

2010 Federal Budget Highlights

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The 2010 Federal Budget was delivered on March 4, 2010 and contained a number of proposals impacting the taxation of individuals:

Medical Expense Tax Credit – Cosmetic Procedures

Budget 2010 proposes to make expenses incurred after March 4, 2010 for purely cosmetic surgical and non-surgical procedures that are aimed at enhancing ones' appearance ineligible for the Medical Expense Tax Credit. Cosmetic procedures required for medical or reconstructive purposes will still be allowed.

Scholarship Exemption and Education Tax Credit

Budget 2010 proposes that for 2010 and subsequent years an amount will be eligible for the scholarship exemption only to the extent that it can reasonably be considered to be received in connection with enrolment in an eligible educational program for the duration of the period of study for which the scholarship was received.

If a scholarship, fellowship or bursary is received for a part-time program, the exemption will be limited to the amount of tuition and program materials costs paid unless the student is eligible for the Disability Tax Credit or is unable to be enrolled on a fulltime basis because of a physical or mental disability.

Budget 2010 also proposes to clarify that a post-secondary program that consists mainly of research will be eligible for the Education Tax Credit and the scholarship exemption only if it leads to a college or CEGEP diploma, or a bachelor, masters or doctoral degree. Post-doctoral fellowships will be taxable.

U. S. Social Security Benefits

For U.S. Social Security benefits received after January 1, 2010, Budget 2010 proposes to reinstate the 50 per cent inclusion rate for Canadian residents who have been receiving them since before 1996 and for their spouses and common-law partners who are entitled to receive survivor benefits. Since 1996 the inclusion rate has been 85%.

Benefits Entitlement - Shared Custody

Budget 2010 proposes to allow two eligible individuals to each receive one-half of the Canada Child Tax Benefit, Universal Child Care Benefit and GST/HST credit amount in respect of a child who lives with both parents who live separate and apart. This measure will apply to benefits payable beginning July 2011.



Single Parents

Beginning in 2010, Budget 2010 proposes that a single parent will have the option of including the total Universal Child Care benefit received in their own income or in the income of one of the children/dependents for whom the Universal Child Care Benefit is paid.

Rollover of RRSP Proceeds to an RDSP

Budget 2010 proposes to extend the tax deferred rollover rule for deaths occurring on or after March 4, 2010 to enable and allow a transfer of a deceased individual's RRSP proceeds to a Registered Disability Savings Plan (RDSP) of a financially dependent disabled child or grandchild.

The RDSP beneficiary or their legal representative must make an election in prescribed form to transfer the eligible RRSP proceeds to an RDSP on a rollover basis.

The amount of RRSP proceeds eligible for rollover to an RDSP is limited to a beneficiary's available RDSP contribution room (lifetime maximum amount is \$200,000). This rolled over amount will reduce the beneficiary's RDSP contribution room, but will not attract Canada Disability Savings Grants (CDSG's). The transferred amounts will form part of the taxable portion of disability assistance payments that will result in an income inclusion when withdrawn from the plan.

Transitional Relief Rules (RDSPs)

This budget also includes special transitional rules that will allow comparable relief for deaths of RRSP annuitants after Jan 1, 2008 and before 2011. In essence, these special rules will allow a contribution to be made to the RDSP of a financially dependent disabled child or grandchild of the annuitant that mirrors the proposed measures above. An offsetting deduction will be provided either on the deceased's terminal tax return or on that of the return of the eligible individual making the contribution.

Note: To allow time for financial institutions and Human Resources and Skills Development Canada to adjust their RDSP systems, RDSP contributions benefitting from the proposed rollover measure cannot be made before July 2011.

Carry Forward of RDSP grant room

In recognition of the fact that families of children with disabilities may not be able to contribute regularly to their plans, Budget 2010 proposes to amend the *Canada Disability Savings Act* to allow a 10 year carry-forward of Canada Disability Savings Grant (CDSG) and Canada Disability Savings Bond (CDSB entitlements). There is currently no carry-forward of unused CDSG and CDSB entitlements to future years. This carry-forward will be available starting in 2011.



Provincial Payments into RESPs and RDSPs

Budget 2010 proposes to clarify that all payments made to a RESP or a RDSP through a program funded, directly or indirectly, by a province or administered by a province will be treated the same way as federal grants and bonds and will therefore not themselves attract or reduce federal grants or bonds.

In the case of programs that are administered by a province, this measure will apply to payments made after 2006. In the case of payments not administered by a province, this measure will apply to payments made after 2008.

Employee Stock Options

The 2010 budget proposes to amend the taxation of stock options.

Currently, employees of publicly-traded companies can elect to defer tax on up to \$100,000 of employee stock option benefits vesting in a particular year. The budget repeals this tax deferral election for employee stock options exercised after 4:00 p.m. (EST) on March 4, 2010.

The 2010 budget also clarifies that employers are required to withhold and remit an amount in respect of the tax on the employment benefit associated with the issuance of a security. This measure does not apply to options granted before 2011 that were documented under a written agreement entered before 4:00 p.m. (EST) on March 4, 2010 where the agreement included restrictions on the optioned securities' disposition.

The 2010 budget proposes a special election to ensure that the tax liability on previously deferred stock option benefits does not exceed the proceeds from the shares' disposition.

As of 4:00 p.m. (EST) on March 4, 2010, the employee stock option deduction of one-half of the employment benefit can only be claimed where the employee exercises his or her options by acquiring securities from their employer. Previously, where employees disposed of their stock option rights for cash, the employment benefit could be eligible for the stock option deduction while the cash payment was fully deductible to the employer. Employers may continue to allow employees to cash out their stock option rights and claim the deduction, provided the employer makes an election to forgo the deduction for the cash payment.

Mineral Exploration Credit

The 2010 budget extends the mineral exploration tax credit for flow-through share investors, which was set to expire at the end of March 2010. The credit will continue to be available for flow-through share agreements entered into on or before March 31, 2011.



Disbursement Quota Reform for Charities

Budget 2010 proposes to simplify the disbursement quota for fiscal years ending on or after March 4, 2010 by repealing the charitable expenditure rule, thereby eliminating the concepts of enduring property, the capital gains reduction and capital gains pool, specified gifts and exclusions from the base to which the 3.5% disbursement rate is applied. It also proposes to modify the capital accumulations rule by increasing the exemption threshold from \$25,000 to \$100,000 for charitable organizations (other than charitable foundations) and to strengthen the related anti-avoidance rules.

Section 116 and Taxable Canadian Property

Budget 2010 proposes to change the definition of taxable Canadian property to exclude shares of corporations, and certain other interests (including a capital interest in a trust) that did not derive more than 50% of their value principally from real or immovable property situated in Canada in the previous 60 months, Canadian resource property, or timber resource property. This measure will eliminate section 116 compliance obligations for purchasers and non-resident vendors of these types of properties after March 4, 2010.

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