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On March 22, 2017 the Honourable Bill Morneau, Minister of Finance, presented the 2017 Federal Budget, Building a Strong Middle Class, to the House of Commons.

The Government's fiscal position includes a projected deficit in 2016-2017 of $23.0 billion, and projected deficits in the coming years as follows: 2017-2018 of $28.5 billion, 2018-2019 of $27.4 billion, 2019-2020 of $23.4 billion, 2020-2021 of $21.7 billion and 2021-2022 of $18.8 billion.

The Federal Government notes:

- No change to the personal and corporate tax rates, nor inclusion rate on taxable capital gains.
- An additional $523.9 million over five years to prevent tax evasion and improve tax compliance.
- Elimination of the public transit credit and home relocation loan deduction.
- Commencing July 1, 2017, ride-sharing services (e.g. UBER, Lyft) will be defined as "taxi businesses" for GST/HST purposes and therefore be required to charge and remit GST/HST.
- Phasing out of the Canada Savings Bond Program.
- Expanding employment insurance benefits for caregivers and certain other groups.
- As part of a new National Housing Strategy, an investment of more than $11.2 billion in a range of initiatives designed to build, renew and repair Canada's stock of affordable housing.
- More than $2.2 billion, on a cash basis, to support clean technology research, development, demonstration and adoption as well as to accelerate the growth of clean technology companies.
- Over the next 11 years, new investments of $7 billion towards early learning and child care.
- An investment of $828.2 million over five years, starting in 2017–18, to improve the health outcomes of First Nations and Inuit.

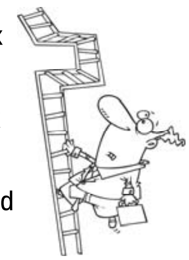
	Actual	Projection (in billions of $)			
	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20
Budgetary revenues	295.5	292.1	304.7	315.6	327.7
Program expenses	270.8	290.9	305.4	313.7	319.8
Public debt charges	25.6	24.3	24.7	26.3	28.3
Total expenses	296.4	315.1	330.2	340.0	348.1
Adjustment for risk			(3.0)	(3.0)	(3.0)
Budgetary Balance	(1.0)	(23.0)	(28.5)	(27.4)	(23.4)

Note: Totals may not add due to rounding.

Federal Budget Commentary 2017

TAX HIGHLIGHTS

A. Personal Income Tax
B. Business Income Tax
C. International Tax
D. Sales and Excise Tax
E. Other Measures
F. Previously Announced Measures



A. Personal Income Tax

Disability Tax Credit – Nurse Practitioners

Budget 2017 proposes to add nurse practitioners to the list of medical practitioners that could certify eligibility for the disability tax credit. A nurse practitioner would be permitted to certify for all types of impairments that are within the scope of their practice.

This measure will apply to disability tax credit certifications made on or after Budget Day.

Medical Expense Tax Credit – Eligible Expenditures

Budget 2017 proposes to clarify the application of the medical expense tax credit so that individuals who require medical intervention in order to conceive a child are eligible to claim the same expenses that would generally be eligible for individuals on account of medical infertility.

This measure will apply to the 2017 and subsequent taxation years. Additionally, taxpayers will be permitted to adjust any of the preceding ten years' tax returns to claim such expenses.

Consolidation of Caregiver Credits – New Canada Caregiver Credit

Budget 2017 proposes to simplify the existing system of tax measures for caregivers by replacing the existing caregiver credit, infirm dependant credit and family caregiver tax credit with a new Canada caregiver credit. This new credit will extend tax relief to some caregivers who may not currently qualify due to the income level of their dependant.

The amounts for this new credit vary based on who the infirm dependent is. In general, the new credit will mirror the amounts that could have been claimed under the current caregiver credit or infirm dependent credit (both $6,883 in 2017 for an infirm dependent) and family caregiver tax credit ($2,150 in 2017).

The Canada caregiver credit will be reduced dollar-for-dollar by the dependant's net income above $16,163 (in 2017).

Under this new credit, an amount will no longer be available in respect of non-infirm seniors who reside with their adult children.

The Canada caregiver credit will apply for the 2017 and subsequent taxation years. The credit amounts that may be claimed and the income thresholds above which the credit will begin to be phased out will be indexed to inflation for taxation years after 2017.

Mineral Exploration Tax Credit for Flow-Through Share Investors

Budget 2017 confirms the previously announced proposal to extend eligibility for the mineral exploration tax credit for an additional year, to flow-through share agreements entered into on or before March 31, 2018.

Tuition Tax Credit

Budget 2017 proposes to extend the eligibility criteria for the tuition tax credit to fees for an individual's tuition paid to a university, college or other post-secondary institution in Canada for occupational skills courses that are not at the postsecondary level. To provide consistency with the rules for certified educational institutions, the tuition tax credit would be available in these circumstances only if the course is taken for the purpose of providing the individual with skills (or improving the individual's skills) in an occupation and the individual has attained the age of 16 before the end of the year.

This measure will apply in respect of eligible tuition fees for courses taken after 2016.

Budget 2017 also proposes to extend eligibility as a "qualifying student" to individuals in the specific circumstances described above, who otherwise meet the conditions to be a "qualifying student". Whether or not an individual is a "qualifying student" is relevant for the tax exemption for scholarship and bursary income.

This measure will apply to the 2017 and subsequent taxation years.

Ecological Gifts

Budget 2017 proposes a number of measures in order to better protect gifts of ecologically sensitive land.

For example, Budget 2017 proposes that the requirement to approve recipients be extended, on a gift-by-gift basis, to municipalities and municipal and public bodies performing a function of government. As well, Budget 2017 proposes that private foundations no longer be permitted to receive ecological gifts.

Public Transit Tax Credit

Budget 2017 proposes that the public transit tax credit be eliminated, effective July 1, 2017. Specifically, the cost of public transit passes and electronic fare cards attributable to public transit use that occurs after June 2017 will no longer be eligible for the credit.

Allowances for Members of Legislative Assemblies and Certain Municipal Officers

Budget 2017 proposes to require that non-accountable allowances paid to certain officials be included in income. The reimbursement of employment expenses will remain a non-taxable benefit to the recipient.

These officials are:

- elected members of provincial and territorial legislative assemblies and officers of incorporated municipalities;
- elected officers of municipal utilities boards, commissions, corporations or similar bodies; and
- members of public or separate school boards or of similar bodies governing a school district.

This measure will apply to the 2019 and subsequent taxation years.

There was no mention of the exemption for allowances paid to Members of Parliament, however, most Members of Parliaments' allowances were eliminated over 10 years ago.

Home Relocation Loans Deduction
Budget 2017 proposes to eliminate the deduction for the interest benefit of eligible home relocation loans.

This measure will apply to benefits arising in the 2018 and subsequent taxation years.

First-Time Donor's Super Credit
Budget 2017 confirms that the first-time donor's super credit will be allowed to expire in 2017 as planned.

Anti-Avoidance Rules for Registered Plans
Budget 2017 proposes that certain anti-avoidance rules applicable to TFSAs, RRSPs, and RRIFs be extended to RESPs and RDSPs. These proposals are not expected to have an impact on the vast majority of RESP and RDSP holders, who typically invest in ordinary portfolio investments.

Subject to certain exceptions, this measure will apply to transactions occurring, and investments acquired, after Budget Day.

In addition, Budget 2017 proposes to explore new ways to increase awareness of the Canada Learning Bond program and reduce barriers to access.

B. Business Income Tax

Investment Fund Mergers

Merger of switch corporations into mutual fund trusts
Budget 2017 proposes to facilitate the reorganization of a mutual fund corporation that is structured as a switch corporation into multiple mutual fund trusts on a tax-deferred basis.

This measure will apply to qualifying reorganizations that occur on or after Budget Day.

Segregated fund mergers
To provide consistent treatment between mutual fund trusts and segregated funds, Budget 2017 proposes to allow insurers to effect tax-deferred mergers of segregated funds. It is proposed that these rules generally parallel the mutual fund merger rules.

This measure will apply to mergers of segregated funds carried out after 2017.

Clean Energy Generation Equipment: Geothermal Energy
Budget 2017 proposes that eligible geothermal energy equipment under Classes 43.1 and 43.2 be expanded to include geothermal equipment that is used primarily for the purpose of generating heat or a combination of heat and electricity. Eligible costs will include the cost of completing a geothermal well (e.g., installing the wellhead and production string) and, for systems that produce electricity, the cost of related electricity transmission equipment.

Secondly, geothermal heating will be made an eligible thermal energy source for use in a district energy system.

Lastly, expenses incurred for the purpose of determining the extent and quality of a geothermal resource and the cost of all geothermal drilling (e.g., including geothermal production wells), for both electricity and heating projects, will qualify as a Canadian renewable and conservation expense.

The measures will apply in respect of property acquired for use on or after Budget Day that has not been used or acquired for use before Budget Day.

Canadian Exploration Expenses: Oil and Gas Discovery Wells
Budget 2017 proposes that expenditures related to drilling or completing a discovery well (or in building a temporary access road to, or in preparing a site in respect of, any such well) generally be classified as Canadian development expenses (CDE) instead of Canadian exploration expenses (CEE).

This measure will apply to expenses incurred after 2018 (including expenses incurred in 2019 that could have been deemed to have been incurred in 2018 because of the "look-back" rule). However, the measure will not apply to expenses actually incurred before 2021 where the taxpayer has, before Budget Day, entered into a written commitment (including a commitment to a government under the terms of a license or permit) to incur those expenses.

Reclassification of Expenses Renounced to Flow-Through Share Investors
An eligible small oil and gas corporation (i.e., with taxable capital employed in Canada of not more than $15 million) can currently treat up to $1 million of Canadian development expenses (CDE) as Canadian exploration expenses (CEE) when renounced to shareholders under a flow-through share agreement. CDE is deductible at a rate of 30 per cent per year on a declining-balance basis. CEE is fully deductible in the year it is incurred. Budget 2017 proposes to no longer permit eligible small oil and gas corporations to treat the first $1 million of CDE as CEE.

This measure will apply in respect of expenses incurred after 2018 (including expenses incurred in 2019 that could have been deemed to be incurred in 2018 because of the look-back rule), with the exception of expenses incurred after 2018 and before April 2019 that are renounced under a flow-through share agreement entered into after 2016 and before Budget Day.

Meaning of Factual Control
The factual control (de facto) test is one of the tests used to determine whether two or more Canadian controlled private corporations are “associated corporations”. Factual control of a corporation exists where a person has “directly or indirectly in any manner whatever” influence that, if exercised, would result in control in fact of the corporation. In each situation, consideration of all the relevant factors is required in determining whether there is factual control of a corporation.

A recent Federal Court of Appeal decision (McGillivray Restaurant Ltd. vs. H.M.Q.) held that, in order for a factor to be considered in determining whether factual control exists, it must include “a legally enforceable right and ability to effect a change to the board of directors or its powers, or to exercise influence over the shareholder or shareholders who have that right and ability”. Budget 2017 proposes an amendment to clarify that, in determining whether factual control of a corporation exists, factors may be considered that are not limited to the requirement set out above.

This measure will apply in respect of taxation years that begin on or after Budget Day.

Timing of Recognition of Gains and Losses on Derivatives
Budget 2017 proposes to introduce an elective mark-to-market regime for derivatives held on income account. Specifically, an election will allow taxpayers to mark to market all of their eligible derivatives. Once made, the election will remain effective for all subsequent years unless revoked with the consent of the Minister of National Revenue.

Once an election is made by a taxpayer, the taxpayer will be required to annually include in computing its income the increase or decrease in value of its eligible derivatives. Furthermore, the recognition of any accrued gain or loss on an eligible derivative (that was previously subject to tax on a realization basis) at the beginning of the first election year will be deferred until the derivative is disposed of.

This election will be available for taxation years that begin on or after Budget Day.

Derivative Straddle Transactions
Budget 2017 proposes to introduce a specific anti-avoidance rule that targets straddle transactions. In particular, a stop-loss rule will effectively defer the realization of any loss on the disposition of a position to the extent of any unrealized gain on an offsetting position. A gain in respect of an offsetting position would generally be unrealized where the offsetting position has not been disposed of and is not subject to mark-to-market taxation.

This measure will apply to any loss realized on a position entered into, on or after Budget Day.

Investment Tax Credit for Child Care Spaces
Budget 2017 proposes to eliminate the investment tax credit for child care spaces. This measure will apply in respect of expenditures incurred on or after Budget Day.

To provide transitional relief, the credit will be available in respect of eligible expenditures incurred before 2020 pursuant to a written agreement entered into before Budget Day.

Billed-Basis Accounting
Currently, taxpayers in certain designated professions (i.e., accountants, dentists, lawyers, medical doctors, veterinarians and chiropractors) may elect to exclude the value of work in progress (WIP) in computing their income. Budget 2017 indicates that this enables these taxpayers to defer tax by permitting the costs associated with WIP to be expensed without the matching inclusion of the associated revenues.

Budget 2017 proposes to eliminate the ability for designated professionals to use billed-basis accounting. For the first taxation year that begins on or after Budget Day, 50 per cent of the lesser of the cost and the fair market value of WIP will be included in income. In subsequent taxation years, the lesser of the cost and the fair market value of WIP will be taken into income.

At present, many professionals either do not account for WIP in their financial accounts, or account for WIP at its expected billing amount, using staff and partner billing rates, rather than cost. These professionals will be required to determine the cost of their WIP in order to comply with these new provisions.

It is unclear how the cost of WIP is to be determined. Hopefully, this will be clarified as the proposal proceeds through the legislative process.

This measure will be effective for taxation years that begin on or after Budget Day, phased in as indicated above.

Cash Purchase Tickets

At present, farmers delivering listed grain (i.e., wheat, oats, barley, rye, flaxseed, rapeseed or canola) to the operator of a licensed elevator may choose to receive a cash purchase ticket (or certain other prescribed forms of settlement). This can be payable in the following taxation year, in which case the farmer defers reporting the income to the following year.

Budget 2017 indicates that the deregulation of the grain marketing regime and commercialization of the Canadian Wheat Board calls into question whether a clear policy rationale for this tax deferral remains. A consultation will be undertaken to assess the ongoing utility, and potential elimination, of this tax deferral, including possible transitional rules.

Comments may be submitted by May 24, 2017 to:
consultation_tax_2017@canada.ca.

Private Corporations: Things to Come

Although no changes were proposed, Budget 2017 indicated that the review of federal tax expenditures highlighted a number of issues regarding tax planning strategies using private corporations. The strategies identified are:

- Sprinkling income using private corporations, to family members who are subject to lower personal tax rates.
- Holding a passive investment portfolio inside a private corporation, which may be financially advantageous due to the fact that corporate income tax rates facilitate accumulation of earnings that can be invested in a passive portfolio.
- Converting a private corporation's regular income into capital gains, resulting in lower tax rates.

The Government is further reviewing the use of tax planning strategies involving private corporations that inappropriately reduce personal taxes of high-income earners. The Government will also consider whether there are features of the current income tax system that have an inappropriate, adverse impact on genuine business transactions involving family members.

The Government intends to release a paper in the coming months setting out the nature of these issues in more detail as well as proposed policy responses.

C. International Tax

The Budget papers summarize recent activity combatting international tax avoidance and evasion, reaffirming Canada's commitment to various international initiatives, including the Base Erosion Profit Shifting (BEPS) project of the OECD.

Budget 2017 proposes only one new International measure, extending international anti-avoidance rules to foreign branches of Canadian life insurers.

D. Sales and Excise Tax

Taxi and Ride-Sharing Services

Budget 2017 proposes to amend the definition of a taxi business to include all persons engaged in a business of transporting passengers for fares by motor vehicle within a municipality and its environs where the transportation is arranged for or coordinated through an electronic platform or system, such as a mobile application or website. As taxi businesses do not qualify for the small supplier exemption, they are required to register for, and collect, GST/HST.

These changes will only apply to transportation that is supplied in the course of a commercial activity. These changes will not apply to a school transportation service for elementary or secondary students or a sightseeing service.

It seems likely this proposal was intended, at least in part, to resolve ongoing uncertainty of the GST/HST status of services such as Uber.

This proposal will be effective July 1, 2017.

Naloxone
Budget 2017 proposes to address an issue related to naloxone, a drug used to treat opioid (e.g. fentanyl) overdose. At present, the drug is GST/HST free only when issued under a prescription, and not when used in emergency situations with no prescription. Budget 2017 proposes to add naloxone to the list of GST/HST-free prescription drugs used to treat life-threatening conditions.

The measure will generally come into effect on March 22, 2016, with exceptions for pre-Budget Day situations where GST/HST has already been charged, collected, remitted or paid.

Tour Package Accommodations
Budget 2017 proposes to repeal the GST/HST rebate available to non-residents for the GST/HST that is payable in respect of the accommodation portion of eligible tour packages. The Budget indicates that the Government will invest in enhanced tourism marketing.

This repeal will generally apply in respect of supplies of tour packages or accommodations made after Budget Day. As a transitional measure, the rebate will continue to be available in respect of a supply of a tour package or accommodations made before January 1, 2018 if all of the consideration for the supply is paid before January 1, 2018.

Tobacco Taxation
Budget 2017 proposes to eliminate the tobacco manufacturers' surtax. In order to maintain the intended tax burden of the manufacturers' surtax on tobacco products, Budget 2017 also proposes to increase tobacco excise duty rates, effective the day after Budget Day. The increased excise taxes will apply to inventory of tobacco products at the end of Budget Day, to be remitted by May 31, 2017.

Alcohol Taxation
Budget 2017 proposes that excise duty rates on alcohol products be increased by 2 per cent effective the day after Budget Day, in respect of duty that becomes payable after that date. No special inventory tax will apply to alcohol products on which duty has been paid. In order to maintain their effectiveness, it is also proposed that the rates be automatically adjusted by the Consumer Price Index on April 1 of every year, starting in 2018.

E. Other Measures

Corporate and Beneficial Ownership Transparency
The Government will collaborate with provinces and territories to put in place a national strategy to strengthen the transparency of legal persons and legal arrangements and improve the availability of beneficial ownership information.

These actions are aimed to give law enforcement and other authorities timely access to the information needed to crack down on money laundering, terrorist financing and tax evasion and to combat tax avoidance.

Electronic Distribution of T4 Information Slips
Budget 2017 proposes to allow employers to distribute T4 (Statement of Remuneration Paid) information slips electronically to current active employees without having to obtain express consent from those employees in advance. Required privacy safeguards will be specified by the Minister of National Revenue. Paper T4s will continue to be required for some employees.

This measure will apply in respect of T4s issued for the 2017 and subsequent taxation years.

Employment Insurance

Caregiving
Budget 2017 proposes to create a new Employment Insurance (EI) caregiving benefit. The new benefit will give eligible caregivers up to 15 weeks of EI benefits while they are temporarily away from work to support or care for a critically ill or injured family member.

Training
Budget 2017 indicates that, currently, a large number of unemployed and underemployed Canadians are not eligible for Employment Insurance (EI)-funded training under the Labour Market Development Agreements. Budget 2017 also proposes to invest an additional $900 million over six years, starting in 2017–18, for new Workforce Development Agreements.

The Workforce Development Agreements, which will consolidate the existing Canada Job Fund Agreements, the Labour Market Agreements for Persons with Disabilities and the Targeted Initiative for Older Workers, will make transfers to the provinces and territories simpler and more flexible.

In addition to these investments, the Government proposes an amendment to broaden worker eligibility for programs and services under the Labour Market Development Agreements, allowing even more Canadians, especially underrepresented groups, to access EI-funded skills training and employment supports.

Flexibility

Budget 2017 proposes to make EI parental benefits more flexible. Proposed changes will allow parents to choose to receive EI parental benefits over an extended period of up to 18 months at a lower benefit rate of 33 per cent of average weekly earnings. EI parental benefits will continue to be available at the existing benefit rate of 55 per cent over a period of up to 12 months.

Budget 2017 also proposes to allow women to claim EI maternity benefits up to 12 weeks before their due date (expanded from the current standard of 8 weeks).

Premiums

Budget 2017 indicates that the EI premium rates are expected to increase to $1.68 per $100 of insurable earnings, commencing in 2018-2019.

Adult Learners

Budget 2017 announced numerous measures intended to enhance the ability of adult students to pursue educational updates. These include:

- expansion of eligibility for Canada Student Grants for students attending school part-time;
- increasing the threshold for eligibility for Canada Student Loans for part-time students;
- a three-year pilot project to test new approaches to make it easier for adult learners to qualify for Canada Student Loans and Grants, starting in the 2018–2019 academic year;
- enhancing the ability of EI claimants to pursue self-funded training while maintaining their EI status; and
- establishing a new organization to support skills development and measurement in Canada.

Business Fees

Budget 2017 indicates that the Government is proposing to make changes to the legislative framework governing fee setting for government services. The proposed changes are intended to streamline the fee setting process while ensuring continued accountability and oversight. In addition, an automatic inflation escalator is proposed to allow existing business fees to keep pace with costs. Details of specific fees are not included in Budget 2017.

Canada Savings Bonds (CSB) Phasing Out

Budget 2017 announces that the Government will discontinue the sales of new CSBs in 2017. Existing CSBs will be unchanged.

Increased Funding for CRA

Budget 2017 will invest an additional $523.9 million over five years to prevent tax evasion and improve tax compliance. The investment will be used to fund initiatives and extend existing programs such as:

- increasing verification activities;
- hiring additional auditors and specialists with a focus on the underground economy;
- developing robust business intelligence infrastructure and risk assessment systems to target high-risk international tax and abusive tax avoidance cases; and
- improving the quality of investigative work that targets criminal tax evaders.

F. Previously Announced Measures

Budget 2017 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:

- measures announced on October 3, 2016 to improve fairness in relation to the capital gains exemption on the sale of a principal residence;
- the measure announced in Budget 2016 on information-reporting requirements for certain dispositions of an interest in a life insurance policy;
- legislative proposals released on September 16, 2016, relating to income tax technical amendments;
- legislative and regulatory proposals released on July 22, 2016 relating to the Goods and Services Tax/Harmonized Sales Tax; and
- measures confirmed in Budget 2016 relating to the Goods and Services Tax/Harmonized Sales Tax joint venture election.

Budget 2017 also reaffirms the Government's commitment to move forward as required with technical amendments to improve the certainty of the tax system. No details were provided.

The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a newsletter such as this, a further review should be done by a qualified professional.

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