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Paul Bola, CFP, CIM, FCSI, FMA
Senior Portfolio Manager
& Wealth Advisor, Financial Planner
Tel: 905-450-4143
paul.bola@rbc.com

Bola Wealth Management
of RBC Dominion Securities

44 Peel Centre Drive, Suite 420A
Brampton, ON L6T 0E2
Fax: 905-799-5821
Toll free: 1 800-844-7906
www.paulbola.ca

2023 Fall Economic Statement – November 21, 2023

A summary of the key measures that may have a direct impact on you

Deputy Prime Minister and Minister of Finance, Chrystia Freeland, released the Fall Economic Statement on November 21, 2023.

The government announced new measures totaling \$20.8 billion over the next six years. The measures focused on priorities including affordable housing and building a clean energy transition against a backdrop of slowing global and Canadian economies, elevated interest rates and high inflation.

No changes to personal or corporate income tax rates are proposed. The Fall Economic Statement confirmed the government's intention to continue with previously announced measures, including changes to the Alternative Minimum Tax (AMT) regime, but did not provide additional details following the consultation period that closed in September 2023.

The following is a summary of some of the significant tax and financial planning measures announced in the Fall Economic Statement.

Making housing more affordable

Cracking down on non-compliant short-term rentals

Canada needs more long-term housing for Canadians to live in, so the federal government is proposing measures to address short-term rentals.

The government proposes to deny income tax deductions for expenses incurred to earn short-term rental income, including interest expenses, in provinces and municipalities that have prohibited short-term rentals. The government also proposes to deny income tax deductions when short-term rental operators are not compliant with the applicable

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provincial or municipal licensing, permitting or registration requirements.

These measures would apply to deny all expenses incurred on or after January 1, 2024.

In addition, the government proposes to provide \$50 million over three years, starting in 2024–2025, to support municipal enforcement of restrictions on short-term rentals.

To illustrate how these proposed changes may apply, assume an individual is a resident of Ontario and owns a condo in downtown Toronto that they rent out to tourists. They know their condo is located in an area that only permits occasional short-term rentals, but they rent out their condo on a short-term basis all year-round.

They earn approximately \$120,000 per year in rental income. Their annual expenses, which include mortgage interest, cable and internet bills, property insurance, condo fees, property taxes, and capital cost allowance, are also approximately \$120,000, which means they don't currently pay any tax on the \$120,000 short-term rental income.

As a result of these proposed measures, the individual would no longer be permitted to deduct the rental expenses of \$120,000 because they're not compliant with the municipal requirements. They would therefore have to pay tax on the \$120,000 short-term rental income. Assuming a combined federal and provincial tax rate of 50%, they would have to pay \$60,000 in taxes for 2024.

Underused housing tax (UHT)

The government introduced an annual 1% tax on the value of non-resident, non-Canadian owned residential real estate that's considered vacant or underused in the 2021 Federal Budget, effective January 1, 2022.

Currently, every person who's an owner of a residential property in Canada, other than an excluded owner, is required to file a UHT return for the calendar year in respect of the property. With limited exceptions, if an owner of a residential property is a corporation, or is the owner of the residential property on behalf of a partnership or as a trustee of a trust, the owner must file an annual UHT return in respect of the property. If the entity is substantially or entirely Canadian, however, they may be eligible to claim an exemption from the UHT in their UHT return. Specifically, exemptions may be claimed by:

- A "specified Canadian corporation," which is generally a Canadian corporation having less than 10% of its votes or equity value owned by foreign individuals or corporations;

To reduce the UHT compliance burden, the government is proposing to consider specified Canadian corporations, partners of specified Canadian partnerships, and trustees of specified Canadian trusts as excluded owners for UHT purposes.

- A partner of a "specified Canadian partnership," which is generally a partnership whose partners are exclusively "Canadian;" or,
- A trustee of a "specified Canadian trust," which is generally a trust whose beneficiaries are exclusively "Canadian".

To reduce the UHT compliance burden, the government is proposing to consider specified Canadian corporations, partners of specified Canadian partnerships, and trustees of specified Canadian trusts as excluded owners for UHT purposes. As excluded owners, these owners would no longer have UHT reporting obligations.

The government is also proposing to provide UHT filing and tax relief in respect of a broader range of Canadian ownership structures. These changes would apply in respect of 2023 and subsequent calendar years.

There's a minimum penalty for those who are required to file a UHT return for a residential property but fail to do so by the filing deadline. The government is proposing to reduce minimum penalties to \$1,000 for individuals and \$2,000 for corporations, per failure. These changes would apply in respect of 2022 and subsequent calendar years.

The deadline for filing UHT returns for the 2022 calendar year has been extended to April 30, 2024. UHT returns for the 2023 calendar year will also need to be filed by the normal deadline of April 30, 2024, to avoid penalties and interest.

Canadian Mortgage Charter

The government intends to introduce a new Canadian Mortgage Charter, which regulates how financial institutions are to work with Canadians to provide tailored relief and ensure payments are reasonable for borrowers when Canadians are going through the temporary financial stress caused by elevated interest rates. These financial relief measures may include the following:

- Allowing temporary extensions of the amortization period for mortgage holders at risk;
- Waiving fees and costs that would have otherwise been charged for relief measures;

- Not requiring insured mortgage holders to requalify under the insured minimum qualifying rate when switching lenders at mortgage renewal;
- Contacting homeowners four to six months in advance of their mortgage renewal to inform them of their renewal options;
- Giving homeowners at risk the ability to make lump-sum payments to avoid negative amortization or sell their principal residence without any prepayment penalties; and,
- Not charging interest on interest in the event that mortgage relief measures result in a temporary period of negative amortization.

Other measures for businesses

Supporting Employee Ownership Trusts (EOTs)

The 2023 Federal Budget introduced tax rules to facilitate the creation of Employee Ownership Trusts. An EOT is a form of employee ownership where a trust holds shares of a corporation for the benefit of the corporation's employees. EOTs can be used to facilitate the purchase of a business by its employees, without requiring them to pay directly to acquire shares. For business owners, an EOT provides an additional option for succession planning.

To encourage more business owners to sell to an EOT, the government proposes to exempt the first \$10 million in capital gains realized on the sale of a business to an EOT from taxation, subject to certain conditions.

This incentive would be in effect for the 2024, 2025 and 2026 tax years.

CEBA loan repayments

The Canada Emergency Business Account (CEBA) provided interest-free, partially forgivable loans to small businesses and not-for-profit organizations during the pandemic. The 2023 Fall Economic Statement reiterated the following:

- The repayment deadline for CEBA loans to qualify for partial loan forgiveness of up to \$20,000 is being extended from December 31, 2023, to January 18, 2024.
- For CEBA loan holders who apply for refinancing by January 18, 2024, with the financial institution that provided their CEBA loan, the repayment deadline to qualify for partial loan forgiveness now includes a refinancing extension until March 28, 2024.
- As of January 19, 2024, outstanding loans, including those that are captured by the refinancing extension, will convert to three-year term loans, subject to interest of 5% per annum, with the term loan repayment date extended by an additional year, from December 31, 2025, to December 31, 2026. CEBA loan holders also have the

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ability to repay the principal at any time throughout the three-year term.

Repayment on or before the new deadline of January 18, 2024, (or March 28, 2024, if a refinancing application is submitted prior to January 18, 2024, at the financial institution that provided their CEBA loan) will result in loan forgiveness of \$10,000 for a \$40,000 loan and \$20,000 for a \$60,000 loan. The above changes also apply to CEBA-equivalent lending through the Regional Relief and Recovery Fund.

Clean Hydrogen Investment Tax Credit (ITC)

The government introduced the Clean Hydrogen ITC and announced its main design elements in the 2023 Federal Budget. The government has now provided the details of these design elements in respect of eligible projects, credit rates, measuring carbon intensity, eligible equipment, verification and compliance. The federal government will continue to review eligibility for other low-carbon hydrogen production pathways in the leadup to the 2024 Federal Budget.

Clean Technology and Clean Electricity ITCs – Equipment using waste biomass

The 2022 Fall Economic Statement proposed a 30% refundable Clean Technology ITC and a 15% refundable Clean Electricity ITC. The government is now proposing to expand eligibility for the Clean Technology and Clean Electricity ITCs to support the generation of electricity, heat, or both electricity and heat, from waste biomass.

Other measures for individuals

Removing the GST/HST from psychotherapy and counselling

The government proposes to exempt professional services rendered by psychotherapists and counselling therapists from the GST/HST. This measure would apply on royal assent of the enacting legislation.

Employment Insurance (EI) adoption benefit

Currently, adoptive parents can access EI parental benefits but can't access the 15 weeks of EI maternity benefits. The government proposes to introduce a new 15-week shareable EI adoption benefit to provide adoptive parents with additional time and flexibility as they welcome a new child into their home. Surrogate parents will also be eligible for this benefit.

In addition, the government proposes to amend the *Employment Insurance Act* and the *Canada Labour Code* to ensure workers in federally regulated industries have the necessary job protection while receiving the EI adoption benefits.

EI supports for seasonal workers

Many seasonal workers, including in fishing and tourism, rely on EI for support between work seasons. Recent anomalies in regional unemployment rates have created a risk that many seasonal workers will experience a longer gap in income this year. In response to these circumstances, the government has proposed up to four additional weeks of EI regular benefits for eligible seasonal workers in 13 economic regions. This temporary enhanced support would be available for claims established between September 10, 2023, and September 7, 2024.

Pregnancy loss

The government proposes to amend the *Canada Labour Code* and an *Act to amend the Criminal Code and the Canada Labour Code* to create a new paid leave for workers in federally regulated sectors who experience a pregnancy loss.

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Prior to implementing any strategies, individuals should consult with a qualified tax advisor, legal professional or other applicable professional.

While it has been the long-standing practice of the CRA to allow taxpayers to file their tax returns based on proposed legislation, a taxpayer remains potentially liable for taxes under current law in the event that a proposal is not ultimately passed. Therefore, if proposed legislation does not become law, it is possible that the CRA may assess or re-assess your tax return based on existing legislation. It is recommended that you consult a professional tax advisor to assist you in assessing the costs and benefits of proceeding with specific proposals as they relate to you.



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