

# NOTE ON CHANGES IN INCOME TAX LEGISLATION FOR 2018 CFE

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As a CPA candidate, you are responsible for the regulation that are “in effect as of December 31” (of the prior year). The cut-off date of the version of the *Income Tax Act* for the Common Final Examination (CFE) is November 30 of the prior year. This note aims to present changes in income tax legislation during 2017 and 2016 for the 2018 CFE.

## **FURTHER DETAILS ON TAXATION CHANGES FROM CPA CANADA**

(source: CPA Canada, Technical update for 2018 CPA PEP examinations and the CFE, online March 23, 2018, <https://www.cpacanada.ca/en/become-a-cpa/cpa-certification-program-evaluation/technical-update-for-examinations>)

“As of November 30, 2017, one bill affecting taxation had been substantively enacted but had not received royal assent. You are expected to apply the following changes made by Bill C-63. This bill enacts the second half of the measure in the budget introduced by the government in March 2017; it received royal assent on December 14, 2017.

You are not responsible for the legislation that introduces the government’s proposed measures to restrict income sprinkling, despite its expected retroactive application, since it has not yet been introduced into the House of Commons.

You are advised that the detailed enacted amendments to items found in the *Knowledge Supplement* are not listed here.

The Secureexam version of the *Income Tax Act* provided will include footnotes that explains this bill.”

## RECENT CHANGES IN LEGISLATION INCLUDED IN 2018 CFE

\* September 8, 2017

Legislative Proposals Relating to the Income Tax Act and Explanatory Notes

- ecological gifts program
- anti-avoidance rules for registered plans
- taxes in respect of registered plans
- investment fund managers
- clean energy generation equipment: geothermal energy
- Canadian exploration expenses: oil and gas discovery wells
- reclassification of expenses renounced to flow-through share investors
- meaning of actual control
- timing of recognition of gains and losses on derivatives
- billed-basis accounting
- extending the base erosion rules to foreign branches of life insurers
- stub period FAPI
- nurse practitioners
- Armed Forces deduction

Included in *Budget Implementation Act, 2017, No. 2* (C-63 - royal assent Dec 14, 2017)

- removing the classification of the costs of drilling a discovery well as ‘Canadian exploration expenses’
- eliminating the ability for small oil and gas companies to reclassify up to \$1 million of ‘Canadian development expenses’ as ‘Canadian exploration expenses’
- revising the anti-avoidance rules for registered education savings plans (RESP) and registered disability savings plans (RDSP)
- eliminating the use of billed-basis accounting by designated professionals
- providing enhanced tax treatment for eligible geothermal energy equipment
- extending the base erosion rules to foreign branches of Canadian insurers
- clarifying who has factual control of a corporation for income tax purposes
- introducing an election that would allow taxpayers to mark to market their eligible derivatives
- introducing a specific anti-avoidance rule that targets straddle transactions
- allowing tax-deferred mergers of switch corporations into multiple mutual fund trusts and allowing tax-deferred mergers of segregated funds
- enhancing the protection of ecologically sensitive land donated to conservation charities and broadening the types of donations permitted
- closing loopholes surrounding the capital gains exemption on the sale of a principal residence
- providing additional authority for certain tax purposes to nurse practitioners
- ensuring that qualifying farmers and fishers selling to agricultural and fisheries cooperatives are eligible for the small business deduction
- extending the types of reverse takeover transactions to which the corporate acquisition of control rule apply
- improving the consistency of rules applicable for expenditures in respect of scientific

research and experimental development

- ensuring that the taxable income of federal credit unions is allocated among provinces and territories using the same allocation formula as applicable to the taxable income of banks
- ensuring the appropriate application of Canada's international tax rules
- improving the accuracy and consistency of the income tax legislation and regulations

\* March 22, 2017

Notice of Ways and Means Motion to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures and Explanatory Notes

Included in *Budget Implementation Act, 2017, No. 1* (C-44 - royal assent June 22, 2017)

- eliminating the investment tax credit for child care spaces
- eliminating the deduction for eligible home relocation loans
- ensuring that amounts received on account of the caregiver recognition benefit under the *Veterans Well-being Act* are exempt from income tax
- eliminating tax exemptions of allowances for members of legislative assemblies and certain municipal officers
- eliminating the tax exemption for insurers of farming and fishing property
- eliminating the additional deduction for gifts of medicine
- replacing the existing caregiver credit, infirm dependant credit and family caregiver tax credit with the new Canada caregiver credit
- eliminating the public transit tax credit (none after July 1, 2017)
- ensuring certain costs related to the use of reproductive technologies qualify for the medical expense tax credit
- extending the list of medical practitioners that can certify eligibility for the disability tax credit to include nurse practitioners
- extending eligibility for the tuition tax credit to fees for occupational skills courses at post-secondary institutions and taking into account such courses in determining whether an individual is a qualifying student under the Income Tax Act
- extending, for one year, the mineral exploration tax credit for flow-through share investors
- eliminating the tobacco manufacturers' surtax
- permitting employers to distribute T4 information slips electronically provided certain conditions are met
- delaying the repeal of the provisions related to the National Child Benefit supplement in the Income Tax Act

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Included in *An Act to Amend ... the ITA* (C-4 - royal assent June 19, 2017)

- remove the requirement that labour organizations and labour trusts provide annually to the Minister of National Revenue certain information returns containing specific information that would be made available to the public (ITA 149.01, 239(2.31))

\* March 22, 2016 Budget

Included in *Budget Implementation Act, 2016, No. 2* (C-29 - royal assent December 15, 2016)

- eliminating the eligible capital property (ECP) rules and introducing a new class of depreciable property (14.1)
- introducing rules to prevent the avoidance of the shareholder loan rules using back-to-back arrangements
- excluding derivatives from the application of the inventory valuation rules
- ensuring that the return on a linked note retains the same character whether it is earned at maturity or reflected in a secondary market sale
- clarifying the tax treatment of emissions allowances and eliminating the double taxation of certain free emissions allowances
- introducing rules so that any accrued foreign exchange gains on a foreign currency debt will be realized when the debt becomes a parked obligation
- ensuring that amounts are not inappropriately received tax-free by policyholder as a result of a disposition of an interest in a life insurance policy
- preventing the misuse of an exception in the anti-avoidance rules in the ITA for cross-border surplus-stripping transactions
- indexing to inflation the maximum benefit amounts and the phase-out thresholds under the Canada child benefit, beginning in the 2020-2021 benefit year
- amending the anti-avoidance rules in the ITA that prevent the multiplication of access to the small business deduction and the avoidance of the business limit and the taxable capital limit
- ensuring that an exchange of shares of a mutual fund corporation or investment corporation that results in the investor switching between funds will be considered for tax purposes to be a disposition at fair market value
- implementing the country-by-country reporting standards recommended by the Organisation for Economic Co-operation and Development (OECD)
- clarifying the application of anti-avoidance rules in the ITA for back-to-back loans to multiple intermediary structures and character substitution
- introducing rules to prevent the avoidance of withholding tax on rents, royalties and similar payments using back-to-back arrangements
- allowing greater flexibility for recognizing charitable donations made by an individual's former graduated rate estate
- clarifying what types of investment funds are excluded from the loss restriction event rules that otherwise limit a trust's use of certain tax attributes
- ensuring that income arising in certain trusts on the death of the trust's primary beneficiary is taxed in the trust and not in the hands of that beneficiary, subject to a joint election for certain testamentary trusts to report the income in that beneficiary's final return
- clarifying that the CRA and the courts may increase or adjust an amount included in an assessment that is under objection or appeal at any time, provided the total amount of the assessment does not increase
- implementing the common reporting standard recommended by the Organisation for Economic Co-operation and Development (OECD) for the exchange of financial account information between tax authorities

Included in *Budget Implementation Act, 2016, No. 1* (C-15 - royal assent June 22, 2016)

- eliminating the education tax credit (none after 2016)
- eliminating the textbook tax credit (none after 2016)
- exempting from taxable income amounts received as rate assistance under the Ontario Electricity Support Program
- maintaining the small business tax rate at 10.5% for the 2016 and subsequent taxation years and making consequential adjustments to the dividend gross-up factor and dividend tax credit
- increasing the maximum deduction available under the northern residents deduction
- eliminating the children's arts tax credit (none after 2016)
- eliminating the family tax cut credit (none after 2015)
- replacing the Canada child tax cut benefit and universal child care benefit with the new Canada child benefit
- eliminating the child fitness tax credit (none after 2016)
- introducing the school supplies tax credit (starting in 2016)
- extending, for one year, the mineral exploration tax credit for flow-through share investors
- restoring the labour-sponsored venture capital corporations tax credit for purchases of shares of provincially registered labour-sponsored venture capital corporations for the 2016 and subsequent taxation years
- introducing changes consequential to the introduction of the new 33% individual tax rate
- amending the anti-avoidance rules in the ITA that prevent the conversion of capital gains into tax-deductible intercorporate dividends
- qualifying certain costs associated with undertaking environmental studies and community consultations as Canadian exploration expenses
- ensuring that profits from the insurance of Canadian risks remain taxable in Canada
- ensuring that the dividend rental agreement rules under the ITA apply where there is a synthetic equity arrangement
- providing specific tax rules in respect of the commercialization of the Canadian Wheat Board, including a tax deferral for eligible farmers
- permitting registered charities and registered Canadian amateur athletic associations to hold limited partnership interests
- providing an exemption to the withholding tax requirements for payments by qualifying non-resident employers to qualifying non-resident employees
- limiting the circumstances in which the repealed failure to report income penalty will apply
- permitting the sharing of taxpayer information within CRA to facilitate the collection certain non-tax debts
- permitting the sharing of taxpayer information with the Office of the Chief Actuary

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Included in *An Act to Amend ... the ITA* (C-26 - royal assent December 15, 2016)

- increasing the Working Income Tax Benefit
- providing a deduction for additional employee contributions

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Included in *An Act to Amend the ITA (C-2 - royal assent December 15, 2016)*

- reducing the second personal income tax rate from 22% to 20.5%
- introducing a new personal marginal tax rate of 33% for taxable income in excess of \$200,000
- introducing changes consequential to the introduction of the new 33% individual tax rate
- reducing the annual contribution to TFSA from \$10,000 to \$5,500 starting in 2016

## **RECENT CHANGES IN LEGISLATION EXCLUDED FROM 2018 CFE**

\* February 27, 2018

Notice of Ways and Means Motion to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures and Explanatory Notes

Included in *Budget Implementation Act, 2018, No. 1*

- Canadian Armed Forces members and veterans amounts
- Memorial grant
- refundable dividend tax credit
- split income
- Canada workers benefit
- small business deduction
  - business limit reduction
  - anti-avoidance
  - adjusted aggregate investment income
- flow-through mining expenditures
- refundable dividend tax on hand (RDTOH) (eligible / non-eligible, transitional RDTOH)
- joint and several, or solidary, liability - tax on split income
- failure to provide identification number
- deemed private corporation
- eligible donee
- reduction of liability for penalties
- designated number (production, number required in information returns, authority)

\* October 24, 2017

Fall Economic Statement 2017

- moving forward with measures to limit the tax deferral opportunities related to passive investments
- Canada Child Benefit indexing
- working income tax benefit (WITB)
- lowering taxes for small business
- income sprinkling
- passive investments
- conversion of income into capital gains

- \* October 24, 2017  
Notice of Ways and Means Motion to amend the Income Tax Act and Explanatory Notes
  - gross-up amount of non-eligible dividend (16% in 2018, 15% after 2018) (ITA 82(1))
  - dividend tax credit of non-eligible dividend (8/11 in 2018, 9/13 after 2018) (ITA 121)
  - dividend tax credit of non-eligible dividend (17.5% in 2018, 15% after 2018) (ITA 122.61)
  - annual adjustment on Canada child benefit after July 1, 2020 (ITA 122.61(5))
  - small business deduction (17.5% before 2018, 18% in 2018, 19% after 2018) (ITA 125)
  
- \* October 18, 2017  
News release - Targeted tax fairness measures will protect middle class small business owners
  - moving forward with measures to limit the tax deferral opportunities related to passive investments
  - passive income threshold of \$50,000 per year for future, go-forward investments
  - draft legislation in Budget 2018
  
- \* July 18, 2017 (consultation paper with partial draft proposal)  
Consultations on Tax planning strategies using private corporations tax  
Legislative Proposals Relating to the Income Tax Act, the Income Tax Act Regulations and Explanatory Notes
  - income sprinkling
    - split income to adults
    - restricting strategies that multiply access to the lifetime capital gains exemption
  - holding passive investments inside a private corporation (no draft legislation)
  - converting income into capital gains
  
- \* May 18, 2017  
Notice of Ways and Means Motion to amend the Income Tax Act and Explanatory Notes
  - tax exemption for salaries of deployed Canadian Armed Forces personnel and police officers (ITA 110(1)(f)(v))
  
- \* May 2017  
Legislative Proposals Relating to the Income Tax Act and Explanatory Notes
  - change of the definition of specified corporate income regarding specified cooperative income (ITA 125(7))

## LIST OF INCOME TAX ACT - AMENDING ACTS

(R.S.C. 1985 (5<sup>th</sup> Supplement), c.1 as amended)

| Year | Bill | Title   | Chapter | Royal Assent      |
|------|------|---|---------|-------------------|
| 2018 |      | <i>Budget Implementation Act, 2018 No. 1</i><br>(budget tabled on February 27, 2018)  |         |                   |
|      |      |   |         |                   |
| 2017 | C-63 | <i>Budget Implementation Act, 2017, No. 2</i><br>(budget tabled on March 22, 2017)  | 33      | December 14, 2017 |
|      | C-44 | <i>Budget Implementation Act, 2017, No. 1</i><br>(budget tabled on March 22, 2017)  | 20      | June 22, 2017     |
|      | C-4  | <i>An Act to amend the Canadian Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act</i> | 12      | June 19, 2017     |
| 2016 | C-29 | <i>Budget Implementation Act, 2016, No. 2</i>   | 12      | December 15, 2016 |
|      | C-26 | <i>An Act to amend the Canada Pension Plan, the Canada Pension Plan Investment Board Act and the Income Tax Act</i>   | 14      | December 15, 2016 |
|      | C-2  | <i>An Act to amend the Income Tax Act</i>   | 11      | December 15, 2016 |
|      | C-15 | <i>Budget Implementation Act, 2016, No. 1</i>   | 7       | June 22, 2016     |

(source: Justice Canada, Annual Statutes, online March 28, 2018,  
<https://www.laws-lois.justice.gc.ca/eng/AnnualStatutes/>)