Mackenzie Tax & Estate Planning

BUDGET BULLETIN

Mackenzie INVESTMENTS

The 2015 Federal Budget was the first for Finance Minister Joe Oliver, and it tabled a number of proposals that will impact the financial, tax and estate plans of Canadians. The following is a summary of the most relevant budget proposals that may impact financial advisors and their clients

PERSONAL TAX CHANGES

Federal Tax Rates

There are no changes to personal federal income tax rates or income brackets for the 2015 tax year.

Tax Free Savings Account (TFSA) Limit to Rise

The TFSA was introduced in 2009 as a vehicle to accumulate savings on a tax exempt basis. Contributions to a TFSA are not tax deductible, although all income, gains and withdrawals from the TFSA are tax exempt. When first introduced, the TFSA limit was $5,000, subject to inflation adjustments in $500 increments. As a result, the TFSA limit from 2009 through 2012 remained at $5,000, and since 2013 has been fixed at $5,500.

Budget 2015 proposes to increase the TFSA annual contribution limit to $10,000 effective for 2015 and subsequent calendar years. However, the TFSA annual contribution limit will no longer be indexed to inflation. Clients who have yet to start a TFSA will have accumulated $41,000 of TFSA contribution room (assuming the client was age 18 in 2009 and meets other eligibility criteria).

Planning Point: TFSAs are under-utilized by many Canadians. Now would be the time to review your clients' TFSA strategies.

Lifetime Capital Gains Exemption on Qualified Farm and Fishing Properties to rise.

Every Canadian taxpayer is entitled to a lifetime capital gains exemption on the sale of shares of a qualified small business corporation (QSBC), or on the sale of qualified farm or fishing property. The amount of the Lifetime Capital Gains Exemption is currently $813,600 in 2015 and subject to annual indexation.

Budget 2015 proposes to increase the Lifetime Capital Gains Exemption to $1 million for capital gains realized by individuals on the sale of qualified farm or fishing property. The current $813,600 exemption will remain on the sale of QSBC shares. This measure will apply to the sale of qualified farm or fishing property that occur on or after Budget Day.

Planning Point: The Lifetime Capital Gains Exemption applicable to Capital Gains realized on the disposition of qualified property will be calculated as the greater of a) $1 million or b) the indexed Lifetime Capital Gains Exemption on QSBC shares.

Minimum RRIF Withdrawals

Clients must convert their Registered Retirement Savings Plan (RRSP) into a Registered Retirement Income Fund (RRIF) by the end of the year in which he or she attains 71 years of age. A pre-determined minimum amount must be withdrawn annually from the RRIF no later than the year in which he or she reaches age 72 and is designed to provide income in retirement. The required minimum withdrawal amount is based on factors designed to provide a regular stream of payments from age 71 to 100 assuming a 7% rate of return and 1% indexing. Once the RRIF annuitant reaches age 94, the withdrawal rate is capped at 20%.

Budget 2015 proposes to adjust the RRIF minimum withdrawal factors that apply in respect of ages 71 to 94, based on a 5% rate of return and 2% indexing. There will be no changes to RRIF factors for ages 70 and under or age 94 and above. The impact of the new RRIF factors is that it will lower the required minimum amounts on an annual basis and will allow clients to preserve more of their RRIF assets as they age, while still continuing to benefit from tax deferred growth within the plan.

The following table compares the existing and proposed new RRIF factors.

Existing and New RRIF Factors

Age (at start of year)	Existing Factor	New Factor
	%	%
71	7.38	5.28
72	7.48	5.40
73	7.59	5.53
74	7.71	5.67
75	7.85	5.82
76	7.99	5.98
77	8.15	6.17
78	8.33	6.36
79	8.53	6.58
80	8.75	6.82
81	8.99	7.08
82	9.27	7.38
83	9.58	7.71
84	9.93	8.08
85	10.33	8.51
86	10.79	8.99
87	11.33	9.55
88	11.96	10.21
89	12.71	10.99
90	13.62	11.92
91	14.73	13.06
92	16.12	14.49
93	17.92	16.34
94	20.00	18.79
95 & over	20.00	20.00

Source: Department of Finance Economic Action Plan 2015

Planning Point: These new RRIF factors will apply for the 2015 and subsequent taxation years. For individuals who have already withdrawn more than the proposed reduced 2015 minimum amount, they will be permitted to re-contribute the excess amount to their RRIF's. Re-contributions will be permitted until February 29, 2016 and will be deductible for the 2015 taxation year. Clients will still be able to base the minimum RRIF payments on the age of a younger spouse or common-law partner.

Home Accessibility Tax Credit

Budget 2015 proposes to introduce a new Home Accessibility Tax Credit. This will take the form of a non-refundable credit providing tax relief of 15 per cent on up to $10,000 of eligible expenditures per calendar year, per qualifying individual, to a maximum of $10,000 per eligible dwelling.

A qualifying individual is a taxpayer who is age 65 or older at the end of the year and qualifies for the Disability Tax Credit at any time during the year. In addition to the qualifying individual, an eligible individual may also claim the Home Accessibility Tax Credit on behalf of the qualifying individual. An eligible individual will be an individual who has claimed (or could have claimed) the spouse or common law partner amount,

eligible dependant amount, caregiver amount or infirm dependant amount on behalf of the qualifying individual. As a result, the eligible individual could include the spouse or common-law partner of the qualifying individual, as well as a host of other family members of the qualifying individual and his or her spouse or partner. Where more than one person is making a claim in respect of an eligible dwelling, the total claim cannot exceed $10,000 per dwelling. Generally speaking, the eligible dwelling must be the principal residence of the qualifying individual at any time during the year.

To qualify for the Home Accessibility Tax Credit, the expenses must have been incurred in relation to a renovation or alteration that allows the individual to gain access to, or be more mobile or functional within the dwelling, or reduces the risk of harm to the individual within the dwelling. The expenses must be enduring in nature and be integral to the home. Examples of eligible expenses include wheelchair ramps, walk-in bathtubs, wheel-in showers and grab bars. Other costs, such as routine repairs and maintenance, household appliances, financing costs of the renovation and outdoor gardening are not eligible for the credit. The Home Accessibility Tax Credit will be available for expenses paid after 2015 and must be supported with receipts.

Planning Point: The Home Accessibility Tax Credit will not be affected by any other tax credits or grants to which a qualifying individual is entitled. For example, in the case of an individual who claims an eligible expenditure that also qualifies for the Medical Expense Tax Credit, that individual will be permitted to claim both tax credits.

RDSP's – Legal Representation

In 2012, the Government introduced a rule that allowed a "qualified family member" to become the plan holder of a Registered Disability Savings Plan (RDSP) for an adult individual who may lack the capacity to enter into a contract. A qualified family member only includes the beneficiary's parents, spouse or common law partner. This provision has helped more adults dealing with disabilities to establish RDSPs where their capacity to enter a contract is in doubt and legal representation is absent. This measure was temporary, applying until the end of 2016.

Budget 2015 proposes to extend this temporary rule to apply to the end of 2018, instead of 2016. The rules implementing the Budget 2012 measure will not otherwise be changed and a qualifying family member who becomes a plan holder before the end of 2018 can remain the plan holder after 2018. This extension will provide provinces and territories some more time necessary to introduce streamlined procedures that allow for the appointment of a person to manage the affairs of an adult that lacks contractual capacity.

The Family Tax Cut – Education Credits

The Government recently introduced the Family Tax Cut – a federal non-refundable tax credit of up to $2,000 for couples with children under age 18. The Family Tax Cut allows a higher-income spouse or common-law partner to notionally transfer up to $50,000 of taxable income to a spouse or common-law partner, effective for 2014 and subsequent years.

Under the current system, the Family Tax Cut prevents the transfer of personal tax credits to avoid double counting in calculating the Family Tax Cut. However, education-related amounts (Tuition, Education and Textbook Tax Credits) do not present a double-counting issue and therefore couples do not currently receive the full value of the Family Tax Cut where education-related credits are transferred between them.

Budget 2015 proposes to revise the calculation of the Family Tax Cut for the 2014 and subsequent taxation years to ensure that couples transferring education-related credits between themselves receive the appropriate value of the Family Tax Cut. Also, the CRA will automatically reassess affected taxpayers for the 2014 taxation year to ensure that they receive any additional benefits to which they are entitled under the Family Tax Cut.

Donating Private Company Shares or Real Estate to Charity

Currently, there are a number of types of assets that can be donated to charity that are exempt from capital gains taxation. This would include donations of publicly-listed securities and mutual funds, as well as ecologically sensitive land and certified cultural property. Donations of private corporations and or real estate results in taxation on the capital gain triggered.

Budget 2015 proposes to provide an exemption from capital gains taxation on the sale of certain private company shares and real estate. The exemption will be available if:

a) the cash proceeds from the sale of shares or real estate are donated to a qualified donee within 30 days after the sale; and
b) the private company shares or real estate are sold to a purchaser that is dealing at arm’s length with both the donor and the qualified donee.

Anti-avoidance rules will ensure that the exemption is not available in circumstances where, within five years after the sale, the donor (or a person not dealing at arm’s length of the donor) directly or indirectly reacquires any property that had been sold, amongst other situations as well.

This measure will apply to donations made in respect of dispositions occurring after 2016.

Planning Point: Business owner clients now will have a new way to donate and save themselves capital gains tax when using shares of their own company.

Gifts to Foreign Charitable Foundations

Canadians are entitled to charitable donations to ‘qualified donees’ under the Income Tax Act. Generally, qualified donees are limited to Canadian charities. Budget 2015 proposes to expand the definition of qualified donees to include foreign charitable foundations which have received a gift from the Canadian government and are pursuing activities related to disaster relief or humanitarian aid.

Failure to Report Income Penalty

There are potentially two types of penalties that may apply for failure to report income on a tax return. First, a federal failure to report penalty of up to 10% of the unreported income may apply if the individual had failed to report income in any of the three preceding taxation years. Also, there is a “gross negligence” penalty that could apply if the taxpayer knew or should have known that the income should have been reported. The gross negligence penalty is equal to 50% of the understatement of tax payable. These penalties are independent of each other.

The repeated failure to report penalty can be quite excessive, particularly for lower income individuals. As a result, Budget 2015 proposes to amend the repeated failure to report income penalty to apply in a taxation

year only if a taxpayer fails to report at least $500 of income in the year and in any of the three preceding taxation years. The amount of the penalty will equal the lesser of:

- 10% of the amount of unreported income; and
- 50% of the difference between the understatement of tax related to the omission and the amount of any tax paid in respect of the unreported amount

No changes are proposed to the gross negligence penalty.
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This measure will apply to the 2015 and subsequent taxation years.

Extending Compassionate Care Benefits

Through the Employment Insurance (EI) Program, Compassionate Care Benefits provide financial assistance to people who have to be away from work temporarily to care for a family member who is gravely ill with a significant risk of death. The Government proposes to invest up to $37 million annually to extend the duration of Compassionate Care Benefits from the current six week duration to six months, as of January 2016. Through this enhancement, the Government is ensuring that the Employment Insurance program continues to help Canadians when they need it most.

BUSINESS TAX CHANGES

Small Business Tax Rate

The small business deduction results in a reduced federal corporate tax rate (11%) for active business income (ABI) of up to $500,000 earned in a Canadian-controlled private corporation (CCPC). Access to the small business deduction is phased out for CCPCs having between $10 million and $15 million of taxable capital employed in Canada.

When a shareholder receives taxable dividends from the corporation, to compensate the shareholder in respect of corporate income taxes paid on corporate income, the tax rules provide a dividend tax credit (DTC). The DTC is meant to ensure that income earned by a corporation and paid out to an individual as a dividend will be subject to the same amount of tax as income earned directly by the individual.

To reduce taxes paid by small businesses, Budget 2015 proposes a two-percentage-point decrease in the 11-percent small business tax rate. The reduction will be implemented as follows:

- effective January 1, 2016, the rate will be reduced to 10.5 per cent;
- effective January 1, 2017, the rate will be reduced to 10 per cent;
- effective January 1, 2018, the rate will be reduced to 9.5 per cent; and
- effective January 1, 2019, the rate will be reduced to 9 per cent.

The reduction in the small business rate will be pro-rated for corporations with taxation years that do not coincide with the calendar year. In conjunction with the above change, to ensure a similar rate of total tax paid by those who earn income through a corporation versus those who do not, Budget 2015 proposes to adjust the gross-up factor and DTC rate applicable to non-eligible dividends (generally dividends paid from corporate income taxed at the small business tax rate). The chart below details the amounts and effective dates for the changes.

Small Business Tax Rate Reduction and DTC Adjustment for Non-Eligible Dividends

	2015	2016	2017	2018	As of 2019
Small business tax rate (%)	11	10.5	10	9.5	9
Gross-up (%)	18	17	17	16	15
DTC (%)	11	10.5	10	9.5	9

Source: Department of Finance Economic Action Plan 2015

Planning Point: Now would be a good time to review your business owner client's salary/dividend combination.

Quarterly Remittance Category for New Employers

Employers are required to remit source deductions to the Government in respect of employee income tax, as well as the employer and employee portions of Canada Pension Plan contributions and Employment Insurance premiums. These withholdings must be remitted on a weekly, twice-monthly, monthly or quarterly basis depending on an average monthly withholding amount from the previous calendar year. New employers must remit on a monthly basis for at least one year, after which they may be eligible to apply for quarterly remitting.

To reduce a compliance burden, Budget 2015 proposes to decrease the required frequency of remittances for the smallest new employers by allowing eligible employers to immediately remit on a quarterly basis. Eligible employers will be new employers with withholdings of less than $1,000 in respect of each month, subject to the employer maintaining a perfect compliance record in respect of its Canadian tax obligations. Employers will remain eligible for quarterly remitting provided that their required monthly withholding amount remains under $1,000. This measure will apply effective 2016.

Manufacturing and Processing Equipment – Accelerated Capital Cost Allowance (CCA)

Machinery and equipment for the processing of goods for sale or lease acquired after March 18, 2007 and before 2016 primarily for use in Canada qualifies for a temporary accelerated capital cost allowance (CCA) – depreciation – rate of 50 per cent (Class 29 of Schedule II, Income Tax Regulations). These assets would otherwise be included in Class 43 and depreciated at a rate of 30%.

Budget 2015 proposes to provide an accelerated CCA rate of 50 per cent on a declining-balance basis for machinery and equipment acquired by a taxpayer after 2015 and before 2026. Eligible assets acquired in 2026 and subsequent years will qualify for the 30-per-cent declining-balance rate under Class 43.

Small Business Deduction: Consultation on Active versus Investment Business

The small business deduction results in a reduced corporate tax rate for active business income (ABI) of up to $500,000 earned in a Canadian-controlled private corporation. The deduction is intended to allow for the deferral of income tax on ABI retained in the corporation and is meant to encourage the reinvestment of business income.

Active business income does not include income from a "specified investment business", which is generally a business the principal purpose of which is to derive income from property (eg. investments) and not

business income. Certain specified investment businesses are exempt from this rule, such as those that have more than five full-time employees, with the result that income earned from such a business is eligible for the small business deduction even though its principal purpose is to derive income from property.

Budget 2015 announces a review of the ABI taxation rules for businesses that earn income primarily from property. More information will be provided at a later date and the government invites public comments on the matter by August 31, 2015.

INTERNATIONAL TAX MEASURES

Streamlining Reporting Requirements for Foreign Assets (Form T1135)

Canadian-resident individuals, corporations, trusts and certain partnerships that, at any time in a taxation year, own specified foreign property with a total cost of more than $100,000 must file a Foreign Income Verification Statement (Form T1135) with the Canada Revenue Agency (this reporting requirement has been around for some time). Specified foreign property generally includes assets held outside of Canada, but excludes property used exclusively in carrying on a business and personal-use property, such as a vacation property. Property held in registered plans, such as RRSPs and TFSAs, are also excluded for T1135 reporting purposes, as are Canadian mutual funds and Exchange-Traded Funds that invest in foreign property.

The CRA introduced a revised T1135 form in 2013 which required more detailed information regarding each specified foreign property. However, this approach has resulted in a compliance burden for some taxpayers that is disproportionate to the amount of their foreign investments.

To reduce the compliance burden on taxpayers while maintaining a commitment to combating tax evasion and aggressive tax avoidance, Budget 2015 proposes to simplify the T1135 foreign reporting system effective 2015. Under a revised form being developed by the Canada Revenue Agency, if the total cost of a taxpayer’s specified foreign property is less than $250,000 throughout the year, the taxpayer will be able to report these assets to the Canada Revenue Agency under a new simplified foreign asset reporting system. Where the total cost of specified foreign property is $250,000 or more at any time during a year, the current reporting requirements will continue to apply for that year.

Update on Automatic Exchange of Tax Information

The government believes that the exchange of tax information between countries is an important tool for promoting compliance and combating tax evasion. In 2013, G-20 Leaders committed to the automatic exchange of tax information. In 2014, Canada and other G-20 countries endorsed a new reporting standard for the automatic exchange of information with a commitment to a first exchange of information by 2017 or 2018. Under the new standard, foreign tax authorities will provide information to the CRA relating to financial accounts in their jurisdictions held by Canadian residents. The CRA will, on a reciprocal basis, provide corresponding information to the foreign tax authorities on accounts in Canada held by residents of their jurisdictions.

Budget 2015 confirms the government’s intention to implement the new reporting standard starting on July 1, 2017, allowing a first exchange of information in 2018. Draft proposals will be released for public comment in the coming months.