



Budget 2023 - The top three things to know

Ottawa, ON – March 28, 2023 – Here are the top three items of interest to CALU members from the federal government’s [Budget 2023](#) tabled earlier today. A more detailed report on the Budget 2023 measures will be provided tomorrow.

1. Strengthening the Intergenerational Business Transfer Framework

Section 84.1 of the Income Tax Act is an anti-avoidance rule that created unfair tax penalties for business owners who chose to sell their business to a family member rather than an arm’s-length buyer. CALU supported changes that provided an exception to section 84.1 which was tabled in Parliament as Bill C-208 and became law on June 29, 2021. While the Department of Finance expressed concerns that the exception provided by Bill C-208 could result in certain tax avoidance transactions, it has been slow to introduce amendments.

Budget 2023 addresses this outstanding matter and includes proposed changes to the existing rules so that the exemption from section 84.1 applies only to genuine intergenerational business transfers (GIBTs). The proposed rules introduce a number of conditions for a transfer to be a GIBT, including the filing of a joint election by the transferor and the child(ren) purchasing the shares of the corporation (through a holding company). In order to ensure compliance with the rules, the budget also proposes to extend the normal reassessment period for a GIBT that is exempt from section 84.1.

These proposed changes are to apply to transfers that occur on or after January 1, 2024, with the result that intergenerational transfers finalized before the end of 2023 will continue to be governed by the existing rules.

2. Ensuring the Wealthiest Canadians Pay their Fair Share

Fulfilling the federal government’s commitment to revise the Alternative Minimum Tax (AMT) rules to ensure the wealthiest Canadians are paying their fair share of tax, Budget 2023 announces a number of changes to the AMT rules, including:

- Increasing the AMT rate from 15% to 20.5%
- Increasing the AMT exemption from \$40,000 to approximately \$173,000 (in 2023)
- Increasing the inclusion rate for capital gains, employee stock option benefits and capital gains on public securities donated to charity
- Allowing only 50% of capital losses carried forward and allowable business investment losses
- Disallowing 50% of a variety of deductions

The AMT changes are to apply for taxation years that begin after 2023.



3. Strengthening the General Anti-Avoidance Rule

To address concerns that the current GAAR rules have been interpreted by the tax courts in a way that unduly restricts the ability of the Canada Revenue Agency to successfully challenge abusive tax transactions, Finance Canada released a consultation paper in August 2022 outlining a number of approaches it might consider to modernize and strengthen the GAAR.

Budget 2023 carries out some of the proposals set out in the consultation paper by proposing to amend the GAAR rules by:

- introducing a preamble to the GAAR rules to help address interpretive issues and ensure the GAAR is applied as intended
- changing the avoidance transaction definition so that transactions with a main purpose (rather than a primary purpose) of tax avoidance can be an avoidance transaction
- adding rules to determine when a transaction has a lack of economic substance and therefore indicative of abusive tax avoidance
- introducing a penalty of 25% of the tax benefit unless the transaction has been disclosed to the CRA voluntarily or under the proposed mandatory disclosure rules
- extending the normal reassessment period for GAAR assessments by 3 years unless the transaction has been disclosed to the CRA voluntarily or under the proposed mandatory disclosure rules

We would note the CALU submissions to Finance as part of its pre-budget consultation on proposed changes to the RRSP contribution and RRIF minimum payment rules and proposals to ensure a wider availability of employer sponsored dental care programs, received no comment in Budget 2023.

Stay tuned for CALU's Special Report on Budget 2023 that will be released tomorrow and include further commentary on these and other proposals of interest to CALU members.