TAXBULLETIN
WILKINSON TAX GROUP

New Finance Minister Bill Morneau delivered the new Liberal Government's first budget on March 22, 2016 ("Budget Day"). The Budget anticipates a deficit of $29.4 billion for 2016-2017, followed by a $29-billion deficit for 2017-2018 and almost $23 billion in 2018-19. Budget 2016 projects that over the next five years, $113.2 billion in debt will be added to the Country's balance sheet. The Liberal government election campaign promised modest deficits of $10 billion for several years and a return to surplus by 2019-2020.

The major spending announcements in the budget include amounts for infrastructure, indigenous communities, the new Canada Child Benefit, an increase in the Guaranteed Income Supplement for low income seniors and grants for post-secondary education. In addition, Budget 2016 restores the Old Age Security eligibility age to 65 from 67.

The major tax changes include proposals to restrict perceived abuses of the Small Business Deduction and Life Insurance rules. Several "boutique" tax credits were eliminated including the Family Tax Cut (income splitting), the Children's' Fitness and Arts tax credits and a portion of the tax credits for post secondary education.

There was some concern in the tax community that the Small Business Deduction would be restricted for professional corporations or that the capital gains inclusion rate would be increased from 50% to 75%. Fortunately, neither of these measures was included in Budget 2016.

Details of the key tax highlights of the budget are as follows.

Personal Income Tax Measures

Canada Child Benefit

Currently there are two main federal instruments for the provision of financial assistance to families with children under the age of 18: the Canada child tax benefit (CCTB) and the universal child care benefit (UCCB).

The CCTB is a non-taxable benefit paid monthly that is based on adjusted family net income and the number of children in the family. The UCCB is a fixed taxable amount of $160 for each child under 6 and $60 for children 6 through 17. The UCCB is not based on family net income.

Budget 2016 proposes to simplify and consolidate existing child benefits and making the entire amount based on adjusted family net income.

The Canada Child Benefit will provide a maximum benefit of $6,400 per child under the age of 6 and $5,400 per child aged 6 through 17. On the portion of adjusted family net income between $30,000 and $65,000, the benefit will be phased out at a rate of 7 per cent for a one-child family, 13.5 per cent for a two-child family, 19 per cent for a three-child family and 23 per cent for larger families. Where

adjusted family net income exceeds $65,000, remaining benefits will be phased out at rates of 3.2 per cent for a one-child family, 5.7 per cent for a two-child family, 8 per cent for a three-child family and 9.5 per cent for larger families, on the portion of income above $65,000.

The following is a chart of benefits to be received for various adjusted family net income levels for a family with two children under the age of 6:

Adjusted Family Net Income	Benefit for one Child under 6	Benefit for two Children Under 6
$30,000	$6,400	$12,800
$65,000	$3,950	$8,075
$100,000	$2,830	$6,080
$189,000	$0	$1,007

When comparing the above income levels to the existing benefits in place, the proposed benefits are more beneficial for all income levels listed except the $189,000 level.

The new benefits will begin June 2016 and will be based on the family's 2015 adjusted net income.

Income Splitting Credit

A non-refundable income splitting tax credit is currently available for couples with at least one child under the age of 18. The credit provides for a reduction of up to $2,000 in the couples' income tax liability by effectively transferring up to $50,000 of income from a higher-income spouse to the lower income spouse.

Budget 2016 proposes to eliminate the income splitting credit for couples for the 2016 and subsequent taxation years.

Northern Residents Deductions

Currently individuals who live in prescribed areas in northern Canada for at least six consecutive months beginning or ending in a taxation year may claim the northern resident deductions in computing their taxable income for that year. The current deduction allows each member of the household to deduct up to $8.25 per day. Alternatively, one member of a household can claim a maximum of $16.50 if no other member in the household claims the residency deduction.

Budget 2016 proposes to increase the deductions from $8.25 to $11 a day and from $16.50 to $22.

Labour-Sponsored Venture Capital Corporations

A labour-sponsored venture capital corporation (LSVCC) is a form of mutual fund corporation, sponsored by an eligible labour body. Prior to 2015, individuals acquiring LSVCC shares qualified for a 15-per-cent federal tax credit for investments of up to $5,000 each year. The federal LSVCC tax credit was reduced to 10 per cent for the 2015 taxation year and to five per cent for the 2016 taxation year. The credit is scheduled to be eliminated for the 2017 and subsequent taxation years.

Budget 2016 proposes to restore the 15% federal tax credit for provincially registered funds and ensures that new provincially registered funds can benefit from these measures. .

This credit is available for the 2016 and subsequent taxation years.

Teacher and Early Childhood Educator School Supply Tax Credit

Teachers and early childhood educators often incur at their own expense the cost of supplies for the purpose of teaching or otherwise enhancing students' learning in the classroom or learning environment.

To provide tax recognition for these costs, Budget 2016 proposes to introduce a teacher and early childhood educator school supply tax credit. This measure will allow an employee who is an eligible educator to claim a 15-per-cent refundable tax credit based on an amount of up to $1,000 in expenditures made by the employee in a taxation year for eligible supplies. Individuals making claims will be required to retain their receipts for verification purposes.

This measure will apply to supplies acquired on or after January 1, 2016.

Ontario Electricity Support Program

The Ontario Electricity Support Program (OESP) is a program of the Government of Ontario that, effective January 1, 2016, provides assistance to low-income households in Ontario for the cost of electricity. The OESP reduces the cost of household electricity by providing a monthly credit on a recipient's electricity bill. The credit depends on household income and how many people live in the household.

This type of assistance received in a year is generally required to be included in income. While an offsetting deduction is provided so that the assistance is effectively non-taxable, amounts received may affect income-tested federal or provincial/territorial benefits, such as child benefits.

To ensure that income-tested benefits are not reduced as a result of OESP amounts, Budget 2016 proposes to exempt from income amounts received under the OESP.

This measure will apply to the 2016 and subsequent taxation years.

Mineral Exploration Tax Credit for Flow-Through Share Investors

Budget 2016 proposes to extend eligibility for the mineral exploration tax credit for one year, to flow-through share agreements entered into on or before March 31, 2017.

Education and Textbook Tax Credit

The education tax credit provides a 15-per-cent non-refundable tax credit of $400 per month of full-time and $120 per month for part-time enrolment in a qualifying educational program. The textbook tax credit provides a 15-percent non-refundable tax credit of $65 per month of full-time and $20 per month for part-time enrolment in a qualifying educational program.

A tuition tax credit is also available that provides a 15-per-cent non-refundable tax credit on eligible fees for tuition and eligible examination fees paid to certain educational institutions.

Budget 2016 proposes to eliminate the education and textbook tax credits. This measure does not eliminate the tuition tax credit.

This measure will apply effective January 1, 2017. Unused education and textbook credit amounts carried forward from years prior to 2017 will remain available to be claimed in 2017 and subsequent years.

Budget 2016 also proposes to increase student grants from $2,000 per year to $3,000 per year for low income families, from $800 to $1,200 for middle income families and from $1,200 to $1,800 for part-time students.

Children's Fitness and Arts Tax Credits

The children's fitness tax credit provides a 15-per-cent refundable tax credit on up to $1,000 of eligible fitness expenses for children under 16 years of age. The children's arts tax credit provides a 15-per-cent non-refundable tax credit on up to $500 in eligible fees for programs of artistic, cultural, recreational and developmental activity for children under 16 years of age.

Budget 2016 proposes to phase out the children's fitness and arts tax credits by reducing the 2016 maximum eligible amounts to $500 from $1,000 for the children's fitness tax credit (which will remain refundable for 2016) and to $250 from $500 for the children's arts tax credit. The supplemental amounts for children eligible for the disability tax credit will remain at $500 for 2016. Both credits will be eliminated for the 2017 and subsequent taxation years.

Top Marginal Income Tax Rate – Consequential Amendments

On December 7, 2015, the Government announced a reduction of the second personal income tax rate to 20.5 per cent from 22 per cent and the introduction of a 33-per-cent personal income tax rate on individual taxable income in excess of $200,000, effective for the 2016 and subsequent taxation years.

The Income Tax Act contains a series of rules that are intended to maintain the neutrality, fairness and integrity of the income tax system. Budget 2016 proposes further amendments to these rules to reflect the new top marginal income tax rate for individuals. These rules include, but are not limited to, charitable donation tax credits for trusts, excess employee profit sharing plan contributions and tax on personal services business income.

These measures will apply to the 2016 and later taxation years.

Taxation of Complex Financial Instruments

Budget 2016 proposes to change the taxation rules pertaining to Switch Fund Shares and Sales of Linked Notes to eliminate the current deferral benefit available to investors.

These measures apply for dispositions after September 2016.

Business Income Tax Measures

Tax Rates for Small Businesses

The current federal income tax rate for a Canadian-Controlled Private Corporation (CCPC) with qualifying active business income under the small business deduction limit is 10.5% and was scheduled to decrease by an additional 0.5% each year until 2019. For corporations in Ontario, this results in a combined corporate tax rate of 15% for 2016, which would be incrementally reduced to 13.5% by 2019.

In conjunction with the scheduled incremental decrease in the income tax rates for small businesses, the gross-up factor on non-eligible dividends and corresponding dividend tax credit were scheduled to change as well, to ensure that integration of corporate and personal taxes is maintained.

Budget 2016 proposes to cancel the scheduled incremental decrease in the income tax rate for small businesses and changes to non-eligible dividends. As a result of this proposal, the income tax rate for 2016 and beyond for small businesses will remain at 10.5%, and the gross-up rate and dividend tax rate for non-eligible dividends will remain at 17% and 21/29 of the gross-up respectively.

Multiplication of the Small Business Deduction

Partnerships

The small business deduction that a CCPC that is a member of a partnership can claim in respect of its income from the partnership is limited to the lesser of the active business income that it receives as a member of the partnership and its *pro-rata* share of a notional $500,000 business limit determined at the partnership level. These rules are known as the specified partnership income (SPI) rules.

Some taxpayers have implemented structures to circumvent the application of these rules. In a typical structure, a shareholder of a CCPC is a member of a partnership and the partnership pays the CCPC as an independent contractor under a contract for services. As a result, the CCPC claims a full small business deduction in respect of its active business income as opposed to being limited by an allocation of SPI.

Budget 2016 proposes to extend the SPI rules to cover this type of transaction by deeming the CCPC to be a member of the partnership, and subject to an allocation of the small business deduction limit under the SPI rules.

This measure is proposed to apply to taxation years that begin on or after Budget day. However, an actual member of a partnership will be entitled to notionally assign all or a portion of the member's SPI limit in respect of their taxation year that begins before and ends on or after Budget day.

Corporations

Multiplication of the small business deduction limit could occur in circumstances where a CCPC earns active business income from providing services or property (directly or indirectly, in any manner whatever) to a private corporation during the CCPC's taxation year when, in the taxation year, the CCPC, one of its shareholders or a person who does not deal at arm's length with such a shareholder has a direct or indirect interest in the private corporation.

Budget 2016 proposes to amend the *Income Tax Act* to make income in the CCPC from the above private corporation ineligible for the small business deduction limit, except in circumstances where the CCPC earns all or substantially all of its active business income from an arm's length person other than the private corporation. The CCPC may be entitled to an allocation of all or a portion of the unused business limit from the private corporation in which it is providing services or property subject to certain limitations.

This measure is proposed to apply to taxation years that begin on or after Budget day. However, a private corporation will be entitled to notionally assign all or a portion of its unused business limit in respect of its taxation year that begins before and ends on or after Budget day.

Avoidance of the Business Limit and the Taxable Capital Limit

Associated corporations must share the $500,000 small business deduction limit, and calculate an aggregate taxable capital that may grind down the available business deduction limit. Under the *Income Tax Act* two corporations which would not otherwise be associated, are deemed to be associated if they are each associated with a third corporation. The two corporations would not be considered associated for purposes of allocating the small business deduction limit if the third corporation is not a CCPC or elects out of its entitlement to the business limit. As a result the two corporations would be entitled to their own business limit.

The election only impacts the allocation of the business limit, and does not impact another provision of the *Income Tax Act* that reclassifies investment income earned from an associated corporation carrying on an active business as active business income. Accordingly, two corporations may not be associated for the purpose of claiming the maximum small business deduction while retaining the

ability to treat investment income that one receives from the other as active business income. In addition, the taxable capital of the third corporation is not taken into consideration when calculating the maximum available business limit.

Budget 2016 proposes to make investment income a corporation earns derived from the third corporation's active business ineligible for the small business deduction limit. Such income would be taxed at the general corporate tax rate. In addition, the third corporation's taxable capital would be included in the determination of the availability of the small business deduction limit. This measure will apply to taxation years that begin on or after Budget day.

Expanding Tax Support for Clean Energy

Under the capital cost allowance (CCA) regime, there are accelerated depreciation rates of 30 per cent and 50 per cent for investments in specified clean energy generation and conservation equipment.

Budget 2016 proposes to expand eligibility for these accelerated rates by adding to eligible equipment certain electrical vehicle charging stations and electrical energy storage property.

The measure will apply in respect of property acquired for use on or after Budget Day that has not been used or acquired for use before Budget Day.

Emissions Trading Regimes

Budget 2016 proposes to amend the *Income Tax Act* to introduce specific rules to clarify the tax treatment of emissions allowances and to eliminate the double taxation of certain free allowances. Specifically, these rules will provide that emissions allowances be treated as inventory for all taxpayers. However, the "lower of cost and market" method for the valuation of inventory will not be available in respect of emissions allowances because of the potential volatility in their value.

The proposed changes will impact income inclusions and deductions relating to emissions allowance and obligation transactions.

This measure will apply to emissions allowances acquired in taxation years beginning after 2016. It will also apply on an elective basis in respect of emissions allowances acquired in taxation years ending after 2012.

Life Insurance Policies

Currently the Income Tax provisions for life insurance and life insurance policies are extremely complicated where they attempt to integrate the generally tax-free life insurance provisions with the corporate and partnership tax regimes. Budget 2016 proposes to tighten these rules so there are less potential advantages.

Life insurance proceeds received as a result of the death of an individual insured under a life insurance policy (a "policy benefit") are generally not subject to income tax. A private corporation may add the amount of a policy benefit it receives to its Capital Dividend Account, which consists of certain non-taxable amounts. A private corporation may elect to pay a dividend as a capital dividend to the extent that the corporation's capital dividend account has a positive balance. Capital dividends are received tax-free by shareholders. The income tax rules for partnerships also account for a policy benefit being non-taxable.

Distributions Involving Life Insurance Proceeds

Some taxpayers have structured their affairs so that the insurance benefit limit may not apply as intended, resulting in an artificial increase in a corporation's capital dividend account balance by having an insurance benefit paid to someone other than the policy holder. A similar result could be achieved under the rules for computing the adjusted cost base of a partner's interest in a partnership.

Budget 2016 provides that the insurance benefit limit applies regardless of whether the corporation or partnership that receives the policy benefit is a policyholder of the policy.

This measure will apply to policy benefits received as a result of a death that occurs on or after Budget Day.

Transfers of Life Insurance Policies

Where a policyholder disposes of an interest in a life insurance policy to a non-arm's length person, a special rule (the "policy transfer rule") deems the policyholder's proceeds of the disposition, and the acquiring person's cost, of the interest to be the amount that the policyholder would be entitled to receive if the policy were surrendered (the "interest's surrender value"). As such, any proceeds received in excess of the cash surrender value could be received tax-free.

In addition, the amount of the excess can also be effectively extracted from the private corporation a second time as a tax-free capital dividend. These results are unintended and erode the tax base. Similar concerns also arise in the partnership context and where an interest in a policy is contributed to a corporation as capital.

Budget 2016 proposes to include the fair market value of any consideration given for an interest in a life insurance policy in the policyholder's proceeds of the disposition and the acquiring person's cost.

This measure will apply to dispositions that occur on or after Budget Day.

Budget 2016 also proposes to reduce the eventual addition to the capital dividend account and the adjusted cost base for partnership interests by the amount of any excess amount received on a transfer of a life insurance policy prior to Budget 2016.

This measure will apply in respect of policies under which policy benefits are received as a result of deaths that occur on or after Budget Day.

Debt Parking to Avoid Foreign Exchange Gains

Budget 2016 proposes to introduce rules so that any accrued foreign exchange gains on a foreign currency debt will be realized when the debt is acquired by certain non-arm's length parties (becomes a parked obligation). Exceptions will be provided so that a foreign currency debt will not become a parked obligation in the context of certain *bona fide* commercial transactions.

This measure will apply to a foreign currency debt that meets the conditions to become a parked obligation on or after Budget Day. There will be an exception where the meeting of these conditions occurs before 2017 and results from a written agreement entered into before Budget Day.

Valuation of Derivatives

The *Income Tax Act* contains rules for the valuation of property held as inventory for the purpose of computing a taxpayer's income or loss from a business. In most cases, a taxpayer can choose to value each inventory property at the lower of its cost and its fair market value at the end of the year.

The application of the lower of cost and market method to derivative securities could lead to significant tax base concerns given their potentially higher volatility and longer holding periods, as compared to conventional inventory property.

Budget 2016 proposes to exclude derivatives from the application of the inventory valuation rules while maintaining the status of such property as inventory. A related rule will also be introduced to ensure that taxpayers are not able to value derivatives using the lower of cost and market method under the general principles for the computation of profit for tax purposes.

The measure will apply to derivatives entered into on or after Budget Day.

Eligible Capital Property

The ECP regime governs the tax treatment of certain expenditures of a capital nature (eligible capital expenditures) and receipts (eligible capital receipts) that are not otherwise accounted for as business revenues or expenses, or under the rules relating to capital property. Budget 2016 proposes to implement changes contemplated in Budget 2014 and repeal the ECP regime, replace it with a new capital cost allowance (CCA) class available to businesses and provide rules to transfer taxpayers' existing cumulative eligible capital (CEC) pools to the new CCA class. This conversion purports to simplify the tax compliance burden for affected taxpayers.

As we noted in 2014, this proposal will result in the elimination of a tax deferral opportunity currently available on the sale of ECP such as goodwill and quota. The government has stated that this outcome is consistent with the overall intent of the proposal to treat ECP as a type of depreciable property.

Existing Rules

Under the ECP regime, 75% of an eligible capital expenditure is added to the CEC pool in respect of the business and is deductible at a rate of 7% per year on a declining-balance basis.

An eligible capital receipt will result in an income inclusion where 75% of the proceeds exceed the current balance in the ECP pool. This income inclusion will result in a 100% income inclusion for recaptured ECP deductions and any gain effectively included in income from the business at a 50% inclusion rate, which is also the inclusion rate that applies to capital gains.

Proposed Rules

A new class of depreciable property for CCA purposes will be introduced for current ECP expenditures at a 100-per-cent inclusion rate and a 5-per-cent annual depreciation rate (instead of 7 per cent of 75 per cent of eligible capital expenditures). To retain the simplification objective, the existing CCA rules will generally apply, including rules relating to recapture, capital gains and depreciation (e.g., the "half-year rule").

Special rules will apply in respect of goodwill and in respect of expenditures and receipts that do not relate to a specific property of the business. Such expenditures and receipts will be accounted for by adjusting the capital cost of the goodwill of the business and, consequently, the balance of the new CCA class.

Transitional rules

Under the proposal, CEC pool balances will be calculated and transferred to the new CCA class as of January 1, 2017. The opening balance of the new CCA class in respect of a business will be equal to the balance at that time of the existing CEC pool for that business. For the first ten years, the depreciation rate for the new CCA class will be 7 per cent in respect of expenditures incurred before January 1, 2017.

Certain receipts that relate to ECP existing at the transition date will reduce the balance of the new CCA class at a 75-per-cent rate.

Budget 2016 also proposes the following special rules to simplify the transition for small businesses:

- A taxpayer will be permitted to deduct as capital cost allowance, in respect of expenditures incurred before 2017, the greater of $500 per year and the amount otherwise deductible for that year. This additional allowance will be provided for taxation years that end prior to 2027.

- A separate business deduction will also be provided for incorporation expenses such that the first $3,000 of these expenditures will be treated as a current expense rather than being added to the new CCA class.

These measures, including the transitional rules, will apply as of January 1, 2017.

International Income Tax Measures

Transfer Pricing

Budget 2016 proposes new legislation to strengthen transfer pricing documentation by introducing country-by-country reporting for large multinational enterprises. This reporting will be required for years ending after 2015.

Treaty Abuse

Budget 2016 confirms the Government is taking steps to address treaty abuse though potential amendments to Canada's tax treaties to include anti-abuse rule.

Spontaneous Exchange of Tax Rulings

Budget 2016 confirms the Government's intentions to exchange tax rulings in 2016 with other jurisdictions that have committed to the minimum standard.

Cross-border Surplus Stripping

Some non-resident corporations with Canadian subsidiaries have misused exceptions available in the *Income Tax Act* to reorganize their organizational structure to restructure ownership where the non-resident corporation is "sandwiched" between two Canadian corporations. This can allow for an artificial increase in the paid-up capital of the shares of the subsidiary, such that the non-resident can extract funds tax-free.

Budget 2016 proposes to amend the provision of the *Income Tax Act* that provides this exception to not apply where the non-resident both (i) owns, directly or indirectly, shares of the Canadian purchaser corporation, and (ii) does not deal at arm's length with the Canadian purchaser corporation.

This measure will apply to transactions occurring on or after Budget day.

Extension of the Back-to-Back Rules

The Income Tax Act contains "back-to-back loan" rules that prevent taxpayers from interposing a third party between a Canadian borrower and a foreign lender in an attempt to avoid the application of rules that would otherwise apply if a loan were made directly between the two taxpayers. In particular, the back-to-back loan rules in Part XIII of the *Income Tax Act* ensure that the amount of withholding tax in respect of a cross-border interest payment cannot be reduced through the use of a back-to-back arrangement.

To prevent the erosion of the Canadian tax base through the use of back-to-back arrangements, Budget 2016 proposes to build on the existing back-to-back loan rules by:

- amending the existing back-to-back loan rules in Part XIII to extend their application to rents and royalties (effective for payments made after 2016);
- adding character substitution rules to the back-to-back rules in Part XIII (effective for payments made after 2016);
- adding back-to-back loan rules to the existing shareholder loan rules in the *Income Tax Act* (effective for loan arrangements as of Budget day); and
- clarifying the application of the back-to-back loan rules to multiple-intermediary structures. (effective for payments of interest or royalties made after 2016 and to shareholder debts as of January 1, 2017).

Sales and Excise Tax Measures

Medical and Assistive Devices

Medical and assistive devices that are specially designed to assist an individual in treating or coping with a chronic disease or illness or a physical disability are generally zero-rated under the Goods and Services Tax/Harmonized Sales Tax (GST/HST).

Budget 2016 proposes to add insulin pens, insulin pen needles and intermittent urinary catheters to the list of zero-rated medical devices to reflect the evolving nature of the health care sector.

This measure will apply to supplies made after Budget Day.

Purely Cosmetic Procedures

Supplies of purely cosmetic procedures are not considered to be supplies of basic health care and are intended to be subject to the GST/HST, regardless of the status of the supplier.

Budget 2016 proposes to clarify that the GST/HST generally applies to supplies of purely cosmetic procedures provided by all suppliers, including registered charities. Taxable procedures will generally include surgical and non-surgical procedures aimed at enhancing or altering an individual's appearance, such as liposuction, hair replacement procedures, hair removal, botulinum toxin injections and teeth whitening.

This measure will apply to supplies made after Budget Day.

Reporting of Grandparented Housing Sales

Under the transitional rules that applied when a province either joined the harmonized value-added tax system since 2010 or increased its HST rate, certain sales of newly constructed or substantially renovated homes were grandparented for HST purposes.

Under the current rules, builders are subject to special reporting requirements, which involve reporting their grandparented housing sales where the purchaser was not entitled to a GST New

Housing Rebate or a GST New Residential Rental Property Rebate. The rules also include penalties for misreporting (i.e., underreporting, over-reporting or failing to report).

Budget 2016 proposes to simplify builder reporting by:

- limiting the reporting requirement to those grandparented housing sales for which the consideration is equal to or greater than $450,000; and
- providing builders with an opportunity to correct past misreporting and avoid potential penalties by allowing them to elect to report all past grandparented housing sales for which the consideration was equal to or greater than $450,000.

This measure will apply in respect of any reporting period of a person that ends after Budget Day.

GST/HST on Donations to Charities

The GST/HST does not apply to a donation if the donor does not receive anything in return. However, if the donor receives property or services in exchange for the donation, even if the value of the donation exceeds the value of the offered property or services, any GST/HST charged by the charity generally applies on the full value of the donation (there are a number of exceptions to this treatment).

To bring the GST/HST treatment of this type of exchange into line with the treatment under the Income Tax Act split-receipting rules, Budget 2016 proposes a relieving change to provide that when a charity supplies property or services in exchange for a donation and when an income tax receipt may be issued for a portion of the donation, only the value of the property or services supplied will be subject to GST/HST.

This measure will apply to supplies made after Budget Day.

De Minimis Financial Institutions

Under the GST/HST, special rules apply to financial institutions, particularly in determining their entitlement to input tax credits. The GST/HST legislation also includes rules to ensure that other persons that provide a significant amount of financial services, such that they may be in competition with traditional financial institutions, are also treated as financial institutions for GST/HST purposes. Generally, this will occur where revenue from certain sources exceeds $1 million.

Budget 2016 proposes that interest earned in respect of demand deposits, as well as term deposits and guaranteed investment certificates with an original date to maturity not exceeding 364 days, not be included in determining whether the person exceeds the $1 million threshold.

This measure will apply to taxation years of a person beginning on or after Budget Day.

Closely Related Test

Under the GST/HST, special relieving rules allow the members of a group of closely related corporations or partnerships to neither charge nor collect GST/HST on certain intercompany supplies. To qualify for these relieving rules, each member of this group must, among other requirements, be considered to be closely related to each other member of the group.
To ensure that the closely related test applies only in situations where nearly complete voting control exists, Budget 2016 proposes to require that, in addition to meeting the conditions of the current test, a corporation or partnership must also hold and control 90 per cent or more of the votes in respect of every corporate matter of the subsidiary corporation (with limited exceptions) in order to be considered closely related.

Previously Announced Measures

Donations Involving Private Corporation Shares or Real Estate

Budget 2016 also announces the Government's intention not to proceed with the measure announced in Budget 2015 that would provide an exemption from capital gains tax for certain dispositions of private corporation shares or real estate where cash proceeds from the disposition are donated to a registered charity or other qualified donee within 30 days.

Other Matters

Budget 2016 confirms the Government's intention to proceed with the following tax and related measures that were announced in the current session of Parliament but have not yet been legislated which include:

- the conversion of capital gains into tax-deductible inter-corporate dividends (section 55);
- an exception to the withholding tax requirements for payments by qualifying non-resident employers to qualifying non-resident employees; and
- the repeated failure to report income penalty.