Federal Budget 2016 — A Focus on the Middle Class and Continued Scrutiny of Corporate Tax Avoidance

March 22, 2016

The Honourable William Morneau, Minister of Finance, tabled the Government's 2016 Federal Budget (Budget 2016) on March 22, 2016 (Budget Day). As widely anticipated, Budget 2016 included major increases to program spending and tax expenditures, with measures that targeted families with children, students, and seniors. There is also significant spending on infrastructure and similar initiatives. The overall result is greater projected deficits than those anticipated in the Liberal's election platform, though in line with more recent pronouncements to maintain the debt-to-GDP ratio:

	Projection (billions of dollars)					
	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Federal Deficit	(5.4)	(29.4)	(29.0)	(22.8)	(17.7)	(14.3)
Federal Debt	619.3	648.7	677.7	700.5	718.2	732.5
	Projection (Percent)					
Debt Percent of GDP	31.2	32.5	32.4	32.1	31.6	30.9

At the same time, there is continued focus on tax measures designed to restrict the perceived avoidance of corporate taxation, and to limit the leakage of tax revenues to other international jurisdictions.

Business Income Tax Measures

Small Business Deduction (SBD)

Small Business Tax Rate

Budget 2016 announced several changes relating to the small business deduction and related matters. Notably, many small businesses will be affected by the Government's announcement to maintain the small business tax rate at 10.5 percent on the first $500,000 per year of qualifying active business income of a Canadian-controlled private corporation (CCPC), and to retain the current gross-up factor and dividend tax credit rate applicable to non-eligible dividends. The 2015 Federal Budget (Budget 2015) had announced a reduction of the small business rate from 11 percent to 9 percent over four years beginning in 2016 (along with corresponding changes to the dividend gross-up factor and tax credit rate), but those reductions below the 10.5 percent rate will no longer occur. The general corporate tax rate for business income that does not qualify for the SBD will remain at 15 percent.

Multiplication of the SBD

Budget 2016 proposes changes to address concerns about partnership and corporate structures that have been implemented by some taxpayers to multiply access to the SBD.

The proposed rules target partnership structures where a shareholder of a CCPC is a member of the partnership or does not deal at arm's length with a member of the partnership, and the partnership pays the CCPC as an independent contractor for services directly or indirectly rendered to the partnership. Such structures were established in order to circumvent the $500,000 business limit that generally must be shared among partners of a partnership. The new rules will deem the CCPC to be a member of the partnership, thereby restricting its access to the SBD as though it were a member of the partnership. This tax measure will affect many professionals, including accountants and lawyers, who are members of a professional partnership.

Similarly, access to the SBD will be restricted where a CCPC earns active business income from providing services or property (directly or indirectly, in any manner whatever) to a private corporation and the CCPC, one of its shareholders or a person who does not deal at arm's length with such shareholder, has a direct or indirect interest in the private corporation.

There will generally be an exception to these rules where the CCPC earns all or substantially all of its active business income from providing services or property to arm's length persons other than the partnership or private corporation referenced above.

Avoidance of Taxable Capital Limit

The $500,000 SBD is generally restricted for corporations that have a taxable capital above $10,000,000 and eliminated for corporations that have a taxable capital which exceeds $15,000,000. The taxable capital of associated corporations is generally pooled together for the purposes of computing whether or not they exceed these limits. Two corporations can be deemed to be associated with one another if they are both associated with a third corporation, but an election can be filed to deem them not to be associated with one another. Budget 2016 proposes that, where this election is made, all three corporations will still be associated with one another for the purposes of the computation of taxable capital.

Re-Characterization of Property Income as Active Business Income

Generally, where property income is earned by a CCPC from an associated corporation that deducts the payment from its active business income, it can be re-characterized as active business income and may be eligible for the SBD. Budget 2016 proposes to restrict the ability to re-characterize such income in circumstances where the payer corporation has made an election not to be associated with the recipient corporation or is not a CCPC.

Consultation on Active vs. Investment Business

Budget 2015 had announced a review of when income should be considered to have been derived from an "active business", which is a requirement for eligibility for the SBD and various other tax incentives such as the lifetime capital gains exemption. Income from an "active business" generally includes all business income, other than income from a personal services business or a specified investment business. Specified investment business income generally includes any income from a business the principal purpose of which is to derive income from property (including interest, dividends, rents and royalties), subject to certain exceptions such as where the business has more than five full-time employees.

Budget 2016 announced that its review of this matter is complete, and no changes are proposed to the existing rules. As a result, taxpayers will continue to rely upon the published administrative guidance and case law when making a determination on whether income qualifies as being from an active business.

Eligible Capital Property (ECP)

Budget 2016 proposes to repeal the ECP regime and replace it with a new capital cost allowance (CCA) class. The objective of these changes is to simplify the tax deduction rules applicable to goodwill and purchases of intangibles. A consequential impact of this change is that capital gains attributable to goodwill and intangibles will cause CCPCs to pay additional refundable income tax on such gains.

Under the existing rule, 75 percent of all expenditures on ECP are included in the Cumulative Eligible Capital (CEC) pool and deducted at a 7 percent declining balance basis. Upon a sale of ECP, 75 percent of the sale proceeds reduce the CEC pool. Any negative balance would first recapture previously claimed deductions and be taxable as a full income inclusion, and any remaining amount is then included in income at a 50 percent inclusion rate.

A new CCA class, being Class 14.1, will be created. This Class 14.1 will have a 5 percent annual depreciation rate, which is roughly equivalent to the effective rate that is applied to CEC (i.e., the CEC deduction is at a 7 percent rate on 75 percent of eligible capital expenditures). To retain the simplification objective, the Class 14.1 will generally include the CCA provisions applicable to recapture, capital gains and depreciation (e.g., the "half-year rule").

Under the proposal, CEC pool balances will be calculated and transferred to the new CCA class as of January 1, 2017, including for taxpayers whose taxation year straddles January 1, 2017. The opening balance of the Class 14.1 will be equal to the balance on

December 31, 2016 of the existing CEC pool. For the first ten years, the depreciation rate for Class 14.1 will be 7 percent in respect of expenditures incurred before January 1, 2017.

Budget 2016 also proposes special rules to simplify the transition for small businesses by allowing small balances transferred to the Class 14.1 to be eliminated quickly, and allowing the first $3,000 of incorporation expenses to be deducted.

This measure, including the transitional rules, will apply as of January 1, 2017.

Clean Energy Equipment

Budget 2016 allows certain property acquired for use on or after Budget Day to be depreciated at an accelerated rate. Electric vehicle charging stations will be eligible for a CCA rate of 50 percent (if they supply at least 90 kW of continuous power) or 30 percent (if between 10 kW and 90 kW), up from the current 20 percent rate. Certain "downstream" equipment using more than 75 percent to charge electric vehicles may also qualify. Moreover, these higher CCA rates will also apply to qualifying electrical energy storage equipment.

Emissions Trading

Budget 2016 creates a specific regime to govern the tax treatment of emissions allowances acquired in taxation years beginning after 2016 (or ending after 2012, if the taxpayer elects). Briefly, this regime essentially treats such allowances as inventory, and governs the deduction of accrued emissions obligations.

Life Insurance Policies

Distributions Involving Life Insurance Proceeds

Life insurance proceeds received as the result of the death of an individual are generally exempt from income tax. When life insurance proceeds are received by a corporation, the corporation may add the amount of the policy benefit to its capital dividend account (CDA), allowing the payment of tax-free capital dividends to shareholders. Where the proceeds are received by a partnership, a similar result can be achieved under the rules for computing the adjusted cost base (ACB) of a partner's interest in a partnership, which ACB can then be withdrawn by the partner on a tax-free basis.

Some taxpayers have structured their affairs so that these rules may not apply as intended in circumstances where a corporation or partnership is not a holder of the policy, but is entitled to receive a policy benefit, resulting in an artificial increase in a corporation's CDA balance or artificial increase in the ACB of a partner's partnership interest. The Government is currently challenging a number of these structures under the existing tax rules. Budget 2016 proposes that life insurance proceeds received by a corporation or partnership will not result in excessive additions to the CDA (in the case of a corporation) or ACB (in the case of a partnership). Reporting rules will also be strengthened. This measure will apply to policy benefits received as a result of a death occurring on or after Budget Day.

Transfer of Life Insurance Policies

Budget 2016 proposes changes to prevent a policyholder from extracting, on a tax-free basis, the excess of the fair market value of a policy over its cash surrender value in circumstances where the policy is transferred to a corporation or partnership. This measure applies to dispositions that occur on or after Budget Day. To address transfers of life insurance policies prior to Budget Day, a similar measure will apply to reduce the amount added to a CDA, the paid up capital of a share of a corporation and/or the ACB of a partnership interest.

Debt Parking to Avoid Foreign Exchange Gains

The current debt parking rules are intended to preclude planning to avoid the application of the debt forgiveness rules.

Budget 2016 proposes to introduce rules so that any accrued foreign exchange gains on a foreign currency debt will be realized when the debt becomes a "parked obligation". More particularly, the debtor will be deemed to have realized the gain, if any, that it otherwise would have realized if it had paid an amount (expressed in the currency in which the debt is denominated) in satisfaction of the principal amount of the debt equal to:

- where the debt becomes a parked obligation as a result of its acquisition by the current holder, the amount for which the debt was acquired; and
- in other cases, the fair market value of the debt.

For this purpose, whether a foreign currency debt will become a parked obligation at any particular time will generally be based on rules similar to existing rules in the *Income Tax Act* applicable to other debts.

Rules similar to those contained in the debt forgiveness rules will be introduced to determine whether a creditor is related to, and therefore not dealing at arm's length with, a debtor where trusts and partnerships are involved.

Exceptions will be provided so that a foreign currency debt will not become a parked obligation in the context of certain bona fide commercial transactions.

Related rules will provide relief to financially distressed debtors. This relief will be similar to the deductions currently available to debtors with respect to amounts included in income because of the application of the debt forgiveness rules.

These measures will apply where a foreign currency debt becomes a parked obligation after Budget Day, subject to a grandfathering rule for agreements in writing being in place before Budget Day.

Planning Strategies Involving Derivatives

Budget 2016 proposes to exclude derivatives from the application of the inventory valuation rules. In particular, this provision will apply to a swap agreement, a forward purchase or sale agreement, a forward rate agreement, an option agreement or a similar agreement. The provision is intended to restrict the ability of a taxpayer to recognize declines in value before there is an actual realization of the derivative instrument. This measure will apply to derivatives entered into on or after Budget Day.

International Tax Measures

Base Erosion and Profit Shifting

In the fall of 2015, the Organisation for Economic Co-operation and Development (OECD) released its final reports (Final Reports) regarding the base erosion and profit shifting (BEPS) project. Budget 2016 proposes to introduce legislation to implement or confirm the Government's support for certain BEPS initiatives as follows:

- Transfer Pricing Documentation – Country-by-Country Reporting: The Government will introduce legislation to require country-by-country reporting for large multinational enterprises with total annual consolidated group revenue of at least €750 million (MNE). An MNE whose ultimate parent is resident in Canada, or which has a Canadian resident subsidiary in certain circumstances, will be required to report in Canada. Canada will share the information in the report with each other jurisdiction in which the MNE operates and which has met certain legal and procedural requirements for country-by-country reporting.
- *Revised Transfer Pricing Guidance*: The Final Reports recommend revisions to the BEPS Transfer Pricing Guidelines on the application of the arm's length principle in cross-border transfer pricing. The CRA already applies many of these revisions as it regards them as consistent with its current practices. However, the OECD has not completed its revisions applicable to low value-adding services and cash boxes. Budget 2016 provides that the Government will decide on a Canadian course of action in these areas when the OECD has completed its work.
- *Treaty Abuse*: The Final Reports recommend a minimum standard to combat treaty abuse, and in particular treaty shopping. The minimum standard would require treaties to include either a general anti-abuse purpose test or detailed "limitation of benefits" rule. Budget 2016 confirmed the intention to consider either minimum standard approach, and may amend current tax treaties through bilateral negotiations, a multilateral instrument that will be developed in 2016, or a combination of the two.
- *Spontaneous Exchange of Tax Rulings*: The Final Reports recommend a minimum standard for the spontaneous exchange of certain tax rulings. Budget 2016 confirmed the intention to implement the minimum standard.

Extension of the Back-to-Back Rules

Canada levies withholding tax on various types of payments – in particular, interest, rent, royalties, and dividends – made by a Canadian resident to a non-resident. The rate of tax under the *Income Tax Act* is 25 percent, but is frequently reduced, or even eliminated, by Canada's tax treaties. As a result, a non-resident that might otherwise pay the high 25 percent statutory rate on a payment from a Canadian resident will often use some sort of "back-to-back" strategy to avoid the 25 percent statutory rate and instead pay at a lower treaty rate. Generally these strategies involve interposing an intermediary in a favourable treaty-jurisdiction. The Canadian resident pays an amount to the intermediary at the low treaty rate, and the intermediary then pays a (more or less) corresponding amount to the non-resident, typically without any further withholding tax.

The *Income Tax Act* was amended in 2014 to add "back-to-back loan arrangement" rules to eliminate this sort of planning with respect to many cross-border back-to-back loan structures. The rules apply by ignoring the payment to the intermediary and deeming the Canadian resident to pay interest directly to the non-resident, and therefore be subject to the 25 percent statutory withholding rate.

Budget 2016 proposes to extend the back-to-back rules in four important ways, although no draft statutory language was included with the budget papers:

1. The existing rules will be extended to back-to-back structures for the payment of cross-border rents, royalties or similar properties. Like the 2014 amendments, the new rules will function by ignoring the payment to the intermediary and deeming the Canadian resident to make the rent or royalty payment directly to the non-resident. These rules will apply to payments made after 2016.
2. Character substitution rules will be added to ensure that the back-to-back rules cannot be avoided by having the first leg (i.e. Canadian resident to intermediary) of a back-to-back arrangement structured as a loan, combined with a second leg (intermediary to non-resident) structured as a royalty, or vice-versa, or by a first leg that is a loan or royalty, and a second leg that is a dividend. The rules will operate by deeming the Canadian resident to make a payment to the non-resident having the same tax-character as the payment on the first leg. These rules will apply to payments made after 2016.
3. Back-to-back rules will be extended to both domestic and cross-border shareholder loans. Canadian shareholder loan rules can apply where a Canadian resident corporation lends money to a shareholder, and the loan remains outstanding at the end of the corporation's taxation year following the year in which it made the loan. The rule deems the amount to be income of the shareholder if he or she is a Canadian resident individual, or a dividend subject to Canadian withholding tax if the shareholder is a non-resident. The rule can be avoided through a back-to-back structure in which the resident corporation lends funds to an “unconnected” intermediary (generally, an intermediary that deals at arm's length with and is not "affiliated" with the resident corporation), which in turn lends funds to a shareholder of the corporation. Budget 2016 proposes to extend concepts similar to those in the existing back-to-back loan arrangement rules to back-to-back shareholder loan arrangements. The rules will function by deeming the shareholder to be directly indebted to the Canadian corporation. They will apply as of Budget Day. For back-to-back structures in existence on Budget Day, the deemed indebtedness will be deemed to have arisen on Budget Day, which effectively should give the corporation until the end of its following taxation year to undo the structure.
4. Budget 2016 will add rules to extend the back-to-back rules to structures involving multiple intermediaries. The rules will apply to payments of interest or royalties made after 2016, and to shareholder debts as of January 1, 2017.

Investment Tax Measures

Labour-Sponsored Venture Capital Corporations Tax Credit (LSVCC)

Budget 2016 proposes to restore the 15 percent federal tax credit (an increase from 10 percent) on purchases of shares of provincially registered LSVCCS prescribed under the *Income Tax Act* for the 2016 and subsequent taxation years. In addition, Budget

2016 proposes to allow certain newly registered LSVCCs under existing provincial legislation to be eligible for prescription under the *Income Tax Act*. The 5 percent federal tax credit for federally registered LSVCCs will be eliminated for the 2017 and subsequent taxation years.

Mutual Fund Corporations – Switch Fund Shares

Budget 2016 proposes to eliminate tax-deferred switching of shares of one mutual fund for shares of another mutual fund where both mutual funds are part of the same mutual fund corporation. This proposal does not apply to switches between shares of the same mutual fund – for example, where the difference between the shares relates to management fees or expenses borne by the shares. The proposal will apply to switches that occur after September 2016.

Budget 2016 does not contain any detailed provisions about this measure. Further, there is no mention of providing a mechanism to allow a mutual fund within a multi-class mutual fund corporate structure to convert into a mutual fund trust on a tax-deferred basis. The mutual fund merger rules do not currently contemplate this type of tax-deferred reorganization.

Mutual Fund Trusts and Pooled Fund Trusts

Budget 2016 proposes to amend the capital gains refund formula to reflect the new 33 percent top tax rate applicable to mutual fund trusts. This is a relieving measure.

Budget 2016 proposes to increase the rate of Part XII.2 tax from 36 percent to 40 percent. Part XII.2 tax applies to "designated income" earned by certain trusts (including a unit trust that does not qualify as a mutual fund trust under the *Income Tax Act*) if the trust has a non-resident beneficiary or other "designated beneficiary".

Sales of Linked Notes

A linked note is an investment that provides a return calculated based on the investment performance of a reference asset. Investors generally take the position that the return on a linked note is not taxable until maturity, and investors who hold the note as capital property and sell before maturity typically treat the gain as a capital gain (rather than as fully taxable return on the note).

Budget 2016 proposes amendments that will treat the return on a linked note as accrued interest for the purposes of the prescribed debt obligation rules, whether the return is earned at maturity or realized as a gain on a sale before maturity. If part of the gain is based on a fixed interest rate, the rules will exclude the portion of return that is reasonably attributable to fluctuations in market interest rates. Also, foreign currency fluctuations will be ignored for linked notes denominated in foreign currency. This measure will apply to sales of linked notes after September 2016.

Mineral Exploration Tax Credit for Flow-Through Share Investors:

Budget 2016 proposes to extend eligibility for the mineral exploration tax credit for one year, to flow-through share agreements entered into on or before March 31, 2017, in order to assist junior mining companies.

Personal Income Tax Measures

Families with Children

A new Canada Child Benefit (CCB) will replace the Canada child tax benefit and the universal child care benefit with the new CCB payments starting in July 2016. Families with net income (both spouses) not exceeding $30,000 per year will receive the maximum annual benefit of $6,400 per child under age 6 and $5,400 per child aged 6 through 17. Once a family's net income exceeds $30,000 per year, the maximum annual benefits are reduced based on the family's net income and the number of children. Although Budget 2016 increases the benefits received by most families, families with an income over approximately $160,000 (depending on the number and ages of children) will no longer receive any benefits.

CCB payments are not taxable, will not reduce benefits paid under the GST credit, and will not be added to a taxpayer's income for the purposes of federal income-tested programs delivered outside of the income tax system.

Other Changes Affecting Families with Children and Students

- *Income Splitting*: Before Budget 2016, a higher income spouse in a couple with at least one child under the age of 18 could 'split' up to $50,000 of income with their lower income spouse, resulting in up to approximately $2,000 in tax savings per year. Budget 2016 proposes to eliminate this credit.
- *Children's Fitness and Arts Tax Credits*: Budget 2016 proposes to phase out the children's fitness tax credits and arts tax credits as follows:
  - 2016: maximum eligible amounts are reduced in half to $500 for the children's fitness tax credit and $250 for the children's arts credit; and
  - 2017: both credits will be eliminated going forward.
- *Children with Disabilities*: In Budget 2016, children with disabilities will be entitled to receive a maximum annual benefit of $2,750 per year in addition to the CCB, and once the families' net income exceeds $65,000 this maximum benefit is reduced by the families' net income and number of children.
- *Canada Student Grants and Repayment of Student Loans*: Budget 2016 proposes to increase Canada Student Grants amounts for post-secondary education for low and middle income families and also for part-time students. Also, it is being proposed that the Canada Student Loans Program Repayment Assistance Plan be revised so that students do not have to start to repay their Canada Student Loan until their annual income exceeds $25,000.
- *Education Tax Credits and Textbook Tax Credits*: Budget 2016 proposes to eliminate the education tax credits and textbook tax credits (up to $400 and $65, respectively, per month enrolled as a full time student). The tuition tax credit will remain and any income tax provisions that currently rely on eligibility for the education tax credit will be amended to remain as well. This measure will apply effective January 1, 2017, though unused education and textbook credit amounts will remain available to be claimed in 2017 and subsequent years.
- *Teacher and Early Childhood Educator School Supply Tax Credit*: Budget 2016 proposes to give teachers and early childhood educators who buy their own eligible teaching supplies a refundable tax credit of 15 percent for up to $1,000 in expenditures per year.

Seniors

Budget 2016 includes certain measures designed to provide additional financial security to seniors, including increasing the Guaranteed Income Supplement top-up benefit by up to $947 annually for low-income, single seniors, basing benefits on individual seniors' incomes where couples live apart due to reasons beyond their control. There will also be consultation regarding enhancements to the Canada Pension Plan.

In addition, Budget 2016 left pension income splitting in its current form.

Top Marginal Income Tax Rate – Consequential Amendments

Bill C-2 was introduced on December 9, 2015, and included a reduction in the second personal income tax rate to 20.5 percent (from 22 percent) and the introduction of a new federal 33 percent personal income tax rate on income in excess of $200,000 (plus the applicable provincial rates). Budget 2016 proposes further consequential amendments to reflect the new top marginal federal income tax rate.

Budget 2016 also confirms the Government's intention to proceed with draft legislative proposals released for comment on January 15, 2016 to modify the income tax treatment of certain trusts and their beneficiaries, including greater flexibility in recognizing charitable donations by a graduated rate estate, and ensuring income arising in certain trusts on the death of the primary beneficiary is taxed in the hands of the trust and not the beneficiary.

Other Personal Tax Matters

- *Ontario Electricity Support Program:* Budget 2016 proposes to exempt from income amounts received under the Ontario Electricity Support Program.
- *Northern Residents Deductions:* Budget 2016 proposes to increase the maximum northern residency deduction for the 2016 taxation year that each member of a household may claim. Residents of the Intermediate Zone will be entitled to deduct half of these increased amounts.
- Donation of Private Company Shares or Real Estate: Budget 2016 also announces the intention not to proceed with the measure announced in Budget 2015 that would provide an exemption from capital gains tax for certain dispositions of private corporation shares or real estate where cash proceeds from the disposition are donated to a registered charity or other qualified donee within 30 days.
- Notable Omission: Budget 2016 does not include provisions with respect to changes to the treatment of stock options or increases in the capital gains inclusion rate (the portion of capital gains that is taxable, which is currently 50 percent).

GST/HST Measures

De Minimis Financial Institutions

Financial institutions are subject to rules which restrict their ability to claim input tax credits and impose significant compliance requirements. In addition to banks, insurance companies, investment dealers and investment plans, entities, certain entities with more than $1 million of financial revenues may be subject to these rules. To allow a person to engage in basic deposit-making activity without that activity leading it to being treated as a financial institution for GST/HST purposes, Budget 2016 proposes that interest earned in respect of certain deposits will not be included in determining whether the person exceeds the $1 million threshold.

Application of GST/HST to Cross-Border Reinsurance

To provide a level playing field for domestic suppliers, the *Excise Tax Act* imposes self-assessment requirements on certain recipients of services provided abroad for consumption in Canada. Canadian branches of multinational financial institutions must also self-assess GST/HST on certain expenses incurred outside of Canada which relate to its Canadian activities. Budget 2016 proposes to clarify that ceding commissions and the margin for risk transfer in imported reinsurance services do not form part of the tax base that is subject to the self-assessment provisions contained in the GST/HST imported supply rules for financial institutions. Budget 2016 will also set out specific conditions under which the special rules for financial institutions do not impose GST/HST on reinsurance premiums charged by a reinsurer to a primary insurer.

Other Sales and Excise Tax Measures

- *Health Care*: Budget 2016 proposes to add insulin pens, insulin pen needles and, in certain circumstances, intermittent urinary catheters to the list of zero-rated medical devices. However, purely cosmetic procedures will now be taxable regardless of the identity of the supplier.
- *Exported Call Centre Services*: Services provided to non-registered non-residents are generally zero-rated. However, among the exceptions to the zero-rating is a service made to an individual in Canada at the time the service is performed. Budget 2016 proposes to extend zero-rating to services provided by call centres in Canada where it can reasonably be expected that the callers will be primarily located outside of Canada.
- *Reporting of Grandparented Housing Sales*: Transitional rules impose significant reporting obligations on new home builders with respect to transactions that straddle the date of a change in the provincial HST rate. Budget 2016 proposes to simplify builder reporting by limiting the reporting requirement to those grandparented housing sales for which the consideration is equal to or greater than $450,000 and providing builders with an opportunity to correct past misreporting and avoid potential penalties.
- *GST/HST on Donations to Charities*: In addition to the exemptions available for many goods and services provided by charities, Budget 2016 proposes a relieving change to provide that when a charity supplies property or services in exchange for a donation. Where such supplies are taxable and when an income tax receipt may be issued for a portion of the donation, only the value of the property or services supplied will be subject to GST/HST.
- *Closely Related Test*: To ensure that the closely related test applies only in situations where nearly complete voting control exists, Budget 2016 proposes to require that, in addition to meeting the conditions of the current test, a corporation or partnership must also hold and control 90 percent or more of the votes in respect of every corporate matter of the subsidiary corporation (with limited exceptions) in order to be considered closely related.

- *Restricting the Relief of Excise Tax on Diesel and Aviation Fuel*: In response to certain court decisions which have expanded the scope of these relief provisions, Budget 2016 proposes to clarify instances in which relief is provided. Relief will be available for heating oil in respect of buildings. While relief will be available for fuel used to generate electricity, that relief will not be available where such electricity is produced for use in a vehicle.
- *Enhancing Certain Security and Collection Provisions*: Budget 2016 proposes to increase the maximum amount of security required for a person to be issued a licence or any duty-paid tobacco stamps from $2 million to $5 million. In addition, Budget 2016 proposes to give the Minister of National Revenue the authority to require security for payment of assessed amounts and penalties in excess of $10 million that are not otherwise collected under the *Excise Act, 2001*.

Contact Us

For a consultation on how the Federal Budget may impact your business or your personal tax position, connect with one of the contributing authors below.

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