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2018 Federal Budget Commentary

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The Federal Government's 2018 Budget touts Canada's strong economic growth over the past two years, including real GDP growth of 3.2 per cent since the second quarter of 2016, an unemployment rate of 5.9 per cent, and significant improvements in average weekly earnings, consumer confidence, and household consumption. The Finance Minister expects similar growth in the near-term. In addition, federal revenues increased by more than 11 per cent in 2017, largely from personal and corporate income taxes.

With this positive economic activity and outlook, the government has presented an "Equality and Growth," budget that includes tens of billions of dollars in new or increased spending over the next six years, with the goal of further growing government revenues by increasing economic participation among women, visible minority Canadians and persons with disabilities, as well as substantial long-term investments in science and technology.

The government suggests that increasing equality for women and enhancing women's participation in the workplace (especially in technology and trades) could add $150 billion to the Canadian economy over the next decade.

Highlights include:

- Reducing the small business tax rate to 10 per cent effective January 1, 2018 and 9 per cent as of January 1, 2019
- Additional reporting requirements for trusts (effective 2021 tax year)
- Extending eligibility for accelerated capital cost allowance for certain clean energy equipment
- Enhancing and renaming the Working Income Tax Benefit (starting 2019)
- Annual indexation of the Canada Child Benefit (starting July 1, 2018)

- “Use it or lose it” EI parental benefits (expected availability June 2019)
- Reducing access to the small business tax rate for businesses with high passive investment income (expected to apply 2019)
- Applying GST/HST to management and administrative services provided
- to an investment limited partnership by the general partner (after September 8, 2017)
- Additional new measures to prevent tax avoidance
- Adjusting tobacco excise duty rates annually (starting April 1, 2019)
- Grants and funds to attract women to “Red Seal” trades and construction (starting 2018–19)
- Pre-apprenticeship assistance for underrepresented groups (starting 2018–19)

The Finance Minister has not set a timeline for balancing the budget but has substantially reduced the projected annual deficits through 2022–23 and expects the net debt-to-GDP ratio to decline over the period as well. The previously projected deficit for 2017–18 was $28.5 billion and now sits at $19.4 billion. Similarly, the projected deficit for 2021–22 was $18.8 billion and has been revised down to $13.8 billion. The net debt-to-GDP ratio is currently 31 per cent and is projected to decline to 28.4 per cent by 2022–23.

Business income tax measures

Passive investment income earned by private corporations

The Budget proposes to introduce measures to reduce perceived tax advantages where a private corporation earns passive income. The announcement that such measures were going to be introduced was first made on July 18, 2017, along with other substantive measures intended to reduce the ability of taxpayers to sprinkle income among family members. The Budget proposals bear little resemblance to the measures initially announced.

The Budget proposes two sets of new provisions. One set is intended to reduce the $500,000 business limit otherwise available to a group of associated Canadian-controlled private corporations (CCPCs) where the group earns a significant amount of passive income. The second set reduces, but does not eliminate, the ability of a corporation to obtain refunds of refundable dividend tax on hand (RDTOH) by paying eligible dividends as compared to non-eligible dividends.

$500,000business limit reduction

The business limit of an associated group of CCPCs is already reduced where the group’s “taxable capital employed in Canada” exceeds $10,000,000.

The proposed provisions will reduce the group's business limit on a straight-line basis where the group earns "adjusted aggregate investment income" between $50,000 and $150,000. The reduction will be $5 for every $1 of investment income. Consequently, a group's business limit will be reduced to zero (5 × $100,000 = $500,000) in a particular year if its adjusted aggregate investment income is $150,000 or more.

A group's adjusted aggregate investment income for the year will be based on aggregate investment income, as determined in computing the amount of RDTOH, and is subject to the following adjustments:

- Dividends from non-connected corporations will be added.
- Taxable capital gains will be excluded to the extent that they arise from the disposition of assets used principally in an active business carried on primarily in Canada by the CCPC or a related CCPC.
- Taxable capital gains will also be excluded to the extent that they arise from the disposition of shares of a connected CCPC where all or substantially all of the fair market value of the assets of the connected CCPC is attributable to assets that are used principally in an active business carried on primarily in Canada.
- Net capital losses carried over from other taxation years will be excluded.
- Income from savings in a life insurance policy that is not an "exempt policy" will be added to the extent it is not otherwise included in aggregate investment income.

This reduction to the business limit is based on income for the year that ended in the preceding calendar year.

This proposal will apply to taxation years that commence after 2018 with no grandfathering of passive income earned on existing investments. Consequently, all future investment earnings will be included in this annual test, regardless of when the applicable investments were accumulated.

The reduction of a corporation's business limit for a particular year will be equal to the greater of the reduction under the existing taxable capital rule and the proposed rule.

Anti-avoidance measures will discourage transactions designed to delay or avoid the new rules. One such transaction might otherwise have been the creation of a short taxation year. Another might have been the transfer of property to a related but unassociated corporation.

Changes to RDTOH

Currently, a dividend refund is available to a corporation at the rate of 38 1/3 per cent of taxable dividends paid to the extent that there is an available balance of RDTOH at the corporation's year-end. The taxable dividends paid can be either non-eligible dividends or eligible dividends. There is a tax advantage where eligible dividends are paid.

The Budget proposes to introduce measures that will generally allow a CCPC to recoup RDTOH only on the payment of non-eligible dividends. An exception will apply to RDTOH arising on the payment of Part IV tax on eligible portfolio dividends. Such RDTOH can be recouped on the payment of eligible dividends.

To accomplish this, the Budget proposes to create an "eligible RDTOH" account and a "non-eligible RDTOH" account. As indicated above, eligible RDTOH will include only Part IV tax paid on the receipt of eligible portfolio dividends. All other RDTOH will be included in the non-eligible RDTOH account.

If a corporation pays a non-eligible dividend, it recoups non-eligible RDTOH before it recoups eligible RDTOH. If it pays an eligible dividend, it can recoup eligible RDTOH. Any taxable dividend paid, either eligible or non-eligible, will entitle the corporation to a refund of eligible RDTOH.

The existing RDTOH of a CCPC will first be allocated to its eligible RDTOH account to a maximum of 38 1/3 per cent of its general rate income pool (GRIP). The remainder, if any, of its existing RDTOH balance will be allocated to its non-eligible RDTOH account. All of the existing RDTOH of other corporations will be allocated to their eligible RDTOH account.

This measure will apply to taxation years that commence after 2018. An anti-avoidance measure will prevent the deferral of the new measures by creating a short taxation year.

Income sprinkling measures

Overview

The Budget confirms that Finance will proceed with the implementation of the December 13, 2017, draft proposals that address income sprinkling involving private corporations.

The Tax on Split Income (TOSI) regime that existed prior to 2018 (commonly referred to as the "kiddie tax" rules), impacted only Canadian-resident minors. It essentially taxed at the top marginal rate certain types of income that they earned, including taxable dividends or shareholder benefits from private company shares, income allocations from partnerships or trusts that were derived from the business or profession of a related person, and 100 per cent of capital gains from non-arm's-length sales of private company shares (such gains were converted to non-eligible taxable dividends).

The December 13, 2017, draft legislative proposals represent a major broadening of the old TOSI rules and will become effective as of January 1, 2018.

The proposed TOSI rules can apply to any Canadian resident, regardless of age. Further, types of income in addition to those under the old rules described above could be caught. Such income types include interest on debt obligations from private corporations and certain partnerships and

trusts, taxable capital gains from the sales of partnership or trust interests that either generate TOSI or derive part of their value from private company shares, and taxable capital gains on arm's-length sales of private company shares. With respect to the latter, however, the TOSI rules will not apply to the arm's-length sale of qualified small business corporation shares (QSBC shares) that are eligible for the lifetime capital gains exemption even if the lifetime capital gains exemption is not claimed.

The taxation of capital gains from the non-arm's length sale of private company shares by a minor will remained unchanged: 100 per cent of such capital gains will still be converted to non-eligible taxable dividends. Further, the ability of adults to sell QSBC shares to non-arm's-length parties without triggering the TOSI will remain intact. TOSI will not apply to capital gains arising from the sale of farming or fishing properties that qualify for the lifetime capital gains exemption — again, even if the lifetime capital gains exemption is not claimed.

Exclusions

Several exclusions from TOSI must be considered in order to determine if the tax applies. No adult of any age is subject to TOSI on income from an unrelated business. Also, the proposals introduce some "bright line" tests as well as a general reasonableness test that could operate to exclude an individual from the new TOSI rules. These tests are not mutually exclusive and vary based on the age of the individual in question.

An adult of any age will not be subject to TOSI on income derived from an "excluded business", i.e., one in which the individual is actively engaged on a "regular, continuous and substantial basis" in the taxation year in which the income amount is received, or in any five previous taxation years that need not be consecutive. This generally requires that the adult work in the business for at least an average of 20 hours per week during the part of the year that the business operates. However, if this 20-hour threshold is not met, it would be a question of fact whether or not the individual is actively engaged in the business on a regular, continuous and substantial basis.

Income derived by adults over the age of 24 from "excluded shares" is not subject to TOSI. To meet the definition of an excluded share, several conditions must be met:

- The individual in question must directly own at least 10 per cent of the votes and value of the corporation.
- The corporation must earn less than 90 per cent of its income from the provision of services.
- The corporation cannot be a professional corporation, such as those carried on by medical doctors, dentists, accountants, lawyers, chiropractors and veterinarians.
- All or substantially all of the corporation's income cannot be derived from a related business in respect of the individual.

If taxpayers restructure their corporations in order to meet the excluded share definition by the end of 2018, this exception will be available to them for the entire 2018 taxation year. Taxpayers and their advisors may want to pay particular attention to this exclusion when setting up a new corporation or undergoing a traditional estate freeze, as it is conceivable that it may be relied upon heavily in these contexts.

If income earned by the spouse of a business owner aged 65 or more would not be subject to TOSI had the business owner earned it directly, then the spouse's income would not be subject to TOSI. There is no requirement that the spouse be aged 65 or over for this exclusion to be met.

There are various exclusions for inherited property.

Taxable capital gains arising from the deemed disposition on the death of an individual as well as income derived from property acquired on the breakdown of a marriage or common-law partnership are also excluded from TOSI.

If none of the above exclusions from the TOSI rules apply, the reasonableness tests must be considered. This is because only income in excess of a "reasonable return" will be subject to TOSI.

For adults over the age of 24, a reasonable return will take into account various factors, including labour contributions, property contributions, risk assumed, historical payments, and any other relevant factors. As these factors do not include any thresholds in terms of hours worked or amounts contributed, there is a high degree of subjectivity with this test.

For adults between the ages of 18 and 24, what is considered to be a reasonable return is more precisely defined, but greatly limited. Only capital contributed will be considered.

Tax support for clean energy

Capital cost allowance (CCA) Classes 43.1 and 43.2 provide accelerated CCA rates for investments in specified clean energy generation and conservation equipment. Class 43.2 was introduced in 2005 and is currently available in respect of property acquired before 2020. The Budget proposes to extend eligibility for Class 43.2 by five years to include property acquired before 2025.

At-risk rules for tiered partnerships

In response to a recent Federal Court of Appeal ruling, the Budget proposes to restrict the allocation of losses to members of a top-tier partnership in tiered partnership structures for taxation years that end on or after February 27, 2018, including losses incurred in tax years that ended prior to that date. The allocable losses of a second-tier partnership will be restricted by the at-risk amount of the top-tier partnership, and unused losses will not be eligible to be carried forward indefinitely. Such unused losses will be added to the adjusted cost base of the

partnership interest of the second-tier partnership.

Health and welfare trusts (HWT)

An HWT is a trust established by an employer to provide health and welfare benefits to its employees. Since the tax treatment of HWTs is not set out in the ITA, CRA has published an administrative position which sets out the requirements of HWTs and the income tax consequences.

The Budget proposes to discontinue the application of CRA's administration position after the end of 2020 in order to encourage conversion of such trusts to employee health and life trusts for which there are specific rules in the ITA. The Department of Finance has requested comments by June 29, 2018, on the transitional rules.

Personal income tax measures

The Budget did not propose a number of changes that were the subject of speculation prior to the Budget. The capital gains inclusion rate will not increase and remains at 50 per cent. In addition, proposals in respect of "surplus stripping" first introduced in July 2017 and then abandoned have not been reintroduced.

Personal income tax rates will not increase under the Budget.

Canada workers benefit (CWB)

The Budget enhances the existing Working Income Tax Benefit and renames it as the Canada Workers Benefit, effective for 2019 and subsequent years.

The CWB will be 26 per cent of "earned income" in excess of $3,000 to a maximum of $1,355 for single taxpayers without dependents and $2,335 for families (couples and single parents). The CWB is reduced where net income exceeds a threshold amount. The CWB disability supplement for individuals certified as eligible for the disability credit will be $700. Amounts will be indexed after 2019.

The Budget also proposes to allow the CRA to determine if a taxpayer is eligible for the CWB even if not claimed on their tax return and assess as if it had been claimed. This measure applies to tax returns for 2019 and subsequent taxation years.

Medical expense tax credit (METC) — service animals

The Medical Expense Tax Credit is currently available in respect of expenses incurred for a service animal specially trained to assist an individual in coping with blindness, profound deafness, severe diabetes, severe epilepsy, severe autism or a severe and prolonged impairment that markedly restricts the use of the individual's arms or legs. The Budget proposes to extend the METC to expenses for animals specially trained to perform tasks for an individual with a severe mental impairment. An example is a psychiatric service dog trained to assist an individual with post-traumatic stress disorder.

Expenses for animals that provide comfort or emotional support, but are not specially trained, will not qualify. Qualifying expenses include the cost of the animal, costs for care and maintenance such as food and veterinary care, and costs for training the individual in handling the animal. This measure will apply in respect of expenses incurred after 2017.

Registered disability savings plans (RDSP)

The plan holder of a Registered Disability Savings Plan must be the individual's legal representative where the capacity of the of the individual to enter into a contract is in doubt, for example where the individual has a cognitive disability. Where the individual does not have a legal representative in place, certain family members (parents, spouses and common-law partners) are allowed to be the RDSP plan holder. This provision was to expire at the end of 2018. The Budget extends it to the end of 2023. If a family member becomes a plan holder before the end of 2023, they will be able to continue as the plan holder after 2023.

Contributions to enhanced portion of the Quebec pension plan (QPP)

Individuals are currently entitled to a non-refundable credit in respect of employee contributions and the "employee" portion of self-employed contributions to the Quebec Pension Plan. The QPP is being enhanced, starting in 2019. The Budget proposes that the enhanced part of the contributions be deductible to the individual.

Child benefits

Foreign-born Status Indians who legally reside in Canada but are neither Canadian citizens nor permanent residents are eligible for the Canada Child Benefit (CCB), provided all other eligibility requirements are met. The Budget proposes to make them retroactively eligible for the Canada Child Tax Benefit, the National Child Benefit supplement and the Universal Child Care Benefit, the predecessors to the current CCB.

The Budget also proposes to provide authority for the federal government to share taxpayer CCB information with the provinces for the purpose of administering their social assistance payment regimes. This measure is effective July 1, 2018.

Mineral exploration tax credit for flow-through share investors

Eligibility of the Mineral Exploration Tax Credit is proposed to be extended for one year under the Budget. The credit will apply to expenses renounced under flow-through share agreements entered into on or before March 31, 2019.

Employment insurance parental sharing benefit

The Budget proposes a new five-week Employment Insurance Parental Sharing Benefit, effective June 2019. This benefit will be available as a top-up in situations where both parents agree to share parental leave. It will be available to eligible two-parent families, including same sex-couples and adoptive parents. This new benefit is intended to provide greater flexibility, particularly for mothers, to return to work sooner.

Apprenticeship incentive grant for women

Current legislation provides for the Apprenticeship Completion Grant which is a one-time taxable cash grant of $2,000 to a registered apprentice who has completed their apprenticeship training and obtains their journeyperson certification. The Budget proposes a new Apprenticeship Incentive Grant for Women. Under this program, women in male-dominated Red Seal trades will be able to receive $3,000 per year for each of their first two years of training. Nearly 90 per cent of Red Seal trades would be eligible, according to the Budget documents. Presumably this grant would be taxable, but this is not clear from the budget documents.

International

Foreign accrual property income

In broad terms, foreign accrual property income (FAPI) is passive income earned by a "foreign affiliate" of a Canadian resident. FAPI is taxed on the accrual basis to the Canadian shareholder of a "controlled foreign affiliate." If earned by a non-controlled foreign affiliate, it is not taxed in Canada on the accrual basis but is taxable when repatriated to Canada.

Foreign-source income that would otherwise be treated as passive would, in certain circumstances, be considered to be active where the entity earning the income employs more than five employees (or the equivalent thereof), full-time in the active conduct of the business.

Taxpayers whose foreign operations would not require more than five employees could pool their investments with other taxpayers in a similar position in an entity in which they would hold shares the return on which would be tracked to their own investments. The pooled entity would require more than five employees thus converting the income of all the investors to active business income.

The Budget proposes to introduce measures that would prevent the circumvention of the "more than five employees" rule in this fashion. Each of the tracked pools would be treated as a separate business that would not employ more than five employees.

The Budget also proposes to introduce measures that are intended to prevent the avoidance of controlled foreign affiliate status by the use of tracked pooling arrangements similar to those described above where the individual Canadian taxpayer does not participate in a controlling interest in the foreign affiliate. Under the tracking arrangement each taxpayer retains control over its contributed assets and any returns from those assets accrue to it benefit. This proposal would deem a foreign affiliate of a taxpayer in this type of scenario to be a controlled foreign affiliate.

Regulated foreign financial institutions earning what would otherwise be FAPI are considered to be earning active business income if, among other conditions, they meet certain minimum capital requirements. These minimum requirements have heretofore not applied to trading or dealing in indebtedness. The Budget proposes to introduce measures that will apply the same minimum capital requirements to trading or dealing in indebtedness.

All of these measures will apply to taxation years of foreign affiliates that begin on or after Budget Day.

Reassessments

The Budget proposes to extend the normal four-year reassessment period that is generally applicable to income arising from a taxpayer's foreign affiliate by three years. The extended reassessment period will now coincide with that available to the CRA in connection with transactions between Canadian residents and non-arm's-length non-residents.

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

Where a taxpayer has transactions with a non-arm's length non-resident, because the normal reassessment period available to the CRA is extended three years, there are circumstances that can prevent the CRA from reassessing a now statute-barred earlier year to which a taxpayer has carried back a loss.

The Budget proposes to allow the CRA an additional three years to reduce a loss carried back to a prior taxation year to the extent that the reassessment involves the adjustment, in a later year, of the loss carry back.

This measure will apply where the loss is carried back from a taxation year that ends on or after Budget Day.

Reporting requirements

The Budget proposes to shorten the filing deadline for the foreign affiliate information reporting (T1134) from the current 15 months after the Canadian company's year-end to six months after the year-end to coincide with the filing deadline for the corporate tax return (T2).

This proposal applies to taxation years that begin after 2019.

Sharing information for criminal matters

The Budget proposes to allow the legal tools available under the Mutual Legal Assistance in Criminal Matters Act to be used by CRA in order to facilitate the sharing of information related to tax offenses under Canada's tax treaties, tax information exchange agreements and the Convention on Mutual Administration Assistance in Tax Matters. In addition, the Budget proposes to enable the sharing of tax information with Canadian mutual legal assistance partners in respect of acts that, if committed in Canada, would constitute terrorism, organized crime, money laundering, criminal proceeds or designated substance offenses. These proposals will also enable confidential information under Part IX of the Excise Tax Act and the Excise Act, 2001 to be disclosed to Canadian police officers in respect of those offenses where such disclosure is currently permitted under the ITA.

Trusts

Reporting requirements

The Budget proposes extensive new reporting requirements for most family trusts, effective for returns required to be filed for 2021 and subsequent taxation years. These requirements could impose an obligation to file a return where none currently exists, such as where the trust earned no income in the year. The trust will be required to report the identity of all trustees, beneficiaries and settlors of the trust. In addition, the identity of each person who has the ability to exert control, through the trust terms or a related agreement, over trustee decisions in respect of the appointment of income or capital must be disclosed.

The reporting requirements will apply to Canadian-resident express trusts and to non-resident trusts currently required to file a Canadian return. This would include most personal "family" trusts used in tax planning. The following trusts are excluded from the requirements:

- Mutual fund trusts, segregated funds and master trusts
- Trusts governed by registered plans such as RRSPs
- Lawyers' general trust accounts
- Graduated rate estates (generally the first 36 months of a deceased individual's estate)
- Qualified disability trusts
- Trusts that qualify as registered charities or non-profit organizations
- Trusts in existence for less than three months
- Trusts that hold less than $50,000 in assets throughout the year as long as the assets are deposits, government debt obligations and/or listed securities; the Budget documents do not indicate if the $50,000 is based on cost or fair market value

These new reporting requirements are designed to provide better beneficial ownership information.

The Budget also introduces penalties for failure to file a trust return where the new reporting requirements apply. The penalty will be $25 per day late with a minimum of $100 and a maximum of $2,500. If the failure to file is made knowingly, or as a result of gross negligence, there will be an additional penalty of five per cent of the maximum fair market value of property held during the year with a minimum of $2,500.

Charities

Municipalities as eligible donees

Where a registered charity's registration is revoked, either at its request or because of non-compliance, a revocation tax of 100 per cent of the net value of the charity's assets is imposed. This tax can be reduced by making qualifying expenditures, including gifts to "eligible donees," generally another registered charity where its directors/trustees are arm's length with those of the revoked charity.

The Budget proposes to allow transfers of property to municipalities to be qualified expenditures for this purpose, subject to case-by-case approval, thus reducing the revocation tax. This measure will apply to transfers made on or after February 27, 2018.

Universities outside Canada

Certain categories of "qualified donees," including universities outside Canada, are required to register with the CRA and are listed on the CRA website. Foreign universities are also required to be prescribed in the Income Tax Regulations. The Budget proposes to eliminate this duplication in respect of universities by removing the Income Tax Regulation requirement as of February 27, 2018.

Sales tax and excise tax measures

GST/HST and investment limited partnerships

The Budget confirms the Federal Government's intention to proceed with the legislative and regulatory proposals released on September 8, 2017, relating to the application of GST/HST to investment limited partnerships with the following modifications:

- GST/HST only applies to management and administrative services rendered by the general partner on or after September 8, 2017, and not before this date unless the general partner has charged the GST/HST in respect of such services before that date
- GST/HST will generally be payable on the fair market value of the management and administrative services in the period in which they are provided
- An investment limited partnership will have the ability to make an election to advance the application of these rules as of January 1, 2018.

Consultation on the GST/HST holding corporation rules

The government intends to consult on the application of the "holding corporation rule" that allows a parent corporation to claim input tax credits to recover GST/HST paid on expenses that can reasonably be regarded as relating to the ownership of shares or indebtedness of a related commercial operating corporation.

The consultations will address the limitation of the rule to corporations and not other entities and the degree of relationship between the parent corporation and the commercial operating corporation.

The government intends on clarifying the expenses of the parent corporation that are in respect of shares or indebtedness of a related commercial operating corporation that qualify for input tax credits under this rule.

Tobacco and cannabis taxation

The Budget proposes to increase the excise duty on tobacco products on an annual basis rather than to automatically increase it every five years to account for inflation. These inflationary increases will take effect on April 1 of every year, starting in 2019. Effective February 28, 2018, tobacco excise duty rates will be adjusted to account for the inflation since the last adjustment in 2014.

The excise duty rate is proposed to increase by an additional $1 per carton of 200 cigarettes with corresponding increases to the excise duty rates on other tobacco products.

The Budget proposes a new excise duty framework for cannabis products to be introduced as part of the Excise Act, 2001. The duty will generally apply to all products available for legal purchase including fresh and dried cannabis, cannabis oils and seeds and seedlings for home cultivation. Cannabis cultivators and manufacturers (cannabis licensees) will be required to obtain a cannabis licence from the CRA and remit the applicable excise duty.

Excise duties will apply at the higher of a flat rate on the quantity of cannabis contained in the final product and a percentage of the dutiable amount as sold by the producer. Generally, the dutiable amount is the portion of the producer's selling price that does not include cannabis duties.

The proposed excise duty will be applied as follows:

- A flat rate duty will be imposed on a dollar-per-gram basis at the time of packaging for final retail sale. For seed and seedlings, the duty rate will be applied on a dollar-per-seed/seedling basis.
- At the time of delivery by a cannabis licensee that packaged the cannabis product to a purchaser (i.e., a provincially authorized distributor), an ad valorem rate will also be imposed on the dutiable amount.
- Cannabis licensees will be liable to pay duty at the higher of the flat rate or the ad valorem rate at the time of delivery to a purchaser.

The framework requires all cannabis products to have an excise stamp before they can be removed from the premises of a cannabis licensee and enter the Canadian market for a retail sale. Cannabis licensees who packaged the cannabis product will have the responsibility to determine and apply the appropriate excise stamp based on the provincial or territorial market in which the product is intended to be sold.

The new excise duty would not apply to packaged products that contain concentrations of no more than 0.3 per cent Tetrahydrocannabinol (THC) and pharmaceutical products that can only be acquired through a prescription.

The GST/HST rules for basic groceries will be amended to ensure that any sales of cannabis products will not meet the zero-rating provisions and will be subject to GST/HST in the same way as sales of other cannabis products. In addition, the relieving rules for agriculture products will be changed to ensure that sales of cannabis products including seeds or seedlings will also be subject to GST/HST.

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This commentary summarizes recent budget developments. However, we recommend that you consult with us before embarking on any of the information contained in the commentary, which are appropriate to your own specific requirements.