TaxTalk

2021 FEDERAL BUDGET HIGHLIGHTS

On April 19, 2021, the Deputy Prime Minister and Finance Minister, the Honourable Chrystia Freeland, presented Budget 2021: A Recovery Plan for Jobs, Growth, and Resilience, to the House of Commons.

Although no changes were announced to the personal or corporate income tax rates, there were numerous other tax and funding related measures included in the Federal Budget. We have summarized and outlined the measures what we believe are the most relevant for our clients and will expand on these measures further in later TaxTalks as more details from this budget are known.

Some highlights include:

A. Personal Measures

- Individuals will have the option to claim a deduction in respect of the repayment of a COVID-19 benefit amount for the year when the benefit was received.
- The Canada Recovery Benefit and related programs will be extended.
- Access to the disability tax credit will be broadened.
- Enhancements to Old Age Security.

B. Business Measures

- The Canada Emergency Wage and Rent Subsidies (CEWS and CERS) will be extended.
- The Canada Recovery Hiring Program (CRHP) was introduced.
- The ability to immediately expense 100% of many capital asset purchases was introduced.
- The corporate tax rate on zero-emission technology manufacturing will be halved.
- The disclosure requirements for aggressive tax planning and filing positions will be expanded.

C. Sales and Excise Tax

- Access to the GST/HST New Housing Rebate will be broadened for co-owners.
- A new tax of up to 10% will apply to the purchase of luxury vehicles, aircrafts, or boats.

D. Other Measures

- A 1% tax on the value of vacant or underused real estate owned by non-residents will be implemented.
- Apprenticeships for skilled tradespeople.

A. Personal Measures

COVID-19 Benefit Amounts – Tax Treatment

Budget 2021 proposes to allow individuals the option to claim a deduction in respect of the repayment of a COVID-19 benefit amount for the year when the benefit was received, rather than the year in which the repayment was made. This option will be available for benefit amounts repaid at any time before 2023.

For these purposes, COVID-19 benefits will include:

- Canada Emergency Response Benefits (CERB) / Employment Insurance Emergency Response Benefits;
- Canada Emergency Student Benefits (CESB);
- Canada Recovery Benefits (CRB);
- Canada Recovery Sickness Benefits (CRSB); and
- Canada Recovery Caregiving Benefits (CRCB).

Individuals may only deduct benefit amounts once they have been repaid. An individual who makes a repayment, but who has already filed their income tax return for the year in which the benefit was received, will be able to request an adjustment to the return for that year.

For any taxpayer's who have already repaid their benefit amounts in 2021 and want to claim a deduction on their 2020 tax return, they will need to wait until this measure receives Royal Accent before they can file an adjustment request.

Canada Recovery Benefits (CRB)
Budget 2021 proposes the following in respect of CRB:

- The maximum CRB will be extended by 12 weeks to a maximum of 50 weeks. The first four additional weeks will be paid at $500 per week, with subsequent weeks paid at $300 per week. All new CRB claims after July 17, 2021 will receive the $300 per week benefit, which will be available until September 25, 2021.
- The maximum Canada Recovery Caregiving Benefit will be extended by four weeks, to a maximum of 42 weeks, paid at $500 per week.
- Legislative amendments will be made providing the authority for additional potential extensions of CRB, EI and related programs until November 20, 2021.

Employment Insurance (EI) – Extension of the temporary EI measures commenced in 2020, including:

- Maintaining a 420-hour entrance requirement for regular and special benefits, with a 14-week minimum entitlement for regular benefits, and a new common earnings threshold for fishing benefits.
- Simplifying rules around the treatment of severance, vacation pay, and other monies paid on separation.
- Sickness benefits will increase from 15 to 26 weeks, as of summer 2022.

Disability Tax Credit (DTC) – Proposal to update the list of mental functions of everyday life that are used for assessment for the DTC. This will allow for easier assessments, improved access to benefits and reduce delays.

Child Care – Providing new investments totaling up to $30 billion over the next five years, and $8.3 billion ongoing for Early Learning and Child Care and Indigenous Early Learning and Child Care, with the goal of providing regulated child care for $10/day on average, within the next five years.

Student Loans – Extending the waiver of interest accrual on Canada Student Loans and Canada Apprentice Loans until March 31, 2023 and extending the doubling of the Canada Student Grants until the end of July 2023.

Home Renovation Loans – Providing interest-free loans of up to $40,000 to homeowners and landlords who undertake retrofits identified through an authorized EnerGuide energy assessment. This program will also include funding dedicated to support low-income homeowners and renters, including cooperatives and not-for-profit owned housing. The program will be available by summer 2021.

Old Age Security (OAS) Enhancements – Providing pensioners who will be age 75 and older as of June, 2022 with a one-time additional payment of $500 in August 2021. Budget 2021 then proposes to increase regular OAS payments for pensioners 75 and over by 10% on an ongoing basis as of July 2022.

B. Business Measures

Canada Emergency Wage Subsidy (CEWS)

Extension and Phase-out for Active Employees
Budget 2021 proposes that CEWS will be extended to September 25, 2021, but will start phasing out after July 3, 2021. Only employers with more than a 10% decline in revenues will be eligible for the wage subsidy as of that date.

The rates and limits are as follows:

CEWS Base and Top-up Rates, Periods 17 to 20

	Period 17 Jun. 6 – Jul. 3	**Period 18 Jul. 4 – Jul. 31**	**Period 19 Aug. 1 – Aug. 28**	**Period 20 Aug. 29 – Sep. 25**
Maximum weekly benefit per employee*	$847	$677	$452	$226
Revenue decline:				
70% and over	75%	60%	40%	20%
50-69%	40% + 1.75 x (revenue decline - 50%)	35% + 1.25 x (revenue decline - 50%)	25% + 0.75 x (revenue decline - 50%)	10% + 0.5 x (revenue decline - 50%)
>10-50%	0.8 x revenue decline	0.875 x (revenue decline - 10%)	0.625 x (revenue decline - 10%)	0.25 x (revenue decline - 10%)
0-10%	0.8 x revenue decline	0%		
* The maximum weekly benefit per employee is reached when eligible remuneration paid to the employee for the qualifying period is at least $1,129 per week.				

Reference Periods
The reference periods for determining the revenue decline are as follows:

CEWS Reference Periods, Periods 17 to 20

	Period 17 Jun. 6 – Jul. 3	**Period 18 Jul. 4 – Jul. 31**	**Period 19 Aug. 1 – Aug. 28**	**Period 20 Aug. 29 – Sep. 25**
General approach	Jun. 2021 over Jun. 2019 **or** May 2021 over May 2019	Jul. 2021 over Jul. 2019 **or** Jun. 2021 over Jun. 2019	Aug. 2021 over Aug. 2019 **or** Jul. 2021 over Jul. 2019	Sep. 2021 over Sep. 2019 **or** Aug. 2021 over Aug. 2019
Alternative approach	Jun. 2021 **or** May 2021 over average of Jan. and Feb. 2020	Jul. 2021 **or** Jun. 2021 over average of Jan. and Feb. 2020	Aug. 2021 **or** Jul. 2021 over average of Jan. and Feb. 2020	Sep. 2021 **or** Aug. 2021 over average of Jan. and Feb. 2020

The approach chosen in the prior periods must be maintained.

Baseline Remuneration
An employer's entitlement to CEWS in respect of an employee may be affected by their baseline remuneration, also known as pre-crisis remuneration. Absent an election, baseline remuneration is calculated using the period beginning January 1, 2020 and ending March 15, 2020. Budget 2021 proposes to allow an eligible employer to elect to use the following alternative baseline remuneration periods:

- March 1 to June 30, 2019 or July 1 to December 31, 2019, for the qualifying period between June 6, 2021 and July 3, 2021; and
- July 1 to December 31, 2019, for qualifying periods beginning after July 3, 2021.

Canada Emergency Rent Subsidy (CERS)

Extension and Phase-out
Budget 2021 proposes that CERS will be extended to September 25, 2021, but will start phasing out after July 3, 2021. Paralleling CEWS, only employers with more than a 10% decline in revenues will be eligible for CERS as of that date.

The rates and limits are as follows:

CERS Rate Structure, Periods 10 to 13

	Period 10 Jun. 6 – Jul. 3	**Period 11 Jul. 4 – Jul. 31**	**Period 12 Aug. 1 – Aug. 28**	**Period 13 Aug. 29 – Sep. 25**
Revenue decline:				
70% and over	65%	60%	40%	20%
50-69%	40% + 1.25 x (revenue decline - 50%)	35% + 1.25 x (revenue decline - 50%)	25% + 0.75 x (revenue decline - 50%)	10% + 0.5 x (revenue decline - 50%)
>10-50%	revenue decline x 0.8	0.875 x (revenue decline - 10%)	0.625 x (revenue decline - 10%)	0.25 x (revenue decline - 10%)
0-10%	revenue decline x 0.8	0%		

Lockdown Support
Budget 2021 proposes to extend lockdown support to September 25, 2021 at a 25% rate (unchanged).

Canada Recovery Hiring Program (CRHP)
Budget 2021 proposes the new CRHP to provide eligible employers with a subsidy of up to 50% of the incremental remuneration paid to eligible employees between June 6, 2021 and November 20, 2021. The higher of CEWS or CRHP can be claimed for a particular qualifying period, but not both.

Eligible Employers
Employers eligible for CEWS will generally be eligible for CRHP. However, a for-profit corporation will be eligible for the hiring subsidy only if it is a Canadian-controlled private corporation (CCPC). Eligible employers (or their payroll service provider) must have had a CRA payroll account open March 15, 2020.

Eligible Employees
An eligible employee must be employed primarily in Canada by an eligible employer throughout a qualifying period (or the portion of the qualifying period throughout which the individual was employed by the eligible employer). CRHP will not be available for furloughed employees. A furloughed employee is an employee who is on leave with pay, meaning they are remunerated by the eligible employer but do not perform any work for the employer. However, an individual will not be considered to be on leave with pay for the purposes of the hiring subsidy if they are on a period of paid absence, such as vacation leave, sick leave or a sabbatical.

Eligible Remuneration and Incremental Remuneration
The same types of remuneration eligible for CEWS will also be eligible for CRHP (e.g., salary, wages and other remuneration for which employers are required to withhold or deduct amounts). The amount of remuneration for employees will be based solely on remuneration paid in respect of the qualifying period.

Incremental remuneration for a qualifying period means the difference between:

- an employer's total eligible remuneration paid to eligible employees for the qualifying period, and
- its total eligible remuneration paid to eligible employees for the base period.

Eligible remuneration for each eligible employee will be subject to a maximum of $1,129 per week, for both the qualifying period and the base period. Similar to CEWS, the eligible remuneration for a non-arm's length employee for a week cannot exceed their baseline remuneration determined for that week. The base period for all application periods is March 14 to April 10, 2021.

CRHP Rates, Periods 17* to 22

	Period 17 Jun. 6 – Jul. 3	Period 18 Jul. 4 – Jul. 31	Period 19 Aug. 1 – Aug. 28	Period 20 Aug. 29 – Sep. 25	Period 21 Sep. 26 – Oct. 23	Period 22 Oct. 24 – Nov. 20
Hiring subsidy rate	50%	50%	50%	40%	30%	20%
*Period 17 of the CEWS will be the first period of the Canada Recovery Hiring Program.						

Required Revenue Decline
To qualify, the eligible employer will have to have experienced a decline in revenues. For the qualifying periods between June 6, 2021 and July 3, 2021, the decline will have to be greater than 0%. For later periods, the decline must be greater than 10%.

CRHP Reference Periods, Periods 17 to 22

	Period 17 Jun. 6 – Jul. 3	Period 18 Jul. 4 – Jul. 31	Period 19 Aug. 1 – Aug. 28	Period 20 Aug. 29 – Sep. 25	Period 21 Sep. 26 – Oct. 23	Period 22 Oct. 24 – Nov. 20
General approach	Jun. 2021 over Jun. 2019 **or** May 2021 over May 2019	Jul. 2021 over Jul. 2019 **or** Jun. 2021 over Jun. 2019	Aug. 2021 over Aug. 2019 **or** Jul. 2021 over Jul. 2019	Sep. 2021 over Sep. 2019 **or** Aug. 2021 over Aug. 2019	Oct. 2021 over Oct. 2019 **or** Sep. 2021 over Sep. 2019	Nov. 2021 over Nov. 2019 **or** Oct. 2021 over Oct. 2019
Alternative approach	Jun. 2021 **or** May 2021 over average of Jan. and Feb. 2020	Jul. 2021 **or** Jun. 2021 over average of Jan. and Feb. 2020	Aug. 2021 **or** Jul. 2021 over average of Jan. and Feb. 2020	Sep. 2021 **or** Aug. 2021 over average of Jan. and Feb. 2020	Oct. 2021 **or** Sep. 2021 over average of Jan. and Feb. 2020	Nov. 2021 **or** Oct. 2021 over average of Jan. and Feb. 2020
*Period 17 of the CEWS will be the first period of the CRHP.						

Similar to CEWS and CERS, an application for a qualifying period will be required to be made no later than 180 days after the end of the qualifying period.

Immediate Expensing
Budget 2021 proposes to permit the full cost of "eligible property" acquired by a CCPC on or after Budget Day to be deducted, provided the property becomes available for use before January 1, 2024. Up to $1.5 million per taxation year is available for sharing among each associated group of CCPCs, with the limit being prorated for shorter taxation years. No carry-forward of excess capacity will be allowed.

Eligible Property
Eligible property includes capital property that is subject to the CCA rules, other than property included in CCA classes 1 to 6, 14.1, 17, 47, 49, and 51. The excluded classes are generally those that have long lives, such as buildings, fences and goodwill.

Interactions of the Immediate Expensing with Other Provisions
Where capital costs of eligible property exceed $1.5 million in a year, the taxpayer will be allowed to decide which assets will be deducted in full, with the remainder subject to the normal CCA rules.

Other enhanced deductions already available, such as the full expensing for manufacturing and processing machinery, will not reduce the maximum amount available ($1.5 million).

Restrictions
Generally, property acquired from a non-arm's length person, or which was transferred to the taxpayer on a tax-deferred "rollover" basis, will not be eligible.

Also, there are several other rules that limit CCA claims that will continue to apply, such as limits to claims on rental losses.

Rate Reduction for Zero-Emission Technology Manufacturers

Budget 2021 proposes a temporary measure to reduce corporate income tax rates for qualifying zero-emission technology manufacturers, halving the tax rate on eligible zero-emission technology manufacturing and processing income to 7.5% on income subject to the general corporate tax rate (normally 15%), and 4.5% where that income will otherwise be eligible for the small business deduction (normally 9%). Provincial taxes will still apply to this income.

For taxpayers with income subject to both the general and the small business corporate tax rates, taxpayers will be able to choose the income on which the rate will be halved.

Capital Cost Allowance (CCA) for Clean Energy Equipment

Under the CCA regime, Classes 43.1 and 43.2 provide accelerated CCA rates for investments in specified clean energy generation and energy conservation equipment. Budget 2021 proposes to expand Classes 43.1 and 43.2 to include a variety of assets used to generate energy from water, solar or geothermal sources or waste material, or related to hydrogen production or utilization. Accelerated CCA will be available in respect of these types of property only if, at the time the property becomes available for use, the requirements of all Canadian environmental laws, by-laws and regulations applicable in respect of the property have been met.

The expansion of Classes 43.1 and 43.2 will apply in respect of property that is acquired and that becomes available for use on or after Budget Day, where it has not been used or acquired for use for any purpose before Budget Day.

Mandatory Disclosure Rules

While past Budgets have proposed specific anti-avoidance provisions, Budget 2021 proposes broad-based disclosure requirements for tax strategies considered aggressive by the government. Certain transactions must presently be reported to CRA. The government is consulting on proposals to enhance Canada's mandatory disclosure rules.

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Amendments made as a result of this consultation will not apply prior to January 1, 2022.

Budget 2021 proposes that only one such hallmark will be required to make a transaction reportable. It also proposes that the definition of "avoidance transaction" for these purposes be broadened to include any transaction where it can reasonably be concluded that one of the main purposes of entering into the transaction is to obtain a tax benefit (even if there are other bona fide non-tax purposes).

The reporting obligation will extend to the taxpayer, any other person involved in procuring a tax benefit for the taxpayer, and a promoter or advisor (as well as certain other persons who are entitled to receive a fee with respect to the transaction). An exception will apply where disclosure will violate solicitor-client privilege.

Notifiable Transactions

Budget 2021 proposes to introduce a category of specific hallmarks known as "notifiable transactions". The Minister of National Revenue will have the authority to designate, with the concurrence of the Minister of Finance, a transaction as a notifiable transaction.

Notifiable transactions will include both transactions that CRA has found to be abusive and transactions identified as transactions of interest.

Uncertain Tax Treatments

An uncertain tax treatment is a tax treatment used, or planned to be used, in income tax filings where there is uncertainty over whether the tax treatment will be accepted as being in accordance with tax law. At present, there is no requirement in Canada to disclose uncertain tax treatments.

The budget states that the regime will be similar to the United States uncertain tax positions rule, where a corporation meeting certain conditions must report when it has taken a tax position on its income tax return and either the corporation or a related party has recorded a reverse with respect to that tax position in its audited financial statements.

Reporting will be required where:

- The corporation is required to file a Canadian tax return
- The corporation has at least $50 million in assets at the end of its financial year coinciding with the taxation year determined using the carrying value of assets on the company's balance sheet prepared in accordance with GAAP
- The corporation, or a related corporation, has audited financial statements prepared in accordance with IFRS or other country-specific GAAP relevant for domestic public companies, and
- Uncertainty in respect of the corporation's Canadian income tax reflected in those audited financial statements.

A Canadian public corporation and a corporation controlled by a Canadian public corporation meeting the asset threshold will be subject to this reporting regime, on the basis that Canadian GAAP requires audited financial statements of public corporations to be prepared in accordance with IFRS.

A private corporation meeting the asset threshold is also expected to be subject to the reporting regime if it or related corporation has audited financial statements prepared in accordance with IFRS.

Reassessment Period
In support of the new mandatory disclosure rules, Budget 2021 proposes that, where a taxpayer has a reporting requirement in respect of a transaction relevant to the taxpayer's income tax return for a taxation year, the normal reassessment period will not commence in respect of the transaction until the taxpayer has complied with the reporting requirement. As a result, if a taxpayer does not comply with a mandatory disclosure reporting requirement for a taxation year, a reassessment of that year in respect of the transaction will not become statute-barred.

Significant penalties will also apply to taxpayers and promoters who fail to file these required disclosures.

C. Sales and Excise Tax

GST New Housing Rebate
The GST New Housing Rebate entitles homebuyers to recover 36% of the GST (or the federal component of the HST) paid on the purchase of a new home priced up to $350,000. The maximum rebate is $6,300. The GST New Housing Rebate is phased out for new homes priced between $350,000 and $450,000. There is no GST New Housing Rebate for new homes priced at $450,000 or more. In addition to these price thresholds, several other conditions must be met.

Tax on Select Luxury Goods
Budget 2021 proposes to introduce a tax on the retail sale of new luxury cars and personal aircraft priced over $100,000, and boats priced over $250,000, effective as of January 1, 2022. For vehicles, aircraft and boats sold in Canada, the tax will apply at the point of purchase if the final sale price paid by a consumer (not including GST/HST or provincial sales tax) is above the $100,000 or $250,000 price threshold, as the case may be. Importations of vehicles, aircraft and boats will also be subject to the tax.

The tax will apply to certain luxury vehicles and aircraft priced over $100,000, the amount of the tax will be the lesser of 10% of the full value of the vehicle or the aircraft, or 20% of the value above $100,000.

The tax will apply to certain boats priced over $250,000, the amount of the tax will be the lesser of 10% of the full value boat or 20% of the value above $250,000.

The tax will generally apply at the final point of purchase of new luxury vehicles, aircraft and boats in Canada. In the case of imports, application will generally be either at the time of importation (in cases where there will not be a further sale of the goods in Canada) or at the time of the final point of purchase in Canada following importation.

Upon purchase or lease, the seller or lessor will be responsible for remitting the full amount of the federal tax owing, regardless of whether the good was purchased outright, financed or leased over a period of time. Exports will not be subject to the tax.

GST/HST will apply to the final sale price, inclusive of the proposed tax, so GST/HST will also be payable on this new tax. Further details are to be announced in the coming months.

D. Other Measures

Tax on Unproductive Use of Canadian Housing by Foreign Non-resident Owners - Budget 2021 proposes to introduce this new national 1% tax on the value of vacant or underused real estate owned by non-resident, non-Canadians. The tax will be levied annually beginning in 2022.

All owners of residential property in Canada, other than Canadian citizens or permanent residents of Canada, will be required to file an annual declaration for the prior calendar year in respect of each Canadian residential property they own, starting in 2023.

Minimum Wage Hike – The federal minimum wage will be raised to $15 per hour for federally-regulated private sector jobs. Where provincial or territorial minimum wages are higher, the higher rate will apply.

Excise Duty on Vaping Products – The budget announces a consultation for a new excise duty system on vaping products. The budget invites comments from industry and stakeholders on these proposed measures by June 30, 2021. Under this new system, the new single flat duty rate will apply to vaping fluids, regardless of whether they contain nicotine, produced in Canada or intended for use in vaping device in Canada. The budget also provides details on licensing, registration, excise stamping, and reporting requirements.

Tobacco Tax – The budget increases the tobacco excise duty rate by $4 per carton or 200 cigarettes. The tobacco excise duty rates will also increase on cigarettes, tobacco sticks, manufactured tobacco, and cigars.

Support for Small and Medium-Size Business Innovation – The budget allocates $4 billion to help small and medium-size businesses digitize and take advantage of e-commerce opportunities.

Funding of $1.4 billion will be managed through the newly created Canada Digital Adoption Program and the Business Development Bank of Canada will allocate $2.6 billion of these funds to help companies finance technology adoption.

Through the Venture Capital Catalyst Program, the budget provides additional funding for venture capital for start-ups, as well as expanded funding for research and assistance for an additional 2,500 small and medium-size businesses, through the Industrial Research Assistance Program.

Apprenticeships for Skilled Tradespeople – The budget proposes to provide $470 million over three years, beginning in 2021-22, to Employment and Social Development Canada to establish a new Apprenticeship Service.

The Apprenticeship Service is intended to help 55,000 first year apprentices in construction and manufacturing Red seal trades connect with opportunities at small and medium-sized employers.

Employers will be eligible to receive up to $5,000 for all first-year apprenticeship opportunities to pay for upfront costs such as salaries and training.

In addition, to boost diversity in the construction and manufacturing Red Seal trades, this incentive will be doubled to $10,000 for employers who hire those under represented, including women, racialized Canadians and person with disabilities.

Offices: First Canadian Place
100 King Street West, Suite 5700
Toronto, Ontario M5X 1C7
Phone: 416-362-0515

1900 Minnesota Court, Suite 116
Mississauga, Ontario L5N 3C9
Phone: 905-451-4788
Fax: 905-451-3299

TaxTalk is prepared by our Tax Group (taxtalk@mgca.com). Please visit our web site at www.mgca.com.

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