

Tax Memo

2011 Federal Budget: Will it Come to Pass?

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Introduction

The federal budget that Minister of Finance Jim Flaherty presented on March 22, 2011, may well be defeated when it comes before the House of Commons, triggering an election. Even so, many of its measures are likely to be re-introduced later.

This budget maintains corporate and personal tax rates, but does propose some new personal tax credits, including a Children’s Arts Tax Credit.

Many measures are aimed at tightening perceived loopholes or inequities in various aspects of the tax system. Notably, the budget curtails the ability of a corporation to defer income tax by taking advantage of the timing of the year-ends of partnerships of which it is a member. This change will affect tax planning that is common in a number of sectors, including oil and gas, real estate and retail, as well as in income trust conversions.

Enhancements to the capital cost allowance (CCA) system extend the 50% straight-line accelerated CCA rate for manufacturing and processing equipment for an additional two years and expand the property eligible for a 50% declining balance accelerated CCA rate (specified clean energy generation and conservation equipment acquired before 2020).

Personal tax measures include tightening of the rules that govern individual pension plans. Furthermore, the existing “tax on split income” rules (the “kiddie tax”) are extended to apply to capital gains realized by or included in the income of a minor in certain circumstances.

A variety of budget measures are intended to ensure that the tax benefits of charitable giving are not abused.

Business Tax Measures

Corporate tax rates

The budget does not change federal corporate income tax rates. The following rates apply to December 31 year ends:

	General and M&P income ¹	Canadian-controlled private corporations (CCPCs)	
		Active business income to \$500,000	Investment income
2010	18%	11%	34.67%
2011	16.5%		
2012	15%		

1. The rates do not apply to the income of credit unions, most deposit insurance corporations, mutual fund corporations, mortgage investment corporations and investment corporations.

Elimination of partnership deferral

The budget introduces measures that will limit the ability of a corporation to defer the taxation of income earned through a partnership. A partnership is not a taxpayer; rather, the income or loss of a partnership is allocated to its partners, who include their share of the partnership's income or loss in computing their own taxable incomes.

Under current rules, income earned by a corporation as a member of a partnership is included in the corporation's income for the corporate taxation year in which the fiscal period of the partnership ends. Therefore, if the fiscal year of a partnership differs from the taxation year of a corporate partner, this could defer income and tax by up to one year. In 1995, changes were enacted to limit similar tax deferral opportunities that existed for individuals. The proposed measures for corporate partners generally follow the 1995 approach, but are somewhat more complex.

For taxation years of a corporate partner that end after March 22, 2011, the potential tax deferral will be limited by requiring the corporation to accrue partnership income for the period up to the end of the corporation's taxation year. This accrual will apply when a partnership's fiscal year differs from that of a corporate partner, and the partner

(together with affiliated and related parties) exceeds a 10% income or asset entitlement threshold. The rules apply only to income; partnership losses will not be accrued.

Detailed rules apply to the computation of the partnership income accrual (referred to as the “Stub Period Accrual”). The Stub Period Accrual added to income in one taxation year would be deducted in the following year.

The proposals provide a formula for computing the Stub Period Accrual – essentially a pro rata amount based on the partner's share of partnership income for fiscal periods of the partnership ending in the taxation year. A corporate partner may designate a lower Stub Period Accrual than that determined under the formula. However, in the event that the designated amount is less than both the actual pro-rated partnership income for the stub period (determined after the partnership's fiscal year is completed) and the amount determined under the formula, the corporate partner will be subject to an additional income inclusion in the following taxation year. This additional income inclusion will include both a prescribed interest component and a “penalty” component in the event that the shortfall exceeds 25% of the required minimum.

A corporate partner will be entitled (but not required) to reduce its Stub Period Accrual for a taxation year in respect of its share of “Designated Resource Expenses” incurred by the partnership in the stub period. To obtain this reduction, a partner must, before filing its tax return for the year, obtain from the partnership written evidence of the nature and amount of the partner's share of the related expenses. The Stub Period Accrual cannot be reduced below zero.

If certain conditions are met, an election may be available to change the fiscal period of a partnership all the members of which are corporations other than professional corporations and at least one of which would otherwise have a Stub Period Accrual. If such an election is made and a corporate partner has a second fiscal period of the partnership ending in its first taxation year that ends after March 22, 2011, the partner's share of income or loss of the partnership for that second fiscal period is referred to as the partner's “Alignment Income.”

Subject to various conditions, transitional relief is available to a corporate partner that will generally allow the sum of the Stub Period Accrual for that first taxation year and Alignment Income in respect of a partnership (the

Qualifying Transitional Income (QTI), which can't be less than zero) to be taken into income over a five-year period following that first taxation year.

In a typical scenario, QTI computed for the 2011 taxation year of a corporate partner would be subject to the following minimum inclusion rates over the next five taxation years:

	Minimum inclusion rate
2012	15%
2013	
2014	20%
2015	
2016	25%

Special rules apply to multi-tier partnership structures (when at least one member of a partnership is another partnership). All partnerships that are part of a multi-tier partnership structure will be required to adopt a common fiscal period, although that fiscal period need not align with the taxation year of any particular corporate partner. The partnerships in such a structure may file a one-time election to select a common fiscal period, which must end before March 22, 2012, and be no more than 12 months. If no election is filed, the default common fiscal period for all the partnerships will be December 31, beginning December 31, 2011.

If the fiscal year of one or more partnerships in a multi-tier partnership structure changes as a result of these rules (a "Multi-tier Alignment"), the first such fiscal period is referred to as the "First Aligned Fiscal Period." Any incremental partnership income or loss recognized by a corporate partner for its first taxation year in which the First Aligned Fiscal Period ends (referred to as "Multi-tier Alignment Income") will be included in its QTI eligible for the same transitional relief described above. In addition, if there is a Multi-tier Alignment, the corporate partner will not have a Stub Period Accrual for a partnership in the multi-tier structure until the end of the partner's taxation year in which the First Aligned Fiscal Period ends. Otherwise, the Stub Period Accrual rules operate as for single-tier partnerships.

Stop-loss rule on share redemption

The *Income Tax Act* contains stop-loss rules that, in certain circumstances, reduce the amount of loss realized by a corporation from the disposition of a share by the amount of tax-free dividends received, or deemed to be received, on the share on or before the disposition. These rules are subject to exceptions that generally apply if:

- the share is held by the shareholder for 365 days or more; and
- the shareholder (together with all persons who do not deal at arm's length with the shareholder) owns less than 5% of the class of shares on which the dividends are received.

The rules are modified to prevent certain arrangements that rely on the existing exceptions to the stop-loss rules. Specifically, the stop-loss rules are extended to apply to any dividend deemed to be received on a redemption, acquisition or cancellation of a share held by a corporation (either directly or indirectly through a partnership or trust), without regard to the number of shares held or the holding period. The extension of the stop-loss rules does not apply to dividends deemed to be received on the redemption of shares of a private corporation that are held by a private corporation that is not a financial institution.

This measure applies to a redemption, acquisition or cancellation of shares occurring after March 21, 2011.

M&P equipment – Capital cost allowance

The temporary enhanced annual capital cost allowance (CCA) deduction for eligible manufacturing and processing machinery and equipment is extended, for two years, to property acquired before 2014. The measure provides a 50% straight-line CCA rate for purchases of machinery and equipment used in the manufacturing and processing in Canada of goods for sale or lease.

The measure will be implemented by making Class 29 applicable to assets (that would otherwise be included in Class 43) acquired after March 18, 2007, and before January 1, 2014.

The "half-year rule," which generally restricts CCA for the first year an asset becomes available for use to one-half of the amount otherwise deductible, will continue to apply to assets that are covered by this proposal.

Machinery and equipment acquired after 2013 will be included in Class 43, and will be eligible for a 30% declining balance CCA rate.

Clean energy generation equipment

The CCA system currently provides accelerated CCA deductions under Class 43.2 at 50% per year on a declining balance basis for certain clean energy

generation and conservation equipment acquired before 2020.

Class 43.2 is expanded for new equipment acquired after March 21, 2011, to include equipment that generates electricity using waste heat.

Equipment that generates electricity as the second stage in a combined cycle process using waste heat from a gas turbine can already qualify for inclusion in Class 43.2, subject to energy efficiency thresholds, and is therefore excluded from this new measure. Equipment that uses chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs) is also excluded.

The “half-year rule” will continue to apply to assets that are covered by this proposal.

Oil sands projects

Two measures are intended to align the CCA rates for oil sands properties with those of the conventional oil and gas sector.

Oil sands properties

For acquisitions made after March 21, 2011, the cost of acquiring an oil sands lease or other oil sands resource property will be treated as a Canadian oil and gas property expense (COGPE), which is deductible on a 10% declining balance basis, instead of as a Canadian development expense (CDE), deductible on a 30% declining balance basis. Proceeds from the disposition of such property after March 21, 2011, will reduce the 10% or 30% deduction pool to which the cost of the property was originally added.

These changes will also apply to oil shale property, which is treated in a similar manner to oil sands resource property.

Pre-production development expenses

Development expenses incurred for the purpose of bringing a new oil sands mine into production in reasonable commercial quantities will be treated as CDE, which permits a deduction at a rate of 30% on a declining balance basis, instead of as Canadian exploration expenses (CEE), which can be deducted in full in the year incurred.

Current CEE treatment is maintained for expenses incurred before March 22, 2011, and will also be permitted for expenses incurred before 2015 relating to new mines on which major construction began before March 22, 2011. The threshold for major construction will be based on the same threshold announced in the 2007 budget for phase-out of accelerated CCA for tangible assets used in oil sands projects.

For other expenses, the transition will be gradual. Costs will be allocated proportionally to the two resource expense categories based on the following schedule:

		Proportion	
		CEE	CDE
Year expense incurred	2011	100%	0%
	2012	100%	0%
	2013	80%	20%
	2014	60%	40%
	2015	30%	70%
	2016	0%	100%

These changes will also apply to pre-production development expenses in respect of oil shale mines.

Qualifying environmental trusts

The budget proposes several changes to the rules for qualifying environmental trusts (QETs).

Pipeline trusts

The budget includes, as trusts eligible for QET treatment, trusts established in the context of pipeline abandonment. It also includes as QETs trusts that are mandated by order of a tribunal constituted by a law of Canada or a province. These changes result from new requirements established by the National Energy Board regarding future reclamation costs associated with abandoned pipelines. They will apply beginning in 2012 for trusts created after 2011.

Eligible investments

The list of eligible investments will be expanded to include certain debt obligations and securities, such as debt of public corporations, investment-grade debt and securities listed on a designated stock exchange. However, eligible investments will exclude debt or securities issued by:

- a person or partnership that is a beneficiary of the QET or that has made contributions to the QET, or a person related to (or a partnership affiliated with) such a person or partnership; or

- a person or partnership in which a contributor to the QET or a beneficiary of the QET has a “significant interest” (generally an interest of 10% or more).

Hiring Credit for Small Business

The budget introduces a temporary Hiring Credit for Small Business of up to \$1,000 against a small employer’s increase in its 2011 Employment Insurance (EI) premiums over those paid in 2010. The credit is available to employers whose total EI premiums were \$10,000 or less in 2010.

Personal Tax Measures

Personal tax rates

The budget does not change personal tax rates. Top combined 2011 personal tax rates are outlined in the following table.

Top 2011 Personal Tax Rates

Taxable income above \$128,800 (\$150,000 in Nova Scotia)	Ordinary income & interest	Capital gains	Canadian dividends	
			Eligible	Non-eligible
Federal only	29.00%	14.50%	17.72%	19.58%
Alberta	39.00%	19.50%	17.72%	27.71%
British Columbia	43.70%	21.85%	23.91%	33.71%
Manitoba	46.40%	23.20%	26.74%	39.15%
New Brunswick ¹	43.30%	21.65%	22.03%	30.83%
Newfoundland and Labrador	42.30%	21.15%	20.96%	29.96%
Non-resident ²	42.92%	21.46%	26.22%	28.98%
Northwest Territories	43.05%	21.53%	21.31%	29.65%
Nova Scotia ³	50.00%	25.00%	35.64%	36.21%
Nunavut	40.50%	20.25%	25.72%	28.96%
Ontario	46.41%	23.20%	28.19%	32.57%
Prince Edward Island	47.37%	23.69%	27.33%	41.17%
Quebec	48.22%	24.11%	31.85%	36.35%
Saskatchewan	44.00%	22.00%	23.36%	30.83%
Yukon	42.40%	21.20%	14.28% ⁴	30.41%

1. For New Brunswick, the rates reflect changes announced in the province’s March 22, 2011 budget.
2. Non-resident rates for interest and dividends apply only in limited circumstances.
3. For Nova Scotia, the information shown assumes that the province will not balance its 2011 fiscal year budget. If Nova Scotia does balance its fiscal year budget, the rates on taxable income above \$128,800 will be:
 - Ordinary income & interest – 48.25%
 - Capital gains – 24.13%
 - Eligible Canadian dividends – 32%
 - Non-eligible Canadian dividends – 33.06%
4. For the Yukon, the rate is 17.72% if the taxpayer has no other income. The rate shown (14.28%) has a negative Yukon component that shelters other income from Yukon tax. Therefore, the rate will be 14.28% to 17.72%, depending on the level of the taxpayer’s other income.

The table below shows the federal tax payable at various income levels.

		Amount of tax ¹		Tax saving
		2010	2011	
Taxable income	\$500,000	\$133,487	\$133,325	
	\$250,000	\$60,987	\$60,825	\$162
	\$150,000	\$31,987	\$31,825	
	\$100,000	\$18,297	\$18,189	\$108
	\$50,000	\$6,575	\$6,513	\$62
	\$30,000	\$2,943	\$2,921	\$22

1. The amounts assume that only the basic tax credit is claimed.

Individual pension plans

The budget proposes changes in respect of certain defined benefit registered pension plans (RPPs) intended to primarily benefit one individual, generally an employee of a corporation that he or she controls, or the individual and other family members employed by the corporation. Such plans are referred to as individual pension plans or IPPs.

Minimum withdrawals

The budget proposes minimum withdrawal requirements from an IPP, for a member over 71, equal to the greater of:

- the amount that would have otherwise been payable to the plan member under the plan terms; and
- the minimum amount that would be required to be paid from the IPP to the member if the member’s share of the assets of the IPP were held in a registered retirement income fund (RRIF).

This change is intended to address government concerns that IPPs designed as transfer vehicles for the commuted value of an individual’s existing RPP can result in significant amounts of the IPP becoming pension surplus, allowing for a more generous deferral of income than possible for other RPP members or individuals with a RRIF.

The change will apply beginning in 2012 with required withdrawals starting in that year for IPP members who are already over 71.

Contributions for past service

The budget also requires that contributions made to an IPP, that relate to past years of employment, be either funded first out of the plan member’s existing registered retirement savings plan (RRSP) assets (or account balance under a defined contribution RPP) or reduce the member’s accumulated RRSP contribution room. Only

once these amounts are exhausted will new contributions be permitted in respect of past service. This change is intended to address perceived inequities that arise when the cost to the IPP of the past service benefit is significantly higher than the amount that is currently required to be transferred from the RRSP, or the reduction to RRSP contribution room. It effectively removes the tax advantage previously available.

This change will apply to IPP past service contributions made after March 22, 2011, unless the amount was credited to the member under the IPP before March 22, 2011.

Tax on split income

The *Income Tax Act* contains provisions intended to address income splitting between a higher-income adult individual and a lower-income minor. One of these rules, referred to as the “tax on split income” (or the “kiddie tax”) generally applies the highest marginal tax rate on amounts of:

- taxable dividends or shareholder benefits received by a minor directly, or indirectly through a partnership or trust, in respect of unlisted shares of a corporation (other than shares of a class listed on a designated stock exchange or shares of the capital stock of a mutual fund corporation); or
- income of a minor from a partnership or trust, if the income is derived from the provision of property or services to a business carried on by a person related to the minor or in which the related person holds a certain amount of shares.

The budget extends the application of the kiddie tax to capital gains either realized by or included in the income of a minor, when the gain is attributable to a disposition of shares as part of a series of transactions or events that includes an acquisition of the shares by a non-arm’s length person and any taxable dividends on the shares would have been subject to the kiddie tax.

For such dispositions, the capital gain will be deemed to be a taxable dividend, so that it will neither benefit from the capital gains inclusion rate nor qualify for the lifetime capital gains exemption. Instead, the kiddie tax rules will apply. In addition, the dividend will be deemed not to be an eligible dividend and the corporation will be deemed not to have paid a dividend. This measure will apply to capital gains realized after March 21, 2011.

The government also proposes to monitor the effectiveness of the kiddie tax and commits to taking further action if new income-splitting techniques develop.

Children’s Arts Tax Credit

Commencing in 2011, parents can claim a non-refundable tax credit on up to \$500 for fees paid to enrol each child, who at the beginning of the year is under 16, in an eligible program of artistic, cultural, recreational or developmental activities.

For children under 18 at the beginning of the year who qualify for the Disability Tax Credit, an additional non-refundable credit of \$500 can be claimed, if at least \$100 is spent on eligible expenses.

Eligible expenses include registration and membership fees in a program that is ongoing, supervised, not part of a school’s curriculum and a minimum of:

- for general programs – eight consecutive weeks with at least one session per week; or
- for camps – five consecutive days.

An eligible activity must:

- help children develop particular intellectual skills, creative skills or expertise in an artistic or cultural activity;
- substantially focus on wilderness and the natural environment;
- provide enrichment or tutoring in academic subjects; or
- include interaction among children where supervisors teach or help children develop interpersonal skills.

The credit can be claimed by either parent or may be shared between them.

Education tax changes

Examination fees

The budget expands the Tuition Tax Credit to include examination fees (and certain ancillary fees or charges) paid for an examination taken after 2010, if it is a requirement for obtaining professional status or being licensed or certified to practice a profession or trade in Canada.

Studying abroad

Commencing in 2011, students studying overseas will be eligible for the Tuition Tax Credit, Education Tax Credit and Textbook Tax Credit if they were in full-time attendance at a university outside Canada in a course leading to a degree that is at least three consecutive weeks – reduced from 13.

Starting in 2011, Educational Assistance Payments can be made from registered education savings plans (RESPs) to individuals studying full-time at universities, colleges or other educational institutions outside Canada in a course of not less than three consecutive weeks.

Registered education savings plans

Transfers between individual RESPs for siblings will be allowed, without tax penalties or loss of Canada Education Savings Grants, provided the transferee plan was opened when the beneficiary was under 21 years of age. This change is intended to permit the same flexibility regarding the allocation of RESP assets among siblings as exists for RESP family plans.

Registered retirement savings plans

Anti-avoidance rules applicable to RRSPs and RRIFs will be expanded by introducing rules similar to the “advantage,” “prohibited investment” and “non-qualified investment” rules applicable to Tax-Free Savings Accounts.

These rules, with certain modifications, will be adopted for RRSPs and RRIFs for transactions and investments after March 22, 2011, subject to certain transitional rules.

Registered disability savings plans

If withdrawals are made from a registered disability savings plan (RDSP), the Canada Disability Savings Grants (CDSG) and Canada Disability Savings Bonds (CDSB) payments received in the last 10 years must be repaid. The budget proposes that, if a beneficiary under a RDSP has a life expectancy of five years or less, as certified by a medical doctor, the plan holder can elect to increase his or her annual withdrawals without triggering the “10-year repayment rule.” Certain restrictions will apply to the RDSP, however, following an election. The election can be reversed at any time.

The measure will apply to withdrawals made after royal assent of the enacting legislation. However, beneficiaries

will be permitted to use their 2011 withdrawal limits in 2012 if the required medical certification was obtained before 2012.

Volunteer Firefighters Tax Credit

Commencing in 2011, volunteer firefighters who perform at least 200 hours of volunteer firefighting services for one or more fire departments in a taxation year can claim a non-refundable tax credit based on an amount of \$3,000.

Family Caregiver Tax Credit

Commencing in 2012, caregivers of dependants with a mental or physical infirmity (including spouses, common-law partners and minor children), can claim a non-refundable tax credit based on an amount of \$2,000 (to be indexed for inflation). Caregivers will claim an enhanced amount for an infirm dependant under one of the existing dependency-related credits (e.g., Spousal or Common-Law Partner Credit, Child Tax Credit). Only one Family Caregiver Tax Credit will be available in respect of each infirm dependant.

The threshold at which the Infirm Dependant Credit begins to be phased out will increase, so that the enhanced amount is fully phased out when the dependant’s income level is \$12,780.

Medical Expense Tax Credit

To enhance the income tax relief for caregivers with extraordinary medical expenses, commencing in 2011, the budget removes the \$10,000 limit on eligible expenses that can be claimed under the Medical Expense Tax Credit in respect of a dependent relative.

Child Tax Credit

To ensure that otherwise-eligible parents from two or more families sharing a home are not prevented from claiming the Child Tax Credit (CTC) in respect of their children, commencing in 2011, the rule that limits the number of CTC claimants to one per domestic establishment will be repealed.

Canada Child Tax Benefit

For marital status changes occurring after June 2011, an individual who receives the Canada Child Tax Benefit (CCTB) must notify the Minister of National Revenue of the change before the end of the month after the month in

which the change occurs (if he or she has not already given this notification for GST/HST Credit purposes).

For CCTBs paid after June 2011, the advance payment threshold will increase from \$10 to \$20 per month and from \$25 to \$50 per quarter for the GST/HST Credit.

Mineral Exploration Tax Credit

The Mineral Exploration Tax Credit equals 15% of the specified mineral exploration expenses incurred in Canada and renounced to flow-through share investors. The budget extends the credit by one year to flow-through share agreements entered into before April 1, 2012.

Sales and Excise Tax Measures

Customs Tariff simplification

The budget announced that a tariff simplification process would be initiated to reduce the administrative burden for business and facilitate trade.

Some examples of tariff simplification measures noted in the budget were:

- reducing the number of tariff items contained in the *Customs Tariff* with a view to making tariff classification simpler;
- eliminating certain “end-use provisions,” which could expand duty-free benefits to more industrial sectors and reduce compliance burden;
- modifying the structure of the *Customs Tariff* to make it more user-friendly; and
- modernizing the *Customs Tariff* by revoking obsolete provisions.

Low-value imports

Postal and courier non-commercial imports valued under \$500 will benefit from three new tariff items in Chapter 98 of the Schedule to the *Customs Tariff*. The aim is to make the processing of an ever-increasing number of non-commercial shipments by the Canada Border Services Agency more efficient. The new tariff items will apply generic Most-Favoured-Nation tariff rates of 0%, 8% or 20%, depending on the description of the goods being imported. Any goods classified under the generic tariff items will be subject to GST/HST.

Other Tax Measures

Charities

To ensure that organizations issuing official donation receipts operate in compliance with the law, and to limit unintended or excessive benefits, the budget proposes the following measures.

Regulatory regime for qualified donees

The budget extends certain regulatory requirements that apply to registered charities to other qualified donees, such as registered Canadian amateur athletic associations (RCAAs), municipalities in Canada, housing corporations in Canada that provide low-cost housing and universities outside Canada, and expands the regulatory requirements for all qualified donees.

These include:

- requiring qualified donees to maintain proper books and records, and to be on a publicly available list maintained by the Canada Revenue Agency (CRA); and
- allowing the CRA to suspend the receipting privileges of a qualified donee or revoke its qualified donee status if the qualified donee issues a donation receipt that does not comply with the *Income Tax Act*. This includes properly establishing the fair market value of donated property and issuing receipts only for transactions that qualify as gifts.

The new rules for qualified donees apply on or after the later of January 1, 2012, and royal assent of the enacting legislation.

In addition, the budget proposes to extend to RCAAs other key regulatory requirements that apply to registered charities.

Safeguarding charitable assets

The budget gives the Minister of National Revenue the discretion to refuse or to revoke the registration of an organization, or to suspend its authority to issue official donation receipts, if an individual involved in the control or management of the organization has, among other things, been found guilty of a criminal or other offence relating to financial dishonesty. These measures apply on or after the later of January 1, 2012, and royal assent of the enacting legislation.

Recovering tax assistance for returned gifts

The budget allows the CRA to issue reassessments to disallow a taxpayer's claim for a charitable donations tax credit or deduction, if a donated property is returned to a donor after March 21, 2011. The qualified donee will be required to issue a revised receipt to the donor and send a copy of the receipt to the CRA if the amount of the receipt has changed by more than \$50.

Gifts of a non-qualifying security (NQS)

The budget proposes that a donor of a NQS cannot claim a charitable donations tax credit or deduction until such time, within five years of the donation of the NQS, that the qualified donee has disposed of the NQS to another party for consideration that is not another NQS of any person. The budget proposes anti-avoidance rules to ensure that these rules are not circumvented. These measures apply to securities disposed of by qualified donees after March 21, 2011.

Granting options to qualified donees

The budget clarifies that a charitable donations tax credit or deduction is not available to a taxpayer that grants an option, after March 21, 2011, to a qualified donee to acquire a property of the taxpayer until the donee acquires the property from the taxpayer. Tax relief for the donor is permitted when the qualified donee exercises the option and acquires the property from the taxpayer provided:

- 80% of the fair market value of the acquired property exceeds the total consideration paid by the qualified donee for the option and for the property; or
- the Minister is satisfied that the granting of the option or the disposition of the property was made with the intention of making a gift.

Donations of publicly listed flow-through shares

The budget proposes to limit the exemption from capital gains tax on donations of publicly listed flow-through shares, acquired by a taxpayer pursuant to a flow-through share agreement issued after March 21, 2011, to the excess of cumulative capital gains in respect of dispositions of these shares over the original cost of the shares. This eliminates part of the tax benefit that currently exists where a taxpayer acquires a flow-through share and subsequently donates it to a registered charity. Under the proposals, the taxpayer will continue to benefit from:

- resource deductions allocated to them from the issuer of the share; and
- a charitable donations tax credit or deduction based on the fair market value of the share, but will be taxable on a capital gain equal to the lesser of the fair market value and the original cost of the share.

Employee profit sharing plans

To ensure that employee profit sharing plans are used for their intended purpose, the government will review the rules and assess whether technical improvements are required. Stakeholder input will be sought before proceeding with any proposals.

Pension plan wind-ups

The pension plan rules for members and retirees of underfunded pension plans that are being wound up due to an employer's insolvency will be clarified regarding the tax treatment of lump-sum amounts received by former employees or retirees in lieu of their right to health and dental coverage. For insolvencies arising before 2012, these amounts will not be treated as income for tax purposes.

Children's special allowance

Amendments to the *Children's Special Allowance Act* and its regulations will provide for the payment, after December 2011, of a special allowance to a child protection agency that provides financial assistance for the maintenance of a child who is a former Crown ward and is placed in the custody of a legal guardian, tutor or similar individual.

Agri-Quebec

Commencing in 2011, the income tax treatment provided to investments under the AgriInvest program – a federal government incentive for farmers – will also be provided to investments made under the Agri-Quebec program – a new Quebec-sponsored program that is similar to the AgriInvest program.

Aboriginal tax policy

The budget reaffirms the government's willingness to discuss and implement direct taxation arrangements with Aboriginal governments. It states that the government also supports these arrangements between provinces or territories and Aboriginal governments.

Previously Announced Measures

The budget confirms that the government will proceed with the following previously announced measures:

- the March 4, 2010 budget measures, some of which were included in legislative proposals released on August 27, 2010 (see our *Tax Memo* “August 27, 2010 Draft Legislation Implements 2010 Budget Proposals and Other Previously Announced Measures” at www.pwc.com/ca/taxmemo);
- outstanding draft legislative proposals relating to foreign affiliates;
- legislative proposals released on:
 - March 16, 2011, in draft form relating to the deductibility of contingent amounts, withholding tax on interest paid to non-residents and the tax treatment of certain life insurance corporation reserves (see our *Tax Memo* “Finance Proposes Legislative Measures to Counter FCA Decisions” at www.pwc.com/ca/taxmemo);
 - December 16, 2010, relating to Real Estate Investment Trusts (see our *Tax Memo* “Proposed Changes to Real Estate Investment (REIT) Tax Rules” at www.pwc.com/ca/taxmemo);
 - July 16, 2010, relating to income tax technical and bijuralism amendments;
 - November 5, 2010, relating to income tax technical amendments; and
 - December 7, 2010, to accommodate changes to the Saskatchewan Pension Plan;

- measures announced on November 25, 2010, relating to appeals concerning eligibility for the Disability Tax Credit; and
- GST/HST changes:
 - released on January 28, 2011, relating to financial institutions; and
 - announced on October 28, 2010, that provide relief for certain Royal Canadian Legion purchases.

The government also reaffirms the government’s commitment to move ahead with technical amendments to improve the operation of the tax system.

For More Information

For more information on how the budget changes affect you or your business, please contact:

- your PricewaterhouseCoopers LLP (PwC) tax adviser;
- any of the individuals listed at www.pwc.com/ca/taxcontacts; or
- a member of PwC’s Canadian National Tax Services (CNTS).¹ For more on CNTS and its members, go to: www.pwc.com/ca/cnts.

1. Canadian National Tax Services (CNTS) is a group of tax specialists from a variety of professional backgrounds, including government, with the mandate to enhance the overall value and scope of tax services PwC provides to its clients.

More 2011 Budgets are Coming!

PwC will keep you up-to-date on tax changes in Canada’s budgets. Go to www.pwc.com/ca/budget.

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