



2008 Federal Budget

NOTICE TO READER

The following commentary has been prepared by Parker Garber & Chesney, LLP based on information available to the public on the date of publishing.

Readers are cautioned that this commentary is informational only and that any issues specific to the reader's needs be addressed with the appropriate tax professional.

The reader is cautioned that this document is not meant to provide advice specific to the reader's particular situation and that advice cannot be given in such a manner.

2008 FEDERAL BUDGET

Finance Minister Jim Flaherty introduced the Federal government's 2008 budget that will not likely be used to defeat the minority government. Since most substantial tax changes were introduced in the fall of 2007 no one was expecting any additional tax changes. Most changes are meant to either raise funds for the government or provide a stimulus for the economy. The Harper government is in the situation of having a substantial surplus but does not want to provide additional tax changes from those introduced in October because of the uncertainty of the effect of the US downturn on Canada's own economy.

Most of the initiatives introduced were related to program spending. Our comments will be limited to the tax changes.

PERSONAL TAX

TAX-FREE SAVINGS ACCOUNTS (TFSA)

The single most significant tax change in this budget was the introduction of the TFSA effective for 2009. This account will allow individual taxpayers to earn investment income including interest, dividends and capital gains on a tax-free basis.

The contributions will not be deductible and withdrawals from the account will not be taxable. Contributions will be limited to \$5,000 per year per individual and will be indexed to annual inflation rounded to the nearest \$500. Unused TFSA room will be available for carry forward to future years on an indefinite basis. Withdrawals from the account will increase the contribution room accordingly.

The contribution room will likely be tracked by CRA on the same basis as RRSP limits. In addition, similar to RRSPs, over-contributions will be subject to a 1% per month penalty.

The qualified investments for the TFSA will be similar to RRSP investments except that no investments will be allowed in an entity that is not at arm's length to the taxpayer.

Interest borrowed to invest in the TFSA will not be deductible but the account will be able to be used as collateral for loans.

Withdrawals from the account will not effect income calculations for determining credits and benefits such as Age Credits, Old Age Security claw-backs and disability benefits.



There is no age limit to withdraw funds from the TFSA, unlike RRSPs. Attribution rules will not apply allowing one spouse to contribute funds to the account of another spouse.

REGISTERED EDUCATION SAVINGS PLANS (RESP)

The time limit for contributing to an RESP has been extended from 21 years to 31 years for most plans (from 25 years to 35 years for a disability tax credit (DTC) qualified plan) effective for 2008. The plan must be terminated in the year of the 35th anniversary, up from the 25th anniversary (40th anniversary for DTC plans).

Contributions to family plans can be made until the last beneficiary attains age 31, up from age 21.

The eligibility of a beneficiary will be extended to six months following the time that the beneficiary ceases being enrolled in a qualifying post-secondary program.

DIVIDEND TAX CREDITS

In order to bring the tax credit scheme in line with the new reduced corporate tax rates the following rate changes will take effect for eligible dividends:

Gross-up	Dividend Tax Credit
2010 – reduced to 44% from 45%	10/17 from 11/18
2011 – reduced to 41%	13/23
2012 – reduced to 38%	6/11

MEDICAL EXPENSE TAX CREDIT

The list of eligible medical expenses has been increased to include service animals trained to guide or assist persons with severe autism or epilepsy.

OTHER TAX MEASURES

DONATIONS OF SECURITIES

The tax-free capital gain for donations of securities to private foundations has been extended to include gains realized on the exchange of unlisted shares and partnership interests for publicly-traded securities if the publicly-traded securities are subsequently donated to a qualified donee within 30 days of the exchange. This change takes effect on February 26, 2008.

MINING EXPLORATION TAX CREDIT



The qualifying period for expenditures has been extended for another year to expenses incurred prior to 2010.

SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT (SR&ED)

The budget increases various tax credit and expenditure limits for SR&ED effective with the date of the budget.

SOURCE DEDUCTION PENALTIES

The budget proposes to introduce a scale of graduated penalties for late remittances of source deductions. Currently the late penalty is 10% of the remittance. The new schedule will be:

- One to three days late – 3%
- Four to five days late – 5%
- Six to seven days late – 7%
- More than 7 days late – 10%

This change is effective with the budget date.

CLEARANCE CERTIFICATES

Under Canadian law the disposition of taxable Canadian property by a non-resident is subject to a withholding tax of 25%. This withholding can be reduced or eliminated by the filing of a Section 116 clearance certificate requesting a reduction or waiver of the withholding tax. CRA has not provided its approval within the time limits necessary for closing resulting in substantial withholdings and paper work required to obtain a subsequent refund.

The budget proposes to streamline the rules. These are:

1. An exemption for the withholding requirement when the property is treaty protected and the vendor and purchaser are related. An information return will be required to be filed within 30 days of the disposition.
2. The rules pertaining to “reasonable inquiry” by the purchaser will be extended to allow relief if the purchaser has determined that the vendor is a resident of a jurisdiction that has a tax treaty with Canada, it has been determined that the property is subject to treaty protection and the purchaser files an information notice within 30 days of the date of acquisition.
3. Non-residents vendors will no longer be required to file a Canadian tax return if they meet certain conditions including the fact that no tax is payable for the year of disposition, the vendor is not liable to pay any tax in respect of any previous year and each property disposed



of is either excluded property, treaty-protected property or property for which a clearance certificate has been issued.

