# 2024 Fall Economic Statement: An Update from Ottawa

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On December 16, 2024, following the abrupt resignation of Finance Minister Chrystia Freeland, the Government of Canada released the 2024 Fall Economic Statement. The Fall Economic Statement, which proposes the government's economic plan for reducing everyday costs and investing in economic growth, is largely focused on clean energy and innovation. While we await further updates from Ottawa, our top two key takeaways from the Fall Economic Statement are as follows:

1. **Modifying the Canada Carbon Rebate for Small Businesses**

Budget 2024 previously announced that a portion of the carbon pricing fuel charge proceeds would be returned to approximately 600,000 businesses with 499 or fewer employees through an automatic refundable tax credit called the Canada Carbon Rebate for Small Businesses.

The 2024 Fall Economic Statement now proposes to modify the Canada Carbon Rebate for Small Businesses, effective for 2024-2025 and later fuel charge years, by:

- creating a base payment for small businesses so that small businesses that have between one and 20 employees qualify for a payment amount that is equivalent to having 20 employees;
- decreasing the payment amount for larger businesses so that larger businesses that have over 300 employees have their payment amounts gradually reduced as their number of employees reaches 500; and
- extending the eligibility of the Canada Carbon Rebate for Small Businesses to cooperative corporations and credit unions.

2. **Boosting Scientific Research and Experimental Development ("SR&ED")**

The SR&ED program currently supports the research and development activities of over 22,000 businesses operating in Canada.

The 2024 Fall Economic Statement now proposes to modify the SR&ED program, effective for taxation years that begin on or after the date of the Fall Economic Statement, by:

- increasing the annual expenditure limit on which Canadian-controlled private corporates are entitled to earn an enhanced 35% investment tax credit from $3 million to $4.5 million;

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- increasing the prior-year taxable capital phase-out thresholds for the enhanced credit from $10 million and $50 million to $15 million and $75 million, respectively; and
- extending the enhanced refundable SR&ED credit to Canadian public corporations.

The 2024 Fall Economic Statement additionally hints that these proposed changes are the first of further reforms to the SR&ED program and that more updates to qualified expenses will be announced in Budget 2025.

**No change to inclusion rates or reportable transactions**

The 2024 Fall Economic Statement does not propose any changes to corporate or personal income tax rates or discuss any changes to the mandatory disclosure rules.

We previously wrote about Budget 2024's proposed increase to the capital gains inclusion rate from 1/2 to 2/3 for capital gains realized after June 24, 2024, in our article **What You Need to Know About the Capital Gains Inclusion Rate Increase | TDS Law**. Since then, on August 12, 2024, the Department of Finance released updated draft legislation with explanatory notes, which includes new provisions relating to foreign affiliates and capital dividend account balances.

We previously wrote about the new Mandatory Disclosure Rules, which received royal assent on June 22, 2023, as part of Bill C-47, in our article **Mandatory Disclosure Rules Receive Royal Assent | TDS Law**. Since then, on August 15, 2024, the Canada Revenue Agency has published updated guidance updates, which includes the following confirmations:

- A penalty equal to 25% of the tax benefit as well as an extension of the statute-barred period by three years may apply to transactions subject to the general anti-avoidance rule. Both measures will not apply if a disclosure is made via the mandatory disclosure rules regime if such disclosure is either required legislatively or further to an optional filing where not otherwise required. The legislation provides an exception for reportable and notifiable transactions in that information is not required to be disclosed if it is reasonable to believe that the information is subject to solicitor-client privilege;
- In the context of estate freezes and the acquisition of life insurance policies to fund taxes arising on death, where an insurance advisor's entitlement to a referral fee is based on the successful referral of a client to each other and the total fees received increase by the number of successful referrals received, the contingent fee hallmark will not be met;
- A limitation of liability clause in a professional engagement letter would typically not trigger a contractual protection reporting hallmark, provided that the purpose of the limitation clause is to generally limit the professional's liability for negligence;
- Tax indemnities in employment agreements and severance agreements generally do not trigger the contractual protection hallmark; and
- A standard indemnity clause that protects a trustee acting in its capacity as a trustee in accordance with the terms of the trust generally does not trigger the contractual protection hallmark, unless the clause was created in circumstances where it would be reasonable to conclude that an aggressive tax avoidance transaction was contemplated at that time.

If you have any questions regarding tax planning in the continuously changing Canadian tax landscape, please reach out to one of TDS’s Tax Lawyers.

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