



This publication has been prepared for CMA Canada by BDO Dunwoody LLP on the 2009 Federal Budget developments in the area of taxation and we are grateful for their assistance. This material is general in nature and should not be relied upon to replace the requirement for specific professional advice.

The budget contained tax relief for both individuals and businesses. Individuals will benefit from increases to the basic personal tax credit and the two lowest personal income tax brackets. First-time home buyers received help with the introduction of a new tax credit and an increase to the amount that can be withdrawn from their RRSP under the Home Buyers' Plan. Individuals who are thinking of investing in their homes will be able to benefit from the new home renovation tax credit.

For businesses, the biggest change was an increase to the amount of income eligible for the small business deduction which will benefit Canadian-controlled private corporations that qualify. The temporary increase to the tax depreciation rates for acquisitions of capital assets in the manufacturing sector has been extended in an effort to encourage investment. In addition, accelerated depreciation rates will apply to computer equipment. However, the government did not accelerate the previously announced corporate tax rate reductions as had been rumoured in the press.

Personal Tax Measures

Personal Amounts and Income Tax Brackets

The 2009 budget proposes modest personal tax relief for all Canadians. The basic personal amount, the spouse or common-law partner amount and the eligible dependant amount will be increased from the previously announced amount of \$10,100 for 2009 to \$10,320. Income below this amount will effectively not be subject to income tax. The increase in the personal amount results in a maximum tax savings of \$33 for a single individual with no dependants.

The 2009 budget also proposes to increase the lowest two income tax brackets. For 2009, these income tax brackets increased by 2.5% due to the annual indexation factor (when compared with 2008). The budget proposes to increase the lowest two income tax brackets by an additional 5%, as follows:

Federal tax rate	Current 2009 taxable income range	Proposed 2009 taxable income range	Maximum savings
15%	\$0 - \$38,832	\$0 - \$40,726	\$133
22%	\$38,833 - \$77,664	\$40,727 - \$81,452	\$151
26%	\$77,665 - \$126,264	\$81,453 - \$126,264	-
29%	Over \$126,264	Over \$126,264	-

Age Credit

The age credit is available to Canadians who are 65 years of age and older. For 2009 and subsequent years, the amount on which the age credit is based has been increased to \$6,408 and will be indexed thereafter. The credit is subject to an income test and will begin to be phased out once income reaches \$32,312 with no credit being available once income reaches \$75,032.

RRSP/RRIF Losses After Death

Where the fair market value of RRSP or RRIF investments decreases after the death of an annuitant, but before the property is distributed to the beneficiaries, there is currently no rule to provide for the recognition of this decrease. The budget proposes a relieving measure to allow the amount of a post-death decrease in these investments to be carried back and deducted against the year of death RRSP/RRIF income inclusion of the deceased annuitant upon the final distribution of property from their RRSP or RRIF. The amount to be carried back will generally be the difference between the amount of the RRSP/RRIF income inclusion

of the annuitant as a result of their death and the total of all amounts paid out of the RRSP or RRIF after the death of the annuitant. This measure will apply where the final distribution from the RRSP or RRIF occurs after 2008.

The Mineral Exploration Tax Credit

The mineral exploration tax credit is available to individuals who invest in flow-through shares and is equal to 15% of the specified mineral exploration expenses incurred in Canada and renounced to individual investors. This temporary credit is scheduled to expire at the end of March 2009. The budget proposes to extend the eligibility for this tax credit to flow-through share agreements entered into on or before March 31, 2010. With this extension, under the look-back rule, funds raised with the credit during the first three months of 2010 can support eligible exploration until the end of 2011.

Home Renovation Tax Credit

The budget proposes to introduce a temporary home renovation tax credit. Individuals will be able to claim a 15% non-refundable tax credit for eligible expenditures made in respect of a dwelling that is eligible to be their principal residence. The credit will apply to expenditures in excess of \$1,000 to a maximum of \$10,000, resulting in a maximum credit of \$1,350 (\$9,000 x 15%). This credit will only be available in respect of expenditures for work performed or goods acquired after January 27, 2009 and before February 1, 2010. Expenditures for work performed or goods acquired in that period made pursuant to an agreement entered into before January 28, 2009 will not qualify for the credit. Routine repairs and maintenance, appliances, audio-visual electronics and financing costs associated with a renovation will not qualify for the credit. Family members will be subject to a single limit based on their pooled expenditures.

Home Buyers' Plan

The Home Buyers' Plan (HBP) allows first-time home buyers to withdraw amounts from their RRSP to purchase or build a home without having to pay tax on the withdrawal. The limit for HBP withdrawals made after January 27, 2009 will increase from \$20,000 to \$25,000. The withdrawn amounts will continue to be repayable in instalments over a period not exceeding 15 years.

First-Time Home Buyers' Credit

The budget proposes to introduce a new non-refundable tax credit of \$750 (based on a credit amount of \$5,000) for first-time home buyers who close a home purchase after January 27, 2009. The maximum credit that may be claimed for a jointly purchased home is limited to the amount of the credit that one individual could claim.

Business Tax Measures

Small Business Limit

The budget proposes to increase the annual amount of active business income eligible for the reduced corporate tax rate of 11% for Canadian-controlled private corporations (CCPCs) from \$400,000 to \$500,000 as of January 1, 2009. The increase to the small business limit will be pro-rated for corporations with taxation years that do not coincide with the calendar year.

Consistent with the proposal to increase the small business limit, the \$3-million expenditure limit for the scientific research and experimental development rules will begin to be reduced at the proposed small business limit of \$500,000 and will be fully eliminated where taxable income in the previous year is \$800,000 or more. This change will apply where the previous taxation year ends after 2008. The reduction of the expenditure limit based upon taxable capital will not be changed.

As a consequence of increasing the small business limit to \$500,000, some CCPCs with taxable income above \$400,000, but below the proposed new limit, will have an additional month in which to pay any balance of tax owing. As well, CCPCs with taxable income not exceeding \$500,000 for their 2009 and subsequent taxation years may be eligible for quarterly instalments of corporate income tax.

Manufacturing and

Processing: Accelerated CCA

The accelerated capital cost allowance (CCA) rules on qualifying manufacturing and processing equipment introduced in the 2007 and 2008 federal budgets have been amended in today's budget. In 2010 and 2011, the 50% straight-line accelerated CCA rule will now apply (as opposed to the declining balance method). The "half-year rule", which generally allows half the CCA write-off otherwise available in the year the asset is first available for use by the taxpayer, will apply to the properties that are subject to this measure.

Computers: Accelerated CCA

The budget proposes a temporary increase from a 55% to a 100% CCA rate for eligible computers and software acquired after January 27, 2009 and before February 2011. This 100% CCA rate will not be subject to the half-year rule. As a result of this measure, a business will be able to fully deduct the cost of an eligible computer (including the systems software for that computer) in the first year that CCA deductions are available.

For this purpose, eligible computers and systems software acquired by a taxpayer will have to be new computer equipment and software described in Class 50 for use in and for the purpose of earning income in Canada. The 100% CCA rate will also apply to eligible property that may otherwise be included in CCA Class 29 provided that it meets specific conditions.

Acquisition of Control of a Corporation

A 2006 Federal Court of Appeal decision has resulted in an interpretation of the acquisition of control rules that can produce anomalies in relation to the vendor's entitlement to claim certain tax benefits (such as the capital gains exemption or the allowable business investment loss rules) that depend on who has control of the corporation at the time of the transfer. The budget proposes to amend the deeming rule regarding the timing of an acquisition of control of a corporation to ensure that it does not affect the status of a corporation as a CCPC at the time of the transaction that caused the change of control.

This amendment will apply in respect of acquisitions of control that occur after 2005, except that it will not apply to a taxpayer in respect of such an acquisition of control that occurs before January 28, 2009 if the taxpayer so elects on or before the taxpayer's filing-due date for the taxpayer's 2009 taxation year. A taxpayer shall be deemed to have made such an election if it may reasonably be considered that the position taken in the taxpayer's return of income filed before January 28, 2009 relies upon the reasoning in the court decision.

Mandatory Electronic Filing

The budget proposes to require electronic filing of tax returns for corporations that have annual gross revenues in excess of \$1 million for a taxation year. Certain exceptions may be made for corporations where efficiencies are not created, such as for non-resident corporations, insurance corporations and corporations filing in a functional currency.

This new filing requirement will be effective for taxation years that end after 2009. A penalty will be introduced for filing a corporate income tax return in an incorrect format for taxation years ending after 2010. This penalty will gradually increase from \$250 for taxation years that end in 2011, to \$500 for taxation years that end in 2012 and finally to \$1,000 for taxation years that end after 2012.

The budget also proposes to lower the limit at which electronic filing of certain tax information returns is required from 500 to 50 returns. For example, this will impact the filing of T4 information returns for employment income. The budget also proposes to reduce the penalties applied to late or incorrectly filed tax information returns. These changes will apply to information returns required to be filed after 2009.

Other Tax Measures

GST/HST Tax Changes for Direct Sellers

The direct selling industry distributes goods to final consumers through a large number of contractors and sales representatives rather than through retail establishments (e.g. Amway, Avon and Pampered Chef). One particular distribution structure is the commission-based model, where a network of sales representatives of a direct selling organization (a "network seller") receives commissions for arranging for the sale of the network seller's goods to consumers.

For fiscal years that commence on or after January 1, 2010, network sellers that meet certain criteria will be able to elect jointly with their sales representatives for a new set of simplified rules to apply. With the election in place, the sales representative is essentially ignored for GST/HST purposes. The intention of these new, simplified rules is to greatly reduce the number of sales representatives that are registered for GST/HST.

Tariff Reductions

The budget proposes to permanently eliminate tariffs on a range of machinery and equipment effective for goods imported into Canada on or after January 28, 2009.

Interest Deductibility: Double Dip Structures

In the 2007 federal budget, the government proposed to restrict the deduction of interest on funds borrowed to invest in foreign affiliates. In May 2007, the proposal was described as an “Anti Tax Haven Initiative” and the deductibility restriction was narrowed to target foreign affiliate financing structures that resulted in a “double dip” of interest expense starting in 2012. A double dip structure effectively allows a deduction for interest expense in two jurisdictions: Canada and the jurisdiction where the foreign affiliate is located. It should be noted that double dips do not result in a loss of Canadian tax revenues. Foreign taxes are reduced and double dips actually result in higher net earnings for Canadian companies doing business in foreign jurisdictions. The restriction on the deduction of interest to finance foreign affiliates was strongly criticized by the business and tax communities.

In late 2007, the Finance Minister appointed the “Advisory Panel on Canada’s System of International Taxation” to develop recommendations to improve the competitiveness, efficiency and fairness of Canada’s rules for taxing international business transactions. The panel issued its report on December 10, 2008. Among its recommendations was the repeal of the double dip restrictions on interest deductibility. This budget proposes to implement that recommendation by repealing section 18.2 of the Income Tax Act.

NRTs, FIEs and Foreign Affiliate Taxation

In light of recent submissions, the Federal government will review proposed changes on the taxation of non-resident trusts (NRTs) and foreign investment entities (FIEs) before implementing the legislation that has been drafted. Similarly, the 2004 foreign affiliate proposals will also be reviewed before implementation.