

Federal Budget 2024: 4 Key Takeaways for Tax Planning

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On April 16, 2024, Canada’s Deputy Prime Minister and Minister of Finance Chrystia Freeland delivered the 2024 federal budget (“Budget 2024”). With a tagline of “Fairness for every generation”, Budget 2024 proposes significant changes in an attempt to mitigate the increasingly elevated cost of living that Canadians are currently facing.



While we await further clarification on the specifics of a few of the announcements, our key take-aways for tax planning from Budget 2024 are as follows:

1. INCREASE TO THE CAPITAL GAIN INCOME INCLUSION RATE

Budget 2024 proposes an increase to the current capital gains inclusion rate from 50% to 66.67% for corporations and trusts for dispositions after June 24, 2024.

While individuals will continue to benefit from the 50% inclusion rate, once individual capital gains exceed \$250,000 in a year, the applicable inclusion rate will also increase to 66.67% for the portion of the gains above this threshold. This increased inclusion rate will apply to capital gains realized both directly and indirectly via a partnership or trust and will also come into effect for any gains realized after June 24, 2024.

As a result, the following rate will apply to capital gains earned by Manitobans in excess of the \$250,000.00 threshold who are subject to the top marginal income tax rate:

Before June 25, 2024, and up to \$250,000 thereafter	Portion in excess of \$250,000 after June 24, 2024
25.20%	33.60%

If you own any capital property, including any interest in land, corporations (subject to our comment below), partnerships, or investments, it may be efficient to manually trigger a capital gain (called a “crystallization”) before the inclusion

rate increases on June 25, 2024. Our Tax Department can assist you with determining which properties should be included in your crystallization transactions and can prepare all of the documentation required to finalize the transaction before the capital gains inclusion rate increases.

One silver lining for certain mining and critical mineral corporations (and investors) is that the tax advantages of flow-through shares have been increased. The deductions are no longer hamstrung to the same extent by the new Alternative Minimum Tax provisions (discussed in our January 31, 2024, article “**2023 Federal Budget: Where Are We Now?**”).

2. LIFETIME CAPITAL GAINS EXEMPTION

Budget 2024 also proposes an increase to the lifetime capital gains exemption (“LCGE”) from the current \$1,016,836 to \$1,250,000 for dispositions that occur after June 24, 2024, and will be indexed for inflation commencing in 2026.

As a reminder, the LCGE applies to capital gains realized on the sale of qualified small business corporation shares (“QSBCS”) and certain farming and fishing property (“qualified property”).

If you are selling any QSBCS or qualified property and aiming to close prior to June 25, 2024, it may be efficient to postpone the sale until after the LCGE is increased on June 25, 2024. This, of course, needs to be weighed against any of the excess capital gains that would not be sheltered by the LCGE and that may be subject to the newly increased inclusion rate mentioned above. Subject to any further developments on the transition rules, there is an interesting opportunity where you may wish to postpone the sale of QSBCS or qualified property to June 25, 2024, or later but engage in a crystallization transaction for the excess capital gains that are not sheltered by the LCGE prior to June 25, 2024.

3. CANADIAN ENTREPRENEURS’ INCENTIVE

Budget 2024 introduces a new incentive to encourage entrepreneurship in the form of the Canadian Entrepreneurs’ Incentive (“CEI”). The CEI works to reduce taxes on capital gains arising from the disposition of shares by eligible individuals who satisfy certain conditions. The conditions for eligibility for the CEI are aimed at founders of privately held corporation shares who engage in active business activities in Canada that build up value over at least five years and who have been actively engaged on a regular, continuous, and substantial basis in the activities of the business.

The CEI does not apply to professional corporations or corporations whose principal asset is

the reputation or skill of one or more employees, including any businesses operating in the financial, insurance, real estate, food and accommodation, arts, recreation, or entertainment sector or providing consulting or personal care services.

The CEI would provide a capital gains inclusion rate of one half of the prevailing inclusion rate on up to \$2 million in capital gains per individual during their lifetime. Using the inclusion rate mentioned in point 1 above, this would provide a rate of 33.33% on capital gains eligible for the CEI. The \$2 million limit will be phased in over 10 years by increments of \$200,000 per year, reaching \$2 million by January 1, 2034.

The catch is that, unlike the LCGE, the CEI-eligible shares need to be held directly by the founder. This creates complexities when setting up your corporation for a tax-efficient exit. We are eagerly awaiting further clarification on any exceptions to this rule.

The CEI will apply to dispositions that occur after December 31, 2024.

4. ALTERNATIVE MINIMUM TAX

Budget 2024 proposes further revisions to the calculation of the Alternative Minimum Tax (“AMT”), which we summarized in our January 31, 2024, article “**2023 Federal Budget: Where Are We Now?**”. As previously proposed, individuals would only be allowed to use 50% of their donation tax credit to reduce their AMT. This has been increased to allow individuals to use up to 80% of their donation tax credit when calculating their AMT.

Additional amendments to the AMT rules that were proposed in Budget 2024 include:

- Allowing deductions to the AMT for the Guaranteed Income Supplement, social assistance, and workers’ compensation payments;
- Exempting Employee Ownership Trusts from the AMT;
- Allowing certain disallowed credits under the AMT to be eligible for the AMT carry-forward (i.e. the federal political contribution tax credit, investment tax credits, and labour-sponsored funds tax credit).

These amendments would apply to taxation years beginning after December 31, 2023.

The above is only a high-level overview of the key changes in Budget 2024. It is recommended that you contact one of our **TDS tax lawyers** to advise how you can navigate and take advantage of post-Budget 2024 tax planning.

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