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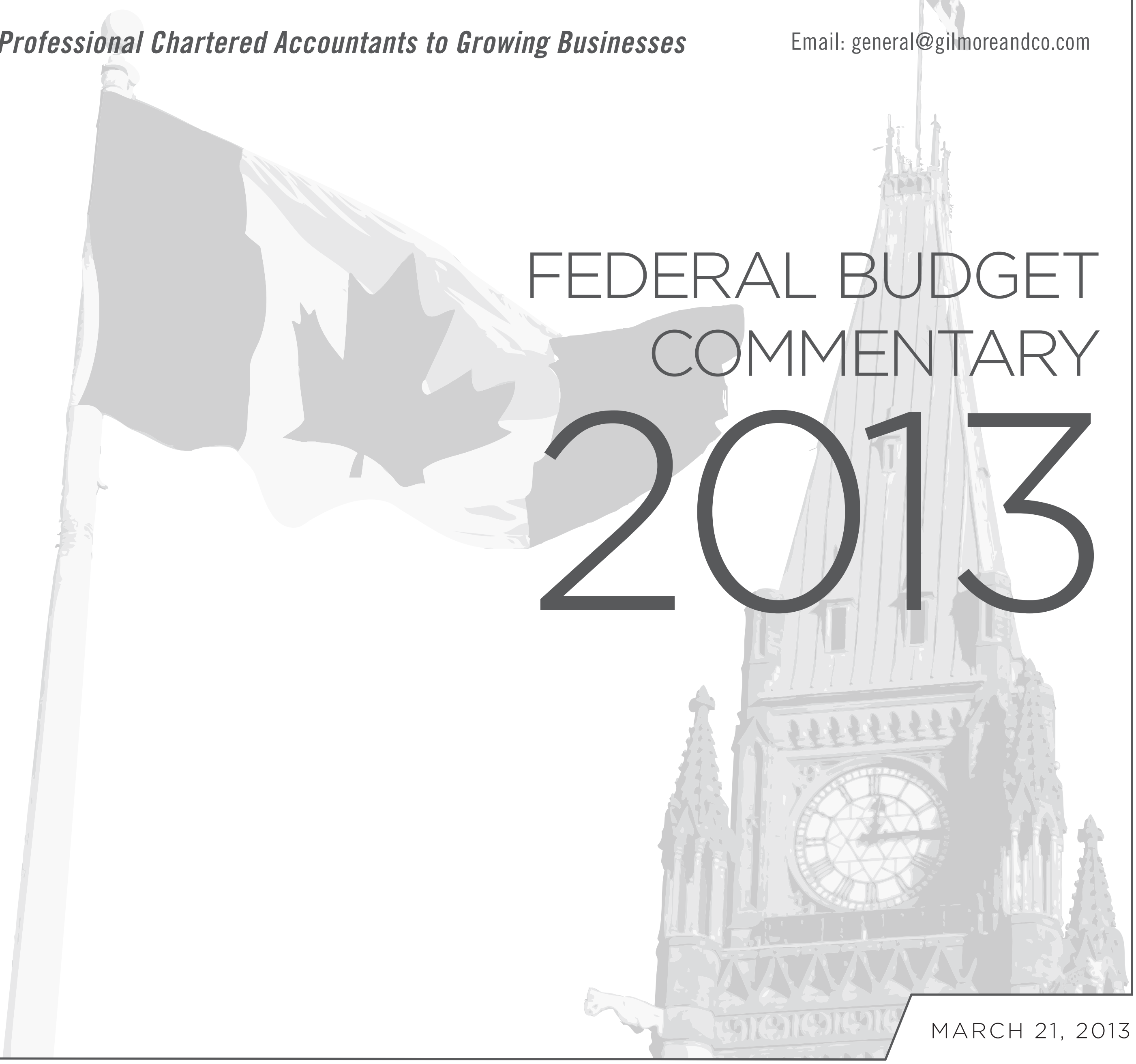

FEDERAL BUDGET COMMENTARY 2013

MARCH 21, 2013

2013 BUDGET OVERVIEW

HOLDING THE LINE ON DEFICIT REDUCTION, AND MAINTAINING THE INTEGRITY OF THE TAX SYSTEM

Like its predecessor, the 2013 federal budget is entitled "Jobs, Growth, and Long-Term Prosperity". In his eighth budget, finance minister Jim Flaherty has tabled a document focused on balancing the books, targeted spending, and fine-tuning the tax rules.

As it did with last year's budget, the Canadian Institute of Chartered Accountants (CICA) gives the budget a B+ rating for remaining steadfast to its goal of deficit reduction, while introducing targeted spending to stimulate economic activity.

Despite being challenged by lower-than-expected growth in the Canadian economy, the government says it's on course to eliminate the deficit and return to balanced budgets by 2015-16. It projects a $25.9 billion deficit for 2012-13, an $18.7 billion deficit in 2013-14, a $6.6 billion deficit for 2014-15, and a surplus of $0.8 billion in 2015-16.

Against this backdrop of deficit reduction, however, the government has introduced several new initiatives to stimulate economic activity and get more Canadians back to work. But even with this commitment to program spending, the deficit will continue to fall because of austerity measures already in place.

The Canada Job Grant program, which received a great deal of pre-budget attention, will provide up to $15,000 per trainee, $5,000 each from the federal and provincial or territorial governments, and $5,000 from the employer. The program is expected to help key industries, like companies in the energy sector, hire the people they need, although it may take up to a year for the federal government to renegotiate existing agreements with the provinces and territories.

The new Building Canada plan pledges more than $47 billion in new infrastructure spending over ten years, starting in 2014-15. This should help restore some of the crumbling infrastructure that is plaguing Canadian cities. What's more, the initiative makes a link between federal construction and maintenance procurement practices and the hiring of apprentices.

For small businesses, there are a number of welcome changes that will streamline compliance. These include:

- Enhancing CRA's online enquiries service by allowing small business taxpayers to "go paperless" and rely exclusively on electronic notices stored in the secure My Business portal
- Increasing accountability by introducing "Agent ID", giving taxpayers access to the names and other identifying details of CRA call centre agents
- Working to expand the use of the Business Number to more governments (e.g.,Winnipeg)
- Introducing a pilot program for pre-approval of SR&ED claims
- Streamlining the approval process for authorization of third parties to conduct business tax matters on their clients' behalf.

The budget also contains stimulus measures for the manufacturing sector, including:

- A two-year extension of the temporary accelerated capital cost allowance for new investment in machinery and equipment
- Renewal of the Federal Economic Development Agency (FedDev Ontario) for southern Ontario with funding of $920 million over five years
- Investing $200 million over five years in the new Advanced Manufacturing Fund in Ontario
- Streamlining foreign trade zone policies and programs by cutting red tape and improving access
- Extending the Hiring Credit for Small Business for an additional year

AGGRESSIVE TRANSACTIONS

The government has indicated that, in addition to the audit process, they are attempting to curtail the following aggressive transactions legislatively.

SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT (SR & ED) PROGRAM

The Government previously indicated their concerns with respect to the overall effectiveness of the SR & ED program.

The Budget introduces measures to provide the CRA with new resources and administrative tools to better respond to the minority of SR & ED program tax preparers and SR & ED claimants who participate in claims where the risk of non-compliance is perceived to be high and the eligibility for the SR & ED program is unlikely.

One of these measures will require more detailed information about SR & ED program tax preparers and billing arrangements. Where third parties have assisted in preparing the claim, the Business Number of each third party will be required along with the details of the billing arrangements, including whether contingency fees were applicable. Where no third party assisted, the claimant will be required to certify accordingly.

The Budget proposes that a new penalty of $1,000 be imposed in respect of each SR & ED claim for which the information regarding the SR & ED program tax preparer and billing arrangements is missing, incomplete or inaccurate. Where a third-party SR & ED tax preparer has been engaged, both the claimant and the tax preparer will be jointly and severally liable for the penalty. The penalty applies to claims filed on or after the later of January 1, 2014 and the date on which enacting legislation receives Royal Assent.

SYNTHETIC DISPOSITIONS

Taxpayers have entered into transactions where they receive fair market value (FMV) consideration for a property without actually making a technical disposition for income tax purposes. When they ultimately dispose of the property, their taxable gain is technically computed based on the consideration previously received. These transactions eliminate any gain or loss that would have resulted from the continued ownership of the property. Very often, these transactions will involve the use of a forward sale, put-call arrangements, issue of exchangeable debt and securities borrowing. The Budget refers to these transactions as “synthetic dispositions”.

The Budget proposes to treat these transactions as actual dispositions and reacquisitions at FMV, thereby eliminating the sale deferral opportunity and ensuring that taxpayers will not avoid the “stop-loss” dividend rules under section 112.

These rules will not apply to ordinary hedging transactions, securities lending arrangements or leasing arrangements.

This measure will generally apply to transactions entered into on or after Budget Day.

CHARACTER CONVERSION TRANSACTIONS

Taxpayers have entered into financial arrangements, using derivative contracts, whereby ordinary investment income is converted into capital gains.

Typically, a taxpayer will buy or sell a capital property using a forward agreement. However, the ultimate sale price of the capital property is not based on the property's performance but upon some other criteria such as ordinary income returns on other portfolio investments.

The Budget proposes to treat the return that is not tied to the performance of the particular property as a separate property and on account of income. This income (loss) will be added to (deducted from) the cost of the particular property.

These rules will apply to derivative forward contracts of more than 180 days.

This measure will generally apply to transactions entered into on or after Budget Day.

LOSS TRADING

The Income Tax Act contains detailed rules which prevent corporations from using tax losses, unused deductions and tax credits (tax attributes) when there is an acquisition of legal control, unless the corporation continues to carry on the same business that created the tax attributes with a view to profit. In these circumstances, the corporation may apply the tax attributes against income from a similar business.

Taxpayers have circumvented these rules by acquiring shares of "loss companies" without acquiring legal control of the company (for example refer to the 1998 Supreme Court case of *Duha Printers*). The Budget proposes that if a person acquires shares that represent more than 75% of the fair market value of the issued shares, there will be deemed to be an acquisition of control.

This measure generally applies to a corporation whose shares are acquired on, or after, Budget Day.

There are no similar rules for trusts.

The Budget proposes to create an analogous regime for trusts. The new rules will generally apply if there is a change in a “majority-interest beneficiary” and will be similar to the affiliated person rules. These rules should not adversely affect normal changes in family situations including the death of a beneficiary.

EXTENDED REASSESSMENT PERIOD: TAX SHELTERS AND REPORTABLE TRANSACTIONS

The normal reassessment period for most taxpayers is three years after the assessment date of the tax return. Where the information return is filed late, the Budget proposes to extend the reassessment period for a participant in a tax shelter or reportable transaction to three years after the relevant information return is filed.

This measure will apply to taxation years that end on or after Budget Day.

TAXES IN DISPUTE AND CHARITABLE DONATION TAX SHELTERS

The Budget proposes to permit the CRA to collect 50% of the disputed amount of tax, interest or penalties with respect to a tax shelter which involves a charitable donation. Previously the CRA was not allowed to collect any of the outstanding amounts, except in the case of “large corporations”, until the dispute was decided by the Tax Court of Canada.

This measure will apply for amounts assessed for the 2013 and subsequent taxation years.

LEVERAGED INSURED ANNUITIES (LIAs)

Taxpayers have entered into the following types of integrated transactions, using their corporations:

- The taxpayer (or a related person) uses funds borrowed from a financial institution to acquire income-earning investments. Consequently, the related interest cost is tax-deductible. It is not unusual for the financial institution to capitalize the interest and collect it on the death of the insured individual from the proceeds of the insurance policy referred to below.
- A corporation purchases a life annuity on an individual. Only a portion of the annuity receipts is taxable (i.e., the non-return of capital).
- The corporation purchases an insurance policy on the life of the individual.
- Both the life insurance policy and the annuity are assigned to the lender of the borrowed funds.
- The annuity payments fund the insurance premiums and the bank financing costs.
- The net cost of pure insurance and the borrowing costs are tax-deductible.
- On the individual's death, the death benefit on the insurance policy (which includes the income earned within the policy) is received tax-free. The cash is used to repay the bank loan and is substantially added to the corporation's capital dividend account (CDA), which may be paid out tax-free to the estate or its beneficiaries.

The Budget proposes the following changes to LIAs:

- The income earned inside the life insurance policy will no longer be tax-exempt and will be subject to annual accrual based taxation presumably to the owner of the policy.
- The life insurance premiums will not be tax-deductible.
- The death benefit from the life insurance policy will not increase the CDA.
- The annuity will have a deemed fair market value (FMV) equal to the premiums paid. Under the existing rules, the FMV was nil. This new valuation rule will increase the FMV of the corporation on death for the purposes of computing capital gains.

These rules will not apply to LIAs in place prior to Budget Day provided all borrowings were in place prior to Budget Day.

10/8 ARRANGEMENTS

Closely held private corporations have entered into the following types of arrangements, known as "10/8 arrangements", to create tax deductions and other advantages:

- The corporation acquires a life insurance policy.
- Although the corporation utilizes its cash to pay the life insurance premiums, it borrows, from the insurer, an amount equal to the premiums to earn income. The lender may agree to capitalize the interest, instead of collecting it.
- The investment return earned within the life insurance policy is tied to the interest rate charged on the loan, so that the investment return is generally 2% less than the borrowing rate. Historically the borrowing rate was 10% and the investment return rate was therefore 8%.
- The life insurance policy is pledged as collateral for the loan.

The tax benefits of this arrangement are:

- The interest cost is tax deductible since the borrowed funds are utilized to earn income.
- The portion of the insurance premiums equal to the net cost of pure insurance is tax deductible.
- The investment income earned inside the insurance policy is not taxable since the policy is an "exempt policy".
- The death benefit is tax-free and is included in the CDA of the corporation.

The Budget proposes the following changes to the "10/8 Arrangements", effective for taxation years that end on or after Budget Day, with respect to periods after 2013:

- The interest expense and the life insurance premiums will not be tax-deductible.
- The death benefit will not be added to the CDA.

These rules have no grandfathering provisions. However, there are provisions to unwind these arrangements before 2014.

These rules will not apply to an assigned life insurance policy where the interest paid on the borrowings and earned inside the policy are not linked to each other or the maximum value of the life insurance's investment account is not determined with reference to the borrowings.

DIVIDEND TAX CREDIT (DTC)

The Budget proposes to reduce the net federal dividend tax credit available with respect to non-eligible dividends, effective for such dividends paid after 2013. The gross-up will be reduced from 25% to 18% and the corresponding DTC will be increased from 2/3 to 13/18. These changes will increase the maximum federal tax rate on these dividends from 19.6% to 21.2%.

All provinces, other than P.E.I., are currently "over-integrated", which results in an overall tax savings from paying dividends as opposed to salary out of active business income taxed at the small business rate. This proposal will either reduce or reverse this "over-integration".

LIFETIME CAPITAL GAINS EXEMPTION

The Budget proposes to increase the capital gains exemption from the current $750,000, by $50,000 to $800,000, effective for the 2014 and subsequent taxation years. In addition, the exemption will be indexed for inflation for taxation years after 2014.

RESTRICTED FARM LOSSES

The 2012 Supreme Court case of *Craig* allowed a taxpayer to deduct farm losses completely because his chief source of income was considered to be a combination of farming and law.

The Budget proposes that a taxpayer may only deduct farm losses completely against other sources of income if the farming income is the taxpayer's chief source of income and other sources of income are subordinate. Otherwise, the farming loss will be a restricted farm loss.

The annual restricted farm loss deduction will be increased from a maximum of $15,000 to a maximum of $17,500 ($2,500 plus 1/2 of the next $30,000).

These measures will apply to taxation years ending after Budget Day.

MINERAL EXPLORATION TAX CREDIT

The Budget extends the Mineral Exploration Tax Credit to flow-through agreements entered into before April 1, 2014.

The existing "look-back" rule remains intact. This rule provides a credit for funds raised in a calendar year as long as the funds are spent on eligible exploration by the end the following calendar year.

FIRST-TIME DONOR'S SUPER CREDIT

To encourage charitable giving by new donors, the Budget proposes to introduce an increased federal tax credit for a first-time donor on up to $1,000 of donations. This increased tax credit will add 25% to the current credit. Consequently, for donations of up to $200, there will be a credit of 40%, as opposed to the current 15%, and for donations in excess of $200, there will be a credit of 54%, as opposed to the current 29%. This increased tax credit only applies to cash donations, as opposed to donations in kind.

A first-time donor is an individual (other than a trust), including their spouse or common-law partner, who has not claimed the donation tax credit in any year after 2007. First-time donor couples may share the increased tax credit.

This increased tax credit will be available for donations made on or after the Budget and prior to 2018. In addition, this increased credit may only be claimed in one taxation year.

ADOPTION EXPENSE TAX CREDIT (AETC)

The current AETC is available for qualifying expenses during the period from the time the child is matched with his or her adoptive family and the time that the child begins to permanently reside with the family. The adoptive family may incur significant adoption-related expenses prior to being matched with a child. Consequently, the Budget proposes to commence the eligible period for adoptions finalized after 2012 with the time that an adoptive parent makes an application to register with a provincial ministry responsible for adoption or with a licensed adoption agency. In addition, where an adoption-related application is made to a Canadian court at an earlier time, with that earlier time.

DEDUCTION FOR SAFETY DEPOSIT BOXES

The Budget proposes to eliminate the current deduction for the rental of a safety deposit box, effective for taxation years which begin after the Budget.

LABOUR-SPONSORED VENTURE CAPITAL CORPORATIONS TAX CREDIT (LSVCC)

The Budget proposes to phase out the federal LSVCC. Commencing in 2015, it will be reduced from 15% to 10%, it will be further reduced to 5% in 2016 and to zero after 2016. In addition, an LSVCC cannot be federally registered on or after Budget Day and a provincially registered LSVCC will not be prescribed for purposes of the federal credit unless the application was submitted before Budget Day.

BUSINESS INCOME TAX MEASURES

MANUFACTURING AND PROCESSING (M&P) MACHINERY AND EQUIPMENT: ACCELERATED CAPITAL COST ALLOWANCE (CCA)

The Budget proposes to extend the current 50% CCA rate for M & P machinery and equipment included in Class 29 by an additional two years so that it will apply for 2014 and 2015, instead of ending after this year. However, the half-year CCA rule which does not generally apply to such assets, will apply to such machinery and equipment acquired in 2014 and 2015.

CLEAN ENERGY GENERATION EQUIPMENT: ACCELERATED CCA

CCA Class 43.2 currently provides for a 50% rate on a declining basis for investment in specified clean energy generation and conservation equipment. The Budget proposes to expand Class 43.2 by making biogas production equipment that uses more types of organic waste eligible. In addition, the range of cleaning and upgrading equipment used to treat eligible gases from waste will be broadened.

This measure will apply to property, which has not been previously used, acquired on or after Budget Day.

RESERVE FOR FUTURE SERVICES

Paragraph 20(1)(m) provides a reserve for amounts received in respect of services to be rendered after the end of the taxation year. The Budget proposes to amend paragraph 20(1)(m) to preclude a reserve where the taxpayer has a future reclamation obligation.

This measure will apply to amounts received on or after Budget Day, other than amounts which are directly attributable to future reclamation costs that were authorized by a government or regulatory authority before Budget Day and that are received under an agreement in writing which was entered into before the Budget Day or before 2018.

ADDITIONAL DEDUCTION FOR CREDIT UNIONS

Credit unions have access to a deduction, in addition to the small business deduction, which provides access to a preferential income tax rate for income which is not eligible for the small business deduction. The Budget proposes to phase out this additional deduction over five calendar years, beginning in 2013. Consequently, the additional deductions permitted will be 80% for 2013, 60% for 2014, 40% for 2015 and 20% for 2016, with no additional deduction permitted for 2017 and subsequent calendar years.

This measure applies to taxation years which end on or after Budget Day, with a proration for the portion of the non-calendar year which is after Budget Day. In addition, this measure will be prorated for all non-calendar taxation years.

ACCELERATED CCA FOR MINING

Certain assets acquired for use in new mines or eligible mine expansions are currently eligible for accelerated CCA in the form of an additional allowance which supplements the regular 25% CCA deduction. The Budget proposes to phase out this additional allowance for mining, other than for bituminous sands and oil shale, for which the phase out will be complete in 2015, over the 2017 to 2020 calendar years as follows: 100% until 2016, 90% for 2017, 80% for 2018, 60% for 2019, 30% for 2020 and zero after 2020.

This measure will generally apply to expenses incurred on or after Budget Day.

MINING EXPENSES

Pre-production mine development expenses are currently treated as Canadian exploration expenses (CEE), subject to a 100% deduction. To align mining expenses with the deductions available in the oil and gas sector, these expenses will now be treated as Canadian development expenses (CDE), subject to a 30% declining balance deduction. The changes will be phased in over 3 calendar years, applying to expenses incurred after Budget Day.

REGISTERED PENSION PLANS (RPPs): CORRECTING CONTRIBUTION ERRORS

Currently, over-contributions to an RPP can be refunded to plan members or employers if the refund is made to avoid the revocation of the RPP. However, this refund mechanism is not currently available where the RPP contribution limits have not been exceeded and the contribution was made as a result of a reasonable error (e.g., where an employer made a mistake in calculating the members' or employer's contribution for a particular year). The CRA can only allow such refunds on a discretionary, case-by-case basis.

The Budget proposes to allow refunds made, in order to correct reasonable errors, without first obtaining the CRA's approval, as long as the refund is made by December 31 of the following year.

This proposal will apply to RPP contributions made after the later of January 1, 2014 and the date of Royal Assent of the enacting legislation.

INTERNATIONAL

FORM T1135

Section 233.3 generally requires Canadian residents and certain partnerships to disclose their holdings of certain foreign property (notably excluding personal-use property) on Form T1135, where the total cost of such property exceeds $100,000.

Commencing with the 2013 taxation year, the Budget proposes to extend the normal reassessment period by three years if:

- The taxpayer has failed to report the income from such property, and
- Form T1135 was not filed on time or the property was not identified or was incorrectly identified.

Form T1135 will be modified to require the disclosure of more specific information.

The CRA is in the process of developing a system that will allow Form T1135 to be filed electronically.

INTERNATIONAL ELECTRONIC FUNDS TRANSFERS (EFTs)

Beginning in 2015, most financial institutions will be required to report EFTs of $10,000 or more to the CRA.

Measures will be introduced, on Royal Assent, to enable the CRA to obtain information from third parties on a more timely basis.

WHISTLE BLOWER PROGRAM

The CRA plans to introduce a rewards program to induce individuals to report major international non-compliance. The reward will be 15% of federal tax collected in excess of $100,000.

NON-RESIDENT TRUSTS

The Income Tax Act contains provisions that can deem a non-resident trust to be resident in Canada if a Canadian resident contributes property to it. In the *Sommerer* case, 2012 FCA 207 (discussed below), the court held that a fair market value sale to a trust did not constitute a contribution of property to the trust, in the context of subsection 75(2).

The Budget proposes to treat any transfer or loan of property (including a sale for fair market value consideration) to a non-resident trust to be a contribution to the trust in circumstances where the conditions specified in subsection 75(2) have been violated. Therefore, a fair market value sale to a non-resident trust could cause the trust to be deemed to be resident in Canada. However, the Budget also clarifies that subsection 75(2) will apply only to trusts that are resident in Canada without regard to the deemed residence rules.

The Budget does not deem a fair market value sale to be a contribution for purposes of subsection 75(2).

Subsection 75(2) is violated where a trust receives property from a person (the "tainted person") and the property can revert to that person or that person can direct a disposition of the property. If violated, subsection 75(2) deems the income, losses, capital gains and capital losses of the trust from the property to be that of the tainted person. Furthermore, if subsection 75(2) has ever been violated, subsection 107(4.1) provides that none of the property of the trust can be rolled out, tax-free, while the tainted person exists, except to the tainted person or to his/her spouse or common-law partner.

These measures will apply to taxation years that end on or after Budget Day.

THIN CAPITALIZATION

The “thin capitalization rules” can deny an interest deduction to Canadian-resident corporations that have borrowed from certain non-resident shareholders or from non-arm’s length persons. The debt in question can be owed by a partnership of which the corporation is a member. Broadly, the deduction is denied on the portion of the debt that exceeds 1.5 times the corporation’s equity.

The Budget proposes to extend the application of the thin capitalization rules to Canadian-resident trusts that have borrowed from certain non-resident beneficiaries (or from non-arm’s length persons) and to non-resident corporations and non-resident trusts that operate in Canada or have elected, pursuant to section 216, to be taxed under Part I on real estate rental income or timber royalties. The thin capitalization rules applicable to these entities will be considerably more complicated than those applying to domestic corporations and will differ in a number of respects.

There is a particularly important aspect of the application of the thin capitalization rules to non-resident corporations and trusts that earn rental income from certain properties in Canada. Where such entities elect to be taxed under Part I on their net rental income rather than being subject to withholding tax on gross rental income, the thin capitalization rules applicable will be those that apply to non-residents, not those that apply to Canadian residents.

These measures generally apply to taxation years that begin after 2013. To be clear, the fact that the debt may have been incurred before Budget Day is not a governing factor.

TREATY SHOPPING

Certain amounts paid by Canadian residents to non-residents are subjected by section 212 to a flat withholding tax of 25%. Some common examples are dividends and trust income. The 25% rate is generally reduced where the recipient is a resident of a country with which Canada has a tax treaty.

A resident of non-treaty country might form an entity in a treaty country to receive the payment, so that less tax is withheld in Canada. The Budget papers indicate that Canada will consult on possible measures to curtail such treaty shopping.

CONSULTATIONS

TAXATION OF CORPORATE GROUPS

Previous Budgets in 2010 and 2012 noted the government's interest in exploring the issue of whether new rules for the taxation of corporate groups, such as the introduction of a formal system of loss transfers or consolidated reporting, could improve the functioning of the corporate tax system. During the consultations conducted by the government, although businesses favoured these types of enhancements, the Provinces and territories were concerned about the possibility that a new system of corporate taxation could reduce their revenues. In addition, there are concerns that governments could incur significant upfront costs by introducing this new approach. Consequently, the government has determined that moving to a formal system of corporate group taxation is not a priority at this time.

GRADUATED RATE TAXATION OF TRUSTS AND ESTATES

Inter vivos trusts are generally taxed at the highest personal tax rate. However, grandfathered *inter vivos* trusts, created before June 18, 1971, are subject to the graduated income tax rates for individuals.

Testamentary trusts created on the death of a taxpayer are taxed as individuals, subject to the graduated income tax rates available to individuals. It is a common tax planning technique for individuals to transfer their assets on death to one or more testamentary trusts, each of which is eligible for this treatment.

The government intends to review and consult on whether these trusts should be taxed at the graduated rates.

GST/HST AND HEALTH CARE SERVICES

The following changes apply to supplies made after Budget Day:

- The Budget proposes to extend the exemption from GST/HST on certain government subsidized or funded homemaker services rendered to an individual in his or her home to include additional services such as bathing, feeding, and assistance with dressing and taking medication.
- To address certain court decisions, the Budget also proposes to clarify that GST/HST applies to reports, examinations and other services that are not performed for the purpose of the protection, maintenance or restoration of the health of a person or for palliative care.

GST/HST PENSION PLAN RULES

The Budget proposes the following changes intended to simplify GST/HST compliance for employer pension plans:

- For supplies made after Budget Day, an employer participating in a registered pension plan may jointly elect with a pension entity to treat an actual taxable supply by the employer to the pension entity as being made for no consideration where the employer accounts for and remits GST/HST on the deemed taxable supply in respect of that same transaction.
- Under current rules, an employer participating in a registered pension plan must account for and remit GST/HST under the deemed taxable supply rules even where the employer's involvement in the pension plan is minimal. For fiscal years that begin after Budget Day, full or partial relief from the requirement to account for tax on deemed taxable supplies will be available where the employer's pension plan-related activities are below certain specified thresholds. The full relief will not be available where the employer elects under the previous measure not to account for tax on actual taxable supplies made in that fiscal year.

GST/HST BUSINESS INFORMATION REQUIREMENT

Effective on Royal Assent, the Budget proposes that the Minister of National Revenue have the authority to withhold GST/HST refund claims until such time as the claimant provides all prescribed business identification information.

GST/HST ON PAID PARKING

The Budget proposes to clarify that certain exemptions available to public sector bodies (PSBs) do not apply to supplies of paid parking provided in the course of a business. Under the GST/HST, a PSB is a municipality, university, public college, school authority, hospital authority, charity, non-profit organization or government.

- The Budget proposes to clarify that, retroactive to the date the GST legislation was first enacted, the exemption applicable to PSBs on supplies of a particular property or service where all or substantially all (90% or more) of the supplies are made for free does not apply to supplies of paid parking made in the course of a business carried on by a PSB.
- The Budget also proposes to clarify that, effective Budget Day, GST/HST exemption from GST/HST does not apply to paid parking supplied in the course of a business carried on by a charity set up or used by a municipality, university, public college, school or hospital to operate a parking facility.

GST/HST TREATMENT OF THE GOVERNOR GENERAL

To simplify compliance for vendors, effective for supplies made after June 30, 2013, the current GST/HST exemption on purchases for the Governor General will end.

EXCISE DUTY RATE ON MANUFACTURED TOBACCO

Effective after Budget Day, the rate of excise duty on manufactured tobacco (e.g., chewing tobacco or fine-cut tobacco used in roll-your-own cigarettes) will increase from $2.8925 to $5.3125 per 50 grams or fraction thereof.

OTHER MEASURES

ELECTRONIC SUPPRESSION OF SALES SOFTWARE SANCTIONS

To combat tax evasion through the use of electronic suppression of sales software (generally referred to as “zapper” software), the Budget proposes new administrative monetary penalties and criminal offences under the Excise Tax Act (i.e., in respect of GST/HST) and the Income Tax Act. These measures will apply on the later of January 14, 2014 and Royal Assent.

ABORIGINAL TAX POLICY

The Budget reiterates the government’s willingness to discuss and put into effect direct taxation arrangements with interested Aboriginal governments, and its support of direct taxation arrangements between provinces or territories and Aboriginal governments.

CUSTOM TARIFF MEASURES

TARIFF RELIEF FOR CANADIAN CONSUMERS

Effective for imports into Canada on or after April 1, 2013, the Budget proposes to permanently eliminate all tariffs on baby clothes and sports and athletic equipment (excluding bicycles).

MODERNIZING CANADA’S GENERAL PREFERENTIAL TARIFF REGIME FOR DEVELOPING COUNTRIES

Further to a notice in the Canada Gazette on December 22, 2012, the Budget proposes changes to Canada’s General Preferential Tariff (GPT) regime under the Customs Tariff. Under these changes, 72 higher-income and export-competitive countries, including all G-20 countries, will no longer be eligible for GPT treatment. Amendments will also be made to continue the duty-free importation of textiles and apparel from least developed countries that are produced using textile inputs from current GPT beneficiaries. The changes to the GPT are effective in respect of goods imported into Canada on or after January 1, 2015, and will apply for ten years, until December 31, 2024.