

**Ontario
Budget
Commentary**

May 2, 2013

Introduction

Finance Minister Charles Sousa delivered Ontario's 2013 Budget, his first as Finance Minister, on May 2, 2013. The Budget is projecting a deficit of \$9.8 billion for 2012-13, \$5 billion lower than projected a year ago, and increasing to \$11.7 billion for 2013-14. The 2010 Budget put forward a plan to cut the deficit in half within five years and to eliminate it in eight years. The government remains on track to meet the fiscal targets outlined in the 2010 Budget beyond 2013-14. This includes steadily declining deficits and a return to balanced budget by 2017-18.

There are very few tax related measures included in the Budget. Those that were introduced are summarized below.

Personal Taxes

Tax Rates

The Budget proposes no changes to personal income tax rates. Accordingly, the top marginal rates for 2013 are as follows for taxpayers with taxable income of \$509,000 or less:

| Type of Income | Federal | Ontario | Total |
|------------------------|---------|---------|-------|
| Eligible Dividends | 19.3% | 10.2% | 29.5% |
| Non-eligible Dividends | 19.6 | 13.0 | 32.6 |
| Capital Gains | 14.5 | 8.7 | 23.2 |
| Ordinary Income | 29.0 | 17.4 | 46.4 |

The top marginal rates for 2013 are as follows for taxpayers with taxable income of over \$509,000:

| Type of Income | Federal | Ontario | Total |
|------------------------|---------|---------|-------|
| Eligible Dividends | 19.3% | 14.6% | 33.9% |
| Non-eligible Dividends | 19.6 | 16.9 | 36.5 |
| Capital Gains | 14.5 | 10.3 | 24.8 |
| Ordinary Income | 29.0 | 20.5 | 49.5 |

Non-Eligible Dividends

The federal budget of March 21, 2013 proposes changes to the gross-up and credit mechanism for non-eligible dividends, effective 2014. Non-eligible dividends are generally those paid by private companies from either active income which received the benefit of the small business deduction or from investment income. The Budget indicates that Ontario will parallel this federal measure, provided it is implemented. No indication was given as to the Ontario rate of dividend tax credit.

Ontario Trillium Benefit (OTB)

The OTB, which combines the Ontario Sales Tax Credit (OSTC), the Ontario Energy and Property Tax Credit and The Northern Ontario Energy Credit, provides Ontario low- to moderate-income families with relief for taxes and energy costs. Since July 2012, it has been paid monthly, to assist eligible taxpayers to better manage their household budgets.

The Budget proposes to give taxpayers the option of receiving the OTB on an annual rather than monthly basis, effective July 2014. If the annual option is chosen, a single cheque would be issued at the end of the benefit period. For example, the benefits that would normally have been received monthly over the period July 2014 to June 2015 would be received lump sum in June 2015 with no interest component. The same amount will be received under either option. The choice will be made by checking a box on the individual's 2013 tax return. Although not explicitly stated, it appears this will be an annual choice. The Budget proposes no changes to the OTB calculation.

In addition, the government intends to clarify that the involuntary separation rules for spouses living apart for medical reasons do not apply for purposes of the OSTC.

Business Taxes

Corporate Tax Rates

The general corporate income tax rate is currently 11.5%. It was to be reduced to 11% July 1, 2012 and to 10% July 1, 2013. The Budget confirms the temporary freeze of the rate at 11.5% until such time as the budget is balanced (projected to be in 2017-18). Accordingly, Ontario corporate income tax rates are as follows:

| General | M&P | Small Business |
|----------------|----------------|-----------------------|
| 11.5% | 10.0% | 4.5% |

Employer Health Tax (EHT)

Currently, the first \$400,000 of Ontario payroll is exempt from EHT. Where employers are associated, the \$400,000 exemption is shared between them. The Budget proposes two changes to this EHT exemption.

The exemption is to be raised to \$450,000 of Ontario payroll, effective January 1, 2014. It will be inflation-adjusted every five years. It is projected to rise to \$500,000 in 2019. The exemption will continue to be shared by groups of associated corporations.

Beginning January 1, 2014, the exemption will be eliminated for private-sector employers, or associated groups of employers, with Ontario payroll in excess of \$5,000,000. Registered charities will be exempt from this measure.

Ontario Apprenticeship Training Tax Credit (OATTC)

The 2012 Budget indicated that the effectiveness and efficiency of the OATTC would be reviewed in terms of its promotion of apprenticeship completions. As a result of this review, the Budget proposes to eliminate the availability of the OATTC for three trades in Information Technology – Contact Centre area: Technical Support Agent, Inside Sales Agent, and Customer Care Agent. This measure will apply to expenditures incurred after March 31, 2014.

Manufacturing and Processing Equipment Capital Cost Allowance (CCA)

A temporary accelerated CCA rate of 50% is available for manufacturing and processing equipment. This enhanced rate was to expire on December 31, 2013. The federal budget of March 21, 2013 extended the availability of this rate to purchases made up to and including December 31, 2015. Ontario will parallel this measure, subject to federal implementation.

Corporate Tax “Loopholes”

The Budget indicates the government is committed to closing corporate tax “loopholes”. The Ontario and federal governments have negotiated a new agreement for enhanced compliance activities focusing on aggressive international tax planning. In addition, provincial legislation is to be introduced that will provide for new disclosure rules for aggressive tax avoidance transactions. The legislation is to be similar to that introduced at the federal level. It will require taxpayers (and presumably their advisors) to report aggressive tax avoidance transactions that attempt to avoid Ontario tax.

The government is still concerned about arrangements that cause income or losses to be shifted across provincial borders and the resulting erosion of the tax base. The Budget calls on the federal government to ensure that such arrangements are not undertaken and to provide the Province with sufficient and timely information in respect of such transactions.

Underground Economy

The Province recently negotiated an agreement with the federal government to enhance compliance activities to curb underground economy activities that result in the loss of tax revenue. The Budget also calls on the federal government to “do more”, including releasing a national strategy on the underground economy, as soon as possible.

Retail Sales Tax Clearance Certificates

In 2011, amendments were made to the Retail Sales Tax Act to provide for the withholding of clearance certificates required for sales under the Bulk Sales Act until tax debts under a number of provincial statutes are paid or secured. These provisions were to end on June 30, 2013. The Budget eliminates this sunset date.

Tax Administration

The Budget proposes to amend the various tax statutes and numerous other statutes to improve administrative effectiveness and enforcement and maintain the integrity and equity of Ontario's tax and revenue collection system.

Mining Tax Act

The 2012 Budget indicated that a review of the Mining Tax Act would be undertaken to ensure its structure is still appropriate in the current tax environment and Ontario receives fair compensation for its non-renewable resources. This review is ongoing.

Tobacco Tax Act

The government is actively considering a number of compliance initiatives to enhance enforcement under the Tobacco Tax Act which are listed in the Budget documents. The government intends to develop a new relationship with First Nations in this area.

The government is moving towards implementing oversight of raw leaf tobacco and accordingly various parties such as growers, processors and dealers will be required to be registered, effective January 1, 2014. In general, only cigarettes and fine-cut tobacco marked with a single integrated stamp will be allowed for retail sale, also effective January 1, 2014. In addition, the Ministry of Finance and the Alcohol and Gaming Commission of Ontario have signed an information-sharing agreement under which retailers selling illegal tobacco could have their lottery permits suspended or revoked.

Green Transportation Fuels

The Budget proposes to amend the Fuel Tax Act to eliminate the tax exemption for biodiesel fuels effective April 1, 2014 as it will no longer be required. The province intends to consult with stakeholders on a provincial mandate for greener diesel fuels. This will include discussions in respect of the amount of renewable fuel content and greenhouse gas requirements.

Concordance with Federal Measures

The Budget indicates the Province's acceptance of other tax measures contained in the federal budget. These measures include:

- Increase in the lifetime capital gains exemption on qualified small business corporation shares and qualified farming and fishing property to \$800,000,
- Changes to the restricted farm loss rules,
- The elimination of the deduction for safety deposit box fees,
- Rules in respect of corporate and trust loss trading,
- Changes to the treatment of mining expenses,
- Accelerated CCA for clean energy generation equipment, and
- Rules in respect of character conversion transactions and leveraged life insurance arrangements.