Federal Budget 2009: STEP Canada Summary

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Ottawa has tabled a budget full of promised spending and a number of across-the-board measures aimed at tax relief for low and middle-income Canadians. Following is a summary of measures which may be of interest to STEP Canada members and their clients.

Domestic Measures

- <u>Deducting RRSP/RRIF losses against year-of-death income inclusion</u>: Ottawa is acknowledging the economic reality of a declining market. When the post-death amount of a deceased's RRSP or RRIF is finally distributed, any loss resulting from further decreases in value can be carried back to set off any terminal year gains. This measure will apply to final distributions occurring after 2008.

- <u>Bracket-broadening</u>: All taxpayers will benefit from Ottawa's 2009 budget announcement to amend the basic personal amount. This amount, as well as the spousal and common-law partner amounts, will increase to $10,320 in 2009 from $9,600 in 2008. Meanwhile, the upper limit of the lowest bracket (15% income tax rate) will increase to $40,726 in 2009 from $37,885 in 2008. The ceiling on the next tax bracket (22% rate) will increase to $81,452 in 2009.

- <u>Assisting Seniors</u>: The "age credit" will be increased by $1,000 to $6,408 as of the beginning of 2009, and indexed going forward. Ottawa estimates that the income level in which the benefit of this tax credit will be fully phased out for individual taxpayers to increase more than $6,000 to an income of $75,032.

- Encouraging Home Renovations and Building Green: Ottawa is proposing a home renovation credit for the 2009 tax year only. An investment in home improvements for more than $1,000 and less than $10,000 will result in a maximum credit of $1,350 ($9,000 x 15%). Notably excluded from the credit are appliances and electronics – so this is also a job creation incentive. Meanwhile, the federal government is setting aside $300 million over the next two years for an energy retrofit program.

Corporate Tax Changes

- Increasing the Small Business Limit: The 2009 budget proposes to increase the amount of CCPC active business income eligible for the 11% tax rate to $500,000 in 2009, up from $400,000. The increase will be pro-rated for companies whose tax years do not coincide with the calendar year.

- Capital Gains Exemption and ss. 256(9): The Federal Court of Appeal decision in *La Survivance* left a trap for unwary vendors of shares of qualified small business corporations. Although it was relatively easy to avoid the consequences of subsection 256(9) of the *Income Tax Act* in pre-sale planning, many clients and advisors did not recognize the trap, with disastrous consequences – no capital gains exemption. This amendment is a welcome respite from an administrative trap.

International Tax Measures

In the wake of recommendations recently put forward by the Advisory Panel on Canada's System of International Taxation, Ottawa is shifting its stance on a few key measures.

- Repealing the "Double Dip" Interest Deductibility provision: Despite assurances of consultation, section 18.2 was rushed into the *Income Tax Act* before the issue was considered by the Advisory Panel. There was considerable criticism of these restrictions on a Canadian taxpayer's ability to deduct domestic interest expense on borrowings used to finance a foreign affiliate when an additional interest expense deduction was claimed in a foreign jurisdiction. The Advisory Panel accepted these criticisms and concluded this provision could hurt foreign investment by Canadian multinationals. In the context of Canada's open economy, Ottawa is backtracking by repealing section 18.2 (which was not to have come into effect until 2012, in any event).

- Reviewing the NRT & FIE Proposals: The unfathomable tax measures introduced 10 years ago to combat alleged tax leakage through non-resident trusts and foreign investment entities has been the focus of continuous lobbying by STEP Canada and other like-minded practitioner organizations. Finally, Ottawa seems to be listening. In light of the Advisory Panel's recommendations, Ottawa promises to review the existing proposals against the stream of submissions pointing out the pitfalls in these proposed amendments.

Administrative Changes

The Canada Revenue Agency has maintained for some time that electronic filing of tax returns has many benefits, including faster processing turnaround and lower administrative costs. To make sure taxpayers move to e-filing, Finance proposes to introduce new penalties where corporate tax returns are filed in an "incorrect format" beginning with tax years ending after 2010.

On a more taxpayer friendly note, Ottawa is proposing to reduce the penalties for late filing of tax reporting forms. Finally, the penalty will fit the crime.