HIGHLIGHTS FROM 2013 FEDERAL BUDGET

On March 21, 2013, the Federal Minister of Finance, Jim Flaherty tabled the 2013 Federal Budget. The budget focussed on jobs and the economy, but included many targeted tax measures aimed at addressing “tax loopholes”.

We reviewed many expert analyses of the 2013 budget and summarised those aspects which we believed would be of most importance to our clients. The budgetary measures are classified as follows:

- Personal Tax Measures
- Business Tax Measures
- HST/GST Measures
- Customs Tariff Measures
- International Tax Measures

Personal Tax Measures

Adoption Expense Tax Credit

Currently, the adoption period begins when a child is matched with an adoptive family, and the eligible adoption expenses allowed are those incurred between the time that the parents are matched with the child, and the time that the adoption is completed.

The Budget proposes to allow expenses prior to the time that the child is matched with the parents. For adoptions finalized after 2012, expenses incurred on or after an adoptive parent registers with a provincial ministry or and adoption agency, or an application is made to a Canadian court, will be recognized as eligible adoption expenses

The maximum eligible adoption expenses that may be claimed for 2013 is $11,669 per child. This amount is indexed annually.

Lifetime Capital Gains Exemption

Taxpayers are currently allowed a lifetime capital gains exemption of up to $750,000 on the sale of qualified small business shares or qualified farm or fishing properties. Starting in the 2014 taxation year, the exemption will be increased by $50,000 to $800,000. It will be indexed to inflation after 2014. This new limit will apply even to those individuals who have previously fully used the lifetime capital gains exemption.

First time Donor's Super Credit

The Charitable Donations Tax Credit allows an individual to claim a credit of 15% on the first $200 of donations and a credit of 29% for donations exceeding the first $200. The taxpayer may claim both his or her own donations as well as those of his or her spouse or common-law partner.

The Budget proposes to supplement the existing credit with a new temporary ''supercredit'' of an additional 25%. For a ''first time donor'' the credit will become 40% on the first $200 of donations and 54% of the amount donated in excess of $200, up to a maximum donation amount of $1,000. This super credit will only apply to cash donations.

An individual will be considered as a ''first time donor'' if neither the individual nor the individual's spouse or common-law partner has claimed any donation credits in any taxation year after 2007.

The super credit may be split between such couples, however the total credit being claimed may not be more than what would be allowed if only one person were to claim the credit. The super credit applies to donations made on or after March 21, 2013 and may be claimed only once in the 2013 year or any taxation year before 2018.

Deduction for safety deposit boxes

With electronic records becoming more prevalent, the importance of storing paper records has declined, and as a result, most safety deposit boxes are not used for income producing purposes, but rather, to store personal effects and other valuables. Starting with taxation years beginning on or after March 21, 2013, the cost of renting a safety deposit box will no longer be allowed as a deduction for tax purposes.

Dividend tax credit

As a result of changes in the corporate tax rates, individuals have lower overall income tax payable when that income is earned through a corporation rather than earned directly. The budget proposes to effect changes on ineligible or "regular" dividends that will result in the top federal tax rate on "regular" dividend income increasing from 19.6% to 21.2%

Extended Reassessment periods for Tax Shelters and Form T1135

Generally, the CRA may reassess a taxpayer in respect of a taxation year within the ''normal reassessment period'', which in the case of an individual is three years from the date of assessment. Unless there is a waiver or misrepresentation in the return attributable to neglect, carelessness or willful default, the CRA may not reassess a taxpayer beyond the normal reassessment period.

If a taxpayer invested in a tax shelter and the promoter of the tax shelter failed to file or late-filed a prescribed information return with the CRA, the CRA does not have the authority to extend the normal reassessment period for an individual taxpayer who participated in that tax shelter. In such circumstances, the CRA may not have had sufficient time to carry out a review after the information was filed.

As a result, the Budget proposes to extend the normal reassessment period for participants in tax shelter to three years from the date the relevant information return is filed. This measure will apply to taxation years ending on or after March 21, 2013.

Additionally, the Budget extends the normal reassessment period by three years, where a taxpayer failed to report income from certain foreign property, or has not filed a Foreign Income Tax verification report (Form T1135) on time, or a specified foreign property was omitted or improperly identified on the Form T1135.

Taxes in dispute and Charitable Donation Tax Shelters

Where a taxpayer has objected to an assessment, CRA generally is prohibited from taking action to collect on the amounts owing.

To discourage participation in questionable charitable donation tax shelters, the Budget has introduced new legislation that will allow the CRA to collect 50% of the tax, interest and penalties assessed in respect of charitable donations in tax shelters, whether or not an objection has been filed.

This new measure will be effective for amounts assessed for the 2013 taxation year and beyond.

Business Tax Measures

Temporary Hiring Credit for Small Businesses

The temporary hiring credit has been extended for one year. This measure allows a small business owner/employer to apply a credit of up to $1,000 against its increase in EI premiums paid in 2013 over those paid in 2012.

This temporary credit applies to employers whose total EI premiums were at or below $15,000 in 2012.

Restricted Farm Losses

Unless a taxpayer's chief source of income is from farming or a combination of farming and some other form of income, the Restricted farm loss (RFL) provisions will apply when the taxpayer incurs a loss from farming activities. Currently the losses that may be applied are limited to $8,750. Farm losses can be carried forward for 20 years to offset farming income.

A recent court case decided that a taxpayer does not have to claim a restricted farm loss in certain situations where the taxpayer places significant emphasis on both farming and non farming sources of income, even if the other income source is greater than the farming income source. Thus the whole of the farming loss could be applied to other income sources.

To deal with this issue, the budget proposes an amendment to clarify that a taxpayer's other source of income must be subordinate to farming income in order for farming losses to be fully deductible. As well, the maximum amount of losses that may be deducted each year is being increased to $17,500.

These measures apply to tax years that end after March 20, 2013.

GST/HST Measures

Health Care Services

Publicly subsidized or funded personal care services, such as bathing, feeding, assistance with dressing and taking medication, which are rendered to an individual who due to age, infirmity or disability requires assistance in their home will be exempt form GST/HST. This applies to supplies made after March 21, 2013.

The budget also seeks to clarify that HST/GST applies to reports, examinations and other services that are not performed for the purpose of palliative care or protecting, maintaining or restoring the health of a person.

Electronic suppression of sales software sanctions

The budget states that electronic suppression of sales software has been used by some businesses to hide their sales to evade payment of GST/HST and income taxes. The budget proposes new administrative monetary penalties and criminal offenses under the Excise Tax Act and the Income Tax Act to combat this type of tax evasion. These measures will apply on the later of January 1, 2014 and Royal Assent to the enacting legislation.

Customs Tariff Measures

Tariff relief measures

The budget proposes to permanently eliminate all tariffs on baby clothes and sports and athletic equipment (excluding bicycles). These tariffs reductions will be effective for goods imported into Canada on or after April 1, 2013.

Canada's general preferential tariff regime for developing countries

The government will withdraw eligibility for the General Preferential Tariff (GTP) regime from 72 higher-income and export-competitive countries, including all G-20 countries. These changes are effective for goods imported into Canada on or after January 1, 2015 and will be extended for 10 years until December 31, 2024.

International Tax Measures

International Electronic Funds Transfer

Beginning in 2015, all banks, credit unions, caisses populaires, trust and loan companies, money service businesses and casinos are required to report all international electronic funds transfers of $10,000 or more. These institutions will be required to report to the CRA within five working days of the transfer and include the amount of the transfer, the transferor, the transferee, the facility acting as intermediary and the details of the transaction itself.

International Tax Evasion and Aggressive Tax Avoidance

The CRA is introducing an incentive to individuals who provide them with information on major international tax non-compliance that results in the collection of taxes due. This will not apply to individuals who have been convicted of tax evasion in the case that they are reporting, or do not meet other criteria of the program. All incentives paid under this program must be reported as income for tax purposes. Individuals will be required to enter into a contract with the CRA to provide them with information and this information must result in a minimum federal tax recovery of $100,000 of additional assessments or reassessments. Incentives will be paid at the rate of 15% of the federal tax collected. Only transactions conducted outside Canada or partially outside Canada and involving foreign property are eligible for the program.

Further details regarding this program will be forthcoming in the near future.

Foreign Reporting Requirements: Changes to Form T1135

Form T1135 will be modified to require more detailed information to be reported. The form will also be able to be filed electronically, and a reminder will be included on the taxpayer's Notice of Assessment to file Form T1135 if they own specified foreign property with a cost of $100,000 or more.

Additionally, the normal assessment period for a taxpayer's taxation year will be extended by three years if the taxpayer fails to report foreign property income on Form T1135, or if the form is filed late, or if the property was not correctly identified on the form.