

# Post Budget Reflections on Tax Implications for Canadian Business Owners

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# Federal Budget Highlights

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- No changes to Capital Gains Inclusion Rate
- No broad-based personal or corporate tax rate changes
- Main Focus on Housing Affordability and Supply:
  - Tax-Free First Time Home Savings Account (“FHSA”); and
  - Residential Property “Flipping” Rule
- Most changes expected – pre-announced in Liberal election platform

# Small Business Tax Measures

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- Non-CCPC Planning
  - Introduce “Substantive CCPC” rules to curb planning seeking to achieve tax-deferral for corporate investment income.
- Small Business Deduction
  - More gradual phase-out for larger private businesses (\$15MM of taxable capital to \$50MM).
- Explore tax structure for Employee Ownership Trusts
  - Proposal to create a new, dedicated type of trust in the income tax legislation to support employee ownership.
- Intergenerational Share Transfers (Bill C-208)
  - Defer amended tax legislation until fall, following further consultation.

# Inter-Generational Transfers of Family Businesses

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- Generally, sale of incorporated business results in a capital gain, potentially eligible for Lifetime Capital Gains Exemption ("LCGE").
  - However, if sale made to corporation controlled by a non-arm's length person (family member), certain anti-avoidance ("surplus stripping") tax rules often convert capital gain into a taxable dividend (subject to higher tax rate, and ineligible for LCGE).
  - Federal government acknowledged unfairness in 2019, but no action until late June 2021 upon Private Member's Bill C-208 receiving Royal Assent:
    - Allows consistent capital gain treatment for related parties, provided certain conditions are met.
  - Department of Finance concerned about limited safeguards to prevent abusive tax avoidance:
    - Acknowledged Bill C-208 legislation is effective as of June 29, 2021;
    - Will amend to remove "loopholes" to allow only genuine business transfers, but amendments will not be retroactive; and
    - 2022 Federal Budget announced consultation process (until June 17, 2022) with draft legislation expected this fall.
  - Result: Uncertainty for Business Owner clients re "genuine inter-generational share transfers"
  - See BMO publication: [Tax Relief Proposed for Intergenerational Transfers of Family Businesses](#)
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# Other Notable Budget Measures

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- Commitment to examine new Alternative Minimum Tax (“AMT”) regime
- Corporate Beneficial Ownership Registry
- Review of Employment Insurance (“EI”) system
- Increased Disbursement Quota for charities:
  - From 3.5% to 5% (where investable assets > \$1MM).

# Other Considerations

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- End of Pandemic Relief programs
- Outstanding Election platform proposals include:
  - Career Extension Tax Credit to help seniors who wish to remain in the workforce; and
  - One-time tax deduction for Health Care professionals to assist with costs of setting up a new practice.

Thank you

John Waters

# Disclosure

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