2024 Fall Economic statement

On December 16, 2024, the Federal government released its 2024 Fall Economic statement which included the introduction of new Personal Income Tax measures, Business Income Tax measures as well as comments on Previously announced measures.

Below you will find some of the highlights of the statement.

Capital Gains Rollover on Eligible Small Business Corporation shares

Under the Income Tax Act, individuals are allowed to defer taxation on capital gains realized on the qualifying disposition of Eligible Small Business Corporation (ESBC) shares to the extent that proceeds from the disposition are used to acquire replacement ESBC shares within the year of disposition, or up to 120 days following that year. To qualify as an ESBC share, a share must be a common share issued by an ESBC to the individual and the total carrying value of the assets of the ESBC and related corporations must not exceed $50 million immediately before and immediately after the share was issued.

The 2024 Fall Economic Statement proposes to increase the period to acquire replacement shares and to expand what qualifies as an ESBC share. First, the period to acquire replacement shares would be expanded to encompass the year of disposition and the entire calendar year after the year of disposition. Second, an ESBC share would include both common and preferred shares. Finally, the limit to the carrying value of the assets of the ESBC and related corporations would be increased to $100 million.

These changes would be effective for qualifying dispositions that occur on or after January 1, 2025.

Scientific Research and Experimental Development Tax Incentive Program

Under the Scientific Research and Experimental Development (SR&ED) tax incentive program, qualifying expenditures are fully deductible in the year they are incurred. In addition, these expenditures are generally eligible for an investment tax credit. The rate and level of refundability of the credit vary depending on the characteristics of the taxpayer, including its legal status and its size. In general terms:

For most corporations other than Canadian-controlled private corporations (CCPCs), a 15 per cent non-refundable tax credit is available on qualified SR&ED expenditures. Unincorporated businesses, individuals, and certain trusts have access to a 15 per cent partially refundable tax credit on qualified SR&ED expenditures.

For CCPCs, a fully refundable enhanced tax credit at a rate of 35 per cent is available on up to $3 million of qualifying SR&ED expenditures annually. The $3 million expenditure limit for a taxation year is gradually phased out based on prior-year taxable capital, which applies on the basis of an associated group. The expenditure limit is gradually reduced where taxable capital employed in Canada for the previous taxation year is between $10 million and $50 million.

Qualifying expenditures in excess of a CCPC's expenditure limit are eligible for the 15 per cent tax credit. Depending on whether a CCPC's income in the previous taxation year exceeds its qualifying income limit, these credits can be partially refundable.

Expenditure Limit and Taxable Capital Phase-out Thresholds

The 2024 Fall Economic Statement proposes to increase the expenditure limit on which the enhanced 35 per cent rate can be earned from $3 million to $4.5 million. As a result, qualifying CCPCs would be able to claim up to $1.575 million per year of the enhanced, fully refundable tax credit.

The taxable capital phase-out thresholds for determining the expenditure limit would also be increased from $10 million and $50 million to $15 million and $75 million, respectively.

Election for CCPCs

Instead of determining eligibility based on taxable capital, CCPCs would have the option to elect to have their expenditure limit for the enhanced SR&ED credit determined based on the same gross revenue phase-out structure proposed for Canadian public corporations: the expenditure limit would be reduced on a straight-line basis when the corporation's average gross revenue over the three preceding years is between $15 million and $75 million.

- For a corporation that is a member of a corporate group that prepares consolidated financial statements, gross revenue would be as reported in the annual financial statements of the group presented to shareholders at the highest level of consolidation. Members of a corporate group for financial reporting purposes would be required to share access to the enhanced SR&ED credit's expenditure limit.

- For a corporation that is not a member of such a corporate group, gross revenue would be as reported in the corporation's annual financial statements prepared in accordance with generally accepted accounting principles and presented to shareholders.

Coming into Force

The proposed new rules to determine eligibility for the enhanced SR&ED credit would apply for taxation years that begin on or after the date of the 2024 Fall Economic Statement.

Additional Tax Support for Productivity-Enhancing Assets

The SR&ED program delivers support to businesses through both an immediate deduction against income and a tax credit. Currently, eligible expenditures under the SR&ED program generally include salary and wages, as well as the cost of materials, contract payments, third-party payments and overhead expenditures. Capital expenditures were removed from eligibility under the SR&ED program for property acquired after 2013.

The 2024 Fall Economic Statement proposes to restore the eligibility of capital expenditures for both the deduction against income and investment tax credit components of the SR&ED program. The rules would be generally the same as those that existed prior to 2014. This change would apply to property acquired on or after the date of the 2024 Fall Economic Statement and, in the case of lease costs, to amounts that first become payable on or after the date of the 2024 Fall Economic Statement.

Deduction Against Income

Eligible capital expenditures for the purposes of immediate expensing under the SR&ED program would be expenditures incurred to acquire new or used depreciable property that the claimant intends to either:

- use all or substantially all of the operating time in its expected useful life in the performance of SR&ED in Canada, or,
- consume all or substantially all of its value in the performance of SR&ED in Canada.

Eligible property would be eligible for expensing once it becomes available for use.

If these criteria are met, the expenditure could be fully deducted for the purpose of determining taxable income in the year the eligible property becomes available for use or carried forward to the extent it is not deducted in the tax year (i.e., as part of a pool of deductible SR&ED expenditures).

Qualifying SR&ED Expenditures for Tax Credit Purposes

Qualifying capital expenditures would also generally be eligible for the SR&ED tax credit, with some differences from those eligible for immediate expensing, including:

The acquisition of property that had been used or acquired for use or lease before it was acquired by the claimant would not be eligible for a tax credit.

A SR&ED-related capital expenditure ineligible for a full deduction against income because it does not meet one of the all-or-substantially-all tests noted above could still be considered "shared-use equipment", meaning that part of the cost of the property would be eligible for the tax credit.

Other Rules

For qualifying CCPCs with access to the SR&ED program's enhanced 35-per-cent tax credit, credits earned on capital expenditures would be eligible for partial refundability at a rate of up to 40 per cent, unlike credits earned on current expenditures which are fully refundable up to a CCPC's expenditure limit.

If a taxpayer sells, or converts the use of, SR&ED capital property, recapture rules would apply in respect of the capital cost allowance for claimed and unclaimed SR&ED capital expenditures, as well as the investment tax credit.

Extension of the Accelerated Investment Incentive and Immediate Expensing Measures

The Accelerated Investment Incentive, which provides an enhanced first-year capital cost allowance (CCA) for most depreciable capital property, began phasing out in 2024 and is set to be fully eliminated after 2027. Immediate expensing measures for manufacturing or processing machinery and equipment, clean energy generation and energy conservation equipment, and zero-emission vehicles are also currently phasing out on the same timeline.

The 2024 Fall Economic Statement proposes to fully re-instate the Accelerated Investment Incentive and immediate expensing measures for a five-year period, with a four-year phase-out after 2029.

The 2024 Fall Economic Statement proposes to fully re-instate the Accelerated Investment Incentive for qualifying property acquired on or after January 1, 2025, and that becomes available for use before 2030. It would be phased out starting in 2030 and fully eliminated for property that becomes available for use after 2033.

Eligible property not normally subject to the half-year rule would qualify for an enhanced CCA equal to one-and-a-half times the normal first year allowance if it is acquired on or after January 1, 2025, and becomes available for use before 2030. For eligible property not normally subject to the half-year rule that is acquired on or after January 1, 2025, and becomes available for use during the 2030-2033 phase-out period, the enhanced allowance would be equal to one-and-a-quarter times the normal first-year allowance.

The Accelerated Investment Incentive also applies to eligible Canadian development expenses and Canadian oil and gas property expenses. These expenses would qualify for the same enhanced allowances described above as eligible property not subject to the half-year rule.

Immediate Expensing Measures

Manufacturing or processing machinery and equipment under CCA Class 53 of Schedule II to the Income Tax Regulations, clean energy generation and energy conservation equipment under Class 43.1 (and Class 43.2 for property acquired before 2025), and zero-emission vehicles under Classes 54, 55, and 56 qualified for an enhanced first-year allowance that provided a 100-per-cent deduction for property that became available for use before 2024. These immediate expensing measures are currently phasing out for property that becomes available for use after 2023 and before 2028.

The 2024 Fall Economic Statement proposes to fully re-instate these immediate expensing measures for qualifying property acquired on or after January 1, 2025, and that becomes available for use before 2030. These immediate expensing measures would be phased out starting in 2030 and fully eliminated for property that becomes available for use after 2033. The half-year rule would continue to effectively be suspended for property eligible for these measures.

Previously Announced Measures

The 2024 Fall Economic Statement confirms the government's intention to proceed with the following previously announced tax and related measures, as modified to take into account consultations and deliberations since their release:

- Legislative proposals included in the notice of ways and means motion tabled on October 29, 2024, related to charities and reproductive services.
- Legislative proposals included in the notice of ways and means motion tabled on September 23, 2024, related to capital gains and the lifetime capital gains exemption.
- Legislative and regulatory proposals released on August 12, 2024, including with respect to the following measures:
  - Canadian Entrepreneurs' Incentive;
  - Alternative Minimum Tax;
  - Disability Supports Deduction;
  - Employee Ownership Trust Tax Exemption;
  - Worker Cooperatives;
  - Charities and Qualified Donees;
  - Registered Education Savings Plans;
  - Non-Compliance with Information Requests;
  - Avoidance of Tax Debts;
  - Mutual Fund Corporations;
  - Synthetic Equity Arrangements;
  - Manipulation of Bankrupt Status;
  - Accelerated Capital Cost Allowance for Productivity-Enhancing Assets;
  - Accelerated Capital Cost Allowance for Purpose-Built Rental Housing;

  - Interest Deductibility Limits;
  - Withholding for Non-Resident Service Providers;
  - Substantive CCPCs;
  - Regulations related to the application of the enhanced (100-per-cent) GST Rental Rebate to qualifying co-operative housing corporations;
  - Technical amendments relating to the GST/HST, excise levies and other taxes and charges announced in the August 12, 2024, release;
  - Clean Electricity Investment Tax Credit;
  - Proposed expansion of eligibility for the Clean Technology investment tax credit to support generation of electricity and heat from waste biomass;
  - Proposed expansion of eligibility for the Clean Technology Manufacturing investment tax credit to support Polymetallic Extraction and Processing;
  - Other changes related to the Clean Economy Investment Tax Credits;
  - The Global Minimum Tax Act and the Income Tax Conventions Act; and,
  - Technical tax amendments to the Income Tax Act and the Income Tax Regulations.
  - Legislative proposals released on July 12, 2024, related to implementing an opt-in Fuel, Alcohol, Cannabis, Tobacco and Vaping (FACT) value-added sales tax framework for interested Indigenous governments.
  - The Crypto-Asset Reporting Framework and the Common Reporting Standard announced in Budget 2024.
  - The proposed exemption from the Alternative Minimum Tax for certain trusts for the benefit of Indigenous groups announced in Budget 2024.
- Legislative and regulatory proposals announced in Budget 2024 with respect to a new importation limit for packaged raw leaf tobacco for personal use.
- Legislative and regulatory proposals announced in the 2023 Fall Economic Statement with respect to the GST/HST joint venture election rules.
- Regulatory proposals released on November 3, 2023, to temporarily pause the federal fuel charge on deliveries of heating oil.
- Legislative proposals released on August 4, 2023, including with respect to the following measures:
  - Technical amendments to GST/HST rules for financial institutions;
  - Tax-exempt sales of motive fuels for export;
  - Revised Luxury Tax draft regulations to provide greater clarity on the tax treatment of luxury items; and,
  - Technical tax amendments to the Income Tax Act and the Income Tax Regulations.
- Legislative amendments to implement changes discussed in the transfer pricing consultation paper released on June 6, 2023.
- Legislative proposals released on August 9, 2022, including with respect to the following measures:
  - Technical amendments to the Income Tax Act and Income Tax Regulations; and,
  - Remaining legislative and regulatory proposals relating to the GST/HST, excise levies and other taxes and charges announced in the August 9, 2022, release.

- Legislative amendments to implement the Hybrid Mismatch Arrangements rules announced in Budget 2021.
- The income tax measure announced on December 20, 2019, to extend the maturation period of amateur athlete trusts maturing in 2019 by one year, from eight years to nine years.
- Legislative amendments to give effect to the suspension of the Agreement Between the Government of Canada and the Government of the Russian Federation for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital under domestic law as of November 18, 2024.

The 2024 Fall Economic Statement also reaffirms the government's commitment to move forward as required with other technical amendments to improve the certainty and integrity of the tax system.