

2008 Ontario provincial budget

March 25, 2008

On Tuesday, March 25, 2008, Dwight Duncan, Minister of Finance, tabled the province's 2008 budget.

The budget projects a surplus of \$600 million dollars for 2007-08 and provides for significant investment in skills training, infrastructure and innovation. Although there were no corporate tax rate reductions, a number of tax measures were announced.

The following is a summary of the tax measures included in the budget:

Business tax measures

Capital tax reductions and elimination

The Ontario 2007 Fall Economic Statement proposed to eliminate the capital tax effective January 1, 2008 for Ontario companies primarily engaged in manufacturing or resource activities. For such companies, the budget proposes to retroactively eliminate the capital tax one year earlier, effective January 1, 2007. The government will provide this retroactive tax relief either by issuing a refund cheque or offsetting other corporate taxes owing.

More specifically, the proposed elimination of the capital tax would apply to corporations whose salaries and wages relating to manufacturing and processing (M&P), mining, logging, farming or fishing activities in Ontario represent 50% or more of their total salaries and wages in Ontario. For corporations whose salaries and wages in Ontario for these activities comprise less than 50%, but more than 20% of their total salaries and wages in Ontario, the capital tax would be reduced proportionately on a straight-line basis. For example, a corporation whose qualifying salaries and wages comprise 35% of total Ontario salaries and wages would have one-half of its capital tax eliminated. The proposed elimination of the capital tax for 2007 would apply to a qualifying corporation if it or a successor corporation has employees reporting to a permanent establishment in Ontario on March 25, 2008.

In addition, as first announced in the Fall Economic Statement, the government also proposes to introduce legislation to provide for a reduction in the capital tax rate for all other businesses retroactive to January 1, 2007. This will be accomplished by accelerating the capital tax rate cuts currently scheduled for January 1, 2009.

Ontario tax exemption for commercialization

The government is proposing a 10-year tax exemption from Ontario corporate income tax and corporate minimum tax for new corporations that commercialize intellectual property developed by qualifying Canadian universities, colleges or research institutes (for example, in areas such as, but not limited to, advanced health technologies, bio-economy/clean technologies, and telecommunications, computer and digital technologies).

Eligible commercialization activities would include the development of prototypes and the marketing and manufacturing of products related to the intellectual property.

This 10-year tax exemption will apply to qualifying corporations established after March 24, 2008 and before March 25, 2012. A qualifying corporation must be incorporated in Canada and derive all or substantially all of its income from eligible commercialization activities carried on in Ontario.

Ontario Innovation Tax Credit ("OITC")

The government is proposing to enhance the OITC refundable 10% tax credit, available to small and medium-sized corporations that carry on scientific research and experimental development (SR&ED) in Ontario, by paralleling some of the enhancements to the federal SR&ED program proposed in the 2008 federal budget. The Ontario enhancements will apply to both Canadian-controlled private corporations (CCPCs) and non-CCPCs. Ontario proposes to increase the OITC expenditure limit from \$2 million to \$3 million of qualifying SR&ED

expenditures, and to extend the taxable income phase-out range for the expenditure limit in respect of prior year taxable income from between \$400,000 and \$600,000 under the OITC, to a new upper limit of \$700,000 of taxable income. Ontario will maintain its current prior year taxable capital phase-out range for the expenditure limit of \$25 million to \$50 million for the OITC.

The required legislation to implement these measures will be introduced once the implementing federal legislation is enacted. The effective date of the amendments will parallel the federal amendments—i.e., for taxation years that end on or after February 26, 2008.

Measures to parallel federal tax measures

The government proposes to parallel the following previously announced federal budget measures, subject to the enactment of the applicable federal legislation and regulations:

- the temporary accelerated capital cost allowance (CCA) incentive for the purchase of M&P machinery and equipment (from a 30% declining balance rate to a 50% straight-line rate) for purchases made on or after March 19, 2007 and before 2010, and an accelerated declining balance CCA rate for purchases made in 2010 and 2011;
- expanding eligibility for Class 43.2 (50% CCA rate) to include a broader range of clean energy generation assets effective for assets purchased after February 25, 2008;

- increasing the CCA rate for carbon dioxide pipelines (to 8% from 4%); and
- increasing the CCA rate for railway locomotives from 15% to 30% for assets purchased after February 25, 2008.

Implementation of additional measures first announced in the fall economic statement

The government has confirmed that the following additional measures, first announced as part of the 2007 Fall Economic Statement, will be implemented:

- increasing the small business deduction threshold for CCPCs from the first \$400,000 to the first \$500,000 of active business income, retroactive to January 1, 2007, and increasing the level of income at which the deduction is completely phased out from \$1,128,519 to \$1,500,000;
- increasing film tax credit rates, effective January 1, 2008;
- extending the phase-out of the Labour-Sponsored Investment Fund tax credit by one year, to 2011, and increasing the maximum eligible investment from \$5,000 to \$7,500; and
- expanding the Land Transfer Tax Refund Program for First-Time Homebuyers to include resale homes for agreements of purchase and sale entered into after December 13, 2007.

Elimination of tax installments for certain small businesses

The federal/Ontario harmonization of the administration of Ontario corporate taxes will take effect for taxation years ending after 2008. In light of that, the government is proposing to amend the Ontario corporate tax instalment rules to parallel the new federal corporate tax instalment rules for taxation years ending after 2008. More specifically, the proposed rules will provide small CCPCs with current or past year tax of up to \$3,000 with complete relief from the requirement to pay tax instalments.

Ontario interactive digital media tax credit (OIDMTC)

The OIDMTC is a refundable tax credit available to Ontario corporations for the creation, marketing and distribution of interactive digital media products. The current OIDMTC rate is either 30% or 20% (available for qualifying expenditures incurred after March 23, 2006 and before January 1, 2010). The 20% rate applies to corporations with annual gross revenues of more than \$20 million or total assets of more than \$10 million.

The budget proposes to increase the 20% tax credit rate to 25% for qualifying expenditures incurred after March 25, 2008 and before January 1, 2012. The credit for corporations qualifying for the 30% rate is similarly extended to expenditures incurred before January 1, 2012.

In addition, for qualifying digital media products completed after March 25, 2008, it is proposed that the eligibility period for labour expenses will be extended from two to three years.

Personal tax measures

Senior homeowners' property tax grant

In addition to the current property tax credit, it is proposed that the province will provide a new property tax grant to seniors with low and moderate incomes who own their own homes. This new grant would be available in early 2009 and would be provided in each year thereafter. The maximum grant for 2009 will be \$250, increased to \$500 for 2010 and subsequent years. Seniors who own their own homes will apply for this grant when they file their 2008 and subsequent income tax returns.

The maximum grant will be available to single seniors with annual income up to \$35,000 (proportionately reduced for seniors with income between \$35,000 and \$50,000). The maximum grant will be available to senior couples with annual combined income of up to \$45,000 (proportionately reduced for couples with income between \$45,000 and \$60,000).

Ontario property and sales tax credits for seniors

The government proposes to increase the income threshold at which eligibility for these credits begins to be reduced. The new threshold will be set so that seniors who receive the minimum level of income guaranteed by the government from Old Age Security (OAS), Guaranteed Income Supplement (GIS) and Ontario Guaranteed Annual Income System (GAINS) will continue to get the full benefit of the Ontario property and sales Tax credits. For 2007, this income threshold for senior couples was \$23,820. The new threshold for 2008 will be determined when the federal government finalizes OAS and GIS amounts for 2008.

Tax-free savings account (TFSA)

The 2008 federal budget proposed a new savings vehicle that would allow individuals to contribute up to \$5,000 annually to a TFSA. Contributions would not be tax deductible, but capital gains and investment income earned within the TFSA and withdrawals from the TFSA would be tax-free. The province has announced that it intends to parallel the federal rules for Ontario personal income tax purposes.

Dividend tax credit for eligible dividends

The government announced that it intends to parallel the federal reduction in the gross-up factor applicable to eligible dividends received by individuals (i.e., from the current gross-up of 45% to 44% in 2010, 41% in 2011 and 38% in 2012).

Ontario also announced that it proposes to maintain its plan to increase the tax credit rate on grossed-up eligible dividends from 7% in 2008 to 7.4% in 2009 and 7.7% in 2010 and subsequent years.

Other measures to parallel federal tax measures

Ontario will parallel the following measures previously announced as part of the 2008 federal budget:

- changes to the Registered Education Savings Plan (RESP) program, beginning in the 2008 taxation year, that would extend the maximum contribution period and the maximum lifespan of an RESP, as well as the contribution age limit for a family plan, by 10 years;
- an increase in the maximum northern residents deduction for the 2008 taxation year and beyond;
- an expansion of the list of expenses eligible for the medical expense tax credit, effective for the 2008 and subsequent taxation years, and clarification that expenses incurred after February 26, 2008, for drugs and medications that may be purchased without a prescription, do not qualify for this credit;
- an extension of the existing capital gains exemption for donations of publicly traded securities to capital gains realized on the exchange of unlisted securities for publicly traded securities (where certain conditions are met); and
- provisions to exempt certain holdings of shares from the new excess corporate holdings regime for private foundations.

Transfers from family farm corporations

Currently, transfers of farmland between family members and transfers into a family farm corporation are exempt from land transfer tax (LTT). To provide relief for all farmers, amendments will be introduced to expand the LTT exemption to include transfers of farmland from family farm corporations to individual family members. This proposal will apply to qualifying transfers after March 25, 2008.

Retail sales tax (RST) measures

Exemption for newspapers

The budget proposes to extend the definition of “newspaper” to allow publications with smaller circulation, or less frequent publishing schedules, to qualify for the RST exemption for newspapers. Once finalized, these changes will be retroactive to January 1, 2000.

Exemption for destination marketing fees

The budget proposes to extend the RST exemption for destination marketing fees for two additional years. Under the proposed extension, any destination marketing fees billed on or before June 30, 2010 would qualify for the exemption from the 5% RST on accommodations.

Exemption for admissions to theatres of not more than 3,200 seats

The budget proposes to make permanent the RST exemption on admissions to theatres of not more than 3,200 seats that present live performances.

Exemption for ENERGY STAR® household appliances and light bulbs

The budget proposes to extend the RST exemption available at the point of sale, for qualifying new ENERGY STAR® household appliances purchased, rented or leased on or before August 31, 2009, and delivered on or before September 30, 2009. Qualifying products are non-commercial refrigerators, dishwashers, clothes washers (including clothes washer-dryer combinations), freezers, dehumidifiers, and room air conditioners. They will also include qualifying light bulbs purchased on or before August 31, 2009.

Exemption for bicycles and related safety equipment

The budget proposes to extend the temporary RST exemption on the purchase of new or used bicycles, tricycles and unicycles of less than \$1,000 and related bicycle safety equipment (including bicycle helmets) to purchases made on or before December 31, 2010.

Exemption for nicotine replacement therapies

The budget proposes to make permanent the RST exemption on the purchase of qualifying non-prescription nicotine replacement therapies purchased after March 25, 2008. Only nicotine replacement therapies that are registered with a drug identification number or a national product number by the federal government and are sold for the sole purpose of assisting the purchaser to stop smoking tobacco will qualify for this exemption.

Retroactive technical measures

Proposed amendments confirm the Ministry's position requiring persons to pay RST on purchases of containers and other packaging, storage and shipping items that are intended to be returned for reuse in the packaging, storage or shipping of goods. These amendments are effective retroactively to May 7, 1997 and are in response to the recent Proctor & Gamble court decision. These amendments also confirm the Ministry's position requiring persons to pay RST on containers and other items that are provided as a promotional distribution.

Tobacco tax measures

The budget proposes to improve its enforcement measures in tobacco tax compliance by:

- requiring the purchasers or importers of cigarette-making machinery to be registered as manufacturers under the Tobacco Tax Act,
- adding legislative provisions to permit the seizure of tobacco products from persons found to be in violation of the Tobacco Tax Act, and
- adding minimum penalties to existing tax-based penalties found to be in violation of the Tobacco Tax Act.

Contact one of our tax specialists for more information on any of the above proposed measures.

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