have contained targeted changes to the tax system for charities and donors. Most changes have been significant improvements. Some, however, have been anti-avoidance rules designed to stop certain abusive “strategies” or charitable tax shelters from being effective. There has been some speculation that the Federal Budget might introduce a “stretch credit” for charitable donations much like what Alberta has done. A stretch credit is where the underlying tax credit granted for making the charitable donation is greater than the top rate of income tax for donors. For example, in Alberta, donors to charities of amounts greater than \$200 per year will receive a combined Federal – Alberta tax credit of 50 percent notwithstanding that the highest personal tax rate on salary type income

is 39 percent. Will the federal government follow suit? I am guessing a hedged maybe. There has also been speculation that the government might introduce proposals to exempt realized capital gains on private company shares or certain real property from taxation when donated directly to charity (similar to that for listed securities). While nice in theory, I am guessing that this will not happen in Budget 2012. Having said that, I think it is a safe bet that Budget 2012 will have some charitable tax proposals.

Depreciation rates

This is almost a certainty. Every year the government reviews the current depreciation rates (the technical phrase being “capital cost allowance” or “CCA”) for various types of depreciable property and attempts to adjust such rates to reflect commercial realities. It is a pure guess as to what properties’ CCA rates will be adjusted to this year, but wouldn’t it be nice if the rate for computer equipment was finally (and permanently) adjusted to 100 percent?

Personal tax credits

In recent Budgets, there have been a flurry of new personal tax credits offered. Some of the more high profile credits introduced recently have been the [Children's Fitness Credit](#), [Children's Art Credit](#) and the [Transit Pass Credit](#). I am guessing there will be more of these types of credits proposed in the 2012 Budget, although I wish there were not. While these credits are high profile, they do not actually amount to a lot of dollars per person. It would shock me if the recent credits actually change behavioral patterns. For example, did the introduction of the Transit Pass Credit actually cause more people to take public transportation? I doubt it. Does the Children’s Fitness Credit actually cause most families to enroll their children in fitness programs? Doubtful. As stated, the credits amount to a very low amount of tax savings per family, but unfortunately come with a tremendous amount of administration (keeping receipts, filing the receipts with the tax returns, causing tax preparers angst for such low dollar amounts, etc). Notwithstanding, the present government seems to like these high profile / low value tax credits and I am confident we will see more.

Anti-avoidance measures

The two last Budgets could be characterized as anti-avoidance Budgets. In 2011, we saw proposals that shut down deferrals for corporate partners of partnerships, measures to expand the “kiddie tax” and a [restriction](#) on the donation of flow-through shares to charity. In 2010, we saw [proposals](#) that would require certain aggressive tax strategies to be reported to the Canada Revenue Agency (these proposals have not yet been passed into law). Will there be more anti-avoidance rules introduced? I am guessing “yes”. The question is what will be targeted? Will certain income splitting strategies be targeted? Will the use of trusts to split income and capital gains be the subject of attack? Will Canada follow the lead of the US and force large companies to report their uncertain tax positions (“UTP”)? (In the US, certain companies must report their UTP to the IRS). Will charities be subject to even more reporting so as to ferret out the unsavory ones? Will ponzi scheme receipts be subject to tax to overturn the effect of a [recent Tax Court decision](#)? Not sure on any of this.

Tax rates

This seems to be the favorite subject of many people who write on the Budget....whether or not there will be any changes to income tax or GST rates. My educated guess is no. The government appears convinced (and I think they are right), that a low corporate tax rate is good for the economy and helps attract foreign investment. Accordingly, I do not envision any changes with corporate tax rates. For personal income tax rates, I simply think it would be the wrong time to play with rates and the

corresponding brackets, so I am guessing there will be no change here as well. Same with the GST. Let's see if I am right!

Registered tax preparers?

As I wrote about in an [earlier blog](#), I believe that Canada should follow the lead of the US and require paid income tax preparers to be registered. Up until recently, the government did not seem interested in such a proposal but their tone has changed. Will we see the introduction of a registration system for paid tax preparers? I doubt we will see it for Budget 2012 but stay tuned on this.

Employees Profit Sharing Plan Trusts (“EPSPs”)

The 2011 Budget announced the government was studying EPSPs and whether changes were needed. The [Department of Finance](#) sought public input and the time for such consultation has expired. Will we see proposed changes in Budget 2012 as a result of such a study / public consultation? I am guessing yes.

While I am probably missing a lot, the above highlights all that immediately comes to mind. Let's see how close I am when Budget 2012 is released.