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Managing Your Personal Taxes 2024-25

A Canadian Perspective

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Important note for users

MARCH 21, 2025

UPDATE ON CAPITAL GAINS-RELATED PROPOSALS

On March 21, 2025, Prime Minister Mark Carney announced that the federal government would not be proceeding with the proposals to increase the capital gains inclusion rate. Therefore, these proposals and any related proposed consequential amendments have been cancelled. However, the Prime Minister confirmed that the government will maintain the proposed increase in the lifetime capital gains exemption to $1.25 million, effective June 25, 2024.

The Department of Finance had previously announced, on January 31, 2025, that the federal government intended to introduce legislation to defer — from June 25, 2024 to January 1, 2026 — the date on which the capital gains inclusion rate would increase from one-half to two-thirds on capital gains realized in excess of $250,000 annually by individuals, and on all capital gains realized by corporations and most types of trusts. The original June 25, 2024 effective date was included in the notice of ways and means motion (NWMM) tabled in the House of Commons on September 23, 2024. This NWMM died on the order paper when Parliament was prorogued on January 6, 2025.

Managing your Personal Taxes 2024-25: a Canadian Perspective was published on December 3, 2024, prior to the January 31 and March 21 announcements. At the time of publication, the CRA had stated it would be administering the changes to the capital gains inclusion rate — and related consequential changes, such as changes to the employee security options and capital cost allowance rules — as proposed in the September 23, 2024 NWMM.

The text in this guide, including the Feature chapter, which focuses on the capital gains-related proposals, is based on the guidance the CRA had issued at the time of publication, and so discusses the capital gains proposals — including effective dates — as set out in the September 23, 2024 NWMM. It does not incorporate the proposed deferral Finance announced on January 31, 2025 or the subsequent cancellation of the proposals announced on March 21, 2025.

As a result of Finance's announcement, the CRA issued a news release, also on January 31, indicating it will no longer be administering the two-thirds inclusion rate, and will instead go back to administering the currently enacted rate of one-half. So, for personal income tax return (T1) purposes, all capital gains realized in 2024 will be subject to the one-half rate, unless an exemption applies. The CRA also confirmed it will continue to administer the increase in the lifetime capital gains exemption to $1.25 million as proposed in the September 23, 2024 NWMM, since the government does not intend to make changes to this proposal.

In addition, with respect to interest and penalties, the CRA indicated it will grant relief in respect of late-filing penalties and arrears interest until June 2, 2025 for affected T1 filers to "provide additional time for taxpayers reporting capital dispositions to meet their tax filing obligations."

Revenu Québec released its own administrative guidance on February 3, 2025 in which it confirmed that the Québec government would harmonize the Québec tax system with the January 31 proposed changes.

OTHER OUTSTANDING PROPOSALS

A few other proposed income tax changes applicable for the 2024 taxation year, including draft legislative proposals released on August 12, 2024, are discussed in *Managing your Personal Taxes 2024-25: a Canadian Perspective*. Users are advised to refer to official CRA guidance and updated T1 schedules and forms to determine whether the CRA is administering the changes — consistent with its longstanding administrative practice — on the basis of the proposed legislation for the 2024 taxation year.

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We’ve crafted this resource to help demystify the complexities of personal tax and provide you with knowledge to navigate them with confidence.

FOREWORD

Helping your personal tax plans take shape

Welcome to *Managing Your Personal Taxes 2024-25: A Canadian Perspective*. Whether you're an employee, an investor, a small business owner or a professional seeking to enhance your tax-related knowledge, this guide is designed to help you along your planning journey.

The world of tax can often seem daunting, filled with intricate rules and ever-changing laws and regulations that can overwhelm even the most diligent among us. Our aim with this guide is to break down these barriers, offering clear explanations, practical advice and up-to-date information to help make tax planning more accessible.

Canada's tax system offers a range of opportunities for you to realize savings. The key is to know where to find them and which are available to you. Our objective is not only to inform but also to empower you. By understanding the intricacies of personal tax, you can make informed decisions, plan strategically for the future and potentially save money.

In the following pages, you'll find tips, strategies, suggestions and important updates to help you understand your unique tax situation and plan for the future, benefit from government incentives and – perhaps most important – save you time, money and, hopefully, stress.

We encourage you to use this guide as a starting point and to then seek additional advice from tax professionals to apply the personal tax rules to your unique situation. We hope this guide will help you feel more confident in your ability to manage your taxes effectively. Thank you for choosing EY's *Managing Your Personal Taxes* as your ally in your journey through the world of personal tax.

This guide is up to date as of October 31, 2024. For more tax-planning ideas and savings, visit us at **ey.com/en_ca/services/tax**, or contact us at the EY office nearest you, listed at the back of this guide.

Unless otherwise noted, all currency figures are in CDN$.

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Recent changes to the taxation of capital gains and employee stock options

THE GOVERNMENT OF CANADA'S ANNOUNCEMENT IN THE 2024 FEDERAL BUDGET TO INCREASE THE INCLUSION RATE FOR CAPITAL GAINS REALIZED AFTER JUNE 24, 2024 CAME AS A SURPRISE TO MANY.

Feature

The Government of Canada's announcement in the 2024 federal budget to increase the inclusion rate for capital gains realized after June 24, 2024 came as a surprise to many.

Taxpayers who expected to be impacted by the increased capital gains inclusion rate and their advisors had just over two months from the time of the announcement to consider and implement any planning opportunities that were available in anticipation of the change.

Related measures were also announced in the 2024 federal budget, including a new capital gains incentive for entrepreneurs and a reduction of the employee stock option deduction. In addition, the 2024 federal budget announced that the lifetime capital gains exemption would be increased to apply on up to $1,250,000 – from $1,016,836 in 2024 – of eligible capital gains for dispositions that occur after June 24, 2024.

The 2024 federal budget also provided further details on the previously announced temporary exemption from taxation for the first $10,000,000 of capital gains realized on the sale of a business to an employee ownership trust (EOT).

Finally, the government proposed to expand the temporary capital gains exemption for qualifying business transfers under the EOT rules to qualifying sales of shares to a worker cooperative corporation that meets certain conditions, effective January 1, 2024.

In June 2024, draft legislation was tabled to implement most of these measures, and the Department of Finance released two backgrounders. These documents cover the main features of the proposed changes to the capital gains inclusion rate, as well as the reduction of the employee stock option deduction and several other related amendments. In August 2024, revised legislative proposals were released for consultation; final legislation is expected in the fall.[1]

If you're looking to sell your investments or thinking about selling your business, you'll need to know what these changes mean for you so you can plan ahead to benefit from any available government incentives.

Changes to the taxation of capital gains

When you sell property, the difference between the adjusted cost base and net proceeds you receive is normally considered a capital gain or loss. Since October 18, 2000, only half of the capital gain or loss realized on the disposition of property was included in calculating a taxpayer's income – therefore, a 50% inclusion rate.

However, the 2024 federal budget and corresponding draft legislation introduced an increase in the capital gains inclusion rate from one-half to two-thirds for corporations and most trusts, and from one-half to two-thirds on the portion of capital gains realized in the year that exceed $250,000 for individuals and some trusts, for capital gains realized on or after June 25, 2024. The proposed measures do not provide for an annual inflationary adjustment, or indexation, of the $250,000 threshold.

[1] For the proposed changes to the capital gains inclusion rate, the August revised legislative proposals consist mainly of technical and consequential changes. For details on the draft legislative proposals released on August 12, 2024, see **EY Tax Alert 2024 Issue No. 42**, *Finance releases draft legislation for 2024 budget and other measures*.

HISTORICAL OVERVIEW

This is not the first time the capital gains inclusion rate has changed since the taxation of capital gains was incorporated into the *Income Tax Act* in 1972. The history of the general capital gains inclusion rate in Canada can be summarized as follows:

- 1972 – 1987: 50%
- 1988 – 1989: 66 2/3%
- 1990 – February 27, 2000: 75%
- February 28 – October 17, 2000: 66 2/3%
- October 18, 2000 – June 24, 2024: 50%
- June 25, 2024 to present: 66 2/3% (subject to the $250,000 annual threshold for individuals, graduated rate estates (GREs) and qualified disability trusts (QDTs)[2] (see below))

Special rules apply to capital gains arising on certain donations of publicly listed securities, exchangeable securities, certified cultural property and ecologically sensitive land.

KEY CONSIDERATIONS

If you sold or expect to sell property after June 24, 2024, you should be aware of the following details:

- **$250,000 threshold** – This threshold operates as an annual capital gains reduction that effectively reduces the inclusion rate to one-half on capital gains, net of any capital losses for the year, up to $250,000. The $250,000 reduction can also be applied against employee stock option benefits realized in the year by an individual, but the total reduction on a combined basis cannot exceed $250,000 (see **Changes to the employee stock option deduction** below for further discussion). Any unused portion of the $250,000 threshold cannot be carried forward.

  In addition to individuals, GREs and QDTs are eligible for an effective one-half inclusion rate on the first $250,000 of capital gains realized in the year, provided that such capital gains are not allocated to a beneficiary in the year. The $250,000 threshold also applies to capital gains brought into income from a capital gains reserve or allocated by a partnership or trust.[3]

  Individuals, GREs and QDTs will not be permitted to average capital gains realized over multiple years to remain below the $250,000 annual threshold to benefit from the lower capital gains inclusion rate. As well, the threshold cannot be shared with or allocated to corporations and other trusts.

- **Net capital losses** – You may carry net capital losses back three years and forward indefinitely to offset capital gains of other taxation years. A capital loss realized when a different inclusion rate applied can still fully offset an equivalent capital gain realized in a year during which another inclusion rate applied. This is achieved by having an adjustment factor applied to the net capital losses of other taxation years when applied in the current taxation year to be offset against capital gains.

  If you, a GRE or a QDT are subject to multiple capital gains inclusion rates in a particular year because the $250,000 annual threshold has been exceeded, net capital losses from previous years applied in the current year will effectively be applied first to offset capital gains subject to the higher inclusion rate. Special rules apply in respect of the application of net capital losses in an individual's tax return for their year of death.

- **Allowable business investment losses (ABILs)** – ABILs are the portion of certain business investment losses that may be deductible against income, such as employment, business and property income.[4]

  Unlike the treatment of net capital losses carried forward, ABILs will not be subject to an adjustment to account for the inclusion rate for the taxation year in which the loss is claimed. Business investment losses incurred before June 25, 2024 will be included in computing ABILs at a one-half inclusion rate, even if the ABIL is applied in a period after June 24, 2024.

  Similarly, business investment losses incurred after June 24, 2024 will be included in computing ABILs at a two-thirds inclusion rate, even if the amount is carried back to a period before June 25, 2024.

- **Principal residence exemption** – The principal residence exemption will continue to be available, allowing for capital gains realized on such dispositions to be exempt from capital gains taxes where all relevant conditions are met. For more information, see **Chapter 8: The principal residence exemption**.

- **Québec harmonization** – For Québec income tax purposes, the provincial tax legislation will be harmonized with changes to the federal taxation of capital gains.

[2] See **Chapter 12: Estate planning** for information about these types of trusts.
[3] See **Chapter 5: Investors** for more information about capital gains reserves.
[4] Generally, a business investment loss is a loss from the disposition to an arm's-length person of shares or debt of a corporation that is a small business corporation at any time within the preceding 12 months. ABILs may be carried back three years and carried forward 10 years, after which time the loss reverts to an ordinary net capital loss, which may be carried forward indefinitely to offset capital gains only.

SELLING A COTTAGE – A SIMPLE EXAMPLE

Sharon is a resident of British Columbia who purchased a cottage in 2004 for $200,000. She is the sole owner of the cottage and did not designate the property as a principal residence in any year of ownership.

In 2024, Sharon sells the cottage for $750,000, resulting in a capital gain of $550,000. She has no other capital gains and no capital losses for the 2024 taxation year. Her 2024 employment income is $105,000, and she has no other income and no deductions from income. The only non-refundable credit she is entitled to claim in 2024 is the basic personal amount.

Sharon's taxable income on the sale of the cottage under the rules for the taxation of capital gains that apply before June 25, 2024 and after June 24, 2024 is calculated and compared below.

In the example below, by selling the cottage after the effective date of the increased capital gains inclusion rate, Sharon would have an additional $50,000 of taxable income. The increase in the capital gains inclusion rate would result in an extra $26,750 of income tax being payable.

If Sharon owned the cottage jointly with another individual, they would each have access to their $250,000 threshold.

	Cottage is sold **before** June 25, 2024	Cottage is sold **after** June 24, 2024
Capital gain	$550,000	$550,000
Capital gain inclusion rate	50%	▸ 50% on the first $250,000 ▸ 66 2/3% on the portion that exceeds $250,000
Taxable capital gain	$275,000	$325,000
Employment income	$105,000	$105,000
Total income	$380,000	$430,000
Federal and provincial income tax[5]	$153,956	$180,706
Effective tax rate	40.51%	42.02%

IMPACT ON EFFECTIVE TAX RATES AND INTEGRATION

The theory of integration is that the total tax paid on investment income and business income should be the same whether the income is earned individually or through a corporation and then paid out to the individual as a dividend in the same year. Although integration is a fundamental concept of the Canadian income tax system, perfect integration does not exist in our system. As a result, a tax cost or savings may arise from earning net taxable income through a corporation.[6] This tax cost or savings fluctuates as federal and provincial corporate and personal tax rates fluctuate.

The income tax implications of the proposed increase in the capital gains inclusion rate on effective tax rates and integration may be illustrated by analyzing the impact of a Canadian-controlled private corporation (CCPC) realizing capital gains – and distributing the after-tax amount as a dividend – in comparison to an individual realizing capital gains directly. Notably, the tax cost to an individual of realizing capital gains in excess of $250,000 through a CCPC after June 24, 2024 will increase by approximately 8.5% to almost 10%, depending on the individual's province of residence. Any small tax deferral advantage for retaining the income within the corporation will be eliminated and replaced with a prepayment of tax.

[5] Federal and provincial income tax was calculated using EY's **2024 Personal Tax Calculator**.
[6] A tax cost (or tax savings) arises when the total combined corporate and personal income tax liability is higher (or lower), compared to the overall tax liability that would result if the income was earned directly by an individual.

Given the increase in the tax cost as a result of the proposed rules, it would be generally advantageous to realize capital gains individually instead of through a corporation. Furthermore, since the $250,000 threshold is not available to corporations, it would be especially advantageous to realize capital gains up to $250,000 in a year individually instead of through a corporation.

For tables summarizing some of the income tax implications of the increased capital gains inclusion rate in certain provinces, see Appendix A in **EY Tax Alert 2024 Issue No. 28**, *Proposed change in capital gains inclusion rate*.

2024 TRANSITIONAL YEAR

As the new capital gains inclusion rate rules are generally effective on or after June 25, 2024, this results in the need for special rules for taxation years that start before and end on or after June 25, 2024 (i.e., a "straddle year," such as a typical January 1, 2024 to December 31, 2024 taxation year).

To assess your income tax liability for a taxation year that straddles June 25, 2024, you will need to separately identify capital gains and losses realized before June 25, 2024 (Period 1) and after June 24, 2024 (Period 2). Gains and losses from Period 1 and Period 2, respectively, will then be netted against each other to arrive at a net gain or loss for each period.

The annual $250,000 threshold for individuals, GREs and QDTs is fully available – that is, it is not prorated – in 2024, and it applies only in respect of net capital gains realized in Period 2 less any net capital losses from Period 1.

Special rules apply with respect to capital gains reserves for taxation years that straddle June 25, 2024, and with respect to partnerships, trusts and mutual fund corporations with fiscal periods that straddle June 25, 2024. Special rules also apply in determining the amount of the net capital gains or net capital losses that arise in each period, and therefore the rules for the transitional year are very complex. Reach out to your EY or EY Law advisor for assistance in applying these rules to your specific situation.

For further details on the 2024 transitional rules and other information about the proposed changes to the capital gains rules, see **TaxMatters@EY, September 2024**, "Spotlight on recent changes to the taxation of capital gains and employee stock options;" **TaxMatters@EY, October 2024**, "How could the capital gains inclusion rate increase affect you?;" **EY Tax Alert 2024 Issue No. 33**, *Government releases legislative details on the proposed changes to the capital gains rules*; and **EY Tax Alert 2024 Issue No. 42**, *Finance releases draft legislation for 2024 budget and other measures*.

DISPOSITION OF TAXABLE CANADIAN PROPERTY

Nonresidents are generally subject to Canadian income tax on capital gains realized on the disposition of taxable Canadian property.[7] To ensure the Canada Revenue Agency (CRA) collects any Canadian taxes resulting from a taxable Canadian property disposition, the nonresident vendor must notify the CRA of the disposition no later than 10 days following the date of disposition and pay the CRA the required withholding tax or provide acceptable security. Where these requirements are met, the CRA will issue a clearance certificate to the nonresident vendor and the purchaser. If a clearance certificate is not obtained, the purchaser is generally required to withhold and remit a portion of the proceeds as tax on behalf of the nonresident.

Under draft legislative proposals, the applicable withholding rate for nonresidents disposing of certain types of taxable Canadian property will be increased from 25% to 35% for dispositions that occur after December 31, 2024.

The increased withholding tax is intended to reflect the approximate increase in the combined federal and provincial taxes payable for capital gains subject to the highest marginal personal tax rates.

For further details, see **Chapter 16: Canadian tax for nonresidents**.

Changes to the employee stock option deduction

If you've acquired shares under an employee stock option plan, the excess of the value of the shares on the date you acquired them over the price you paid for them is included in your income from employment as a stock option benefit.

When the corporation is not a CCPC, the benefit is generally included in your income in the year you acquire the shares. If you've acquired CCPC shares under an employee stock option, the benefit is normally taxed in the year you dispose of or exchange the shares, rather than in the year you acquired them.

Until recently, one-half of the stock option benefit included in income generally qualified for a deduction, provided certain conditions were met.[8] This resulted in stock options that met the necessary conditions effectively being taxed at the same rate as capital gains, when capital gains were subject to a one-half inclusion rate.

To reflect the proposed increase in the capital gains inclusion rate, draft legislative proposals reduce the employee stock option deduction to one-third of the stock option benefit for stock options exercised after June 24, 2024. In the case of CCPC stock option benefits, the stock option deduction is reduced to one-third where the acquired share is disposed of or exchanged after June 24, 2024. This is the case even if the CCPC stock option was exercised before June 25, 2024, when the one-half stock option deduction was in effect.

However, you may be able to claim an increased deduction equal to one-half of the stock option benefit up to a combined annual limit of $250,000 for both employee stock options and capital gains. The annual $250,000 threshold applies only in respect of net capital gains realized and stock options exercised – or where the acquired share is disposed of or exchanged, in the case of CCPC options – after June 24, 2024.

If your total employee stock option benefits and capital gains exceed $250,000 in a taxation year, you will be able to choose the allocation of the preferential tax treatment – that is, the lower capital gains inclusion rate and higher stock option deduction – between the capital gains and the stock option benefit.

The following example illustrates the impact of these measures:

- Your employer, a corporation whose shares are publicly traded, grants you 1,000 options to purchase shares of the company for $150 per share in July 2022, when the shares' fair market value is also $150 per share. All the options vest in 2025, and you have not been granted any other options.
- If you exercise all 1,000 options in July 2025 and the fair market value of the shares at that time is $225 per share, you will realize a stock option benefit of $75,000 (1,000 x ($225 - $150)). Assume all the conditions have been met for you to claim the employee stock option deduction.
- During the 2025 taxation year, you also realize a capital gain of $200,000 on the sale of various publicly listed securities.

[7] For greater certainty, nonresidents are subject to Canadian income tax on Canadian-source income generally (e.g., on taxable income earned from employment in Canada or from carrying on a business in Canada). Taxable Canadian property generally includes real property situated in Canada, property used in a business carried on in Canada and interests in certain entities deriving a specified proportion of their value from Canadian real property or resource properties. If you're a nonresident disposing of Canadian property, consult your EY Tax advisor to navigate the complicated rules.

[8] Generally, the deduction is available if the exercise price is no less than the shares' fair market value at the date the option is granted, and certain additional conditions are met. These rules are modified in the case of CCPC stock options. As well, recent amendments generally limit the availability of the stock option deduction to an annual maximum of $200,000 of stock option grants that vest in a calendar year, subject to certain exceptions. For more information, see **Chapter 7: Employees**.

- You can choose to apply the one-half inclusion rate to the full amount of the capital gain, resulting in a taxable capital gain of $100,000 ($200,000 x 1/2). As a result, $50,000 of the stock option benefit (corresponding to the $250,000 threshold minus $200,000 utilized) would be eligible for the one-half deduction, and you would receive a one-third deduction on the remaining $25,000, for a total deduction from taxable income of $33,333 (($50,000 x 1/2) + ($25,000 x 1/3)).
- If you prefer, you can choose to receive a one-half deduction on the full amount of the $75,000 stock option benefit when calculating your taxable income, resulting in a deduction of $37,500 ($75,000 x 1/2). As a result, $175,000 of the capital gain would be eligible for the one-half inclusion rate, and $25,000 would be included at a two-thirds inclusion rate, for a total taxable capital gain of $104,167 (($175,000 x 1/2) + ($25,000 x 2/3)).

For Québec income tax purposes, the rate of the employee stock option deduction is generally one-quarter. However, a one-half deduction may be available in limited circumstances.[9] Québec's provincial tax legislation will be harmonized with the federal changes, such that where the one-half deduction rate applies, it will be reduced to one-third of the amount of the benefit. In addition, the one-third deduction will be calculated on the portion of the benefit that exceeds the combined annual limit of $250,000 for both stock options and capital gains. The one-quarter deduction rate applicable in other cases will not be changed.

For more information about stock option benefits, see **Chapter 7: Employees**.

Increased lifetime capital gains exemption

Canadian residents are entitled to a limited lifetime capital gains exemption (LCGE) from tax on net capital gains – that is, actual gains less actual losses – realized on the disposition of certain property. Under the rules for 2024 prior to recent legislative proposals, the LCGE was available to shelter capital gains realized on the disposition of qualified small business corporation (QSBC) shares or qualified farm or fishing property for a maximum cumulative exemption of $1,016,836.[10]

The 2024 federal budget and corresponding draft legislation introduced an increase in the LCGE limit to $1,250,000 with respect to dispositions that occur after June 24, 2024. The LCGE limit will resume being indexed to inflation starting in 2026.

As a result of the increase in the inclusion rate for capital gains realized after June 24, 2024 and the increased lifetime limit, the effective maximum lifetime deduction that may be available to you will increase from $508,418 (i.e., $1,016,836 x 1/2) to $833,333 (i.e., $1,250,000 x 2/3). Additional deductions may be available under the Canadian entrepreneurs' incentive and the EOT rules (see below).

Capital gains realized on the disposition of qualifying properties after June 24, 2024 that are subject to the one-half inclusion rate (due to the $250,000 annual threshold) will be eligible for a deduction similarly computed using the one-half inclusion rate for purposes of claiming the LCGE.

For example, if you have no other realized capital gains or employee stock options and you realize a capital gain of $1,250,000 in 2025 on the disposition of QSBC shares, you should have an income inclusion of $791,667 (i.e., ($250,000 x 1/2) + ($1,000,000 x 2/3)). In this scenario, you should be eligible for an LCGE deduction of $791,667 in computing your taxable income, to the extent you have not utilized the LCGE before. Although the maximum deduction available to individuals calculated using the two-thirds rate is $833,333, since a portion of the capital gains was subject to the one-half inclusion rate, the full amount of your LCGE limit will be reduced.

For more information about the LCGE, see **Chapter 1: Considering selling your business?** and **Chapter 5: Investors**.

Canadian entrepreneurs' incentive

The 2024 federal budget and corresponding draft legislation introduced the Canadian entrepreneurs' incentive. This new incentive will reduce the tax rate on capital gains from the disposition of qualifying property by eligible individuals, applicable to dispositions occurring after December 31, 2024. Specifically, the incentive will provide an eligible Canadian-resident individual, other than a trust, with a taxable income deduction that will effectively reduce the capital gains inclusion rate to one-third on up to $2,000,000 in eligible capital gains over an individual's lifetime.

The lifetime limit will be phased in by increments of $400,000 per year beginning on January 1, 2025, until it ultimately reaches $2,000,000 by 2029.

[9] A 50% deduction may be available for options granted by a small or medium-sized business engaged in innovative activities, or for options on publicly listed shares of a corporation with salaries and wages of $10,000,000 or more that are subject to the health services fund contribution.
[10] See **Chapter 5: Investors**, for more information about QSBC shares and qualified farm or fishing property.

Qualifying Canadian entrepreneur incentive property includes QSBC shares, as well as qualified farm or fishing property, provided certain conditions are met. In the case of shares of a small business corporation, an eligible individual is required to have directly owned 5% or more of the issued and outstanding shares (having full voting rights) of the corporation throughout a period of at least 24 continuous months before the disposition. This test is modified for non-share property that may be eligible, such as an interest in a partnership. The individual must also have been actively engaged in the activities of the business on a regular, continuous and substantial basis throughout any combined three-year period since the founding of the business.

The incentive will not apply to shares that represent a direct or indirect interest in certain excluded businesses, such as a professional corporation, a business the principal asset of which is the reputation or skill of one or more employees, or a corporation that carries on a consulting or financial services business.

Eligible individuals will be able to claim the Canadian entrepreneurs' incentive in addition to any available capital gains exemption. Combined with the increased LCGE, when this incentive reaches a value of $2,000,000, it will give eligible individuals a combined full (LCGE) and partial (Canadian entrepreneurs' incentive) tax exemption of at least $3,250,000 when selling their business. In practice, the tax savings will likely be higher to reflect future inflation indexing adjustments to the LCGE.

Employee ownership trust capital gains exemption

In general terms, an EOT is a form of employee ownership where a trust holds shares of a corporation for the benefit of the corporation's employees. Legislative amendments enacted in June 2024 are intended to facilitate the establishment and use of EOTs in Canada as of January 1, 2024.[11] EOTs may be used to facilitate the purchase of a business by its employees without the employees having to pay directly to acquire the shares. See **Chapter 1: Considering selling your business?** for details on this new type of trust.

Under the EOT rules, the capital gains reserve is extended from 5 to 10 years for qualifying business transfers (a defined term) to an EOT or to another CCPC that is controlled and wholly owned by an EOT. In addition, the EOT rules create an exception to the shareholder loan and imputed interest benefit rules to extend the repayment period from 1 to 15 years for a loan used by an EOT to purchase shares in a qualifying business transfer.[12]

However, the most significant measure introduced to incentivize the use of this new type of trust is a temporary exemption from taxation of the first $10,000,000 in capital gains realized on the sale of a business to an EOT.[13] This incentive only applies to qualifying business transfers that occur between January 1, 2024 and December 31, 2026.

Several conditions must be met for an individual to claim the capital gains deduction, including that the sale is a qualifying business transfer in which the trust acquiring the shares is not already an EOT or a similar trust with employee beneficiaries. As well, at any time prior to the qualifying business transfer, the individual or their spouse or common-law partner must have been actively engaged in the qualifying business on a regular and continuous basis for at least 24 months. At the time of the qualifying business transfer, at least 75% of the employee beneficiaries of the trust must be resident in Canada. Additional conditions apply.

If multiple individuals transfer shares to an EOT, each individual may claim the exemption, but the total exemption in respect of the transfer cannot exceed $10,000,000.

The legislative amendments include several complex anti-avoidance rules and rules regarding disqualifying events. A disqualifying event occurs if the trust that participated in the qualifying business transfer loses its status as an EOT, or if less than 50% of the fair market value of the shares of the qualifying business is attributable to assets used principally in an active business at the beginning of two consecutive taxation years of the qualifying business.

For example, the Department of Finance has stated that a disqualifying event could include a qualifying business leasing premises that were previously used as part of the active business to a third party under a three-year lease, where the lease results in less than 50% of the fair market value of the shares of the qualifying business being attributable to assets used principally in an active business.

[11] The measures to facilitate the creation and use of EOTs were included in Bill C-59, *Fall Economic Statement Implementation Act, 2023*, which received Royal Assent on June 20, 2024.
[12] For more information about the shareholder loan and imputed interest benefit rules, see **Corporate loans** in **Chapter 6: Professionals and business owners**.
[13] This measure was included in Bill C-69, *Budget Implementation Act, 2024, No. 1*, which received Royal Assent on June 20, 2024.

The consequences of a disqualifying event can be significant:

- If the disqualifying event occurs **within 24 months** of the qualifying business transfer, the capital gains deduction is not available and would be retroactively denied if an individual has already claimed it.
- If the disqualifying event occurs **more than 24 months after** the qualifying business transfer, the EOT is deemed to realize a capital gain equal to the amount of the exempt capital gain in the year the disqualifying event occurs.

The 2024 federal budget and corresponding draft legislation proposed to expand the temporary $10,000,000 capital gains exemption and 10-year capital gains reserve for qualifying business transfers under the EOT rules to qualifying sales of shares to a worker cooperative corporation that meets certain conditions, effective January 1, 2024.

While the budget also announced that the 15-year exception to the shareholder loan and interest benefit rules applicable to qualifying business transfers under the EOT rules would be extended to qualifying sales of shares to worker cooperative corporations, amendments to implement this exception were not included in the draft legislative proposals released in August 2024.

Under the draft legislative proposals, eligible individuals are required to claim the capital gains deduction in respect of a qualifying business transfer or qualifying sale of shares to a worker cooperative corporation before claiming the LCGE, and the LCGE in turn must be claimed before the Canadian entrepreneurs' incentive. However, you may not claim more than one of these deductions on the same portion of a particular taxable capital gain.

For more details, see **EY Tax Alert 2024 Issue No. 29**, *Finance releases details on the $10m capital gains exemption on sale to employee ownership trust*.

Conclusion

If you're looking to sell your investments or if your employer has granted you stock options, make sure you understand how the proposed changes to the taxation of capital gains and employee stock options apply to your situation. If your plans include the eventual sale of your business, you may be able to benefit from one or more of the available or proposed government incentives, such as the LCGE, the Canadian entrepreneurs' incentive, or the temporary capital gains exemption for qualifying business transfers to an EOT and qualifying sales of shares to a worker cooperative corporation.

Reading the rest of this guide may give you a deeper understanding of the important tax developments mentioned in this chapter, along with many others. Now is a great time to meet with your EY Tax advisors to discuss tax opportunities to meet your objectives.

Considering selling your business?

SELLING YOUR BUSINESS CAN BE A CHALLENGING AND EMOTIONAL PROCESS FOR ALL INVOLVED.

01

Selling your business can be a challenging and emotional process for all involved.

After all, you've put your heart and soul into building a legacy, and you want it to be nurtured once you're no longer running the business. That's why careful preparation is necessary throughout the process, from both an after-tax value perspective and a smooth process perspective.

While the outcome of any sale process is ultimately impossible to foresee, you can significantly increase the likelihood of closing a deal on acceptable terms if you carefully plan from both the business and tax points of view.

Business and tax factors are equally important to helping shareholders achieve their objectives when they decide to exit their business, and both should be considered well before a sale takes place. Let's review some key considerations you should be aware of, preferably in advance of deciding to sell your business.

Business considerations

MANAGEMENT SUCCESSION PLAN

If you're actively involved in the business's day-to-day operations, now is the time to think about who will run the business after you sell. Do you still want to be involved in the business? Is the next generation incorporated in the current structure? Is there a strong management team in place already?

If you've essentially made yourself redundant to the business's general day-to-day operations, that feature will be an attractive selling point to potential buyers, assuming you have a strong management team in place. If you're still involved with the business's operation but have identified a leadership transition process, you should take action to ensure you don't represent most of the business's goodwill.

Without a proper transition plan in place, you can alienate certain buyers, including private equity firms. Lack of a plan can also reduce the business's value, lead to contingent consideration (earnouts), or result in your continued employment longer than you'd like or your retention of a larger ownership interest after closing.

Putting a transition plan in place is also a form of insurance to allow for business continuity in the event of an unforeseen tragedy.

STRONG FINANCIAL REPORTING

When selling your business, it's critical to have solid financial information, since management reporting is one of the main tools the buyer will use to assess the company's value. The financial information needs to be accurate and consistent; it helps a buyer understand what makes your business tick and where opportunities for improvement lie. When there's uncertainty, buyers may want to discount the price they're willing to pay for the business or adjust the terms of the deal structure in their favour.

Having the right internal and external financial resources is critical. Potential buyers will examine how you're managing the business's financial operations. They'll want to know whether you're using a part-time or full-time bookkeeper, controller, VP of finance or CFO. They're also going to assess who is carrying out external reporting on the financial statements and whether the process is through a compilation, review or audit engagement.

In addition to looking at who is managing your finances, potential buyers will also consider how that financial information is being presented. Some of the critical questions buyers will ask include:

- How many adjustments are being made at year end (compared with month end)?
- Are the right systems in place to support the reporting function?
- What kind of monthly reports are available?
- What kind of financial information is being tracked? Customer, supplier, product line, revenues, margins, contribution?
- How accessible is the information?

LOOK THROUGH A BUYER'S EYES

How does an outside investor or buyer look at your business? What makes it attractive?

- Taking an objective "buyer's view" will improve your business, whether or not you sell.
- Take an honest look at your business from a buyer's perspective.
  - How credible is your story? Is it sustainable?
  - How might the buyer's business and yours fit together?
  - What might give buyers concern?
- Initiatives identified to improve your business need to be implemented and shown to be sustainable.
  - Otherwise, you may not receive value for them.

When you present reliable and real-time financial information, and can demonstrate that this information is being used to manage the business, buyers will gain confidence in the picture you're presenting of the business and its earnings. This in turn makes the due diligence process easier to manage and reduces the potential for business valuation discounts due to uncertainty. Of course, if you have better-quality information available, you should also see tangible benefits in managing your business during your period of ownership.

ORGANIZATION IS KEY

When you're preparing to sell your business, it's important to ensure your records are organized and easily accessible. Potential buyers are interested in businesses that have processes in place for document retention, employee records, customer contracts, supplier contracts, leases, risk management and regulatory matters.

When information is complete and presented in an organized manner, it provides confidence to the buyer, reducing concerns around any unknowns and maintaining deal momentum. If you're in a position where formal contracts don't exist, now is the time to start getting those relationships properly documented. You'll want to have the information readily available on request when going through the due diligence process.

Some reports can be compiled quickly on an ad hoc basis, but having proper processes in place – years before a sale – can reduce the stress and time it takes to prepare for due diligence. It also provides the added benefit of helping the current business run more smoothly and with less risk while you're still the owner.

BUILDING AND RETAINING BUSINESS VALUE – BEING PROACTIVE

- Breadth and depth of management team
- Sustainable earnings before interest, taxes, depreciation and amortization (EBITDA)
- Supportable forecasts
- Optimized working capital
- Cleaned-up balance sheet
- Solid financial reporting
- Tax attributes

EARNINGS BEFORE INTEREST, TAXES, DEPRECIATION AND AMORTIZATION

The value of a business is often looked at in relation to its enterprise value, which is typically calculated as sustainable EBITDA times a value multiplier. It's important to understand what your sustainable EBITDA is and evaluate how you can increase it. EBITDA that's calculated based on your financial statements will need to be adjusted for a range of factors. You should be aware of what these factors are, as they will be uncovered through the due diligence process.

Being prepared, having thought through the appropriate adjustments and being able to support adjustments are critical to maximizing your business's value. Adjusted, or normalized, EBITDA can be quite different from the number calculated from your financial statements. You don't want this to come as a surprise through the due diligence process and leave value on the table.

SUPPORTABLE FORECASTS

You need to remember that a buyer is buying the future cash flows of your business, and they want to know what to expect. It's important for management to prepare detailed, supportable forecasts based on key business drivers.

Forecasts can provide an indication of future performance and show positively on management's understanding of the business and industry. This in turn will strengthen the management team's credibility. Forecasts with limited thought put into them, with no evidence to support them, will show negatively.

OPTIMIZING WORKING CAPITAL

Working capital is often overlooked and is an area that can cause many deals to fall through. Most business sale agreements have some form of purchase price adjustment that relates to working capital.

Typically, the closing date working capital is compared to a previously negotiated target amount, and then a dollar-for-dollar price adjustment occurs. This can be in either party's favour, depending on how the process unfolds.

Actual working capital is what is delivered to the buyer at closing. The target working capital is often based on a historical average. As a consequence, sellers want a low working capital target, since they have a better chance of having a price adjustment in their favour.

There's a lot of hidden complexity in these calculations, and a lot of room for interpretation if you're not careful. Being aware of pitfalls early on can help prevent disputes that may arise at closing.

As you look at your business in advance of a sales process, you'll want to identify and implement ways to lower your working capital and demonstrate its sustainability. This is a proactive process that will deliver value to the business even if a transition or sale process is abandoned.

CLEAN UP THE BALANCE SHEET

To achieve the highest value possible for your business and facilitate a smooth transaction, you must assess your balance sheet. In many cases, private family-run businesses have many assets of a personal nature or redundant assets that are of little use in the actual business.

Personal assets can include items such as vehicles and non-business-related investments. Redundant assets can include things like older equipment that's not used in the business but is still included on the books. They can also include real estate owned by the business where there is the potential to increase liquidity now by selling the property and leasing it back; such a transaction may also be beneficial where the redundant asset – for example, real estate partially used in the business with the excess rented to arm's-length tenants – taints access to the various capital gains exemption asset value tests.

It's advisable to remove such assets from the business before getting into a transaction process. See the discussion below on purifying a company to access the lifetime capital gains exemption (LCGE). This will make it easier for the buyer when assessing the business's core enterprise value and will simplify the transaction's closing process. If the noise of personal and redundant assets is removed, the buyer can better assess the business's financial state. This can be a great way to boost the business's value. In the case of redundant assets, if unused equipment is sold off before a sale, it can add more value.

You should also consider any off-balance sheet liabilities in the business. Items like purchase commitments, operating leases, bonus and incentive plans, litigation and environmental issues can all impact the business valuation. These items should be dealt with early on in the process and be properly managed to minimize the impact they may have.

Optimizing your tax outcomes

GET YOUR TAX STRUCTURE RIGHT

On the tax side, achieving your goals takes advance planning. You'll want to have an optimal tax structure that provides the greatest after-tax proceeds for your selling shareholders. For example, you should consider whether a reorganization of the corporate group is needed so that the greatest tax saving and deferral opportunities are available to you on the exit.

One example of such a structure involves having the future growth of the operating company shares accrue to a family trust so you and your extended family can access the LCGE on the sale of the company's shares. For further information, see **Chapter 12: Estate planning**.

To qualify for the LCGE, the shares must be qualified small business corporation (QSBC) shares. The QSBC share rules are quite complex, but generally require the shares to have been held for at least two years and for the company, directly or through a connected corporation, to be using 90% or more of the fair market value of its assets in a business primarily carried on in Canada.

The LCGE in 2024 is $1,016,836 per person if the company's shares are sold before June 25, 2024. The 2024 federal budget and corresponding draft legislation proposed to increase the LCGE to $1,250,000 for dispositions occurring on or after June 25, 2024.

The LCGE amount may represent a significant portion of the value if multiple exemptions are available on the sale.[1] However, you can only pass future growth to the trust or to other family members. This means that waiting until just before the sale to put this structure in place will not be beneficial. There would be little time available for the company to grow sufficiently in value between the date of the reorganization and the closing of the sale. Generally, the trust must hold the shares for two years in order for the LCGE to be available on the sale of the shares by the trust.

If your business has too much of its current value represented by assets that aren't used in operating the business in Canada – such as passive assets or shares of foreign subsidiaries – the LCGE may not be available. There may be a need to "purify" the company so the shares qualify for the LCGE and, depending on the proportion of these "bad" assets, it may be necessary to purify more than two years before a sale.

Legislative amendments enacted in June 2021 and June 2024 are intended to facilitate intergenerational transfers of the shares of a corporation carrying on a family business – for example, transfers to adult children or grandchildren.

Under the previous income tax rules, when parents or grandparents transferred shares of a corporation carrying on the family business to a corporation owned by one or more of their children or grandchildren, the sellers could be deemed to have received dividends rather than realized capital gains. Dividends are generally taxed at a higher rate than capital gains. The amendments, instead, allow the sellers to realize capital gains and to use their available LCGE, provided several conditions are met.

For more details, see **Chapter 12: Estate planning**. Also see **TaxMatters@EY, February 2024**, "New rules for intergenerational business transfers;" **EY Tax Alert 2021 Issue No. 25**, *Bill C-208: changes to section 84.1 and section 55*; **EY Tax Alert 2022 Issue No. 23**, *An engine for growth: federal budget 2022-23*; **EY Tax Alert 2023 Issue No. 20**, *Federal budget 2023-24*; and **EY Tax Alert 2023 Issue No. 44**, *Bill C-59 to implement certain Budget 2023 and other previously announced measures receives first reading*.

The LCGE is available only on the sale of QSBC shares, or qualifying farm or fishing property.[2] Some transactions are structured as "asset deals" where the corporation that carries on the business sells its tangible and intangible assets to the buyer. Some buyers may prefer this structure, since they would not inherit the tax history of the corporation that carried on the business and, because they are buying the assets directly, they can depreciate the actual fair market value of the purchased assets for tax purposes. This perceived tension on deal structure between buyers and sellers can often be overcome by prudent tax planning and negotiation.

To the extent the LCGE is not available for capital gains realized on the sale of shares – for example, the shares are not QSBC shares or the LCGE was already used – or if capital gains are realized on the sale of assets, a certain proportion of those gains is subject to tax.

[1] Careful tax planning must be used to access the LCGE for capital gains splitting to avoid negative tax consequences, such as rules that treat capital gains realized by minors on the disposition of private company shares to non-arm's-length parties as non-eligible dividends taxed at top marginal rates. Refer to **Chapter 9: Families**.

[2] See **Chapter 5: Investors**, for more information about qualifying farm or fishing property.

For many years, only half of capital gains realized were subject to taxation (i.e., a 50% inclusion rate).[3] However, the 2024 federal budget announced a proposed increase in the capital gains inclusion rate from one-half to two-thirds for gains realized by corporations and most trusts, and from one-half to two-thirds on the portion of capital gains realized in the year by individuals and some trusts that exceed $250,000[4] for capital gains realized on or after June 25, 2024.

For example, if you sell your operating company shares on or after June 25, 2024, realize a capital gain of $1,000,000 on the sale and the gain is not eligible for the LCGE, assuming you haven't realized any other capital gains in the year, $125,000 of the first $250,000 of that gain (one-half) will be taxable and $500,000 (two-thirds) of the remaining $750,000 will be taxable, for a total taxable capital gain of $625,000 under the proposed rules. The proposals also include several technical and consequential rules, as well as transitional rules in respect of the 2024 taxation year.

The 2024 federal budget and corresponding draft legislative amendments released in August 2024 also propose a Canadian entrepreneurs' incentive whereby the applicable capital gains inclusion rate would be effectively reduced to one-third on the disposition of qualifying property by an eligible individual on up to $2,000,000 in capital gains per individual over their lifetime. This measure will apply to dispositions that occur on or after January 1, 2025, in addition to any available LCGE.[5] The lifetime limit would be phased in by increments of $400,000 per year beginning on January 1, 2025, until it ultimately reaches $2,000,000 by January 1, 2029.

For further details on these proposals, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**; **EY Tax Alert 2024 Issue No. 28**, *Proposed change in capital gains inclusion rate*; and **EY Tax Alert 2024 Issue No. 33**, *Government releases legislative details on the proposed changes to the capital gains rules*.

TAX ATTRIBUTES

Tax attributes can often be an overlooked aspect of the business, and you'll want to ensure you have sufficient time to put a proper plan in place. You'll want to consider if there's more than one shareholder and if there are shareholder agreements, and evaluate if these will detract from the value of your business and create any unexpected tax consequences if there's a change of control.

In many situations, you may have purchased the business from another party a number of years ago. The cost basis of your shares and the impact of your past history will need to be tracked and understood.

Safe income is also a concept included in the *Income Tax Act*. It may allow you to defer significant tax on the sale of the business; it is based on tax retained earnings, not financial statement retained earnings, and requires detailed calculations based on historic tax and financial statement data. Try to ensure that the information required is available and up to date, because gaps in information can understate the accessible tax attributes of your business. Similarly, if you're operating in jurisdictions outside of Canada, foreign surplus account calculations can be valuable to you in ways similar to the use of safe income, but only if you've accurately maintained the calculations.

Step back and evaluate the impact of your tax reserves, such as your work in progress or your deferred revenue. They can detract from or add to the value depending on what you do with them. Finally, most purchase price adjustments do not generally factor in the future tax impact of deferred deductions such as depreciable assets or tax losses. If these attributes are significant, consideration should be given to including the valuation of these future tax savings as part of the purchase price negotiation.

In addition, there are other key tax accounts in your business. Your eligible and non-eligible refundable dividend tax on hand accounts can be an asset if you have the right type of income and property within your entity. Your capital dividend account can provide tax-free money out of the company, but this history will need to be tracked from day one. In recent years, the Canada Revenue Agency (CRA) has been maintaining more of this information, so it may be helpful to confirm balances with the CRA before a transaction takes place to avoid any unexpected tax issues.

[3] The capital gains inclusion rate was 50% since October 18, 2000.
[4] The $250,000 threshold applies each year net of capital losses realized in the year and net capital losses applied from prior years.
[5] If you are eligible for both the LCGE and this proposed incentive, you would first claim the LCGE and then this incentive on any remaining taxable capital gain. You may not claim more than one of these deductions on the same portion of a particular taxable capital gain.

EMPLOYEE OWNERSHIP TRUSTS – A NEW OPTION FOR THE SALE OF A BUSINESS AND SUCCESSION PLANNING

Recent legislative amendments give private business owners a new option for succession planning. Legislative amendments enacted in June 2024 and effective as of January 1, 2024 are intended to facilitate the establishment and use of employee ownership trusts (EOTs) in Canada.

In general terms, an EOT is a form of employee ownership where a trust holds shares of a corporation for the benefit of the corporation's employees. A key appeal of an EOT is that it can be used to facilitate the purchase of your business by your employees without them having to pay directly to acquire the shares.

An EOT is a Canadian-resident trust (excluding deemed resident trusts) that holds shares of a qualifying business for the benefit of the employee and former employee beneficiaries and makes distributions to beneficiaries under a distribution formula that considers certain specified criteria. Typically, the underlying business will loan funds to the EOT, which then uses the funds to acquire a controlling interest in the business, and the loan is repaid out of earnings generated by the business.

At least 90% of the fair market value of the EOT's property must be attributable to shares of one or more qualifying businesses. A qualifying business is a Canadian-controlled private corporation (CCPC) that meets certain governance and board representation requirements.

A qualifying business transfer occurs when a taxpayer disposes of shares of a qualifying business to either an EOT or a CCPC that is wholly owned by an EOT, provided certain conditions are met. Following the transfer of the business to an EOT, the previous majority owners can no longer retain the right to control or influence the business.

Beneficiaries of the EOT must consist exclusively of individuals employed by a qualifying business controlled by the trust and individuals who were formerly employed by a qualifying business while the business was controlled by the trust. The rules also specify who the trustees of an EOT should be.

The legislative amendments also include a temporary exemption from taxation of the first $10,000,000 in capital gains realized on the sale of a business to an EOT, applicable to qualifying business transfers that occur between January 1, 2024 and December 31, 2026. Draft legislative amendments extend this temporary exemption for qualifying business transfers (under the EOT rules) to qualifying sales of shares to a worker cooperative corporation that meets certain conditions, effective January 1, 2024. For further details, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**.

It can be expected to take time for the business to generate sufficient earnings to enable the EOT to pay the full purchase price. For that reason, the capital gains reserve is extended from five years to a maximum of 10 years in the case of a qualifying business transfer to an EOT or to a CCPC that is wholly owned by an EOT, pursuant to a qualifying business transfer.[6]

For further information about capital gains reserves, see **Chapter 5: Investors**.

Some of the critical points you should consider in weighing an EOT as an option for the sale of a business and/or succession planning include:

- The loss of control of the business following the transfer to an EOT
- The ongoing governance and compliance requirements that come with an EOT
- The opportunity cost associated with a payout of the purchase price over several years
- The potential risk of non-payment of the full purchase price
- The availability of loans from third-party lenders for this type of arrangement
- Whether the conditions will be met to claim the $10 million capital gains exemption

Speak to your EY Tax advisor about whether a sale to an EOT would be beneficial in your circumstances.

For more details about EOTs, see **EY Tax Alert 2023 Issue No. 47** and **EY Tax Alert 2024 Issue No. 29**.

[6] Under draft legislation, a maximum 10-year capital gains reserve would also be available for qualifying sales to a worker cooperative corporation that meets certain conditions, effective January 1, 2024.

THE TAX BRIDGE

Taxes can be a bridge. Well-structured tax planning can help you bridge your needs with those of the buyer. The top-line price you'll receive when you sell your business is far less important than what you keep in your pockets after taxes have been paid. If the structure that is used for the sale can also provide tax benefits for the buyer, such as in the case of an asset deal, the buyer may be willing to increase the purchase price to share some of this benefit with you. Even if the buyer does not wish to change the price, perhaps the buyer's tax benefit will help with other deal negotiations and help bridge other gaps in the process.

CHOOSE THE RIGHT ADVISORS

Bringing experienced M&A advisors on board as early in the process as possible can help you achieve your financial goals. Strategic and financial buyers often come to the table prepared with advisors who are looking out for their best interests. It's important that you be equally prepared, so that you can achieve the financial and structural outcome you're looking for.

For many, selling a business is a once-in-a-lifetime transaction. You'll want to surround yourself with a trusted team of business and legal advisors who understand your intentions and will work with you to achieve your goals. Success can mean different things to different people. Whatever that means to you – whether it's optimizing pre- and after-tax proceeds, preparing for retirement or continuing your interest in the business – having the right people behind you can help you sell your business on your terms.

To learn more about EY Private, visit us at **ey.com/en_ca/services/private-business**.

BOOSTING THE VALUE OF YOUR BUSINESS

- Make yourself redundant.
- Prepare early; have a plan in mind.
- Know your team, including their strengths and weaknesses.
- Have strong financial controls and processes.
- Have a realistic and supportable forecast.
- Separate family issues from business issues.
- Hire the right advisors. They add value.

Worldwide Personal Tax and Immigration Guide 2023-24

EY'S *WORLDWIDE PERSONAL TAX AND IMMIGRATION GUIDE* SUMMARIZES PERSONAL TAX SYSTEMS AND IMMIGRATION RULES IN MORE THAN 150 JURISDICTIONS, INCLUDING AUSTRALIA, BRAZIL, CANADA, CHINA, FRANCE, GERMANY, INDIA, MEXICO, THE NETHERLANDS, THE UK AND THE US.

02

EY's *Worldwide Personal Tax and Immigration Guide* summarizes personal tax systems and immigration rules in more than 150 jurisdictions, including Australia, Brazil, Canada, China, France, Germany, India, Mexico, the Netherlands, the UK and the US.

The guide provides at-a-glance information as well as details about a jurisdiction's personal taxes. It includes sections on the following:

- **Personal income tax:** Explains who's liable for tax, what types of income are considered taxable, and which rates, deductions and credits apply
- **Other taxes:** Varies by jurisdiction but often includes estate, inheritance, gift and real estate taxes
- **Social security taxes:** Covers payments for publicly provided health, pension and other social benefits
- **Tax filing and payment procedures**
- **Double tax relief and tax treaties**
- **Immigration information:** Includes temporary visas, work visas and permits, residence visas and permits
- **Family and personal considerations**

View the complete **Worldwide Personal Tax and Immigration Guide**.

Worldwide Estate and Inheritance Tax Guide 2024

EY'S *WORLDWIDE ESTATE AND INHERITANCE TAX GUIDE 2024* SUMMARIZES THE GIFT, ESTATE AND INHERITANCE TAX SYSTEMS AND DESCRIBES WEALTH TRANSFER PLANNING CONSIDERATIONS IN 44 JURISDICTIONS AND TERRITORIES.

03

EY's *Worldwide Estate and Inheritance Tax Guide 2024* summarizes the gift, estate and inheritance tax systems and describes wealth transfer planning considerations in 44 jurisdictions and territories.

It is relevant to the owners of family businesses and private companies, managers of private capital enterprises, executives of multinational companies and other entrepreneurial and internationally mobile high-net-worth individuals.

View the complete **Worldwide Estate and Inheritance Tax Guide**.

Check out our helpful online tax calculators and rates

FREQUENTLY REFERRED TO BY FINANCIAL PLANNING COLUMNISTS, OUR MOBILE-FRIENDLY 2024 PERSONAL TAX CALCULATOR IS FOUND AT EY.COM/EN_CA/SERVICES/TAX/TAX-CALCULATORS.

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Frequently referred to by financial planning columnists, our mobile-friendly 2024 personal tax calculator is found at **ey.com/en_ca/services/tax/tax-calculators**.

This tool lets you compare the combined federal and provincial 2024 personal income tax bill in each province and territory. A second calculator allows you to compare the 2023 combined federal and provincial personal income tax bill.

You'll also find our helpful 2024 and comparative 2023 personal income tax planning tools:

- An RRSP savings calculator showing the tax saving from your contribution
- Personal tax rates and credits, by province and territory, for all income levels

In addition, our site also offers you valuable 2024 and comparative 2023 corporate income tax planning tools:

- Combined federal-provincial corporate income tax rates for small-business rate income, manufacturing and processing income, and general rate income
- Provincial corporate income tax rates for small-business rate income, manufacturing and processing income and general rate income
- Corporate income tax rates for investment income earned by Canadian-controlled private corporations and other corporations

You'll find these useful resources and several others – including our latest perspectives, thought leadership, Tax Alerts, up-to-date 2024 budget information, our monthly *Tax Matters@EY* and much more – at **ey.com/en_ca/services/tax**.

Investors

WHEN YOU'RE MAKING INVESTMENT DECISIONS, CONSIDER THE IMPACT OF INCOME TAXES AND THE EXPECTED RATE OF INFLATION ON YOUR INVESTMENTS. IN OTHER WORDS, THINK ABOUT THE AFTER-TAX REAL RATE OF RETURN OF INVESTMENT ALTERNATIVES IN RELATION TO THEIR ASSOCIATED RISK.

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When you're making investment decisions, consider the impact of income taxes and the expected rate of inflation on your investments. In other words, think about the after-tax real rate of return of investment alternatives in relation to their associated risk.

When inflation is low, investments offering a lower nominal rate of return can be as attractive as those with higher nominal returns in periods of higher inflation.

Investment income, also known as income from property, is the return on invested capital in passive situations – that is, where you have to make little or no effort to produce the return. Interest, dividends and capital gains are subject to different income tax rates, which vary depending on your province of residence (see **Appendix A**).

In cases where a great deal of time and effort is directed at producing interest or rental income, these returns can be considered business income. For example, the rents an individual earns when they own multiple shopping centres could be treated as business income. This can be an important distinction, since business income can qualify for additional deductions that are not available to be claimed against property income. However, while additional deductions may be available, gains realized on underlying assets that otherwise might be capital gains may be fully taxable as income gains.

Interest income

Interest earned in a year must be included in your taxable income. If you've earned interest on investments that is not paid to you on an annual basis, you must include the accrued interest in your income on each annual anniversary of the investment. Therefore, if interest is not paid annually, a portion of the interest income is deemed to be included in your income annually.

You must also report the bonus or premium received on maturity of certain investments – such as treasury bills, stripped coupon bonds or other discounted obligations, or linked notes (see below) – as interest income. The annual accrual rules generally apply to these investments.

Dividend income

Generally, if you receive a cash or stock dividend from a Canadian public corporation (eligible dividend) or an eligible dividend from a private Canadian company, you'll be required to gross up its amount by 38% when calculating your income. However, when computing your income taxes payable, you'll be entitled to a non-refundable federal dividend tax credit (DTC) of 20.73% of the actual dividend. Combined with a provincial DTC, this will result in a top tax rate on eligible dividends of between approximately 28% and 46%, depending on your province or territory (see **Appendix A** for rates).

Non-eligible dividends from private Canadian companies (and in rare cases from Canadian public companies) are subject to a 15% gross-up when you calculate your income and a 10.38% non-refundable federal DTC in 2024. Combined with a provincial DTC, this will result in a top tax rate on private Canadian company dividends between approximately 37% and 49%, depending on your province or territory (see **Appendix A** for rates).

Dividends from foreign corporations are not eligible for dividend gross-up and DTC treatment, and are taxed in the same manner as interest income. If foreign tax is withheld, you may be eligible for a foreign tax credit.

TAX TIPS

- Income tax can represent a substantial cost on your investments. Consider your after-tax returns when evaluating investment options.
- Accrued (but unpaid) interest income on investments you purchased after January 1, 2024 can be deferred for tax purposes until 2025.
- If your sole source of income is eligible dividends, you should consider diversifying your portfolio to reduce any alternative minimum tax (AMT) obligation.[1]
- You must report the bonus or premium received on maturity of certain investments – such as treasury bills, stripped coupon bonds or other discounted obligations – as interest income. The annual accrual rules generally apply to these investments.
- A reserve for doubtful debts may be available where it is unlikely that the accrued interest income reported on the return will be paid. Alternatively, consider whether the unpaid interest has become a bad debt in the year.

Capital gains and losses

When you sell your investments, the difference between the adjusted cost base (ACB) and net proceeds you receive is normally considered a capital gain or loss. Only a portion of the capital gain or loss is included in calculating your income. However, some securities transactions are considered on income account and are fully taxable or deductible.

SALES OF LINKED NOTES

A linked note is a debt obligation, the return on which is linked to the performance of reference assets or indices. Although the *Income Tax Act* contains rules that deem interest to accrue annually on prescribed debt obligations, investors have generally taken the position that due to the contingent nature of linked notes, there is no deemed accrual of interest before the maximum amount of interest becomes determinable. As a result, the full amount of the return on the note is included in income in the taxation year when it becomes determinable, generally at maturity.

BUDGET 2024: INCREASE IN THE CAPITAL GAINS INCLUSION RATE

The 2024 federal budget and corresponding proposed draft legislation introduced an increase in the capital gains inclusion rate (the proportion of realized capital gains that is included in calculating your income) from one-half (i.e., 50% inclusion rate) to two-thirds, effective for dispositions of property occurring on or after June 25, 2024. Individuals, graduated rate estates (GREs) and qualified disability trusts (QDTs) will be eligible for the one-half inclusion rate on the first $250,000 of capital gains realized in a year.

For example: You have owned shares of a public company, and then you decide to sell them on or after June 25, 2024 and realize a capital gain of $1,000,000 on the sale. Under the proposed rules, $125,000 of the first $250,000 of that gain (one-half) will be taxable, and $500,000 (two-thirds) of the remaining $750,000 will be taxable for a total taxable capital gain of $625,000.[2] Previously, only $500,000 of the total realized capital gain would have been taxable.

Several technical and consequential rules have also been proposed, as well as transitional rules in respect of the 2024 taxation year.

For more information on the capital gains inclusion rate changes, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**; **TaxMatters@EY September 2024**, "Spotlight on recent changes to the taxation of capital gains and employee stock options;" **TaxMatters@EY October 2024**, "How could the capital gains inclusion rate increase affect you?" and **EY Tax Alert 2024 Issues No. 28** and **33**. For more information on GREs and QDTs, see **Chapter 12: Estate planning**.

[1] The base for the AMT regime was broadened, effective for 2024 and later taxation years. For more information about the AMT and these changes, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issue No. 25**.

[2] The example assumes that the gain is not eligible for the lifetime capital gains exemption (LCGE) and there are no other capital gains realized in the year. For more information about the LCGE, see **Capital gains exemption** below and **Chapter 1: Considering selling your business?**

Prior to 2017, investors who held their linked notes as capital property could sell them prior to maturity to convert the return on the notes from interest income to capital gains. As a result, only 50% of the amount of the gain was included in income for tax purposes.[3] For sales of linked notes that occur after 2016, the rules were amended to ensure that any positive return on a linked note retains the character of interest income whether it is earned at maturity or on a sale prior to maturity.

CAPITAL GAINS ELECTION

You may elect to have your gains (or losses) realized on the disposition of Canadian securities always treated as capital gains (or capital losses). File Form T123, *Election on Disposition of Canadian Securities*,[4] with your personal tax return for the year. Once you've filed this election, it's irrevocable. As a result, all gains and losses on the disposition of Canadian securities are treated as capital gains and losses, rather than trading gains and losses.

Frequent traders may be taxed on income account and may not be eligible for the preferential capital gains treatment.

The election doesn't apply to dispositions made by a trader or dealer in securities or to dispositions of certain prescribed securities.[5]

CAPITAL GAINS RESERVE

If you sell capital property and take back a debt – other than a demand promissory note – from the purchaser, you may be able to claim a capital gains reserve for any proceeds not due until a later year. However, in most cases, you must include the entire taxable capital gain in income over a period of up to five years, at a minimum cumulative rate of 20% of the taxable capital gain reported per year.[6]

This general reserve rule is extended to 10 years – with a minimum of 10% required to be reported each year for dispositions to children, grandchildren or great-grandchildren living in Canada – of qualified small business corporation (QSBC) shares, a family farm, fishing property, or shares in a family farm or fishing corporation.

TAX TIPS

- If you're selling capital property and a portion of the proceeds isn't due until a later year, plan to have enough cash on hand to pay the taxes due each year during the reserve period.
- If the proceeds are received as a demand promissory note, a reserve will not be available since the note is considered to be due immediately rather than in a later year.

Similarly, the general reserve is extended to 10 years for dispositions that qualify under the intergenerational business transfer rules. See **Chapter 12: Estate planning** for details. A gain on the disposition of shares of a qualifying business to an employee ownership trust (EOT) may also benefit from an extended 10-year capital gains reserve. See **Chapter 1: Considering selling your business?** for details.

LOSS CARRYOVERS

If your allowable capital losses for the year exceed your taxable capital gains, you can carry the excess losses back three years, but you can only apply them against your net taxable capital gains for those years. However, if you claimed the capital gains exemption for a portion of those gains, you should limit the amount carried back to an amount sufficient to offset those gains not sheltered by the capital gains exemption. Also, it is not prudent to carry losses back to a year in which you did not pay any tax (for example, because you had various credits offsetting tax payable). Any amount you don't carry back will be available indefinitely to shelter your future taxable capital gains.

[3] The capital gains inclusion rate was 50% from October 18, 2000 until June 24, 2024.

[4] Once this election has been made with the Canada Revenue Agency (CRA), it automatically applies in Québec. However, if you file in Québec, you must inform Revenu Québec in writing and provide a copy of Form T123 and your federal income tax return within 30 days of making the election or by your income tax return due date or be subject to penalties.

[5] A listing of these securities is provided in Regulation 6200 of the Income Tax Regulations.

[6] However, to the extent the amount of the reserve being recognized in income, together with other capital gains realized, in each subsequent year after 2024 exceeds $250,000, a higher capital gains inclusion rate will apply as a result of the proposed capital gains inclusion rate increase. The higher inclusion rate will apply even if the capital property itself was sold before June 25, 2024, the effective date of the capital gains inclusion rate increase, because the inclusion rate is based on when the capital gain is recognized and not when the property was sold for purposes of the reserve. See **Budget 2024: Increase in the capital gains inclusion rate** above.

TAX LOSS SELLING

By selling securities not held in your registered retirement savings plan (RRSP) or other registered plans with accrued losses before the end of the year, you can shelter tax that might otherwise be payable on capital gains realized earlier in the current tax year, or recover tax paid on capital gains realized in the three preceding tax years. When reviewing your portfolio, determine which loss securities are not meeting your investment objectives and consider the timeframe over which a security may be expected to rebound, as you may have the opportunity to sell and later repurchase the security.

However, be careful of the application of the superficial loss rules. If you dispose of a security and realize a loss, and the same or an identical security is acquired by you, your spouse or common-law partner, a company either of you controls or an affiliated partnership or trust (such as your RRSP, registered retirement income fund (RRIF), tax-free savings account (TFSA) or registered education savings plan (RESP)) – within the period beginning 30 days before and ending 30 days after the disposition (the 61-day period), and the security is still owned at the end of the period – the loss will be denied. This denied loss will, however, be added to the ACB of the same or identical security acquired in this period, which will result in you realizing the benefits of that loss when you later dispose of that security (subject to any further application of the superficial loss rules).

ALLOWABLE BUSINESS INVESTMENT LOSS

A capital loss realized on the disposition of a debt owed by, or a share of, a bankrupt or insolvent small business corporation may give rise to a business investment loss. Under draft legislative amendments, an allowable business investment loss (ABIL) is increasing from one-half to two-thirds of the business investment loss and is reduced as a result of previous capital gains exemptions claimed.[7]

Business investment losses incurred prior to June 25, 2024 should be considered ABILs at an inclusion rate of one-half rather than two-thirds, even if the ABIL is applied in a period on or after June 25, 2024. Similarly, business investment losses incurred after June 24, 2024 will be included in computing ABILs at a two-thirds inclusion rate, even if the amount is carried back to a period prior to June 25, 2024.

In certain cases, you may treat a loss suffered by honouring a guarantee as an ABIL, if you pay a reasonable guarantee fee on a debt that goes bad.[8]

You may use an ABIL to offset income from any source in the year you incur it. If you don't fully claim the ABIL in that year, you can claim it as a non-capital loss that you can carry back three years and forward 10 years to offset income from any source. When you don't use an ABIL in the carry-forward/carry-back period, it reverts to a net capital loss.

[7] The 2024 federal budget and corresponding draft legislation released on August 12, 2024 included an increase in the capital gains inclusion rate, effective for dispositions on or after June 25, 2024. For more information on these changes, see **Budget 2024: Increase in the capital gains inclusion rate** above, the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options** and **EY Tax Alert 2024 Issue No. 33**.

[8] Certain conditions apply.

DISPOSITION OF FOREIGN CURRENCY OR SECURITIES HELD IN A FOREIGN CURRENCY

When you buy foreign currency or a security denominated in a foreign currency, you'll need to determine the ACB in Canadian dollars, using the foreign exchange rate on the settlement date.

Similarly, when you dispose of the foreign currency or the security, use the foreign exchange rate on the settlement date when determining the proceeds of disposition.

An individual's foreign exchange capital gains and losses on dispositions of foreign currency holdings (i.e., money) are subject to special rules. In general, the conversion of foreign currency holdings into Canadian dollars should result in a capital gain or loss.

Also, the repayment of a foreign-currency-denominated debt owing by an individual may result in a capital gain or loss where the foreign currency has fluctuated relative to the Canadian dollar. Special rules also apply to these foreign exchange gains and losses realized on the repayment of a foreign-currency-denominated debt (or similar obligation) owing by an individual.

AMENDMENTS LIMIT INCOME SPLITTING AFTER 2017

Amendments enacted in June 2018 limit income-splitting arrangements that use private corporations to benefit from the lower personal tax rates of certain family members age 18 or over who are direct or indirect shareholders of the corporation or are related family members of direct or indirect shareholders.

TAX TIPS

If you carefully plan the timing of your investment dispositions, you may be able to reduce your taxes. Review your tax position and your investment portfolio annually to determine whether it would be advantageous to dispose of any investments with accrued capital gains or losses before the end of the year.

- **Dispositions in 2024:** If you plan to dispose of any securities on the open market before the year end, sell them on or before the stock exchange's last trading date for settlement in the year. For most North American stock exchanges, settlement occurs one business day after the trade date.[9] As of the date of publication, December 30 would generally be the last trading date for settlement of a trade in 2024 on both Canadian and US exchanges.
- **Using capital losses:** Capital gains ineligible for your remaining capital gains exemption can be sheltered from tax if you dispose of investments with accrued capital losses before the end of the year. Remember to consider the superficial loss rules when planning to sell loss securities and consider if those rules may be used to your benefit. For example, if your spouse or partner owns investments that have decreased in value, but they cannot use the capital loss, consider taking advantage of the superficial loss rules by purchasing the investments from your spouse or partner at fair market value and electing out of the automatic rollover provisions. On the subsequent sale to an arm's-length party, you can claim the capital loss.
- **Prior years' losses:** If you did not report a capital loss in the year realized, speak to your EY advisor about the options available to you to ensure the CRA recognizes the loss. Capital losses, once realized, do not expire.
- **Using ABILs:** If you own shares or hold debt of an insolvent small business corporation, consider making a special election in the year the corporation becomes insolvent to realize an ABIL or capital loss without selling the shares or disposing of the debt. Note that if no interest is charged on a related party debt, and you are not a shareholder of the small business corporation, a capital loss will not be realized.
- **Determining cost:** If you're acquiring property identical to property you currently own, consider having your spouse or partner, your investment holding company (IHC), or other separate entity acquire the property. This will allow you to determine your gain or loss based on the sale of a specific property, rather than using the average cost.

[9] Settlement occurred three business days after the trade date prior to September 5, 2017 and two business days after the trade date prior to May 27, 2024 (May 28, 2024 in the US).

Effective for 2018 and later years, these rules limit the ability to share income within a family by expanding the base of individuals subject to the tax on split income (TOSI) (equal to tax at the highest marginal income tax rate (33% federal rate in 2024) and only applicable to certain types of income received by minors prior to 2018) to include children age 18 and over and other related adult individuals (including spouses or common-law partners, siblings, grandparents and grandchildren, but not aunts, uncles, nephews, nieces or cousins) who receive split income[10] from a related (family) business either directly from a private corporation (such as by the receipt of dividends) or through a trust or partnership. A related business exists, for example, when a related person is active in the business on a regular basis or owns at least 10% of the fair market value of the shares in a corporation that carries on the business.

The types of income that are subject to the TOSI have also been expanded to include:

- Interest income earned on a debt obligation of a private corporation, partnership or trust (subject to some exceptions)
- Gains from the disposition of property if income from the property would otherwise be split income

Under these rules, income received or gains realized from a related business by certain adult family members are excluded from the TOSI if any one of a number of exceptions is met. Adults who are 25 or older who receive split income are subject to a reasonableness test if they do not meet any of the exceptions. The test is based on the extent of their contribution of labour and capital to the business, risks taken and other payments already received from the business. The TOSI will apply to split income received to the extent it is unreasonable under this test.

For more information on the TOSI, see **Chapter 9: Families**; **TaxMatters@EY, February 2020**; "Tax on split income: CRA provides clarifications on the excluded shares exception" and **TaxMatters@EY, November 2020**, "Tax on split income: the excluded business exception."

CAPITAL GAINS EXEMPTION

Canadian residents are entitled to a limited lifetime cumulative exemption from tax on net capital gains (actual gains less actual losses) realized on the disposition of certain property. Prior to the release of recent draft legislative proposals, the 2024 indexed maximum cumulative capital gains exemption available to shelter capital gains realized on the disposition of qualified farm or fishing property or qualified small business corporation shares (see below) was $1,016,836. The 2024 federal budget and corresponding draft legislation introduced an increase in the LCGE limit to $1,250,000 with respect to dispositions that occur after June 24, 2024. Indexation of the LCGE will resume in 2026.

Capital gains realized on the disposition of qualifying properties on or after June 25, 2024 that are subject to the one-half inclusion rate instead of the new two-thirds rate – due to the $250,000 annual threshold (see **Budget 2024: Increase in the capital gains inclusion rate** above) – will be eligible for a deduction similarly computed using the one-half inclusion rate for purposes of claiming the LCGE. For example, an individual with no other capital gains or realized employee stock option benefits who realizes a capital gain of $1,250,000 in 2025 on the disposition of qualified small business corporation shares should have an income inclusion of $791,667 (i.e., ($250,000 × 1/2) + ($1,000,000 × 2/3)). The individual should therefore be eligible for an LCGE deduction of $791,667 in computing taxable income. Notwithstanding that the maximum deduction available to individuals is $833,333, when computed using the two-thirds inclusion rate ($1,250,000 × 2/3), since a portion of the capital gains was subject to the one-half inclusion rate, the full amount of the individual's LCGE limit will be reduced.

Prior to recent legislative amendments, the LCGE would not be available where qualifying shares of a private corporation carrying on a business were transferred to a corporation controlled by a non-arm's-length party – for example, in the context of an intergenerational transfer of a family business.

Recent amendments enacted in June 2021 and in June 2024 may allow a taxpayer to claim their LCGE in respect of capital gains that are realized in this situation, provided certain conditions are met. For more information, see **Intergenerational transfer of family businesses** in **Chapter 12: Estate planning**, **EY Tax Alert 2021 Issue No. 25**, **EY Tax Alert 2022 Issue No. 23, EY Tax Alert 2023 Issue No. 20**, **EY Tax Alert 2023 Issue No. 31** and **TaxMatters@EY, February 2024**, "New rules for intergenerational business transfers."

[10] Effectively, split income arises when a stream of income is connected, either directly or indirectly, to a related business.

QUALIFIED SMALL BUSINESS CORPORATION SHARES

A small business corporation is generally defined as a Canadian-controlled private corporation (CCPC) that uses all or substantially all of the fair market value of its assets principally in an active business carried on primarily in Canada, or owns shares or debt of such companies (this allows shares of holding companies to qualify).

A capital gains exemption is available for capital gains arising on the disposition of QSBC shares that have only been held by you (or a person or partnership related to you) throughout the immediately preceding 24 months.

In addition, during those 24 months, more than 50% – and at the time of disposition, approximately 90% or more – of the fair market value of your corporation's assets must be attributable to assets used principally in an active business.

When you sell QSBC shares and claim the capital gains reserve, the capital gains reserve included in income in subsequent years is eligible for the capital gains exemption.

TAX TIPS

- If you own shares in a CCPC carrying on business in Canada:
  - Ensure the shares are and stay QSBC shares.
  - Consider crystallizing the capital gain now.
  - Consider planning to permit your family members to also use their capital gains exemptions.[11]
- A cumulative net investment loss (CNIL) will reduce your ability to use your remaining capital gains exemption. Consider converting salary from your corporation to dividend or interest income to reduce or eliminate the CNIL.
- Claiming an ABIL may reduce the capital gains exemption you may claim.
- If your net capital gain position does not result in the full use of your capital gains exemption, consider triggering capital gains.
- If you claim the capital gains exemption, it may give rise to an AMT liability.[12]
- If you're planning to sell an unincorporated business, consider incorporating beforehand to benefit from the capital gains exemption.
- If you have the option to either claim your remaining capital gains exemption or apply net capital loss carryforwards to eliminate or reduce realized net taxable capital gains, consider claiming the exemption. You can carry forward the net capital losses indefinitely.

QUALIFIED FARM OR FISHING PROPERTY

If you disposed of qualified farm and/or fishing property after April 20, 2015 and before 2024, you were able to claim an enhanced $1 million capital gains exemption in respect of your disposition. For dispositions on or after January 1, 2024 and before June 25, 2024, the capital gains exemption increased to $1,036,816. Under draft legislative amendments, this limit is further increased to $1,250,000 for dispositions on or after June 25, 2024 (see **Capital gains exemption** above).

Qualified farm and/or fishing property includes real or immovable property or a fishing vessel used in a farming and/or fishing business, shares of a farm and/or fishing corporation, an interest in a family farm or fishing partnership and certain intangible assets used principally in a farming and/or fishing business (e.g., milk and egg quotas, fishing licences).

To qualify, various conditions must be met.

TAX TIP

If you have farm and/or fishing property, you can transfer it to a child at any value between cost and fair market value. Consider transferring the property to your child at a value that will allow you to realize sufficient capital gains to use your exemption. Your child will then have a higher ACB for a future disposition.

[11] Consider the TOSI rules and consult with your EY Tax advisor. Capital gains realized by minors on the disposition of private company shares to a non-arm's-length party are treated as non-eligible dividends and taxed at top marginal rates. See **Chapter 9: Families**.

[12] The base for the AMT regime was broadened, effective for 2024 and later taxation years. For more information about the AMT and these changes, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issue No. 25**.

GENERAL RULES

There are general rules that affect your ability to claim the capital gains exemption on QSBC shares and qualified farm and/or fishing property.

Eligibility: Corporations, partnerships or trusts cannot claim the capital gains exemption. However, eligible capital gains allocated or otherwise flowing out of partnerships or trusts do qualify for the exemption in the hands of the individual partners or beneficiaries.

Amount: Your available capital gains exemption is reduced by the amount of the exemption you claimed in previous years, including years before 1995, when the exemption was applicable to gains on most capital property.

Losses: Your net taxable capital gains eligible for the exemption are reduced by any claims made in the year for net capital losses of the current year, other years and for ABILs.

Discretionary deduction: The capital gains exemption is a discretionary deduction. You may claim an amount less than the maximum, or no exemption, in a particular year. This allows you to maximize the use of other non-discretionary deductions and to preserve your remaining exemption for future years.

TAX TIP

If you've used your LCGE, consider making the capital gains deferral election on the sale of small business corporation shares when you use the proceeds to acquire other small business investments.

Cumulative net investment loss: A CNIL balance will reduce your claim for a capital gains exemption.

A CNIL arises if you've deducted, in aggregate after 1987, investment expenses in excess of investment income. A CNIL is generally increased by investment expenses such as:

- Interest on money borrowed for investment purposes, including an investment in a partnership if you're not actively engaged in the business of the partnership
- Investment counsel fees
- One-half of most resource deductions claimed
- Property losses or rental losses from property owned by you or a partnership if you're not actively involved in the business of the partnership

A CNIL is generally reduced by investment income such as:

- Interest and dividend income, including the dividend gross-up for dividends from taxable Canadian corporations
- Property income or rental income from property owned by you, or by a partnership if you're not actively involved in the business of the partnership
- Net taxable capital gains that are ineligible for the capital gains exemption

For Québec tax purposes, certain eligible deductions specific to Québec are not taken into account in computing the CNIL.

BUDGET 2024: CANADIAN ENTREPRENEURS' INCENTIVE

The 2024 federal budget and corresponding draft legislation propose to introduce a new incentive reducing the tax rate on capital gains from the disposition of qualifying property by eligible individuals, effective for dispositions on or after January 1, 2025.

The Canadian entrepreneurs' incentive will provide an eligible Canadian-resident individual, other than a trust, with a taxable income deduction that will effectively reduce the capital gains inclusion rate to one-third on up to $2 million in eligible capital gains over an individual's lifetime. This lifetime limit will be phased in by increments of $400,000 per year beginning on January 1, 2025 until it reaches $2 million on January 1, 2029.

See the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options** for more information on the Canadian entrepreneurs' incentive.

TEMPORARY CAPITAL GAINS EXEMPTION FOR SALE OF A BUSINESS TO AN EMPLOYEE OWNERSHIP TRUST

Several measures were enacted in June 2024 to facilitate the establishment and use of EOTs in Canada. These measures include a temporary exemption from taxation for the first $10 million in capital gains an individual realizes on the sale of a business to an EOT. The exemption is available for qualifying business transfers that occur between January 1, 2024 and December 31, 2026, provided a number of conditions are met. For more information on this exemption and on EOTs, see **Chapter 1: Considering selling your business?** and the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**.

BUDGET 2024: WORKER COOPERATIVES

The 2024 federal budget and corresponding draft legislation released on August 12, 2024 propose to extend the temporary capital gains exemption for a business transfer to an EOT to also apply to the sale of shares to a worker cooperative corporation as defined under the *Canada Cooperatives Act*. The measure would apply to qualifying dispositions of shares occurring between January 1, 2024 and December 31, 2026.

ORDER OF CLAIMING CAPITAL GAINS EXEMPTIONS

You may be eligible to claim more than one type of exemption on the same disposition. In cases where you are eligible for the LCGE in addition to one or both of the Canadian entrepreneurs' incentive and the temporary exemption for the sale of a business to an EOT (or worker cooperative), proposed legislation provides an ordering rule. Under this rule, you must first claim the temporary EOT (or worker cooperative) exemption, if applicable, followed by the LCGE and finally the Canadian entrepreneurs' incentive. However, you may not claim more than one of these deductions on the same portion of a particular taxable capital gain.

CAPITAL GAINS DEFERRAL FOR SMALL BUSINESS INVESTMENTS

In addition to the capital gains exemption, you can elect to defer the gain realized on the disposition of certain small business investments if you reinvest the proceeds in other small businesses. Eligible investments are generally common shares of a small business corporation issued from treasury.

In addition, there's a size limit on the corporation's assets and a minimum holding period for the shares that were sold. There's no limit on the amount of reinvestment you can make to defer a capital gain, but you must make the reinvestment in the year of disposition or within 120 days after the end of that year.

The deferred gain will be deducted from the ACB of the replacement investments acquired.

Donations

Donation of publicly listed securities – To encourage gifts of appreciated property, capital gains realized on the donation of publicly listed securities to a registered charity are not included in income. Properties that qualify for this incentive include:

- Stocks (including shares of mutual fund corporations)
- Bonds
- Other rights listed on designated stock exchanges (both Canadian and foreign)
- Canadian mutual fund units
- Interests in segregated (insurance) trusts
- Prescribed debt obligations (such as certain government bonds)

A comparable savings applies to certain donations of securities by employees through stock option plans (see **Chapter 7: Employees** for details).

Exchangeable shares of a corporation or partnership interest – If you exchange unlisted shares of the capital stock of a corporation or a partnership interest for publicly listed securities, and you donate these securities to a registered charity or a public or private foundation, the income inclusion rate for capital gains realized on the exchange is nil, provided that certain conditions are met. To benefit from this treatment, the exchange feature would have to be included at the time of issuance and disposition of the shares, you may not receive any consideration on the exchange other than the publicly listed securities, and you must donate the securities within 30 days after the exchange.

With respect to unlisted partnership interests, the portion of the taxable capital gain attributable to a reduction in the ACB, generally resulting from operating losses, is not exempt from tax. This taxable capital gain is computed as the lesser of:

- The taxable capital gain otherwise determined; and
- Two-thirds of the amount, if any, by which the cost to the donor (plus any contributions to partnership capital by the donor) exceeds the ACB to the donor.[13] The ACB is determined without reference to any distributions of partnership profits or capital.

As a result, only the portion of capital gains attributable to economic appreciation of the partnership interest is exempt from tax.

Therefore, any portion of the gain arising from reductions in the ACB of the partnership interest (rather than the result of certain partnership distributions) will give rise to a taxable capital gain on the exchange. This result will generally occur when the ACB has been reduced by the donor's share of the operating losses of the partnership.

Publicly listed flow-through shares – In general, an investor's ACB of a flow-through share is zero. As a result, on disposition, the entire value of proceeds is a capital gain.

The exempt portion of the capital gain on the donation of the flow-through shares is generally limited to the portion that represents the increase in value of the shares at the time they are donated over their original cost.[14]

Gifts of cultural property – Donations of certified cultural property may be made to Canadian institutions and public authorities – such as galleries, libraries, archives or museums – that have been designated by the Minister of Canadian Heritage (under the *Cultural Property Export and Import Act*). Capital gains realized on objects certified as Canadian cultural property by the Canadian Cultural Property Export Review Board (CCPERB) and gifted to a designated institution or public authority are not included in income.

Examples of cultural property include:

- Archaeological objects, fossils and minerals
- Ethnographic material culture (including First Nations, Métis and Inuit objects)
- Military objects
- Applied and decorative art
- Fine art
- Scientific or technological objects
- Archival material (e.g., maps, sound recordings, photographs, films and documents)
- Audiovisual collections
- Musical instruments

[13] The 2024 federal budget and corresponding draft legislation introduced an increase in the capital gains inclusion rate from one-half to two-thirds, effective for dispositions of property occurring on or after June 25, 2024. Individuals, GREs and QDTs will be eligible for the one-half inclusion rate on the first $250,000 of capital gains realized in a year. For more information on the capital gains inclusion rate changes, see **Budget 2024: Increase in the capital gains inclusion rate** above and the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**.

[14] Under legislative amendments first announced in the 2022 federal budget and enacted in December 2022, the flow-through share regime was eliminated for oil, gas and coal activities, effective for expenditures renounced under flow-through share agreements entered into after March 31, 2023.

The CCPERB website states that cultural property may be eligible for certification if the Review Board determines that it is of "outstanding significance." An object or collection may be deemed to be of outstanding significance by reason of any one or more of the following criteria:

- Close association with Canadian history
- Close association with national life
- Aesthetic qualities
- Value in the study of the arts
- Value in the study of the sciences

In addition to the beneficial treatment of capital gains, you may claim a tax credit based on the eligible amount of your gift of certified cultural property (i.e., the amount by which the fair market value of the property exceeds the amount of any advantage you received in respect of the gift). The eligible amount of the gift is calculated on the basis of the fair market value of the property, as determined by the CCPERB. The net income limitation on donations (that generally limits the amount of charitable donations that an individual may claim in a taxation year to 75% of the individual's net income) does not apply to gifts of certified cultural property.

Gifts of ecologically sensitive land – Capital gains realized on gifts of ecologically sensitive land – including a covenant, an easement or, in the case of land in Québec, a real or personal servitude – made to Canada, a province, territory or municipality, or a registered charity (other than a private foundation) approved by the Minister of Environment and Climate Change are not included in income.

Eligibility requires the minister, or a person designated by the minister, to certify that the conservation and protection of the land is important to the preservation of Canada's environmental heritage.

You may also claim a tax credit on the basis of the eligible amount of a gift of ecologically sensitive land. Gifts of ecologically sensitive land made to a municipal or public body performing a function of government in Canada also qualify for a tax credit.

For purposes of determining the eligible amount of the gift, the minister will certify the fair market value of the gift. For a gift of a covenant or an easement, or a real or personal servitude (in Québec), the fair market value of the gift is the greater of:

- The fair market value of the gift otherwise determined by the minister; and
- The amount by which the fair market value of the land is reduced as a result of the gift.

As with gifts of certified cultural property, the net income limitation on donations does not apply to gifts of ecologically sensitive land. For gifts of ecologically sensitive land made after February 10, 2014, the carryforward period (for the unclaimed portion of the donation) is extended from five years to 10 years.

Tax shelter gifting arrangements – You should only consider an investment in a tax shelter after obtaining professional advice. The CRA often challenges these structures. In particular, the CRA actively reviews tax shelter gifting arrangements, which most commonly involve schemes in which an individual receives a charitable donation receipt with a higher value than the actual donation.

The CRA has indicated that it audits all these tax shelter arrangements and, to date, has not found any that it believes comply with Canadian tax laws. It has generally succeeded in denying the benefits of tax shelter gifting arrangements before the courts.

The CRA will not assess your return until the tax shelter has been audited, with one exception: your return will be assessed before the completion of the audit only if you remove the donation tax credit claim for the gifting tax shelter in question. If you object to an assessment of tax, interest or penalties because a tax credit claimed for one of these arrangements has been denied, the CRA is allowed to collect 50% of the disputed amount while the objection is being processed.

Donations to registered journalism organizations – Amendments enacted in 2019 introduced a number of measures supporting Canadian journalism, including a refundable tax credit for qualifying journalism organizations that produce original news, a non-refundable tax credit for subscriptions to Canadian digital news before 2025, and the provision of qualified donee status to registered journalism organizations. Qualified donees (e.g., registered charities) are tax-exempt entities that can issue official tax receipts for donations that they receive for purposes of the charitable donations tax credit applicable to individuals and the charitable donation deduction applicable to corporations. Qualified donees can also receive gifts from Canadian registered charities. Effective January 1, 2020, if you make either a cash donation or a donation in kind (e.g., donating publicly listed securities) to a registered journalism organization, that organization is required to issue a tax receipt to you for the amount donated (or for the fair market value of a donation in kind), which you may then claim as a charitable donation tax credit on your income tax return.

A registered journalism organization is a qualifying journalism organization that is registered with the Minister of National Revenue. A qualifying journalism organization must be primarily engaged in the production of original news content.[15] There are several other requirements that must be met. For example, this type of organization must be engaged in the production of original news content primarily focused on matters of general interest and reports of current events (including coverage of democratic institutions and processes), but not primarily focused on a particular topic (e.g., industry-specific news, sports, recreation, arts, lifestyle or institutions). For further information, see *Support for Canadian journalism: qualified donee status* in **EY Tax Alert 2019 Issue No. 9**.

[15] In accordance with amendments to the definition that were enacted in June 2021.

Interest expense

Generally, if you borrow money to buy an income-earning investment, any interest expense incurred is deductible. It's not necessary that you currently earn income from the investment, but it must be reasonable to expect that you will. Income for this purpose includes interest and dividends but not capital gains.

Interest expense on money you borrow to buy common shares is generally deductible because common shares have the potential for paying dividends, but whether the expectation of dividends is reasonable will depend on the specific facts.

Note that the CRA's positions on interest deductibility are included in its Income Tax Folio S3-F6-C1: *Interest Deductibility*.

In Québec, the deduction of investment expenses (including interest expenses) is limited to the amount of investment income you earned in the year. Any investment expense that's not deductible in a year, as a result of this limitation, can be carried back to the three preceding years or carried forward to any subsequent year.

If you incur a loss on the disposition of an investment, interest on any remaining related borrowing continues to be deductible if you use the proceeds to pay down the related debt or to purchase another income-producing investment.

Interest on the money you borrow for contributions to an RRSP, registered pension plan or deferred profit-sharing plan, TFSA, first home savings account (FHSA), RESP, registered disability savings plan (RDSP), or for the purchase of personal assets such as your home or cottage is not deductible.

You can deduct interest expense on a paid or payable basis, provided you follow one basis consistently. Note, however, that compound interest must be paid in order to be deductible.

TAX TIPS

- If you're claiming a deduction for interest expense on a paid basis, make all necessary payments by December 31.
- Consider converting non-deductible interest into deductible interest by using available cash to pay down personal loans and then borrowing for investment or business purposes.
- Use your excess funds to pay down personal debt, such as mortgages or credit card balances, before investment-related debt.
- To reduce the cost of non-deductible debt, pay off your most expensive personal debt first. Consider refinancing expensive debt like credit cards with a less expensive consumer loan.

Investment funds

MUTUAL FUNDS

Usually structured as open-end trusts (and, in some instances, as corporations), mutual funds are a pooling of resources of many taxpayers with a common investment objective. Money managers buy and trade investments in the fund. Any interest, dividends, foreign income and capital gains from these investments, net of management fees and other fund expenses, are distributed to unitholders. The value of mutual fund units or shares, regularly quoted online and in newspapers and magazines, represents the value of the underlying investments divided by the number of units or shares outstanding.

You must include the income distributed to you annually from a mutual fund in your net income, even if you don't receive the distributions in cash, because you've chosen to have them automatically reinvested in the same or a different fund.

You can also realize capital gains or losses from mutual funds by the sale or redemption of fund units or shares. This gain or loss is the difference between your sale or redemption proceeds and the ACB of the units or shares. The ACB of your mutual fund units is generally determined by dividing the total purchase cost – including commissions and other front-end fees – plus reinvested distributions, less returns of capital, by the number of units or shares you own just prior to redemption. Any deferred charges or redemption fees reduce the proceeds on redemption.

Many mutual fund corporations are organized as "switch funds." Such funds allow investors to exchange shares of one class of the mutual fund corporation for shares of another class. Prior to 2017, switches between classes were deemed not to be a disposition for income tax purposes. Instead, such exchanges occurred on a tax-deferred rollover basis. Effective January 1, 2017, and subject to certain exceptions, the exchange of shares of a mutual fund corporation for shares of another class of a mutual fund corporation is considered to be a disposition for tax purposes for proceeds equal to the fair market value of the exchanged shares.

SEGREGATED FUNDS

Segregated funds, or seg funds, are similar to mutual funds, but include an insurance element, which guarantees the return of at least 75% of your original principal on maturity or your death for individually owned contracts, although options exist to provide for a higher guaranteed return. You purchase a contract (typically an annuity) with the seg fund, which is supported by a pool of assets and treated in many ways similar to a mutual fund trust.

Seg funds allocate to contract holders the income earned from the underlying fund assets, and capital gains or losses realized from the sale of underlying assets are considered to be the gains or losses of the contract holders. Unlike mutual funds, since capital losses of seg funds are considered to be losses of the contract holders, where the seg fund has net capital losses for a tax year from the sale of underlying assets, these are effectively allocated to the contract holders.[16]

A segregated fund is required to allocate all its income earned to all the contract holders in any particular tax year. But unlike mutual funds, the allocation from a segregated fund is notional as it does not result in the acquisition of additional units and does not result in the payment of funds.

You can also realize capital gains or losses from segregated funds by the sale or redemption of fund units. The calculation of this gain or loss and the ACB calculation is similar to mutual funds, whereby the original purchase price is adjusted by the notional allocations, any gains or losses from the sale or redemption and the sale proceeds or redemption amount itself. The holder of a segregated fund would receive a T3 and Relevé 16 (if applicable) tax slip annually, reporting the notional allocation and any capital gains or losses from the sale or redemption of fund units.

If your fund has declined in value, an additional amount, typically called a top-up, will provide you with the difference between your investment's net asset value and the guarantee amount. The top-up amount is generally reported by insurers as a capital gain.[17] However, this capital gain may be offset by a capital loss on the disposition of the contract (cost in excess of net asset value).

[16] Segregated funds are able to allocate capital losses to contract holders pursuant to the *Income Tax Act* (ITA) 138.1(3). ITA 138.1(3) deems the capital gain or capital loss of a segregated fund resulting from a disposition of underlying property that impacts the benefit of the contract holder to be the capital gain or capital loss of the contract holder. Mutual fund trusts are not able to allocate capital losses to their unitholders (see paragraph 10 of CRA **Interpretation Bulletin IT-381R3** – *Trusts – Capital Gains and Losses and the Flow-Through of Taxable Capital Gains to Beneficiaries*).

[17] Interests in segregated funds are carved out of the usual exemption from capital gains treatment of insurance policies by ITA 39(1)(a)(iii).

EXCHANGE-TRADED FUNDS

An exchange-traded fund (ETF) is an investment fund that combines many of the attributes of mutual funds and individual stocks.

Typically, an ETF is a closed-end mutual fund that tracks an index, a commodity or a basket of assets. However, like stocks, ETFs experience price changes throughout the day as they are bought and sold, and they can be sold long or short.

Because an ETF trades like a stock, it does not have its net asset value calculated every day like a mutual fund does.

ETFs are normally structured as trusts, and the income from their investments, net of management fees and other fund expenses, is distributed to the unitholders either on a monthly, quarterly or annual basis. Generally, if the ETF is a Canadian-resident trust, its underlying assets dictate whether the income reported by unitholders is categorized as interest, dividends, foreign income or capital gains.

You can also realize capital gains or losses from ETFs by the sale or redemption of the units. This gain or loss is the difference between your sale or redemption proceeds and the ACB of the units.

LABOUR-SPONSORED VENTURE CAPITAL CORPORATIONS TAX CREDIT

A labour-sponsored venture capital corporation (LSVCC) is a venture capital corporation established by either federal or provincial legislation and sponsored by a trade union or other specified employee organization. LSVCCs are intended to provide venture capital to qualifying businesses.

You may claim a federal non-refundable tax credit equal to 15% of the net cost of the original acquisition of the approved shares of a provincially registered LSVCC, with a maximum credit of $750 (maximum $5,000 of LSVCC investments). For 2024, the credit may be claimed for shares acquired in 2024 or in the first 60 days of 2025 (but any shares acquired in 2024 and claimed on your 2023 income tax return cannot be claimed for 2024). The LSVCC tax credit for federally registered LSVCCs was eliminated for 2017 and later taxation years.

INCOME TRUSTS AND REAL ESTATE INVESTMENT TRUSTS

Income trusts and publicly traded limited partnerships are classified as specified investment flow-through entities (SIFTs). SIFTs were originally designed to attract investors seeking stable and predictable cash flows.

Since 2011, a distribution tax has applied to SIFTs, treating them more like corporations. This distribution tax effectively eliminates their tax advantage and in some cases may reduce the amount of cash available for distribution to investors.

TAX TIPS

- Keep records of the ACB of your mutual funds, ETFs, income trusts, limited partnerships and flow-through shares so you can report accurate capital gains and losses on the redemption.
- Evaluate whether the benefit of the seg fund's guarantees offsets the fund's higher fees.
- The ability to designate a named beneficiary of a seg fund provides the additional benefit of avoiding probate fees on death.
- Tax shelters are investments intended to offer a tax deferral. In determining the tax benefit available from a tax shelter, consider:
  - The at-risk rules, which may reduce deductions available to investors in limited partnerships by preventing tax write-offs in excess of amounts invested or earned
  - The requirement to recognize as a capital gain any negative ACB in a limited partnership interest
  - Minimum tax, which may result when you have significant tax shelter write-offs[18]
  - Rules that require the cost of investments that finance another taxpayer's business expenses in exchange for a right to receive future income to be prorated over the life of that income stream
- The depreciation claim for computer software tax shelters is limited to the amount of the related income.

[18] The base for the AMT regime was broadened, effective for 2024 and later taxation years. For more information about the AMT and these changes, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issue No. 25**.

As a result, many SIFTs have converted to corporations. Rules allow these conversions to take place on a tax-deferred basis without any immediate tax consequences to investors.

One important exception to the SIFT rules concerns qualified real estate investment trusts (REITs). REITs continue to be flow-through entities for tax purposes.

Real estate rental property

If you own property and rent it as a source of revenue, the net rental income or loss must be reported on your tax return. If a net rental loss results (an excess of rental expenses incurred over rental income earned in the year), it can generally be deducted against other sources of income for the year.

Reasonable expenses you incur to earn rental revenue can generally be deducted against this revenue. Current expenses (expenses that provide short-term benefits) are fully deductible in the year incurred. These expenses can include mortgage interest, property taxes, insurance premiums, maintenance and repairs, utilities, advertising and management fees.

Capital expenses (expenses that provide an enduring benefit), such as the cost of the building (but not land), and furniture and equipment rented with the property, may be deducted through capital cost allowance (CCA) (depreciation) over a period of several years. However, CCA may only be claimed to the extent of rental income before any claim for CCA. In other words, you cannot create or increase a rental loss through the deduction of CCA.

For capital assets that are acquired and become available for use between 2024 and the end of 2027, there is a temporary enhanced CCA deduction of up to two times the normal maximum first-year deduction amount, with a few exceptions.[19]

BUDGET 2024: NON-COMPLIANT SHORT-TERM RENTALS

The 2023 federal fall economic statement and the 2024 federal budget introduced rules, enacted in June 2024, to prevent short-term rental operators from claiming an income tax deduction for expenses incurred to earn short-term rental income in any province or municipality that has prohibited short-term rentals. For these purposes, a short-term rental is a residential property that is offered for rent for a period of less than 90 consecutive days. The rule applies to interest expenses, as well as to other types of rental expenses.

An operator who fails to comply with provincial or municipal licensing, permitting or registration requirements is also unable to claim income tax deductions for a short-term rental. These new restrictions apply to all rental expenses incurred after 2023.

For 2024, a short-term rental is deemed to be compliant for these purposes if all registration, licensing and permit requirements are met on December 31, 2024.

For further details, see **TaxMatters@EY, June 2024**, "New measures to address housing supply shortage and affordability."

BUDGET 2024: ACCELERATED CCA FOR PURPOSE-BUILT RENTAL HOUSING

The 2024 federal budget and corresponding draft legislation propose to temporarily increase the CCA rate from 4% to 10% for buildings or parts of a building that qualify as a new purpose-built residential rental. To qualify as a new purpose-built residential rental, construction must have started after April 15, 2024 and before 2031, and the property must become available for use before 2036.

A purpose-built residential rental is a building, or a part of a building, that is situated in Canada with at least four private apartment units, or 10 private rooms or suites, and at least 90% of the residential units are held for long-term rental – long-term meaning a minimum of 28 consecutive days.

Buildings previously used as commercial property that are substantially renovated for use as a purpose-built residential rental may also be eligible property for the additional CCA rate. Renovations to existing residential complexes will not be eligible.

[19] An enhanced deduction of up to three times the normal maximum first-year CCA deduction was available for capital assets that were acquired and became available for use after November 20, 2018 and before 2024. For further details, see **EY Tax Alert 2018 Issue No. 40** and **EY Tax Alert 2019 Issue No. 27**.

Certain capital assets may qualify for immediate expensing if they are acquired and become available for use after December 31, 2021 and before 2025. This treatment is restricted to a maximum of $1.5 million of eligible property per taxation year. See **Temporary immediate expensing incentive** in **Chapter 6: Professionals and business owners**.

Certain types of capital expenses are subject to special rules allowing them to be deducted in the year incurred, including landscaping costs and eligible disability alteration costs that improve access to or mobility within a property for a person with a mobility impairment.

TAX TIP

If you own more than one rental property, you may deduct automobile expenses incurred to collect rents, supervise repairs or provide general property management.

If you rent units in a building in which you live, you can deduct a reasonable portion of expenses relating to common areas.

If you sell your rental property for more than its original cost, you have to report a capital gain to the extent that the proceeds exceed that cost. You may also have to pay tax on income that represents previously claimed CCA. If proceeds from the sale exceed the undepreciated capital cost of the property, the excess, up to the original cost, is taxed as recaptured depreciation in the year of sale.

There are some pitfalls to avoid in property investments:

- You must have a source of income or potential to earn income against which to claim expenses. Caution should be exercised if there are recurring rental losses year over year. If there is no expectation of profit from the rental property, for example, due to the presence of a personal or hobby element to the rental of the property, the losses may be denied.
- If you rent property to a relative or close friend at less than market rates, any rental loss you incur will likely be denied.

RRSPs

Many Canadians use an RRSP to hold a significant portion of their investment assets. When the RRSP is self-administered, it can hold a wide range of eligible investments.

In determining the most appropriate mix of investments for your self-administered RRSP, you need to consider a number of factors, including the tax attributes of RRSPs. In particular, there is no tax on earnings within an RRSP and withdrawals are fully taxable as income. A general discussion of the tax attributes and the rules related to RRSP contributions, withdrawals and plan maturity is provided in **Chapter 11: Retirement planning**.

Another factor to consider is how much growth you'll need in the RRSP to fund your retirement. In some circumstances, you may want to hold riskier growth-oriented investments in your RRSP to maximize its value. Generally, a lengthy holding period is necessary for this strategy to offset the risk associated with fluctuations in the value of the investments and the effects of the higher tax applicable to RRSP withdrawals than to capital gains or dividends.

Any beneficial treatment accorded to dividends and capital gains held personally is lost when securities are owned by an RRSP. However, this disadvantage may be outweighed by the tax deferral on income and gains accumulating within the RRSP. The value of the deferral will depend on your age and the expected timing of withdrawal.

Interest, on the other hand, receives no preferential tax treatment when held outside an RRSP. Therefore, you should consider holding your interest-bearing investments inside your RRSP.

Your RRSP can acquire investments in the marketplace or, alternatively, you may transfer qualified investments outside your plan to your RRSP. You can make this transfer in the form of a deductible contribution in kind for the year. For tax purposes, this may result in a capital gain, because the assets transferred to the plan are deemed to be disposed of at fair market value. Any capital losses will be denied.

It's important that your RRSP holds qualified investments only. If your RRSP acquired a non-qualified investment prior to March 23, 2011, the value of the investment was included in your income. However, once you disposed of the non-qualified investment in your plan, you were allowed to claim a deduction in your return equal to the lesser of the proceeds of disposition and the value of the investment previously included in your income. In addition, any income earned on the investment was taxable to the RRSP trust in the year it was earned, and a 1% per-month penalty tax was imposed on the RRSP trust for each month it held a non-qualified investment.

Anti-avoidance rules introduced for non-qualified investments acquired after March 22, 2011, and investments acquired before March 23, 2011 that became non-qualified after March 22, 2011, replace the income inclusion and deduction requirement for the annuitant and the 1% per-month penalty tax imposed on the RRSP trust (see **Anti-avoidance rules extended to RRSPs and RRIFs** for details). However, an RRSP trust remains taxable on any income earned on a non-qualified investment that is acquired by the RRSP after March 22, 2011.

A non-qualified investment is defined as any property that is not a qualified investment. Qualified investments generally include:

- Cash
- Term deposits
- GICs
- T-bills
- Any security (other than a futures contract) listed on Canadian stock exchanges and most foreign stock exchanges
- Most government bonds
- Most Canadian mutual funds and segregated funds
- Options for the purchase of qualified investments
- Shares of certain private corporations in limited circumstances

ANTI-AVOIDANCE RULES EXTENDED TO RRSPS AND RRIFS

A series of anti-avoidance rules for RRSPs and RRIFs became law on December 15, 2011, with retroactive effect to March 22, 2011. These rules impose a 50% penalty tax on both prohibited investments and non-qualified investments held by an RRSP or RRIF, as well as a separate 100% penalty tax on certain "advantages" from transactions that exploit the tax attributes of an RRSP or RRIF. Similar rules already existed for TFSAs. These anti-avoidance rules were also extended to RESPs and RDSPs for transactions occurring and investments acquired after March 22, 2017, with a few exceptions. A plan holder could elect by April 1, 2018 to pay regular personal tax on the distribution of investment income instead of the advantage tax for an investment held on March 22, 2017. When FHSAs were introduced, the anti-avoidance rules were also extended to these plans, effective April 1, 2023.

TAX ON PROHIBITED AND NON-QUALIFIED INVESTMENTS

The penalty tax applies to prohibited investments acquired after March 22, 2011 and those acquired before March 23, 2011 that first became prohibited after October 4, 2011.
A prohibited investment may generally be described as an investment to which the annuitant of an RRSP or RRIF is closely connected – including, for example, a debt obligation of the annuitant or a share of, an interest in or a debt of a corporation, trust or partnership in which the annuitant (or a non-arm's-length person) has a significant interest (generally 10% or more).

In the case of non-qualified investments, the penalty tax applies to non-qualified investments acquired after March 22, 2011, and to those acquired before March 23, 2011 that first became non-qualified after March 22, 2011.

If the prohibited or non-qualified investment is removed before the end of the calendar year subsequent to the acquisition year, you may be entitled to a refund of the penalty tax.

TAX ON ADVANTAGES

The advantage tax generally applies to benefits obtained from transactions occurring, income earned, capital gains accruing and investments acquired after March 22, 2011, subject to certain transitional relief that was available by filing an election on or before March 2, 2013 (see below).

An advantage can be broadly defined as any benefit obtained from a transaction that is intended to exploit the tax attributes of an RRSP, RRIF or other registered plan.[20] Examples include benefits attributable to prohibited investments, swap transactions, RRSP strips and deliberate overcontributions. A registered plan holder, subscriber or annuitant may pay reasonable investment management fees in relation to registered plan assets using funds from outside the registered plan without being subject to the advantage tax on the amount of the fees.[21]

Transitional relief from the advantage tax may have been available if you filed an election on or before March 2, 2013.[22] The election was available if your plan held an investment on March 22, 2011 that became a prohibited investment on March 23, 2011 and continued to hold it in the year. It allowed you to elect not to have the 100% advantage tax apply to income and gains accrued after March 22, 2011 and attributable to a prohibited investment held on March 23, 2011. To qualify for this relief, you must have filed the election form (Form RC341) by March 2, 2013 and you must withdraw the income or any realized gains attributable to the prohibited investment annually within 90 days after the end of the calendar year in which they are earned or realized. The amount withdrawn is taxed at your marginal tax rate, like any regular withdrawal from the plan. No provision allows for late filing of this election.

See additional comments in **Chapter 11: Retirement planning**.

FILING OBLIGATIONS

If you owe tax under any of these rules, you must file Form RC339, *Individual Return for Certain Taxes for RRSPs, RRIFs, RESPs, or RDSPs*, and pay that tax no later than June 30 of the following year (e.g., June 30, 2025 for the 2024 taxation year).

POSSIBLE WAIVER OF TAX

The CRA may, at its discretion, waive all or a portion of the penalty taxes if it considers it just and equitable to do so, provided that the funds are withdrawn from the plan and are subject to personal tax.

SELF-ADMINISTERED RRSPS INVESTING IN SHARES OF PRIVATE CORPORATIONS

The anti-avoidance rules for post-March 22, 2011 investments have made it more difficult for private corporation shares to be considered qualified investments for RRSPs. Shares in Canadian corporations carrying on active businesses not listed on a designated stock exchange may qualify for RRSP investment if the corporation is a small business corporation and you and related parties own less than 10% of the shares. Note that unless the corporation retains its small business corporation status at all times, its shares will be prohibited investments for RRSPs. Any pre-March 23, 2011 RRSP investments in private corporations should be monitored to ensure they don't become prohibited, and you should consider the implications of removing any offside investments.

TAX TIPS

- In determining the mix of investments held by your self-administered RRSP, consider:
  - Your retirement cash-flow needs
  - The length of time before you expect to withdraw funds
  - The marginal tax rates applicable to interest, dividends and capital gains
  - Holding investments intended for capital growth outside your RRSP (to benefit from lower tax rates on capital gains and eligible dividends) and holding interest-generating investments inside your RRSP
  - Holding strip bonds inside your RRSP, since the interest earned would otherwise be annually subject to tax even though it's not received until maturity
  - Holding capital investments eligible for your remaining capital gains exemption outside your RRSP in order to use the capital gains exemption on the sale (these are qualified RRSP investments in limited circumstances)
- Certain employee stock options may be transferred to an RRSP – but this involves an element of double taxation.
- Before trying to rebalance the mix of investments held in your RRSP based on the above considerations, consider whether any transfers would fall into the punitive swap or advantage tax rules.
- If you believe your private company shares held in an RRSP have, or may become, prohibited, speak to your EY advisor about the rules for, and implications of, removing them from the plan.

[20] The advantage rules were extended to RDSPs and RESPs effective after March 22, 2017, subject to certain transitional rules. Prior to this date, the rules already applied to TFSAs as well as RRSPs and RRIFs. The rules were also extended to FHSAs, effective April 1, 2023.
[21] Applicable to 2018 and later taxation years.
[22] Refer to CRA Folio **S3-F10-C2 on Prohibited Investments**.

Tax-free savings account

Every Canadian resident (other than US citizens and green card holders) aged 18 and older should consider including a TFSA as part of their investment strategy. The tax benefit of these registered accounts isn't in the form of tax-deductible contributions, but in the tax-free earning on invested funds.

For US citizens and green card holders, the decision is more complex, as income earned in the TFSA must be reported on the individual's US personal income tax return, so the tax savings may be limited and there will be additional US filing disclosures.

The mechanics of the TFSA are simple:

- You can contribute up to $7,000 annually ($7,000 in 2024; $6,500 in 2023; $6,000 in 2019, 2020, 2021 and 2022; $5,500 in 2016, 2017 and 2018; $10,000 in 2015; $5,500 in 2013 and 2014; $5,000 prior to 2013). If you contribute less than the maximum amount in any year, you can use that unused contribution room in any subsequent year. The cumulative contribution limit for 2024 is $95,000.
- Income and capital gains earned in the TFSA are not taxable, even when withdrawn.
- You can make withdrawals at any time and use them for any purpose without attracting any tax.
- Any funds you withdraw from the TFSA – both the income and capital portions – are added to your contribution room in the next year. This means you can recontribute all withdrawals in any subsequent year without affecting your allowable annual contributions. Recontribution in the same year may result in an overcontribution, which would be subject to a penalty tax.

TAX TIPS

- Gift or loan funds to your spouse or partner so they can make their own contribution. You should not make the TFSA contribution directly on their behalf. The income earned on these contributions will not be attributed to you while the funds remain in the plan.
- You can also gift funds to an adult child for TFSA contributions. An individual cannot open a TFSA or contribute to one before the age of 18. However, when you turn 18, you will be permitted to contribute the full TFSA dollar limit for that year (currently $7,000 for 2024).
- To pass your TFSA to your spouse or common-law partner, designate them as the successor holder so the plan continues to accrue tax free without affecting their contribution room.
- Your annual contribution limit is composed of three components:
  - The annual TFSA dollar limit of $7,000 ($7,000 for 2024; $6,500 for 2023; $6,000 for 2019, 2020, 2021 and 2022; $5,500 for 2016, 2017 and 2018; $10,000 for 2015; $5,500 for 2013 and 2014; $5,000 prior to 2013)
  - Any unused contribution room from a previous year
  - The total amount of withdrawals from your TFSA in the previous year
- You can maintain more than one TFSA, as long as your total annual contributions do not exceed your contribution limit.
- You can view your TFSA transaction summary on the CRA's website. Go to My Account[23] to see all of the contributions and withdrawals made from your TFSA. But keep in mind that transactions from the current calendar year will not be reflected until next year.
- If you become a nonresident of Canada:
  - You will not be taxed in Canada on income earned in the TFSA (foreign tax may apply) or on withdrawals from your plan.
  - No contribution room will accrue for any year throughout which you are a nonresident. In the year of your emigration or immigration, the annual dollar limit without proration applies.
  - If you re-establish Canadian residence, any withdrawals while you were a nonresident will be added back to your TFSA contribution room in the following year.
- Consider holding your non-tax-preferred investments – those that give rise to interest and foreign dividends – in your TFSA.
- Neither income earned in the TFSA nor withdrawals from it affect your eligibility for federally income-tested benefits (i.e., Old Age Security, the Guaranteed Income Supplement) or credits (i.e., GST/HST credit, age credit and the Canada Child Benefit).

[23] For more information about My Account, see **Chapter 17: Tax payments and refunds**.

Permitted investments for TFSAs are the same as those for RRSPs and other registered plans. And, like RRSPs, contributions in kind are permitted. But be aware that any accrued gains on the property transferred to a TFSA will be realized (at the time of transfer) and taxable, while any accrued losses will be denied.

As with RRSPs and RRIFs, a special 50% tax applies to a prohibited or non-qualified investment held by a TFSA, and a special 100% tax applies to certain advantages received in connection with a TFSA.

The CRA tracks your contribution room and reports it to you annually as part of your income tax assessment. If you over-contribute, as with RRSPs, the over-contribution will be subject to a penalty tax of 1% per month while it remains outstanding. If you become a nonresident of Canada, a similar 1% penalty tax will apply to any contributions you make to your TFSA while you are a nonresident.

Be aware that if the activities of a TFSA constitute carrying on a business,[24] the related income earned within the TFSA would be subject to income tax. The trustee of the TFSA (e.g., a financial institution) and the TFSA trust are jointly liable for paying this tax. The 2019 federal budget and corresponding enacting legislation extended this joint liability to include the TFSA holder, for 2019 and later taxation years.[25]

First home savings account

The FHSA is a new type of registered account intended to help Canadians save for a down payment for their first home. These accounts have a blend of features that will be familiar to individuals who already invest in RRSPs and TFSAs, such as tax deductions for contributions and annual limits on the amount of contributions.[26] Qualifying withdrawals made to purchase a first home are non-taxable. Even though the accounts are designed to appeal to first-time home buyers, you may be able to requalify as a "first-time" buyer if you have not owned a home for several years.

If used for the intended purpose, the funds contributed to an FHSA can be free of liability for income tax. Initial contributions attract a tax deduction, meaning they're effectively made out of pre-tax income, and withdrawals can be made tax free. This structure contrasts with RRSPs, which offer a tax deferral opportunity as opposed to a tax-free one, and TFSAs, where contributions are made out of after-tax income. See **Chapter 9: Families**, for further information about the FHSA.

TAX TIPS

- Remember that although making an FHSA contribution entitles you to claim a tax deduction, it may be better to use the deduction in a later year if you expect to be paying tax at higher marginal income tax rates in the future. You can carry the deduction forward indefinitely.
- You can gift your spouse or adult child the cash to make a contribution to an FHSA. They will be able to claim a tax deduction in the same year or a future year, and the income earned in the account will not be attributed to you.
- Contributing to an FHSA does not affect your RRSP contribution room. If your ability to make tax-deductible RRSP contributions is limited due to a pension adjustment, opening an FHSA may allow you to set aside up to an additional $8,000 per year, to a lifetime maximum of $40,000, and claim a tax deduction for it.[27]
- You can transfer money from your RRSP to an FHSA on a tax-free basis to use up FHSA contribution room. Although you would not receive a tax deduction for the contribution, the contributed amount can later be withdrawn tax free if used for a qualifying home purchase.

[24] An example would be a business of trading investments in which the TFSA holder actively trades investments inside their TFSA like a dealer, as was the case in *Canadian Western Trust Company as Trustee of the Fareed Ahamed TFSA v. The King*, 2023 TCC 17.
[25] The liability of the TFSA trustee in respect of business income earned by a TFSA is limited to the property held in the TFSA at that time plus the amount of all distributions of property from the TFSA on or after the date that the notice of assessment is sent.
[26] $8,000 each year, subject to a lifetime limit of $40,000.
[27] For example, there is a pension adjustment when you participate in your employer's registered pension plan or deferred profit-sharing plan.

Investment holding companies

In the past, many individuals incorporated their investments in an IHC to benefit from the tax deferral on income earned in a corporation that exists because earnings in a corporation do not attract personal tax until they are paid out to the shareholder.

This deferral advantage was largely eliminated with the imposition of an additional refundable tax on investment income of CCPCs, which is only refunded to the corporation when it pays a taxable dividend to an individual.

The combined corporate and personal tax represents the effective tax rate of earning income through a corporation. Since the gross-up and DTC mechanism is based on notional federal and provincial tax rates at the corporate and personal levels, to the extent that the actual rates differ, the effective tax rate on income earned through a corporation will be higher or lower than the rate an individual would pay on the same income earned directly. The difference is either an absolute cost or saving associated with earning income through a corporation.

In all provinces, there is a cost, on a fully distributed basis, to earning investment income in an IHC rather than directly as an individual. However, there may be deferral opportunities in some provinces (and in all provinces on non-eligible dividends) if funds are retained in the IHC due to the personal tax rates in those provinces, as well as other non-tax benefits to having an IHC.

Specifically, an IHC may still be useful in the following circumstances:

- Probate fee planning
- Sheltering assets from US estate tax
- Facilitating an estate freeze
- Deferring tax by selecting a non-calendar taxation year
- Reducing personal net income to preserve certain tax credits and social benefits
- Converting what might otherwise be non-deductible interest into tax-deductible interest
- Holding shares in operating companies that pay dividends[28]

TAX TIPS

If you're thinking of winding up your IHC, consider the possible benefits of IHCs and be aware that there may be significant tax costs associated with the wind-up.

If you're thinking of setting up an IHC, remember that transferring a personal portfolio to a corporation may make it difficult to utilize personal capital losses. Also, consider the tax cost relative to any deferral benefit in your province and remember the additional administrative costs of setting up and maintaining a corporation.

Investing offshore

Canadian residents are taxed on their worldwide income. As a result, you can't avoid Canadian tax by investing funds, directly or indirectly, outside Canada.

There are a variety of complex tax rules and reporting requirements aimed at offshore investments. These include:

- Rules that result in an annual income inclusion for Canadian tax purposes from a foreign investment entity, even though there may be no income distribution
- Rules that deem a foreign trust to be resident in Canada and therefore taxable in Canada
- Annual foreign investment reporting for individuals who own foreign investment property with an aggregate cost in excess of CDN$100,000 at any time in the year or shares in a foreign affiliate

[28] Options to income split using this method are now very limited. See Chapter 9: Families.

Professionals and business owners

IF YOU'RE A PROFESSIONAL OR YOU OWN A BUSINESS, THERE ARE MANY VALUABLE TAX-PLANNING OPPORTUNITIES AVAILABLE TO YOU.

06

If you're a professional or you own a business, there are many valuable tax-planning opportunities available to you.

Business expenses

In general terms, all reasonable expenses you incur to earn business income are deductible in computing business income for tax purposes. However, there are some specific restrictions:

- For business meals and entertainment, you can generally only claim a maximum of 50% of the expenses as a business expense.
- If you use your car for your business, you can claim business-related operating costs, including fuel, maintenance, repairs, licence and insurance. In addition, you can claim depreciation or lease costs subject to prescribed maximum amounts. Keep in mind that the business portion of these expenses will generally be computed by reference to business kilometres over total kilometres driven in a year. Driving between your home and your business premises is not considered business travel. To support your claim for automobile expenses, keep a record of your total kilometres and business kilometres driven in the year.
- If you operate your business principally from your home office (and you don't have an office elsewhere, or you use your home office space exclusively to operate your business and to meet clients, customers or patients on a regular basis), you can claim a reasonable portion of mortgage interest or rent, property taxes and insurance, utilities, and repairs and maintenance. A "reasonable portion" is generally based on the amount of office space to total space in your house; special rules apply in Québec. You can even claim depreciation on your house in relation to your business space, but this is generally not advised as it may limit your principal-residence exemption claim when you sell the home. In any particular year, the deduction from home office expenses cannot exceed the income from the related business. However, the excess can be carried forward and added to home office expenses in the subsequent year.
- You can claim the cost of attending conventions relating to your business or profession. However, you're limited to two conventions per year, and they must be held at locations within the scope of your business or professional organization. There will also likely be limitations on the deductibility of meals and entertainment costs, as discussed above, at the conventions.
- You can claim depreciation on tangible and intangible capital assets that are available for use in your business or profession in the course of earning income by claiming capital cost allowance (CCA). However, the amount of CCA that may be claimed each taxation year is subject to maximum limits, based on the classification of the capital asset for CCA purposes, such that the cost of capital assets is deducted over a number of years. Generally, these classes are based on the declining-balance system, and maximum rates apply to each class.

Temporary accelerated CCA claims

Certain properties acquired after November 20, 2018 are eligible to be depreciated for tax purposes at an accelerated rate on a temporary basis as follows:

- Full expensing of manufacturing and processing (M&P) machinery and equipment and specified clean energy equipment that became available for use in a business prior to 2024. Accelerated CCA claims are applicable to M&P equipment and specified clean energy equipment that become available for use between 2024 and the end of 2027. The first-year deduction is 75% for eligible machinery or equipment that becomes available for use in 2024 and 2025, and 55% for eligible machinery or equipment that becomes available for use in 2026 and 2027.
- An enhanced CCA deduction is also available under an accelerated investment incentive in the taxation year the property first becomes available for use in a business or profession of up to three times the normal first-year CCA deduction for most classes of capital assets that became available for use prior to 2024 (and a first-year CCA deduction of up to double the normal claim for capital assets that become available for use between 2024 and the end of 2027). This incentive is not available if CCA was claimed on the property by any non-arm's-length person or partnership in a taxation year ending prior to the taxpayer's acquisition of the property.
- Full expensing of eligible "zero-emission" vehicles for eligible vehicles that were purchased and became available for use in a business or profession on or after March 19, 2019 and before 2024, subject to a $61,000 cap (plus sales taxes)[1] per vehicle. Accelerated CCA deductions will be available for vehicles that become available for use between 2024 and the end of 2027. The first-year deduction is 75% for eligible vehicles that become available for use in 2024 and 2025, and 55% for eligible vehicles that become available for use in 2026 and 2027. Eligible vehicles include electric battery, plug-in hybrid (with a battery capacity of at least 7 kWh) or hydrogen fuel cell vehicles, including light-, medium- and heavy-duty vehicles purchased by a business.
- Legislative amendments removed a requirement that an eligible zero-emission vehicle be newly acquired, unless the vehicle was acquired from a non-arm's-length party or acquired on a tax-deferred rollover basis, and also expanded the rules to include other types of equipment or vehicles that are automotive (i.e., self-propelled) and fully electric or powered by hydrogen. Equipment or vehicles that are powered partially by any means other than electricity or hydrogen for propulsion – such as gasoline, diesel, human or animal power – are not eligible. Under these amendments, eligible equipment or vehicles must be acquired on or after March 2, 2020 and become available for use before 2028.

For full details of these measures, see **EY Tax Alert 2021 Issue No. 24**, **EY Tax Alert 2019 Issue No. 27** and **EY Tax Alert 2018 Issue No. 40**.

2024 BUDGET

The 2024 federal budget and corresponding draft legislation proposed to increase the maximum CCA rate from 4% to 10% for eligible new purpose-built rental projects for which construction begins on or after April 16, 2024 and before 2031, and that are available for use before 2036. Eligible property for these purposes includes new purpose-built rental housing that is a residential complex with at least four private apartment units, or 10 private rooms or suites, and in which at least 90% of residential units are held for long-term rental (not less than 28 consecutive days).[2]

The budget and draft legislation also proposed to provide for full expensing for the following classes of capital assets that are acquired on or after April 16, 2024 and that become available for use before January 1,2027:

- Class 44: patents or the rights to use patented information for a limited or unlimited period
- Class 46: data network infrastructure equipment and related systems software
- Class 50: general-purpose electronic data-processing equipment and systems software

Full expensing will only be available for the year in which the property becomes available for use. Property that becomes available for use after 2026 and before 2028 will continue to benefit from the existing accelerated investment incentive.

See **EY Tax Alert 2024 Issue No. 42**.

[1] This cap was increased from $59,000 for vehicles acquired on or after January 1, 2023.
[2] The proposed measures also apply to a property previously used as a commercial property that was substantially renovated for use as a purpose-built residential rental if the renovations begin on or after April 16, 2024 and before 2031.

TEMPORARY IMMEDIATE EXPENSING INCENTIVE

The 2021 federal budget expanded the accelerated CCA measures noted above by temporarily allowing for the immediate expensing of up to $1.5 million per taxation year of certain classes of capital property acquired by a Canadian-controlled private corporation (CCPC) for property acquired on or after April 19, 2021 that becomes available for use in a business or profession before 2024.

Further amendments introduced in 2022 expanded the incentive to include the immediate expensing of eligible property acquired by a Canadian-resident individual (other than a trust) or a Canadian partnership, where all the members are CCPCs, Canadian-resident individuals (other than trusts) or a combination thereof for property acquired after December 31, 2021 that becomes available for use in a business or profession before 2025 (or before 2024 for partnerships where not all the members are individuals). These amendments were enacted in June 2022.

Assets eligible for immediate expensing include all capital assets subject to the CCA rules, with the exception of property included in Classes 1 to 6 (e.g., buildings), 14.1 (e.g., intangible assets such as goodwill), 17 (e.g., electrical generating equipment), 47 (e.g., transmission or distribution of electrical energy equipment), 49 (e.g., oil and gas pipelines) and 51 (e.g., pipelines).

No carryforward is available if the full $1.5 million amount is not used in a particular taxation year.[3] In addition, special rules prevent the immediate expensing of certain property transferred from a non-arm's-length person if the expenditures related to the transferred property were made prior to April 19, 2021 if the taxpayer is a CCPC, or prior to 2022 in respect of a Canadian-resident individual or partnership.

Taxpayers may choose particular eligible assets for immediate expensing under these new measures by designating them for immediate expensing. Otherwise, regular CCA rates and other enhanced CCA rates (see above) will continue to apply, provided the total CCA deduction does not exceed the capital cost of the property.

For further details, see **EY Tax Alert 2022 Issue No. 30**, *Temporary expansion of immediate expensing incentive*.

PRIVATE HEALTH-CARE PREMIUMS

Unincorporated business owners, including all self-employed individuals, may generally deduct premiums paid for private health and dental plans, subject to certain conditions and limits.

To be eligible for the claim, the private health-care costs must be paid to third parties who provide such plans and, to the extent that you claim these costs as a business expense, you cannot include them with your medical expense tax credit claim. However, costs in excess of deductible amounts are eligible for the medical expense tax credit.

This deduction is not available for Québec tax purposes.

[3] The $1.5 million immediate expensing limit per taxation year must be shared among members of an associated group of eligible persons or partnerships.

CANADA TRAINING CREDIT

The Canada training credit is a refundable tax credit that assists eligible individuals who have either employment or business income to cover the cost of up to one-half of eligible tuition and fees associated with training.

Eligible individuals may accumulate $250 each year in a notional account that can be used to cover the training costs. To accumulate the $250 each year, a Canadian resident individual (who is at least 26 and less than 66 years of age at the end of the year) must file a tax return, have employment or business income in the preceding taxation year greater than or equal to $10,000[4] ($11,511 in 2023 to calculate the 2024 balance in the notional account) and have net income in the preceding taxation year that does not exceed the top of the third tax bracket ($165,430 in 2023 to calculate the 2024 balance in the notional account). The maximum accumulation over a lifetime is $5,000, which will expire at the end of the year in which the individual turns 65.

The amount of the refundable credit that can be claimed in a taxation year is equal to the lesser of one-half of the eligible tuition and fees paid in respect of the year and the individual's notional account balance. For purposes of this credit, tuition and fees do not include tuition and fees levied by educational institutions outside of Canada. The refundable Canada training credit reduces the amount that qualifies as an eligible expense for the tuition tax credit. The annual accumulation in the notional account began in 2019, and the first credit was eligible to be claimed for the 2020 taxation year.

CHANGE-IN-USE RULES FOR MULTI-UNIT RESIDENTIAL PROPERTIES

When a taxpayer converts a property from an income-producing purpose (e.g., a rental property) to a personal use purpose (e.g., a residential property) or vice versa, there is a deemed disposition and re-acquisition of the property for tax purposes at fair market value. This means that to the extent there are accrued capital gains on the property, these gains would be realized and subject to tax upon the deemed disposition. When the use of a property is changed, there is an election available to not apply this deemed disposition. The election can provide a deferral of the realization of any accrued capital gain on the property until it is realized on a future disposition. The deemed disposition rule applies to changes in use of an entire property or just part of a property.

For example, if you own a multi-unit residential property (e.g., a triplex) and rent the units out, but you decide to move into one of the units, the change-in-use rules would apply since there is a partial change in the use of the property. However, you may elect to not apply the corresponding deemed disposition.

2024 BUDGET – NON-COMPLIANT SHORT-TERM RENTALS

The 2023 federal fall economic statement and the 2024 federal budget announced proposed rules, enacted in June 2024, to prevent short-term rental operators from claiming an income tax deduction for expenses incurred to earn short-term rental income in any province or municipality that has prohibited short-term rentals. For these purposes, a short-term rental is defined as a residential property that is offered for rent for a period of less than 90 consecutive days.

The rule applies to interest expenses, as well as to other types of rental expenses. An operator who fails to comply with provincial or municipal licensing, permitting or registration requirements is also unable to claim income tax deductions for a short-term rental. These new restrictions apply to all rental expenses incurred after 2023.

For 2024, a short-term rental is deemed to be compliant for these purposes if all registration, licensing and permit requirements are met on December 31, 2024.

For further details, see **TaxMatters@EY, June 2024**, "New measures to address housing supply shortage and affordability."

[4] Also includes maternity and parental employment insurance benefits, benefits paid under Québec's *Act respecting parental insurance*, certain research grants and scholarships, fellowships or bursaries not exempt from taxation and certain amounts normally exempt from income tax.

2024 BUDGET – INCREASE IN THE CAPITAL GAINS INCLUSION RATE

The 2024 federal budget and corresponding draft legislation proposed to increase the capital gains inclusion rate – the proportion of realized capital gains that's subject to taxation – from one-half (i.e., 50% inclusion rate) to two-thirds for capital gains realized by corporations and most trusts, and from one-half to two-thirds on the portion of capital gains realized in the year by individuals and some trusts that exceed $250,000 for capital gains realized on or after June 25, 2024.

For example, you sell capital assets that were previously used in your unincorporated business because they are no longer needed. The sale occurs on or after June 25, 2024 and you realize a capital gain of $1,000,000 on the sale. Under the proposed rules, $125,000 of the first $250,000 of that gain (one-half) will be taxable and $500,000 (two-thirds) of the remaining $750,000 will be taxable for a total taxable capital gain of $625,000.[5] Previously, only $500,000 of the total realized capital gain would have been taxable.[6]

If those same assets were owned and then sold by a corporation carrying on the business, then two-thirds of the gain, or $666,667, would be subject to taxation since the two-thirds capital gains inclusion rate would apply to the entire $1,000,000 capital gain.

Several technical and consequential rules have also been proposed, as well as transitional rules in respect of the 2024 taxation year.

For more information on these proposals, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**; **EY Tax Alert 2024 Issue No. 28**, *Proposed change in capital gains inclusion rate* and **EY Tax Alert 2024 Issue No. 33**, *Government releases legislative details on the proposed changes to the capital gains rules*.

[5] The example assumes that the gain is not eligible for the lifetime capital gains exemption (LCGE) and there are no other capital gains realized in the year. For more information about the LCGE, see **Chapter 1: Considering selling your business?**

[6] The one-half, or 50%, capital gains inclusion rate had applied since October 18, 2000.

Partnerships

When two or more individuals combine their assets or business operations, or embark on a joint business without incorporating, they generally form a partnership. Although a partnership is not a taxable entity, income or loss is computed at the partnership level and flows through to the individual partners in the proportion agreed upon in their partnership agreement. Income from a partnership retains its character when allocated to and reported by a partner.

When a partnership has at least one individual partner, its year end must be December 31, except when the alternative method election is available (discussed below).

TAX PLANNING FOR PARTNERSHIPS

Prior to March 22, 2011, if all the partners were corporations, any year end could be selected, and many corporate partners were able to obtain a tax deferral on partnership income by selecting a partnership year end after a corporate partner's year end. For tax purposes, the corporation would report partnership income for the fiscal period that ends in the corporation's taxation year.

The 2011 federal budget eliminated this partnership income deferral for corporate partners, together with affiliated and related parties, that are entitled to more than 10% of either the partnership's income or net assets.

The 2016 federal budget introduced rules to limit access to the small-business deduction under certain corporate and partnership structures that multiply the number of small-business deduction limits within a group. These rules are effective for taxation years beginning on or after March 22, 2016.[7]

REPORTING BUSINESS INCOME

Sole proprietorships and partnerships are generally required to use a December 31 year end for income tax reporting purposes. However, because there are valid non-tax reasons for having off-calendar year ends, sole proprietorships (and partnerships of which all members are individuals) may elect to have non-calendar year ends for tax purposes and compute their business income for the year using a specified formula (the alternative method). Tiered partnerships and businesses investing primarily in tax shelters are not eligible for this election.

TAX TIP

For individuals reporting business income, except when the only business income is from a tax shelter, income tax returns are due by June 15,[8] not April 30. However, any tax liability must still be paid by April 30.

MANDATORY DISCLOSURE RULES

Recent legislative amendments provide for the enhancement of mandatory disclosure requirements in respect of relevant information on aggressive tax planning strategies and transactions that are undertaken by taxpayers, including individuals. These include both reportable transactions (a defined term) and notifiable transactions, which are types of transactions that the Canada Revenue Agency (CRA) designates as abusive, as well as transactions of interest. Reportable and notifiable transactions must be reported on prescribed information returns in respect of transactions entered into after June 22, 2023. Penalties will be assessed for non-compliance.

For further details on these rules, see **EY Tax Alert 2023 Issue No. 29**, *New mandatory disclosure rules are now in effect*; **EY Tax Alert 2023 Issue No. 27**, *2023 budget implementation bill no. 1 is enacted*; **EY Tax Alert 2022 Issue No. 37**, *Finance releases draft legislation for remaining 2022 budget measures* and the **CRA webpage**, *Mandatory disclosure rules – Overview*.

[7] The 2018 federal budget included measures impacting the at-risk rules of limited partnerships vis-à-vis tiered partnership structures, to ensure that the at-risk rules apply at each level of a tiered partnership structure. For details, refer to EY's federal budget **Tax Alert 2018 Issue No. 7.**

[8] Since June 15, 2025 occurs on a Sunday, the filing deadline for the 2024 taxation year is extended to Monday, June 16, 2025.

Canada Emergency Business Account

The Canada Emergency Business Account (CEBA) provided interest-free loans of up to $60,000 to eligible small businesses and not-for-profit organizations to provide access to capital needed to cover non-deferrable operating costs during the COVID-19 pandemic.

The program initially provided a maximum of $40,000 in interest-free loans, but effective December 4, 2020, it was enhanced to provide up to an additional $20,000 in loans to approved CEBA applicants that were still impacted by the pandemic. One-third of these loans, or up to $20,000 (25% of original financing and 50% of additional financing under the expanded program), was forgivable if the balance was repaid by January 18, 2024.[9] In addition, the government noted that any outstanding loans would then be converted to three-year term loans with interest calculated at 5% per year, beginning January 19, 2024, with the loans fully due by December 31, 2026.

The forgivable portion of the loans received under the CEBA program was taxable in the year in which the loans were received. If the repayment conditions are not met, the amount already included in income as a forgiven amount may be deducted for tax purposes in the taxation year when it is repaid.

For additional information on this program, go to **https://ceba-cuec.ca/**.

Incorporating your business

As a business owner, you're likely to face the decision of whether to incorporate once your business becomes successful. You'll need to base your decision on a number of factors, both commercial and tax related.

Incorporation can bring a number of commercial benefits, such as:

- The potential for liability is limited to assets owned by the corporation. However, corporate business owners often have to provide personal guarantees for business loans, thereby extending the risk beyond business assets.
- Because an incorporated business is a separate legal entity distinct from its owner, it can continue after the owner's death, facilitating business succession.

Offsetting the commercial benefits are the commercial costs, including the legal and accounting fees associated with setting up the corporation, and the ongoing maintenance and compliance fees, such as the costs of preparing minutes, financial statements and tax returns.[10]

The primary tax advantage of incorporation, compared to earning business income personally and paying tax at the top personal marginal tax rate, is income tax deferral. This deferral results because CCPCs pay a reduced tax rate, in general, on the first $500,000[11] of active business earnings. The 2024 rate ranges from 9% to 12.2%, depending on the province or territory of operation. This amounts to a potential annual tax deferral of approximately $185,000 to $225,000 on the amount eligible for the reduced small-business rate, depending on the province or territory of operation and residence of the owner. The deferral benefit will normally be eliminated when the corporate earnings are paid to the owner by way of dividends.[12] However, the longer those earnings remain in the corporation, the greater the benefit associated with the tax deferral. The tax deferral advantage of incorporation may be reduced as a result of amendments from 2018 that limit tax planning arrangements using private corporations and reduce the small-business entitlement for CCPCs earning passive income in excess of $50,000 a year. See **Amendments limit income splitting after 2017** and **Amendments impact private companies earning passive investment income** below.

[9] The deadline was March 28, 2024 if a refinancing application was submitted on or prior to January 18, 2024 at the financial institution that provided the loan.
[10] The 2016 federal budget introduced rules permitting a full write-off in the year for the first $3,000 of incorporation expenses (par. 20(1)(b)) not otherwise deductible for tax purposes.
[11] Federally and all provinces and territories, except for $600,000 in Saskatchewan.
[12] In fact, there is a small overall tax cost in most provinces when corporate earnings are paid to the owner by way of dividends. In other words, the total combined corporate and personal income tax liability is slightly higher, compared to the overall tax liability that would result if the income was earned directly by an individual in respect of an unincorporated business.

Measures were also introduced in 2016 to prevent certain structures that multiply the number of small-business deductions within a group. Careful consideration should be given to these rules when planning to maximize the advantage of reduced small-business rates. These rules are complex: consult your EY Tax advisor.

In 2024, the federal small-business rate is 9%.[13]

Federally, this corporate rate reduction is eroded for larger corporations with taxable capital – and that of their associated companies in total – in excess of $10 million and is eliminated when taxable capital – and that of their associated companies in total – is $50 million or more.[14] All provinces and territories have a similar "clawback" provision. The 2018 federal budget and corresponding legislation introduced an additional clawback provision to the extent a CCPC's passive investment income (and that of its associated companies in total) is in excess of $50,000 a year, effective for taxation years beginning after 2018. See **Amendments impact private companies earning passive investment income** below for details.

TAX TIPS

- If you're operating a successful unincorporated business, consider whether incorporation would provide additional commercial and tax benefits.
- If your corporation is providing services that would normally be provided by an employee, consider the personal services business rules. In addition to the existing punitive rules restricting deductions and denying eligibility for the small-business deduction or general corporate rate reduction, the federal corporate tax rate applicable to personal services business income is very high, at 33%.

ADDITIONAL ADVANTAGES

Other tax advantages to incorporating a proprietorship include:

- Availability of the lifetime capital gains exemption on the sale of qualified small business corporation shares and, as of 2025, the proposed Canadian entrepreneurs' incentive with respect to the disposition of qualifying shares by an eligible individual. For further details, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**.
- Flexibility in the character and timing of remuneration.
- Possibility of income splitting by having certain family members subscribe for shares of the corporation and receive dividends. Prior to 2018, income splitting of this kind was effective with respect to adult family members receiving income or capital gains from a private corporation, since only minor children receiving such income would be subject to the top marginal personal tax rate, the tax on split income (TOSI), on the amounts received. However, the revised TOSI rules, effective after 2017, extended the application of the TOSI to certain adult family members, thereby further restricting income-splitting opportunities. See **Amendments limit income splitting after 2017** below.
- Managing the potential tax cost associated with the deemed disposition of assets on the owner's death by effecting an estate freeze. (Note that planning associated with estate freezes was also affected by the revised TOSI rules; see below.) For more on estate planning, refer to **Chapter 12: Estate planning**.
- Reducing the potential probate fees payable on the owner's estate at death.

DISADVANTAGES

There are some drawbacks to operating a business in a corporation, including:

- Trapped losses. If the business is operating at a loss, the owners cannot apply the loss against their other sources of income. Such losses can only be carried back three years or forward 20 years to be applied against other income of the corporation for those years. This is why start-up operations often start out as unincorporated businesses and are incorporated once they begin generating profits.
- The possibility of double taxation on the sale of the business or other disposition of assets. When assets are disposed of by a corporation, any gains realized on the disposition are subject to tax in the corporation. A second level of taxation occurs when the after-tax proceeds of the disposition are distributed to the shareholders in the form of dividends. However, you can achieve a more tax-efficient outcome with proper planning. See **Chapter 1: Considering selling your business?** for further information.

[13] However, eligible income of manufacturers of qualifying zero-emission technology is temporarily subject to either a federal small-business rate of 4.5% or a general corporate rate of 7.5%, effective for taxation years beginning after 2021. See **EY Tax Alert 2022 Issue No. 34**, **EY Tax Alert 2023 Issue No. 20** and **EY Tax Alert 2024 Issue No. 31** for details.

[14] The 2022 federal budget and corresponding legislation increased this phase-out threshold from $15 million to $50 million, effective for taxation years that began on or after April 7, 2022.

AMENDMENTS LIMIT INCOME SPLITTING AFTER 2017

Amendments enacted in June 2018 limit income-splitting arrangements that use private corporations to benefit from the lower personal tax rates of certain family members age 18 or over who are direct or indirect shareholders of the corporation, or are related family members of direct or indirect shareholders.

Effective for 2018 and later years, these rules limit the ability to share income within a family by expanding the base of individuals subject to the TOSI to include children age 18 and over and other related adult individuals (including spouses or common-law partners, siblings, grandparents and grandchildren, but not aunts, uncles, nephews, nieces or cousins) who receive split income[15] from a related (family) business either directly from a private corporation (such as by the receipt of dividends) or through a trust or partnership. The TOSI is equal to the highest federal personal marginal rate of tax (33% in 2024). The types of income that are subject to the TOSI have also been expanded to include interest income earned on a debt obligation of a private corporation, partnership or trust (subject to some exceptions), and gains from the disposition of property if income from the property would otherwise be split income.

Under these rules, income received or gains realized from a related business by certain adult family members are excluded from the TOSI if any one of a number of exceptions is met. Adults who are 25 or older who receive split income are subject to a reasonableness test if they do not meet any of the exceptions. The test is based on the extent of their contribution of labour and capital to the business, risks taken and other payments already received from the business. The TOSI will then apply to split income received to the extent it is unreasonable under this test.

For a detailed listing of the exceptions to the TOSI and further details about these rules, see **Chapter 9: Families**; **TaxMatters@EY, November 2020**, "Tax on split income: the excluded business exception;" **TaxMatters@EY, February 2020**, "Tax on split income: CRA provides clarifications on the excluded shares exception;" **TaxMatters@EY, February 2018**, "Revised draft legislation narrows application of income sprinkling proposals" and **EY Tax Alert 2017 Issue No. 52**.

Private corporations, their shareholders and family members should consider reviewing dividend and other payments to family members in the context of these rules, and should consider the impact of these rules on existing arrangements or future planning.

For more information, contact your EY Tax advisor.

[15] Effectively, split income arises when a stream of income is connected, either directly or indirectly, to a related business.

AMENDMENTS IMPACT PRIVATE COMPANIES EARNING PASSIVE INVESTMENT INCOME

Amendments enacted in June 2018 limit the tax advantage of investing undistributed earnings from an active business using a private corporation. The perceived advantage results from the fact that corporate income tax rates on active business income are generally lower than personal income tax rates, thereby allowing a greater amount of undistributed earnings to be invested in a passive portfolio. These rules limit the tax advantage for CCPCs with passive investment income in excess of $50,000 a year. Other rules addressing this tax advantage limit a private corporation's ability to pay eligible dividends in order to obtain a dividend refund from its refundable dividend tax on hand account. Both measures are effective for taxation years beginning after 2018.

The amendments that target passive investment income exceeding $50,000 per year introduce a second clawback provision that reduces a CCPC's access to the small-business deduction (over and above the clawback for taxable capital in excess of $10 million (see above)). The $500,000 small-business limit (eligible for the small-business deduction) is reduced by $5 for every dollar that a CCPC's passive investment income for the year (and that of its associated companies in total) exceeds $50,000 in the preceding year. This means that the small-business deduction is unavailable to the CCPC in a taxation year if income from passive investments of the CCPC together with an associated group of corporations exceeds $150,000 for the preceding year. The amount of the applicable small-business limit clawback for a CCPC for any given year is equal to the greater of the taxable capital and passive investment income clawbacks. As of June 2024, Ontario and New Brunswick are the only provinces that had enacted legislation confirming that they would not parallel these new rules with respect to passive investment income.

Recent amendments introduced the concept of a "substantive CCPC." The intention of these measures is to restrict a CCPC from artificially losing its CCPC status prior to realizing a substantial amount of passive income that would otherwise be subject to an additional tax of 10.67%, which would be refundable only upon the payment of taxable dividends, subject to certain restrictions. Under these amendments, a substantive CCPC is generally taxed in the same manner as a CCPC with respect to investment income, effective for taxation years ended on or after April 7, 2022.

For further information about these measures impacting the small-business deduction, see **TaxMatters@EY, May 2018**, "Federal budget simplifies passive investment income proposals."

For further information about the substantive CCPC measures, see **EY Tax Alert 2024 Issue No. 31** and **TaxMatters@EY, November 2022**, "Introduction of the 'substantive CCPC' concept."

For further information about the measures impacting a private corporation's refundable dividend tax on hand account, see **TaxMatters@EY, June 2018**, "Federal budget proposes revised refundable tax regime for passive investment income."

FACTUAL CONTROL OF A CORPORATION

The *Income Tax Act* contains two different definitions of control that apply for various purposes. Some provisions rely on de jure control while others rely on de facto control. De facto control generally applies for purposes of determining whether companies are associated and must share the benefit of the small-business deduction (which provides for the reduced small-business rate) on the first $500,000 of annual active business income and for the enhanced scientific research and experimental development tax credits available for CCPCs.

Legislation, effective for taxation years that begin on or after March 22, 2017, clarifies that in determining whether factual control exists, factors may be considered that are not limited to the constraints established by a 2017 Federal Court of Appeal case, but include all factors that are relevant in the circumstances. For further details on both of these items, see **EY Tax Alert 2017 Issue No. 9**, *Building a Strong Middle Class: federal budget 2017-18*.

Remuneration planning for the corporate owner

Corporate business owners have great flexibility in making decisions about their remuneration from the company. It's important that decisions about remuneration be made before year end, as well as considered during the business's financial statement and tax return finalization processes.

Changing federal and provincial personal and corporate tax rates have made remuneration planning more important than ever; the plan should be re-evaluated each year based on the specific needs of the business owner and be part of a holistic financial plan.

TAX TIPS

In determining the optimal salary-dividend mix, consider the following:

- Before the amendments enacted in June 2018 (see above), in general, if the owner-manager did not need the money, it could be left in the corporation to grow subject to tax at corporate tax rates, which for active income are less than personal tax rates. However, under the passive investment income rules (see above), this strategy is no longer as effective with respect to passive income that exceeds $50,000 per year since exceeding that threshold may reduce access to the small-business deduction, effective for taxation years beginning after 2018. Consult with your EY Tax advisor.
- Even if the owner-manager does not need the money, it may make sense to pay sufficient salary or bonus to create enough earned income to maximize their registered retirement savings plan (RRSP) deduction next year.
- Bonuses can be accrued and be deductible by the company in 2024, but don't have to be included in the business owner's personal income until paid in 2025 (provided they are paid within 180 days after the corporation's year end).
- Pay sufficient salary or bonus to eliminate or reduce a personal minimum tax liability.[16]
- Payment of salary or bonus may increase provincial payroll tax.
- If you anticipate that the cumulative net investment loss (CNIL) rules will affect your ability to claim your remaining capital gains exemption, pay yourself dividends rather than salary.
- Paying dividends may occasionally be a tax-efficient way of getting funds out of the company. Capital dividends are completely tax free when received by Canadian-resident individual shareholders, eligible dividends are subject to a preferential tax rate and taxable dividends generate a dividend refund in a corporation with a refundable dividend tax account. A review of the company's tax attributes and relevant personal tax rates in the shareholder's province of residence will identify whether tax-efficient dividends can be paid.
- Dividends do not represent earned income for the purpose of creating RRSP contribution room. Earned income is also required for other personal tax deductions such as child care and moving expenses.
- Return paid-up capital, or pay down shareholder advances, as an alternative to paying taxable dividends or salary.

Consider employing your spouse or partner and/or your children to take advantage of income-splitting opportunities. Their salaries must be reasonable for the work they perform. Salaries are not subject to the TOSI rules (see above).

[16] For more information about the alternative minimum tax (AMT), including recent legislative amendments to broaden the base for the AMT regime effective for 2024 and later taxation years, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issue No. 25**.

Corporate loans

If you borrow funds from your corporation, either interest free or at a low rate of interest, you may have a taxable benefit for imputed interest on the loan, reduced by any interest payments you make by January 30 of the following year. The amount of imputed interest is computed at prescribed rates on the outstanding loan for the period. In 2024, the prescribed rate was 6% in Q1 and Q2, and 5% in Q3 and Q4. To avoid an income inclusion for the entire amount of the loan, you should repay the loan by the end of the corporation's taxation year following the year the loan was made. If the entire amount of the loan is included in income, the imputed interest benefit does not apply. If a shareholder repays a loan that was previously included in income under these rules, the shareholder is entitled to a deduction in the year of repayment to the extent of the amount repaid, provided the repayment is not made as part of a series of loans or other transactions and repayments.

Housing loans, car loans and funds borrowed to acquire newly issued shares of the company may not be subject to this income inclusion rule if received by virtue of employment.

TAX TIP

If you take out a loan for the purpose of earning business or property income, the interest paid and the imputed interest benefit for low- or no-interest loans are deductible for tax purposes.

Asset ownership

As the shareholder/manager of a business, you may have the option of holding various assets and liabilities personally or in your corporation. But if you hold investment assets in your corporation and then distribute taxable capital gains realized on the disposition of such assets to you, there would be an increase in the overall tax cost to you, to the extent the proposed capital gains inclusion rate changes are applicable (e.g., for dispositions on or after June 25, 2024).[17]

For further details, see **2024 Budget – Increase in the capital gains inclusion rate** above and the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**.

TAX TIP

Consider holding investment assets personally so that the corporation maintains its small business corporation status. This will help ensure the shares are eligible for your remaining capital gains exemption by potentially reducing your personal CNIL account.

Shareholders' agreements

If your corporation has more than one shareholder, even if they're all family members, you should have a shareholders' agreement to protect your rights as a shareholder, minimize shareholder disputes and ensure a smooth transition on the death or withdrawal of any shareholder.

Review the agreement periodically in light of changes in the shareholders' personal circumstances, changes in tax law and other legislative developments.

TAX TIPS

The shareholders' agreement should deal with many things, including the following:

- The mechanism for buyout of a shareholder's interest on death, disability, bankruptcy or retirement, and how the buyout will be funded
- Payment of dividends (taxable and capital)
- Settlement of disputes between shareholders
- Settlement of management issues
- Valuation of the corporation's shares

[17] If there is an overall tax cost, the total combined corporate and personal income tax liability is higher, compared to the overall tax liability that would result if the taxable capital gains were realized directly by you. This tax cost would be significantly higher to the extent the total net capital gains realized and distributed to you were not greater than $250,000 in the year because if these gains were realized directly by you, you would have benefited from the lower capital gains inclusion rate applicable to individuals on net capital gains not exceeding that threshold (50% inclusion rate vs. 66.66%) under the proposed rules.

Employees

FROM BENEFITS AND COMPANY CARS TO STOCK OPTIONS AND SALES TAX REBATES, EMPLOYEES OF CANADIAN COMPANIES CAN TAKE ADVANTAGE OF SOME HELPFUL TAX-SAVING OPPORTUNITIES.

07

From benefits and company cars to stock options and sales tax rebates, employees of Canadian companies can take advantage of some helpful tax-saving opportunities.

Benefits

In addition to your salary, wages and bonuses, you're taxed on the value of the benefits you receive by virtue of your employment. However, certain benefits are tax free.

COMMON TAXABLE AND TAX-FREE BENEFITS

TAX-FREE BENEFITS

- Contributions to a registered pension plan or deferred profit-sharing plan
- Private health-care premiums (except in Québec)
- Supplementary unemployment benefit plan premiums
- Employee discounts offered to all employees on merchandise sold by your employer
- Subsidized meals, when a reasonable charge is paid
- Uniforms or special clothing
- Club memberships (athletic or social), when the benefit is primarily for your employer
- Tuition, if the course is required by your employer and is primarily for their benefit
- A reasonable per-kilometre car allowance
- Board, lodging and transportation to special work sites or remote work locations
- Transportation passes for rail, bus or airline employees, in certain situations
- Counselling services relating to re-employment, retirement or mental or physical health
- Use of the employer's recreational facilities (if available to all employees)
- Reimbursement for various job-related expenses (e.g., travel, entertainment, moving)
- Death benefit up to $10,000
- Non-cash gifts received by arm's-length employees with an aggregate annual value of under $500[1]
- Employer-provided social events provided to all employees (up to six per year) at a cost not exceeding $150 per person[2]
- Personal use of frequent-flyer points when earned on your business travel, in most circumstances
- Business use of employer-provided cell phone or internet service

TAXABLE BENEFITS

- Board, lodging, rent-free or low-rent housing (some exceptions for special work sites and remote work locations)
- Most gifts (other than non-cash gifts as noted), prizes and incentive awards
- Group sickness or accident insurance premiums
- Life insurance premiums
- Stock option benefits
- Adoption assistance
- Family travel costs, unless family members are required to accompany you and they're involved in business activities on your trip
- Interest-free and low-interest loans

[1] Effective January 1, 2022, gift cards and certificates are treated as non-cash gifts if certain conditions are met. Effective January 1, 2023, gift cards provided to arm's-length employees as a long-service award (five or more years of service with the employer) do not result in a taxable benefit, provided the required conditions for treating the gift card as a non-cash gift are met.

[2] Effective January 1, 2022, includes employer-provided virtual social events, if certain conditions are met.

- Employer-paid tuition for personal-interest courses or those primarily for your benefit
- Employer-provided car (monthly standby charge and operating benefit)
- Car allowance, when not computed with reference to distance travelled
- Parking privileges in certain circumstances[3]
- Income tax return preparation fees and financial counselling fees
- Employer-paid financing for housing costs as a result of relocation, reimbursement for loss on sale of former home (only half of amount paid in excess of $15,000 is taxable when the move is an eligible relocation)
- Employer-provided tickets to a game or event for personal use
- Use of company aircraft[4]

We describe some of the most common benefits in more detail on the following pages.

CAR ALLOWANCE

If you're required to use your own car for business, the reasonable per-kilometre allowance you're paid is not taxable. But you must record the distance you travel. Otherwise, the allowance is not considered reasonable and must be included in your income.

If your employer doesn't provide a tax-free per-kilometre allowance, or if you include your allowance in income because it's not reasonable, you may be able to deduct certain car expenses when calculating your income.

REPAYMENT OF COVID-19 BENEFIT AMOUNTS

If you received COVID-19-related government benefits in 2020, 2021 or 2022, you were taxed on those benefits in the year of receipt. But if you're required to repay any benefits – that is, it's determined later that you were not eligible for them – you can only claim a deduction in the year of repayment. For certain repayments made prior to 2023, it was possible to claim a deduction in the year the benefit was received, or even to split the deduction between the year of repayment and the year of receipt.

COMPANY CAR

If your employer gives you, or someone you do not deal with at arm's length, access to a company car for personal use, you'll have to pay tax on the benefit. This is referred to as a standby charge and is generally equal to 2% of the original cost of the car per month or, in the case of a leased vehicle, two-thirds of the lease cost, excluding insurance.

You may be able to reduce this standby charge if you use the car primarily (i.e., more than 50%) for business and if your annual personal driving does not exceed 20,004 km. In addition, any payment you make during the year to your employer in respect of the car, other than an operating expense reimbursement, reduces the taxable benefit.

If your employer pays any operating costs related to personal use of the company car, a taxable benefit results.

However, if you use your company car at least 50% of the time for business, you can have the operating benefit calculated as one-half of the standby charge less any personal operating costs repaid to your employer within 45 days after the year end. For this option, you must notify your employer in writing.

TAX TIPS

- Maintain car records of personal and business kilometres to substantiate a claim for a reduced standby charge.
- It may be advantageous to calculate the operating benefit as 50% of the standby charge if the car is used at least 50% for business, particularly if the reduced standby charge applies. If so:
  - Notify your employer in writing by December 31.
  - Record personal and business kilometres.
- If you use your employer-provided car less than 50% for business, consider paying for the personal portion of your operating costs.

[3] If an employer provides or reimburses parking, including parking that is provided at a cost that is lower than fair market value, a taxable benefit generally results. However, there are exceptions in certain circumstances where the employer provides fewer parking spaces than are needed by the employees who wish to park (e.g., an exception may apply if there are no greater than two parking spaces provided for every three employees who want parking, if certain other conditions are also met).

[4] The Canada Revenue Agency (CRA) has issued guidelines to its field auditors on how to calculate an employee's taxable benefit for the personal use of business aircraft owned or leased by a corporation. Depending on the type and nature of the personal use, the benefit is now based on the highest-priced ticket for an equivalent flight or the price of chartering an equivalent aircraft, or it will include an operating cost and available-for-use benefit.

Harsh results may arise if you pay for your own gas and oil but your employer pays for incidental operating costs. For 2024, the full 33-cent per-kilometre operating benefit applies unless the alternate operating cost benefit (half of the standby charge) applies and results in a reduced income inclusion. If your employer pays your personal parking costs, a separate taxable benefit results. If you are employed principally in the business of selling or leasing automobiles, the operating cost benefit is 30 cents per kilometre for 2024.

If you work in Québec, you must give your employer a copy of your travel log book so that the taxable benefit is appropriately calculated. A penalty of $200 could be assessed if a log book is not provided within 10 days of the year end.

LOW-INTEREST OR INTEREST-FREE LOANS

Effective January 1, 2023, no taxable benefit is considered to arise on a low-interest or interest-free employee loan or debt if the total amount of employee loans for the calendar year is $10,000 or less, the term of the loan is 60 days or less, and the loan is not received because of shareholdings. However, if the loan is not repaid within 60 days, the interest benefit will be a taxable benefit.

Where a taxable benefit does result from a low-interest or interest-free loan from an employer, it's calculated using the interest rates prescribed quarterly by the CRA – in 2024, 6% for the first and second calendar quarters, and 5% for the third and fourth calendar quarters – but is reduced by interest you pay to your employer by January 30 of the following year.

HOME-PURCHASE LOAN

If you used the loan proceeds to buy or refinance a home, this may result in a reduced benefit. The benefit is calculated using the lesser of the current prescribed rate and the rate in effect at the time you received the loan. For this purpose, the loan is considered to be new every five years.

INCOME-PRODUCING PROPERTY LOAN

If you used the loan proceeds for an income-producing purpose, you may generally deduct the amount of the taxable benefit as interest expense. This deduction is included in your cumulative net investment loss and may restrict your ability to use your remaining capital gains exemption.

TAX TIP

Consider renegotiating your home-purchase loan when prescribed rates are low, in order to minimize your taxable benefit on the loan in subsequent years.

SECURITY OPTION BENEFITS

If you've acquired shares or units of a mutual fund trust under an employee stock or unit option plan, the excess of the value of the shares or units on the date you acquired them over the price you paid for them is included in your income from employment as a security option benefit.

When the corporation is not a Canadian-controlled private corporation (CCPC), the benefit is generally included in your income in the year you acquire the shares/units.

Currently, half of the security option benefit included in income generally qualifies as a deduction, provided the price you paid for the securities was not less than the value of the securities on the date you were granted the options and the securities meet the prescribed share tests. Under proposed amendments introduced to implement the increase in the capital gains inclusion rate that was announced in the 2024 federal budget, the security option deduction will be reduced from one-half to one-third of the security option benefit to reflect the new two-thirds capital gains inclusion rate. However, eligible individuals will be able to claim a deduction of one-half of the benefit up to a combined limit of $250,000 each year for both employee security options and capital gains.[5]

The $250,000 threshold will apply only in respect of net capital gains realized and security options exercised – or, in the case of CCPC stock options, shares disposed of or exchanged – on or after June 25, 2024. If an employee's total security option benefits and net capital gains exceed the threshold in a taxation year, the employee will be able to allocate the preferential tax treatment (i.e., the lower capital gains inclusion rate or higher security option deduction) between their capital gains and security option benefits.

See the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options** and **EY Tax Alert 2024 Issues No. 32** and **33** for further details about these proposals.

In addition to the proposed measures, recent amendments limit the availability of this deduction under certain circumstances, but these limitations do not apply to security options granted to employees of startup, emerging or scale-up companies or to security options on CCPC shares (see **Recent limitations to the security option deduction** below).

Any increase in the value of the securities after you acquire them is generally taxed as a capital gain in the year you sell them. Any decrease in value is a capital loss that, generally, you cannot use to reduce any tax you pay on your security option benefit.

If you've acquired CCPC shares under an employee stock option or stock purchase plan since May 22, 1985, the benefit (as calculated above) is always taxed in the year you dispose of the shares, rather than in the year you acquired them.

If you held the CCPC shares for at least two years, 50% of the benefit qualifies as a deduction, even if the price you paid for them was less than their value on the date you were granted the option. You have a capital gain to the extent the net proceeds exceed the value of the shares on the date they were acquired. This capital gain may be eligible for your remaining capital gains exemption.

For Québec income tax purposes only, the rate of the deduction is generally 25%[6] for options exercised after March 30, 2004. The difference in treatment of option benefits for CCPC and non-CCPC shares is based on the status of the corporation at the time the options are granted. Therefore, if you have an option to acquire, or have acquired, shares of a CCPC, and the company goes public or ceases to be a CCPC, the special tax treatment for CCPC options continues to apply to the options previously granted and shares previously acquired, and to shares or options of the public company you may receive in exchange.

[5] The 2024 federal budget proposed to increase the capital gains inclusion rate (the proportion of realized capital gains that is subject to taxation) from one-half (i.e., 50% inclusion rate) to two-thirds for capital gains realized by corporations and most trusts, and from one-half to two-thirds on the portion of capital gains realized in the year by individuals and some trusts that exceed $250,000, for capital gains realized on or after June 25, 2024. The $250,000 threshold applies to a combined total of capital gains and security option benefits realized by individuals in the year.

[6] A deduction of one-half may be available for options granted by a small or medium-sized business engaged in innovative activities, or for options on listed shares of a corporation with salaries and wages of $10 million or more that are subject to the health services fund contribution. Québec plans to reduce the one-half deduction to one-third, to harmonize with the federal changes to the capital gains inclusion rate.

RECENT LIMITATIONS TO THE SECURITY OPTION DEDUCTION

Recent amendments limit the availability of the security option deduction to an annual maximum of $200,000 of security option grants that vest (become exercisable) in a calendar year, based on the fair market value of the underlying securities on the date of grant. These amendments are intended to restrict the preferential treatment of security options for employees of large, long-established, mature companies while continuing to provide full tax benefits for persons employed by CCPCs and startup, scale-up or emerging Canadian businesses (these terms were not defined in the original proposals that were introduced in 2019).

The government opted for a revenue test as a proxy for startups and scale-up companies. As a result, the $200,000 annual limit does not apply to security options granted by CCPCs or non-CCPCs with annual gross revenue of $500 million or less.[7]

The amendments are effective for security options granted on or after July 1, 2021, other than qualifying options granted after June 2021 that replace options granted before July 2021.

The following example illustrates the impact of these measures:

- Your employer, a corporation whose shares are publicly traded, grants you 10,000 options to purchase shares of the company for $100 per share in August 2024, when the shares' fair market value is also $100 per share. Therefore, the value of the shares represented by the options at the time of grant is $1,000,000. In its financial statements, the company reported gross revenues exceeding $500 million for the fiscal year that ended immediately prior to the issue of the options; 5,000 of the options will vest in 2025 and the remainder will vest in 2026.

  If you exercise 5,000 options in July 2025 and the fair market value of the shares at that time is $120 per share, you will recognize a stock option benefit of $100,000 (5,000 x ($120 - $100)). The proportion of the options exercised in 2025 that will not qualify for the security option deduction under these amended rules is calculated as the fair market value of the underlying securities on the option grant date of $500,000 (5,000 x $100) minus the $200,000 limit, which equals $300,000. Therefore, 3,000 (5,000 x ($300,000/$500,000)) of the 5,000 securities vesting in 2025 will not qualify for the deduction. The fair market value of the shares on the grant date that are represented by the 2,000 options that qualify for the deduction equals the $200,000 annual limit (2,000 x $100 per share).

  Assuming the total of your stock option benefit plus your net capital gains for the year does not exceed the $250,000 threshold, you will be able to claim a security option deduction of $20,000 (50% x 2,000 x ($120 - $100)) for the 2025 taxation year. If the total of your stock option benefit plus your net capital gains for the year exceeds the $250,000 threshold, you will need to decide how to allocate the preferential tax treatment, as described above under **Security option benefits**.

As a result of these amendments, an employer may claim a corporate income tax deduction on the portion of the security option benefit that does not qualify for the employee security option deduction. An employer can also designate one or more securities under an employee option agreement as "non-qualifying securities" that are not eligible for the security option deduction, provided the employer notifies the employee in writing no later than 30 days after the options are granted. This designation may be made on a grant-by-grant basis. An employer may also claim a corporate income tax deduction on security option benefits that are realized with respect to such securities.

See **EY Tax Alert 2020 Issues No. 57** and **59** and **EY Tax Alert 2021 Issue No. 26** for further details.

In addition to the limitations noted above, recent legislative amendments require 100% of the benefit associated with employee security options to be included in the base for the calculation of the alternative minimum tax (AMT), effective for the 2024 and later taxation years. Therefore, the security option deduction is not considered in the calculation. For more information about the AMT and the amendments that revised the AMT regime, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issue No. 25**.

Employer remittance of employee taxes arising from stock option exercise – For non-CCPC shares acquired by an employee under an employee stock option agreement, an employer is required to remit tax in respect of the stock option benefit, net of the stock option deduction, at the time of exercise of the option. In addition, an employer will not be able to reduce withholding on the stock option benefit by claiming hardship in these particular circumstances.

For most employees exercising options, this will have the effect of making it a requirement for the employee to sell sufficient shares or units on the market at the time of exercise of the options to cover the tax on the employment benefit that arises upon exercise.

[7] In general, gross revenue for this purpose is the revenue reported in an employer's financial statements – or, in the case of a corporate group, the ultimate parent's consolidated financial statements – prepared in accordance with generally accepted accounting principles and presented to shareholders or unitholders for its last fiscal period ended prior to the date the security options are granted.

Cash settlement of stock options – A number of companies have put in place plans whereby employees have the choice to receive cash instead of shares at the time of exercising the stock option. The tax treatment of cash-settled options has changed over time. Prior to 2010, the employer corporation could claim a deduction for the cash paid, and the employees were entitled to the 50% stock option deduction (25% in Québec) where certain conditions were met.

For options granted on or before June 30, 2021 and for those granted on or after July 1, 2021 that are not subject to the limitations on the stock option deduction (e.g., options granted by CCPCs), either the employer or the employee may be able to claim the stock option deduction.[8] In order for an employee to claim the stock option deduction in a cash-out transaction, the employer must file an election with the CRA stating that the employer will not deduct any amount paid to the employee in respect of the employee's disposition of their rights under the stock option agreement. The employer must provide the employee with a statement that this election has been made, and the employee, in turn, must file the statement from the employer with the employee's tax return for the year in which the stock option benefit was received.

If this documentation is not provided, the employee cannot claim the stock option deduction, and the stock option benefit would be taxed in the same manner as any other employment income; that is, 100%, of the benefit would be included in taxable income, rather than the amount as reduced by the applicable stock option deduction.

If the options are granted on or after July 1, 2021 and are subject to the amended rules, but the employee's security option deduction would not otherwise be limited by the recent amendments (see **Recent limitations to the security option deduction**), the employer can't claim an income tax deduction for the cashout payment to the employee in exchange for the employee's disposition of the right to acquire the securities.

The employee can claim the security option deduction, provided a security option benefit was realized, even though the employee never acquired the underlying securities as a result of the cashout arrangement. This is intended to match the outcome under the election noted above.

Charitable donation of employee option securities – When a security acquired as a result of the exercise of an employee security option is disposed of by way of gift to a qualified donee within 30 days, an additional deduction is available to eliminate the tax on the security option benefit, provided certain conditions are met. For security options granted on or after July 1, 2021, this additional deduction is only available to the extent the security already qualifies for the security option deduction (see **Recent limitations to the security option deduction** above).[9]

Under proposed changes consequential to the proposed change in the capital gains inclusion rate effective June 25, 2024 (see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**), the additional deduction is increased from one-half to two-thirds and the security option deduction is reduced from one-half to one-third, effective for stock options exercised on or after June 25, 2024, subject to transitional rules.

When an employee directs a broker to immediately dispose of securities acquired by a security option and pay all or a portion of the proceeds of disposition to a qualified donee, the employee is deemed to have made a gift of the securities to the qualified donee at the time the payment is made. The employee may claim the additional deduction on the same basis as if the securities had been donated directly. However, the CRA has taken the position that this additional deduction is not available when an employee directs the broker to dispose of such securities and pay the proceeds of disposition directly to the employee who, in turn, donates all or a portion of the proceeds to a qualified donee.

TAX TIPS

- Develop an "exercise and sell" strategy for stock options. Ensure it considers cash-flow needs, tax consequences and investment risk – including the risk that you can't use a loss you suffer on selling the shares to reduce any tax you pay on your net stock option benefit.
- If you own shares of a CCPC under a stock option or stock purchase plan and the company is going public, you may be able to make a special election for a deemed disposition of the shares so that you may benefit from your available lifetime capital gains exemption (if applicable).

[8] For which cash settlements occurred after 4 p.m. EST, March 4, 2010.

[9] Recent legislative amendments effectively include 30% of the security option benefit (that would otherwise qualify for the additional deduction for donated securities) in income for purposes of the calculation of the AMT, effective for the 2024 and later taxation years. For more information about the AMT and the amendments that revised the AMT regime, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issue No. 25**.

Employee deductions

As an employee, you can claim some expenses against your employment income, but not very many. Unless you earn commissions, your deductions are generally restricted to employment-related office rent, salary to an assistant, supplies, professional membership or union dues and, if certain conditions are met, car expenses.

If at least part of your income is commissions, and certain conditions are met, you can claim a broader range of expenses, including promotion costs that you've incurred to earn commission income. The deductible amount is limited to your commission income. When the promotion costs include the cost of meals and entertainment, you may only deduct 50%.

HOME OFFICE

If you work from your home, you may be able to claim limited home office expenses. This is possible if you perform most of your employment duties from your home workspace, or you use the home workspace exclusively for job-related purposes and regularly for meetings with customers, clients or others.

You are considered to perform most of your duties from a home workspace for a particular period in the year if it was at least four consecutive weeks, you were required to work from home, and you actually worked from home more than 50% of the time during the period.[10]

The expenses you may deduct include a proportionate share of the cost of electricity, heating, water, cleaning materials, maintenance and minor repairs. If you have a home office in a rented house or apartment, you may also claim a proportionate share of rent relating to your home office. As a homeowner, you cannot deduct notional rent, mortgage interest, insurance or property tax, unless you're a commission salesperson, in which case you may be able to deduct part of your insurance and property tax. In addition, beginning in 2020, eligible expenses include reasonable home internet access fees, but do not include internet connection fees or the lease cost of a modem or router.

The amount of the deduction from home office expenses in any particular year is limited to the amount of income from the office or employment in that year. However, the excess of expense over the income from the office or employment in a particular year can be carried forward and added to home office expenses in a subsequent year.

For further information, see **EY Tax Alert 2024 Issue No. 5**.

AUTOMOBILE

You may claim the costs of operating a car, including capital cost allowance (CCA), if you've driven it for business purposes and/or it's available for business use, and you are required to travel and pay these costs in the performance of your employment duties.

The total cost of a car on which you can claim CCA is generally restricted to $37,000[11] ($61,000 for eligible zero-emission[12] passenger vehicles) plus goods and services tax/harmonized sales tax (GST/HST) and provincial sales tax (PST).

[10] The requirement to work from home does not have to be part of your employment contract, but there should be a written or verbal agreement with your employer.

[11] This amount was increased from $36,000 in respect of vehicles acquired on or after January 1, 2024.

[12] Eligible zero-emission passenger vehicles include plug-in hybrids with a battery capacity of at least 7 kWh and vehicles that are fully electric or fully powered by hydrogen. Recent amendments expanded these rules to include other types of equipment or vehicles that are automotive (i.e., self-propelled) and fully electric or powered by hydrogen. For further details, see **Chapter 6: Professionals and business owners**.

Related interest expense is limited to $350 per month, increased from $300 for new automobile loans entered into on or after January 1, 2024. If you lease your car, you can generally deduct lease costs of up to $1,050 per month, increased from $950 for new vehicle leases entered into on or after January 1, 2024, plus GST/HST and PST.

You cannot deduct car expenses if you're in receipt of a tax-free per-kilometre allowance, which is excluded from your income. If you received the allowance but your reasonable business-related car expenses exceed this amount, consider including the allowance in income and deducting the expenses.

CLAIMING COSTS

To claim these employment-related costs, complete Form T2200, *Declaration of Conditions of Employment* (and Form TP-64.3-V, *General Employment Conditions*, for Québec tax purposes). On this form, your employer must certify that you were required to pay these expenses and you were not reimbursed for the related costs or the amount reimbursed was not reasonable.

Recent legislative amendments allow employers to use electronic signatures on Forms T2200 and TP-64.3-V.

CONSTRUCTION EMPLOYEES' TEMPORARY RELOCATION EXPENSES

Effective for the 2022 and later taxation years, if you work as a tradesperson or apprentice in the construction industry, you may be able to claim a deduction for certain travel and relocation expenses you incur in connection with a temporary relocation. You can even claim the costs of several temporary relocations in the same taxation year, provided the total amount does not exceed the maximum annual amount allowed (noted below).

Generally speaking, you can claim the Labour Mobility Deduction for Tradespeople if you temporarily relocate at least 150 km away from your ordinary residence in Canada to carry out employment duties at a worksite. You must have been required to relocate for a period of at least 36 hours and you must also have taken up temporary residence elsewhere in Canada. The distance between the temporary worksite and your ordinary residence must be at least 150 km further than the distance from your temporary lodging to the worksite. If you work at several worksites, the distance test must be met for each one.

You can claim travel and lodging expenses in connection with each eligible temporary relocation, provided each expense is a reasonable amount. You can claim the cost of travel and meals for one round-trip from your ordinary residence to your temporary lodging, as well as the cost of the temporary lodging itself. However, if you rent out your ordinary residence while you're away, you cannot claim the cost of temporary lodging. The expenses can be incurred either in the same year as the temporary relocation, in the previous year or in January of the following year. However, an expense incurred in the previous year is not eligible for deduction in the current year to the extent that it could have been deducted in that previous year.

The amount you can claim as a deduction for each temporary relocation is limited to half of your employment income as a tradesperson or apprentice from worksites at the temporary location. You can claim up to $4,000 per year as a deduction in respect of all temporary relocations (combined) for a particular year. If your eligible expenses exceed these limits, they may potentially be claimed in the following taxation year.

LEGAL FEES

You're able to deduct legal fees incurred to collect unpaid salary and to substantiate entitlement to a retiring allowance. Legal fees incurred to negotiate your employment contract or severance package are not deductible.

BUDGET 2024: TRADESPERSONS' TRAVEL EXPENSES

Under proposed legislation in the form of a private member's bill, effective for the 2022 and later taxation years, construction employees, either duly qualified tradespersons or indentured apprentices, may be able to claim a deduction for travel to and from a job site that is at least 120 km away from their ordinary place of residence. An employee who is eligible to claim both the temporary relocation expense deduction and the tradesperson's travel expenses deduction in respect of a particular expense would have to choose which type of deduction to claim, as they could not claim both deductions for the same expense.

The government announced in the 2024 federal budget that it would consider introducing a single, harmonized deduction for tradespeoples' travel expenses incorporating the Labour Mobility Deduction for Tradespeople (see above) and the intent of the proposals from the private member's bill.

Employee credits

CANADA TRAINING CREDIT

The Canada training credit is a refundable tax credit that assists eligible individuals who have either employment or business income to cover the cost of up to one-half of eligible tuition and fees associated with training.

Eligible individuals may accumulate $250 each year in a notional account that can be used to cover the training costs. The annual accumulation in the notional account began in 2019, and the first credit was able to be claimed for the 2020 taxation year. To accumulate the $250 each year, a Canadian resident individual (who is at least 26 and less than 66 years of age at the end of the year) must file a tax return, have at least the threshold amount of employment or business income[13] in the preceding taxation year ($11,511 in 2023 to calculate the 2024 balance in the notional account) and have net income in the preceding taxation year that does not exceed the top of the third tax bracket ($165,430 in 2023 to calculate the 2024 balance in the notional account). The maximum accumulation over a lifetime is $5,000, which will expire at the end of the year in which the individual turns 65.

The amount of the refundable credit that can be claimed in a taxation year is equal to the lesser of one-half of the eligible tuition and fees paid in respect of the year and the individual's notional account balance. For purposes of this credit, tuition and fees do not include tuition and fees levied by educational institutions outside of Canada. The refundable Canada training credit reduces the amount that qualifies as an eligible expense for the tuition tax credit.

Incorporated employee: personal services business

When an individual offers services to an organization through a corporation owned by the individual or a related party, there is a risk the corporation will be considered to be carrying on a "personal services business." A personal services business exists where the corporation employs five or fewer employees, and the individual providing services to an organization would, if not for the existence of the corporation, be considered an employee of the organization to which the services are provided.

A personal services business does not qualify for the small-business deduction or the general corporate rate reduction, and is therefore subject to tax at full corporate rates. There is also an additional 5% corporate tax levied on income from a personal services business, resulting in a total federal corporate income tax rate of 33%.

When the provincial corporate income tax is added, the combined corporate tax rate on this income is punitive. In addition, the only deductions allowed are the salary and benefits provided to the incorporated employee and certain employee expenses.

TAX TIPS

- If you're required to use your own car and your employer doesn't provide you with an allowance or reimbursement of expenses, you should:
  - Keep a record of expenses and retain receipts.
  - Keep a record of distance travelled for business.
  - Complete Form T2200, *Declaration of Conditions of Employment* (and TP-64.3-V, *General Employment Conditions*, in Québec).
- If you're thinking of buying a car for your employment duties, consider buying it before the end of the year rather than at the beginning of the next year. This will accelerate the CCA claim by one year.
- If you intend to claim a GST/HST or Québec sales tax (QST) rebate, save the supporting receipts and GST/HST and QST registration numbers.
- If you operate a personal services business, you may wish to reconsider your decision to do so. The tax deferral opportunity from incorporation is significantly reduced and there is a substantial reduction in the after-personal tax funds available to the shareholders.[14]

[13] Also includes maternity and parental employment insurance benefits, benefits paid under Québec's *Act respecting parental insurance*, certain research grants and scholarships, fellowships or bursaries not exempt from taxation, and certain amounts normally exempt from income tax.

[14] For more information, see **TaxMatters@EY, July 2024**, "The potential tax implications of having a personal services business."

GST/HST and QST rebates

You may generally claim a GST rebate in respect of your employment expenses (including GST and PST) deducted for income tax purposes (provided the expenses are considered to be taxable for GST purposes). The amount of the GST rebate is included in taxable income in the year it is received. Or, in the case of GST rebates arising from CCA claims, it will reduce the undepreciated capital cost of the asset.

Rebates available to employees under the GST also apply for HST and QST purposes.

EMPLOYEE VERSUS INDEPENDENT CONTRACTOR

Determining your employment status is fundamental to determining the proper tax treatment of income you earn and expenses you incur in the course of your work.

In general, self-employed individuals are subject to fewer restrictions and are allowed to deduct a larger amount than employees for expenses such as travel costs, meals and entertainment, and supplies and tools. As a result, many people may believe that arranging their work as independent contractors is in their best interest.

However, it's important to realize that the legal relationship between an employer and an employee is very different from that of a purchaser and a vendor of services (e.g., a self-employed individual). A self-employed individual often assumes additional legal obligations, costs and risks and has fewer legal protections than an employee.

Over the years, the courts have developed various tests to determine whether an individual is an employee or an independent contractor. The need for these tests arose not just in applying income tax legislation, but also in applying employment legislation, including the *Canada Pension Plan* and the *Employment Insurance Act*, and in actions concerning vicarious liability and wrongful dismissal. Some more recent court decisions seem to emphasize the legal relationship and intention of the parties involved.

Given the many court decisions concerning the differences between employees and independent contractors, the CRA has developed some administrative guidelines, which are outlined in Guide RC4110, *Employee or Self Employed?* In general, for common law situations, the CRA has been using a two-step approach similar to the approach the courts have been using recently, first determining the parties' intent when they entered into the working arrangement and then considering various factors to get a better understanding of the actual working relationship and verify whether it reflects the parties' intent.

A similar approach is also outlined in Guide RC4110, for situations where Québec's Civil Code applies.

The principal residence exemption

GENERAL COMMENTS: THE PRINCIPAL RESIDENCE EXEMPTION IS A VERY ATTRACTIVE FEATURE OF THE CANADIAN TAX SYSTEM, AS IT ALLOWS A CAPITAL GAIN REALIZED ON THE SALE OF A PRINCIPAL RESIDENCE TO BE EARNED FREE FROM TAX, PROVIDED THE RESIDENCE WAS DESIGNATED AS THE TAXPAYER'S PRINCIPAL RESIDENCE FOR EVERY YEAR OF OWNERSHIP.

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General comments: The principal residence exemption is a very attractive feature of the Canadian tax system, as it allows a capital gain realized on the sale of a principal residence to be earned free from tax, provided the residence was designated as the taxpayer's principal residence for every year of ownership.

The following types of property may qualify as your principal residence:

- Housing unit, which may be a:
  - House
  - Apartment or unit in a duplex, apartment building or condominium
  - Cottage
  - Trailer or mobile home
  - Houseboat
- Leasehold interest in a housing unit
- Share of the capital stock of a cooperative housing corporation acquired for the sole purpose of obtaining the right to inhabit a housing unit owned by that corporation

Generally, a property qualifies as your principal residence for any year if the following conditions are met:

- The property is one of the properties described above.
- You own the property alone or jointly with another person.
- The property is ordinarily inhabited by you or certain family members such as your current or former spouse or common-law partner, or any of your children.
- You designate the property as a principal residence.

In general, a housing unit must be ordinarily inhabited in the year, not *throughout* the year. This means that a housing unit you inhabit for only a short period during a year may still qualify as a principal residence. This may occur, for example, if you dispose of your residence early in the year or acquire it late in the year. However, a 24-hour stay would likely not be enough to meet the ordinarily inhabited requirement. A cottage or vacation home may also meet the ordinarily inhabited requirement (even if you reside there only when on vacation), as long as the residence is not owned primarily to gain or earn income.

For years before 1982, an individual could designate only one home as his or her principal residence, but a separate property could be designated by another member of the individual's family unit for those years. A *family unit* generally includes you, your spouse or common-law partner, and any of your unmarried children under the age of 18. Therefore, prior to 1982, two individuals who are married could each designate different principal residences in the same year (provided each property met all of the required conditions to qualify). For 1982 and later years, a family unit may designate only one home as the family's principal residence for each year. Properties purchased before 1982 continue to be governed by the old rules for pre-1982 ownership years.

The principal residence exemption will not completely eliminate a taxable capital gain realized on the disposition of a property unless the property is designated as the owner's principal residence for a minimum of all but one of the years of ownership (or all of the years of ownership if the owner was a nonresident throughout the year in which the property was acquired).

The *Income Tax Act* provides a formula to calculate the portion of the gain that is sheltered by the principal residence exemption. Generally, this is calculated by multiplying the gain by a fraction, the numerator of which is one plus the number of taxation years that the property was designated as your principal residence and the denominator of which is the number of taxation years during which you owned the property.

The extra year in the numerator of the formula, the so-called "one plus" rule, effectively allows a taxpayer one extra year of exemption room.[1] This rule is useful because it means that if you sell your principal residence and then purchase another residence in the same year, you will, effectively, not be denied the principal residence exemption on either of those properties for that year, even though you can only designate one residence as a principal residence in the year.

If only part of a home is used as a principal residence (for example, where there is a secondary suite in the basement that is rented out), only the part occupied by the owner would qualify for the principal residence exemption. When the property is sold, the capital gain on the rented portion must be reported on the owner's personal income tax return.

You are required to report every disposition of a principal residence on your personal tax return,[2] whether the gain is fully sheltered or not by the principal residence exemption. In the past, the Canada Revenue Agency (CRA) did not require you to report the sale of a principal residence if the gain was fully sheltered by the exemption. If you don't report the sale on your return, the property disposition will be subject to an open-ended reassessment period.[3] If the principal residence designation is filed late, penalties will be payable.

Residential property flipping rules

The 2022 federal budget and corresponding legislation introduced a new rule to ensure profits from flipping residential real estate are subject to full taxation. The rule applies to dispositions occurring in 2023 and later years. The residential property flipping rule generally treats profits arising from the disposition of residential real estate in Canada — including a rental property — that was owned for less than 365 consecutive days as business income.[4]

Similarly, profits arising from the disposition of rights to purchase residential property — also known as assignment sales — are treated as business income if the rights are held for fewer than 365 consecutive days before disposition. As a result, these profits are included in income in full, rather than at the prevailing capital gains inclusion rate, and the principal residence exemption is not available for these dispositions. If these dispositions result in a loss, it is treated as a denied business loss.

The new rules acknowledge that a property may be bought and sold within a short period of time due to other factors, such as the breakdown of a relationship. Exceptions are provided to the anti-flipping rules for dispositions related to the following events:

- Death, serious illness or disability of the individual or a related person[5]
- A related person joins the individual's household, or the individual joins a related person's household
- Breakdown of a marriage or common-law partnership
- Threats to personal safety of the individual or a related person
- Certain work-related or education-related relocations
- Involuntary termination of employment of the individual or their spouse or partner
- Insolvency of the individual[6]
- Property destruction or expropriation

Note that even if you hold a residential property in Canada long enough that you would not be subject to the anti-flipping rule, or if one of the above exceptions applies to the rule, older tests based on case law still apply. In other words, if the deeming rule does not apply, it will still be a question of fact as to whether the profits from the disposition are taxed as a capital gain or as business income.

[1] Effective for dispositions of property that occur after October 2, 2016, a taxpayer who was a nonresident throughout the year that includes the acquisition of the property can no longer have an extra year of exemption room when computing the reduction in the taxable capital gain on the disposition of the taxpayer's principal residence.

[2] For the 2016 and later taxation years.

[3] The normal reassessment period for an individual taxpayer is generally three years from the date of the initial notice of assessment. The "open-ended" assessment period means that an extended assessment period has been added outside of the normal reassessment period for any tax year where the taxpayer does not report the disposition of property, in the year in their tax return or does not file a tax return for the year in which the property was disposed. If income tax is subsequently assessed in respect of the property disposition, the three-year limit does not apply.

[4] Flipped property does not include a property that is included in the seller's inventory. The profit from selling such property would already be treated as business income under other provisions of the *Income Tax Act*.

[5] The disposition of a residential property by an estate beneficiary who is the deceased's child, within 365 days of the beneficiary taking title to the property, may fall within the life event exception relating to death if there is a sufficiently clear connection between the death of the deceased parent and the child beneficiary disposing of the housing unit – see CRA document 2023-0990101E5. In addition, under proposed legislative amendments, a life event exception may also apply to certain types of trusts that are deemed to dispose of property as a result of the death of a beneficiary.

[6] This exception is not limited to situations where the taxpayer is unable to pay a specific debt that relates to the housing unit — see CRA document 2023-0991461E5.

The change-in-use rules

The change-in-use rules apply where the use of a property changes from an income-earning purpose to a non-income-earning purpose (or vice versa). A change in use of only part of a property also causes the rules to apply to the relevant area.

When there is a change in use, the owner is treated as having sold and repurchased the property at its fair market value. This causes any capital gain that has arisen since the property was originally bought to be realized. However, the principal residence exemption may be used to shelter the gain if the relevant conditions are met.

An election that effectively allows the change in use to be ignored for up to four years for purposes of the principal residence exemption is available in the case of a change in use of a property, including a partial change in use. A partial change in use could occur, for example, where the owner of a duplex moves into one of the units or begins renting out one of the units.

If a property has a change in use from being a residential property to a rental property, the taxpayer may be able to make an election to treat the property as if a change in use did not occur.[7] In addition, a related rule allows a taxpayer making this election to continue to treat the property as their principal residence for up to four years.

If, however, a property has a change in use from being a rental property to a residential property, then the taxpayer can elect for the property not to be treated as having been sold and re-acquired at that time. This essentially allows the capital gain to be deferred and taxed only when the property is eventually sold. In addition, a related rule allows a taxpayer making this election to treat the property as his or her principal residence for up to four years before it is actually occupied as his or her principal residence.

Note that the no-change-in-use election is not available if, for any taxation year after 1984, the individual or their spouse or common-law partner, or a trust under which the individual, spouse or partner is a beneficiary, deducted capital cost allowance on the property on or before the day the property's use is changed.

SUCCESSIVE CHANGES IN USE OF A PROPERTY

You may live in your property in Canada for part of the year then rent it out for the remaining part of the year — for example, if you are a snowbird and live elsewhere each winter. If you've always used your property this way since the time you bought it, the CRA will generally not treat the property as having a change in use twice per year, provided the ratio of time during which you live in the property compared to renting out the property remains roughly the same from year to year. In these circumstances, the CRA will effectively ignore the frequent changes in use.

However, the CRA has confirmed that if there is a change in the ratio of income-earning use to another use of the property, it would be treated as a change in use. If, for example, there's an increase in the ratio of income-earning use to another use, you may be able to make a no-change-in-use election. You would not have to make further no-change-in-use elections each year, unless the income-earning use of the property increased again in the future.[8]

Although not discussed in the CRA document, a decrease in the ratio of income-earning use to another use would presumably also be treated as a change in use for which a no-change-in-use election may be available.

[7] In CRA document 2018-0790251I7, the CRA confirmed that if both spouses are beneficial owners of a home, they must both file the no-change-in-use election for the home.
[8] CRA document 2022-0942161C6.

Making the most of your home and cottage

Owning a home or a cottage can be expensive, and you may be counting on the principal residence exemption to reduce the tax on any capital gains you would have to pay on a sale. The exemption is not available in all cases – make sure you understand how it applies in your situation.

RENTING OUT PART OF YOUR HOME

Home buyers in the Canadian housing market face high prices in many key urban centres. One way homeowners can offset the cost of housing is by renting out part of the property, whether as a self-contained suite or a unit in a duplex. Alternatively, several generations of the same family may move in to one property to consolidate their assets and keep housing costs low.

But if you're considering these options, you need to keep in mind the principal residence and change-in-use rules. Depending on the facts of the situation, adding a secondary rental suite could, for example, limit your ability to claim the principal residence exemption on the eventual sale of the property. Three CRA technical interpretations provide useful information on how the CRA treats various situations with respect to secondary suites and duplexes.

IMPLICATIONS OF HAVING A SECONDARY SUITE IN A HOME

In a technical interpretation, the CRA was asked several questions in relation to a secondary suite.[9] The CRA's policy on changes in use is set out in Income Tax Folio S1-F3-C2: *Principal Residence*. The policy states that a change in use will generally be considered to have occurred when a taxpayer converts part of his or her property to an income-producing purpose.

A change in use is treated as not having occurred, however, if all three of the following conditions are met:

- The income-producing use is secondary to the main use of the property.
- No structural changes are made to the property to improve its suitability for rental.
- No capital cost allowance is claimed on the property.

The CRA considers that there is no bright-line percentage test that can be applied to determine whether use of the property is a secondary use. Each case depends on its own facts.

Structural changes to the property that are of a permanent nature will be taken into account. In particular, the CRA considers the addition of a kitchen or separate entry, or the reconfiguration of space by adding or removing walls, to be significant. The CRA commented that it will generally apply the change-in-use rules if a taxpayer converts a portion of his or her principal residence into a separate housing unit to be used to earn rental income. This scenario can be contrasted with the situation where a taxpayer rents a bedroom in their home to a student without making any structural changes to the building, which would generally not constitute a change in use.

DUPLEX UNITS AND THE PRINCIPAL RESIDENCE EXEMPTION

In a different situation considered in a CRA technical interpretation,[10] an individual bought a duplex, intending to live in one unit while the individual's mother lived in the other. The individual's mother needed help with daily living and so, although the building had two separate street addresses, modifications were made to facilitate communications between the property owner and the parent, including the installation of an interior connecting door. Most meals were prepared and consumed in the owner's unit.

The CRA was asked whether the two units could be considered to be a single principal residence. In its reply, the CRA identified the integration between the units as an important factor. If it would not be possible to live normally in the living areas of one unit without access to the other unit, then the two units would be considered to be a single housing unit. This could be the case where one unit contained the kitchen and bathroom while the other contained all the bedrooms. The CRA also pointed to other important factors, such as whether the two units had separate titles, street addresses and entrances.

In the particular situation outlined, the CRA suggested the units were not sufficiently integrated to constitute one housing unit for purposes of the principal residence exemption. This would mean that, on a sale of the whole property, the owner could not claim the exemption on the unit occupied by the parent. In addition, the parent would not own the property, so in this situation the entire benefit of the principal residence exemption on this part of the property would be lost.

[9] CRA document 2016-0673231E5.
[10] CRA document 2016-0625141C6.

DUPLEX UNITS AND THE CHANGE-IN-USE RULES

An owner of a duplex may live in one unit and rent out the second unit to earn income. In a technical interpretation, the CRA was asked whether it would consider a change in use to have taken place when the owner moved from one unit in a duplex to the other.[11] The unit the owner had formerly occupied was then rented out, while the unit formerly rented became the owner's residence.

The CRA's view was that there would be no change in use where the relative sizes of the units were unchanged and the proportions of personal and rental use remained the same. In the situation outlined, the units were identical in size, meaning that both before and after the change of use, half the property was used for rental purposes and half was used for personal purposes. Furthermore, renovations to the owner's portion of the property should not result in a change in use, provided the relative size of each unit remained the same after the renovations.

In a situation where an individual owns a duplex comprising one unit they inhabit and one they rent out, the CRA was asked[12] how the principal residence exemption should be claimed if the individual converts the two units into a single residence for their own use at some point during their period of ownership. The CRA responded that, in the year of disposition, the individual would need to file two principal residence designations, one for the unit that was inhabited by the owner before the units were combined, and a second one for the entire property (to cover the period from the date of combination until the date of disposition).

TAX TIPS

- If you live in only part of a property and rent out the other part as a self-contained secondary suite, the principal residence exemption may only be claimed in respect of the first part. In the case of a duplex, the two units would need to be interdependent in order to form one housing unit for purposes of the principal residence exemption; simply installing a connecting door between them would not be sufficient.
- If you own a residence that has no secondary suite and decide to rent out part of the property, it will depend on the facts of the situation whether the CRA will consider a change in use to have occurred (and hence a deemed disposition and reacquisition of the property).
- Rental of one or two bedrooms in the home may not result in a change of use, whereas renovating the home to install an extra kitchen and separate entrance would likely trigger the change-in-use rules.
- If a partial change in use does take place, it must be reported on the homeowner's personal tax return, even if the principal residence exemption may be claimed to offset the capital gain that would otherwise result.[13]
- Installing rooftop solar panels on a residence and selling the electricity generated by them back to the grid would not generally be considered a change in use; leasing the rooftop to a third party for electricity generation using solar panels may be considered a change in use unless certain conditions are met.

FAMILY COTTAGES AND THE PRINCIPAL RESIDENCE EXEMPTION

If you and your spouse or common-law partner own both a home and a cottage, you'll have to decide how best to use the principal residence exemption when you dispose of either property. This is because you can designate only one of your properties as a principal residence in any given year of ownership, as noted above. For example, it may be beneficial to designate the property with the greater average annual accrued gain. In order to properly calculate the gain on the disposition of each property, you should maintain records (including receipts and invoices) for the cost of all capital improvements you make to each property. These costs can be added to the adjusted cost bases of the properties and reduce the gains that may not be sheltered by the exemption.

[11] CRA document 2015-0589821E5.
[12] CRA document 2019-0812621C6.
[13] If the principal residence exemption is claimed, the designation is considered to have been made on the entire property, not just the portion subject to the deemed disposition. See Income Tax Folio S1-F3-C2: *Principal Residence*, at paragraph 2.36.

The situation becomes more complex if your cottage is used by several family members. Tax issues aside, some children may feel a stronger connection to the cottage than others, and it can be challenging to be fair to everyone when transitioning ownership to the next generation. Say you bought the original cottage and over time have made significant improvements to it, such as winterizing the property so the family could gather there for the holidays. You may no longer want the responsibility of owning and maintaining the cottage but want it to stay in the family for your children and grandchildren to enjoy. When you decide to pass it on to younger family members, you need to think about whether a capital gain will result and, if so, whether you will be able to claim a principal residence exemption to offset part or all of that gain.

COTTAGE TRUSTS

One way for families to manage cottage ownership is to transfer it to a trust that has family members as beneficiaries. A trust can allow for some flexibility in administering the property, letting the original owners (who may now be grandparents) hand over some responsibility to their children and grandchildren without giving up all rights to use the cottage or to earn income from it. Transferring a property to a trust can also keep it outside of the grandparents' estate on death, thus reducing probate fees and deferring capital gains tax. When a trust owns a cottage (or other real property), title is registered in the name of the trustee(s), not the trust. If one or more of the trustees is a nonresident, there could be certain tax consequences.

Because there are both tax and non-tax considerations to bear in mind, cottage owners should seek advice when they're considering the right option for their family's situation.

CAPITAL GAINS TAX ON A COTTAGE[14] HELD IN TRUST

Capital gains tax could become payable on a cottage held in a trust at the time when the property is transferred into the trust, and at the time when the property is distributed from the trust to a beneficiary, with certain exceptions. In some situations, the trust will also be treated for tax purposes as if it had sold and immediately repurchased the cottage, which can give rise to a capital gain.

For example, if a certain type of trust still owns the cottage on the 21st anniversary of the formation of the trust, then there is a deemed disposition of the cottage, meaning that for tax purposes the cottage is treated as if it has been sold at fair market value and then immediately reacquired. The deemed sale can produce a capital gain that is taxable in the trust. Depending on the circumstances and the type of trust, it may be possible for a trust to claim a principal residence exemption to shelter part or all of the gain from taxation (see **Trusts and the principal residence exemption** below).

[14] The tax implications of having a cottage held in a trust apply also to other types of homes held in a trust.

COTTAGE TRUST – AN EXAMPLE

There are several different types of trusts that can be used to hold a cottage, and different rules apply depending on which type is used. A capital gain generally arises when an individual gifts a cottage to a trust, but if certain special types of trusts are used, then the gain can be deferred until a later time.

For example, say the grandparents in a particular family jointly own a cottage and are both aged 70. They want to continue to use the cottage themselves, but they also want to eventually hand over responsibility to their children, as well as reduce any capital gains tax and probate tax liability where possible. If the grandparents gifted the cottage to a regular *inter vivos* trust, this would be a taxable event and capital gains tax would be payable by the grandparents on the difference between the proceeds of disposition and the adjusted cost base of the property – including any improvements made to the cottage over the years – multiplied by the prevailing capital gains inclusion rate.[15] However, the principal residence exemption may be available to them, depending on whether they have already used it or plan to use it to shelter gains on other properties they own at the same time as the cottage.

Because they are over 64 years of age, the grandparents could instead gift the cottage to a special type of trust known as a joint partner trust. The grandparents would still be entitled to use the cottage and to receive any income from it during their lifetimes. This type of trust allows the grandparents to "roll over" the cottage to the trust without having to pay capital gains tax at that time. The capital gains tax is instead deferred until the death of the second grandparent, at which time capital gains tax would become payable by the trust on the difference between the fair market value of the cottage and its original cost to the grandparents (including any improvements made to the property), multiplied by the prevailing capital gains inclusion rate. The trust deed could name the grandparents' children as contingent beneficiaries of the trust and, once both grandparents are deceased, the trust would distribute the cottage to the children.[16]

Trusts and the principal residence exemption

A trust may be able to claim the principal residence exemption, but the rules are complex and essentially require that none of the trust beneficiaries (or members of their family unit) has already claimed the exemption in respect of another property for the relevant years. In addition, the property must generally be inhabited by a specified beneficiary,[17] by a current or former spouse or common-law partner of such a beneficiary, or by any of the beneficiary's children.

Corporations (except for a registered charity) and partnerships cannot be beneficiaries of the trust. If the trust uses the principal residence exemption for the cottage, the trust beneficiaries are not allowed to claim the exemption for other properties they may own during the same time period.

The rules allowing trusts to claim the principal residence exemption were tightened further for properties disposed of after 2016, and fewer types of trusts are eligible to claim the principal residence exemption for 2017 and later years. Transitional rules ensure that a trust that no longer qualifies to designate a property as a principal residence because of the new limitations can still benefit from the principal residence exemption on the gain accrued to the end of 2016. As a result, cottage trusts should review their eligibility for the principal residence exemption under the revised rules in consultation with an EY advisor.

[15] The 2024 federal budget and corresponding draft legislation introduced an increase in the capital gains inclusion rate (the proportion of realized capital gains subject to tax) for dispositions by individuals, trusts and corporations, from one-half to two-thirds, effective for dispositions occurring on or after June 25, 2024. However, individuals, graduated rate estates (GREs) and qualified disability trusts (QDTs) will be eligible for the one-half inclusion rate on the first $250,000 of capital gains realized in a year. For more information about the capital gains inclusion rate changes, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**.

[16] Note that there is a requirement that no one other than the grandparents (in this case) may receive, or make use of, the income or capital of the trust before the later of their deaths. Failure to meet this requirement would adversely affect the tax-free rollover of the cottage to the trust. If the grandparents intend to allow the children or grandchildren to use the cottage while the grandparents are living, they should consult an EY Tax advisor.

[17] A specified beneficiary is an individual who has any right (current, future, absolute or contingent) to the income or capital of the trust.

CONDITIONS FOR ELIGIBILITY FOR THE PRINCIPAL RESIDENCE EXEMPTION

For properties disposed of after 2016, there are two main conditions for trusts to meet in order to be able to claim the principal residence exemption:

- At least one of the trust's beneficiaries must be resident in Canada during the year and be a specified beneficiary of the trust for the year.
- The trust must qualify as an eligible trust, meaning that it must fall under at least one of the following four categories:[18]
  - Alter ego trust, spousal or common-law partner trust, joint spousal or common-law partner trust, or certain trusts for the exclusive benefit of the settlor during the settlor's lifetime (life interest trusts)
  - Testamentary trust that is a qualified disability trust for the taxation year
  - *Inter vivos* or testamentary trust where the settlor died before the start of the year
  - *Inter vivos* trust established for the benefit of an individual who is eligible for the disability tax credit[19]

If the trust owns a property at the end of 2016 and cannot designate the property as a principal residence under the revised rules, the trust's gain on disposition of a property is effectively separated into two distinct periods:

- The first gain is calculated as if the trust sold the property on December 31, 2016 for its fair market value on that date and is computed under the rules that apply for taxation years that begin before 2017.
- The second gain is calculated as if the trust re-acquired the property at the start of 2017 at a cost equal to the proceeds used in determining the first gain, with no principal residence exemption claim being available on gains accrued from the beginning of 2017 to the date of disposition.

In circumstances where a trust is no longer eligible to claim the principal residence exemption on a cottage, special rules may allow the trust to distribute the property to a Canadian-resident beneficiary on a tax-deferred basis. The beneficiary would be treated as if he or she had owned the cottage throughout the period when the trust owned it, and would pay tax on the gain only when the cottage was later sold or otherwise transferred to a third party. Alternatively, a taxable distribution may be triggered to crystallize a gain, and the trust could then use the principal residence exemption to offset the gain for the period up until the end of 2016.

BUDGET 2024: CAPITAL GAINS TAX INCLUSION RATE FOR TRUSTS

The 2024 federal budget and corresponding draft legislation introduced an increase in the capital gains inclusion rate – the proportion of realized capital gains subject to tax – for most trusts from one-half to two-thirds, effective for dispositions of property occurring on or after June 25, 2024.[20]

A cottage trust that is a joint partner trust may therefore be subject to the increased inclusion rate on any gain computed with respect to the cottage when the second partner dies if the death occurs on or after June 25, 2024.[21] However, the trust may be eligible to designate the cottage as a principal residence if the necessary conditions are met.

[18] The criteria to qualify as an eligible trust in Québec are slightly different. Please refer to the French version of ***Managing Your Personal Taxes: A Canadian Perspective*** for details.

[19] The terms of the trust must allow no one other than the beneficiary to access the trust income or capital during the beneficiary's lifetime. Further, the trustees are required to consider the beneficiary's needs when determining whether to pay amounts to the beneficiary. The beneficiary must also be either the settlor of the trust or related to the settlor.

[20] The increase in the inclusion rate to two-thirds also applies to capital gains realized by corporations. GREs and QDTs will be eligible for the one-half inclusion rate on the first $250,000 of capital gains realized in a year, provided the gains are not allocated to a beneficiary in the year. This $250,000 threshold for the application of the one-half inclusion rate also applies to capital gains realized by individuals.

For more information about the capital gains inclusion rate changes, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**. For more information about GREs and QDTs, see **Chapter 12: Estate planning**.

[21] In certain situations, the trust and the deceased partner's GRE may be able to elect to allocate the capital gain to the deceased beneficiary rather than have it be taxed in the trust.

Summary

Given the substantial increases in property values in recent years, homes or cottages may have a high fair market value and a low cost, meaning that a substantial capital gain could result if the property were to be sold or gifted.

Holding a property in a trust can help achieve several objectives, including passing the property to the next generation of a family and minimizing probate fees.

There are many possible ways to structure a trust that holds a home or cottage and, in view of the changes to the rules reducing the ability of trusts to claim the principal residence exemption and the changes to the capital gains inclusion rate, property owners should consult an EY Tax advisor to review existing trusts or help set up trusts in the future.

Families

THERE'S VIRTUALLY NO AREA OF FAMILY LIFE IN CANADA THAT'S NOT AFFECTED IN SOME WAY BY TAX. BUT THERE ARE MANY TAX CREDITS AND PLANNING STRATEGIES THAT YOU NEED TO BE AWARE OF THAT COULD POTENTIALLY SAVE YOU AND YOUR FAMILY A SIGNIFICANT AMOUNT.

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There's virtually no area of family life in Canada that's not affected in some way by tax. But there are many tax credits and planning strategies that you need to be aware of that could potentially save you and your family a significant amount.

Spouses and common-law partners

Common-law partners (including same-sex couples) are treated as spouses for income tax purposes.

Income and capital gains splitting

Individuals are taxed at graduated income tax rates. The more you earn, the higher your marginal tax rate will be.

The top marginal combined federal-provincial income tax rate varies from approximately 44% to 55%, depending on your province or territory of residence (see **Appendix A**). To the extent that your income can be spread among other family members with lower marginal tax rates, you can reduce your family's overall tax burden. And this can result in increased wealth for the family as a whole.

Income splitting is a well-established tax planning technique. With the enactment of the revised income tax rules for income splitting, however, the tax landscape has changed dramatically. Generally, income splitting is still permitted in ways that are discussed later in this chapter, such as prescribed interest rate loans, spousal registered retirement savings plans (RRSPs), pension income splitting, splitting the Canada Pension Plan (CPP) and gifts to adult children. But there are fewer opportunities to income split and it may be more difficult to do so.

As well as considering the income tax attribution rules that have been in the *Income Tax Act* since 1986, you also need to be aware that if income is derived from a business and is received, directly or indirectly, from a private corporation, the ability to reduce your family's overall tax burden in this manner is significantly limited for 2018 and later taxation years due to the revised tax on split income (TOSI) rules (see **Tax on split income** below).

Income splitting, to the extent that it is still possible, is beneficial when you are taxed at the top marginal rate and your spouse or partner or your children are subject to tax at a lower rate. Also, a family earning all its income through one family member will generally have a higher income tax burden than it would if the same amount of income were earned by two or more individuals in the family.

Some simple examples: a family earning $500,000 in 2024 through a single person in Ontario could potentially reduce its annual income tax burden by over $41,300 by having $200,000 of that income taxed in the hands of another family member who has no other income, provided that the revised TOSI rules do not apply. A family with one member earning $200,000 can achieve an annual tax savings of more than $22,400 by splitting that income equally between two low-income family members.

Even greater tax benefits may be achieved when income can be shared among multiple family members and unused tax credits are available or the nature of the income attracts a preferred tax treatment. Again, the revised TOSI rules may limit the ability to achieve this.

Income splitting can maximize the amount of Old Age Security (OAS) you can retain and perhaps the age credit, as well. But you need to take care to ensure that income-splitting techniques are not offside with the attribution and revised TOSI rules (see **Attribution rules** and **Tax on split income** for more information).

TAX TIPS

There are a variety of income-splitting techniques you should consider:

- Arrange your financial affairs so that the spouse or partner who earns the higher income is paying as much of the family's living expenses as possible, allowing the other one to save and invest.
- Contribute to a spousal RRSP if your spouse or partner is in a lower marginal tax bracket, or if they will be when withdrawing the funds.
- Apply to share your CPP/Québec Pension Plan (QPP) retirement pension payments with your spouse or partner.
- Split pension income where appropriate.
- Lend funds for investment purposes to the lower-income spouse or partner, or use a formal trust to lend funds to minor children at the prescribed rate (see **Putting a prescribed rate loan in place** below). The attribution rules won't apply to the net investment income earned and, provided the income is not split income for purposes of the TOSI rules, you will reduce your overall family tax burden (see below for more information on the attribution rules).[1]
- Transfer property or lend funds to your children under the age of 18 so they can earn capital gains that aren't subject to attribution, provided that the capital gains are also not subject to the revised TOSI rules.[2]
- Contribute to a registered education savings plan (RESP) as a means of saving for your children's or grandchildren's post-secondary education. If you contribute $2,500 per child per year, the plan will receive the maximum annual government grant of $500 per child.
- Gift or loan funds to your spouse or partner so they can make a tax-free savings account (TFSA) contribution. The income earned on these contributions will not be attributed to you while the funds remain in the plan.
- Make gifts to your children aged 18 and over to enable them to earn sufficient income to absorb their deductions and credits,[3] and to pay for certain expenses that you would ordinarily pay out of after-tax dollars.
- Make gifts to your children aged 18 and over to enable them to make the maximum deductible RRSP contributions and/or contribute to a TFSA.

(Note that gifts to adult relatives other than a spouse or partner are generally not subject to the attribution rules.)

Attribution rules

Attribution rules are intended to restrict or prevent income splitting in certain situations.

Income attribution: If you lend or transfer property – directly, indirectly or through a trust – to your spouse or partner or any relative under the age of 18, any income or loss from the property is attributed to you and taxed in your hands.

The same rules apply to low-interest or interest-free loans made to relatives if the loan is intended to reduce income tax. A loan is generally considered a low-interest loan when the interest rate charged is less than the federal prescribed rate used to calculate taxable benefits – 6% for the first and second calendar quarters in 2024, and 5% for the third and fourth calendar quarters. Prescribed-rate loans are generally not subject to attribution, as long as the interest is paid within the prescribed period and other conditions are met (see **Putting a prescribed rate loan in place** below).

There's generally no attribution to earnings on income that has been previously attributed. And gifts to adult relatives other than your spouse are generally not subject to the attribution rules.

The attribution rules do not apply to business income, but they do apply to income from a limited partnership.

[1] This planning can still be effective, provided the income is not split income for purposes of the TOSI (see **Tax on split income**) rules. In general, the attribution rules will not apply if the income is already subject to the TOSI. However, if the income is subject to the TOSI, income tax splitting will not be achieved. Before entering into this type of planning, consult your EY Tax advisor.

[2] Certain types of property are impacted by the revised TOSI rules (see **Tax on split income**). Gains from dispositions of property after 2017 where the income from the property would otherwise be split income are taxed at the highest marginal tax rate, subject to certain exceptions. Capital gains realized by minors on dispositions of private company shares to a non-arm's-length party are treated as non-eligible dividends and taxed at top marginal rates, which are higher than the top rates applicable to capital gains. Consult your EY Tax advisor.

[3] Provided the gifts do not consist of property, or funds used to acquire property, that produces income subject to the revised TOSI rules. See **Tax on split income**.

Attribution will also apply to certain transfers and loans to a corporation (other than a small business corporation). Estate-planning arrangements, when the objectives are other than income splitting among family members, can generally be structured to avoid the corporate attribution rules.

There's no attribution of income from property sold, money lent or property substituted for that property or money if the property is sold at fair market value, or the loan is made at commercial terms and rates equal to or greater than the prescribed rate in effect on the date the loan is made (the prescribed rate was 6% for the first and second calendar quarters in 2024, and 5% for the third and fourth calendar quarters) and other conditions are met (see **Putting a prescribed rate loan in place** below). If you sell property to your spouse or partner, you must file a special election for the transfer to occur at fair market value.

Attribution will also not apply if you elect to have your spouse or partner receive a portion of your CPP/QPP payments. In addition, "split-pension income" should not be subject to attribution.

Tax on split income

Even when attribution doesn't apply, a special income-splitting tax on split income, which was often called the "kiddie tax" prior to 2018, may apply. The TOSI is calculated at the top marginal personal rate (33% federal rate in 2024) and applies to certain types of income.

Prior to 2018, the TOSI was limited to the following types of income received by minor children:

- Taxable dividends and interest from private corporations
- Shareholder benefits from private corporations
- Income from a partnership or trust if it is derived from a business or rental property, and a person related to the minor is actively engaged on a regular basis in the activities
- Income from a partnership or trust that provides property or services to or in support of a parent's or grandparent's business
- Capital gains from the disposition of private corporation shares to a person who does not deal at arm's length

However, legislation effective January 1, 2018 expanded the base of the TOSI to include certain related individuals aged 18 and over, and the types of income subject to the TOSI were expanded.

Effective for 2018 and later years, these rules limit the ability to share income within a family by expanding the base of individuals subject to the TOSI to include children age 18 and over and other related adult individuals (including spouses or common-law partners, siblings, grandparents and grandchildren, but not aunts, uncles, nephews, nieces or cousins) who receive split income[4] from a related (family) business either directly from a private corporation (such as by the receipt of dividends) or through a trust or partnership. A related business exists, for example, when a related person is active in the business on a regular basis or owns at least 10% of the fair market value of the shares in a corporation that carries on the business.

The types of income that are subject to the TOSI have also been expanded to include:

- Interest income earned on a debt obligation of a private corporation, partnership or trust (subject to some exceptions)
- Gains from the disposition of property if income from the property would otherwise be split income

[4] Effectively, split income arises when a stream of income is connected, either directly or indirectly, to a related business. According to the Canada Revenue Agency (CRA), salary is not included in split income.

Under these rules, all individuals resident in Canada are a "specified individual" for purposes of being subject to the TOSI, unless a specific exclusion to the rules applies.[5] Income received or gains realized from a related business by certain adult family members are excluded from the TOSI if a number of conditions are met. These family members are as follows:

- Adult family members who are 18 or older and actively engaged in the family business on a regular, continuous and substantial basis in either the current year or any five previous (but not necessarily consecutive) years.[6] It's generally a question of fact whether an individual satisfies this test; however, an individual will be deemed to be actively engaged on a regular, continuous and substantial basis in a year if they meet a "bright line" test by working an average of at least 20 hours per week during the year, or in the case of a seasonal business, during the portion of the year in which the business operates. If these conditions are met, the business is referred to as an "excluded business" under the revised rules.[7]
- Adult family members who are 25 or older and directly own at least 10% of the shares of the private corporation in terms of the votes and value of the corporation,[8] so long as the corporation earns less than 90% of its business income from the provision of services and is not a professional corporation, and at least 90% of the corporation's income[9] for the year is not derived directly or indirectly from one or more related businesses, other than the business(es) carried on by the corporation itself. If these conditions are met, the shares are referred to as "excluded shares" under the revised rules.[10]
- Adult family members who are 18 or older receiving income from a property or taxable capital gains from the disposition of a property to the extent that the amount is not derived directly or indirectly from a related business (see above) in respect of the family member.
- Family members who are 24 or younger, including minors, on inherited property if the individual is either a full-time student enrolled during the year at a post-secondary educational institution or qualifies for the disability tax credit.[11]
- Spouses or common-law partners if the other spouse or partner is 65 or older and the TOSI would not have applied had the other spouse or partner received the income or gain.
- Spouses or common-law partners if the other spouse or partner died before the end of the year, and the TOSI would not have applied had the other spouse or partner received the income or gain in their last taxation year.
- Adult family members receiving income from an inherited property or taxable capital gains from the disposition of inherited property where the deceased would have met the active engagement threshold under the excluded business test, or where the deceased would have met either the excluded shares test or the reasonable return test (see below), provided the deceased was at least 24 years old before the year of their death,[12] had the amount been received by the deceased. Therefore, if property is acquired by, or for the benefit of, an adult family member as a consequence of an individual's death, these continuity rules allow the adult family member to step into the deceased's shoes for purposes of applying the excluded business, reasonable return and excluded shares tests.[13]

[5] The definition is very broad, excluding only those individuals over the age of 17 who are nonresidents of Canada and minors with parents who are nonresidents of Canada.

[6] The five years do not necessarily need to correspond to a time when an individual was related to a particular family member. For example, it could apply to a time when two individuals were actively engaged in a business before they were married. See CRA document 2018-0783741E5.

[7] The CRA has stated that if a corporation operates more than one business (e.g., a construction business and a property management business), the excluded business exception is determined on a business-by-business basis. Therefore, a separate accounting for each business and a tracing of funds would be required for purposes of the business-by-business determination. See CRA document 2018-0761601E5.

Likewise, the bright line test will not be met if an individual works for a total of 20 or more hours per week in a group of related businesses but does not work an average of at least 20 hours per week in any particular business. See CRA document 2020-0837631C6. The minimum average of 20 hours per week threshold test for the excluded business exception only applies to the actual hours worked and, therefore, does not include a time period for which an employee is on paid leave (e.g., for statutory holidays, vacations, sick days). See CRA document 2019-0792001E5.

[8] The CRA has confirmed that multiple classes of shares held by an individual can be considered in aggregate for purposes of applying this 10% votes-and-value test. See CRA document 2018-0771811E5.

[9] The CRA's view is that the references to "income" and "business income" in the definition of excluded shares refer to gross income, not net income. See CRA document 2018-0743961C6 and the CRA's July 2019 guidance, "Tax on split income – excluded shares."

[10] The CRA has stated that if a corporation derives its business income from the provision of both services and non-services (e.g., a business carried on by plumbers, mechanics or other contractors that also includes the sale of replacement parts or materials), the income from the provision of non-services will generally be taken into account for purposes of the less than 90% test re: income from the provision of services unless that income can reasonably be considered to be necessary but incidental to the provision of the services. See CRA document 2018-0761601E5 and the July 2019 guidance, "Tax on split income – excluded shares."

[11] Under draft legislation released on August 12, 2024, property substituted for the inherited property would also be excepted. Family members who are 25 or older may qualify for an exception to the TOSI with respect to income or gains on inherited property provided certain other conditions are met.

[12] This last exception may apply even if the adult family member was under the age of 25 and, therefore, not otherwise eligible to meet the excluded shares test or the reasonable return exception by virtue of their age had the income or gain not been derived from inherited property.

[13] See CRA document 2021-0901091C6 on the application of the excluded business exception in the context of the continuity rule for inherited property in respect of two scenarios involving amounts paid through a trust to a child following the death of the father.

- Adult family members realizing taxable capital gains on the arm's-length disposition of qualified small business corporation (QSBC) shares or qualified farm or fishing property, even if the lifetime capital gains exemption is not claimed,[14] or realizing taxable capital gains on the deemed disposition of property on their death. These exclusions also apply to minor children, with the exception of actual dispositions to non-arm's-length parties.[15]
- Adult family members receiving income derived from property acquired as a result of a breakdown of a marriage or common-law partnership if the spouses or partners are separated and living apart as a result of the relationship breakdown.[16]

The CRA has confirmed that a corporation must have business income in order for its shares to qualify for the excluded shares exception noted above, since the provision of services test (less than 90% of its business income from the provision of services) specifically refers to business income. Therefore, if a corporation earns only property income, its shares will not qualify as excluded shares.

A corporation may, in certain circumstances, be carrying on a business whose purpose is to derive income from property – for example, earning interest and dividend income from passive investments. However, whether a corporation is carrying on such a business is a question of fact that can only be resolved following an exhaustive analysis of all the facts and circumstances in relating to a given situation.

Adult family members who are 25 or older and receive split income after 2017 are subject to a reasonable return test if they do not meet any of the above-noted exclusions. The test is based on the extent of their contribution of labour and capital to the business, risks taken and other payments already received from the business. The TOSI will apply to split income received by these adult family members to the extent it is unreasonable under this test.

If the split income recipient is 18 to 24 years old and does not meet the applicable exclusions noted above, but has contributed capital to the related business, the amount of income subject to the TOSI is reduced by the individual's "safe harbour capital return," an amount equal to the prescribed rate of return on the fair market value of the capital contributed. For purposes of this exclusion, the prescribed rate is based on the highest prescribed rate in effect for a quarter in the year. In 2024, the prescribed rate was 6% in Q1 and Q2, and 5% in Q3 and Q4.

However, if the individual finances the contributed capital, a higher-than-prescribed rate of return can be earned without being subject to the TOSI provided the amount of income received represents a reasonable return on the individual's contribution of arm's-length capital.[17]

For further details about these rules, see **TaxMatters@EY, February 2020**, "Tax on split income: CRA provides clarifications on the excluded shares exception;" **TaxMatters@EY, November 2020**, "Tax on split income: the excluded business exception;" and **EY Tax Alert 2017 Issue No. 52**.

[14] This exception also applies to trust beneficiaries if these types of taxable capital gains are realized by a personal trust and are allocated to beneficiaries of the trust in the year of disposition. If all required conditions are met, the beneficiaries could claim the lifetime capital gains exemption with respect to those gains. See CRA document 2018-0778661C6.

[15] Capital gains realized by minors on the disposition of private company shares to a non-arm's-length party are treated as non-eligible dividends and taxed at top marginal rates.

[16] Under draft legislation released on August 12, 2024, property substituted for property acquired as a result of a breakdown of a marriage or common-law partnership would also qualify for this exception.

[17] Meeting the arm's-length capital test will likely be difficult, as it excludes borrowed funds (regardless of whether it's related party or external bank borrowings), direct or indirect transfers of property from a related person (other than as a consequence of the death of the related person), and income earned (or gains derived from the disposition of property) from a related business (other than as salary).

Use of trusts and corporations

Effective for 2018 and later years, income splitting through trusts and corporations has been significantly limited due to the revised TOSI rules – see **Tax on split income** above. Other than considering the application of the TOSI rules, the attribution rules must be respected when considering the use of a trust or corporation.

Capital gains splitting among family members is still possible in certain situations, and can produce the greatest benefits in cases where the gain is on property eligible for the capital gains exemption and is taxed in the hands of more than one family member. Trusts can be used in a similar manner to access the capital gains exemption of multiple family members when selling a family business.

Prior to the release of recent draft legislative proposals, the exemption amount for 2024 was $1,016,836. The 2024 federal budget and corresponding draft legislation introduced an increase in the lifetime capital gains exemption limit to $1,250,000 with respect to dispositions that occur after June 24, 2024.[18] Thus, the potential tax savings are significant. However, the planning can be complex and there are potential traps to be avoided.[19] If this type of planning is done, it is important that the allocated proceeds of the business are, in fact, received by the trust beneficiaries.

In a 2018 Federal Court of Appeal case where this type of planning was undertaken, the beneficiaries were obligated to immediately remit the proceeds to the taxpayer who set up the trusts and founded the business.[20] The CRA denied the beneficiaries' claim to their respective capital gains exemptions. The court concurred with the CRA's decision, noting that the transactions amounted to a sham.

The CRA has also noted that there may be limits to a trustee's discretion in the allocation to beneficiaries of taxable capital gains eligible for the capital gains exemption. According to the CRA, the amount of a trust's net taxable capital gains for a taxation year that may be designated in respect of a beneficiary to claim the lifetime capital gains exemption is limited to the particular beneficiary's proportionate share of all designations made by the trust.[21] Consult your EY Tax advisor.

Putting a prescribed rate loan in place: Generally, with prescribed rate loan planning, the higher-income spouse or partner loans cash at the prescribed interest rate to his or her partner, or to a trust for the benefit of the spouse or partner and/or children or grandchildren. The loan proceeds are invested to earn a higher rate of return than the prescribed rate in effect on the date the loan is made (the prescribed rate was 6% for the first and second calendar quarters in 2024, and 5% for the third and fourth calendar quarters). The net income from the invested funds (i.e., net of interest expense paid on the prescribed rate loan) is taxable in the hands of the lower-income family members at lower tax rates than would apply to the lender.

It should be noted that once a prescribed rate loan has been entered into, the interest rate on the loan does not need to fluctuate, even if the published prescribed rate changes. Therefore, the prescribed rate loan remains valid even if the prescribed rate, for example, increases later on provided the other requirements of the loan continue to be met, such as the payment of interest.

To ensure that the income attribution rules do not apply, interest charged on the loan must be paid within 30 days of the end of each calendar year. The lender reports this interest received as income, while the loan recipient deducts the interest in the year it is paid. Form T5, *Statement of investment income*, is not required to be filed in respect of this interest income.

For purposes of this planning, the loan is generally payable on demand and should have sufficient flexibility such that any portion of it is payable 30 days after demand and the borrower has the right to repay it at any time without notice or penalty. Legal counsel should be consulted to draft the terms of the promissory note. A separate bank or broker account should be set up to preserve the identity and source of the investments and the resulting income.

[18] Indexation of the lifetime capital gains exemption will resume in 2026.
[19] For example, capital gains realized by minors on the disposition (either directly or through a trust) of private company shares to a non-arm's-length party are treated as non-eligible dividends and taxed at top marginal rates as described in footnote 2 above.
[20] *Laplante v. the Queen*, 2018 FCA 193.
[21] See CRA document 2021-0922021C6,

If cash is not readily available but you have a portfolio of securities, you could sell these investments to your family members, or to a trust for their benefit, in exchange for a prescribed-rate loan equal to the value of the investments at that time. You would be required to report the disposition of the investments on your personal income tax return. Although any resulting capital gains are taxable, capital losses realized could be denied under the superficial loss rules if the family member is your spouse or common-law partner.

If you sell shares of your private corporation to your family members in exchange for a prescribed rate loan equal to the value of the shares, the revised TOSI rules (see **Tax on split income** above) may result in adverse income tax consequences. Any gains realized from the subsequent disposition, if income from the shares would otherwise be split income, are taxed at the highest marginal tax rate, subject to certain exceptions. Also, capital gains realized by minors on dispositions of private company shares to a non-arm's-length party are treated as non-eligible dividends and taxed at top marginal rates (which are higher than the top rates applicable to capital gains). Consult with your EY Tax advisor.

Refinancing a prescribed rate loan: If you have an existing prescribed rate loan that was established when interest rates were higher, consider whether to repay the old loan and advance funds for a new loan at a lower interest rate.[22] As an example, the prescribed interest rate was 2% in 2018 Q2 and was then subsequently reduced to 1% in 2020 Q3.

Be aware that simply changing the interest rate on an existing loan to the new lower prescribed rate – or repaying the loan with a new prescribed rate loan – would cause the new loan to be offside, and attribution would apply so that any income earned on the loaned funds would be reportable by the lender.

The safest way to repay the existing loan without attracting attribution would be to liquidate the investments held by the debtor family member or trust and use the proceeds to repay the loan. However, this may be costly from an investment or tax perspective if there are accrued capital gains or losses on the investments. As well, in difficult market conditions, the liquidation of the investments may not provide sufficient funds to repay the original loan.[23]

If you liquidate the investment portfolio, the existing loan should be repaid before a new prescribed rate loan is made.[24] Funds must be transferred and appropriate documentation should be available to substantiate the repayment of the existing loan and the establishment of the new loan arrangement. It would also be prudent to make the value of the new loan and/or its terms sufficiently different than the repaid loan, so it could not be viewed as the same loan.

If it is not feasible to liquidate the investments, consider borrowing from an arm's-length party, such as a bank (using the existing investments as collateral), to fund the repayment of the original loan. It is important to ensure that the original lender does not guarantee the bank loan and that appropriate documentation is prepared as proof of the loan repayment.

Once the original loan has been repaid, the attribution rules would no longer apply to income or gains earned on the property.

You could then enter into a new, lower prescribed rate loan arrangement, and the debtor family member could use the loan proceeds to repay the bank and invest any excess funds. It would be best if the new loan comes from funds other than the proceeds from the repayment of the original loan, and the amount of the new loan exceeds the bank borrowing to distinguish the two loans and provide evidence that they are not the same.

Capital gains attribution: If your spouse or partner realizes capital gains on transferred or loaned property, these gains are attributed to you. A portion of any income realized on the reinvestment of the proceeds will also be attributed. However, there's no attribution of capital gains realized on property you loan or transfer to your children (including those under the age of 18 as well as other relatives who are minors) or other relatives. As a result, providing funds to a child to invest in properties that will generate a capital gain should result in the gain being taxed in the child's hands.[25]

[22] Consider the possible exposure to the TOSI outlined above.

[23] If you are going to repay the loan for less than its face value, consider the debt forgiveness rules; consult your EY Tax advisor.

[24] At the October 2020 Canadian Tax Foundation CRA Roundtable, the CRA confirmed this position, by stating that attribution would not apply where a prescribed loan is refinanced in the following circumstances. Loan 1 is taken out to purchase securities. It is repaid by selling half of the securities financed by it (as in this scenario the value of the securities had doubled since their purchase), using the proceeds. Loan 2 is then taken out at a lower prescribed rate to finance the purchase of new investments. The CRA confirmed that there would be no attribution on either the securities that are still owned and were purchased with Loan 1 or the new investments purchased with Loan 2 in this case.

[25] Although attribution will not apply, consider the impact of the revised TOSI rules (see **Tax on split income**). Under these rules, gains from the disposition of property after 2017, if income from the property would otherwise be split income, are taxed at the highest marginal rate, subject to certain exceptions. Consult with your EY Tax advisor.

Income splitting through a spousal RRSP: A spousal RRSP is a plan to which you contribute, but your spouse or partner receives the annuities. A contribution you make to a spousal RRSP does not affect your spouse's or partner's RRSP deduction limit for the year. But your total deductible contributions to your and a spousal RRSP may not exceed your own deduction limit.

If you have earned income – including employment income, director fees, business income, royalties or rental profits – after you turn the age of 71, when your RRSP matures and is required to be collapsed, and you have a younger spouse or partner, you may continue to make contributions to a spousal RRSP until the end of the year your spouse or partner turns 71.

For more information about RRSPs, see **Chapter 11: Retirement planning**.

Contributions to a spousal plan become the property of your spouse or partner. In most cases, the withdrawn funds are taxable in the hands of the beneficiary, presumably the lower-income spouse or partner, if planned properly. However, caution should be exercised, as funds withdrawn within three taxation years of any contribution to the plan may be attributable to you and taxed in your hands, instead of your spouse's or partner's.

The attribution rules are very complex. Your EY Tax advisor can assist you with implementing your planning.

Pension income splitting

If you receive pension income that qualifies for the pension income tax credit, you can transfer up to half of it to your spouse or partner. Note that this is a notional transfer and therefore there is no actual transfer of cash. There is no maximum dollar amount.

INCOME ELIGIBLE FOR SPLITTING

Different types of pension income may be eligible for splitting, depending on your age:

- *If you're under 65:* Annuity payments from a registered pension plan (RPP), certain other payments received as a result of the death of your spouse or partner (e.g., a survivor pension annuity), amounts received out of a retirement income security benefit with respect to Canadian Forces veterans, subject to certain conditions, and amounts received as an income replacement benefit in respect of a Canadian Forces veteran, for the months following the month in which the veteran attained or would have attained age 65, subject to certain conditions.
- *If you're 65 or older:* The payments described above and annuity payments from an RRSP or a deferred profit-sharing plan, registered retirement income fund (RRIF) payments, payments out of or under a pooled registered pension plan (PRPP), certain qualifying amounts distributed from a retirement compensation arrangement and annuity payments from an advanced life deferred annuity and variable payment life annuity, and amounts paid from a PRPP or a defined contribution (money purchase) RPP. Pension income for this purpose does not include OAS, CPP or QPP benefits, death benefits, retiring allowances, RRSP withdrawals (other than annuity payments), or payments out of a salary deferral arrangement or employee benefit plan.

A foreign pension annuity may qualify for income splitting. However, neither the portion that's tax exempt due to a tax treaty with the foreign country nor income from a US individual retirement account qualifies.

HOW TO SPLIT ELIGIBLE PENSION INCOME

To split pension income, you and your spouse or partner must make a joint election by completing Form T1032, *Joint Election to Split Pension Income*, and file the election with the income tax returns for the year the pension income is being split. Where the returns are efiled, a signed copy should be retained in your file. When you make the election, the pension income allocated to the spouse or partner is a deduction from net income on the transferor's return and an addition to net income in the transferee's return. The transferred income will retain its character as either pension income or qualifying pension income (for those under 65) in the transferee's return.

When income tax has been withheld from pension income that's being split, allocate the tax withheld in the same proportion as you report the related income.

You have to make the pension income-splitting election on an annual basis. Each year, you and your spouse or partner decide if you want to split eligible pension income and how much you want to split (up to a maximum of 50% of eligible pension income). Each annual election is independent and is based on the eligible pension income received in that taxation year.

SPLITTING CPP

Although CPP is not pension income for the purposes of the pension income-splitting rules, couples have been able to split or share CPP benefits for many years.

CPP sharing is available, by application, to spouses or partners who are both at least 60 years of age and living together, where one or both are either receiving or applying for CPP benefits. You do not, however, get to choose how to split the income. Instead, you share the benefits equally. Under CPP sharing, cash payments are actually "split."

If you're not currently splitting your CPP income and would like to do so, visit **www.canada.ca/en/services/benefits/publicpensions/cpp/share-cpp.html**.

BENEFITS OF PENSION INCOME SPLITTING

Pension income splitting can produce significant tax savings for couples. The extent will depend on a number of factors, including:

- The ability to double up on the basic and pension income tax credits
- Increases in OAS retention and age credit because of reduced income to the transferor
- Use of lower marginal tax rates on the split income diverted to the transferee spouse or partner
- A potential reduction in tax instalments

TAX TIPS

- If instalments are calculated based on current-year income amounts, don't forget to factor in the pension split amount for both spouses, as the tax deducted at source on the pension income will also be transferred to the spouse.
- Be aware that the amount of instalments payable by each spouse may be affected due to an increase in income tax payable for the transferee and a decrease in income tax payable for the transferor as a result of the pension income split.

THE CASE FOR SPOUSAL RRSPS

Since the advent of pension income splitting in 2007, many think spousal RRSPs aren't necessary and don't provide additional benefits. That's simply not the case. For many families, spousal RRSPs can continue to provide benefits.

Spousal RRSPs can allow more flexibility than pension income splitting, and the two options can actually work well together. Pension income splitting is limited to one-half the recipient's eligible pension income. By using a spousal RRSP, a person can effectively direct any amount of RRSP or RRIF income to a spouse. This strategy can be beneficial when the higher-income spouse continues to work or has other significant income in his or her retirement years.

Those with earned income (including employment income, director fees, business income, royalties and rental profits) beyond age 71 and who have younger spouses or partners can continue to make spousal RRSP contributions until the end of the year the spouses or partners turn 71. This strategy allows for a prolonged deferral of tax in relation to amounts contributed.

Another important distinction between spousal RRSPs and pension income splitting is that spousal RRSPs can be used as an income-splitting tool well before retirement. Under the pension income-splitting rules, only eligible pension income can be split. In the case of RRSP or RRIF income, this means the transferor must be at least 65.

But with a spousal RRSP, the annuitant spouse can withdraw the funds after a period of time beyond the date of the spouse's contribution, with the withdrawal being taxed in the annuitant spouse's hands. There is a special attribution rule requiring a taxpayer to include in income any RRSP benefit received by his or her spouse or partner — to the extent the taxpayer has made a deductible contribution to a spousal plan in the year or the two preceding years.

This means a high-income spouse or partner can get the tax benefit of making contributions to a spousal plan at a high tax rate. After a three-year non-contribution period, the low- or no-income spouse can withdraw funds and pay little or no tax. This planning may be particularly advantageous in providing additional family funding when a lower-income spouse takes time off work, perhaps to raise children or start a business that isn't expected to earn profits for a number of years.

However, unlike with TFSAs, the funds withdrawn from the RRSP cannot be recontributed to the plan at a later date without drawing down on future contribution room.

Another important point is that pension income splitting is not a physical split of money; it's only an allocation of pension income for purposes of taxation. That means the lower-income spouse is not accumulating capital. By using spousal RRSPs, the RRSP income becomes capital to the recipient and can be invested to earn additional income (not necessarily pension income).

This doesn't mean spousal RRSPs should be used instead of pension income splitting. Depending on your personal situation, the strategies can be combined in a manner to produce the most effective financial and tax results.

Marital breakdown

The breakdown of a marriage or common-law relationship may include financial settlements, custodial decisions and various accompanying tax consequences.

Attribution rules: Attribution of income ceases to apply when a couple is separated. However, capital gains attribution does not cease until divorce (for married couples), unless the parties jointly elect to have it cease on separation.[26]

Support payments: If you make spousal support payments, you may deduct them for tax purposes, provided certain conditions are met. Generally, the payments must be payable on a periodic basis to your current or former spouse or partner, and in accordance with a signed separation agreement or a court order. In addition, certain payments to third parties, such as rent, made under the terms of a separation agreement may also be deductible, provided the payments are deducted from the support amounts otherwise payable with the concurrence of your former spouse or partner. You can also claim a deduction for payments made prior to signing an agreement or obtaining a court order, provided that the agreement is signed or the order is obtained before the end of the following year and the agreement or order specifically deals with these payments.

Deductible spousal support payments must be included in the recipient's income in the year received.

Child support is treated differently than spousal support in that the paying parent cannot deduct the payments, and the recipient parent would not include them in their income.

[26] Although not an attribution matter, capital property may be transferred to a spouse or common-law partner on a tax-deferred basis as long as both individuals are Canadian residents at the time of the transfer. In other words, if the property has an accrued capital gain, there will be no tax applicable until the transferee spouse or common-law partner disposes of the property. If a couple is separated, however, this tax-deferred rollover only continues to apply in respect of assets specifically noted in the separation agreement.

Professional fees: Legal fees paid to obtain a separation or divorce are not deductible for tax purposes. However, the individual receiving support may deduct legal fees paid to establish or increase the amount of support.

Tax credits and deductions: After separation, a parent may claim an eligible dependant credit in respect of a child under the age of 18 living with that parent. The credit is not available to the parent who is paying support. In cases where there is more than one child, and both parents support and house the children, only one parent can claim the credit in respect of any particular child. Both eligible parents must agree on who is entitled to claim the personal tax credits for a particular child, or else neither will be allowed to make the claim. Child-care expenses may only be claimed by the parent living with the child, provided the conditions for deductibility are met. If the children live with both parents, each parent may claim a share of the expenses in relation to the period that the children live with them. The transfer of tuition credits can be claimed by either parent, but the total claim cannot exceed the maximum per child.

TAX TIPS

- If you're negotiating a separation agreement, review the terms to ensure that you'll be entitled to the maximum deduction or the minimum income inclusion possible.
- If you have more than one property eligible for the principal residence exemption, be sure that you agree on who will claim it for the years in question, as it may represent a significant benefit.
- Ensure that all tax-deductible spousal support payments for the year will be made by December 31.
- If you're negotiating a separation agreement, ensure that you segregate the child support component from spousal support. Otherwise, the entire amount will be considered child support and will not be deductible.
- While income tax is calculated and returns are filed on an individual basis, entitlement to many benefits and credits is computed on a family basis. If your marital status changes during the year, be sure to report it to the CRA and consult your EY Tax advisor to help you navigate the tax implications.

Children

CHILD-CARE EXPENSES

Only the lower-income spouse or partner can deduct child-care expenses, unless they were infirm, confined to an institution, living separately because of a marital breakdown, or in full-time attendance at a designated educational institution in the year.

TAX TIPS

- Ensure that all child-care payments for the year will be made by December 31.
- Retain receipts supporting child-care expenses indicating the recipient's name and, where applicable, social insurance number.
- If you're a single parent attending school, you may still be entitled to claim a child-care expense deduction if you have net income, subject to certain limitations.

The deduction limit is $8,000 for each child under the age of seven at the end of the year, and $5,000 for those aged seven to 16, inclusive. And if the child is eligible for the disability tax credit (DTC), the limit is $11,000. The total deduction cannot exceed two-thirds of the claimant's earned income.

For more details on the deduction for child-care expenses, see the CRA's **Income Tax Folio S1-F3-C1: *Child Care Expense Deduction***.

For Québec tax purposes, there's a refundable tax credit system for child-care expenses. The tax credit rate varies depending on the amount of family income.

ADOPTION EXPENSES

A non-refundable tax credit is available for eligible adoption expenses, up to a maximum of $19,066 per child (as indexed for 2024), for the completed adoption of a child under the age of 18.

The adoption expenses credit may be claimed in respect of a child only in the taxation year in which the adoption of the child is completed (i.e., the taxation year in which the adoption period ends). For example, eligible adoption expenses incurred in 2023 during an adoption period that began in 2023 and will end in 2024 are claimable only in the 2024 taxation year.

The adoption period begins on the earlier of the following:

- The moment an application is made for registration with a provincial or territorial ministry responsible for adoption (or with an adoption agency licensed by a provincial or territorial government)
- The moment an application related to the adoption is made to a Canadian court

The adoption period ends on the later of the following:

- The moment an adoption order for the child is issued or recognized by a government in Canada
- The moment the child first begins to reside permanently with the individual

The total of all eligible adoption expenses for an eligible child must be reduced by any reimbursement or other form of assistance the adoptive parent is or was entitled to receive for these expenses. However, this reduction does not apply where the reimbursement or assistance is included in the individual's income and is not deductible in calculating the individual's taxable income.

CANADA CHILD BENEFIT

The Canada Child Benefit (CCB) program provides a tax-free monthly payment to help eligible families with the cost of raising children under 18 years of age.[27] The program provides a maximum benefit of $7,787 ($649 per month) per child under the age of six and $6,570 ($548 per month) per child aged six through 17.

The benefit is tied to household income. It begins to be phased out for adjusted family net income over $36,502 and is generally completely phased out for adjusted family income over $230,000[28] (actual amount varies depending on the number of children and their ages). Indexation of CCB amounts began July 1, 2018.

The child disability benefit (CDB) is an additional monthly benefit included in the CCB to provide financial assistance to qualified families caring for children who have a severe and prolonged impairment in physical or mental functions. Families with children under 18 years of age who are eligible for the DTC may receive the CDB. The CDB provides up to $3,322 per year ($277 per month) for each child eligible for the DTC. It begins to be phased out when adjusted family net income is more than $79,087. Indexation of CDB amounts also began on July 1, 2018.

The CRA uses information from your income tax return to calculate how much your CCB payments will be. In order to obtain the CCB, you have to file your tax return every year, even if you did not have income in the year. If you have a spouse or common-law partner, they also have to file a tax return every year. Benefits are paid over a 12-month period from July of one year to June of the next year. Your benefit payments are recalculated every July based on information from your income tax return from the previous year.

There are a number of eligibility requirements that must be met in order to receive the CCB. Full details about this program, and related provincial and territorial child benefit and credit programs, can be obtained from CRA guide T4114, *Canada Child Benefit and Related Federal, Provincial and Territorial Programs*.

Education

REGISTERED EDUCATION SAVINGS PLANS

You can use an RESP to fund your child's, grandchild's, spouse's or partner's, or even your own education.

An RESP is an arrangement between you and a promoter under which you agree to make payments to the plan and, in turn, the promoter agrees to make educational assistance payments to the beneficiary when that person attends a post-secondary institution.

[27] The CCB replaced the previous non-taxable Canada Child Tax Benefit program and its National Child Benefit Supplement, which provided assistance to lower-income families with children, and the taxable Universal Child Care Benefit, effective July 1, 2016.
[28] Based on a family living in Ontario with two children, ages 7 and 1.

There are two basic types of RESP:

- Group plans, in which you enrol with many other contributors.
- Individual plans (including family and non-family plans), to which you're the only contributor, your named beneficiaries are the only beneficiaries, and you have some control over the investments. Individual plans generally offer much more flexibility than group plans.

Transfers between individual RESPs for siblings are permitted without triggering penalties and repayments of Canada Education Savings Grants (CESGs), so that these plans enjoy the same flexibility available under family plans. Recent legislative amendments allow divorced or separated parents to open joint RESPs for one or more of their children, or to move an existing joint RESP to another promoter, effective March 28, 2023.

You can contribute a lifetime maximum of $50,000 for each beneficiary, and there's no annual contribution limit.

Contributions to an RESP are not tax deductible, but do earn income free of tax while in the plan. Income earned in the plan is taxed as ordinary income in the beneficiary's hands when it is paid out to fund post-secondary education. Contributions withdrawn are not taxable.

The advantage of an RESP is that tax is deferred on any accumulated income and, when this income is paid out, it will likely be taxed at a lower marginal tax rate and the beneficiary can benefit from personal tax credits that may otherwise go unused.[29]

When you make RESP contributions on behalf of beneficiaries under age 18, a CESG may be paid to the plan. The basic CESG is 20% of annual contributions you make to all eligible RESPs for a qualifying beneficiary, to a maximum CESG of $500 in respect of each beneficiary ($1,000 in CESG if there is unused grant room from a previous year), and a lifetime limit of $7,200. For families of modest income, an enhanced CESG may be available.

If an RESP has not received the maximum CESG cumulative entitlement, you can receive the unclaimed entitlement in a later year if your contributions in that year exceed $2,500. However, the maximum CESG you can receive in a year is $1,000 (20% of a $5,000 RESP contribution).

No CESG is paid for a child who is over age 17 in the year.

If the child is between 15 and 17, there are special CESG eligibility rules. RESPs for beneficiaries 16 and 17 years of age can only receive CESGs if at least one of the following two conditions is met:

- A minimum of $2,000 of contributions has been made to, and not withdrawn from, RESPs in respect of the beneficiary before the year in which the beneficiary turns 16; or
- A minimum annual contribution of at least $100 has been made to, and not withdrawn from, RESPs in respect of the beneficiary in any four years before the year in which the beneficiary turns 16.

You can contribute to an RESP for up to 31 years. The deadline for termination of the plan is the end of its 35th anniversary year. In the case of a disabled beneficiary, you can contribute to an RESP for 35 years, and the termination deadline is the end of its 40th anniversary year.

If none of the RESP beneficiaries pursues higher education, you can withdraw the income from the plan in addition to your contributed capital. But you must repay the CESG receipts. Up to $50,000 of the income withdrawal will be eligible for transfer to your RRSP, to the extent that you have contribution room, and the remainder will be subject to a penalty tax as well as the regular tax on the income inclusion.

ANTI-AVOIDANCE RULES

There are anti-avoidance rules applicable to RRSPs, RRIFs, TFSAs, RESPs, registered disability savings plans (RDSPs) and first home savings accounts (FHSAs). These rules impose a 50% penalty tax on both prohibited investments and non-qualified investments held within these plans, as well as a separate 100% penalty tax on certain "advantages" from transactions that exploit tax attributes of these plans. Further information about these rules can be found in **Chapter 5: Investors**.

If you're concerned about the potential application of these rules, consult with your EY Tax advisor.

[29] However, this could impair the transfer of tuition credits to a parent, depending on the amount of RESP taxable income that is paid out to the RESP beneficiary.

CANADA LEARNING BOND

In addition to the CESG, a $500 Canada Learning Bond (CLB) is paid to an RESP of a child born since 2004, provided eligibility requirements are met. In each subsequent year to age 15, the RESP receives a further payment of $100, provided the family continues to qualify. Effective for the 2024-25 benefit year beginning on July 1, 2024, families with up to three children may be eligible for the CLB if their adjusted net family income is less than or equal to $55,867. The adjusted net family income threshold increases for families with more than three children (e.g., for four children, the threshold is $63,036).[30]

BUDGET 2024: AUTOMATIC ENROLMENT FOR CANADA LEARNING BOND

The 2024 federal budget announced that children born in 2024 or later would be automatically enrolled in the CLB if they did not otherwise have an RESP set up for them by the age of four. Employment and Social Development Canada will open an RESP for these children when they reach the age of four and deposit the applicable CLB payments in the account.

Similarly, for any child born before 2024 who is eligible for an RESP, their caregiver may request that the government set up an RESP for the child and automatically deposit the CLB payments in the account, effective for the 2028-29 benefit year.

The budget also announced that the age for retroactive CLB claims is being increased from 20 to 30 years old.

LIFELONG LEARNING PLAN

You may withdraw up to $20,000 from your RRSP, tax free, to finance full-time education or training for yourself or your spouse or partner. To qualify, you must be enrolled in a qualifying educational program at a designated educational institution as a full-time student in the year of withdrawal or by the end of February of the following year. If certain disability conditions are met, you can be enrolled on a part-time basis.

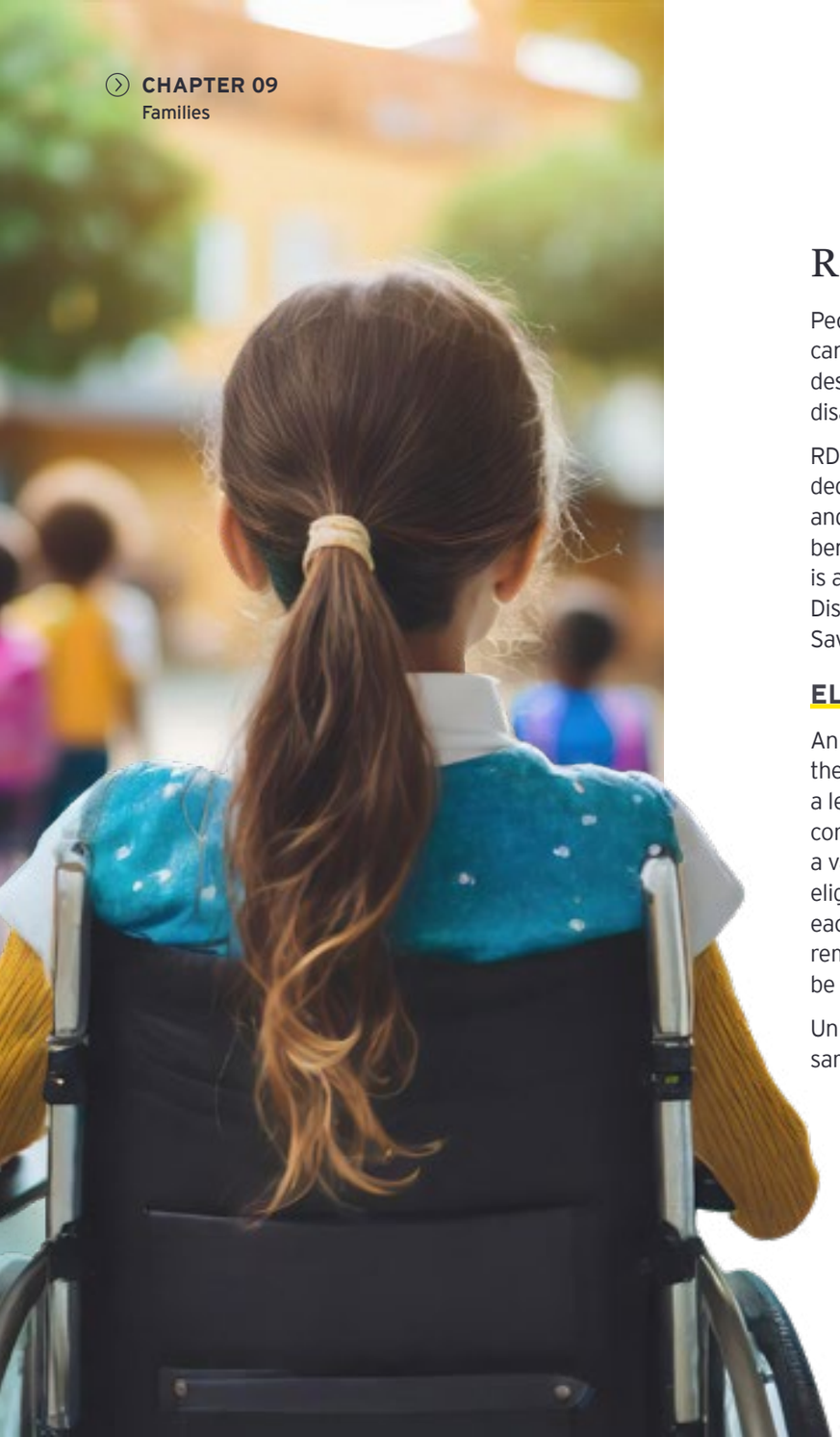
You can withdraw amounts annually until January of the fourth year following the year of the first withdrawal under the plan. The maximum amount you can withdraw annually is $10,000.

RRSP withdrawals under this plan are generally repayable in equal instalments over a 10-year period, with the first repayment due no later than 60 days after the fifth year following the first withdrawal. If you fail to make the minimum repayment, the shortfall must be included in your income for that year. A repayment of RRSP withdrawals under the Home Buyers' Plan (HBP) (see **Home Buyers' Plan** below) does not also qualify as a designated repayment of an RRSP withdrawal under the Lifelong Learning Plan. Both must be done separately.

TAX TIPS

- Provide for a child's or grandchild's post-secondary education by establishing an RESP on their behalf.
- Obtain the maximum CESG by making an RESP contribution of $2,500 each year until the lifetime limit of $7,200 CESG is received/receivable.
- If less than the maximum CESG has been received, make an RESP contribution of up to $5,000 each year until the maximum amount is received.
- With no maximum annual RESP contribution limit, consider whether the tax-free compounding benefit of early lump-sum contributions outweighs the CESG benefits available with regular contributions.
- Confirm that the RESP plan documents allow for a successor subscriber and ensure a successor is designated in your estate plan or will. In the event of death of the individual who created the RESP (not the beneficiary of the RESP), failure to provide for a successor subscriber may result in termination of the RESP and the inclusion of certain RESP funds in the deceased's estate.

[30] Prior to the 2017-18 benefit year, the CLB was paid provided the child's family was entitled to the National Child Benefit Supplement, which was part of the Canada Child Tax Benefit program that was replaced on July 1, 2016 by the CCB.



Registered disability savings plans

People with disabilities, and family members who support them, can establish RDSPs, which are tax-deferred savings plans designed to provide long-term financial security for severely disabled individuals.

RDSPs are very similar to RESPs. Contributions are not tax deductible, investment income accrues on a tax-deferred basis, and withdrawals of income from the plan will be taxable to the beneficiary. In addition, like RESPs, government assistance is available for some families in the form of the Canada Disability Savings Grant (grant) and the Canada Disability Savings Bond (bond).

ELIGIBILITY

An RDSP can be established by a person who's eligible for the DTC, their parent (if the eligible person is a minor) or a legal representative (if the eligible person is not contractually competent). The beneficiary must be under 60 years old, have a valid social insurance number and be a Canadian resident eligible for the DTC in the year the plan is established and when each contribution is made to the plan. The beneficiary need not remain a resident of Canada; however, contributions may not be made while the beneficiary is a nonresident.

Unlike RESPs, multiple RDSPs are not permitted for the same beneficiary.

If the eligible person is not contractually competent, a temporary measure permits certain family members, such as the eligible person's parent or spouse or common-law partner, to establish and manage the RDSP (to be the RDSP "plan holder") if there is no legal representative, provided the RDSP is set up before the end of 2026. As of June 22, 2023, family members for this purpose also include the eligible person's brother or sister. An individual who becomes an RDSP plan holder under these rules will generally be able to remain the holder of the RDSP after 2026.

CONTRIBUTIONS

Like RESPs, there is no annual contribution limit for RDSPs. However, the lifetime maximum contribution limit to any one plan is $200,000. Contributions are not tax deductible and can be made in any year up to and including the year in which the beneficiary turns 59. With written permission from the RDSP holder, anyone can contribute to an RDSP. Contributions cannot be made after a beneficiary has died, ceases to be eligible for the DTC or ceases to be a resident of Canada.

Annual contributions will attract matching grants of 100% to 300%, depending on the amount contributed and family income. The maximum grant is $3,500 per year subject to a lifetime maximum of $70,000.

For lower-income families, bonds will add up to an additional $1,000 per year to the RDSP, to a maximum lifetime limit of $20,000. This supplement does not depend on amounts contributed.

For minor beneficiaries, the parents' (or guardians') net income is considered in determining net family income for purposes of the threshold amounts. Otherwise, the beneficiary's family income is used. The income threshold amounts will be indexed annually to inflation.

Both the grant and the bond are only payable to a plan up until the year the beneficiary turns 49.

A 10-year carryforward of unused grant and bond entitlements (from 2008 onwards) is available. This allows contributions that are made after 2010 to an RDSP to be used to catch up on prior-year unused entitlements (subject to an annual maximum of $10,500 for grants and $11,000 for bonds).

To encourage long-term savings, the grants and bonds are subject to repayment if withdrawn within 10 years of their contribution (starting with the oldest contributions first). Whenever money is withdrawn from an RDSP, the beneficiary must repay $3 of any grants or bonds paid into the plan in the preceding 10 years for every $1 that is taken out, up to the total amount of grants and bonds paid into the RDSP in the last 10 years.

When an RDSP is terminated, a beneficiary is generally required to repay any grants and bonds received by the RDSP in the preceding 10 years.

WITHDRAWALS

Disability assistance payments can be made from an RDSP at any time and used for any purpose for the benefit of the disabled beneficiary.

Lifetime disability assistance payments are disability assistance payments that must be paid at least annually beginning by the end of the year in which the beneficiary turns 60. Once started, annual payments must continue until the plan is terminated or the beneficiary dies.

Unlike RESPs, contributors cannot receive a refund of their contributions. Only beneficiaries or the beneficiary's estate may receive payments from an RDSP.

There are limits to the amount that can be paid out of an RDSP:

- A payment cannot be made if it causes the fair market value of plan assets to fall below the "assistance holdback amount" (generally the amount of grants and bonds paid into the plan in the 10-year period preceding the payment).
- Once lifetime disability payments commence, they must be made annually, and the annual payments are limited by a formula generally dividing the value of the assets of the plan at the beginning of the year by the number of years until the beneficiary reaches age 80 plus three. This limitation is intended to ensure that the plan will continue to provide for the disabled beneficiary evenly over their remaining life.

TAXATION

Only the income that has been earned in the plan, plus the grants and bonds deposited to the plan, or rollover amounts are taxable when payments are made from an RDSP. The contributions are not taxable.

Therefore, each disability assistance payment comprises both a non-taxable and a taxable portion. The non-taxable portion is calculated by applying the ratio of total contributions to the total value of plan assets, reduced by the assistance holdback amount. The remaining taxable portion is included in the beneficiary's income for the year in which the payment is made.

Amounts paid out of an RDSP are excluded from income for the purposes of calculating various income-tested benefits, such as the GST/HST credit and CCB. In addition, RDSP payments will not reduce OAS or Employment Insurance benefits.

ANTI-AVOIDANCE RULES

There are anti-avoidance rules applicable to RRSPs, RRIFs, TFSAs, RESPs, RDSPs and FHSAs. These rules impose a 50% penalty tax on both prohibited investments and non-qualified investments held within these plans, as well as a separate 100% penalty tax on certain "advantages" from transactions that exploit tax attributes of these plans. Further information about these rules can be found in **Chapter 5: Investors**.

If you're concerned about the potential application of these rules, consult with your EY Tax advisor.

RDSP ELECTION FOR BENEFICIARIES WITH A SHORTENED LIFE EXPECTANCY

A specified disability savings plan (SDSP) allows a beneficiary with a life expectancy of five years or less to withdraw up to $10,000 in taxable amounts annually from their RDSP without triggering the repayment of Canada Disability Savings Grants and Canada Disability Savings Bonds.

To qualify as an SDSP, the holder of the RDSP must make an election in prescribed form, and a medical doctor or a nurse practitioner must certify that the beneficiary of the RDSP is unlikely to survive more than five years.

Once the election has been made, no more contributions can be made to the plan and the plan will not be entitled to any grants or bonds.

CONTINUATION OF PLAN FOLLOWING LOSS OF DTC ELIGIBLE STATUS

Prior to 2021, an RDSP holder could elect, by the end of the year following the first full calendar year for which the beneficiary was DTC ineligible, to extend the life of the RDSP for four additional years if a medical practitioner or a nurse practitioner certified in writing that the beneficiary would become DTC eligible in the foreseeable future.

During the period of the election, no contributions could be made and no new grants or bonds could be paid, but withdrawals were permitted subject to the regular limitations.

Amendments enacted in June 2021 removed the time limit on the period an RDSP may remain open after a beneficiary ceases to be DTC eligible. The amendments also removed the requirement for medical certification that the beneficiary is likely to become DTC eligible in the foreseeable future. This measure is effective for the 2021 and later taxation years.

Previous rules that applied when an election was filed to extend the life of an RDSP continue to apply subject to a number of modifications. For example, withdrawals from the RDSP continue to be permitted subject to the regular limits, but the assistance holdback amount (see **Withdrawals** above) is modified, depending on the beneficiary's age.

Additional amendments modify the assistance holdback amount by adjusting its reference period for a beneficiary who becomes DTC ineligible after the year they reach 49 years of age. Any excess repayments of Canada Disability Savings Grants or Canada Disability Savings Bonds that were made on withdrawals occurring after 2020 but before June 29, 2021, the date of enactment of the amendments, were returned to beneficiaries' RDSPs after that date.

If a beneficiary regains eligibility for the DTC in a year, the regular RDSP rules will once again apply to the RDSP commencing in that year. Should the beneficiary become ineligible for the DTC at some later time, the amendments in respect of DTC ineligibility will resume. As a transitional measure, an RDSP issuer was not required to close an RDSP after March 18, 2019, when the amendments were first proposed in the 2019 federal budget, and before 2021 solely because an RDSP beneficiary ceased to be eligible for the DTC or the election to extend the RDSP by four additional years ceased to be valid.

For more details, see **EY Tax Alert 2020 Issue No. 57** and **EY Tax Alert 2021 Issue No. 24**.

PERMITTED ROLLOVERS

A deceased individual's RRSP and RRIF proceeds (and certain RPP and PRPP proceeds) may be rolled over to an RDSP of the deceased's impaired and financially dependent child or grandchild. The rollover can take place even if the beneficiary is no longer eligible for the DTC, provided it occurs by the end of the fourth calendar year following the first year throughout which the beneficiary is DTC ineligible.[31] The accumulated investment income earned in an RESP may be rolled over to an RDSP of the same beneficiary under certain circumstances, where the beneficiary is unable to pursue post-secondary education.

Amounts rolled over to an RDSP will reduce the $200,000 contribution room. Grants will not be paid on amounts rolled over into an RDSP.

[31] This rule applies to rollovers made on or after March 19, 2019.

Principal residences

A principal residence is generally any accommodation you own and that you, your spouse or partner, or your child ordinarily inhabits, provided you designate it as your principal residence.

A special exemption applies in the case of a gain on the sale of a principal residence. As a general rule, no tax liability will arise from the sale of a principal residence, as long as the property does not exceed one-half hectare.

Under recent legislative amendments, profits (i.e., gains) that arise from the disposition of residential real estate located in Canada that was owned for fewer than 365 continuous days are, subject to certain exceptions, taxed as business income and are not eligible for the principal residence exemption.

The exceptions pertain to certain life events, such as the death of the taxpayer or a related person, a household addition such as the birth of a child, a separation, a serious illness or disability, and certain employment changes, as well as involuntary dispositions (e.g., an expropriation).

These rules also apply to gains from assignment sales, subject to certain exceptions as noted above. These amendments apply to properties disposed of on or after January 1, 2023. For more information, see **Chapter 8: The principal residence exemption** and **EY Tax Alert 2022 Issue No. 42**, *Federal Fall Economic Statement 2022*.

If you own more than one property that can qualify as a principal residence (e.g., a home and a cottage), you do not have to decide which one is your principal residence until you sell one of them. However, to properly calculate the gain on disposition of each property, you should maintain records (including receipts and invoices) for the cost of all capital improvements you make to your residence. These costs can be added to the adjusted cost base of the property and reduce the gain that may not be sheltered by the exemption.

If you and/or your spouse or partner own two properties, there are opportunities for tax planning if at least one of the properties was purchased before 1982. Prior to 1982, one spouse could own and designate one property as their principal residence, and the other spouse could own and designate another property, provided each property met the "ordinarily inhabited" test. A cottage would have met this test in most cases. Properties owned before 1982 continue to be governed by the old rules for pre-1982 ownership years. For years after 1981, however, a family can only designate one property as a principal residence.

Amendments effective for the 2016 and later taxation years impact the special exemption that may apply to shelter a gain on the sale of a principal residence. While some of these amendments are targeted at nonresidents who purchase a residence in Canada, others apply more broadly to all Canadian homeowners. In particular, as of the 2016 taxation year, you are required to report every disposition of a principal residence on your tax return, whether the gain is fully sheltered or not by the principal residence exemption. In the past, the CRA did not require you to report the sale of a principal residence if the gain was fully sheltered by the exemption.

Additional amendments include an extended assessment period for taxpayers who do not report the sale of a principal residence on their tax return, permitting the late filing of a principal residence designation, subject to a late-filing penalty, and changes to the principal residence exemption rules for properties held by trusts.

For more information, refer to **Chapter 8: The principal residence exemption**, or contact your EY Tax advisor.

HOME BUYERS' PLAN

If you're a first-time home buyer, the HBP allows you to withdraw up to $60,000[32] from an RRSP to finance the purchase of a home. You're considered a first-time home buyer if neither you nor your spouse or partner owned a home and lived in it as your principal residence in any of the five calendar years beginning before the time of withdrawal.

If you're buying a new home that's more suitable or accessible for a disabled individual, you can take advantage of the HBP without having to meet the above prerequisites.

If you withdraw funds from your RRSP under the HBP, you must acquire a home by October 1 of the year following the year of withdrawal. No tax is withheld on RRSP withdrawals made under this plan.

You must generally repay the withdrawn funds to your RRSP over a period of up to 15 years, starting in the second calendar year after withdrawal. For HBP withdrawals made between January 1, 2022 and December 31, 2025, a three-year extension is granted, meaning you do not have to begin making repayments to your RRSP until the fifth calendar year after withdrawal.

The CRA will provide you with an annual statement informing you of your minimum repayment requirement. If you fail to make the minimum repayment, the shortfall must be included in your income for that year. Annual repayments may be made within the first 60 days of the following year. A contribution made to an RRSP fewer than 90 days before it is withdrawn is generally not deductible.

Legislative amendments, effective for withdrawals made after 2019, allow you to re-qualify, under certain circumstances, for the HBP following the breakdown of a marriage or common-law partnership, even if you would not otherwise meet the first-time home buyer requirement.

A number of conditions must be met. For example, at the time you make an HBP withdrawal from an RRSP, you must be living separate and apart from your spouse or partner for a continuous period of at least 90 days because of a breakdown of the marriage or common-law partnership. In addition, you must have begun to live separate and apart in the year the withdrawal was made or in one of the four preceding years.

If the withdrawn amount does not otherwise meet the eligibility requirements under the HBP, the amount will not be included in your income as long as it is repaid to an RRSP before the end of the second year after the year in which the withdrawal is made. Other conditions and rules apply depending on the circumstances.

If you're planning on using the HBP to buy a newly built condominium unit, you should be aware of recent changes to the HBP rules. The amendments make it easier for new condo purchasers, who may find themselves at the mercy of construction delays, to meet the time limits set out for HBP withdrawals.

Purchasers of newly built condominiums are often allowed to move into the unit before the final completion or closing date. Under the HBP rules, an RRSP withdrawal can only qualify for the HBP if it is made no more than 30 days after the home is acquired. However, under a special rule, a condominium unit is treated as being acquired on the day the individual is entitled to immediate vacant possession of it.[33] Therefore, under the previous HBP rules, if the individual withdrew RRSP funds around the time of final completion or closing and the withdrawal date was more than 30 days after the date of vacant possession, the withdrawal could not be made under the HBP and would instead be included in the individual's income.[34]

This situation occurred in the case of *Chitalia v. The Queen*,[35] where the purchaser moved into their new condominium on November 3, 2011 but did not make an RRSP withdrawal until January 12, 2012 in anticipation of the closing date of January 20, 2012. The Tax Court of Canada acknowledged that while the version of the CRA form in use at the time was misleading, the Court had to give effect to the wording of the *Income Tax Act*, which would not allow the withdrawal to qualify for the HBP.

Under the amended HBP rules, which were effective August 9, 2022, the date an individual actually acquires a condominium unit – that is, the final completion or closing date – applies for purposes of determining the latest date an HBP withdrawal may be made from an RRSP. In addition, an individual is now required to be resident in Canada until the time when a condominium unit is actually acquired, rather than the time when vacant possession is given.

[32] The HBP withdrawal limit was increased from $35,000 to $60,000, effective for the 2024 and later taxation years in respect of withdrawals made after April 16, 2024, and from $25,000 to $35,000, effective for the 2019 and later years in respect of withdrawals made after March 19, 2019.
[33] This is the date when the individual takes physical possession of the condominium unit and, in the case of a newly constructed unit, it occurs before the date when legal ownership is transferred to the individual (i.e., on the "occupancy date").
[34] The date of final completion or closing is when the buyer acquires the unit by becoming its legal owner.
[35] *Chitalia v. The Queen*, 2017 TCC 227.

Tax-free first home savings account

Recent legislative amendments introduce a new type of registered account to help Canadians save for a down payment for their first home. The account is called the tax-free first home savings account (FHSA). Beginning April 1, 2023, you may contribute up to $8,000 each year to an FHSA, subject to a lifetime limit of $40,000. Contributions to an FHSA are tax deductible, and income earned in the account is not subject to tax. Qualifying withdrawals made to purchase a first home are non-taxable.

You can open an FHSA if you are a resident of Canada, are at least 18 years of age and are considered a first-time home buyer. Generally speaking, you are considered a first-time home buyer if you did not live in a qualifying home as your principal residence that was owned by either you or your spouse or common-law partner in any of the four previous calendar years or during the time in the current year before you open the FHSA.

Similar to the rules that apply to TFSAs and RRSPs, unused FHSA contribution room can be carried forward. However, unlike a TFSA, you will not begin to accumulate FHSA contribution room until you open an account, and a maximum of $8,000 of contribution room may be carried forward to future years. Unused deductions for contributions made to an FHSA may be carried forward indefinitely. Excess contributions are subject to a 1% per month penalty tax until they are either withdrawn from the account or absorbed by new contribution room becoming available.

To make a qualifying withdrawal from an FHSA, you must be resident in Canada throughout the period from the time of the withdrawal until the time when the home is acquired, and you must also complete the relevant form with details of the home you're buying. You must intend to live in the home as your principal place of residence no later than one year after you acquire it.

You cannot have lived in a home that you owned at any time in the period starting on January 1 of the fourth calendar year before the year when you make the withdrawal and ending 31 days before the withdrawal.[36] You must enter into a written agreement before the FHSA withdrawal to buy or build the qualifying home before October 1 of the year following the year of the FHSA withdrawal, and you cannot have acquired the qualifying home more than 30 days before the FHSA withdrawal.

Note that if you own a property and change its use from an income-earning purpose (e.g., rental) to make it your personal home, you will not be treated as having disposed of and re-acquired the property at the time of the change in use for purposes of the FHSA rules.[37] Your acquisition date will be the date when you originally bought the property.

For more information on the change-in-use rules and the corresponding deemed disposition that may occur when the use of a property changes from an income-earning purpose to a non-income-earning purpose or vice versa, see **Chapter 8: The principal residence exemption**.

TAX TIPS

- For each principal residence acquired before 1982, consider:
  - The need to establish the value of the residence at December 31, 1981
  - The need for separate rather than joint ownership of the residence
- If your family owns more than one residence, the principal-residence designation should generally be used for the property with the largest gain per year. However, the timing of the tax liability must also be considered.
- Property with an area in excess of one-half hectare may, in certain circumstances, qualify as a principal residence.
- By withdrawing funds from your RRSP under the HBP, you forgo the income that would have been earned on those funds, as well as the related tax-deferred compounding.
- If you expect to be a first-time home buyer within the next few years, open an FHSA so you can start accumulating contribution room. If you're not in a position to start contributing right away, you can carry forward up to $8,000 in contribution room to future years.
- You are able to make a withdrawal from your FHSA as well as under the HBP, if you so choose, for the same qualifying home purchase.

[36] For example, if you make a withdrawal on June 30, 2025, you cannot have had an owner-occupied home at any time from January 1, 2021 to May 30, 2025.
[37] See CRA document 2023-0976911C6.

A withdrawal that is not a qualifying withdrawal will be subject to tax reporting and income tax inclusion, and to withholding tax similar to the treatment of taxable RRSP withdrawals.

Permitted investments for FHSAs are the same as for TFSAs and similar to other registered plans. There are anti-avoidance rules applicable to RRSPs, RRIFs, TFSAs, RESPs, RDSPs and FHSAs. These rules impose a 50% penalty tax on both prohibited investments and non-qualified investments held in these plans, as well as a separate 100% penalty tax on certain "advantages" from transactions that exploit tax attributes of these plans.

Further information about permitted investments and these anti-avoidance rules can be found in **Chapter 5: Investors**.

When you purchase a home, you may make a withdrawal from your FHSA as well as under the HBP, if you so choose, for the same qualifying purchase.

For more information on FHSAs, see **TaxMatters@EY, October 2022**, "What's new for first-time home buyers?;" and **TaxMatters@EY, February 2023**, "Focus on housing."

FIRST-TIME HOME BUYERS' TAX CREDIT

First-time home buyers who acquire a qualifying home are entitled to a one-time non-refundable federal tax credit of up to $1,500 ($750 for qualifying homes purchased before January 1, 2022). Any unused portion of the non-refundable credit may be claimed by the individual's spouse or partner. If the property is acquired jointly, the total credit claimed by the individual and their spouse or partner may not exceed $1,500.

The same eligibility provisions as for the HBP apply. You're considered a first-time home buyer if neither you nor your spouse or partner owned a home and lived in it as your principal residence in the calendar year of purchase or in the preceding four calendar years. In addition, the property must be occupied as your principal residence within one year of its acquisition.

HOME ACCESSIBILITY TAX CREDIT

The home accessibility tax credit is a non-refundable tax credit of up to $3,000 designed to help seniors and persons with disabilities live more independently in their own homes by encouraging home renovations that improve accessibility, safety and functionality. The maximum credit for 2021 and earlier taxation years (since its inception in 2016) was $1,500. See **Chapter 10: Tax assistance for long-term elder care** for further discussion.

Multigenerational home renovation tax credit

Under recent legislative amendments, an individual may claim a new refundable tax credit of up to $7,500 for qualifying renovation work performed and paid for, or goods acquired on or after, January 1, 2023. The renovation must be carried out to create a secondary unit in a home that allows either a senior or a disabled adult to live with their qualifying relation, generally speaking a close relative. See **Chapter 10: Tax assistance for long-term elder care** for further information.

Non-refundable tax credits

Most federal personal tax credits are fully indexed to inflation (measured by changes in the consumer price index). Most provinces also provide for full or partial indexing of their non-refundable tax credits (the indexation rate varies by province).

For a summary of the maximum combined federal and provincial value of the most common non-refundable tax credits, see **Appendix B**.

TAX TIPS

- If you're not making full use of your pension income credit, consider purchasing an annuity or RRIF, which provides annual pension income. One way of doing so is by withdrawing $2,000 per year (enough to use up the maximum pension credit) from your RRSP and converting it to an RRIF or annuity.
- Consider combining the claim for medical expenses incurred by you, your spouse or partner, and your eligible dependants for any 12-month period ending in the year, to optimize the tax savings. Also, by having the lower-income spouse or partner make the claim, the credit may be increased because of the 3%-of-net-income threshold (in Québec, the threshold is 3% of net family income).
- If you support a dependent relative who is physically infirm, you may be entitled to claim a special tax credit. For more information, see **Chapter 10: Tax assistance for long-term elder care**.
- If your children attend private school, check with the school to determine if a portion of the tuition fees is eligible for the child-care expense deduction or qualifies as a charitable donation.
- If your spouse or partner or your child has tuition fees in excess of approximately $5,000, consider income splitting. This may enable you to create sufficient income to use any non-transferable tuition credit. (The maximum federal tax credit available for transfer of tuition credits is $750.)
- If one spouse or partner has no income tax payable and at the same time has not fully used their non-refundable credits (e.g., age credit, pension, tuition and disability tax credits), the unclaimed balance of these credits can be transferred to the other spouse or partner. (In Québec, it is also possible to transfer credits to a spouse or partner. To benefit from this transfer, the spouse or partner has to file a Québec return, even if no tax is payable.)

CHARITABLE DONATION TAX CREDIT

You're entitled to a federal non-refundable tax credit of 15% on the first $200 of charitable donations. For donations in excess of $200, an individual can obtain a 33% federal credit to the extent the donations relate to an individual's taxable income in excess of the highest income bracket threshold ($246,752 for 2024); otherwise, a 29% rate applies. For example, if you have taxable income of $248,000 in 2024 and make $5,000 of donations in the year, $1,248 of the donations will qualify for the 33% credit ($248,000 – $246,752). Of the remaining $3,752, $3,552 will qualify for the 29% credit and $200 for the 15% credit.

The maximum annual claim for charitable donations is 75% of your net income for the year. Any donations beyond that may be carried forward for five years.

If you make a "gift in kind" (e.g., capital property rather than cash), special rules may apply. Unless you elect otherwise, the property is deemed to be disposed of at fair market value for capital gains purposes and you're considered to have made a donation for the same amount. See **Chapter 5: Investors** for further discussion of the capital gains implications of certain gifts in kind.

In the case of a donation of capital property, the donation limit can be as much as 100% of the resulting taxable capital gain (or recapture, in the case of depreciable property) included in income.

In the year of your death and in the immediately preceding year, the donation limit rises to 100% of your net income.

Claims for charitable donations must be supported with official tax receipts from the charitable organization.

You may claim donations made by either yourself or your spouse or partner. However, as of 2016, the previous administrative practice of allowing a gift made by an individual's will to be claimed by a deceased individual's spouse or partner no longer applies (as per CRA document 2014-0555511E5).

Donating recently purchased property – There are a number of complex tax rules to combat "buy low, donate high" tax shelter schemes. These rules apply to any gift of appreciated property that was acquired within three years of the time of the gift (10 years if one of the main reasons for acquiring the property was to make the gift). In these situations, the gift amount will be the lesser of the cost of the property to the donor and its fair market value at the time of the gift.

If the property was acquired by any person with whom the donor did not deal at arm's length within the applicable time period (i.e., three or 10 years), the cost of the property to the donor will be the lesser of the cost to (i) the donor and (ii) the non-arm's-length person. Gifts of publicly traded securities, certified cultural property (other than property acquired as part of a tax shelter gifting arrangement), ecological gifts, inventory, real property situated in Canada, certain shares of closely held corporations and gifts made on death are excepted from these rules.

Tax shelter gifting arrangements – The CRA has been auditing all gifting tax shelter schemes and will not assess tax returns of individuals who claim a donation tax credit as a result of such a scheme until the audit of the particular scheme is complete.

An individual whose return is on hold will be able to have the return assessed before the completion of the audit only if the individual removes the donation tax credit claim for the gifting tax shelter in question. In addition, the CRA may collect 50% of any assessed tax, interest or penalties that result from the disallowance of a tax credit claimed in respect of a tax shelter involving a charitable donation.

The CRA has indicated that, to date, it has not found any tax shelter gifting arrangements that it believes comply with Canadian tax laws. It has generally succeeded in denying the benefits of tax shelter gifting arrangements before the courts.

Foreign gifts – In general, gifts to foreign charities are not eligible for the charitable donation tax credit. Exceptions include gifts to registered universities outside Canada (the CRA maintains and posts a **list of registered foreign universities** for this purpose consisting of foreign universities, the student body of which ordinarily includes students from Canada), gifts to certain foreign charities that have qualified and applied for registration in Canada (the CRA maintains and posts a **list of qualified foreign charities**) and gifts made to US charities where the US charity would qualify as a charity in Canada had it been a resident of Canada and created or established in Canada (as provided in Article XXI, paragraph 7 of the Canada-US tax treaty).[38] Note that a tax credit for gifts to US charities is available to the extent that the individual making the gift has sufficient US-source income and the claim is limited to 75% of that US-source income.[39]

Gifts of cultural property – Objects certified as cultural property by the Canadian Cultural Property Export Review Board (CCPERB) and gifted to a Canadian institution or public authority – for example, a gallery, library, archive or museum – that has been designated by the Minister of Canadian Heritage under the *Cultural Property Export and Import Act* are eligible for a non-refundable tax credit. The credit is based on the fair market value of the property as determined by the CCPERB, not by the museum or institution that receives the property. The tax credit is calculated at the same rate as for charitable donations. (In Québec, the Conseil du patrimoine culturel du Québec provides certification for cultural property.)

There are two benefits of certification:

- Any appreciation in value is not recognized as a capital gain.
- The 75% net income limitation on donations does not apply.

If the credit exceeds your federal taxes payable for the year, the excess can be carried forward for five taxation years. The same rule applies in Québec.

For further information, see **Gifts of cultural property** in **Chapter 5: Investors**.

[38] The CRA has stated that any organization that is exempt under s. 501(c)(3) of the U.S. Internal Revenue Code will qualify for purposes of Article XXI, paragraph 7 of the Canada-US tax treaty. See CRA document 2020-0866131E5.

[39] However, the requirement to have sufficient US-source income to claim the credit does not apply to gifts made to a US college or university where the donor or a member of the donor's family was, or is, enrolled. In this case, the ordinary limit of 75% of net income applies. See Article XXI(7) of the Canada-US tax treaty.

Gifts of ecologically sensitive land – Eligibility for the non-refundable tax credit is determined by the Minister of Environment and Climate Change, who must certify that the conservation and protection of the land is important to the preservation of Canada's environmental heritage. The minister will also certify the fair market value of the gift for purposes of determining its eligible amount. For this purpose, the fair market value of the gift is the greater of:

- The fair market value of the gift as determined by the minister
- The amount by which the land's fair market value is reduced as a result of the gift

Gifts of ecologically sensitive land are eligible. This includes a covenant, easement or, in the case of land in Québec, a real servitude or certain personal servitudes, made to Canada, a province, territory or municipality or a registered charity (other than a private foundation) approved by the Minister of Environment and Climate Change. Eligible gifts may also be made to a municipal or public body performing a function of government in Canada.

There are two benefits of certification:

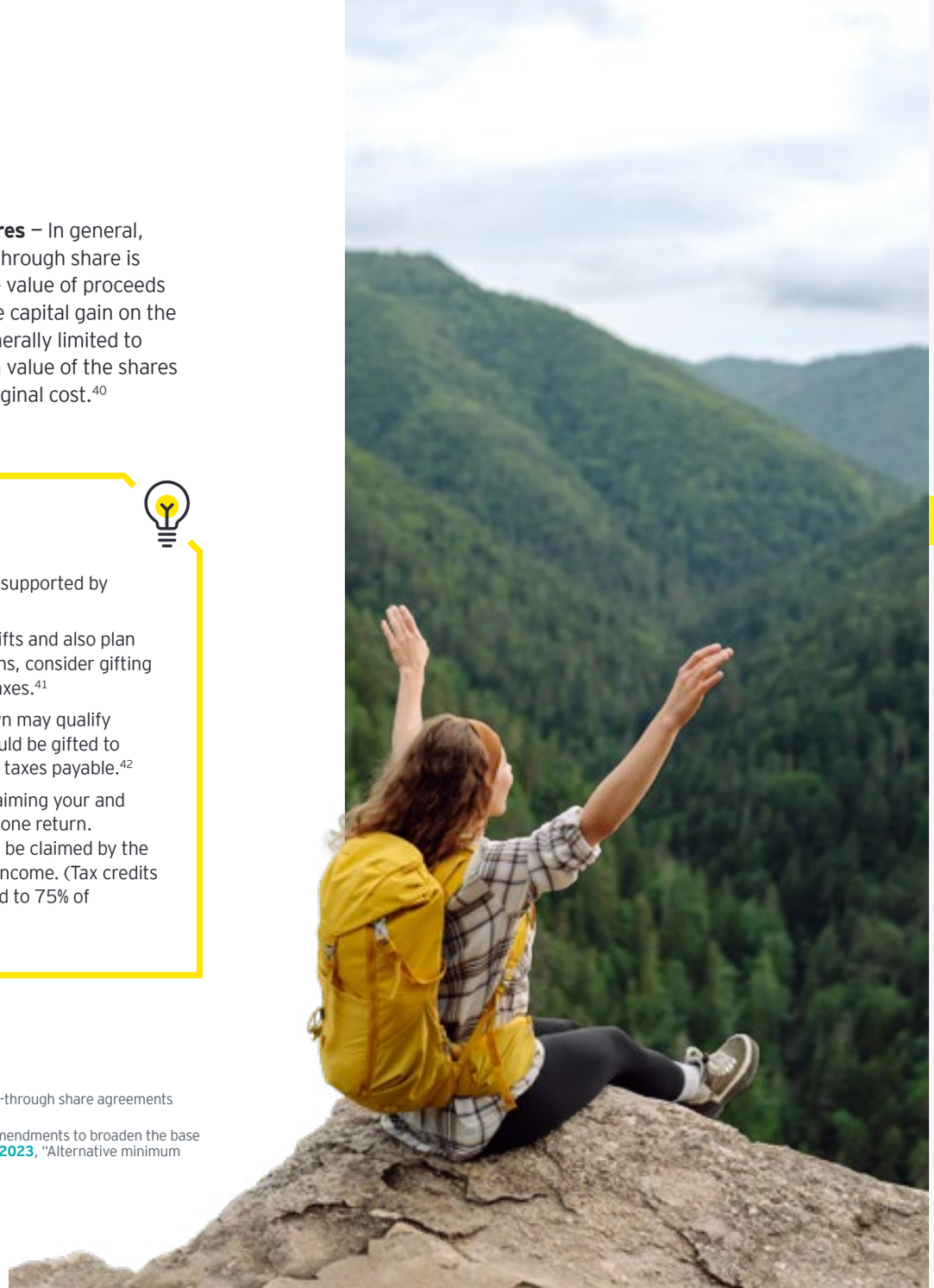
- Any appreciation in value is not recognized as a capital gain.
- The 75% net income limitation on donations does not apply.

If the credit exceeds your federal taxes payable for the year, the excess can be carried forward for 10 taxation years.

Gifts of publicly listed flow-through shares – In general, an investor's adjusted cost base of a flow-through share is zero. As a result, on disposition, the entire value of proceeds is a capital gain. The exempt portion of the capital gain on the donation of the flow-through shares is generally limited to the portion that represents the increase in value of the shares at the time they are donated over their original cost.[40]

TAX TIPS

- All charitable donation claims must be supported by official tax receipts.
- If you typically make large charitable gifts and also plan to sell securities and realize capital gains, consider gifting the securities instead to reduce your taxes.[41]
- Consider whether any property you own may qualify as certified cultural property, which could be gifted to a designated institution to reduce your taxes payable.[42]
- Maximize the donation tax credit by claiming your and your spouse or partner's donations on one return. Donations made to US charities should be claimed by the spouse or partner who has US-source income. (Tax credits for donations to US charities are limited to 75% of US-source income.)



[40] Recent legislative amendments have eliminated the flow-through share regime for oil, gas and coal activities, effective for expenditures renounced under flow-through share agreements entered into after March 31, 2023.

[41] For taxpayers subject to the alternative minimum tax (AMT), the tax benefits associated with donating securities are reduced, pursuant to recent legislative amendments to broaden the base for the AMT regime, effective for 2024 and later taxation years. For more information about the AMT and these amendments, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know."

[42] Consider making the gift over a number of years if the carryforward period may be exceeded.

TAX CREDITS FOR STUDENTS

If you're a student, you can take advantage of federal and provincial personal tax credits for tuition and various other fees paid to an educational institution such as a university, college or private school for post-secondary courses.

Tuition tax credit – To be eligible for the tuition tax credit, the tuition must generally be paid to an educational institution in Canada or a university outside Canada and the total course fee must be higher than $100.

A student enrolled at a university outside Canada may claim the tuition tax credit for full-time attendance in a program leading to a degree, where the course has a minimum duration of three consecutive weeks, provided the student is enrolled in a full-time course.

A 2018 court decision allowed the tuition tax credit to be claimed in respect of fees paid for the summer session of an accelerated MBA program at a US university. The session consisted of 10 compulsory consecutive courses of one or two weeks' duration each. The taxpayer registered once and paid one fee for the summer session. Notwithstanding the fact that each course was less than three weeks in length, the court appeared to apply the three-consecutive week requirement to the summer session as a whole, thereby satisfying the provision's requirements. The CRA indicated that it would consider a course of less than three consecutive weeks to meet the tuition tax credit requirements in situations factually similar to this court case.[43]

Various examination fees paid to obtain a professional status or to be licensed or certified to practise a profession or trade in Canada are also eligible for the tuition tax credit. Fees for admission examinations to begin study in a professional field do not qualify.

The tuition tax credit may also be claimed for tuition fees paid to a university, college or other post-secondary institution in Canada for occupational skills courses taken after 2016 that are not at the post-secondary level. The tax credit is available in these circumstances only if the course is taken for the purpose of providing a student with skills (or improving a student's skills) in an occupation and the student has attained the age of 16 before the end of the year.

Canada training credit – The Canada training credit is a refundable tax credit that assists eligible individuals who have either employment or business income to cover the cost of up to one-half of eligible tuition and fees associated with training. The portion of eligible tuition fees refunded through the Canada training credit reduces the amount that would otherwise qualify as an eligible expense for the tuition tax credit. See **Chapter 7: Employees** for further details about the Canada training credit.

Education and textbook credits – Prior to 2017, federal education and textbook tax credits were available, in addition to the tuition tax credit. The maximum amounts that could be claimed varied depending on the number of months the student was in school and whether the student was full time or part time. These tax credits were eliminated effective January 1, 2017. However, any unused education and textbook tax credit amounts carried forward from years prior to 2017 remain available to be claimed in 2017 and subsequent years.

If the student doesn't have sufficient tax payable in the year to use these tax credits, up to $5,000 of unused tuition amounts can be transferred to a parent or grandparent for use in their tax return (provincial amounts may vary). Any amounts not used by the student (including education and textbook tax credit amounts from years prior to 2017) and not transferred can be carried forward and used by the student in a subsequent year.

Other costs, such as supplies, equipment and student fees, are not deductible or creditable.

TAX TIPS

- Students should file an income tax return even where no amount is owing. Doing so establishes future RRSP contribution room and may result in the payment of provincial tax credits, the GST/HST credit and the Canada carbon rebate.
- Most scholarship, fellowship or bursary payments may be received tax free.
- Research grants must be included in income, but related expenses may be deducted.
- Moving expenses may be deductible against certain taxable scholarship or grant income where the student moves to attend a university that is at least 40 km away from home on a full-time basis.

[43] See *Fortnum v. The Queen*, 2018 TCC 126, and CRA document 2019-0791521I7.

DIGITAL NEWS SUBSCRIPTION TAX CREDIT

Legislative amendments introduced a temporary 15% non-refundable tax credit for eligible digital news subscriptions, for a maximum annual amount of $500 (a maximum annual tax credit of $75). The credit applies to eligible amounts paid after 2019 and before 2025.

The legislation, including amendments enacted in June 2021, defines eligible digital news subscriptions as those that entitle an individual to access content provided in digital form by a qualified Canadian journalism organization (QCJO)[44] if that content is primarily original written news and the QCJO does not hold a licence, as defined in subsection 2(1) of the *Broadcasting Act* (a licence to carry on a broadcasting undertaking issued by the Canadian Radio-television and Telecommunication Commission under that Act).

The credit is limited to the cost of a comparable standalone digital subscription where the subscription is a combined digital and newsprint subscription. If there is no such comparable subscription, individuals are limited to claiming one-half of the amount actually paid.

An organization is obliged to inform its subscribers when a subscription offered by it ceases to qualify for the digital news subscription tax credit. If a subscription ceases to be eligible for the credit during a particular calendar year, amounts paid under that subscription will still be considered as qualifying expenses for purposes of the credit until the end of that calendar year, provided the subscribers were previously informed by the government that the subscription qualified for the credit.

MEDICAL EXPENSE TAX CREDITS

There are federal and provincial tax credits available for medical costs for yourself, your spouse or partner, and your dependent children. Only medical expenses in excess of the lesser of a fixed threshold amount (see **Appendix B**) and 3% of your net income are eligible for credit.

If you claim medical expenses for a dependent relative other than a spouse or dependent children, the annual amount you may claim for each person is limited to the eligible amounts paid in excess of the lesser of 3% of the dependant's net income and the threshold amount.

In determining eligible expenses, you may consider expenses paid in the year or in any 12-month period that ends in the year (as long as you have not claimed the expenses previously). Either spouse or partner can claim the credit for the family. It may also be possible to claim a medical expense tax credit for medical costs you pay for other dependent relatives, such as elderly parents, grandparents, aunts or uncles.

Receipts must be kept in case the CRA asks to see them and must include the name of the person to whom the expense was paid.

Most people are not aware of the range of medical costs that qualify for the medical expense tax credit. In order to be eligible for the medical expense tax credit, a particular expenditure must meet certain specified conditions over and above being incurred for medical reasons. For example, medical or dental expenses incurred for purely cosmetic procedures are allowable only if they were necessary for medical or reconstructive purposes. Eligible expenses may include those incurred outside Canada. For a comprehensive list, see the **Guide RC4065**, *Medical Expenses*, on the CRA's website.

Attendant care expenses and the disability tax credit

For details on claims for the cost of attendant or nursing home care, and a discussion of the DTC, see **Chapter 10: Tax assistance for long-term elder care**.

[44] A QCJO is a Canadian corporation, trust or partnership that is engaged in the production of original news content, primarily focused on matters of general interest and reports of current events (including coverage of democratic institutions and processes), but not primarily focused on a particular topic (e.g., industry-specific news, sports, recreation, arts, lifestyle or institutions). Other conditions apply.

Tax assistance for long-term elder care

POPULATIONS ACROSS THE INDUSTRIALIZED WORLD ARE AGING MORE RAPIDLY THAN EVER. IN RECENT YEARS, THE PROPORTION OF PERSONS AGED 65 YEARS AND OLDER HAS GROWN IN EVERY G7 COUNTRY.

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Populations across the industrialized world are aging more rapidly than ever. In recent years, the proportion of persons aged 65 years and older has grown in every G7 country.

Relative to other G7 countries, the US and Canada have the lowest proportion of people age 65 and over, but established trends are significant and will impact Canadians planning elder care for parents and other elderly relatives, or for their own retirement.

The federal and provincial governments have put programs in place to address aging. In general, provincial governments provide health care and social assistance programs, while the federal government provides funding for many of these programs and offers financial assistance through the Canadian tax system.

In general, tax assistance for long-term care is provided in three broad categories:

- Non-refundable tax credits for individuals who meet certain eligibility criteria;
- Tax relief for the cost of attendant care or institutional care; and
- Tax relief for other itemized medical expenditures.

Disability tax credit

A person who requires long-term care will likely be eligible for the non-refundable disability tax credit (DTC). However, as explained below, the DTC is not available if you claim full-time attendant care or nursing home care as a medical expense for the disabled person.

In very general terms, the DTC is available when an individual is certified by an appropriate medical practitioner[1] as having a severe and prolonged mental or physical impairment – or a number of ailments – such that the individual's ability to perform a basic activity of daily living is markedly restricted or would be without life-sustaining therapy.[2]

Basic activities recognized by Canadian tax authorities include walking, feeding or dressing oneself, having the mental functions necessary for everyday life, seeing, speaking, hearing and eliminating bodily waste. A marked restriction is one that inhibits the individual from performing the activity almost all the time, or results in the individual having to take an inordinate amount of time to perform the activity. Amendments to improve access to the DTC were included in the 2021 federal budget and became effective in respect of DTC certificates (see below) filed with the minister after June 23, 2022. As a result, the list of "mental functions necessary for everyday life" is now expanded to help ensure that eligibility for the DTC better articulates the range of mental functions necessary for everyday life. Also, various changes were made with respect to the definition of "life-sustaining therapy," including the following:

- The requirement for therapy to be administered at least three times each week is reduced to two times each week. The requirement that the duration of therapy must average at least 14 hours per week remains unchanged.
- The list of activities allowed to be counted as time spent receiving life-sustaining therapy is expanded and clarified to recognize certain components of therapy that were previously excluded.
- If an individual is incapable of performing therapy on their own, the time required by another person to assist in the therapy will be counted.

[1] Budget 2017 extended the list of medical practitioners that can certify eligibility for the DTC to nurse practitioners for certifications made on or after March 22, 2017.

[2] As explained below, the definition of "life-sustaining therapy" was amended in the 2021 federal budget. Broadly speaking, for 2021 and previous years, life-sustaining therapy was defined as therapy that is essential to sustaining the individual's vital functions, it's required at least three times a week for an average of at least 14 hours each week, and it would not reasonably be expected to be of significant benefit to a person not so impaired.

As such, this may be a good time to revisit the federal tax assistance available to families, based on the specific circumstances of an individual's situation, to help 2021 and future filing decisions boost available assistance. For example, an individual who qualifies for the DTC under the expanded measures may now be able to claim eligible part-time attendant care expenses (see below) for 2021 and subsequent years where certain conditions are met.

Individuals who qualify for the DTC under the expanded rules may be required to file a T1 adjustment request to claim the DTC for the 2021 taxation year once they receive approval from the Canada Revenue Agency (CRA), unless they have requested (when completing the T2201 Certificate – see below) that the CRA adjust their return automatically for all applicable prior taxation years.

For further information on the changes to the DTC, see **TaxMatters@EY, May 2022**, "Long-term eldercare – attendant care and the proposed disability tax credit rules."

An impairment is prolonged if it has lasted, or can reasonably be expected to last, for a continuous period of at least 12 months.

To claim the credit, the T2201, *Disability Tax Credit Certificate*, must be completed and signed by a specified medical practitioner. Once the CRA approves the claim, eligibility continues unless recertification is required (i.e., the previous period of approval has expired).

TAX TIPS

- The CRA reviews all first-time DTC claims. To avoid delays in assessing personal returns for that first year, the CRA suggests that individuals send in their T2201 certificates as early as possible and receive pre-approval of the disability claim.
- The DTC can be claimed online; however, you must submit the completed T2201 Certificate to the CRA within 30 days.
- If an elderly person is supported by more than one relative, it is possible for the supporting relatives to share the unused portion of the credit, as long as the total claimed doesn't exceed the maximum amount permitted.

The federal DTC base amount for 2024 is $9,872, resulting in a non-refundable tax credit of $1,481. The provinces and territories provide a comparable credit: for 2024, the total tax benefit of the DTC ranges from approximately $1,798 to $3,169, depending on the province or territory of residence.

If a disabled individual does not require the full amount of the DTC to eliminate taxes payable, the unused portion can be transferred to a supporting relative. A supporting relative is someone who assists in providing basic necessities of life, such as food, shelter and clothing, and can be a parent, spouse or common-law partner, or a supporting child, grandchild, brother, sister, aunt, uncle, niece or nephew. The credit can only be transferred to children, grandchildren, brothers, sisters, aunts, uncles, nieces or nephews if the disabled individual has no spouse or if the spouse has not claimed the married credit or other transferred credits in respect of the disabled individual.

Other tax deductions and credits that may be available

INFIRM DEPENDANT CREDIT AND CAREGIVER CREDIT – BEFORE 2017[3]

CANADA CAREGIVER CREDIT – AFTER 2016

Effective for 2017 and subsequent years, the Canada caregiver credit replaced the infirm dependant tax credit, the caregiver tax credit and the family caregiver tax credit with a new 15% non-refundable credit.

For 2024, an individual may claim up to $8,375 for the care of a dependent relative with an infirmity, for a federal credit amount of $1,256. The dependent relative can be a parent, grandparent, sibling, aunt, uncle, niece, nephew or adult child of the claimant, or of the claimant's spouse or common-law partner.

[3] For 2016 and prior years, additional credits were potentially available for the supporting individual in respect of a dependent parent, grandparent, aunt or uncle: the infirm dependant credit and the caregiver credit.
The maximum value of the federal and provincial infirm dependant credit ranged from approximately $850 to $2,090 in 2016. However, the maximum was not always reachable, because the infirm dependant credit was income sensitive. This credit could only be claimed if the spousal credit or the equivalent-to-spouse credit was not claimed in respect of the individual.
The caregiver credit might have been available if you cared for an adult relative (other than a spouse or partner) in your home. In 2016, the maximum value of the combined federal and provincial credit ranged from approximately $580 to $1,770.
But, like the infirm dependant credit, it was income sensitive and could not be claimed if another individual claimed a spouse credit or equivalent-to-spouse credit for the individual.
An additional family caregiver tax credit was potentially available to individuals supporting dependants with mental or physical infirmities.
Certain provinces, such as Alberta, Saskatchewan and New Brunswick, continue to provide these credits.

For federal purposes, the credit amount is reduced dollar for dollar when a dependent's net income exceeds $19,666.

An individual may also claim up to $2,616 for the following persons, for a federal credit amount of $392:

- A dependent spouse or common-law partner with an infirmity, if the individual claims the spouse or common-law partner amount for that person
- An infirm dependant for whom the eligible dependant credit is claimed
- An infirm child who is under the age of 18 at the end of the taxation year

For 2024, the maximum value of the federal and provincial Canada caregiver credit ranges from approximately $1,487 to $2,523.

To date, British Columbia, Ontario and Yukon have also announced the consolidation of the infirm dependant credit and the caregiver credit.

While the amounts that may be claimed under the Canada caregiver credit are generally consistent with the previous system, there are some differences. For example, the Canada caregiver credit is not available in respect of non-infirm seniors residing with their adult children.

HOME ACCESSIBILITY TAX CREDIT

The home accessibility tax credit (HATC) is a non-refundable tax credit designed to help seniors and other persons live more independently in their homes.

To qualify for the HATC, the eligible renovation or alteration work must be performed and paid for, or the goods acquired, after 2015. The renovation must be done to an eligible dwelling, which is generally one that is ordinarily inhabited by a qualifying individual during the year and is owned by the qualifying individual or that person's spouse or partner. The credit is equal to 15% of eligible renovation or alteration expenditures you incur, up to an annual expense limit. As announced in the 2022 federal budget, and included in corresponding legislation, the annual expense limit increased from $10,000 to $20,000 per calendar year for eligible expenditures incurred in 2022 and subsequent years.

You may claim the HATC if you meet any of the following criteria:

- Are 65 years of age or older at the end of the year
- Have a disability that makes you eligible for the DTC
- Are the qualifying senior or disabled person's spouse or common-law partner
- Are the parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece or nephew of a qualifying senior or disabled person

If more than one individual is eligible to claim the credit in relation to the same eligible dwelling, the total credit amount claimed for that dwelling cannot exceed the annual expense limit in the year (i.e., $20,000 for 2022 and subsequent years, and $10,000 prior to 2022).

If your renovation expenses qualify for the medical expense tax credit (METC), you can claim both the HATC and the METC for those expenses.

PROVINCIAL HOME ACCESSIBILITY TAX CREDITS

Similar provincial credits are available to seniors residing in British Columbia, Québec and New Brunswick. Eligible Ontario residents could claim the provincial seniors' home safety tax credit for the 2021 and 2022 taxation years. Qualifying individuals and renovations or alterations, eligibility periods, credit rates and expenditure thresholds vary by province.

WHAT IS A QUALIFYING RENOVATION OR ALTERATION EXPENDITURE?

To qualify for the HATC, the expenditure must allow a senior or disabled individual to gain access to or be more mobile or functional in the dwelling, or must reduce the risk of harm to the individual in the dwelling or in gaining access to the dwelling. Qualifying expenses that may include materials or labour must relate to renovations or alterations of an enduring nature and must be integral to the eligible dwelling.

Examples of renovations or alterations that qualify for the credit include:

- Walk-in bathtubs
- Wheelchair ramps
- Wheel-in showers
- Grab bars

The following are not eligible for the credit:

- Routine repairs and maintenance
- Lawn care, housekeeping, security or similar services
- Expenses made primarily to improve or maintain the value of the dwelling
- Household appliances
- Electronic home-entertainment devices
- Items that retain a value independent of the renovation (such as furniture or purchased tools)
- Financing costs for the renovations or alterations
- Expenses reimbursed (or reimbursable) through a non-government program
- Expenses incurred for the purpose of producing income from a business or property
- Expenses for work provided by a person related to you, unless that person is registered for GST/HST

MULTIGENERATIONAL HOME RENOVATION TAX CREDIT

The 2022 federal budget introduced the refundable multigenerational home renovation tax credit (MHRTC) to assist with the cost of qualifying renovations to create a secondary unit to enable a qualifying individual to live with a qualifying relation. The MHRTC is intended to assist with the financial burdens associated with housing by promoting multigenerational living arrangements for both seniors and adult family members with a disability.

The credit is equal to 15% of qualifying renovation or alteration expenses of up to $50,000, for a maximum federal credit amount of $7,500, effective for 2023 and subsequent years.

Broadly speaking, a *qualifying renovation* must be:

- Undertaken to create a secondary unit – that is, a self-contained unit with a private entrance, kitchen, sleeping area and bathroom facilities – in an *eligible dwelling*;
- Of an enduring nature and integral to the eligible dwelling; and
- Undertaken to allow a *qualifying individual* to reside in the dwelling with a *qualifying relation*, as explained below.

A *qualifying individual* is an individual who is 65 years of age or older at the end of the year in which the renovation is completed, or 18 years of age or older before the end of the year in which the renovation is completed and is eligible for the DTC at any time in that year.

A *qualifying relation* is an individual who is 18 years of age or older before the end of the year in which the renovation is completed and who is a parent, child, grandparent, grandchild, brother, sister, aunt, uncle, niece or nephew of either the qualifying individual or their cohabiting spouse or common-law partner.

An *eligible dwelling* generally includes a housing unit located in Canada that is:

- Owned, jointly or otherwise, at any time in the year in which the renovation is completed, by the qualifying individual, a qualifying relation, or a trust under which the qualifying individual or qualifying relation is a beneficiary; and
- The location where the qualifying individual and a qualifying relation ordinarily reside, or where they intend to ordinarily reside, within 12 months after the renovation is completed.

The credit can be claimed by an eligible individual in their personal income tax return for the year in which the renovation is completed. For example, if the renovation began in 2024 but is not completed until 2025, you would claim the credit on your 2025 personal income tax return.

An *eligible individual* includes either:

- An individual who ordinarily resides, or intends to ordinarily reside, in the eligible dwelling within 12 months after the renovation is completed and who is a qualifying individual, the cohabiting spouse or common-law partner of a qualifying individual, or a qualifying relation of the qualifying individual; or
- A qualifying relation who owns the eligible dwelling or is the beneficiary of a trust that owns the eligible dwelling.

If more than one eligible individual makes a claim for a qualifying renovation, the total of all amounts claimed cannot exceed $50,000. Only one qualifying renovation may be claimed in relation to a qualifying individual over their lifetime. The CRA has noted that the MHRTC may be claimed, regardless of whether an eligible dwelling is built before or concurrently with a secondary unit, or whether or not the eligible dwelling is occupied for a specified period of time before adding the secondary unit, provided all the MHRTC conditions are met.[4]

Expenses claimed under the METC or the HATC cannot also be claimed under the MHRTC.

For further information on the MHRTC, see **TaxMatters@EY, September 2022**, "What is the multigenerational home renovation tax credit?" Information is also available on the CRA's website: **Multigenerational Home Renovation Tax Credit - Canada.ca**.

WHAT IS A QUALIFYING RENOVATION OR ALTERATION EXPENDITURE?

To qualify for the MHRTC, the expenditures must be directly attributable to a qualifying renovation, and must be paid after December 31, 2022 for services performed and goods acquired on or after January 1, 2023. In addition, the expenses must be incurred during the renovation and they must be reasonable.

Examples of renovation expenditures or alterations that qualify for the credit include:

- Labour and professional services
- Fixtures (e.g., lighting, cabinets)
- Building materials
- Equipment rentals
- Renovation permits

The following are not eligible for the credit:

- Construction equipment and tools
- Furniture
- Annual, recurring or routine repair or maintenance
- Household appliances and electronic home-entertainment devices
- Outdoor maintenance and gardening, housekeeping, or security monitoring
- Financing costs (e.g., mortgage interest)
- Goods or services provided by a person not dealing at arm's length, unless the person is registered for GST/HST purposes
- Reimbursed expenses
- Any expenses not supported by receipts

[4] See CRA documents 2023-0961401E5 and 2023-0965171E5.

LONG-TERM ELDER CARE – ATTENDANT CARE

One of the most significant expenses of long-term elder care is the cost of attendant care. Tax assistance, in the form of non-refundable tax credits, helps to alleviate some of the burden for families, but the relief available depends on the level of care provided and whether the individual is eligible for the DTC. Depending on the circumstances, there may be an opportunity to optimize the credits.

The following discussion explores the tax credits available in respect of attendant care for elderly individuals who live at home, in a nursing home or in a long-term care facility.

Eligible attendant care and nursing home or long-term care facility fees may generally be claimed as a qualifying medical expense eligible for the federal METC. The federal METC is a non-refundable credit computed by applying the lowest marginal tax rate (currently 15%) to eligible medical expenses in the year in excess of the lesser of:

- 3% of net income; and
- $2,759 (2024 amount).

The provinces and territories provide a comparable non-refundable credit.

An individual, or their spouse or common-law partner, may claim eligible attendant care expenses in respect of the couple. As such, it may be slightly more beneficial for the lower-income spouse or partner to make the claim due to the 3% net income threshold, provided the lower-income spouse or partner has sufficient tax payable to claim the METC.

An individual may also claim attendant care expenses incurred for a dependent relative (e.g., adult dependent relatives such as a parent, grandparent, brother, sister, aunt or uncle), subject to certain limitations. There is no requirement that the individual requiring care live with the supporting relative or be claimed as dependent for any other purpose.

They must, however, be dependent on the claimant for financial support. Whether the individual is dependent on the claimant is a question of fact, but generally entails providing the basic necessities of life (e.g., shelter, food and clothing) regularly and consistently, and showing that the individual's income is insufficient to meet their basic needs.

The claimant may provide support either voluntarily or pursuant to a legal commitment. The CRA may request proof of payment, such as grocery receipts or a lease agreement.

Attendant care expenses for a dependent relative other than a spouse or common-law partner are limited to the total of eligible amounts as noted above; however, the dependant's net income is used in the calculation.

More than one person may claim the METC in respect of the same person, but the total amount claimed by all supporting persons cannot exceed the total expenses paid by them.

NURSING HOME OR LONG-TERM CARE FACILITY FEES

Although it's not defined for tax purposes, the CRA considers a nursing home to be a public facility offering 24-hour nursing care to patients. Generally, all regular fees paid for full-time care – including food, accommodation, nursing care, administration, maintenance, social programming and activities – qualify as eligible medical expenses.

To claim these expenses, the individual receiving the care must either qualify for the DTC or have medical certification that they are and will continue to be dependent on others for their personal needs and care due to lack of normal mental capacity.

Additional personal expenses that are separately identifiable, such as hairdressing fees, are not allowable expenses.

An individual who resides in a nursing home may have supplementary personal attendants. The salaries paid to these attendants may be considered a qualifying medical expense up to $10,000 annually, $20,000 in the year of death, along with the institution's fees.

A retirement home will generally not provide the care that is required to be classified as a nursing home, and thus the fees would not qualify as an eligible medical expense. To the extent that the attendant care component of the fee can be set out separately in an invoice, that portion of the fee will qualify as an eligible medical expense. Proof of payment must be provided. However, it may only be considered part-time care and limited to $10,000 annually or $20,000 in the year of death, as discussed below.

A particular floor or portion of a retirement home may qualify as a nursing home. For example, the home may provide independent or semi-independent accommodations, but have certain areas dedicated to full-time care. Whether the specific area qualifies as a nursing home will depend on the size of the facility's staff, the staff's qualifications and the equipment available to provide 24-hour nursing care to patients.

FULL-TIME IN-HOME ATTENDANT CARE

Eligible in-home attendant care expenses are not limited to assistance with basic living needs, such as dressing and bathing. Assistance with personal tasks such as cleaning, meal preparation, shopping, transportation and banking may also be claimed. Attendant care can also include providing companionship. However, costs for such services purchased individually or from a commercial provider, such as a cleaning agency or transportation service, don't qualify.

To claim these expenses, the individual receiving care must either have an approved T2201 Certificate or certification from a medical practitioner that the individual is, and will likely continue to be, dependent on others for their personal needs and care due to a mental or physical impairment and needs a full-time attendant.

Full-time in-home attendant care expense can be claimed for only one attendant in a given period, although an individual may have several attendants over a period of time. The attendant must be 18 or over at the time the wages were paid and cannot be the spouse or common-law partner of the claimant.

A private attendant hired for in-home care is generally considered to be an employee. The payer should ensure that appropriate payroll deductions and remittances are made to the CRA. Although the source deductions and the employer portion of Canada Pension Plan, Québec Pension Plan and Employment Insurance contributions qualify as attendant care costs, in the case of a live-in attendant, imputed salary (e.g., the cost of board and lodging) does not qualify, as it is not considered to be an amount paid.

FULL-TIME CARE RESTRICTION ON THE DTC

If full-time attendant care or nursing home care expenses are claimed under the above-noted provisions of the METC, the DTC cannot be claimed by anyone in respect of the individual.

PART-TIME ATTENDANT CARE

Where in-home care is not claimed or perhaps not eligible under the above full-time provisions (for example in the case of a part-time attendant), an individual may be able to claim up to $10,000 annually ($20,000 in the year of death) for part-time attendant care provided in Canada. Again, the individual must be eligible for the DTC, but the DTC can be claimed along with the METC for these expenses, unlike for expenses claimed under one of the full-time care provisions discussed above.

For 2024, the combination of the METC claim and the DTC provides relief in respect of $19,872 of related costs. Depending on the expenses incurred, claiming attendant care expenses under this provision to benefit from the DTC may result in a higher combined non-refundable tax credit amount (e.g., full-time attendant costs were only incurred for part of the year).

PLANNING CONSIDERATIONS

Because of the interaction between the DTC and the METC, and the ability for supporting relatives to claim certain expenses, it's important to consider and choose the most advantageous combination each year. In making this determination, other medical expenses paid during the year, as well as other non-refundable credits, must be considered to maximize the benefits available.

Interaction between the METC and the DTC

EXAMPLE 1

Lauren is 75 years old and resides in a retirement home, where she receives care from a full-time attendant. Lauren has an approved T2201 Certificate on file with the CRA.

In 2024, Lauren earned pension income of $45,000. The retirement home provided Lauren with a receipt indicating that she paid $21,000 of eligible attendant care expenses during the year.

Lauren has the following options to consider when preparing her 2024 tax return:

- *Option 1:* Claim $10,000 of attendant care expenses under the part-time care attendant provision and the DTC
- *Option 2:* Claim the full amount of eligible attendant care expenses

Analysis

	Option 1	*Option 2*
Disability amount	$9,872	-
Medical expenses*	$8,650	$19,650
Sub-total	**$18,522**	**$19,650**
Lowest marginal tax rate	15%	15%
Federal non-refundable tax credit	**$2,778**	**$2,948**

** Eligible medical expenses in excess of the lesser of 3% of net income ($45,000 x 3% = $1,350) and $2,759. Thus, eligible medical expenses total $8,650 and $19,650, respectively.*

Conclusion

Option 2 yields a higher federal non-refundable tax credit.

EXAMPLE 2

Assume the same facts as above, except that Lauren's eligible attendant care expenses total $14,000, since the expenses were incurred for only a portion of the year.

Analysis

	Option 1	*Option 2*
Disability amount	$9,872	-
Medical expenses*	$8,650	$12,650
Sub-total	**$18,522**	**$12,650**
Lowest marginal tax rate	15%	15%
Federal non-refundable tax credit	**$2,778**	**$1,898**

** Eligible medical expenses in excess of the lesser of 3% of net income ($45,000 x 3% = $1,350) and $2,759. Thus, eligible medical expenses total $8,650 and $12,650, respectively.*

Conclusion

In this case, option 1 yields a higher federal non-refundable tax credit.

Other considerations

The conclusions reached could change if Lauren is financially dependent on her two daughters. In this case, Lauren could claim the DTC, and each of her daughters could claim up to $10,000 of attendant care expenses paid to the retirement home under the part-time attendant care provision. As such, up to $20,000 of attendant care expenses would be claimed for the METC in excess of the threshold of 3% of Lauren's net income, or $2,759, in addition to the DTC. If Lauren does not require the full amount of the DTC to eliminate taxes payable, the unused portion could be transferred to her daughters.

The following chart, adapted from **Guide RC4065**, *Medical Expenses*, summarizes the interaction between medical expense claims for attendant care and the DTC.

TYPE OF EXPENSE	Fees paid for full-time care in a nursing home	Remuneration for one full-time attendant outside a self-contained domestic establishment	Remuneration for attendant care provided in Canada (this may include the part of the nursing home fees paid for full-time care that relate only to salaries and wages as attendant care)	Full-time attendant at home
MAY THE INDIVIDUAL CLAIM THE DISABILITY AMOUNT?	Eligible individuals may claim the disability amount **or** these expenses, but not both.	Eligible individuals may claim the disability amount **or** these expenses, but not both.	Eligible individuals may claim the disability amount **and** up to $10,000 for these expenses ($20,000 if the person died in the year).	Eligible individuals may claim the disability amount **or** these expenses, but not both.

TAX TIPS

- An individual can pay one parent to care for the other parent, and possibly claim the amount paid as an eligible medical expense, as the amount is not paid to the claimant's spouse. The parent providing care would be required to include the amount in taxable income; thus, this option may not be desirable if the individual is subject to a marginal income tax rate in excess of 15%.
- Since full-time attendant care or nursing home care expenses generally far exceed the DTC base ($9,872 in 2024), it may be advantageous to forgo the DTC in favour of the METC.
- Since eligible medical expenses may be claimed by supporting relatives and the $10,000 limit applies to each claimant, it may be beneficial to claim the costs under the part-time care provision, to reap the benefit of the DTC as well.
- An individual who resides in a nursing home may have supplementary personal attendants. The salaries paid to these attendants may be considered a qualifying medical expense, up to $10,000 annually and $20,000 in the year of death, along with the institution's fees.

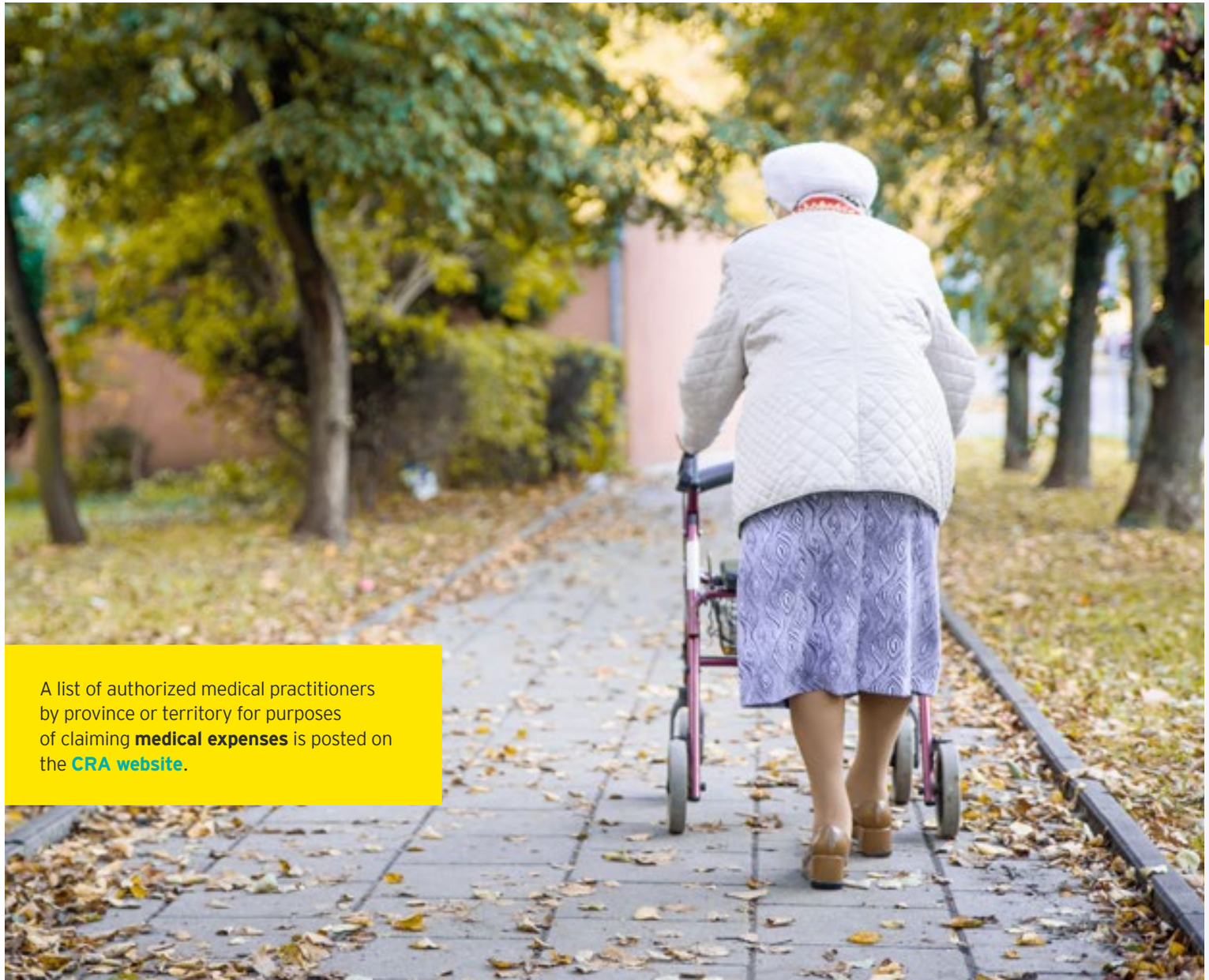
OTHER MEDICAL EXPENSES

In addition to the claims for attendant care and nursing home care, there are a host of additional medical expenses that may be claimed as part of the METC.

Most people are aware of the standard medical costs that qualify, such as prescription drugs or glasses, but there may be other significant costs that are not obviously medical expenses, including:

- Transportation costs for travel to obtain medical treatment where such treatment is not available locally
- Renovations or alterations to a home to make it more accessible and/or more functional to the infirm individual[5]
- Costs to alter a vehicle so that it can transport an individual in a wheelchair
- Limited moving expenses to relocate to housing that is more accessible or functional for the impaired individual
- Training costs in relation to appropriate care for the infirm dependant
- Scooters and other walking aids used in substitution for a wheelchair
- Specially trained animals that assist individuals who are deaf, blind or suffer from certain illnesses
- Diapers
- Orthopedic shoes
- Design of an individualized therapy plan where the individual qualifies for the DTC and other criteria are met
- Wheelchair
- Batteries for hearing aids

[5] If your renovation or alteration expenses also qualify for the HATC (see above), you can claim both the HATC and the METC for those expenses.



A list of authorized medical practitioners by province or territory for purposes of claiming **medical expenses** is posted on the **CRA website**.

Retirement planning

WHETHER YOU'RE JUST STARTING YOUR CAREER OR HAVE YEARS OF SERVICE UNDER YOUR BELT, YOU NEED TO PLAN FOR RETIREMENT. AND TAX PLANNING SHOULD BE AT THE CENTRE OF YOUR RETIREMENT STRATEGY.

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Whether you're just starting your career or have years of service under your belt, you need to plan for retirement. And tax planning should be at the centre of your retirement strategy.

Registered pension plans

There are two types of registered pension plan (RPP):

- Defined benefit plans are based on a formula that includes employment earnings and years of service.
- Money purchase plans depend on the amount you contribute and the earnings on those contributions.

For a defined benefit plan, you can generally deduct all contributions you make for eligible service after 1989. You can also deduct up to $3,500 ($5,500 for Québec tax purposes) in respect of past service contributions for a year before 1990 in which you were not contributing to any RPP. If you make past service contributions in respect of a year before 1990 in which you contributed to an RPP, the deduction limit is $3,500 reduced by the amount of contributions for current or past service made in the year.

For a money purchase plan, the 2024 combined contribution that both you and your employer can make is the lesser of 18% of your 2024 compensation and $32,490. The dollar limit is indexed for inflation. You can't make past-service contributions to this type of RPP. All contributions must be made before the end of the respective year.

Your employer will report a "pension adjustment" to the Canada Revenue Agency (CRA), which will factor into your following year's registered retirement savings plan (RRSP) deduction limit. In the case of a defined benefit RPP, the pension adjustment is an estimate of the cost of funding your retirement benefits. The pension adjustment for a money purchase RPP is the sum of your contributions and those of your employer.

Individual pension plans

An IPP is a defined benefit RPP established by an employer to provide retirement income to one or more employees on the basis of their years of service.

An IPP is most commonly established for one employee – typically a high-income earner such as an owner-manager, an incorporated professional or a senior executive. However, an IPP may also be established for more than one employee, provided that it meets the definition in the *Income Tax Act* (the Act). A plan is generally considered to be an IPP when it has fewer than four members and at least one of them is related to a participating employer in the plan.

An IPP is sponsored by the employer and funded by employer contributions or by employer and employee contributions. Funding amounts (or contributions) are calculated by an actuary to fund the expected retirement benefits and are based on factors such as the employee's age, employment income, post-1991 RRSP contributions, and actuarial assumptions (such as interest rates, inflation rates and life expectancy). Contributions are only permitted in respect of service that is considered pensionable.

An initial lump-sum past-service contribution is permitted for the employee's years of service going back to 1991. An actuarial report is required to support the employer's initial contribution to the plan. For subsequent contributions, a periodic evaluation by an actuary is required.

The 2019 federal budget proposed prohibiting IPPs from providing retirement benefits for past years of employment that were pensionable service under an employer's defined benefit plan other than the IPP's participating employer. This measure was enacted on June 29, 2021 and applies to pensionable service credited under an IPP on or after March 19, 2019.

The cost of past-service contributions to an IPP must first be satisfied by transfers from the RRSP assets of the IPP member, or a reduction in the IPP member's accumulated RRSP contribution room, before any new past-service contributions can be made.

The IPP's key advantage is that it has more room for tax-deductible contributions than an RRSP for those over age 40. You can therefore accumulate more retirement income in an IPP. The large tax-deductible contributions often stem from significant initial contributions used to fund past service. However, the RRSP contributions made in those prior years reduce the deductible past-service amount.

Once a plan member reaches the age of 72, they will be required to withdraw annual minimum amounts similar to current minimum withdrawal requirements applicable to registered retirement income funds (RRIFs).

The IPP rules are complex. Consult your EY Tax advisor.

Pooled registered pension plans

Pooled registered pension plans (PRPPs) are intended to operate in a manner similar to multi-employer money-purchase RPPs, but with certain features drawn from the RRSP and RRIF systems. PRPPs are intended to provide a new option for retirement savings that will be attractive to smaller employers and self-employed individuals.

A PRPP enables its members to benefit from lower administration costs that result from participating in a large, pooled pension plan. It's also portable, so it moves with its members from job to job. The total amount that a member or employer can contribute depends on the member's RRSP deduction limit. The investment options within a PRPP are similar to those for other RPPs.

Currently, PRPPs are available to individuals who:

- Are employed or self-employed in the Northwest Territories, Nunavut or Yukon
- Work in a federally regulated business or industry for an employer who chooses to participate in a PRPP
- Live in a province that has the required pension standards legislation in place

An individual can be enrolled into a PRPP by:

- Their employer (if their employer chooses to participate in a PRPP)
- A PRPP administrator (such as a bank or insurance company)

Registered retirement savings plans

An RRSP is an investment account that can increase your retirement savings in two ways:

- Contributions are tax deductible, subject to statutory limits.
- The income you earn in your RRSP is not taxed until you withdraw the funds. The investment of the funds that would otherwise be paid as taxes results in your funds accumulating faster in an RRSP than they would outside one.

The tax advantage will be even greater if you purchase an annuity with accumulated RRSP funds or convert the RRSP to a RRIF on or before your RRSP matures. On maturity, the funds must be withdrawn, transferred to an RRIF, or used to purchase an annuity. For more information, refer to **Maturity options** below.

If you select the option of an annuity purchase or a transfer to an RRIF, you will continue to defer tax on the accumulated funds until you actually receive the payments, at which time the gross withdrawal amount will be included in your income. In addition, you may benefit if your marginal tax rate decreases during retirement.

TIMING FOR CONTRIBUTIONS

You may deduct RRSP contributions made before the end of the year (to the extent that they weren't deducted for a previous year) or up to 60 days after the end of the year. This deduction is subject to your yearly deduction limit.

Generally, it is advantageous to make your RRSP contribution in early January of the year, instead of late in February of the following year. That way, you can defer the tax on the income you earned on your funds during that 14-month period. Also, to take maximum advantage of the tax sheltering available through an RRSP, you should make contributions regularly each year and early in your career.

DEDUCTION LIMIT

Your RRSP deduction limit will determine the maximum tax-deductible contributions that you may make in a year. The limit applies to contributions made to either your own or a spousal RRSP. If you make a contribution to your spouse's or common-law partner's RRSP, it does not affect your spouse's or common-law partner's RRSP deduction limit for the year.

If you're not a member of an RPP or a deferred profit-sharing plan (DPSP), your deductible 2024 RRSP contribution is limited to the lesser of 18% of your earned income for 2023 and a maximum of $31,560. The dollar limit is indexed for inflation.

In addition to this amount, you would include your unused RRSP deduction room from 2023 (refer to the following section for a description of this amount).

If you're a member of an RPP or DPSP, the maximum annual RRSP contribution as calculated above is reduced by the pension adjustment for the prior year and any past-service pension adjustment for the current year. In addition, there may be an increase or decrease to your RRSP deduction limit if your company revises your benefits entitlement from the company pension plan.

TAX TIPS

- The deadline for making deductible 2024 RRSP contributions is March 1, 2025.[1]
- Make contributions early in your career and contribute as much as you can each year.
- Consider making your annual RRSP contribution as soon as you can each year to take maximum advantage of income tax sheltering.
- If you're an employee, ask your employer to withhold some of your salary or bonus and deposit it directly to your RRSP. If you demonstrate that you have sufficient RRSP deduction room, your employer is permitted to make the direct transfer without applying withholding taxes on the amount transferred.
- Consider paying RRSP administration fees outside the plan to maximize the capital in the plan for future growth for 2024. For more information, see **What's new?** below.

If you do not contribute the maximum allowable amount in a particular year, you may carry forward the excess. Calculating your maximum RRSP contribution can be complex. As a result, the CRA provides the computation of your RRSP deduction limit on the Notice of Assessment for your income tax return.

TAX TIPS

- Contribute the maximum deductible amount to your RRSP. If this is not possible, plan to make up for the undercontribution as soon as possible.
- Consider making a contribution of qualified property to your RRSP. Be aware, however, that any capital gain on the property transferred will be recognized for tax purposes, but a capital loss will be denied.

UNUSED DEDUCTION ROOM

Generally, if you contribute less than your RRSP deduction limit, you can carry forward the excess until the year you reach age 71. For example, if your current-year RRSP deduction limit is $10,000, but you make a contribution of only $7,000, you can make an additional deductible RRSP contribution of $3,000 in a future year. But if you make up the contribution in a later year, remember that you'll postpone the benefit of tax-free compounding of income that you would have earned from a current contribution and on any future income earned on this amount.

CARRYFORWARD OF UNDEDUCTED CONTRIBUTIONS

In addition to the carryforward of unused RRSP deduction room, you can carry forward undeducted RRSP contributions.

For example, if you make an RRSP contribution in 2024, but do not claim the full amount on your 2024 tax return, you can carry forward the unclaimed amount indefinitely and claim it as a deduction in a future year. It may be beneficial to delay deduction of your RRSP contribution if your 2024 taxable income is low and you expect to be subject to a higher marginal tax rate in a future year.

Be aware that making a contribution over the limit may result in penalties.

TAX TIP

If your taxable income for 2024 is low, consider carrying forward your deductible 2024 RRSP contribution and claiming a deduction in a future year when you'll be subject to a higher marginal tax rate.

[1] Since March 1, 2025 is on a Saturday, the deadline is administratively deferred to the next business day, Monday, March 3, 2025.

DETERMINATION OF EARNED INCOME

Your earned income for the immediately preceding year is an important factor in determining your RRSP deduction limit for the current year. For example, your 2023 earned income is one of the factors in the calculation of your 2024 deduction limit.

If you were a resident of Canada throughout 2023, your earned income is generally calculated as follows:

- Additions to earned income
  - Net remuneration from an office or employment, generally including all taxable benefits, less all employment-related deductions other than any deduction for RPP contributions
  - Income from carrying on a business, either alone or as an active partner
  - Net rental income
  - Alimony and maintenance receipts included in your income
- Deductions from earned income
  - Losses from carrying on a business, either alone or as an active partner
  - Net rental losses
  - Deductible alimony and maintenance payments

Your earned income does not include superannuation or pension benefits, including Canada Pension Plan/Québec Pension Plan (CPP/QPP) and Old Age Security (OAS) benefits, or retiring allowances.

If you became a resident of Canada in 2024 and did not earn Canadian income in 2023, you will not be able to make a deductible contribution to your RRSP for 2024, unless you have unused RRSP deduction room carried forward from a previous year.

TAX TIPS

- To make the maximum RRSP contribution in 2024, your earned income for 2023 must have been at least $175,333.
- Consider the impact that alimony or maintenance payments and business or rental losses have on your RRSP deduction limit.
- In limited circumstances, you may be eligible to make deductible contributions to your RRSP in addition to your RRSP deductible limit. The more common deductible contributions are retiring allowances and certain transfers from foreign pension plans.
- If you will receive a retiring allowance, consider making direct, as opposed to indirect, transfers of retiring allowances to an RRSP (up to the eligible amount) to avoid withholding tax.

OVERCONTRIBUTIONS

If you contribute an amount above your RRSP deduction limit for the year, it will result in an overcontribution. If the total RRSP overcontributions exceed $2,000, on a cumulative basis, the excess is subject to a 1% per month penalty tax.

Under certain circumstances, making an RRSP overcontribution of $2,000 could be advantageous because you can earn tax-deferred income on it. Although you cannot deduct the overcontribution in the year you make it, you may deduct it in a future year under the carryforward provisions. However, double taxation may result if you are unable to claim a deduction for the overcontribution in a future year.

If you make contributions to your own or a spousal RRSP in excess of your deductible amount, you may withdraw them tax free only in the same year in which they were contributed, the year an assessment is issued for the year of contribution, or the year following either of these years. Also, there must be reasonable grounds to believe that the amount was deductible at the time you made the contribution. You must complete Form T3012A, *Tax Deduction Waiver on the Refund of your Unused RRSP, PRPP, or SPP Contributions from your RRSP, PRPP or SPP* to have the CRA authorize your RRSP issuer to refund the excess contribution without withholding tax.

If you have to pay the 1% per month penalty tax, you must file Form T1-OVP, *2024 Individual Tax Return for RRSP, PRPP and SPP Excess Contributions*, with the CRA and pay the tax within 90 days after the end of the calendar year. Failure to file the T1-OVP return and pay the penalty tax before the 90-day deadline may result in interest and penalties.

TAX TIPS

- Be sure to transfer lump-sum amounts out of an RPP or a DPSP directly to an RRSP.
- Limit your RRSP overcontributions to $2,000.
- If you've made an overcontribution and are about to retire, reduce your current-year contribution to avoid double taxation on any undeducted contributions.

QUALIFIED INVESTMENTS

It's important that your RRSP holds qualified investments only. If it acquires a non-qualified investment or a qualified investment becomes non-qualified, a penalty tax equal to 50% of the value of the non-qualified investment may apply.

Qualified investments generally include the following:

- Cash
- Term deposits
- GICs
- T-bills
- Any security (other than a futures contract or certain other derivative instruments) listed on Canadian stock exchanges and most foreign stock exchanges
- Most government bonds
- Most Canadian mutual funds and segregated funds
- Options for the purchase of eligible investments
- Shares of certain private corporations in limited circumstances

For more information on what constitutes a qualified investment, refer to Income Tax Folio S3-F10-C1: *Qualified Investments – RRSPs, RESPs, RRIFs, RDSPs, FHSAs and TFSAs* (available on the CRA's website).

WHAT'S NEW?

In the 2024 federal budget, the government announced its intention to seek feedback on the qualified investment rules of the registered plans regime. As stated in the 2024 federal budget, the qualified investment rules have been incrementally expanded since they were introduced in 1966, resulting in rules that can be inconsistent or difficult to understand. For example, the rules for making investments in small businesses differ between registered plans.

The intent of the consultation, which took place from May to July 2024, was to determine what changes, if any, should be made to the qualified investment rules to improve the clarity and coherence of the registered plans regime. At the time of writing, the government has not yet announced the results of the consultation.

PROHIBITED INVESTMENTS

It's also important that your RRSP does not hold any prohibited investments.

A prohibited investment is generally one to which the annuitant is closely connected — for example, a share of a corporation in which the annuitant (or a non-arm's-length person) has a significant interest (generally 10% or more). An investment may be qualified, but still be considered prohibited.

If your RRSP acquires a prohibited investment, it will attract a 50% penalty tax similar to the non-qualified investment penalty tax. The penalty tax applies to prohibited investments acquired after March 22, 2011, and to those acquired before March 23, 2011 that first became prohibited after October 4, 2011.

For more information on the prohibited investment rules, refer to Income Tax Folio S3-F10-C2: *Prohibited Investments – RRSPs, RESPs, RRIFs, RDSPs, FHSAs and TFSAs* (available on the CRA's website).

ADVANTAGE TAX

Owning a prohibited investment may also result in a separate "advantage" tax. This tax is equal to 100% of certain advantages.

An advantage is generally a benefit that depends on the existence of the plan, and includes income and capital gains attributable to prohibited investments, as well as benefits from certain transactions that are intended to exploit the tax attributes of an RRSP or RRIF. Examples include benefits attributable to swap transactions, RRSP strips and deliberate overcontributions.

For more information on these rules, including how they apply to other registered plans, see **Chapter 5: Investors**.

TAX PAYABLE ON NON-QUALIFIED OR PROHIBITED INVESTMENTS AND ADVANTAGES

If you owe tax as a result of any of the above penalty measures for non-qualified or prohibited investments and advantages, you must file Form RC339, *Individual Return for Certain Taxes for RRSPs, RRIFs, RESPs, or RDSPs* and pay the tax owing no later than June 30 of the following year (e.g., June 30, 2025 for the 2024 taxation year).

If the prohibited or non-qualified investment is removed or ceases to be a non-qualified or prohibited investment before the end of the calendar year following the year in which it was acquired or became non-qualified or prohibited, you may be entitled to a refund of the penalty tax. The refund does not apply to the 100% advantage tax.

WHAT'S NEW?

In November 2016, the CRA announced a change to its administrative position regarding the payment of RRSP investment management fees by plan holders.

The reversal in the administrative position meant that the CRA would consider an increase in the value of an RRSP resulting from investment management fees being paid outside the plan by the plan holder to be an advantage. As a result, the plan holder would be subject to the 100% tax on the amount of the investment management fees paid on behalf of the RRSP.

Since announcing the change in the policy in 2016, the CRA delayed the date of the implementation of this change from the initial date of January 1, 2018 to January 1, 2019 to a future date.

On September 30, 2019, the Department of Finance released a comfort letter, dated August 26, 2019, recommending changes to the Act that would exclude investment management fees incurred by a registered plan, but paid outside the plan by the annuitant, holder or subscriber of the plan, from the application of the advantage tax rules in Part XI.01 of the Act.

On August 9, 2022, the Department of Finance released draft legislation to ensure that the payment of investment management fees (in relation to registered plan assets) by a registered plan holder, subscriber or annuitant using funds outside the registered plan will not be treated as an advantage. The legislation to implement this change was enacted on June 22, 2023. This amendment applies to the 2018 and subsequent taxation years.

The CRA has updated their guidance on this issue in Income Tax Folio S3-F10-C3: *Advantages – RRSPs, RESPs, RRIFs, RDSPs, FHSAs and TFSAs*.

In addition, the CRA may waive all or a portion of the 50% tax on prohibited or non-qualified investments and the 100% advantage tax in certain circumstances if it considers it just and equitable to do so. Whether granting a waiver is just and equitable will depend on such factors as whether the tax arose as a consequence of a reasonable error, whether the transaction resulted in tax under another part of the Act, and the extent to which amounts giving rise to the tax have been withdrawn from the plan.

TRANSFERRING BETWEEN PLANS

You may transfer RRSP funds from one RRSP to another without attracting tax, provided the funds go directly to the new plan and are not available for you to use. You may choose this as an option when you'd like to change the types of investment in your portfolio or to change from one plan issuer to another. Remember that while you can transfer property between two RRSPs, if you transfer property between different types of plan (i.e., between an RRSP and a tax-free savings account (TFSA) or other non-registered savings account), it will generally be considered a swap transaction, which may be subject to the advantage tax.

WITHDRAWING FUNDS BEFORE RETIREMENT

You may make withdrawals from your RRSP at any time. However, you must include the gross withdrawal amount in your income. The trustee of the RRSP must withhold tax from the amount you withdraw.

MATURITY

If you're 71 years old at the end of 2024, your RRSP must mature by the end of the calendar year. You must make any final-year contributions on or before December 31, 2024, not 60 days after the end of the year.

Depending on your tax position, and provided you have sufficient earned income to make contributions, you may continue contributing to a spousal RRSP until the year your spouse or partner turns 71.

MATURITY OPTIONS

Although your RRSP must mature by the end of the year in which you reach age 71, you don't have to wait until then to obtain retirement income from your plan. This allows you to take an early retirement and may entitle you to the non-refundable pension income tax credit.

You can withdraw the accumulated funds from your RRSP or, alternatively, you can select one or a combination of available maturity options. These options provide you with retirement income in varying amounts over different periods of time. Tax is deferred until you actually receive your retirement income.

When you're deciding what maturity options would best suit your situation, you need to take into account a number of factors. In addition, consider whether the maturity options you choose will give you flexibility to change your mind should your situation change. In many cases, there is an opportunity to change from one maturity option to another if you properly structure your retirement options.

Maturity options currently available:

- Fixed-term annuities
  - Provide benefits up to age 90; if, however, your spouse or partner is younger than you, you can elect to have the benefits provided until your spouse or partner turns 90
  - May provide fixed or fluctuating income
- Life annuities
  - Provide benefits during your life or during the lives of you and your spouse or partner
  - May have a guaranteed payout option
  - May provide fixed or fluctuating income
- RRIFs
  - Essentially a continuation of your RRSP, except that you must withdraw a minimum amount each year (but there are no maximum limits)
  - Provide retirement income from the investment of the funds accumulated in a matured RRSP
  - If you only withdraw the minimum amount each year, your financial institution is not required to withhold tax

TAX TIPS

- Make any transfer between RRSPs directly from one plan issuer to another. Otherwise, the funds will be taxed on withdrawal and may not be returned to your RRSP without using contribution room.
- You may incur financial penalties if you transfer RRSP funds when the underlying investments have a fixed term, or if the issuer charges a fee for the transfer.
- If you withdraw funds from an RRSP, minimize the withholding tax by withdrawing $5,000 or less per withdrawal. Remember, you'll still be taxed on the gross amount of the withdrawal at your marginal tax rate, regardless of the amount of tax withheld, so you may have a balance of tax to pay as well as a future instalment obligation as a result.
- Remember that if you withdraw funds from an RRSP, you'll lose tax-free compounding for the future. Instead, consider borrowing funds if your cash needs are temporary.
- Monitor your RRSP investments to ensure they do not become prohibited, and be aware of transactions with your RRSP (other than contributions or withdrawals) that may result in advantages.

The 2019 federal budget proposed the introduction of two new types of annuities for certain registered plans for 2020 and subsequent taxation years: advanced life deferred annuities (ALDAs) and variable payment life annuities (VPLAs). The budget materials outlined some of the features of these two vehicles. Draft legislation to implement these proposals was enacted and these measures became effective on January 1, 2020.

ALDAS

The tax rules were amended to permit an ALDA to be a qualifying annuity purchase under an RRSP, RRIF, DPSP, PRPP and a defined contribution RPP, as well as a qualified investment for a trust governed by an RRSP or RRIF. An ALDA is a life annuity, the commencement of which may be deferred until the end of the year in which the annuitant turns 85.

The value of an ALDA will not be included in calculating the minimum amount required to be withdrawn in a year from a RRIF, PRPP or a defined contribution RPP after the year in which the ALDA is purchased.

Individuals are subject to both a lifetime ALDA limit in relation to a particular qualifying plan equal to 25% of the sum of the value of all property (other than most annuities) held in the qualifying plan at the end of the previous year, and any amounts from the qualifying plan used to purchase ALDAs in previous years. In addition, an individual is also subject to a comprehensive lifetime ALDA dollar limit of $150,000 for all qualifying plans (indexed to inflation for taxation years after 2020, rounded to the nearest $10,000; accordingly, this dollar limit increased to $170,000 for 2024). Individuals who exceed their ALDA limit are subject to a 1% per-month penalty tax on the excess; however, in certain circumstances this tax may be waived or cancelled.

VPLAS

Previously, the tax rules required that retirement benefits from a PRPP or defined contribution RPP be provided to a plan member by means of a transfer of funds from the member's account to an RRSP or RRIF of the member. The tax rules have been amended to permit PRPPs and defined contribution RPPs to provide a VPLA to members directly from the plan. A VPLA provides payments that vary based on the investment performance of the underlying annuities fund and on the mortality experience of VPLA annuitants.

For more details, refer to **EY Tax Alert 2019 Issues No. 9** and **30** and **EY Tax Alert 2021 Issue No. 24**.

TAX TIPS

- If you're going to be 71 at the end of 2024, make your annual RRSP contribution before December 31.
- If you are over 71 and your spouse or partner is younger than you – and you have earned income or RRSP deduction room – consider making contributions to your spouse's or partner's RRSP until they turn 71.
- If you expect to have sufficient earned income after age 71, consider making the $2,000 overcontribution before the end of the year that you reach age 71 and claim this deduction in later years.
- If you have sufficient earned income in the year you turn 71, consider making a contribution for the next year (in addition to one for the current year) just before the year end. Although you must collapse your RRSP before the end of the year in which you turn 71, you're still able to deduct excess RRSP contributions in later years. You will be subject to a 1% penalty tax for each month of the overcontribution (one month if the overcontribution is made in December of the year you turn 71), but this may be more than offset by the tax savings from the contribution.
- Investigate and arrange for one or more of the maturity options that are available if your RRSP is maturing in the near future.
- Where the minimum RRIF amount is withdrawn in a year, no tax is required to be withheld at source. Consider the effect of this on your income tax instalment planning.
- Consider receiving RRIF payments once a year in December to maximize the income earned in the plan.
- Give careful consideration with respect to designating the beneficiary of your RRSP or RRIF. Consider whether the named beneficiary qualifies to receive the funds on a tax-deferred basis. If not, be aware that the underlying tax liability will be the responsibility of the estate.[2]

LOCKED-IN PLANS

Under federal and most provincial pension legislation, the proceeds of locked-in RRSPs or locked-in retirement accounts (LIRAs) must generally be used to purchase a life annuity at retirement or be converted to a life income fund (LIF), a locked-in retirement income fund (LRIF) or a prescribed retirement income fund (PRIF). Because these proceeds originate from a pension plan that is intended to provide retirement income for your life, you generally cannot use them to acquire a term annuity.

LIFs, LRIFs and PRIFs are all forms of RRIF, so there's a minimum annual withdrawal. However, there are also maximum annual withdrawals for LIFs and LRIFs, and in some provinces LIFs must be converted to life annuities by the time you turn 80.

Tax-deferred transfers are generally permitted between all of these plans, so you might transfer assets from a LIF back to a LIRA (if you're under age 71) if you change your mind about receiving an early pension. Another option is to transfer funds from a LIF to a LRIF to avoid annuitization when you turn 80.

Canada Pension Plan

In June 2016, Canada's finance ministers announced plans to strengthen the CPP for future generations by gradually increasing both contributions and benefits under the CPP. Among their proposals, which began to take effect in 2019, is a measure to provide a tax deduction – instead of a tax credit – for employee contributions associated with the enhanced portion of the CPP. The tax credit will continue to apply to the base employee CPP contributions, while the enhanced portion of the employee CPP contributions will be eligible for a tax deduction.

The CPP is an earnings-related social insurance program that provides basic benefits when a contributor to the plan retires or becomes disabled. When contributors die, the CPP may provide benefits to their survivors. The CPP operates in every province in Canada except Québec, which administers its own program, called the QPP.

With very few exceptions, every person in Canada who is over the age of 18 who works and earns more than the minimum amount ($3,500 per year) must contribute to the CPP (or to the QPP in Québec). You and your employer each pay half of the contributions. If you are self-employed, you pay both portions.

[2] The full value of RRSP and RRIF funds is included in income for the year of death. However, where such funds are received by a surviving spouse or common-law partner, or a financially dependent child, the funds can instead be included in the recipient's income. A surviving spouse or common-law partner, or a disabled child, can further defer taxation by transferring the funds to their RRSP or RRIF. In addition, these funds may be transferred to a disabled child's registered disability savings plan, within the limits for contributions to such plans. See **Chapter 9: Families**.

Although employers used to stop deducting CPP when an employee aged 60 to 70 began receiving a CPP or QPP retirement pension, this rule has changed. As of January 1, 2012, employers must continue to deduct CPP from the earnings of an employee who receives a CPP or QPP retirement pension if that employee is 60 to 65 years old, or is 65 to 70 years old and has not filed an election to stop paying CPP contributions.

TAX TIPS

- Delaying receipt of your CPP pension past age 65 will enhance your monthly benefit. If you start receiving your CPP pension at the age of 70, your pension amount will be 42% more than it would have been if you had taken it at 65.
- Conversely, starting your CPP pension before age 65 will reduce your monthly benefit. If you start receiving your CPP pension at the age of 60, your pension amount will be 36% less than if you wait until you're 65.
- Individuals aged 65 to 70 are required to pay CPP premiums on their employment or self-employment earnings, but may elect out. In order to elect out, you must complete an election, Form CPT 30, file the original with the CRA and provide copies to each employer. The election is effective the month following the month of filing with the CRA. You can revoke this election to opt out and resume contributing to CPP.
- Individuals contributing to CPP while collecting benefits will receive a "post-retirement benefit," which will be effective the calendar year following the premium payment, so their CPP benefits will increase each year they continue their CPP contributions.

Old Age Security

The OAS pension is a monthly payment available to most Canadians aged 65 and older. In order to receive benefits, you may need to apply for OAS with Service Canada. You should apply six months before you turn 65. However, if you apply at a later date, the pension is payable up to 11 months retroactively from the date the application is received.

Canadians may voluntarily defer receipt of OAS benefits for up to five years. Those who take this option will receive a higher, actuarially adjusted pension, up to a maximum increase of 36% at age 70.

You can download an application package from Service Canada's website or you can order an application by mail.

Two other programs can provide you with additional income. The Guaranteed Income Supplement and the Allowance program were designed to provide further assistance to low-income seniors. For more information, see the Service Canada website.

TAX TIP

As stated above, delaying receipt of your OAS pension past age 65 will enhance your monthly benefit. However, this is likely only a benefit if your life expectancy is such that the total payout is greater. Also, the OAS clawback should be taken into account.

Financing retirement – additional options

RETIRING ALLOWANCE

A retiring allowance includes severance payments or an amount paid by your employer on your retirement in recognition of long service or for a loss of office or employment.

If you receive a retiring allowance, you may be able to transfer a limited amount into an RRSP in addition to your RRSP deduction limit. This type of transfer is becoming increasingly rare because it is only available where the employee was employed by the employer paying the retiring allowance (or a related employer) in years before 1996. Any excess would be taxable in the year received at the applicable marginal tax rate.

RETIREMENT COMPENSATION ARRANGEMENT

A retirement compensation arrangement (RCA) is any arrangement where your employer makes contributions to a custodian in connection with benefits you receive on, after or in contemplation of any substantial change in your services to the employer. This includes your retirement and the loss of office or employment.

In general, contributions to an RCA, and any income and capital gains earned in the plan, are subject to a 50% refundable tax. Your employer would withhold and remit the tax at the time of funding. This tax is refundable at a rate of $1 for every $2 distributed to you.

Distributions from the plan are taxed as ordinary income. You are limited in the amounts you can transfer from an RCA to an RRSP if paid as a retiring allowance.

TAX TIPS

- If you fall into a lower marginal tax bracket after retirement, receiving payment of a retiring allowance over a number of years may permanently reduce the amount of tax you will pay on it.
- You may be permitted to make contributions to the RCA. Generally, your contributions to the RCA would be deductible in the year you make them if (1) the contributions are required by the terms of your employment and (2) they are no greater than the employer's contributions to the RCA. If you fall into a lower marginal tax rate after retirement, current contributions to the RCA may be tax advantageous.
- RCAs have prohibited investment and advantage rules that are similar to those that apply to TFSAs, RRSPs and RRIFs.

WHAT'S NEW?

The 2023 federal budget proposed to amend the Act so that fees or premiums paid for the purposes of securing or renewing a letter of credit for an RCA that meets certain conditions will not be subject to refundable tax. This change applies to fees or premiums paid on or after March 28, 2023.

Prior to this change, the employer was required to remit to the CRA an amount equal to the fees or premiums it paid to acquire or renew a letter of credit as refundable tax. The amount of refundable tax remitted would remain in a refundable tax account until distributions from the RCA trust were made to the employee or the RCA trust was wound up. However, many employers who use a letter of credit to secure benefit obligations under an RCA do not make distributions of benefits from the RCA trust, but rather pay those benefits directly to the employee from their corporate revenues. Consequently, many RCAs that are secured by a letter of credit had significant balances in their refundable tax accounts, with no practical mechanism for recovery.

To address this issue, the 2023 federal budget also proposed to amend the Act to allow employers to request a refund of previously remitted refundable tax in respect of fees or premiums paid for letters of credit by RCA trusts, based on the retirement benefits paid directly by the employer. Employers are eligible for a refund of 50% of the retirement benefits paid, up to the amount of refundable tax previously paid. This change applies to the 2024 and later taxation years.

The legislation to implement these changes was enacted on June 20, 2024.

International workers

If you spend part of your career working outside Canada, you may find that working for a foreign company or living outside Canada means changing pension plans and forfeiting regular RRSP contributions. Being able to continue participating in Canadian pension and RRSP plans while working overseas can therefore be a significant benefit.

CANADA-US TAX CONVENTION

In 2008, Canada and the US ratified changes to the *Canada-US Tax Convention* that provided this type of relief, starting in 2009, for Canadians who work in the US. The changes allow short-term cross-border assignees to continue to make contributions to their home country pension plans, such as an RPP, DPSP or a group RRSP, and receive a tax deduction in the host country.

For example, let's say you're a Canadian expatriate on a three-year assignment in the US working for a company affiliated with your Canadian employer. You may be able to continue contributing to your Canadian employer's pension plan, and will be able to claim a deduction on your US tax return for your contributions, provided that you:

- Were a member of the Canadian employer's pension plan before starting work in the US and the Canadian employer's pension plan qualifies as a "qualifying retirement plan" under the *Canada-US Tax Convention*
- Were a nonresident of the US before starting your US assignment
- Are on the US assignment for no longer than five out of the preceding 10 years
- Deduct only contributions that are attributable to services performed in the US
- Do not participate in any other pension plans (i.e., you cannot also participate in a US 401(k) plan or an individual retirement account)

The rules are similar for US workers on short-term assignment in Canada.

Commuters

The changes to the *Canada-US Tax Convention* referred to above also provide relief to cross-border commuters who live in Canada and commute to work in the US, or vice versa. If you are a cross-border commuter working and contributing to a pension plan in one country, but you live in the other country, you will also benefit from a tax deduction.

For example, you live in Windsor, Ontario, and commute to Detroit daily to work for a US employer, USco. You participate in USco's 401(k) plan. As a Canadian resident, your employment income is taxable in Canada. You will be able to claim a deduction for your 401(k) contribution in determining your Canadian taxable income. The amount of the deduction will be limited by the amount of the actual contribution, the amount allowed to be contributed to a 401(k) under US law, and the RRSP contribution limit for the year (after taking into account RRSP contributions otherwise deducted).

Just like an RPP, participation in USco's 401(k) will limit your ability to contribute to an RRSP, since participation will give rise to a pension adjustment that reduces your RRSP room.

US citizens who are residents of Canada

The changes to the *Canada-US Tax Convention* also provide relief to US citizens living in Canada who contribute to a pension plan in Canada. A US citizen living in Canada and working for a Canadian employer will be allowed a deduction for US tax purposes for contributions to an RPP, DPSP or group RRSP. The relief is restricted to the lower of Canadian tax relief and the amount that would be deductible in the US for a generally similar US plan. The contributions must be in respect of services taxable in Canada, and remuneration for such services must be paid by a Canadian employer in relation to services rendered during the period of Canadian residence.

Estate planning

AN EFFECTIVE ESTATE PLAN CAN MINIMIZE INCOME TAX ON AND AFTER YOUR DEATH AND PROVIDE BENEFITS TO YOUR SURVIVING FAMILY MEMBERS AND SELECT BENEFICIARIES OVER THE LONG TERM.

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An effective estate plan can minimize income tax on and after your death and provide benefits to your surviving family members and select beneficiaries over the long term.

Estate planning involves much more than the preparation and periodic update of your will. It's a multifaceted, lifelong process requiring reflection and expansion as you reach milestones in your life and your career.

What is an estate plan?

An estate plan is an arrangement of your financial affairs designed to accomplish several essential financial objectives, both during your lifetime and on your death. The plan should:

- Provide tax-efficient income during your lifetime, before and after retirement
- Provide tax-efficient dependant support after your death
- Provide tax-efficient transfer of your wealth
- Protect your assets

STAGES OF AN ESTATE PLAN

Your estate plan starts as soon as you begin to **accumulate assets** for your estate, not when you draft your will. To maximize this accumulation, ask yourself the following questions:

- Subject to the amended income-splitting rules,[1] are there any possible income-splitting opportunities among my family members?
- Does my existing corporate and/or personal structure allow for a tax-efficient distribution of funds?
- Am I claiming all the available deductions possible and claiming them effectively, or do I need to make some changes to be eligible for deductions?
- Is all my interest deductible for income tax purposes?

Once your income sources have been secured, your estate plan should deal with the **preservation** of your family's wealth. At this stage, the focus should include saving and investing your excess funds for retirement, dealing with income tax and family law matters, protecting the assets from creditors and growing the goodwill of any business that is a substantial family asset.

The next stage of the plan is the **realization** of your wealth, either through selling your business, determining your succession or executing your retirement strategies.

The final step is the **transfer** of your wealth. During your lifetime, this can be accomplished by way of sale or gift, but on death the distribution of your assets should be documented in your will or your trust. Since in most cases you cannot predict the timing of this ultimate transfer, you should plan well ahead and not wait until you are ready to transfer your wealth to draft a will.

Your will should be an evolving document. Once drafted, it should be reviewed regularly and updated, if necessary, to ensure that it reflects your current intentions and provides your beneficiaries with maximum tax efficiency and asset protection.

Your initial estate plan will not last a lifetime, so be prepared to review it often and modify it to keep pace with any significant changing circumstances and laws.

[1] See **Amended rules limit income splitting** and **Trust income and capital gains and the revised TOSI rules** below for a discussion of these rules.

QUESTIONS FOR YOU AND YOUR PARTNER

The following questions, which are best answered by both spouses/partners, can help you when planning for the future:

- Do you know what would happen if you lost the physical or mental capacity to manage your affairs? Are you comfortable that you have an adequate structure in place to help deal with such a potential loss? Have you factored the cost of long-term care into your retirement and estate planning?
- Could you describe what happens to your estate(s) when you or your spouse or partner dies – that is, to whom and in what form, individually or in trust, each major asset will pass?
- If assets do pass to one or more trusts for the survivor's benefit, do you understand how they work (e.g., income payments, access to principal)? Are you still comfortable with this structure?
- Would your survivor and/or children know what there is, where it is and how it should be handled, what decisions will have to be made and by when, and whom to call for help?

The time spent reviewing these questions could be a most worthwhile investment for you and/or your family. You might find that you have a good handle on where you are and how your plans work. You might pleasantly discover that everything is in order and now it's just a matter of keeping up the good work.

Or you might not. In which case a visit with one or more of your EY advisors could make a lot of sense, and perhaps save you a lot of dollars or defer lots of taxes to a later date.

COMPONENTS AND GOALS OF AN ESTATE PLAN

The components of your estate plan could include the following:

- If a business is a key family asset, a **shareholders' agreement** will govern the activities of the current and future shareholders by addressing termination, sale, death, divorce and wealth extraction.
- An effective **share ownership structure** of any business with your involvement can provide for the tax-efficient distribution of excess assets and protect these assets from creditors. A share structure can also facilitate business succession planning or bequests without compromising the operating business. For example, inherited shares could have terms such that they can only be redeemed over an extended period of time.
- Various **trust arrangements** – spouse or common-law trust or family trust – can hold shares for the benefit of others while they are controlled by a trustee. These arrangements are the primary tools for income splitting and multiplication of the tax-free capital gains exemption among family members and between generations. However, the revised tax on split income (TOSI) rules (see **Amended rules limit income splitting** below) may limit income splitting as well as capital gain splitting opportunities after 2017. See **Trust income and capital gains and the revised TOSI rules** below.
- A properly drafted and regularly updated **will** is an essential component of any estate plan.
- **Insurance arrangements**, including life insurance, key person insurance, critical illness insurance and disability insurance, may help provide dependent support or appropriately fund tax liabilities on your death.

The various components of your estate plan must work together to achieve your desired goals. As a result, if one component changes, the others should be examined to ensure your intentions will still be met.

A good estate plan will achieve the following three tax-related goals:

- Tax reduction
- Tax deferral
- Tax funding

Specifically, the taxes you are attempting to reduce, defer and fund include income tax on your earnings, the disposition of assets during your lifetime, monies from retirement plans (e.g., registered retirement savings plan (RRSP)/registered retirement income fund (RRIF)), income tax arising on the deemed disposition of all your assets on death and probate tax, if applicable.

TAX REDUCTION

During your lifetime, it may be possible to income split by way of arranging your finances or share structure to channel income or capital gains to family members who are taxed at a lower marginal tax rate than you, thereby reducing the overall family tax burden. A family trust is generally recommended for any substantial income splitting and to limit your children's access to significant funds until they are responsible enough to deal with them by having the trustee retain control of the trust's assets.

Remember to consider potential attribution and the revised TOSI rules when contemplating income-splitting goals in your estate plan (for details, see **Amended rules limit income splitting** below and **Estate freeze and income splitting** below). Income earned in the trust on investments purchased with the proceeds of a prescribed rate loan to the trust can also be split among beneficiaries.

Amended rules limit income splitting

Amendments enacted in June 2018 limit income-splitting arrangements that use private corporations to benefit from the lower personal tax rates of certain family members age 18 or over who are direct or indirect shareholders of the corporation, or who are related family members of direct or indirect shareholders.

Effective for 2018 and later years, the rules limit the ability to share income within a family by expanding the base of individuals subject to the TOSI to include children age 18 and over and other related adult individuals who are resident in Canada (including spouses or common-law partners, siblings, grandparents and grandchildren, but not aunts, uncles, nephews, nieces or cousins) who receive split income[2] from a related (family) business either directly from a private corporation, such as by the receipt of dividends, or through a trust or partnership. The TOSI is equal to the highest federal personal marginal rate of tax (33% federal rate in 2024) and highest applicable provincial tax rate. A related business exists, for example, when a related person is active in the business on a regular basis or owns at least 10% of the fair market value of the shares in a corporation that carries on the business.

The types of income that are subject to the TOSI have also been expanded to include interest income earned on a debt obligation of a private corporation, partnership or trust, subject to some exceptions, and gains from the disposition of property if income from the property would otherwise be split income.

Income-splitting strategies that use trusts, including within the context of an estate freeze, may also be limited after 2017 as a result of these rules. See **Estate freeze and income splitting** and **Trust income and capital gains and the revised TOSI rules**.

Under these rules, income received or gains realized from a related business by certain adult family members are excluded from the TOSI if any one of a number of exceptions is met. Adults who are 25 or older who receive split income are subject to a reasonableness test if they do not meet any of the exceptions. The test is based on the extent of their contribution of labour and capital to the business, risks taken and other payments already received from the business. The TOSI will then apply to split income received to the extent it is unreasonable under this test.

For a detailed listing of the exceptions to the application of the TOSI and further details about these rules, see **Chapter 9: Families**; **TaxMatters@EY, February 2018**, "Revised draft legislation narrows application of income sprinkling proposals;" **TaxMatters@EY, February 2020**, "Tax on split income: CRA provides clarifications on the excluded shares exception;" **TaxMatters@EY, November 2020**, "Tax on split income: the excluded business exception;" and **EY Tax Alert 2017 Issue No. 52**.

[2] Effectively, split income arises when a stream of income is connected, either directly or indirectly, to a related business. According to the Canada Revenue Agency (CRA), split income does not include salary.

Trust income and capital gains and the revised TOSI rules

Trusts may continue to be relevant and used for the multiplication of the tax-free capital gains exemption among family members and between generations. However, the revised TOSI rules (see above) apply to trust beneficiaries who receive split income from a related business that is allocated by the trust to them, including the allocation of taxable capital gains.

For example, assume that your spouse operates a business through a private corporation. The corporation's shares are owned by her and a family trust. The beneficiaries of the trust consist of you and your adult children. During 2024, the trust receives taxable dividends that are then allocated to you and your children. In 2025, the trust sells some of the shares of the corporation, realizing a taxable capital gain that is also allocated by the trust to you and your children. In this situation, the dividends allocated to you and your children are split income and, therefore, you and your children would be subject to the TOSI.[3] The taxable capital gains allocated to you and your children are also considered to be split income and, therefore, subject to the TOSI,[4] because any income earned on these shares and allocated to you and your children was, or would have been, also considered as split income.

The revised TOSI rules include a number of exceptions from the application of the TOSI. For example, taxable capital gains realized on the disposition of qualified small business corporation (QSBC) shares or qualified farm or fishing property are exempt from the TOSI, whether or not the lifetime capital gains exemption is claimed on the gain. This particular exception also applies to trust beneficiaries if these types of taxable capital gains are realized by a personal trust and are then allocated to the trust beneficiaries in the year of disposition. The recipient beneficiaries could then claim their unused lifetime capital gains exemption with respect to those gains if all required conditions are met.

The lifetime exemption amount for 2024 is $1,016,836 for QSBC shares or for qualified farm or fishing property, for dispositions occurring before June 25, 2024. Proposed amendments are increasing this exemption amount to $1,250,000 for dispositions on or after June 25, 2024. Indexation of this exemption will resume in 2026 under the proposed amendments.

Minor-age related family members are also able to access this exception, whether the shares are held directly or indirectly via a personal trust. However, this exception does not apply to taxable capital gains that are allocated to a minor-age beneficiary on the disposition of shares of a private corporation to a non-arm's-length party. In this case, the full amount of the gain (1.5 times the taxable capital gain amount[5]) is deemed to be included in the minor's split income and is taxed as a non-eligible dividend.[6]

For a detailed listing of the exceptions to the TOSI and further details about these rules, see **Chapter 9: Families**; **TaxMatters@EY, February 2018**, "Revised draft legislation narrows application of income sprinkling proposals;" **TaxMatters@EY, February 2020**, "Tax on split income: CRA provides clarifications on the excluded shares exception;" **TaxMatters@EY, November 2020**, "Tax on split income: the excluded business exception;" and **EY Tax Alert 2017 Issue No. 52**.

Trust capital gains and the proposed inclusion rate changes

The 2024 federal budget and draft legislative amendments have proposed to increase the capital gains inclusion rate – the proportion of realized capital gains subject to taxation – from one-half (i.e., 50% inclusion rate) to two-thirds for capital gains realized by corporations and most trusts. The budget and draft amendments have also proposed increasing the capital gains inclusion rate from one-half to two-thirds on the portion of capital gains realized in the year by individuals and some trusts that exceed $250,000. These measures are effective for capital gains realized on or after June 25, 2024.

If a trust realizes a taxable capital gain before June 25, 2024 and allocates the gain to the trust beneficiaries after June 24, 2024 (e.g., at the trust's year end), the proposals will still deem the Canadian-resident beneficiaries to have realized their allocated taxable capital gains prior to June 25, 2024, provided the trust discloses to their beneficiaries in prescribed form the period (before June 25 or after June 24, 2024) in which the related disposition(s) took place.

[3] Unless one of the exceptions to the TOSI applies.
[4] Unless one of the exceptions to the TOSI applies.
[5] For dispositions that occurred prior to the June 25, 2024 proposed increase to the capital gains inclusion rate (see **Trust capital gains and the proposed inclusion rate changes** below), the full amount of the gain was equal to double the taxable capital gain amount.
[6] This treatment also applies if the minor-age individual owned the shares directly.

For example, you are the sole beneficiary of a personal trust. On April 1, 2024, the trust disposed of capital assets realizing a capital gain of $1,000,000, which was allocated to you on the trust's year end, December 31, 2024. Provided the trust complies with the required disclosures, you'll be deemed to have realized the capital gain prior to June 25, 2024 and, therefore, the entire capital gain will be subject to a 50% inclusion rate and your taxable capital gain will be $500,000. Without this deeming rule, or for capital gains realized by the trust after June 24, 2024 and then allocated to you, you would be subject to the $250,000 threshold. This means that in respect of a $1,000,000 capital gain, $125,000 of the first $250,000, or half, will be taxable and $500,000, two-thirds, of the remaining $750,000 will be taxable, for a total taxable capital gain of $625,000.[7]

For more information on these proposals, see the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options**; **EY Tax Alert 2024 Issue No. 28**, *Proposed change in capital gains inclusion rate*; and **EY Tax Alert 2024 Issue No. 33**, *Government releases legislative details on the proposed changes to the capital gains rules*.

Estate freeze: One of the primary tools used to reduce tax on death is a properly structured estate freeze, which results in the transfer of the future growth of a business, investments or other assets to other family members who are generally of the next generation. Since you are generally deemed to dispose of all your capital assets at fair market value immediately before death, the estate freeze moves the potential future growth of the "frozen" assets to the next generation, reducing the potential capital gains tax on your death.

An estate freeze can be implemented in a number of different ways, the simplest of which is selling or gifting assets to the next generation. If there are accrued gains inherent in these assets, a current tax liability will result from their disposition or transfer at fair market value.

This strategy would only be suggested if you are prepared to completely relinquish control of the assets you have built up to the next generation and pay the associated taxes immediately. This is rarely, if ever, appropriate if your children are young, and is often undesirable even when your family is older. In addition, keep in mind that such a strategy results in taxation of any growth accumulated to the date of transfer, and would thus typically be considered only if the anticipated growth of the assets is so significant that the payment of the current tax is negligible by comparison. The advantage of this approach is that it's simple and carries limited implementation and maintenance costs. However, this advantage is typically outweighed by the substantial drawbacks of loss of control and immediate tax costs.

The most common technique used to implement an estate freeze requires you to transfer, usually on a tax-deferred basis, the appreciated assets (capital properties) to a corporation in exchange for fixed-value preferred shares (freeze shares) at their current fair market values. The family members who are to benefit from the future growth would subscribe for nominal-value growth shares (new common shares) either directly personally or indirectly as a beneficiary using a family trust.

[7] The example assumes that the gain is not in respect of the disposition of QSBC shares eligible for the lifetime capital gains exemption and there are no other capital gains or losses realized in the year.

If the asset you wish to freeze is a corporation, the freeze may be implemented by creating a new class of fixed-value freeze preferred shares and exchanging your common shares, on a tax-deferred basis, for new fixed-value freeze preferred shares of equal value. The original growth shares would be eliminated on this exchange, and the next generation or family trust would subscribe for and own the new growth common shares.

The new growth common shares held by the trust will be controlled by the trustee(s). The terms of the trust may give the trustee the power to determine which of the beneficiaries will be entitled to the growth (thereby providing a certain amount of flexibility to the estate freeze).

It's also possible for the person implementing the freeze to continue to control the company by subscribing for the majority of the voting-control shares and using a shareholders' agreement restricting the rights of the growth shareholders. Legal counsel should be consulted in this case, as it may be possible for this agreement to be entered into by the trustee and the individual who froze the company prior to the distribution of the growth shares held by the trust. As a result, the new common shareholders (the children) would be subject to the agreement without actually signing it.

What has been described here is a complete freeze. But it is also possible to implement a partial freeze and staged freezes (over time). In a partial freeze, you can participate in the company growth by subscribing for a portion of the growth shares, either directly as an individual shareholder or indirectly by being named as a beneficiary of the family trust.

If you're considering including a US citizen or resident in your freeze (for example, as a beneficiary of a trust), you should seek professional tax advice on both sides of the border.

There could be adverse US tax implications, and the Internal Revenue Service has specific reporting rules and charges onerous penalties to taxpayers who do not adhere to the rules.

Estate freeze and income splitting

An estate freeze can be structured in numerous ways. In certain complete or partial estate freeze transactions, with proper implementation it was possible to income split with a lower-income spouse and/or adult children prior to 2018. However, under the revised TOSI rules (see **Amended rules limit income splitting** above), it may no longer be possible to do so, unless certain conditions or exceptions are met.

For example, an individual sets up an estate freeze in respect of an operating company that she has owned and managed for many years. Once the freeze is set up, she owns preferred freeze shares and a family trust owns the new common shares of the operating company. The individual's adult child (age 26) is a beneficiary of the trust. The adult child is a full-time post-graduate student who does not contribute, and never has, to the family business. The operating company is profitable in 2024 and pays substantial dividends to both the individual and the trust, which in turn distributes the dividends to the adult child (for income-splitting purposes). No changes are made to the structure or ownership of the operating company shares in 2024. Under the revised TOSI rules, the adult child would be subject to tax at the highest marginal personal income tax rate (the TOSI) on the income received from the trust because none of the available exceptions to the revised rules applies.[8] (For details on the list of available exceptions and other information about the revised TOSI rules, see **Chapter 9: Families**; **TaxMatters@EY, February 2018**, "Revised draft legislation narrows application of income sprinkling proposals;" **TaxMatters@EY, February 2020**, "Tax on split income: CRA provides clarifications on the excluded shares exception;" **TaxMatters@EY, November 2020**, "Tax on split income: the excluded business exception;" and **EY Tax Alert 2017 Issue No. 52**.)

It's important to evaluate the options that will best meet your non-tax objectives for the use and ultimate distribution of your wealth in the most tax-effective manner possible. Consult your EY Tax advisor.

When to implement a freeze

Determining the best time to implement your freeze is not easy. Many factors other than tax will and should play a part in the decision. For example, if you freeze too early while being young or freeze too many of your assets, inflation or other market factors might leave you with insufficient assets to fund your retirement lifestyle. If the value of the future growth appreciates faster than anticipated, and no flexibility is built into the estate plan, your young children's net worth could soon be greater than yours.

[8] The adult child does not directly own at least 10% of the voting shares of the operating company; the adult child is not and has never been actively engaged in the family business on a regular, continuous and substantial basis; and the amount received by the adult child from the trust does not represent a reasonable return as the adult child has not contributed any labour or capital or assumed any risks with respect to the business.

While the common estate freeze often includes the use of a family trust to hold the future growth, it's usually advisable to give the trustee the power to distribute the growth asset before the 21st anniversary of the trust's creation due to the 21-year deemed disposition rules as explained below. Therefore, you'll want to ensure that the beneficiaries will be old enough in 21 years to be charged with the responsibility for a significant-value asset.

You should consider a freeze only for assets that are expected to be held by the family over the long term. If your children are likely to dispose of their growth shares soon after your death, the freeze will not have accomplished the tax-deferral objective, as your children will pay the capital gains tax on the disposition. If your children are old enough, they should be aware of the estate plan and also be consulted early on their plans in relation to holding the freeze assets. This discussion is extremely important if a family business is involved.

INTERGENERATIONAL TRANSFER OF FAMILY BUSINESSES

Until recently, it was significantly more advantageous for a taxpayer to sell the shares of a corporation carrying on a family business to an arm's-length party than to a corporation owned by the taxpayer's children or grandchildren. When parents or grandparents transferred shares of a corporation carrying on the family business to a corporation owned by one or more of their children or grandchildren, the income tax rules could deem the sellers to have received dividends rather than realized capital gains. Dividends are subject to higher rates of personal tax than capital gains.[9]

In addition, since the sellers would not realize a capital gain for tax purposes, they would not be able to use their lifetime capital gains exemptions against capital gains realized on the disposition of QSBC shares or shares of the capital stock of a family farm or fishing corporation. The capital gains exemption can effectively eliminate the tax on up to $1,016,836 of capital gains (in 2024) of the capital gain per parent or grandparent shareholder. Proposed amendments would increase this amount to $1,250,000 for dispositions on or after June 25, 2024.

Legislative amendments enacted in June 2021 and further amendments enacted in June 2024 facilitate the transfer of a family business by an individual to the next generation(s) by providing an exception to the dividend deeming rules, provided several conditions are met.

Under these amendments, the intergenerational transfer of a business may be classified as either an "immediate" or "gradual" transfer. Under both options, the transferor of the subject corporation shares (acquired by the purchaser corporation) must be an individual, and the subject corporation shares must also be QSBC shares or shares of the capital stock of a family farm or fishing corporation.

Under the immediate transfer rules, the parent, together with a spouse or common-law partner, must not have legal or factual control of the subject corporation at any time after the transfer. In addition, one or more adult children or grandchildren must generally retain legal control of the purchaser corporation for at least 36 months.[10] The gradual transfer rules require the parent to transfer legal control of the subject corporation immediately, but the parent and their spouse or common-law partner may still retain some factual control until the close of the transaction, which for a gradual transfer may be up to 10 years. One or more of the adult children or grandchildren must generally retain legal control of the purchaser corporation for at least a 60-month period under the gradual transfer option.

Under an immediate transfer, the transfer of management of the subject corporation's business from the parent to the child or grandchild must generally be completed within 36 months of the transfer date. This period is extended to the later of 60 months and the final sale date for a gradual transfer. Additionally, during the transitional period before management of the business has been transferred, at least one child or grandchild must remain actively engaged on a regular and continuous basis in the transferred business following the subject corporation share transfer, and the business must be carried on as an active business.[11] Several other conditions apply. A 10-year capital gains reserve is also available for intergenerational share transfers that satisfy the relevant conditions.[12] These amendments apply to dispositions of shares that occur after 2023.

If you are considering selling your business to the next generation(s), consult with your EY Tax advisor on the potential application of these rules to your plans.

For further information, see **TaxMatters@EY, February 2024**, "New rules for intergenerational business transfers;" **EY Tax Alert 2021 Issue No. 25**; **EY Tax Alert 2022 Issue No. 23**; and **EY Tax Alert 2023 Issues No. 20** and **44**.

[9] This will still generally be the case under the proposed capital gains inclusion rate changes (see **Trust capital gains and the proposed inclusion rate changes** above), although the difference between dividend rates and capital gains rates will be narrowed to the extent the higher inclusion rate applies.

[10] References to adult children or grandchildren also apply to adult stepchildren, children-in-law, nieces and nephews, and grandnieces and grandnephews of the taxpayer.

[11] A child or grandchild working at least an average of 20 hours per week during the portion of the year the active business operates is deemed to satisfy the "actively engaged" condition.

[12] For more information about capital gains reserves, see **Chapter 5: Investors**.

Tax deferral

During your lifetime: Tax on the future growth of assets transferred to a family trust can only be deferred by up to 21 years if the assets are to remain in the trust. This is because family trusts are deemed to dispose of all their assets at their fair market value every 21 years from their setup. Therefore, any accrued gains on property held by the trust will be taxed at the top marginal rate for capital gains if the asset has not been distributed to the beneficiaries at its 21st anniversary date and each subsequent 21st anniversary.

If the trust deed allows the trustees to distribute the assets to the beneficiaries prior to the 21st anniversary, it may be possible to roll out the assets at their adjusted cost base to defer the capital gains tax either until the beneficiary sells the assets or on their death. This rollout is not available to a beneficiary who is not a resident of Canada for tax purposes. It is important that the trust is set up properly to avoid the application of the reversionary trust rules that prohibit the tax-free rollout to certain beneficiaries.

There are some important non-tax benefits to the family trust structure. For example, assets held in a family trust will be protected from the creditors of the beneficiaries and should not form part of their family assets for family law purposes, even after distribution from the family trust.

Post mortem: Trusts have an important role in post-mortem estate planning. It is possible to defer the capital gain realized on the deemed disposition on death by transferring your assets to either your spouse or a qualifying testamentary spouse trust, which would be created on your death. In this case, the tax on the accrued capital gain will be deferred until the earlier of the sale of the assets or the death of your spouse. The rollover to a spouse trust will only apply if no one other than your spouse is entitled to all the income of the trust and your spouse is the only discretionary capital beneficiary during their lifetime.

A testamentary spousal trust also allows you to control entitlement of your assets after the death of your spouse. If the assets are instead transferred directly to your spouse, it's your spouse's will that directs the distribution of the family assets. Spousal trusts have commonly been used by individuals with more complex family situations (such as second marriages) to ensure that assets are available to a current spouse for their remaining life, and then passed to persons chosen by the deceased. They have also been used to ensure a surviving spouse's remarriage will not change the ultimate distribution of the deceased's assets. Spousal trusts (testamentary or *inter vivos*) can exist for the life of the spouse; assets are deemed disposed of on the spouse's death, rather than every 21 years.

For 2015 and prior years, testamentary trusts (which must be created by your will) were taxed as a separate taxpayer and were subject to the graduated personal tax rates. As a result, it was possible to income split, by having some of the income taxed in the testamentary trust and some taxed in the beneficiary's hands. In some situations, it was possible to access these benefits more than once, through the use of multiple trusts. Since January 1, 2016, these tax benefits can no longer be achieved due to changes to the tax rules for trusts.

Testamentary trusts – 2016 and subsequent years

All testamentary trusts are subject to flat top-rate taxation, with two exceptions. The first exception is for an estate during the first 36 months after the death of the individual. Graduated tax rates apply to a single trust known as a "graduated rate estate" (GRE), provided certain conditions are met. Only one trust may be designated as a GRE in respect of any individual, thereby eliminating the benefit of creating and using multiple trusts after death. During the first 36 months of the GRE, it is imperative not to taint the trust (e.g., the trust receiving loans from beneficiaries), as it will result in the trust losing GRE status, having a deemed year end at that time and being subject to the flat top-rate taxation.

Some of the benefits previously enjoyed by testamentary trusts are now only available to GREs. These include:

- Taxation of income earned and retained in the estate at graduated rates
- Availability of certain post-mortem relief provisions
- A $40,000 exemption from alternative minimum tax (AMT) (available to GREs for the 2016 to 2023 taxation years)[13]
- Flexibility on who may claim the tax credit for charitable donations made by will
- Ability to maintain a non-calendar year end
- Exemption from tax instalment requirements

[13] Effective for the 2024 and later taxation years, recent legislative amendments exempt GREs and certain other trusts from the application of the AMT. These amendments are part of a package of rules designed to broaden the base for the AMT regime. For more information about the AMT and these rules, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issues No. 25** and **27**.

A deemed year end occurred on December 31, 2015 for testamentary trusts that were not GREs and did not already have a calendar year end. Testamentary trusts that no longer qualify as GREs (either because they are tainted or because 36 months after the date of death have elapsed) have a deemed taxation year end on the day on which the estate ceases to be a GRE. The subsequent year end of such a trust is December 31.

The capital gain realized (from the deemed disposition of assets held by the trust) on the death of the life interest beneficiary (surviving spouse or partner or the contributor of an alter ego trust) is reported and taxed in the trust. The trustee typically pays the tax liability using the assets held in the trust and subsequently distributes the net assets to its capital beneficiaries.

On January 1, 2016, amended rules took effect for life-interest trusts (includes alter ego, joint spousal and common-law partner trusts, and spousal and common-law partner trusts), which deem a taxation year to end at the close of the day on which the life interest beneficiary dies.

In very limited circumstances,[14] an election may be filed under these rules by the trustee of a testamentary trust that is a spousal or common-law partner trust and the executor of a life interest beneficiary's GRE to tax the deemed capital gain of the trust in the deceased life interest beneficiary's terminal return.

Under the former rules, income or capital gains payable to a beneficiary could be taxed in the trust if the trustees made an election to tax it in the trust. This was typically done where the trust had a lower tax rate than the beneficiary.

As of January 1, 2016, an election to tax the income or capital gains payable to a beneficiary in the trust can only be made if there are losses (including capital) that can be utilized such that the trust's taxable income for the year is not greater than nil.

A second exception to the flat top-rate taxation of testamentary trusts is for "qualified disability trusts (QDTs)." These testamentary trusts, created for the benefit of disabled individuals who are eligible for the federal disability tax credit, continue to be taxed at graduated tax rates, but there is a claw-back if capital is distributed to anyone other than the disabled beneficiary.

As noted above in **Trust capital gains and the proposed inclusion rate changes**, proposed legislative amendments will increase the capital gains inclusion rate from one-half to two-thirds for capital gains realized by corporations and most trusts on or after June 25, 2024. However, both GREs and QDTs will, like individuals, be eligible for the one-half inclusion rate on the first $250,000 of capital gains realized in the year for dispositions on or after June 25, 2024, provided the capital gains are not allocated to a beneficiary in the year.

Existing estates and estate plans should be reviewed to assess the impact of the rules for testamentary trusts. Your EY Tax advisor can help plan with these rules.

[14] Specific conditions must be satisfied. For instance, the trust must have been created by the will of a taxpayer who died before 2017, the individual was a Canadian resident immediately before the date of death, the trust is a post-1971 spousal or common-law trust, and so on.

TAX FUNDING

An estate freeze will allow you to predetermine the tax liability on death in relation to the frozen assets. Once this liability has been estimated, you should consider whether your estate will have sufficient assets to fund the tax and enough left over to support any dependants or satisfy your charitable intentions. If you determine that you will not have sufficient assets, you can consider purchasing life insurance to provide additional funds. Insurance proceeds are received by your estate or beneficiaries tax free.

If your intention is to defer the tax liability until the death of the surviving spouse, consider last-to-die insurance to reduce premiums during your lifetime. Depending on your circumstances and mortality rates, life insurance premiums could end up costing more than the ultimate tax you are funding, so ensure that insurance is indeed the most efficient way to fund the ultimate tax liability. It's always prudent to review your insurance needs every few years or if there have been any significant changes to the income tax rates to ensure you're carrying the right amount of coverage.

If you haven't attended to your estate plan – or if it needs to be reviewed to ensure your intentions will still be met under your current situation – contact your EY Tax advisor.

Trust reporting

A trust is required to file an annual income tax return, the T3 *Trust Income Tax and Information Return* (T3 return), within 90 days of the end of its taxation year. However, there have been a number of statutory and administrative exceptions to this filing requirement. Generally, prior to the 2023 taxation year, a trust would only have to file a T3 return for a taxation year if it earned more than $500 of taxable income from all sources and it had income tax payable, it had disposed of (or was deemed to have disposed of) capital property, it realized a taxable capital gain, or it made a distribution of all or part of its income (exceeding $100), gains or capital to one or more of its beneficiaries.

ADDITIONAL REPORTING REQUIREMENTS

Recent legislative amendments provide for additional information reporting that is required on an annual basis for express trusts (trusts that are created with the settlor's express written intent, as opposed to other trusts arising by operation of law) that are resident in Canada, and for nonresident trusts that have already been required to file a T3 return, effective for taxation years ending after December 30, 2023. Therefore, these rules create an annual T3 return filing requirement for certain trusts that were previously not required to file a T3 return due to statutory or administrative exceptions.[15]

Additional information reporting does not apply to GREs. Since all trusts except GREs are now required to have a calendar year end, these rules effectively apply for the 2023 and later taxation years.

Trusts subject to the additional reporting requirements have to report the identity of, and include certain prescribed information for, all trustees, beneficiaries and settlors of the trust, as well as each person who has the ability, as a result of the trust terms or a related agreement, to exert control over trustee decisions regarding the allocation of trust income or capital in a year (e.g., a protector).

The definition of a settlor for these purposes under the amendments includes any person or partnership that has loaned or transferred property, directly or indirectly, to or for the benefit of the trust. But this definition may be broad enough to capture individuals who undertook common tax and estate planning strategies, such as an estate freeze, or those who loaned even a nominal amount of money to a non-arm's-length trust.

Therefore, proposed amendments released on August 12, 2024 would provide an exception from the definition of a settlor for these purposes for persons or partnerships that make transfers to the trust, whether an arm's-length or non-arm's-length trust, for fair market value consideration or because of a legal obligation to make the transfer, as long as the transferor receives fair market value consideration. These proposed amendments would be effective for the 2024 and later taxation years.[16]

[15] In addition, the amendments may require many nonresident trusts that were previously not required to file an annual T3 return to have a filing requirement for the first time. See **EY Tax Alert 2024 Issue No. 2**.

[16] Technically, effective for taxation years ending after December 30, 2024.

A new beneficial ownership schedule (T3 Schedule 15, *Beneficial Ownership Information of a Trust*)[17] has been added to the T3 return to report this information. The amendments do not require the disclosure of information that is subject to solicitor-client privilege.

The original amendments were also to apply to a bare trust – i.e., a trust that includes an arrangement where it can reasonably be considered to act as agent for its beneficiary(ies) with respect to all dealings in all the trust's property – for the 2023 taxation year.

In March 2024, the CRA announced it would not require bare trusts to file a T3 return or the Schedule 15 of that return for the 2023 tax year unless the CRA made a direct request for these filings. The one-year exemption was provided in recognition of the challenges taxpayers and their advisors faced in determining if certain arrangements constituted a bare trust – and therefore subject to the T3 return filing requirement for the first time – and in compiling the required information for disclosure.

Draft legislative amendments released on August 12, 2024 propose to reduce the types of bare trust arrangements that will be subject to the reporting requirements and to delay the application of those requirements to the 2025 and later taxation years. Under the proposed amendments, the reporting requirements will apply to an arrangement where one or more persons, referred to as the "legal owner," have legal ownership of property that is held for the use or benefit of one or more persons or partnerships.

In addition, under the arrangement, the legal owner is reasonably considered to act as agent for the persons or partnerships who have the use or benefit of the property. Exemptions from the additional reporting requirements may apply to some of these types of bare trusts if specific conditions are met.

Certain types of trusts are excluded from these additional reporting requirements. Under the amendments, including draft legislative amendments released on August 12, 2024 that are effective for the 2024 and later taxation years,[18] an exemption from the additional reporting requirements applies to certain trusts, including a trust that:

- Has been in existence for less than three months at the end of the year
- Holds only certain assets and those assets have a total fair market value that does not exceed $250,000 throughout the year, and where each trustee is an individual and each beneficiary is an individual and is related to each trustee[19]
- Holds assets that have a total fair market value that does not exceed $50,000 throughout the year, even if the trust has corporate trustees or whose beneficiaries may not be an individual who is related to each trustee[20]
- Qualifies as a non-profit organization or a registered charity
- Is a mutual fund trust
- Is a GRE
- Is a QDT
- Is an employee life and health trust
- Is under or governed by a deferred profit-sharing plan, employee profit-sharing plan, tax-free first home savings account, pooled registered pension plan, registered disability savings plan, registered education savings plan, registered supplementary unemployment benefit plan, registered pension plan, RRIF or RRSP

Certain other exceptions apply.

Penalties apply for failure to file a T3 return, including the new beneficial ownership schedule, where applicable, that is required to be filed under the requirements, effective for taxation years ending after December 30, 2023. These penalties are equal to the greater of $2,500 and 5% of the highest total fair market value of all property held by the trust in the year, with no maximum penalty.[21]

For further details about the additional reporting requirements and the related amendments and draft amendments, see **EY Tax Alert 2024 Issue No. 44**, **EY Tax Alert 2024 Issue No. 4** and **EY Tax Alert 2023 Issue No. 41**.

If you hire someone to prepare your T3 return, note that recent legislative amendments also require tax preparers to electronically file T3 returns if, for a calendar year, they prepare more than five T3 returns. This measure became effective January 1, 2024.

[17] The Québec version of T3 Schedule 15 is Part 6 and Schedule G of the TP-646-V Québec income tax return.
[18] Technically, effective for taxation years ending after December 30, 2024.
[19] This particular exception did not apply for the 2023 taxation year.
[20] This particular exception only applied for the 2023 taxation year if the trust held certain types of assets.
[21] This penalty also applies if a false statement or omission is knowingly made in the return, or made under circumstances amounting to gross negligence. For Québec tax purposes, the amount of the penalty is equal to $1,000 plus $100 for each day the failure to file continues, up to $5,000.

Wills

Your will is a key part of your estate plan. You and your spouse or partner should each have a will and keep it current to reflect changes in your family status and financial situation, as well as changes in the law. Your lawyer and tax advisor should review it every three to five years at a minimum, or whenever there are significant life-changing events in the family.

If there is no valid will at death, the deceased individual's estate passes under predetermined rules known as intestate succession. The intestacy rules are different depending on the province or territory of which the person was resident at the time of his or her death.

Alter ego and joint partner trusts

Alter ego trusts and joint partner trusts offer estate planning options for seniors. These are *inter vivos* trusts established by individuals who are at least 65 years of age. In these trusts, only the contributor – or their spouse or partner in the case of a joint partner trust – is entitled to the trust's income or capital.[22]

In the case of an alter ego trust, the trust document should name contingent beneficiaries, who will be entitled to receive the income and/or capital of the trust after your death. For a joint partner trust, the document must specify that the last to die (you or your spouse or partner) will be the beneficiary, and the trust deed should name contingent beneficiaries after both spouses die.

Like other *inter vivos* trusts, you can use these trusts as will substitutes, bypassing provincial probate fees on death and maintaining privacy. But unlike most other *inter vivos* trusts, you can transfer assets into these trusts on a rollover basis (at cost), deferring the tax on any accrued gains until they are realized, or until the time of your death or that of your spouse or partner. These trusts can also act as substitutes for powers of attorney.

TAX TIPS

- Conducting an annual review of your estate plan will help you prepare for life's unexpected turns.
- Consider freezing the value of your assets and arranging for funds to be set aside, or purchasing life insurance, to cover the payment of your estimated income tax liability arising on death.
- There are different types of estate freezes. Your choice would depend on your particular family situation:
  - Complete freeze: It's possible for you to continue to control the company by subscribing for all or the majority of the voting-control shares and by using a shareholders' agreement restricting the rights of the growth shareholders.
  - Partial and staged freezes: You can continue to participate in the company's growth by subscribing for a portion of the growth shares, either directly or by being named as a beneficiary of the family trust.
- Only consider a freeze for assets you expect the family to hold over the long term.
- Note that income-splitting opportunities with estate freezes are limited after 2017, based on the revised TOSI rules (see above).
- If you're 65 or older, consider using an alter ego or joint partner trust as a will substitute and for probate tax savings. Consult with tax and legal advisors on drafting the terms to take the amended trust rules into account.
- Review and update your will periodically to ensure it reflects changes in your family status and financial situation, as well as changes in the law.
- Remember to weigh the continuing non-tax benefits of using trusts for post-mortem planning, since the tax benefits have been reduced due to the amended trust and TOSI rules.
- Remember that an individual may have only one qualifying GRE that will benefit from the historical testamentary trust advantages.
- If you are using a trust for estate planning (or other) purposes, ensure that you are in compliance with all trust filing and reporting requirements, including the recently enacted additional reporting requirements (see above).

[22] At the October 2020 Canadian Tax Foundation CRA Roundtable, the CRA referred to these rules when noting that the rent-free use of a cottage, owned by an alter ego or joint partner trust, by a child of a beneficiary of such a trust could potentially jeopardize the status of the trust since it could be viewed as use of the capital of the trust by someone other than the contributor, or their spouse or partner (in the case of a joint partner trust).

Estate administration tax/ probate tax

Probate is the judicial process when a court confirms an executor's authority. In most cases, you, as the executor of an estate, will have to go through this process in order to efficiently carry out the administration of the estate.

Whether the deceased has a will or not, probate entails paying tax, which is determined as a percentage of the estate's value. Several provinces levy probate tax on all property that belonged only to the deceased at the time of death. Property that passes to a named beneficiary outside the will (e.g., the proceeds of a life insurance policy) is not subject to probate tax. In some provinces, probate taxes for large estates can be substantial.

For a summary of probate fees by province and territory, see **Appendix C**.

Inter vivos gifts

If you gift capital property before death to anyone other than your spouse or partner, you're deemed to have disposed of that property at its fair market value. Transferring property into "joint tenancy" with a child is considered to be a gift at fair market value and consequently a disposition for income tax purposes. This technique may be attractive in times of depressed market values and disposition of certain types of assets that may result in minimal taxes.

TAX TIPS

- You should seek advice on how the family's wealth should be distributed when you die, and regularly monitor the advice in light of your changing personal circumstances.
- It's essential that you have a will that's fairly current – and possibly more than one will to deal with different assets and jurisdictions. To date, the CRA has stated that using multiple wills does not create more than one estate in the context of the GRE rules.
- Reduce potential probate tax by transferring assets, such as the family cottage or non-appreciated assets, to a family or alter ego trust, so that they won't be owned by an individual on death. Note that the principal residence designation rules have changed with respect to certain trusts. See **Chapter 8: The principal residence exemption**.
- Keep beneficiary designations up to date for any assets that typically are not covered by a will, including assets from life insurance policies, retirement plans and tax-free savings accounts (TFSAs). Beneficiary designations supersede any instructions in a will for these specific assets. Remember that as circumstances in your life evolve (due to events like birth, marriage, divorce or death), your beneficiary designations may need to change accordingly.
- A letter of instructions informs your family members of the estate planning documents you've created, what their purposes and contents are and where they're located. The letter should also include contact information for lawyers, accountants, insurance agents, financial advisors, bank representatives and other persons your survivors might need to get in touch with. The simple and straightforward step of preparing a letter of instructions can spare your survivors from confusion and anguish during what will be a time of great stress.

Life insurance

Life insurance plays a key role in providing liquidity to your estate, by enabling the payment of funeral expenses and other debts (such as the income tax liability on any accrued capital gains that may be payable as a result of your death) and providing your dependants with the funds to replace your earnings. In addition, life insurance can be used to facilitate the transfer of a business in the event of the death of one of the partners or owners.

Life insurance proceeds received on your death from a tax-exempt life insurance policy are not subject to tax; consequently, life insurance premiums are generally not tax deductible.

There are two general types of life insurance:

Term policies: These policies provide insurance protection for a specified period of time or up to a specified age (e.g., 10 years or to age 65). They typically have no explicit investment component and provide the policyholder's beneficiary with a tax-free fixed sum on the policyholder's death. Term insurance policies generally have no guaranteed cash values and are usually not participating (i.e., no policy dividends are payable).

Term insurance policies typically have a fixed premium for the duration of the policy and may contain features such as a guaranteed right to renew the policy at the end of the term or the right to convert the policy to permanent insurance subject to certain conditions.

Term policies are typically the lower-cost option for obtaining life insurance. However, premiums associated with the exercise of a guaranteed renewability option may cost more than the purchase of a new policy.

Permanent policies: All permanent policies provide insurance for the life of the insured as long as all premiums are paid as required. These life insurance policies usually have an investment component in addition to the pure insurance component.

Most permanent life insurance policies sold in Canada are tax-exempt policies, meaning they are exempt from annual accrual taxation on the accrued growth in the investment value in the life insurance policy. The ability to accrue growth on a tax-deferred basis in a tax-exempt life insurance policy can provide significant value over the long term. This tax deferral becomes permanent if the policy is held until the death of the life insured.

For an insurance policy to be considered tax exempt, the investment component within the policy cannot exceed certain permitted limits. The insurer typically monitors the status of the policy annually and may, as part of the policy contract, make any necessary changes or withdrawal to ensure the policy remains tax exempt from accrual taxation.

Premiums for permanent policies may be fixed over the life of the policy or may increase over time, depending on the terms of the policy. Generally, premiums for permanent policies are higher than premiums for term policies, in recognition of the need to pay a death benefit at some point, and to accumulate savings within the policy.

One added benefit of permanent insurance policies is that the investment component usually has a cash surrender value, which can provide funds before death. You can borrow against or withdraw this cash surrender value to supplement your retirement income or for emergency situations — but there may be an associated tax cost.

Participating and non-participating

Participating and non-participating policies are types of permanent life insurance policies. A participating policy may allow the policyholder to receive benefits in the form of policy dividends. A non-participating policy does not pay policy dividends.

Adjusted cost basis for tax purposes

As with other types of property acquired, it is necessary to calculate the tax cost, or adjusted cost basis (ACB), for life insurance policies. In broad terms, premiums paid on a life insurance policy are added to the ACB, while money withdrawn reduces the ACB of the policy. In addition, for policies issued or last acquired after December 1, 1982, there is an annual deduction from the ACB for the net cost of pure insurance (a notional cost of insurance calculation) provided under the policy. The purpose of the deduction of net cost of pure insurance is for the ACB to reflect only the investment component within the policy. Other factors may also increase or reduce the ACB.

Because the ACB calculation in Canada is complex, Canadian insurers maintain the calculation and issue a tax slip for any taxable amounts withdrawn in the year.

Withdrawals and policy loans

When a policyholder withdraws money from a policy, including policy dividends or partial withdrawals of the cash surrender value, the policyholder is considered to have disposed of all or a portion of their interest in the policy for tax purposes. If the proceeds exceed the proportional ACB at the time of the disposition, the policyholder must include the excess, typically referred as the policy gain, in their income. It should be noted that life insurance policies are not considered capital property. Therefore, the entire 100% policy gain realized on the disposition is subject to tax, on account of income, to the policyholder.

In addition, when a policyholder obtains a policy loan under the terms of the policy, the policy loan proceeds in excess of the policy's ACB are taxed as income. Any subsequent repayment of the policy loan may entitle the policyholder to an income tax deduction to the extent of amounts previously included in income. Many insurers will send a letter to their policyholders to advise them when a deduction may be available in respect of a policy loan repayment. However, such notification is not required, so policyholders should take care in determining the availability of potential deductions for policy loan repayments.

If a policyholder obtains a policy loan and uses the proceeds to earn income from a business or property, the interest on the policy loan may be deductible for income tax purposes (similar to the treatment of interest on other types of investment loans). To obtain the deduction, the policyholder should complete Part I of Form T2210, *Verification of Policy Loan Interest by the Insurer*, and forward the form to the insurer for completion of the remainder. The insurer will certify the amount of the policy loan interest and return one copy of the completed form to the policyholder. The insurer would retain the other copy for a possible future CRA review.

Note that if the interest is capitalized to the policy loan balance, and the amount of interest is deductible, the capitalized interest amount is considered policy loan proceeds and, as such, may be taxable.[23]

TAX TIP

Before withdrawing any portion of the cash surrender value of your policy, or considering claiming a policy loan interest deduction, speak with your tax or insurance advisor to determine the tax implications.

Changes in ownership

Generally speaking, a change in ownership of a life insurance policy is a taxable disposition if the transferor and transferee deal at arm's length. The transferor realizes a policy gain to the extent that the transfer price paid (or deemed paid) by the new policyholder exceeds the transferor's ACB in the policy, and 100% of that policy gain is included in the transferor's taxable income for that year, the same treatment as withdrawals and policy loans – see above. After the transfer, the transferee's ACB in the policy is equal to the proceeds of disposition received by the transferor.

Many non-arm's-length changes in ownership are deemed to occur at proceeds equal to the greatest of the cash surrender value of the policy, fair market value of any consideration provided, and the ACB of the policy for deemed dispositions occurring after March 21, 2016. This deemed disposition also applies if the policy is gifted (no consideration provided). To the extent that the deemed proceeds exceed the ACB of the policy, the transferor realizes a policy gain, and 100% of the policy gain is included in the transferor's income for that year.

There are, however, specific non-arm's-length transfers of ownership that can occur on a tax-deferred basis. Transfers of ownership to a child or grandchild for no consideration are deemed to occur at proceeds equal to the policy's ACB, provided the child or grandchild is the life insured and certain other conditions are met.[24]

Similarly, a transfer to a spouse or common-law partner as a consequence of the policyholder's death is deemed to occur at proceeds equal to the policy's ACB, provided among other things that the policyholder and successor spouse or common-law partner are resident in Canada for tax purposes at the time of death. A tax-deferred transfer to a spouse or common-law partner is also available during the policyholder's lifetime if certain conditions are met.

[23] Under the definitions of "proceeds of the disposition" and "premium" in subsection 148(9) of the *Income Tax Act*, interest that is capitalized by being added to the policy loan balance and not deductible is generally excluded from being taxable. Interest that is capitalized to the loan balance that is deductible may be taxable. Consult your EY Tax advisor.

[24] See CRA document 2004-0065441C6.

Deductibility of premiums

As mentioned previously, premiums paid on life insurance policies are generally not deductible. However, if an interest in a life insurance policy is assigned to a financial institution (i.e., a chartered bank, trust company or credit union) as required collateral on a loan or indebtedness, the policyholder may be able to deduct a portion of the premiums paid, as long as the interest on the loan is deductible.[25] Caution should be taken with flexible premium policies, as only the premiums contractually payable under the policy may qualify for deduction.

Beneficiary designations

Unlike other types of investments, life insurance policies allow the policyholder to designate beneficiaries under the policy, which may be advantageous when compared to other types of investments. Designating beneficiaries may protect the policy from creditors and excludes the proceeds from the estate's value when calculating probate tax.

Business use

In addition to providing protection to a policyholder's spouse or common-law partner and/or dependants who are beneficiaries, life insurance is also commonly used by closely held businesses to fund the purchase of the shares held by the deceased's estate. If the company receives the death benefit, the death benefit proceeds in excess of the policy ACB at the time of the insured individual's death can generally be distributed to the estate or the surviving shareholders free of tax once the corporation declares a dividend out of its capital dividend account.

TAX TIP

Periodically review your life insurance requirements to ensure you have the appropriate amount and type of coverage and have named the correct beneficiaries of the policy.

TAX TIP

If you wish to use life insurance for investment or business planning purposes, speak with your tax advisor to ensure the tax benefits are being optimized. The rules are complex, and significant unintended consequences can result if proper planning is not done.

Charitable bequests made by will

The rules relating to charitable donations and gifts of Canadian cultural or ecological property are also applicable to gifts made in your will.

Prior to 2016, gifts made by will were deemed to be made by the deceased immediately prior to death and could be reported on the terminal return or carried back to the immediately preceding year.

Gifts made from the estate, however, could only generate credits against the estate's income taxes payable.

If charities were listed as direct beneficiaries of an RRSP, RRIF, TFSA or a life insurance policy, the bequests were treated as charitable bequests and considered gifts made in the year of death.

Charitable bequests and gifts made by GRE

A deeming rule applies to deaths occurring after 2015, for gifts made by will and designation gifts under an RRSP, RRIF, TFSA or life insurance policy. Charitable bequests are no longer deemed to be made by an individual immediately before death. Instead, these gifts are deemed made by the estate.

[25] Under paragraph 20(1)(e.2) of the *Income Tax Act*, the amount of premiums deductible in this case (with certain exceptions) would be the least of: (a) the premiums payable under the policy in respect of the year; (b) the net cost of pure insurance in respect of the interest in the policy in the year; and (c) the portion of the lesser of the amounts in (a) and (b) that can reasonably be considered to relate to the amount owing from time to time during the year by the taxpayer under the loan. For example, if the life insurance coverage under the assigned policy is $500,000, and the average balance owing under the loan during the taxation year is $200,000, the amount deductible would likely be limited to 40% of the lesser of the premiums payable and the net cost of pure insurance for the policy in respect of the year.

The value of the gift is determined at the time the property is transferred to a qualified donee and not immediately prior to death. Provided the gift is made by the deceased's GRE, the estate trustee has the flexibility to claim the gift in an estate return or to allocate the gift to the deceased's terminal return or the immediately preceding personal tax return.

The deceased's spouse or common-law partner is no longer able to claim gifts made by will.

If an estate or trust is not a GRE when the gift is made, then the donation credit can only be claimed in the year of the donation and the subsequent five years. There is no ability to allocate the gift to a prior year of the estate or to a deceased's personal tax return.

TAX TIP

Consider starting your charitable donation program while you're alive, or consider alternative ways of creating a legacy, such as:

- Gifting capital property (such as shares)
- Gifting a life insurance policy (the premiums may be donations)
- Gifting a residual interest in property
- Donating a charitable gift annuity

For deaths occurring after 2015, additional flexibility may be available in allocating a gift made by an individual's former GRE after 36 months but no later than 60 months after the individual's death in certain situations.

Consult with your EY Tax advisor to ensure that these rules do not adversely impact your gifting strategy.

The 21-year trust rule

As previously mentioned, trusts – other than qualifying spouse or partner trusts, alter ego trusts and joint partner trusts – are deemed to dispose of their assets at fair market value every 21 years. Accrued capital gains or losses on capital property are thus recognized and subject to tax. For example, trusts created in 2003 will have a deemed disposition in 2024.

Trusts may elect to pay the resulting tax in up to 10 annual instalments. The trust will be charged interest on the unpaid balance of tax at the prescribed rate.

It's important to have your trust reviewed by your EY Tax advisor to help reduce the impact of the 21-year deemed disposition rule and to identify other planning opportunities.

A guide to US citizenship

GIVEN THE COMPLEXITY OF US CITIZENSHIP AND NATIONALITY LAW, IT'S NOT SURPRISING THAT MANY PEOPLE HAVE NO KNOWLEDGE OF THEIR US CITIZENSHIP STATUS.

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Given the complexity of US citizenship and nationality law, it's not surprising that many people have no knowledge of their US citizenship status.

Such people are often referred to as "accidental Americans" because an individual can obtain US citizenship "accidentally" by birth in the US,[1] through birth abroad to a US-citizen parent or as the result of a parent's naturalization.

If the legal requirements for citizenship are met, then a person becomes a US citizen by operation of law, irrespective of their intent.

Below is a brief summary of the current rules regarding acquisition and renunciation of US citizenship. Please note that there are many other nuanced factors to be considered when contemplating acquiring or renouncing US citizenship that are not set out below. Consultation with an advisor is highly recommended.

Acquisition of US citizenship

The 14th Amendment of the United States Constitution, Section 1, guarantees that all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States. Under Section 5 of the 14th Amendment, Congress is charged with the responsibility of enforcing this right through legislation. The governing legislation can be found in the *Immigration and Nationality Act* (INA). A person seeking citizenship through birth must look to the legislation in effect at the time his or her right to citizenship first arose.

Jus soli (the law of the soil) is a common law rule under which a person's place of birth determines his or her citizenship. The principle of *jus soli* is embodied in the 14th Amendment to the US Constitution and various US citizenship and nationality statutes, including the INA. Thus, nearly all persons born in the US are endowed with US citizenship. US citizenship may be acquired by a child born in the US even if her/his parents were in the country temporarily or illegally.

There is one exception. INA 301(a) provides that persons born in the US and subject to the jurisdiction thereof acquire US citizenship at birth. Therefore, children born in the US to foreign sovereigns, consuls, diplomats and other people who are not subject to US law are not considered US citizens at birth.

BIRTH ABROAD

Jus sanguinis (the law of the bloodline) is a principle under which a person's citizenship is determined by the citizenship of one or both parents. The principle is often referred to as "citizenship by descent" or "derivative citizenship."

Jus sanguinis is not embodied in the US Constitution. Citizenship by descent is, however, granted under US statute. The statutory requirements for conferring and retaining derivative citizenship have changed significantly over time. To determine whether US citizenship is transmitted in a particular person's case, you need to look to the laws that were in effect at the time the person was born or at the time the right to citizenship first arose (that is, for those cases of the child's parent(s) being naturalized).

BIRTH ABROAD TO TWO US-CITIZEN PARENTS IN WEDLOCK

Pursuant to INA 301(c), a person born abroad to two US-citizen parents is deemed to have acquired US citizenship at birth if at least one of the parents resided in the United States or one of its outlying possessions prior to the child's birth. The law does not define any minimum duration of residence. In this context, at least one of the US-citizen parents must have a genetic or gestational connection to the child.

[1] For citizenship purposes, the United States refers to the continental US, Alaska, Hawaii, Puerto Rico, Guam, the US Virgin Islands and the Commonwealth of the Northern Mariana Islands [INA 101(a)(38)]. By virtue of Public Law 94-241, persons born in the Northern Mariana Islands after November 4, 1986 are also considered US citizens.

BIRTH ABROAD TO ONE US-CITIZEN PARENT IN WEDLOCK

A child born abroad in wedlock on or after November 14, 1986 acquires US citizenship if the child has one US-citizen parent who was physically present in the US or one of its outlying possessions for at least five years prior to the child's birth. At least two of the five years must have accrued after the US-citizen parent reached the age of 14.

Under INA 301(g), a child born abroad in wedlock between December 24, 1952 and November 13, 1986 is deemed a US citizen provided that one US-citizen parent was physically present in the US for a period of at least 10 years prior to the birth of the child. At least five of those years must have accrued after the US-citizen parent reached the age of 14.

In the context of assisted reproductive technology, a person is deemed to have acquired US citizenship through their genetic or gestational relationship to either the US-citizen parent or non-US-citizen parent, provided they were married to each other at the time of the child's birth.

BIRTH ABROAD OF AN OUT-OF-WEDLOCK CHILD WITH A US-CITIZEN MOTHER

A person born abroad, out of wedlock, to a US-citizen mother from December 24, 1952 but before June 12, 2017 is considered a US citizen, provided that the mother was a US citizen at the time of the birth and physically present in the US or one of its outlying possessions for a continuous period of one year prior to the birth.

Under INA 309(c) and 301(g) and pursuant to the Supreme Court decision in *Sessions v. Morales-Santana*, 137 S.Ct. 1678 (2017), persons born on June 12, 2017 or after are considered US citizens if the US-citizen mother was physically present in the US or one of its outlying possessions five years prior to the birth, two of which were after the age of 14.

In the context of assisted reproductive technology, a person is deemed to have acquired US citizenship if a child is born abroad to a US-citizen biological mother who is the legal parent of the child at the time of birth in the location of birth and who is not married to the genetic mother or father of the child at the time of the child's birth.

BIRTH ABROAD OF AN OUT-OF-WEDLOCK CHILD WITH A US-CITIZEN FATHER

Under INA 309(a), a person born abroad out of wedlock to a US-citizen father on or after November 14, 1986 acquires US citizenship under INA 301(g) provided that the following conditions are met:

- A blood relationship between the person and the US-citizen father is established by clear and convincing evidence.
- The father was a US citizen at the time of the birth.
- The father was physically present in the US or its outlying possessions for at least five years prior to the child's birth, at least two of which were after the age of 14.
- The father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18.
- While the person is under the age of 18:
  - The person is legitimated under the law of his or her residence or domicile;
  - The father acknowledges paternity in writing under oath; or
  - The paternity is established by adjudication of a competent court.

Note that persons born between November 15, 1968 and November 13, 1971 may derive US citizenship under either the new provisions set out above or the old provisions.

RENUNCIATION OF US CITIZENSHIP

Once an individual acquires US citizenship, it's difficult to lose. The process of renunciation is quite complex and involves many considerations.

A person cannot avoid an outstanding tax liability by formally renouncing US citizenship, as renunciation can typically only occur after all outstanding tax filings and tax debts have been resolved. Moreover, individuals who renounce US citizenship may be subject to expatriation taxes and special reporting requirements upon departure.

It's important to note that persons who renounce US citizenship will then be subject to US immigration laws and regulations, just like all other non-citizens.

In light of the potential consequences, it is recommended that anyone considering renouncing their US citizenship seek professional advice before taking any action.

If you have any questions concerning US citizenship or renunciation, please consult with a US immigration attorney at **EY Law LLP**, a law firm affiliated with EY in Canada.

For questions relating to the tax implications of US citizenship or renunciation, please contact your EY or EY Law advisor.

US tax for Canadians

IF YOU'RE A CANADIAN RESIDENT, BUT NOT A US CITIZEN, WHO SPENDS SIGNIFICANT AMOUNTS OF TIME IN THE US FOR EITHER WORK OR LEISURE, YOU MAY BE CONSIDERED A US TAX RESIDENT AND REQUIRED TO FILE US FEDERAL INCOME TAX RETURNS.

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If you're a Canadian resident, but not a US citizen, who spends significant amounts of time in the US for either work or leisure, you may be considered a US tax resident and required to file US federal income tax returns.

You're considered a US resident if you hold a green card or meet the "substantial presence" test.

Snowbirds

You have a "substantial presence" in the US if you spend at least 31 days there during the year, and the result of a prescribed formula for presence in the US is equal to or greater than 183 days.

The prescribed formula for 2024 is as follows:

1. The sum of the days spent in the US in 2024
2. Plus one-third of the number of days spent there in 2023
3. Plus one-sixth of the number of days spent there in 2022

This means that people who regularly spend four months a year in the US will be considered a resident under this test and should file the Internal Revenue Service (IRS) closer connection statement (Form 8840) to be treated as a nonresident of the US (discussed below). This form should be filed even if you have no income from US sources to avoid additional complications such as reporting worldwide income on a US tax return, and the requirement to disclose detailed information about your financial accounts to the US Treasury Department.

Certain days you spend in the US are not counted for this test, including:

- Days you spend commuting to work in the US, if you regularly commute to work in the US on more than 75% of the workdays during your working period
- Days you spend in the US beyond your intended stay due to a medical emergency
- Days you are in the US for less than 24 hours when in transit between two places outside the US
- Days spent in the US by certain students

Even if you meet the substantial presence test, however, you won't be considered a US resident if, for the entire year, you have a "closer connection" to another country. A closer connection means you:

- Were present in the US fewer than 183 days during the calendar year
- Have a tax home in another country for the entire year
- Establish a closer connection to that tax home compared to your home in the US
- File IRS Form 8840, *Closer Connection Exception for Aliens Statement*, by the tax return due date, including extension to file

The normal US tax return filing due date is April 15, but for individuals without US-source employment income, the due date is June 15. This filing is often called a "snowbird filing," since Canadians who spend the winter in the US each year and meet the substantial presence test must file this statement to avoid being treated as US residents and subject to US tax on their worldwide earnings.

If you're considered a resident of both Canada and the US under each country's domestic tax law, double taxation on worldwide income is alleviated by being treated as a resident of either the US or Canada under the *Canada-US Tax Convention*.

Nonresidents who take advantage of the treaty to reduce their US tax liability, including those who claim nonresident status under the treaty, are required to file a US treaty disclosure form attached to Form 1040NR. This return is due on April 15 of the following calendar year for people who have US-source employment income. In all other cases, the date is June 15 of the following calendar year. Failure to file a treaty disclosure return could result in a minimum penalty of US$1,000.

The rules regarding filing returns are very complex. Contact your EY Tax advisor if you have questions on this topic.

TAX TIPS

- Review your situation and determine whether you're considered a US resident for US income tax purposes.
- If you have a green card, you should be aware that you are considered a US-resident alien and that you are subject to US tax on all your worldwide income.
- Ensure that you track the number of days you're present in the US.
- To substantiate your arrival and departure dates to and from the United States, you should keep copies of travel tickets, stamped passports and other relevant documentation in your tax files.

Tax issues for Canadians with US real estate

Are you planning to purchase a dream retirement home in the US in the near future? Or have you already taken the plunge and are the proud owner of a vacation home south of the border? In either case, there are a number of sometimes complex US income, estate and gift tax issues to be aware of. Taking these issues into consideration could reduce your overall tax exposure.[1]

The following US tax considerations apply to Canadian residents who are neither US citizens nor green card holders.

US ESTATE TAX

Canadian residents who own US real estate for business or personal use are exposed to US estate tax on the gross value of US property (subject to some reductions) owned at the time of an individual's death.[2]

The maximum US estate tax rate is 40% and the IRS allows a unified credit, with the effect that the first US$13.61 million[3] is not subject to US estate tax.

US citizens are allowed the full amount of the unified credit, which in most circumstances is transferable to the surviving spouse. However, for non-US citizens, and non-US domiciliaries for US estate and gift tax purposes, the unified credit is adjusted proportionately to reflect the value of the US-based assets in relation to the value of their worldwide estate under the *Canada-US Tax Convention*. If the US property is not a significant portion of a non-US citizen's worldwide estate, the amount of the unified credit available is reduced substantially.

In Canada, a limited foreign tax credit is allowed for the US estate tax paid to the extent Canadian income tax was payable related to the capital gains on the same property, provided that the Canadian capital gains tax would apply in the same year. This foreign tax credit is of nominal value if the accrued gain in the US real estate was relatively small in relation to the gross value of the US real estate.

Single-purpose corporation

Before 2005, a common planning technique to avoid US estate tax was the use of a Canadian company, commonly called a single-purpose corporation, to hold US real estate. Because the corporation owning the US property does not "die" with its shareholder, there is no death that triggers US estate tax.

Under general principles of Canadian taxation, a shareholder would ordinarily be assessed a taxable benefit for the personal use of an asset of the corporation. However, before June 23, 2004, the Canada Revenue Agency administratively permitted these arrangements without assessing a taxable benefit. This administrative concession was eliminated as of December 31, 2004, and a shareholder benefit will be assessed in any new arrangements. As a result, single-purpose corporations are generally no longer considered an effective strategy for new purchases of US real estate.[4]

[1] This information is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under the US Internal Revenue Code or applicable state or local tax law provisions.
[2] Note that if the value of your US situs assets is generally greater than US$60,000, a representative of your estate will need to file a US estate tax return regardless of whether or not there is a US estate tax liability. In certain instances, a US estate tax return may be required even if the value of the decedent's US situs assets is less than US$60,000. Consult your EY Tax advisor.
[3] Under the *US Tax Cuts and Jobs Act* (TCJA), which passed into law on December 22, 2017, the US estate tax exemption (on which the unified credit is based) was increased to US$13.61 million for 2024.
[4] There are exceptions. Consult your EY Tax advisor.

Co-ownership

Where there are multiple owners of a property, the US estate tax liability will be divided among the co-owners. The IRS will usually allow a discount on the value of each co-owner's share of the property, based on valuation principles, as it is more difficult to sell a partial interest in a property than to sell the entire property.

As well, with co-ownership, each individual can use the unified credit. As a result, the aggregate US estate tax payable by the co-owners on the discounted value would usually be less than the aggregate amount that would be payable had there been a single owner.

To implement this plan properly, all co-owners must fund their share of the purchase price so that the IRS does not view the planning as a "sham," and to avoid potential US gift tax issues when the property is sold in the future.

As well, you should be aware that the IRS automatically presumes that the entire value of the jointly held property is included in the deceased person's gross estate, unless the executor provides evidence sufficient to show that the property was not acquired entirely with consideration furnished by the deceased, or that it was acquired by the deceased and the other joint owner by gift, bequest or inheritance. Therefore, properties held in joint tenancy by spouses may be subject to US estate tax twice. So be sure to keep proof that all joint owners paid for their share of the property.

While this ownership structure can significantly reduce US estate tax, it might make a future disposition of the property more complicated and cumbersome. All owners would have to agree to the disposition and be available to sign the legal documents for the transaction.

Life insurance

Another option to counter US estate tax is the use of life insurance to fund the estate tax liability on death. The amount of premiums will depend on the age and health of the owner(s). Accordingly, if there is any insurability issue, this may not be a cost-effective plan. Insurance policy premiums to fund the US estate tax liability are not deductible for income tax purposes.

It should be noted that insurance proceeds on the life of a nonresident, non-citizen of the US are not considered US-based property and will not be subject to US estate tax. However, the insurance proceeds will reduce the unified credit amount available to the deceased, as the insurance proceeds payable to the estate or beneficiaries will be included in the gross value of the deceased's worldwide estate if he or she is the owner of the policy.

Non-recourse mortgage

In determining the value of property for US estate tax purposes, the IRS allows a deduction for an arm's-length non-recourse mortgage registered against the property. This deduction would reduce the value subject to US estate tax, thereby reducing the US estate tax liability. In order for a mortgage to be considered non-recourse, the only claim that the lender may have on the borrower's assets would be the specific property that has been pledged as security.

These loans may not be easily negotiated. As well, financial institutions usually will not lend more than 60% of the value of the property. Therefore, if a financial institution holds the mortgage, there may not be the possibility of eliminating all of the exposure to US estate tax.

As an added benefit, the interest paid on the non-recourse mortgage could be deductible for Canadian income tax purposes if the loan proceeds were used to purchase income-generating assets.

Canadian trust

A non-US citizen (the settlor) could establish a Canadian trust to purchase a US recreational property with a life interest for their spouse and capital interest for their spouse and children. The trust would be settled with sufficient cash to purchase the real estate.

It is important that the settlor be neither a trustee nor a beneficiary of the trust. This restriction is necessary to avoid the application of US Internal Revenue Code section 2036, which would attribute the value of the property to the settlor for purposes of calculating their US estate tax liability.

In addition to the original funding, the settlor will likely need to contribute additional amounts to the trust to fund the annual operating costs and capital improvements.

Generally, with this planning, the trust would not generate any income while it is holding the real estate, and therefore no annual US income tax return filings should be required, although Canadian income tax return filings may apply (see below).

You should also be aware that Canadian income tax rules for trusts deem the trust to have disposed of its capital property every 21 years. Therefore, the trust deed should be drafted to provide flexibility in the future to avoid the potentially adverse implications of the 21-year rule.

Trust reporting

A trust is required to file an annual income tax return, the T3 *Trust Income Tax and Information Return* (T3 return), within 90 days of the end of its taxation year. However, there have been a number of statutory and administrative exceptions to this filing requirement.

Generally, prior to the 2023 taxation year, a trust would only have to file a T3 return for a taxation year if it earned more than $500 of taxable income from all sources and had income tax payable, it had disposed of capital property or had realized a taxable capital gain, or it made a distribution of all or part of its income (exceeding $100), gains or capital to one or more of its beneficiaries.

The 2018 federal budget and several subsequent versions of draft legislation proposed additional reporting requirements for trusts. The new requirements were introduced in Bill C-32, *Fall Economic Statement Implementation Act, 2022* and apply to taxation years ending after December 30, 2023. Since almost all trusts are now required to have a calendar year end, these rules effectively apply for the 2023 and later taxation years.[5]

The new reporting rules are required on an annual basis for express trusts – trusts that are created with the settlor's express written intent, as opposed to other trusts arising by operation of law – that are resident in Canada, and for nonresident trusts that are currently required to file a T3 return.

Therefore, these rules create an annual T3 return filing requirement for certain trusts that were previously not required to file a T3 return due to statutory or administrative exceptions. In addition, the new rules may require many nonresident trusts that were previously not required to file an annual T3 return to have a filing requirement for the first time.

The new rules require the following additional information to be reported for each trustee, beneficiary, settlor and each person who has the ability to exert influence over trustee decisions regarding the appointment of income or capital of the trust:

- Name
- Address
- Date of birth
- Jurisdiction of residence
- Taxpayer identification number (TIN)

Certain exceptions apply.

For more information, see **Chapter 12: Estate planning**.

[5] Only graduated rate estates (GREs) are permitted to have a non-calendar year-end, and GREs are exempt from the new reporting requirements. See **Chapter 12: Estate planning**.

Canadian partnership[6]

The property could be purchased by a Canadian partnership. In this case, it could be argued that the deceased owned a Canadian partnership interest rather than the actual US real estate.

However, it is not clear how the IRS views the location of a partnership. It may see it as the location of the partnership's trade or business, the domicile of the partner, the location of the partnership assets or the location where the partnership was legally organized. Therefore, there is no guarantee that the IRS will not look through the partnership to the underlying assets and apply US estate tax on the property held.

As well, there is uncertainty as to whether a Canadian partnership can be legally created if its sole purpose is to hold personal-use US real estate.

It may be possible to obtain more certainty that the partnership structure is protected from US estate tax by having the Canadian partnership elect (or "check the box") in US filings to be treated as a corporation for US purposes. The partnership would still be considered a partnership in Canada, but would be considered a corporation for US estate and income tax purposes.

Like the single-purpose corporation, the individual/partner would be considered to own shares of a Canadian corporation on death, rather than US real estate. However, unlike the single-purpose corporation, this hybrid structure would not give rise to a shareholder benefit issue in Canada.

The main tax disadvantage of this hybrid structure was formerly the higher US income tax rate that would have applied to any capital gain realized on the disposition of the property. However, due to US tax reform, this difference is much smaller; i.e., in 2024, a capital gain realized by a corporation is subject to a US corporate income tax rate of 21% (rather than the previous 35%) (plus state income tax, if applicable), compared to the 15%/20% (plus state tax and Medicare contribution tax, if applicable) US long-term capital gain rate for individuals that would apply if the structure were considered a partnership for US tax purposes. Nevertheless, high setup fees and annual maintenance costs are still disadvantages.

Some US estate tax planners believe that the check-the-box election can be made after death, since the effective date of an election may be up to 75 days prior to the date the election is filed. By delaying the election until after death, the US corporate tax rate on capital gains would not apply if the property is disposed of prior to death, because the structure would be considered a partnership for US income tax purposes.

In using this strategy, additional complex post-mortem planning will be required to avoid double taxation. As well, you should keep in mind that it is uncertain whether the IRS would accept a post-mortem check-the-box election for US estate tax purposes, or whether that election would result in a deemed transfer of property that may be subject to an adjustment to the calculation of US-based assets on death if it is considered a gift within three years of death.

The appropriate structure for holding US recreational property will, of course, depend on your personal situation. But in all cases, it is important to consult with a tax advisor to ensure the structure is tax effective as well as practical.

TAX TIPS

- You can take advantage of many strategies to reduce US estate tax on US real property, including:
  - Co-ownership
  - Life insurance to fund the US estate tax
  - Non-recourse mortgage
  - Using a Canadian trust to purchase the property
  - Using a Canadian partnership
- Your EY Tax advisor can help you select and implement the strategy that's right for you. If you have a single-purpose corporation, consider transferring the property out of the corporation. Consult your EY Tax advisor.
- While corporate ownership no longer works for personal-use property, consider whether owning US investment property in a corporation may work to reduce US estate tax on that property.

[6] A thorough analysis of the relevant provisions of US tax law as well as Canadian tax rules would be necessary before proceeding with this structure. One of the complicating factors is that the TCJA introduced new provisions to provide that an amount realized from the sale of a US partnership interest by a nonresident may be taxable in the US, and that the purchaser or the partnership itself may be required to withhold 10% of the proceeds if certain conditions are met. In addition, the anti-hybrid rules under Article IV of the *Canada-US Tax Convention* would need to be considered. Consult your EY Tax advisor for further guidance.

Renting US property

If you're thinking about renting your US vacation home to help defray the costs of ownership, consider the US income tax reporting requirements.

While nonresident aliens generally are not required to file US tax returns to report this rental income, the gross rents are subject to a flat 30% US tax, which the tenant or management agent is required to withhold and remit to the IRS.

This US tax cost can be reduced by providing the tenants or agents with IRS Form W-8ECI to reduce or eliminate the up-front withholding tax, and by filing a note with the first US 1040NR that states that the election is being made to tax the net rental income and provides details about the location and ownership of the property.

The US tax rules relating to claiming expenses against rental income are more restrictive than the Canadian rules. The property must be rented for a minimum of 15 days to report rental income or deduct rental expenses. If the property is used for personal purposes for more than 15 days in a year (and rented for at least 15 days), a deduction of certain rental expenses is limited, but excess expenses can be carried forward to be used against future rental income.

Depreciation must be claimed for tax purposes in the determination of net rental income or loss. When the property is sold, a recapture of previously claimed depreciation can arise, causing an income inclusion in the year of sale. Where net rental losses arise, the losses are often disallowed and carried forward to use against future rental income. If there are carryforward losses available in the year of disposition, they are available to offset income arising on the sale of the property. If there is a net rental income and US income tax is paid, a foreign tax credit may be claimed in Canada up to the amount of Canadian income tax paid on the rental income.[7]

If you don't file the US tax return with the election to be taxed on net rents in a timely manner, you'll generally lose the benefit of the deductions and credits. Also, you'll be required to pay the federal tax of 30% (plus state tax, if any) on the gross rents.[8] Exceptions to this rule may be available in certain cases if you can demonstrate you acted reasonably and with good faith in failing to file.

State taxes are imposed separately from US federal tax. As such, implications vary based on the individual state's income tax rules. There are a number of states, such as Florida and Texas, that do not impose state income tax.

TAX TIPS

- Be sure you track and maintain support for the income and expenses you incurred on US rental properties for purposes of preparing your US tax return.
- Keep backup documentation for renovations, which need to be submitted to reduce withholding tax under the *Foreign Investment in Real Property Act* (FIRPTA).
- Also keep proof of tax remitted under the FIRPTA withholding tax rules (see below) on the original purchase for future reference.
- Be aware that if the property is primarily used to earn rental income rather than for personal use, and its cost together with the cost of any other foreign property or properties exceeds CDN$100,000, Form T1135 must be filed in Canada to report the net rental earnings, cost basis and location of the property on an annual basis. For an individual, the due date is the same as the due date of their T1 return.

Co-ownership and US gift tax

In Canada, many couples hold property in joint tenancy, often because it can simplify estate administration and can be a simple and inexpensive means of avoiding probate. If you've chosen this option to reduce your exposure to US estate tax, you should be aware that there may be unexpected Canadian and US tax consequences if the joint owners do not have enough money to fund their share of the property's purchase price.

Certain transfers of property by US citizens and individuals considered resident in the US for estate and gift tax purposes are subject to taxation. However, a US citizen is entitled to an unlimited marital deduction for spousal transfers if the spouse is also a US citizen.

[7] Due to US tax depreciation and tax rates, the US tax amount is often the lower of the two amounts.
[8] https://www.irs.gov/pub/irs-pdf/p515.pdf

US citizens and resident aliens are entitled to a cumulative lifetime gift tax exemption (indexed), along with annual exclusions for gifts to non-US citizen spouses (indexed), and for gifts to other individuals (indexed in US$1,000 increments). The cumulative lifetime gift exemption for 2024 is US$13.61 million, the annual exclusion for gifts to other individuals for 2024 is US$18,000 and the annual exemption for gifts to a non-US citizen spouse for 2024 is US$185,000.[9]

Canadians who are neither US citizens nor resident in the US for estate and gift tax purposes are subject to US gift tax on transfers of tangible property situated in the US if less than full and adequate consideration is exchanged. Tangible property includes US real estate. As a result, Canadians should also consider the US gift tax rules before buying or selling any US real property.

Depending on when a US property was purchased, different US gift tax rules apply on the creation and termination of a joint tenancy. For property purchases after July 13, 1988, a gift does not arise at the time of purchase, regardless of who funded the acquisition. When the property is disposed of (other than by reason of the death of the spouse), the spousal joint tenancy is terminated and one spouse could be treated as having made a gift to the other spouse. The gift would be the proportion of the total purchase cost funded by one spouse, multiplied by the proceeds of disposition, in excess of the proceeds received by the other spouse.

For example, if one spouse funded the entire purchase, his or her proportion would be 100%. However, if only 50% of the proceeds are received by this spouse, the other 50% would be considered a gift and subject to US gift tax, which ranges from 18% to 40%.

For purchases of property before July 13, 1988, creating a joint tenancy without a corresponding contribution of funds for the purchase was considered to be a gift and therefore subject to US gift tax at the time of purchase.

So what can you do if you're planning to sell your US property that you purchased after 1988 and funded entirely by one spouse but held in joint tenancy with your spouse?

Consider assigning all rights in the property, including any right to proceeds (note: without title changing), to the spouse who funded the purchase. This could avoid completion of the gift, as the spouse that funded the original purchase would be entitled to all the proceeds on closing.

While this strategy may be sufficient to eliminate the US gift tax exposure, it may increase your US estate tax exposure, and also likely won't solve a problem with the mismatch of the foreign tax credits claimed on your Canadian income tax return, as explained below.

Consult legal counsel where the property is located to determine if such a contractual agreement is valid.

Foreign tax credit issues when Canadian attribution is applicable

If a capital gain is realized on the sale of US real estate owned by spouses as joint tenants, each spouse will be taxable on one-half of the gain for US income tax purposes, even if the proceeds go to only one spouse. Each spouse may claim this tax as a foreign tax credit against Canadian taxes payable on the gain they report in their respective Canadian income tax returns.

However, if only one spouse provided the funds to purchase the US property, the attribution rules require that spouse to report 100% of the gain for Canadian tax purposes. As a result, only 50% of the US income taxes paid may be claimed as a foreign tax credit, since the attribution rules do not apply to foreign taxes.

It may be possible to solve both the US gift tax issue and the mismatch of the foreign tax credits by filing a quitclaim deed to remove the non-contributing spouse from title to the property prior to its sale. This should not have any adverse Canadian or US tax consequences. There will be no gift on the sale of the property, the spouse who funded the purchase will be liable for 100% of the US and Canadian tax on the gain, and all of the US tax will be allowed in computing the foreign tax credit in Canada.

[9] https://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-gift-taxes-for-nonresidents-not-citizens-of-the-united-states

Selling US real estate: compliance requirements

If you decide to sell your US property – whether due to financial need, limited use as your health declines in older age or to upgrade to a larger home – there are a number of things Canadian residents[10] should know.

US TAX IMPLICATIONS

The sale of US real property must be reported on a US personal income tax return and US tax paid on any resulting gain. The US federal income tax rate on long-term capital gains (i.e., assets held for more than one year) is a maximum of 20% (before Medicare contribution tax where applicable) subject to certain exceptions that can impose a 25% rate or graduated rates.

The rules regarding the sale of real property are complex. Consult an EY Tax advisor with any questions on this topic. Depending on which state the property is in, a state personal income tax return may also be required.

If you don't have a Social Security number or an individual taxpayer identification number, you should obtain one well in advance of the sale, to ensure the tax withheld is properly credited to your account and applied on filing the return.

There is mandatory US withholding tax required under FIRPTA. If the seller of a property is a US nonresident alien, the buyer must generally withhold 15% of the gross proceeds and remit it to the IRS as a prepayment of the seller's tax.[11] This withholding requirement applies irrespective of the amount of gain or loss on the property.

There are three exceptions that could reduce or even eliminate this withholding tax:

1. If the property is sold for US$300,000 or less, and the buyer intends to use it as a principal residence, withholding tax is not required. It is advisable for the buyer to sign a personal use certification at closing so that both parties have a written record of the requirements provided by IRS guidelines and the buyer's intention to meet them.
2. If the amount realized on the sale exceeds US$300,000 but not US$1 million and the buyer has acquired the property for use as a principal residence, a 10% withholding tax rate applies rather than 15%.[12]
3. If the seller's expected US tax liability is less than 15% of the proceeds, the seller can apply for a reduced withholding amount (or no withholding if there is no gain) using **IRS Form 8288-B**.

CANADIAN INCOME TAX IMPLICATIONS

The disposition of a US property must also be reported on a Canadian personal income tax return, and any US tax paid (as reported on the federal 1040NR and the state tax return) is eligible for foreign tax credit in Canada. However, the gain or loss for Canadian purposes could be very different than the amount reported on the US returns. This is because the exchange rates used to report the transaction in Canada are those in effect at the time of purchase and sale, respectively.

[10] This does not include Canadian residents who are US citizens or green card holders.
[11] **https://www.irs.gov/individuals/international-taxpayers/firpta-withholding**.
[12] As in the previous exception, the buyer should sign a personal use certification. If the property is bought as an investment property, the exception would not be met, and accordingly the higher withholding rate would apply.

Emigration and immigration

WHEN AN INDIVIDUAL IMMIGRATES TO OR EMIGRATES FROM CANADA IN A CALENDAR YEAR, HE OR SHE IS TREATED AS A CANADIAN RESIDENT FOR THE PERIOD HE OR SHE IS RESIDENT IN CANADA, AND A NONRESIDENT FOR THE PERIOD HE OR SHE IS A NONRESIDENT OF CANADA, AND IS USUALLY REFERRED TO AS A PART-YEAR RESIDENT.

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When an individual immigrates to or emigrates from Canada in a calendar year, he or she is treated as a Canadian resident for the period he or she is resident in Canada, and a nonresident for the period he or she is a nonresident of Canada, and is usually referred to as a part-year resident.

As a part-year resident, an individual is taxed on worldwide income for the portion of the year the individual is a resident of Canada. A part-year resident is also subject to Canadian tax on certain Canadian-source income received for the part of the year prior to establishing residence or subsequent to relinquishing residence.

An individual who is resident for part of a year, because he or she is an immigrant or emigrant, will find that certain federal non-refundable credits may be claimed only to the extent they relate to the period of residence, and other credits must be prorated on the basis of the number of days of residence in the year.

Because an individual's Canadian tax liability is based on residence, the date on which an individual becomes or ceases to be a resident of Canada is relevant in determining how, and how much of, the individual's income is subject to Canadian tax. Often, the date of the physical move is recognized as the date Canadian residence begins or ends. However, other factors must be taken into consideration, including the extent to which the individual establishes or ceases to have residential ties with Canada.

An individual's residential ties that are almost always considered to be significant for the purpose of determining residence status are the location of their spouse's or common-law partner's and dependants' home(s). In addition, the Canada Revenue Agency (CRA) has stated that where an individual entering Canada applies for and obtains landed immigrant status and provincial health coverage, these ties will usually constitute significant residential ties with Canada and, subject to certain exceptional circumstances, such an individual will be determined to be resident in Canada.[1]

Secondary residential ties are also considered collectively in determining residential status. A few examples include personal property in Canada (e.g., furniture, clothing, automobiles and recreational vehicles), social ties with Canada (e.g., memberships in Canadian recreational or religious organizations), economic ties with Canada (e.g., employment with a Canadian employer and active involvement in a Canadian business, and Canadian bank accounts, retirement savings plans, credit cards and securities accounts).[2]

Date an individual changes residence

The CRA considers the date on which an individual becomes a nonresident of Canada to be the date on which the individual severs all residential ties to Canada. This date is usually the latest of the following:

- The date on which the individual leaves Canada;
- The date on which the individual's spouse (or common-law partner) or dependants leave Canada; and
- The date on which the individual becomes a resident of the country to which he or she is immigrating (unless the individual is re-establishing residence in their former home country, in which case the individual becomes a nonresident on the day he or she leaves Canada, regardless of whether a spouse or dependants remain behind temporarily).

[1] Income Tax Folio S5-F1-C1: *Determining an Individual's Residence Status*, paragraph 1.25.
[2] Income Tax Folio S5-F1-C1: *Determining an Individual's Residence Status*, paragraphs 1.14 and 1.25.

Individuals who cannot be considered nonresidents because they have retained sufficient residential ties with Canada remain factual residents of Canada and are subject to Canadian tax on worldwide income. However, an income tax treaty between Canada and the other country may modify this determination.

Determination of an individual's residence status can only be made based on the specific facts of each case. The CRA has published a summary of factors to consider in its Income Tax Folio S5-F1-C1: *Determining an Individual's Residence Status*.

Emigration

Except in very unusual circumstances, individuals who become nonresidents of Canada for income tax purposes become residents of another country. Accordingly, the assessment of tax considerations that arise must include both Canadian tax and the tax rules of the host country.

For example, many countries are like Canada, in that there is one set of rules for residents and another for nonresidents. However, some jurisdictions have a subset of rules for short-term residents or expatriate employees. It may also be necessary to consider any tax treaty between Canada and the destination country to determine residence status and the best way to reduce any double tax that may arise as a result of the departure.

Because Canada taxes its residents on their worldwide income but taxes nonresidents on only certain Canadian-source income, an individual leaving Canada and becoming a nonresident will be concerned about how this change in tax status will affect his or her future personal taxes.

EMPLOYMENT INCOME

Determining what employment income to report in the year of departure from Canada is not always a simple matter. Often, employment income earned must be allocated between the resident and nonresident periods; employment income may also need to be sourced to determine whether income earned while resident in Canada is from a foreign source (which is relevant if that income is also subject to tax in another country). It is also important to determine if any income earned in the nonresident period is from a Canadian source and therefore subject to Canadian tax.

The allocation of employment income to determine the amount earned in a certain period is most often determined by reference to time; that is, by considering the individual's physical location on their working days during the relevant periods. It's important to note that identifying the payor as a Canadian or a foreign company has no bearing on the preliminary determination of the income's source.

Frequently, the date of departure does not correspond to the date of change from the Canadian company's payroll to the foreign company's payroll. In this case, it is necessary to determine what income was earned as a resident (and is therefore taxable in Canada) and what Canadian-source income was earned as a nonresident (and is therefore also taxable in Canada). It is also necessary to determine whether any of the income earned during the resident period is taxable in the host country, as foreign-source income may be eligible for a foreign tax credit to reduce Canadian tax.

Further, Canadian-source income earned in the nonresident period may be eligible for relief from taxation under the terms of an income tax treaty between Canada and the foreign country.

STOCK OPTIONS

Stock options exercised by a nonresident of Canada are taxable in Canada to the extent they were granted in relation to Canadian employment.

The exercise of stock options while resident in a foreign country is also likely to be subject to tax in that country. The issue of relief from double taxation where stock option benefits are subject to tax in more than one jurisdiction is complex, as the method of determining the source of a security option benefit – both for jurisdiction to tax and for foreign tax credit purposes – is not universal.

The CRA's longstanding administrative position (which applies for stock options exercised before 2013) was that the security option benefit is attributable to services rendered in the year of grant (i.e., past services), unless there is compelling evidence to suggest another period would be more appropriate.

On September 25, 2012, the CRA announced a change to its longstanding administrative position. For stock options exercised after 2012, the determination of the amount of the stock option benefit relating to Canadian employment is based on future services rendered in the grant-to-vesting period (the approach set out by the Organisation for Economic Co-operation and Development), rather than past services rendered in the year of grant, unless provisions of an income tax treaty apply a different methodology. For example, under the Fifth Protocol to the *Canada-US Tax Convention*, the determination of the amount of the stock option benefit relating to Canadian employment is based on the grant-to-exercise period of the option.[3]

It is important to note that a nonresident of Canada exercising stock options that were granted prior to departure from Canada must file a Canadian T1 return in the year of exercise, reporting the security option benefit resulting from the exercise of the stock options, as this benefit is considered Canadian-source income from employment.

The employee may be able to take a deduction for a portion of the stock option benefit. This deduction has seen legislative changes that are effective on June 25, 2024 as a result of the changes to the capital gains rules. See the **Feature chapter: Recent changes to the taxation of capital gains and employee stock options** and **Chapter 7: Employees** for details on the legislative changes to the employee stock option deduction.

RESTRICTED SHARE UNITS

Nonresident employees who are awarded restricted share units (RSUs) are subject to Canadian taxation on the portion of the award that's related to employment services rendered in Canada.

As such, in situations involving internationally mobile employees, it's necessary to determine the portion of the benefit that is earned for services performed inside and outside Canada. The amount of the RSU award related to services in Canada would be subject to Canadian tax.

The determination of the jurisdiction in which the benefit is earned is always a question of fact. The most common approach involves sourcing an RSU benefit to Canada based on employee workdays in Canada during the RSU vesting period divided by the total employee workdays over this period.

However, a CRA technical interpretation introduces a "hybrid methodology," a new method for sourcing RSU benefits when employment is exercised in and outside of Canada.[4]

[3] In other words, the proportion of the option benefit relating to Canadian employment or treated as Canadian-source income and not US-source income is equal to the number of days between the option grant date and the option exercise date during which the employee's principal place of employment was in Canada as a proportion of the total number of days during that same period in which the employee was employed by the employer. For example, you are granted options by your employer on March 1, 2022 and exercise them on March 1, 2024. During this two-year period, you were employed by the same employer but worked primarily in Canada for only 18 months and thereafter became a nonresident of Canada and worked in the US. Under this scenario, three-quarters of the option benefit (18 out of 24 months) is taxable in Canada and is treated as Canadian-source income.

[4] See CRA document 2019-0832211I7(E), *Cross-border Restricted Share Units*.

It's our view that the hybrid methodology should be used to source RSUs in instances where Canada does not have a tax treaty with the foreign jurisdiction. Where Canada and the foreign country have signed a tax treaty, the historical approach to sourcing the RSU benefit can be used.

Once the RSUs have been sourced and the portion related to Canadian work has been determined, the nonresident employee must file a Canadian nonresident income tax return to report the Canadian portion of the RSU benefit and pay any tax liability, assuming there is no treaty benefit that would exempt the RSU benefit from taxation.

PERFORMANCE SHARE UNITS

Although performance share units (PSUs) are similar to RSUs, in our view the hybrid methodology should not apply to PSU awards that are subject to a substantial risk of forfeiture.

The PSU benefit should be sourced based on employee workdays in Canada during the PSU vesting period, divided by the total employee workdays over this period.

CANADIAN BENEFITS

Canada generally retains the right to tax Canadian benefit payments made to nonresidents. See **Chapter 16: Canadian tax for nonresidents** for details.

PERSONAL ASSETS

Generally, an individual is deemed to have disposed of all property owned for proceeds equal to fair market value as of the date they become nonresident, with specific exceptions.

The exceptions include:

- Real property in Canada
- Capital property and inventory used for a business carried on through a permanent establishment in Canada
- Pension rights, such as RPPs, RRSPs, RRIFs and DPSPs and the right to CPP or OAS benefits
- Other excluded rights and interests, such as TFSAs, RESPs and RDSPs
- Employee stock options
- Life insurance policies in Canada (other than segregated fund policies)
- For certain short-term residents of Canada (i.e., resident for no longer than 60 months in the 10-year period before emigration), the property owned when he or she became a Canadian resident or inherited after becoming a resident of Canada

This means that any accrued gains on properties held at the date an individual leaves will be taxed in the year of departure. Instead of having to pay the tax liability from the deemed disposition immediately, emigrating taxpayers are allowed to file an election to post security with the CRA and pay the tax when the property is actually sold.[5] The CRA will not charge interest on the tax due between the time of deemed disposition and the date of actual disposition.

It's important to note, however, that the liability is generally fixed at the time of departure. Filing the election to defer payment of tax only postpones the payment of the liability, which will remain the same even if the properties decline in value subsequent to departure from Canada.

Consult your EY Tax advisor to discuss possible planning strategies and requirements for posting security.

In addition, if the subsequent sale of the asset results in income tax in the new country of residence, Canada allows a credit for the foreign taxes paid in relation to pre-departure gains to be claimed at a later date if that country has a tax treaty with Canada.

If an individual later returns to Canada (regardless of the period of nonresidence) and continues to hold the assets that were previously subject to this deemed disposition, they may make an election to unwind the deemed disposition in the tax return for the year of their return to Canada.

If the value of all of the assets an individual owns when they cease Canadian residence exceeds $25,000, the individual must report their total value and details of each property. Certain assets are excluded from this requirement, including personal-use properties individually valued at less than $10,000, pension plans including registered plans, and cash or bank deposits.

[5] The election is filed by completing Form T1244, *Election, under Subsection 220(4.5) of the Income Tax Act, to Defer the Payment of Tax on Income Relating to the Deemed Disposition of Property*, which must be attached to the individual's income tax return for the year of emigration. Security is not required if the amount of federal tax on income relating to the deemed disposition of property is $16,500 or less ($13,777.50 or less for former residents of Québec), but the form must still be filed. The CRA has stated it does not normally consider a line of credit to be adequate security for purposes of this election. See CRA document 2021-0892681C6.

TAXATION OF RENTAL INCOME

Under both its domestic law and tax treaties, Canada generally retains the right to tax nonresidents on income from Canadian real property and on income from the disposition of Canadian real property. Real property is defined as land and anything that has been erected, growing on or affixed to it.

See **Chapter 16: Canadian tax for nonresidents** for details on the taxation of rental income from Canadian real property.

TAX TIPS

An individual who is leaving Canada should establish the date on which he or she becomes a nonresident and ensure that it can be supported. It's also important to keep detailed travel logs to substantiate travel inside and outside Canada during the year.

- **Canadian bank or investment accounts** – If these accounts are to be retained, notify the Canadian payers of interest and dividends so that they can withhold and remit the appropriate amount of withholding tax.
- **Canadian rental property** – If you rent your Canadian home or another property after ceasing Canadian residence, you'll be subject to 25% Canadian nonresident withholding tax on the gross rental income.

  A better alternative may be to elect to file Form NR6 to reduce the withholding tax to 25% of net rental income and to elect to file a section 216 Canadian income tax return reporting net rental income (deducting applicable expenses), in which case Canadian marginal tax rates will apply.
- **RRSP contribution room** – Consider making RRSP contributions for the year of departure.
- **RRSP/FHSA investments** – It's generally beneficial to leave RRSPs and FHSAs in place when you end your Canadian residence, provided that maintaining funds in a Canadian RRSP or FHSA does not give rise to any tax problems in your new country of residence.

  Advise your RRSP/FHSA administrators of your departure, as certain RRSP/FHSA trading restrictions may exist for nonresidents under local securities law.
- **RRSP Lifelong Learning or Home Buyers' Plan loans** – Repay within 60 days of departure from Canada to avoid the outstanding loan balances coming into income in the year of departure.
- **RESP contributions** – These may be made only when the beneficiary is a resident of Canada. Accordingly, RESP contributions should be made prior to the beneficiary's departure.
- **TFSA contributions** – You may continue to hold a TFSA after ceasing residency in Canada, but you cannot make contributions or accrue contribution room while a nonresident. Accordingly, you should make your contributions before you leave Canada. Note that your new country of residence may not necessarily treat the accrued income and gains in a TFSA as tax free within the plan or when withdrawn from the plan.

Immigration

Once an individual establishes Canadian residence, the individual's worldwide income is taxable in Canada at graduated tax rates. Any foreign-source income received after an individual becomes a resident of Canada will likely be subject to foreign tax, as well as Canadian tax. However, to avoid double taxation, a foreign tax credit is available (within certain limits) for foreign taxes paid on this income. Therefore, if income tax rates in the country from which the individual is emigrating are lower than Canadian rates, the individual should arrange to receive as much income as possible in that country before establishing Canadian residence or delay Canadian residence until after the amount has been received.

EMPLOYMENT INCOME

When an individual becomes a resident of Canada for employment reasons, the employee typically works for one employer in their home country prior to entering Canada and begins to work for another employer in Canada.

However, determining what employment income to report in the year of entry is not always a simple matter. Often, employment income earned must be allocated between the resident and nonresident periods; employment income may also need to be sourced to determine whether income earned while resident in Canada is from a foreign source (which is relevant if that income is also subject to tax in the home country). It is also important to determine whether any income earned in the nonresident period is from a Canadian source and therefore subject to Canadian tax.

The allocation of employment income to determine the amount earned in a certain period is most often determined by reference to time; that is, by considering the individual's physical location on his or her working days during the relevant periods. It's important to note that identifying the payor as a Canadian or a foreign employer has no bearing on the preliminary determination of the income's source.

Frequently, the date of entry does not correspond to the date of change from the foreign company's payroll to the Canadian company's payroll. In this case, it is necessary to determine what income was earned as a resident (and is therefore taxable in Canada) and what Canadian-source income was earned as a nonresident (and is therefore also taxable in Canada). It is also necessary to determine whether any of the income earned during the resident period is taxable in the host country, as the host country tax on foreign-source income may be eligible for a foreign tax credit to reduce Canadian tax.

Further, Canadian-source income earned in the nonresident period may be eligible for relief from taxation under the terms of an income tax treaty between Canada and the foreign country.

PERSONAL ASSETS

When an individual becomes a Canadian resident, they are deemed to have disposed of and reacquired each property owned immediately before establishing residence for proceeds equal to the fair market value on the day residence is established. There are certain exceptions to this deemed acquisition, including taxable Canadian property, inventory and intangible assets included in CCA Class 14.1 in respect of a business carried on in Canada, and certain excluded rights or interests. This deeming provision does not trigger a taxable or reportable transaction but merely establishes a new cost base for the individual's property.

Taxable Canadian property includes Canadian real or immovable property, capital property used in carrying on a business in Canada, certain shares of Canadian private corporations, certain shares of public companies, and Canadian resource properties. Taxable Canadian property excludes rights or interests in a superannuation or pension fund. In addition, it excludes certain shares and other interests that do not derive their value principally from real or immovable property in Canada, Canadian resource property or timber resource property.

For those properties that an individual is deemed to have acquired, striking a new adjusted cost base means gains that accrued before Canadian residence are not subject to Canadian tax. If the property has fallen in value since the date of purchase, the deeming rule will result in a lower cost basis for Canadian tax purposes than the actual purchase amount. Consequently, it may be better to sell properties in a loss position before one establishes residence, especially where the resulting loss can be offset against other gains or income in the country from which the individual is emigrating.

REPORTING ON FOREIGN INVESTMENT ASSETS

Residents of Canada holding foreign investments are subject to certain reporting rules. The rules require individuals who own foreign property to file annual information returns.

The following rules are particularly relevant to individuals commencing Canadian residence:

- **Form T1135**, *Foreign Income Verification Statement* – Individuals with an interest in specified foreign property — such as shares, bank accounts and real property (other than personal-use property) — with an aggregate cost amount of at least CDN$100,000 at any time in the year must report and provide details of these holdings annually. However, if the aggregate cost amount is less than CDN$250,000 throughout the year, a simplified reporting method is available.
- **Form T1141**, *Information Return in Respect of Contributions to Non-resident Trusts, Arrangements or Entities* – Individuals who have transferred or loaned property to a nonresident trust, arrangement or entity must file an annual information return.
- **Form T1142**, *Information Return in Respect of Distributions from and Indebtedness to a Non-resident Trust* – Beneficiaries of certain nonresident trusts must file an information return for the year in which they receive a distribution or loan from the trust.
- **Form T1134**, *Information Return Relating to Controlled and Non-controlled Foreign Affiliates* – Individuals who have an interest in a nonresident corporation or nonresident trust that is considered a foreign affiliate must file an annual information return.

Note that individuals are not required to file these information returns for the year in which they first become resident in Canada, although individuals who were resident in Canada in the past will be subject to these filing requirements in the year they resume Canadian resident status.

RELIEF GRANTED TO SHORT-TERM RESIDENTS

The term "short-term resident" is not defined in the *Income Tax Act*, but it's generally used to refer to individuals who move to Canada and are resident for less than five years. Short-term residents are granted some relief from the departure tax rules, as well as from the rules relating to participation in a foreign pension plan while a Canadian resident.

An individual who is resident in Canada for no more than 60 months in the 120 months preceding departure from Canada is not subject to departure tax on property that he or she owned before becoming a Canadian resident, or that was acquired while a Canadian resident by bequest or inheritance.

In general, it is possible for an individual who moves to Canada as a result of an employer request and remains a member of the former employer's pension plan in the employee's home country to continue to participate in that pension plan for the first five years of Canadian residence. After five years, certain steps must be taken to avoid the Canadian tax rules deeming the foreign plan to be a retirement compensation arrangement under which the employer's contributions become subject to Canadian tax.

The employee may be able to deduct pension and/or social security contributions to a foreign plan. In addition to contributions to US retirement arrangements, refer to Form RC269, *Employee Contributions to a Foreign Pension Plan or Social Security Arrangements*, which outlines the eligible countries.

TAX TIPS

An individual who is immigrating to Canada should establish the date on which he or she becomes a resident and ensure that it can be supported. It's also important to keep detailed travel logs to substantiate travel inside and outside Canada during the year.

- **Date residence commences** – It may also be possible to plan the date of commencement of Canadian residence to take advantage of lower marginal tax rates in Canada.
- **Investment portfolios** – Review your portfolio prior to establishing Canadian residence. It may be advantageous to sell investments with accrued losses before becoming a Canadian resident if those losses may be used in the country of residence.
- **Relocation expenses** – Review the tax consequences of any employer benefits paid relating to the relocation to Canada and, if possible, structure the benefits so that they are not taxable in Canada or are received before you become a resident. Certain moving expense reimbursements are not taxable.
- **Stock option plans** – Review the tax consequences of exercising stock options from a foreign employer prior to establishing Canadian residence and be aware of the new limitations imposed on certain stock options granted on or after July 1, 2021, which can affect the ability to claim the stock option deduction on exercised stock options.
- **Foreign pension plan** – The employee may be allowed to continue to contribute to that plan. However, the contributions may restrict the employee's eligibility to use Canadian RPPs, DPSPs and RRSPs.

  In some cases, the employee may be allowed to transfer the pension benefits on a tax-deferred basis to an RRSP (although the transfer may not be free of foreign tax).
- **Social security premiums** – Review the tax consequences of continuing coverage under the social security system of your former country and opting out of the Canada (or Québec) Pension Plan. Canada and Québec have social security totalization agreements with a number of countries.

Canadian tax for nonresidents

IF YOU'RE NOT A CANADIAN RESIDENT BUT YOU RECEIVE CANADIAN-SOURCE INCOME, THAT INCOME MAY BE SUBJECT TO CANADIAN INCOME TAX, INCLUDING THE ALTERNATIVE MINIMUM TAX (AMT).

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If you're not a Canadian resident but you receive Canadian-source income, that income may be subject to Canadian income tax, including the alternative minimum tax (AMT).[1]

Certain types of Canadian-source income, such as dividends, rental income, royalties, trust income, pensions and alimony, are subject to Canadian withholding tax at a general rate of 25% (which may be reduced under a tax treaty Canada has with your country of residence). Most arm's-length interest payments to nonresidents are exempt from Canadian withholding tax.

Nonresidents receiving real estate rental income from Canadian real property may choose to file a tax return and be taxed on the net rental income at the same tax rates that apply to Canadian residents (that is, at graduated rates on net income rather than at withholding tax rates on gross income). Similarly, nonresidents receiving certain pension and benefit income may elect to be taxed on such income at the same graduated tax rates as Canadian residents, rather than at the withholding tax rate.

If you earn Canadian-source employment or business income, or sell taxable Canadian property[2] as a nonresident, you must file a Canadian income tax return reporting this income and pay any resulting tax. If you're required to include this Canadian-source income in your taxable income in your country of residence, you may be able to claim a foreign tax credit for the Canadian tax paid.

Employees performing services in Canada

As the global workforce has become more mobile, there's been an increase in nonresident employees working on short-term assignments in Canada. While many of these employees may not ultimately be liable for Canadian tax due to treaty provisions, employers and employees need to observe certain withholding and reporting requirements.

Many short-term nonresident employees are subject to Canadian tax under domestic law but are exempt by virtue of the employment services article of a tax treaty (e.g., Article XV of the *Canada-US Tax Convention*). Such individuals can be exempt from Canadian tax under either a de minimis rule if permitted under the terms of the relevant tax treaty (CDN$10,000 under the *Canada-US Tax Convention*) or the "less than 183 days" rule.

Under the "less than 183 days" rule, short-term employees in Canada for less than 183 days (whether work related or personal) in any 12-month period commencing or ending in the fiscal year concerned can be taxable in Canada if their salary was either:

- Charged to an employer resident in Canada;[3] or
- Borne by a permanent establishment or fixed base the employer has in Canada.

[1] Recent legislative amendments have broadened the base for the AMT regime, effective for 2024 and later taxation years. For more information about the AMT and these amendments, see **TaxMatters@EY, October 2023**, "Alternative minimum tax: proposed changes you should know;" **EY Tax Alert 2023 Issue No. 45**; and **EY Tax Alert 2024 Issue No. 25**.

[2] Taxable Canadian property generally includes real property situated in Canada, property used in a business carried on in Canada and interests in certain entities deriving a specified proportion of their value from Canadian real property or resource properties. There are several specific exclusions from the definition of taxable Canadian property. If you're a nonresident disposing of Canadian property, consult your EY Tax advisor to navigate the complicated rules.

[3] The salary can be taxable in Canada if there is a requirement to charge the salary even if the chargeback has not yet taken place. Consult with your EY Tax advisor.

For example, when the short-term employee is seconded to a Canadian operation – which does not directly pay the seconded employee's wages but pays its original employer for the employee's services in Canada – the employee will generally be subject to Canadian personal income tax and must file the appropriate return.

These rules consider a number of questions of fact that must be carefully reviewed before concluding whether a particular employee is treaty-exempt from Canadian tax.

Canadian and nonresident employers are required to withhold and remit Canadian employee income tax withholdings and report the employment income and tax withheld on the Canada Revenue Agency (CRA) prescribed form, T4. The employer will be liable for the amount of tax that should have been withheld, plus interest and penalties, if it fails to withhold and remit the required taxes.

Even if payments are made to nonresident employees who are exempt from Canadian tax under the terms of a treaty, the nonresident employer is required to apply these employment withholdings or face the risk of liability. Before changes that are described below were made, only payments to a nonresident employee who obtained a tax withholding waiver from the CRA qualified for an exemption from these withholdings.

Recognizing the administrative difficulties involved in obtaining individual tax withholding waivers, the federal government introduced changes in the 2015 federal budget to create a new regime for nonresident employers to obtain an exemption from withholdings on payments to certain nonresident employees working in Canada. The changes apply to withholding obligations that arise on payments made after 2015. Under this regime, a nonresident employer that is resident in a country with which Canada has a treaty may apply for an exemption from this obligation to withhold Canadian income taxes on employment income paid to certain nonresident employees for work performed in Canada, subject to certain limitations.

To apply for this exemption, a qualifying nonresident employer must complete Form RC473, *Application for Non-Resident Employer Certification*. If the CRA approves the application, the nonresident employer will not be required to withhold Canadian income taxes from payments made to qualifying nonresident employees for the period of certification.

A qualifying nonresident employee:

- Is resident in a country with which Canada has a tax treaty at the time of payment
- Is exempt from Canadian income tax on the payment because of that treaty
- Either works in Canada for less than 45 days in the calendar year that includes the time of payment, or is present in Canada for less than 90 days in any 12-month period that includes the time of that payment

Nonresident employers will be liable for any withholding for employees who do not meet these conditions.

It should be noted that in order to maintain this exemption, the nonresident employer must fulfill certain obligations, including tracking and recording the number of days of each qualifying nonresident employee and determining if each employee is resident in a country with which Canada has a tax treaty, among other obligations.

Nonresident employees who do not qualify as nonresident qualifying employees, but remain exempt from tax under a tax treaty, or whose employer has not received an exemption from withholding described above, may continue to apply for individual tax withholding waivers.

Individuals only need to file a Canadian income tax return where tax is payable for the year or the individual disposes of taxable capital property during the year.[4] As such, nonresident employees who are exempt from Canadian tax are not required to file a tax return. However, if the employer has withheld Canadian tax from a nonresident employee who is exempt from Canadian taxation, the employee can elect to file a tax return to obtain a refund of the tax withholdings.

If the individual is not exempt from Canadian taxation, the CRA expects nonresidents who perform services in Canada to file Canadian income tax returns so that a final tax liability can be determined upon assessment of the tax returns. In addition, a Canadian tax return filed in a timely manner provides the employee with the protection of the statute of limitations in the *Income Tax Act*.

TAX TIP

An employee who spends a substantial amount of time travelling to Canada from other taxing jurisdictions should keep a travel log to identify the following information for any given period:

- Number of days spent in Canada (identified between work and personal)
- Number of days spent outside Canada (identified between work and personal)
- Total number of workdays in the period

[4] See *Income Tax Act* 150(1.1).

Services rendered in Canada

Every person who pays a fee, commission or other amount to a nonresident person for services rendered in Canada, other than in the course of regular and continuous employment, is required to withhold and remit 15% of the gross amount. This withholding is required even though the recipient of the payment may not be taxable in Canada under either Canadian domestic law or an income tax treaty.

The amount withheld is not a definitive tax, but rather an instalment to be applied against the nonresident's ultimate Canadian income tax liability. The nonresident individual is required to file a Canadian personal income tax return reporting the income earned and the amount withheld as shown on the T4A-NR slip.

TAX TIPS

- In determining whether certain self-employment business income is subject to tax in Canada or in another country, it is important to also consider the provisions of any applicable tax treaty.
- Many of the tax treaties Canada has entered into provide that an individual will only be subject to Canadian tax on self-employment business profits that can be attributed to a permanent establishment maintained in Canada.

Disposition of real property

If an individual – and his or her spouse – is a nonresident when their Canadian home is sold, the purchaser must withhold and remit 25% of the gross proceeds to the CRA. The sale process may include obtaining a tax certificate from the CRA that either wholly or partially exempts from withholding tax any gain realized on the sale. The CRA typically accepts that the gain on which the 25% tax must be withheld at the date of sale may be reduced by the adjusted cost base of the property and by the principal residence exemption.

The applicable withholding tax rate for nonresidents disposing of certain types of taxable Canadian property will be increased from 25% to 35% for dispositions of taxable Canadian property that occur on or after January 1, 2025.

If obtaining a tax certificate from the CRA, the seller must inform the CRA of the sale within 10 days of the closing. If the CRA delays processing the certificate application, the funds withheld by the purchaser may be held in escrow.

The disposition of a Canadian home must be reported on a Canadian subsection 115(1) tax return filed by the nonresident for the year of sale. A loss on the sale of a home is denied if the house has never been rented and, therefore, is considered to be personal property. Any gain that results after applying the principal residence exemption is taxable.

Where a nonresident disposes of a former home that has been rented, and has claimed capital cost allowance on the property, the allowance is "recaptured" and brought into income when the property is disposed of, provided the proceeds of disposition exceed the undepreciated capital cost of the property. The recaptured amount is reported on a separate subsection 216(5) tax return, which must include all Canadian-source real property rental income earned in the year of recapture (see **Taxation of rental income**).

TAX TIPS

- Where a certificate has been obtained prior to the actual sale, and the actual sale price turns out to be more than the estimated price on the certificate, the purchaser's liability to withhold tax is adjusted to 25% of the revised gain (35% withholding rate for any actual sales on or after January 1, 2025).
- If the certificate is filed after the transaction is completed and the nonresident vendor remits an amount equal to 25% (35% after January 1, 2025) of the gain to the CRA, the purchaser is relieved from the withholding obligation when the CRA issues the certificate.
- The issuance of a certificate by the CRA does not relieve the nonresident vendor of the obligation to file a Canadian T1 return reporting the sale.

Principal residence exemption – 2016 changes

On October 3, 2016, the federal government announced measures relating to the special exemption that may apply to shelter a gain on the sale of a principal residence. These measures were included in Bill C-63, *Budget Implementation Act, 2017, No. 2*, which received Royal Assent on December 14, 2017.

The amendments revised the calculation of the principal residence exemption by removing one year of exemption room for individuals who are nonresidents of Canada throughout the year of acquisition of the property. The revised calculation applies to dispositions that occur after October 2, 2016. In addition, the amendments ensure that certain trusts (including those with nonresident beneficiaries) will no longer qualify to designate a property as a principal residence for taxation years that begin after 2016. However, gains accruing up to the end of 2016 on a qualifying principal residence of the trust may still qualify for the exemption.

Additional amendments include an extended assessment period for taxpayers who do not report the disposition of property on their tax return.

Individuals who purchase property in Canada while they're nonresidents of Canada and beneficiaries of certain trusts should review the rules and the tax implications of disposing of property that may no longer qualify for the principal residence exemption.

For more information, contact your EY Tax advisor.

Principal residence exemption – 2023 changes

For 2023 and subsequent tax years, the principal residence exemption is not available in respect of capital gains or profits that arise from the disposition of residential real estate located in Canada – including a rental property – that is owned for fewer than 365 consecutive days by the taxpayer, subject to certain exceptions. These capital gains or profits are, instead, deemed to be taxable business income to the taxpayer disposing of the property. These rules (residential property flipping rules) apply in respect of dispositions that occur after December 31, 2022.

For further details, see **Chapter 8: The principal residence exemption**.

Taxation of rental income

Canada retains the right to tax nonresidents on income from Canadian real property. Under the general provisions of the *Income Tax Act*, a nonresident of Canada earning rental income is subject to a 25% withholding tax on gross rental income. The person who pays the rent to a nonresident must withhold and remit this tax. Where rental payments are made to an agent, the agent is responsible for withholding and remitting the tax.

With respect to the payment of tax on Canadian rental property, a nonresident owner has three options:

1. Under the default option, an agent or tenant must withhold 25% tax from the gross rent, remit the funds withheld directly to the CRA throughout the year, and report the gross rents and tax withheld on Form NR4 by March 31 of the following year. Where the NR4 information return is filed on time, the nonresident owner does not need to file a Canadian T1 return to report the receipt of rental income. Because this option does not allow for any deductions against gross rent, it is usually not the preferred alternative.
2. The nonresident owner elects to file a Canadian section 216 return within two years from the end of the taxation year in which the rents were received and to pay tax at graduated tax rates on net rental income. Generally, all reasonable expenses that relate to earning the rental income are deductible in computing the net rental income. The agent or tenant is still required to withhold and remit tax from the gross rent at a 25% rate; however, this withholding tax is creditable against the tax liability as determined on the individual's T1 return, and any excess tax withheld is refundable.
3. The nonresident owner may elect to have the initial 25% withholding tax be based on the anticipated net rental income (excluding depreciation claims) rather than the gross rent. To have the withholding tax reduced in this manner, the individual must appoint an agent who is resident in Canada and must file the section 216 return within six months from the end of the taxation year in which rents were received. The nonresident makes this election by filing Form NR6 before the beginning of each taxation year (January 1), or in the year in which the property is first being rented before the date on which the first rental payment is due.

The net income reported on the section 216 return and deductions allowed are the same for the second and third alternatives. Where the nonresident owns multiple rental properties and a section 216 return is filed, all of the Canadian rental income and expenses must be reported together on one return.

Taxation of Canadian benefits

Canada generally retains the right to tax Canadian benefit payments made to nonresidents. A nonresident is subject to a flat 25% withholding on gross Canadian benefits. The 25% tax represents the nonresident's final Canadian tax liability, and the nonresident does not need to file a T1 return to report the Canadian benefits. Where an individual is a resident of a treaty country, the withholding rate may be reduced under the treaty.

Alternatively, a nonresident may elect under section 217 to report Canadian benefits on a T1 return and pay Part I tax at incremental tax rates and claim applicable deductions and credits. Making the section 217 election may result in a refund of all or some of the 25% tax withheld under Part XIII.

Additionally, a nonresident who intends to make the Section 217 election may apply to the CRA for a reduction of the withholding taxes by completing Form NR5, *Application by a Non-Resident of Canada for a Reduction in the Amount of Non-Resident Tax Required to be Withheld for Tax Year*. If the CRA approves this application, the Canadian benefits will be subject to a reduced withholding rate, as determined by the CRA based on the information provided on the application. Generally, this reduced rate will be valid for a period of five years, unless there are changes in the amount of income that the nonresident receives, in which case an updated application must be made.

Canadian benefits for this purpose include the following:

- Old Age Security pension
- Canada Pension Plan or Québec Pension Plan
- Superannuation or pension benefits
- DPSP, RRSP, PRPP and RRIF payments
- Retiring allowances
- Payments from a retirement compensation arrangement
- Death benefits
- Employment Insurance benefits
- Certain prescribed benefits under a government assistance program
- Supplementary unemployment benefit plan payments
- Auto Pact benefits

If the election is made, all Canadian benefits paid or credited in that year must be reported on the section 217 T1 return. The section 217 return must be filed within six months after the end of the year.

TAX TIP

The section 217 return must be filed within six months after the end of the year.

- For an individual making a section 217 election for 2024, the T1 return is due on or before June 30, 2025. If an individual must report other income on the return, such as Canadian-source employment income or taxable capital gains, the due date is April 30, 2025.
- For returns due June 30, 2025, any tax balance owing for 2024 must be paid by April 30, 2025, to avoid interest charges.

Tax payments and refunds

NOW THAT WE'VE GIVEN YOU SOME GOOD IDEAS ON HOW TO SAVE ON YOUR TAXES, LET'S TAKE A LOOK AT HOW YOU CAN MAKE THE FINAL PART OF THE PROCESS AS EFFICIENT AND EFFECTIVE AS POSSIBLE.

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Now that we've given you some good ideas on how to save on your taxes, let's take a look at how you can make the final part of the process as efficient and effective as possible.

Payments

SOURCE DEDUCTIONS

Your employment income is subject to withholding at source. This is generally determined without taking into consideration certain deductions and credits that are available when you file your tax return. It's possible, with the consent of the Canada Revenue Agency (CRA) or Revenu Québec, to adjust the tax withholding on your employment income to take these deductions and credits, such as registered retirement savings plan (RRSP) and interest expense deductions, into account.

You must complete and file **Form T1213, *Request to Reduce Tax Deductions at Source***. The form states which CRA office you must file the form with. If the request is approved, your employer will take the amount approved (within the approval letter or letter of authority the CRA sends to you) into account in calculating the amount to be withheld. Generally, a separate application for reduced withholding must be made each year.

TAX TIP

If you expect to have substantial tax deductions, consider applying to the CRA or Revenu Québec early in the year for a reduction to tax withholding at source.

INSTALMENTS

If the difference between your federal tax payable and amounts withheld at source is greater than $3,000 (for residents of Québec, $1,800) in both the current year and either of the two preceding years, you are required to pay quarterly income tax instalments. For this purpose, tax payable includes the combined federal and provincial income tax (except in Québec).[1]

If you're a resident of Québec, you're required to pay provincial tax instalments if the difference between Québec tax payable and withheld at source is greater than $1,800.

If you're required to make quarterly instalment payments, you must remit them by March 15, June 15, September 15 and December 15.[2] The same general requirements apply for Québec tax purposes.

If you're required to make instalments, the CRA (or Revenu Québec) will send you instalment notices that set out your payments.

There are three allowable methods of calculating instalments:

- **No-calculation option** – You may simply choose to pay the suggested amount on the instalment notices that the CRA sends you. The CRA's instalment notice uses the method that requires each of your first two 2025 instalments to be one-quarter of your balance due for 2023, and your second two instalments to aggregate to your 2024 balance due, less the amounts payable in your first two instalments. Each of the final two instalments would be equal to one-half of this amount. If you do not receive an instalment notice from the CRA, no instalment payment is required.

[1] However, instalments may not be required if the individual had no tax payable for the prior year and selects the prior-year method (see below) for calculating instalment payments.
[2] Farmers and fishermen use the same instalment base but are required to make an instalment payment equal to two-thirds of that base by December 31 and pay the balance on filing.

- **Prior-year option** – You may choose instead to calculate each instalment as one-quarter of your 2024 balance due.
- **Current-year option** – A third alternative allows you to calculate each instalment as one-quarter of your anticipated 2025 balance due.

The third alternative can result in a lower instalment requirement if your tax is expected to be lower in 2025 than in 2024. But if you underestimate your 2025 balance due and pay insufficient instalments, you will be charged interest and potentially penalties.

Effective January 1, 2024, electronic payments are required for income tax remittances over $10,000. This requirement applies to both instalment and other income tax payments. Failure to comply with this requirement will result in a penalty of $100 for each such failure.

INTEREST

Non-deductible interest, payable on late or deficient instalments and unpaid taxes, is calculated using prescribed rates, varying quarterly and compounded daily. The federal prescribed rate for the first and second calendar quarters of 2024 was 10%. The rate was 9% for the third and fourth calendar quarters.

The interest charge is calculated from the date each instalment is due. However, you are permitted to reduce or eliminate interest charged on late or deficient instalments by overpaying subsequent instalments or paying other instalments before their due dates.

PENALTIES

In addition to the interest charged on late or deficient payments, there may be a federal penalty equal to one-half of the interest payable. The penalty applies only to instalment interest owing after any offset of interest payable to the taxpayer, and does not apply to the first $1,000 of interest or to interest on up to 25% of the tax payable by instalments, whichever is greater.

This penalty does not apply for Québec tax purposes. In that province, where the amount paid is less than 75% of the required instalment, additional interest of 10% per year, compounded daily, is charged on the unpaid portion of the instalment.

Relief provisions (formerly known as the fairness provisions)

The taxpayer relief provisions provide the CRA with authority to exercise certain discretion in the administration and enforcement of the tax rules. For example, they allow the CRA to cancel or waive penalties and interest payable in extraordinary circumstances (including cases of natural disaster, serious illness, financial hardship or CRA delays or errors).

In general, the CRA has the discretion to be lenient with taxpayers who, because of circumstances beyond their control, are unable to meet deadlines or otherwise comply with certain rules. This discretion is available for requests made for a taxation year ending in the 10 previous calendar years. For example, a request made in 2024 will only be accepted for 2014 and later taxation years.

You generally have to apply in writing and give reasons why the CRA should exercise this discretion (Revenu Québec has similar relief provisions).

TAX TIP

The relief provisions include the following allowances:

- Tax refunds may be paid even though a return is filed more than three years late.
- Penalties and interest may be waived where there are extraordinary circumstances.
- Late-filed, amended or revoked elections may be accepted.

If you believe you may benefit from the relief provisions, contact your EY Tax advisor.

Voluntary disclosures

The voluntary disclosures program (VDP) is an administrative program administered by the CRA. The goal of the VDP is to promote voluntary compliance with Canadian tax law.

Under the VDP, individuals may correct inaccurate or incomplete information they have previously provided to the CRA or disclose information they have not previously provided. There are strict limits on eligibility for the program and, as a general rule, an individual may use the program only once, unless the circumstances surrounding a second application by the individual under the program are both beyond the individual's control and related to a different matter. Also, because the CRA does not want individuals to use the VDP as a means of retroactive tax planning, the CRA will not accept late-filed elections through the VDP.

Usually, an individual makes a voluntary disclosure to protect himself or herself from the significant penalties – or in extreme cases, prosecution – that may result if the errors or omissions are detected by the tax authorities. A valid disclosure must include a written submission and must meet several conditions, including the requirements that it is voluntary and complete. Where an individual makes a valid disclosure that is accepted by the CRA, he or she is liable for the taxes owing (plus interest), but is not subject to penalties or prosecution under the General Program. Under the Limited Program, he or she is still subject to late filing penalties, but not to prosecution (see below). In some cases under the General Program, the interest may be reduced.[3]

The VDP underwent significant changes in 2017-18 that narrowed its application and offered less generous relief or, in some cases, no relief, to non-compliant taxpayers.[4] Notably, the CRA separated the VDP policy for disclosures involving income tax and source deductions from the VDP policy for GST/HST, excise tax, excise duties, softwood lumber products export charges and air travellers security charges. The VDP is not available for transfer pricing matters – these relief requests are handled by the Transfer Pricing Review Committee – or for competent authority matters in respect of a tax treaty.

The current rules include the following features with respect to the CRA's VDP policy for income tax and source deductions:

- General Program and Limited Program for VDP relief: Applications are processed under one of two different tracks. Applicants processed under the Limited Program[5] are offered more limited relief, as the successful applicant under this track is not assessed gross negligence penalties, and is not subject to criminal prosecution, but is also not eligible for any relief from interest or late filing penalties.
- Interest relief under certain circumstances: Under the General Program, successful applicants may obtain interest relief for 50% of the amount of interest for the years prior to the three most recent years of the disclosure, while no interest relief is provided under the Limited Program.
- Waiver of objection rights: Applicants under the Limited Program must waive objection and appeal rights with respect to the specific matter disclosed under the VDP and any related assessment of taxes (subject to certain exceptions).
- Disclosures made on a named basis only: Applicants must disclose their identity and file a complete disclosure in order to enter the VDP.
- Payment of taxes owing: Taxpayers are required to pay the estimated taxes owing at the time they apply for VDP relief, unless a payment arrangement can be made with CRA collections officials.
- Identity of advisors: Taxpayers must disclose the names of any advisors from whom they received assistance in respect of the subject matter of the VDP application.

Refunds

DIRECT DEPOSIT

You can have your income tax refund deposited directly into your personal bank account at any financial institution across the country.

INTEREST ON REFUNDS

The CRA pays interest for current-year overpayments of tax. As noted on the CRA's website, interest is paid for federal purposes commencing on the latest of:

- May 30 of the following year
- 30 days after the date the return is filed
- The date the overpayment occurred[6]

Refund interest is taxable. On the other hand, arrears interest and penalties are not deductible.

[3] The Minister of National Revenue also has the authority to waive or cancel penalties or interest under the Taxpayer Relief provisions of the *Income Tax Act* (see the CRA's Information Circular IC07-1R1 for details).

[4] The changes are included in Information Circular IC00-1R6 – *Voluntary Disclosures Program*, released on December 15, 2017. The circular applies to VDP applications received on or after March 1, 2018. Applications received prior to that date were processed under the old rules. For more information, refer to **EY Tax Alert 2017 Issue No. 26**, *Proposed changes to income tax VDP*, and **EY Tax Alert 2017 Issue No. 53**, *Changes to income tax VDP revised*.

[5] Generally includes corporations with gross revenue in excess of $250 million in at least two of their last five taxation years, and applicants disclosing non-compliance where there is an element of intentional conduct on the part of the taxpayer, or a closely related party (e.g., use of offshore vehicles or other means in an effort to avoid detection).

[6] Revenu Québec pays interest calculated from June 15 of the following year (provided the return was filed before May 1 of that year) or the 46th day after the date of filing, if the return was filed after April 30.

Communicating with the CRA

KEEP YOUR RECEIPTS FOR YOUR PERSONAL INCOME TAX RETURN

The CRA review of personal income tax returns includes pre-assessment reviews, post-assessment reviews and audits. Individuals who file their personal income tax returns electronically, or who do not file information slips and receipts with their paper-filed returns, must keep their receipts for six years following the filing of the return in case the CRA comes calling.

RETURNS SELECTED FOR REVIEW

In 2024, the CRA processed over 32 million personal income tax returns[7] without conducting any manual review on the majority of them. Some, however, are selected for further review at varying points in the CRA's processing timeline. The process of selecting returns for review is the same, whether the return is filed on paper or electronically.

There are a number of reasons why a return may be selected for review, including:

- Random selection
- Comparison of information on returns to information received from third-party sources, such as T4 information slips
- Types of deductions or credits claimed and an individual's review history (for example, if a taxpayer's return was selected in a previous year and the review resulted in an adjustment)

When a tax return is selected for review, it's important to note that it does not represent a tax audit. The selection for review may occur at any point in the assessment cycle:

- Pre-assessment review, before the Notice of Assessment is issued
- Processing review, after the Notice of Assessment is issued
- Matching programs, which are post-assessment reviews to compare the information on an individual's income tax return to information provided by third-party sources such as employers or financial institutions
- Special assessment programs, either pre- or post-assessment, to identify and gather information on trends and situations of non-compliance

Matching programs include matching the return information with the T slips that are in the CRA's system (employment income from your employer, interest and dividends from the payors, etc.), and linking returns between spouses and other family members. The family linking ensures that appropriate family income is used for claims like the GST/HST credit or the Canada Child Benefit, that valid personal amounts or other credits are being claimed (for example, where credits are transferred to partners or parents) or to ensure that certain deductions are valid (such as the child-care deduction, which is generally only available to the lower-income spouse).

If discrepancies arise during this matching and linking stage, reassessments may be issued or, in some cases, where additional information is necessary, the CRA will request that the taxpayer provide that information.

As part of this post-assessment review, the CRA selects a percentage of the returns filed for further scrutiny. It targets specific claim items and asks the selected taxpayers to provide support, usually copies of receipts, for those claims. Items that have been subject to post-assessment review in the past include donations, moving expenses, child-care expenses, tuition amounts, foreign tax credits, medical expenses and carrying charges. Depending on the results of the review, the CRA may choose to target the same claim items for a number of years.

Once a return has been selected for review, the CRA will try to verify the claim based on the information in their file. If additional information is required, the CRA contacts the taxpayer or the authorized representative who prepared the return. The requested information may be submitted by mail, fax or electronically using "My Account" or "Represent a Client."

If the taxpayer does not respond on a timely basis, or is unable to provide adequate support for a claim, the CRA will issue a reassessment, perhaps denying a claim completely, or adjusting an income or expense figure based on the information on file, so it is always important to respond promptly to these requests.

[7] Up to July 19, 2024.

CRA e-services

The CRA has been expanding its online services to help individuals manage their tax affairs.

MY ACCOUNT

My Account is an online service that provides secure access to an individual's own personal tax and benefit information via the internet.

Using this service, you can see information about your:

- Mail from CRA
- Tax returns and carryover amounts
- Tax-free savings account
- First home savings account
- RRSP, Home Buyers' Plan and Lifelong Learning Plan
- Account balance and statement of account
- Instalments
- Tax refund or balance owing
- Uncashed cheques
- Direct deposit
- Pre-authorized payment plan
- Marital status
- Tax information slips – T4, T4A, T4A(P), T4A(OAS), T4RSP, T4RIF, T5007, T3, T5, T5008, T5013, RRSP contribution receipt and T4E
- Disability tax credit
- Children for whom you are the primary caregiver
- Canada Child Benefit (and related provincial and territorial programs) payments, account balance and statement of account
- GST/HST credit (and related provincial programs) payments, account balance, and statement of account
- Canada Workers Benefit advance payments
- Notice of Assessment or Re-assessment
- Income tax objections
- Authorized representative
- Emigration date
- Addresses and telephone numbers
- Underused housing tax

With My Account, you can also manage your personal income tax and benefit account online by:

- Changing your return(s)
- Changing your address or telephone numbers
- Changing your marital status
- Applying for child benefits
- Applying for a nonresident account number or a trust account number
- Applying for your Canada Workers Benefit advance payments
- Arranging your direct deposit
- Authorizing your representative
- Setting up a payment plan, and allowing you to make instalment payments and pay your account balance owing
- Formally disputing your assessment or determination
- Submitting a request for interest and penalty relief
- Filing Form GST 189, *General Application for Rebate of GST/HST*
- Requesting a CPP or EI ruling
- Filing a service complaint
- Submitting documents in response to a CRA request
- Registering to receive email notifications when there is new correspondence from the CRA available to view online (such as Notices of Assessment or T1 adjustment letters)
- Using the Auto-fill My Return service (see below)
- Submitting audit enquiries and receiving responses from an auditor/compliance program officer, and viewing your audit history (provided you have an audit case number)

You must have an email address on file with the CRA to use My Account.

Auto-fill My Return

This service allows you to automatically complete certain parts of your tax return online if you are registered for My Account and are using NETFILE-certified software for preparing your return. It pre-populates certain fields on the return using information the CRA has on file such as T3, T4, T4A, T4A(P), T4A(OAS), T4E, T4FHSA, T4RIF, T4RSP, T5 and T5008 slips, T2202 *Tuition and Enrolment Certificate*, RRSP contribution receipts and deduction limits, Home Buyers' Plan and Lifelong Learning Plan outstanding balances and repayment amounts, certain carryover amounts, Canada training credit limit and instalment payments.

CRA Check Processing Times tool

The CRA's Check CRA Processing Times tool provides you with general processing times for tax returns and other tax-related requests sent to the CRA. Examples include processing times for personal income tax returns, T1 adjustment requests, tax objections and taxpayer relief requests, and applications for Canada child benefits and the Form T2201, *Disability Tax Credit Certificate*. The tool may be accessed through My Account or by visiting **https://www.canada.ca/en/revenue-agency/corporate/contact-information/check-cra-processing-times.html**.

ReFILE service

The CRA's ReFILE service allows you to file adjustments to your income tax return using NETFILE-certified tax preparation software, provided your original tax return is also filed electronically. Adjustments can be made to your 2023, 2022, 2021 or 2020 tax return. You should receive your Notice of Assessment on your original return first before using ReFILE to file any adjustments. Certain income tax return adjustments cannot be filed using the ReFILE service and must, instead, be filed by mail. For details, see **https://www.canada.ca/en/revenue-agency/services/e-services/digital-services-businesses/refile-online-t1-adjustments-efile-service-providers.html**.

Express NOA service

Certain tax preparation software products offer the CRA's Express NOA service, which can provide you with your Notice of Assessment immediately after you file your tax return electronically. You must be registered for both My Account and CRA email notifications (see below) with the CRA and use NETFILE-certified tax preparation software to use the Express NOA service.

CRA email notifications service

The CRA's email notifications service sends you an email to let you know when you have new CRA mail to view in My Account (see above). It also provides you with an account alert email from the CRA whenever there is a change to your account, such as a change to:

- Your address (home and mailing)
- Your banking information for direct deposit
- An authorized representative on your account

Email notifications also let you know if mail the CRA sent to you has been returned to them. Effective January 1, 2024, the CRA is empowered to issue an electronic Notice of Assessment (instead of a paper version) to you if you filed your return of income electronically or if a tax preparer filed your return electronically on your behalf. If the CRA issues an electronic Notice of Assessment, it will be posted in My Account and you will be notified via the email notification service.

The email notifications service can be beneficial, since it effectively provides you with a confirmation of requested changes made to your address, direct deposit information or authorized representative. If you receive an email for a change that you have not requested, you can report it to the CRA as soon as it happens. The email notification for mail returned to the CRA can prevent you from missing out on any payments made by the CRA by paper mail, such as a cheque. You must be registered for My Account to sign up for email notifications.

Plan your future with confidence

Whatever your stage in life, whether you're an employee or a business owner, whatever investments you may have and no matter where you live, you need to be aware of how personal taxes affect you. We hope this guide has enlightened you on how you can effectively plan to save your hard-earned wealth and face the future with confidence.

Stay on top of ongoing changes in the tax environment by visiting us at **ey.com/en_ca/services/tax**. Here, you'll find our frequent Tax Alerts and monthly newsletter TaxMatters@EY, both of which deal with current and relevant tax issues. You'll also find our easy-to-use, **interactive personal tax calculator and rates, and our RRSP calculator**. You can subscribe to our tax and other email alerts at **ey.com/en_ca/tax/tax-alerts**.

For more information on our Tax services, contact your EY advisor.

This publication does not attempt to discuss all circumstances in which an individual may be subject to income tax. For example, the taxation of nonresidents, part-year residents, partnerships and owner-managed businesses are not dealt with in detail. For further information on these or other topics, please consult your EY Tax advisor.

This publication incorporates all announced government initiatives to October 31, 2024. It reflects our understanding of the CRA's and Revenu Québec's administrative practices as at the date of writing. While every effort has been made to ensure the accuracy and timeliness of the material contained in this publication, it is neither a comprehensive review of the subject matter covered nor a substitute for specific professional advice. Readers should consult their professional advisors prior to acting on the basis of material in this publication.

Combined personal income tax rates

CURRENT AS OF JUNE 1, 2024

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Alberta

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income			Alberta				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	21,885	-	15.00%	0.00%	6.87%	7.50%
21,886	to	55,867	927	25.00%	2.60%	15.85%	12.50%
55,868	to	111,733	9,423	30.50%	10.16%	22.18%	15.25%
111,734	to	148,269	26,462	36.00%	17.75%	28.50%	18.00%
148,270	to	173,205	39,615	38.00%	20.51%	30.80%	19.00%
173,206	to	177,922 [5]	49,090	41.32%	25.09%	34.62%	20.66%
177,923	to	237,230 [5]	51,039	42.32%	26.47%	35.77%	21.16%
237,231	to	246,752 [5]	76,136	43.32%	27.85%	36.92%	21.66%
246,753	to	355,845	80,260	47.00%	32.93%	41.15%	23.50%
355,846	and up		131,534	48.00%	34.31%	42.30%	24.00%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 5 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

British Columbia

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income			British Columbia				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	23,390	-	15.00%	0.00%	6.87%	7.50%
23,391	to	24,338	1,153	20.06%	0.00%	10.43%	10.03%
24,339	to	39,703 [5]	1,343	23.62%	0.00%	14.53%	11.81%
39,704	to	47,937	4,972	20.06%	0.00%	10.43%	10.03%
47,938	to	55,867	6,624	22.70%	0.00%	13.47%	11.35%
55,868	to	95,875	8,424	28.20%	7.56%	19.80%	14.10%
95,876	to	110,076	19,706	31.00%	7.56%	23.02%	15.50%
110,077	to	111,733	24,109	32.79%	7.96%	25.07%	16.40%
111,734	to	133,664	24,652	38.29%	15.55%	31.40%	19.15%
133,665	to	173,205	33,049	40.70%	18.88%	34.17%	20.35%
173,206	to	181,232 [6]	49,142	44.02%	23.45%	37.98%	22.01%
181,233	to	246,752 [6]	52,676	46.12%	26.35%	40.40%	23.06%
246,753	to	252,752	82,891	49.80%	31.44%	44.64%	24.90%
252,753	and up		85,879	53.50%	36.54%	48.89%	26.75%

1. The tax rates reflect budget proposals and news releases up June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 6 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. Individuals resident in British Columbia on December 31, 2024 with taxable income up to $23,390 generally pay no provincial income tax as a result of a low-income tax reduction. The low-income tax reduction is clawed back on income in excess of $24,338 until the reduction is eliminated, resulting in an additional 3.56% of provincial tax on income between $24,339 and $39,703.
6. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Manitoba

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income			Manitoba				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	15,780	-	15.00%	0.00%	6.87%	7.50%
15,781	to	47,000	11	25.80%	3.86%	18.38%	12.90%
47,001	to	55,867	8,066	27.75%	6.56%	20.63%	13.88%
55,868	to	100,000	10,527	33.25%	14.12%	26.95%	16.63%
100,001	to	111,733	25,201	37.90%	20.53%	32.30%	18.95%
111,734	to	173,205	29,648	43.40%	28.12%	38.62%	21.70%
173,206	to	246,752 [5]	56,326	46.72%	32.70%	42.44%	23.36%
246,753	and up		90,685	50.40%	37.78%	46.67%	25.20%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 5 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

New Brunswick

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income			New Brunswick				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	21,342	-	15.00%	0.00%	6.87%	7.50%
21,343	to	47,343 [5]	846	27.40%	0.00%	17.96%	13.70%
47,344	to	49,958	7,970	24.40%	0.00%	14.51%	12.20%
49,959	to	55,867	8,608	29.00%	0.00%	19.80%	14.50%
55,868	to	99,916	10,321	34.50%	7.56%	26.13%	17.25%
99,917	to	111,733	25,518	36.50%	10.32%	28.43%	18.25%
111,734	to	173,205	29,832	42.00%	17.91%	34.75%	21.00%
173,206	to	185,064 [6]	55,650	45.32%	22.49%	38.57%	22.66%
185,065	to	246,752 [6]	61,024	48.82%	27.32%	42.59%	24.41%
246,753	and up		91,137	52.50%	32.40%	46.83%	26.25%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 6 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. Individuals resident in New Brunswick on December 31, 2024 with taxable income up to $21,342 pay no provincial income tax as a result of a low-income tax reduction. The low-income tax reduction is clawed back for income in excess of $21,342 until the reduction is eliminated, resulting in an additional 3% of provincial tax on income between $21,343 and $47,343.
6. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Newfoundland and Labrador

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income			Newfoundland and Labrador				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	22,013	-	15.00%	0.00%	6.87%	7.50%
22,014	to	23,390	946	23.70%	3.31%	13.19%	11.85%
23,391	to	29,478 [5]	1,273	39.70%	25.39%	31.59%	19.85%
29,479	to	43,198	3,689	23.70%	3.31%	13.19%	11.85%
43,199	to	55,867	6,941	29.50%	11.32%	19.86%	14.75%
55,868	to	86,395	10,678	35.00%	18.88%	26.19%	17.50%
86,396	to	111,733	21,363	36.30%	20.67%	27.68%	18.15%
111,734	to	154,244	30,561	41.80%	28.26%	34.01%	20.90%
154,245	to	173,205	48,330	43.80%	31.02%	36.31%	21.90%
173,206	to	215,943 [6]	56,635	47.12%	35.60%	40.12%	23.56%
215,944	to	246,752 [6]	76,772	49.12%	38.36%	42.42%	24.56%
246,753	to	275,870	91,904	52.80%	43.44%	46.66%	26.40%
275,871	to	551,739	107,278	53.80%	44.82%	47.81%	26.90%
551,740	to	1,103,478	255,696	54.30%	45.51%	48.38%	27.15%
1,103,479	and up		555,290	54.80%	46.20%	48.96%	27.40%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 6 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. Individuals resident in Newfoundland and Labrador on December 31, 2024 with taxable income up to $22,013 pay no provincial income tax as a result of a low-income tax reduction. The low-income tax reduction is clawed back for income in excess of $23,390 until the reduction is eliminated, resulting in an additional 16% of provincial tax on income between $23,391 and $29,478.
6. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Northwest Territories

Combined federal and territorial personal income tax rates - 2024[1]

Taxable income			Northwest Territories				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	17,373	-	15.00%	0.00%	6.87%	7.50%
17,374	to	50,597	250	20.90%	0.00%	6.87%	10.45%
50,598	to	55,867	7,194	23.60%	0.00%	9.86%	11.80%
55,868	to	101,198	8,438	29.10%	7.56%	16.18%	14.55%
101,199	to	111,733	21,629	32.70%	8.53%	20.32%	16.35%
111,734	to	164,525	25,074	38.20%	16.12%	26.65%	19.10%
164,526	to	173,205	45,241	40.05%	18.67%	28.77%	20.03%
173,206	to	246,752 [5]	48,717	43.37%	23.25%	32.59%	21.68%
246,753	and up		80,611	47.05%	28.33%	36.82%	23.53%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and territorial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 5 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and territorial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Nova Scotia

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income			Nova Scotia				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 14,894 [5]	$ -	0.00%	0.00%	0.00%	0.00%
14,895	to	15,000	-	8.79%	0.00%	6.67%	4.40%
15,001	to	15,705 [5]	9	13.79%	6.82%	12.42%	6.90%
15,706	to	21,000 [5]	107	28.79%	6.82%	19.28%	14.40%
21,001	to	25,000	1,631	23.79%	0.00%	13.53%	11.90%
25,001	to	29,590 [6]	2,583	24.32%	0.65%	14.14%	12.16%
29,591	to	55,867 [6]	3,699	30.48%	9.15%	21.22%	15.24%
55,868	to	59,180 [6]	11,707	35.98%	16.71%	27.55%	17.99%
59,181	to	75,000 [6]	12,899	37.70%	19.08%	29.53%	18.85%
75,001	to	93,000	18,863	37.17%	18.35%	28.92%	18.59%
93,001	to	111,733	25,554	38.00%	19.50%	29.87%	19.00%
111,734	to	150,000	32,672	43.50%	27.09%	36.20%	21.75%
150,001	to	173,205	49,318	47.00%	31.92%	40.22%	23.50%
173,206	to	246,752 [7]	60,225	50.32%	36.50%	44.04%	25.16%
246,753	and up		97,230	54.00%	41.58%	48.27%	27.00%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Notes 6 and 7 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. Individuals resident in Nova Scotia on December 31, 2024 with taxable income up to $14,894 pay no provincial income tax as a result of a low-income tax reduction. The low-income tax reduction is clawed back for income in excess of $15,000 until the reduction is eliminated, resulting in an additional 5% of provincial tax on income between $15,001 and $21,000.
6. The Nova Scotia basic personal amount comprises two elements: the base amount of $8,481 and an additional amount of $3,000. The additional amount is reduced for individuals with net income in excess of $25,000 and is fully eliminated for individuals with net income in excess of $75,000. Consequently, the additional amount is clawed back on net income in excess of $25,000 until the additional tax credit of $264 is eliminated; this results in additional provincial income tax (e.g., 0.53% on ordinary income) on net income between $25,001 and $75,000.
7. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Nunavut

Combined federal and territorial personal income tax rates - 2024[1]

Taxable income			Nunavut				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	18,767	-	15.00%	0.00%	6.87%	7.50%
18,768	to	53,268	459	19.00%	0.00%	8.47%	9.50%
53,269	to	55,867	7,014	22.00%	2.06%	11.92%	11.00%
55,868	to	106,537	7,586	27.50%	9.62%	18.24%	13.75%
106,538	to	111,733	21,521	29.50%	12.38%	20.54%	14.75%
111,734	to	173,205	23,053	35.00%	19.97%	26.87%	17.50%
173,206	to	246,752 [5]	44,569	40.82%	28.00%	33.55%	20.41%
246,753	and up		74,587	44.50%	33.08%	37.79%	22.25%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and territorial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 5 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and territorial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Ontario

Combined federal and provincial personal income tax rates - 2024[1, 5]

Taxable income				Ontario				
						Marginal rate on		
Lower limit		Upper limit		Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705		$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	18,062		-	15.00%	0.00%	6.87%	7.50%
18,063	to	23,726	6	354	25.10%	0.00%	11.61%	12.55%
23,727	to	51,446		1,775	20.05%	0.00%	9.24%	10.03%
51,447	to	55,867		7,333	24.15%	0.00%	13.95%	12.08%
55,868	to	90,595		8,401	29.65%	7.56%	20.28%	14.83%
90,596	to	102,894		18,698	31.48%	8.92%	22.38%	15.74%
102,895	to	106,735		22,569	33.89%	12.24%	25.16%	16.95%
106,736	to	111,733		23,871	37.91%	17.79%	29.78%	18.95%
111,734	to	150,000		25,766	43.41%	25.38%	36.10%	21.70%
150,001	to	173,205		42,377	44.97%	27.53%	37.90%	22.48%
173,206	to	220,000	7	52,813	48.29%	32.11%	41.71%	24.14%
220,001	to	246,752	7	75,408	49.85%	34.26%	43.50%	24.92%
246,753	and up			88,742	53.53%	39.34%	47.74%	26.76%

1. The tax rates include the provincial surtaxes and reflect budget proposals and news releases up to June 1, 2024. The rates do not include the Ontario Health Premium (see Note 5 below). Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items. Provincial surtax and the Ontario tax reduction are pro-rated if the individual is a multijurisdictional filer.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 7 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates. Where applicable, the provincial surtax has been applied prior to deducting the dividend tax credit.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm or fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. Individuals resident in Ontario on December 31, 2024 with a combined taxable and split income in excess of $20,000 must pay the Ontario Health Premium. The premium ranges from $nil to $900 depending on the individual's taxable income, with the top premium being payable by individuals with taxable income in excess of $200,599.
6. Individuals resident in Ontario on December 31, 2024 with taxable income up to $18,062 pay no provincial income tax as a result of a low-income tax reduction. The low-income tax reduction ($286 of Ontario tax) is clawed back for income in excess of $18,062 until the reduction is eliminated, resulting in an additional 5.05% of provincial tax on income between $18,063 and $23,726.
7. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Prince Edward Island

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income				Prince Edward Island				
						Marginal rate on		
Lower limit		Upper limit		Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705		$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	17,127		-	15.00%	0.00%	6.87%	7.50%
17,128	to	21,500		213	24.65%	0.00%	16.46%	12.33%
21,501	to	28,500	5	1,291	29.65%	5.73%	22.21%	14.83%
28,501	to	32,656		3,367	24.65%	0.00%	16.46%	12.33%
32,657	to	55,867		4,391	28.63%	4.32%	21.04%	14.32%
55,868	to	64,313		11,037	34.13%	11.88%	27.36%	17.07%
64,314	to	105,000		13,919	37.15%	16.05%	30.84%	18.58%
105,001	to	111,733		29,034	38.50%	17.91%	32.39%	19.25%
111,734	to	140,000		31,627	44.00%	25.50%	38.72%	22.00%
140,001	to	173,205		44,064	44.75%	26.54%	39.58%	22.38%
173,206	to	246,752	6	58,923	48.07%	31.11%	43.39%	24.03%
246,753	and up			94,274	51.75%	36.20%	47.63%	25.88%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 6 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. Individuals resident in Prince Edward Island on December 31, 2024 with taxable income up to $17,127 pay no provincial income tax as a result of a low-income tax reduction. The low-income tax reduction is clawed back for income in excess of $21,500 until the reduction is eliminated, resulting in an additional 5% of provincial tax on income between $21,501 and $28,500.
6. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Québec

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income[2]			Federal tax[3]		Québec Taxable income[2]			Québec Provincial tax	
Lower limit		Upper limit	Basic tax[4]	Rate on excess	Lower limit		Upper limit	Basic tax[4]	Rate on excess
$ -	to	$ 15,705	$ -	0.00%	$ -	to	$ 18,056	$ -	0.00%
15,706	to	55,867	-	12.53%	18,057	to	51,780	-	14.00%
55,868	to	111,733	5,030	17.12%	51,781	to	103,545	4,721	19.00%
111,734	to	173,205	14,593	21.71%	103,546	to	126,000	14,557	24.00%
173,206	to	246,752 [5]	27,939	24.48%	126,001	and up		19,946	25.75%
246,753	and up		45,942	27.56%					

Combined tax rates on dividend income and capital gains - 2024[1]

Taxable income[7]			Eligible dividends[6]	Other dividends[6]	Capital gains[8]
$ -	to	$ 15,705	0.00%	0.00%	0.00%
15,706	to	18,056	0.00%	5.73%	6.26%
18,057	to	51,780	3.17%	17.90%	13.26%
51,781	to	55,867	10.07%	23.65%	15.76%
55,868	to	103,545	16.39%	28.93%	18.06%
103,546	to	111,733	23.29%	34.68%	20.56%
111,734	to	126,000	29.63%	39.96%	22.86%
126,001	to	173,205	32.04%	41.97%	23.73%
173,206	to	246,752	35.86%	45.16%	25.11%
246,753	and up		40.11%	48.70%	26.65%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the minimum tax provisions, the above table is not applicable. Alternative minimum tax (AMT) and Québec minimum tax (QMT) may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT and QMT rates to the individual's taxable income adjusted for certain preference items. The rates do not reflect the health services fund contribution which may be required on non-employment income.
2. Taxable income for Québec purposes is likely to differ from that determined for federal purposes.
3. Federal tax payable has been reduced by the 16.5% abatement for Québec taxpayers whose taxes payable are the aggregate of federal and provincial taxes.
4. The federal tax and provincial tax determined by the table should be reduced by all applicable credits other than the basic personal tax credits, which have been reflected in the calculations (see Note 5 below).
5. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $194 is eliminated; this results in additional federal income tax (e.g., 0.26% on ordinary income) on net income between $173,206 and $246,752.
6. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid from public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
7. Taxable income for Québec purposes is likely to differ from that determined for federal purposes.
8. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. Québec has announced that it will harmonize with the proposed increase to the capital gains inclusion rate. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.

Saskatchewan

Combined federal and provincial personal income tax rates - 2024[1]

Taxable income			Saskatchewan		Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705	$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	18,491	-	15.00%	0.00%	6.87%	7.50%
18,492	to	52,057	418	25.50%	0.00%	16.04%	12.75%
52,058	to	55,867	8,977	27.50%	2.07%	18.34%	13.75%
55,868	to	111,733	10,025	33.00%	9.63%	24.67%	16.50%
111,734	to	148,734	28,461	38.50%	17.22%	30.99%	19.25%
148,735	to	173,205	42,706	40.50%	19.98%	33.29%	20.25%
173,206	to	246,752 [5]	52,617	43.82%	24.56%	37.11%	21.91%
246,753	and up		84,842	47.50%	29.64%	41.34%	23.75%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 5 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties. Individuals resident in Saskatchewan on December 31, 2024 who reported a capital gain from the disposition of qualified farm property or small business corporation shares may be eligible for an additional capital gains credit of up to 2%.
5. The federal basic personal amount comprises two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit of $232 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $173,206 and $246,752.

Yukon

Combined federal and territorial personal income tax rates - 2024[1]

Taxable income				Yukon				
						Marginal rate on		
Lower limit		Upper limit		Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 15,705		$ -	0.00%	0.00%	0.00%	0.00%
15,706	to	55,867		-	21.40%	0.00%	13.46%	10.70%
55,868	to	111,733		8,595	29.50%	7.56%	22.77%	14.75%
111,734	to	173,205		25,075	36.90%	15.15%	31.28%	18.45%
173,206	to	246,752	5	47,758	42.25%	20.99%	37.44%	21.13%
246,753	to	500,000		78,832	45.80%	25.89%	41.52%	22.90%
500,001	and up	-		194,820	48.00%	28.92%	44.05%	24.00%

1. The tax rates reflect budget proposals and news releases to June 1, 2024. Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items.
2. The tax determined by the table should be reduced by the applicable federal and territorial tax credits, other than the basic personal tax credits, which have been reflected in the calculations (see Note 5 below).
3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and territorial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates.
4. The rates apply to the actual amount of the capital gain. The 2024 federal budget proposes to increase the capital gains inclusion rate for individuals from one-half to two-thirds on the portion of capital gains realized in the year exceeding $250,000, for capital gains realized on or after June 25, 2024. The annual $250,000 threshold will not be prorated for 2024 and will apply only in respect of net capital gains realized on or after June 25, 2024. For purposes of this table, it is assumed that the net capital gains realized on or after June 25, 2024, do not exceed $250,000; therefore, the inclusion rate remains at one-half. The capital gains exemption on qualified farm and fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.
5. The federal and territorial basic personal amounts comprise two elements: the base amount ($14,156 for 2024) and an additional amount ($1,549 for 2024). The additional amount is reduced for individuals with net income in excess of $173,205 and is fully eliminated for individuals with net income in excess of $246,752. Consequently, the additional amount is clawed back on net income in excess of $173,205 until the additional tax credit ($232 federally and $99 in Yukon) is eliminated; this results in additional federal and territorial income tax (e.g., 0.32% and 0.13%, respectively, on ordinary income) on taxable income between $173,206 and $246,752.

Non-residents

Federal personal income tax rates - 2024[1]

Taxable income			Non-resident rate of 48%	
Lower limit		Upper limit	Basic tax	Rate on excess
$ -	to	$ 55,867	$ -	22.20%
55,868	to	111,733	12,402	30.34%
111,734	to	173,205	29,352	38.48%
173,206	to	246,752	53,007	42.92%
246,753	and up		84,573	48.84%

1. The tax rates reflect budget proposals and news releases to June 1, 2024.

Non-refundable tax credits by jurisdiction

SUMMARY OF THE MORE SIGNIFICANT NON-REFUNDABLE TAX CREDITS. ADDITIONAL FEDERAL NON-REFUNDABLE TAX CREDITS ARE AVAILABLE.

B

Maximum combined federal and provincial/territorial value – 2024[1]

	BC	AB	SK[19]	MB	ON	QC[7]	NB	NS	PEI	NL	NT	NU	YT
Amount of credit	$	$	$	$	$	$	$	$	$	$	$	$	$
Basic personal credit[12]	2,760	4,312	4,065	3,828	3,100	4,301	3,350	2,869[16]	3,426	3,065	3,148	2,874	3,029[18]
Spousal and equivalent-to-spouse credit[2, 12]	2,668	4,312	4,065	3,110	2,953	4,301[8]	3,084	2,869[16]	3,230	2,892	3,148	2,874	3,029
Infirm dependant aged 18 or over[2]	–	1,267	1,144	389	–	–[9]	534	245	236	299	340	230	–
Caregiver credit[2]	1,535	2,523	2,400	1,646	1,717	2,502[10]	1,791	1,687	1,492	1,555	1,596	1,487	1,792
Age credit (65 and over)[2]	1,604	1,928	1,910	1,721	1,624	1,633[11]	1,871	1,682[17]	1,858	1,919	1,820	1,798	1,881
Disability credit	1,958	3,169	2,625	2,148	2,270	1,798	2,397	2,126	2,146	2,116	2,312	2,120	2,113
Disability supplement for an individual under 18[3]	1,142	2,131	2,008	1,253	1,324	864	1,398	1,167	1,252	1,163	1,203	1,094	1,232
Pension income (maximum)	351	469	405	408	435	723[11]	394	403	397	387	359	380	428
Education and textbook – per month (full-time)	–	–	–	43	–	–	–	18	39	17	24	19	–
Canada employment credit	215	215	215	215	215	179	215	215	215	215	215	215	307
Child fitness and arts credits[13]	–	–	–	108	–	100	–	44	97	–	–	–	32
Credits as a percentage of	%	%	%	%	%	%	%	%	%	%	%	%	%
Tuition fees	20.06	15.00	15.00	25.80	15.00	20.53	24.40	23.79	24.65	23.70	20.90	19.00	21.40
Medical expenses[4]	20.06	25.00	25.50	25.80	22.88	32.53	24.40	23.79	24.65	23.70	20.90	19.00	21.40
Charitable donations[5]													
– first $200	20.06	75.00	25.50	25.80	22.88	32.53	24.40	23.79	24.65	23.70	20.90	19.00	21.40
– excess (to the extent of taxable income below $246,753)	45.80	50.00	43.50	46.40	46.41	48.22/49.97[15]	46.95	50.00	47.75	50.80	43.05	40.50	41.80
– excess (to the extent of taxable income above $246,752)	49.80/53.50[14]	54.00	47.50	50.40	50.41	53.31	50.95	54.00	51.75	54.80	47.05	44.50	45.80
CPP and QPP contributions[6]	20.06	25.00	25.50	25.80	22.88	12.53	24.40	23.79	24.65	23.70	20.90	19.00	21.40
EI premiums	20.06	25.00	25.50	25.80	22.88	12.53	24.40	23.79	24.65	23.70	20.90	19.00	21.40

NOTES

1. This chart summarizes the more significant non-refundable tax credits. Additional federal non-refundable tax credits are available. The tax value of each tax credit is the sum of the federal tax credit and the provincial/territorial tax credit and the reduction in provincial surtax (if applicable) as they would apply to taxpayers in the highest tax brackets, with the exception of the age credit. These values are based on known rates and credit amounts as at June 1, 2024.
2. The value of these credits is reduced when the dependant's (taxpayer's, in the case of the age credit) income exceeds specified threshold amounts. The federal thresholds are $0 for the spouse and equivalent-to-spouse credits, $19,666 for the caregiver credit and $44,325 for the age credit. The thresholds may be different for provincial purposes.
3. A federal supplement of $864 is available for an individual who is under 18 years of age, reduced by the total child care and attendant care expenses claimed for the individual in excess of $3,373. The provincial/territorial supplements and thresholds vary by jurisdiction.
4. The credit applies to eligible medical expenses that exceed the lesser of $2,759 (federal threshold) and 3% of net income (family income for Québec purposes). Provinces/territories may have different dollar thresholds.
5. Charitable donations eligible for credit are limited to 75% of net income (except in Québec).
6. One-half of CPP/QPP paid by self-employed individuals is deductible for tax purposes.
7. Additional Québec personal credits include persons living alone or with a person covered by the tax credit for dependant children – $290 (reduced when the parent's income exceeds $40,925); single parent families with one or more adult children enrolled in full-time studies – $358 (reduced when the parent's income exceeds $40,925); a credit of $758 is available for related dependants (other than a spouse) aged 18 or over (reduced by 14% of dependant's income). Where minor dependant children are studying full time (vocational training or post-secondary studies), an additional credit of $520 per term is available (maximum two terms), reduced by 14% of children's income.
8. Québec permits the transfer of personal credits from one spouse to the other. The Québec credit is reduced by 14% of the spouse's taxable income up to $18,056. Québec does not provide an equivalent-to-spouse credit.
9. Québec does not have a specific infirm dependant credit.
10. In addition to this basic credit amount in respect of each adult carereceiver with a severe and prolonged impairment the caregiver supports and co-resides with, an additional credit amount of $1,453 reduced by 16% of the carereceiver's income over $25,785 and up to $1,560 for respite expenses are available (the reducible $1,453 credit amount is also available on its own for caregivers who do not co-reside with the carereceiver). An additional credit amount of $1,453 may be available for caregivers who support and co-reside with a relative (not a spouse) aged 70 or older without such impairment.
11. The Québec credits are reduced when net family income exceeds $40,925.
12. The federal tax value of the basic personal credit, the spousal credit and the equivalent-to-spouse credit represents the amount available to taxpayers in the highest tax bracket. An additional tax credit may be available for individuals with taxable income below $246,752. The additional tax credit is $232 for individuals with taxable income below $173,205; this additional amount is gradually phased out for individuals with taxable income between $173,206 and $246,752. A federal caregiver tax credit of $392 ($328 in Québec) may be available in respect of a spouse, dependant or child who is dependent on the individual by reason of mental or physical infirmity.
13. The Manitoba tax credit may be available for an individual up to 24 years of age. The Prince Edward Island children's wellness credit may be available for a child under 18 years of age. Québec provides a refundable children's activities tax credit of $100 for a child between 5 and 15 years old (family income must not exceed $163,800). In addition, Saskatchewan provides a refundable tax credit of up to $150 per child (or up to $200 for a child with a disability) for families with combined net income of up to $60,000, effective for 2021 and later years. Newfoundland and Labrador provides a refundable physical activity tax credit of up to $348 per family, effective for 2023 and later years. Nova Scotia introduced a refundable children's sports and arts tax credit for children under 19 years of the age, effective for 2022 and later years.
14. The tax credit rate of 53.50% applies to charitable donations in excess of $200 to the extent the individual has British Columbia taxable income in excess of $252,752; otherwise, a tax credit rate of 49.80% applies.
15. The tax credit rate of 49.97% applies to charitable donations in excess of $200 to the extent the individual has Québec taxable income in excess of $126,000; otherwise, a tax credit rate of 48.22% applies.
16. An enhanced provincial basic personal credit, spousal credit and equivalent-to-spouse credit may be available for individuals with taxable income under $25,000, resulting in a tax credit of $264. The enhanced tax credits are gradually reduced and eliminated when taxable income reaches $75,000.
17. An enhanced provincial age credit is available for individuals with taxable income under $25,000, resulting in a tax credit of $129. The enhanced tax credit is gradually reduced and eliminated when taxable income reaches $75,000.
18. The territorial tax value of the basic personal credit, the spousal credit and the equivalent-to-spouse credit represents the amount available to taxpayers in the highest tax bracket. An additional tax credit may be available for individuals with taxable income below $246,752. The additional tax credit is $99 for individuals with taxable income below $173,205; this additional amount is gradually phased out for individuals with taxable income between $173,206 and $246,752.
19. A provincial non-refundable child tax credit of $737 is also available for each child under 18 years of age.

Probate fees by province and territory

CURRENT AS OF JUNE 1, 2024

C

Province or territory	Fee/Tax[1]	Statute and other sources
Alberta	‣ $35, where property's net value does not exceed $10,000 ‣ $135, where property's net value exceeds $10,000 but not $25,000 ‣ $275, where property's net value exceeds $25,000 but not $125,000 ‣ $400, where property's net value exceeds $125,000 but not $250,000 ‣ $525, where property's net value exceeds $250,000	Surrogate Rules, Schedule 2 – under the *Judicature Act*
British Columbia	‣ $6 for every $1,000 or portion thereof by which estate's value exceeds $25,000, where value exceeds $25,000 but not $50,000 ‣ $150 + $14 for every $1,000 or portion thereof by which estate's value exceeds $50,000 There is an additional $200 flat fee for estates exceeding $25,000.	*Probate Fee Act* s. 2, Supreme Court Civil Rules (Appendix C) under the *Court Rules Act*
Manitoba	‣ No probate fee or tax	*Law Fees and Probate Charge Regulation*
New Brunswick	‣ $25, where estate's value does not exceed $5,000 ‣ $50, where estate's value exceeds $5,000 but not $10,000 ‣ $75, where estate's value exceeds $10,000 but not $15,000 ‣ $100, where estate's value exceeds $15,000 but not $20,000 ‣ $5 per $1,000 or portion thereof, where value exceeds $20,000	*Probate Court Act* s. 75.1, Schedule A
Newfoundland and Labrador	‣ $60, where estate's value does not exceed $1,000 ‣ $60 + $0.60 for every additional $100 of estate's value over $1,000	*Services Charges Act* s. 4
Northwest Territories	‣ $30, where net property value does not exceed $10,000 ‣ $110, where net property value exceeds $10,000 but not $25,000 ‣ $215, where net property value exceeds $25,000 but not $125,000 ‣ $325, where net property value exceeds $125,000 but not $250,000 ‣ $435, where net property value exceeds $250,000	Court Services Fees Regulations, Schedule A, Part 2 – under the *Judicature Act*

[1] Additional flat fees (e.g., filing fees) may apply.

Province or territory	Fee/Tax[1]	Statute and other sources
Nova Scotia	‣ $85.60, where estate's assets do not exceed $10,000 ‣ $215.20, where estate's assets exceed $10,000 but not $25,000 ‣ $358.15, where estate's assets exceed $25,000 but not $50,000 ‣ $1,002.65, where estate's assets exceed $50,000 but not $100,000 ‣ $1,002.65 + $16.95 for every $1,000 or portion thereof by which estate's assets exceed $100,000	*Probate Act* s. 87(2), Fees and Allowances under Part I of the *Costs and Fees Act*
Nunavut	‣ $30, where net property value does not exceed $10,000 ‣ $110, where net property value exceeds $10,000 but not $25,000 ‣ $215, where net property value exceeds $25,000 but not $125,000 ‣ $325, where net property value exceeds $125,000 but not $250,000 ‣ $425, where net property value exceeds $250,000	Court Fees Regulations s. 4, Schedule C – under the *Judicature Act*
Ontario	‣ $15 per $1,000 or portion thereof by which estate's value exceeds $50,000	*Estate Administration Tax Act* s. 2(6.1)
Prince Edward Island	‣ $50, where estate's value does not exceed $10,000 ‣ $100, where estate's value exceeds $10,000 but not $25,000 ‣ $200, where estate's value exceeds $25,000 but not $50,000 ‣ $400, where estate's value exceeds $50,000 but not $100,000 ‣ $400 + $4 per $1,000 or portion thereof by which estate's value exceeds $100,000	*Probate Act* s. 119.1(4)
Québec	‣ No probate fee or tax[2]	Tariff of judicial fees in civil matters s. 15(8)
Saskatchewan	‣ $7 per $1,000 of the estate's value or portion thereof	*The Administration of Estates Act* s. 51(2)
Yukon	‣ Nil, where estate's value is $25,000 or less ‣ $140, where estate's value exceeds $25,000	Rules of Court for the Supreme Court of Yukon, Appendix C, Schedule 1 – under the *Judicature Act*

[1] Additional flat fees (e.g., filing fees) may apply.
[2] Québec charges a flat fee of $230, irrespective of whether a natural person or legal person files a request for a will verification with the Superior Court.

Land transfer taxes

CURRENT AS OF JUNE 15, 2024

D

Province or territory	Tax or duty[1]	Statute and other sources
Alberta	No land transfer tax; registration fees calculated as $50 plus $2 for each $5,000 or part thereof of the land's value.[2] Mortgage registration fees also applicable.	See the Tariff of Fees Regulation, Alta. Reg. 120/2000.
British Columbia	Total of: ‣ 1% of the first $200,000 of the taxable transaction's fair market value (FMV); ‣ 2% of the land's FMV over $200,000, but not over $2 million; ‣ 3% of the land's FMV over $2 million; and ‣ If property is residential, 5% of the land's FMV over $3 million (prorated for mixed-use property).[3] An additional 20% tax on transfers to foreign entities of residential property located in Metro Vancouver Regional District and certain other prescribed areas.	*Property Transfer Tax Act* ss. 2.02(4), 3(1), 3.01(4); Property Transfer Tax Regulation 74/88 ss. 17.01, 17.02. See *Land Title Act,* Schedule 2 for the application of registration fees.
Manitoba	Total of: ‣ 0% on the first $30,000 of FMV; ‣ 0.5% on the FMV over $30,000 to $90,000; ‣ 1.0% on the FMV over $90,000 to $150,000; ‣ 1.5% on the FMV over $150,000 to $200,000; and ‣ 2.0% on the FMV over $200,000.	*The Tax Administration and Miscellaneous Taxes Act* s. 112(1) (under Part III, Land Transfer Tax). See the Manitoba Land Titles Fees Regulation 71/2014 for the application of registration fees.
New Brunswick	1.0% of the greater of: ‣ Consideration for the transfer; or ‣ Real property's assessed value.	*Real Property Transfer Tax Act* s. 2(1.03). See New Brunswick Regulation 83-130, Schedule B for the application of registration fees.
Newfoundland and Labrador	No land transfer tax; registration fees calculated as follows: ‣ $100, if the land's FMV does not exceed $500; plus ‣ $0.40 for each additional $100 or part thereof by which the land's value exceeds $500. Mortgage registration fees also applicable.	See the Schedule of Fees Prescribed by the Minister of Government Services – Registry of Deeds at **https://www.gov.nl.ca/dgsnl/files/forms-files-fees-deed.pdf** and the *Registration of Deeds Act*, 2009 s. 39.
Northwest Territories	No land transfer tax; registration fees calculated as follows: ‣ If land's FMV does not exceed $1 million, $2 for each $1,000 of value or part thereof (with a minimum fee of $100); and ‣ If land's FMV exceeds $1 million, $2,000 plus $1.50 for each $1,000 of value or part thereof exceeding $1 million. Mortgage registration fees also applicable.	See the *Land Titles Act* s. 156(2) and the Land Titles Tariff of Fees Regulations, Schedule.
Nova Scotia	Determined by each municipality and applied to the sale price of every property that is transferred by deed. Maximum being 1.5% of the value of the property transferred. 5% provincial deed transfer tax on residential real property purchased by nonresidents of Nova Scotia.[4]	*Municipal Government Act* s. 102(1) (under Part V, Deed Transfers). A list of municipality rates is available at **http://www.novascotia.ca/snsmr/pdf/ans-property-dtt-rates.pdf**. *Non-resident Deed Transfer and Property Taxes Act* s. 4.
Nunavut	No land transfer tax; registration fees calculated as follows: ‣ If land's FMV does not exceed $1 million, $1.50 for each $1,000 of value or part thereof (with a minimum fee of $60); and ‣ If land's FMV exceeds $1 million, $1,500 plus $1 for each $1,000 of value or part thereof exceeding $1 million. Mortgage registration fees also applicable.	See *Land Titles Act* s. 156(1) and the Land Titles Tariff of Fees Regulations, Schedule.

Province or territory	Tax or duty[1]	Statute and other sources
Ontario[5]	Total of: • 0.5% of the value of the conveyance's consideration up to and including $55,000; • 1% of the value of the conveyance's consideration exceeding $55,000 up to and including $250,000; • 1.5% of the value of the conveyance's consideration exceeding $250,000 up to and including $400,000; • 2.0% of the value of the conveyance's consideration exceeding $400,000; and • 2.5% of the value of the conveyance's consideration exceeding $2 million (only where the conveyance of land contains at least one and not more than two single family residences). An additional 25% tax on transfers to foreign entities of residential property.[6]	*Land Transfer Tax Act* ss. 2(1), 2(2.1). Tax Payable Under Subsection 2(2.1) of the Act by Foreign Entities and Taxable Trustees, O. Reg. 182/17, s. 1.3. See *Land Titles Act* s. 163.1(1)19 for the application of registration fees.
Prince Edward Island	1% of the greater of: • Consideration for the transfer; or • Real property's assessed value. No land transfer tax is applied where the greater of the consideration or assessed value does not exceed $30,000.	*Real Property Transfer Tax Act* ss. 3(1), 4(2). See *Registry Act* s. 50.1 for the application of registration fees.
Québec[7]	Total of: • 0.5% of the basis of imposition up to and including $58,900; • 1% of the basis of imposition exceeding $58,900 up to and including $294,600; and • 1.5% of the value of the basis of imposition exceeding $294,600. The basis of imposition being the greatest of: • Consideration furnished for the transfer; • Consideration stipulated for the transfer; or • Immovable's market value at the time of the transfer.	*An Act Respecting Duties on Transfers of Immovables* ss. 2, 2.1. See *An Act Respecting Registry Offices*, Schedule I for the application of registration fees.
Saskatchewan	No land transfer tax; registration fees calculated as follows: • Nil, if title value is less than $500; • $25, if title value is greater than $500 but does not exceed $6,300; and • 0.4% of title value, if title value is greater than $6,300.	See the *Land Titles Act, 2000* s. 118, and the Information Services Corporation website for the application of registration fees at **https://www.isc.ca/LandTitles/Pages/LandTitlesFees.aspx**.
Yukon	No land transfer tax; registration fees calculated as follows: • $50, if land's value is less than $100,000; • $150, if land's value is $100,000 or greater but less than $500,000; • $350, if land's value is $500,000 or greater but less than $3 million; • $550, if land's value is $3 million or greater but less than $10 million; and • $750, if land's value is $10 million or greater. Mortgage registration fees also applicable.	See the Land Titles Tariff of Fees Regulation, YOIC 2016/110.

NOTES

1. Exemptions or refunds may be available in certain circumstances.
2. As part of its 2024-2025 budget, Alberta announced it will increase the land titles registration levy to $5.00 per $5,000 of value for property transfers and mortgage registrations. The $50 base fee will remain the same. Alberta has not yet introduced changes to the regulations to increase the levy.
3. Effective January 1, 2024, purchases of new qualifying purpose-built rental buildings are exempt from the additional 2% tax that applies to the FMV of the residential component of a taxable transaction that exceeds $3 million.
4. Effective April 1, 2022, Nova Scotia imposes a 5% provincial deed transfer tax on residential real property purchased by nonresidents of the province, subject to certain exemptions. For an agreement of purchase and sale signed between April 1, 2022 and June 30, 2023, the tax applied when a person tendered for registration a deed in respect of residential property that granted an ownership interest of greater than 50% to one or more nonresidents. The tax is levied on the property's sale price or assessed value, whichever is greater. As of July 1, 2023, the tax applies to deeds being registered where any ownership interest is granted to nonresidents of the province. The 5% tax is calculated in accordance with the total ownership interest transferred to nonresidents.
5. The city of Toronto levies a municipal land transfer tax (MLTT) that applies in addition to the provincial land transfer tax. For transfers occurring on or after March 1, 2017, MLTT rates for both residential and commercial properties are identical to the provincial rates. However, Toronto has approved additional brackets for high-value residential properties where the conveyance of land contains at least one and not more than two single-family residences. For transfers registered on or after January 1, 2024, the additional brackets are:
   - 3.5% on any consideration in excess of $3 million but not exceeding $4 million; plus
   - 4.5% on any consideration in excess of $4 million but not exceeding $5 million; plus
   - 5.5% on any consideration in excess of $5 million but not exceeding $10 million; plus
   - 6.5% on any consideration in excess of $10 million but not exceeding $20 million; plus
   - 7.5% on any consideration in excess of $20 million.
6. The Ontario non-resident speculation tax (NRST) applies where a foreign entity (i.e., a foreign national – an individual who is not a Canadian citizen or permanent resident of Canada – or foreign corporation, or taxable trustee), on or after April 21, 2017, purchases or acquires residential property. The NRST applies to transfers of land that contain at least one and not more than six family residences. It does not apply to multi-residential apartment buildings with more than six units, or to agricultural, commercial or industrial lands. Prior to March 30, 2022, the NRST applied only to residential property located in the Greater Golden Horseshoe region of southern Ontario and the rate was 15%. Effective that date, Ontario increased the tax rate to 20% and extended the NRST to apply to purchases or acquisitions of residential property anywhere in the province. Ontario has further increased the tax rate to 25%, applicable to binding agreements of purchase and sale entered into on or after October 25, 2022.
7. Québec has amended *An Act respecting duties on transfers of immovables* to index land transfer tax brackets, applicable to 2018 and subsequent fiscal years. In addition, municipalities may set a rate higher than 1.5% for the portion of the basis of imposition exceeding $500,000, subject to a maximum rate of 3.0% (except for the city of Montréal).

   Montréal has adopted by-laws setting rates for the transfer of a property situated entirely within the territory of the city. As well, for 2018 and subsequent years, Montréal tax brackets are modified annually according to parameters established by the Ministry of Municipal Affairs, Regions and Land Occupancy. Effective February 1, 2022, an additional tax bracket for any tax base greater than $3 million is created and subject to a rate of 4.0%. As of January 1, 2024, Montréal levies tax at the rate of:
   - 0.5% on a basis of imposition that does not exceed $58,900; plus
   - 1.0% on a basis of imposition that exceeds $58,900 but does not exceed $294,600; plus
   - 1.5% on a basis of imposition that exceeds $294,600 but does not exceed $552,300; plus
   - 2.0% on a basis of imposition that exceeds $552,300 but does not exceed $1,104,700; plus
   - 2.5% on a basis of imposition that exceeds $1,104,700 but does not exceed $2,136,500; plus
   - 3.5% on any basis of imposition that exceeds $2,136,500 but does not exceed $3,113,000; plus
   - 4.0% on a basis of imposition that exceeds $3,113,000.

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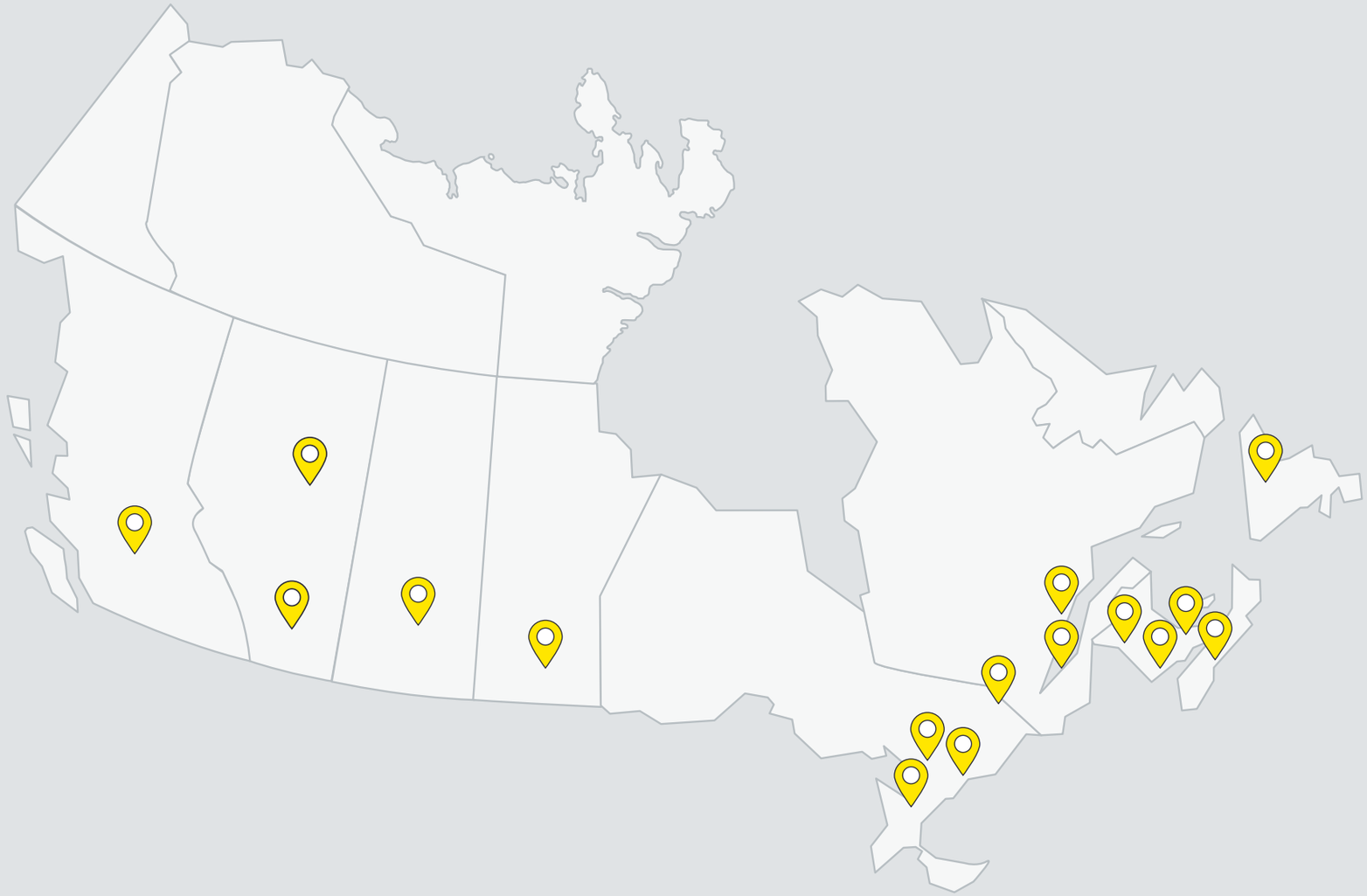

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