

Legislative Proposals to Amend the Income Tax Act and Other Related Legislation, as well as Draft Amendments to Related Regulations

Immediate Support for Families with Young Children

1 Section 122.61 of the *Income Tax Act* is amended by adding the following after subsection (1.1):

Deemed overpayment – COVID-19

(1.2) If the Minister determines before 2024 that an overpayment (for greater certainty, in an amount greater than nil) on account of a person's liability under this Part for a taxation year is deemed to have arisen during a month under subsection (1), or would be so deemed if this section were read without reference to subsection (2), then an overpayment on account of the person's liability under this Part for the year is deemed to have arisen during the month, equal to the total of all amounts each of which is an amount in respect of a qualified dependant — in respect of whom the person was an eligible individual at the beginning of the month who has not reached the age of six years at the beginning of the month — determined by the formula

$$A \times B$$

where

A is

- (a)** 0.5, if the person is a shared-custody parent in respect of the qualified dependant, and
- (b)** 1, in any other case; and

B is

- (a)** if the month is January 2021 or April 2021,
 - (i)** \$300, if the person's adjusted income for 2019 is less than or equal to \$120,000, and
 - (ii)** \$150 in any other case,
- (b)** if the month is July 2021 or October 2021,
 - (i)** \$300, if the person's adjusted income for 2020 is less than or equal to \$120,000, and
 - (ii)** \$150 in any other case, and
- (c)** in any other case, nil.

2 (1) Paragraph 122.62(5)(b) of the Act is replaced by the following:

(b) subject to subsection (8), for the purpose of determining the amount deemed under subsection 122.61(1) or (1.2) to be an overpayment arising in that first month and any subsequent month on account of the eligible individual's liability under this Part for the base taxation year in relation to that first month, the eligible individual's adjusted income for the year is deemed to be equal to the eligible individual's income for the year.

(2) Paragraph 122.62(6)(b) of the Act is replaced by the following:

(b) subject to subsection (8), for the purpose of determining the amount deemed under subsection 122.61(1) or (1.2) to be an overpayment arising in that first month and any subsequent month on account of the eligible individual's liability under this Part for the base taxation year in relation to that first month, the eligible individual's adjusted income for the year is deemed to be equal to the eligible individual's income for the year.

(3) Paragraph 122.62(7)(b) of the Act is replaced by the following:

(b) subject to subsection (8), for the purpose of determining the amount deemed under subsection 122.61(1) or (1.2) to be an overpayment arising in that first month and any subsequent month on account of the eligible individual's liability under this Part for the base taxation year in relation to that first month, the taxpayer is deemed to have been the eligible individual's cohabiting spouse or common-law partner at the end of the base taxation year in relation to that month.

3 Section 8 of the *Children's Special Allowances Act* is amended by adding the following after subsection (1):

Calculation of amount – COVID-19

(1.1) The amount of special allowance to be paid in respect of a child for a month, in addition to the amount determined under subsection (1), is \$300, if

- (a) the child has not reached the age of six years at the beginning of the month; and
- (b) the month is
 - (i) January 2021,
 - (ii) April 2021,
 - (iii) July 2021, or
 - (iv) October 2021.

Registered Disability Savings Plan – Cessation of Eligibility for the Disability Tax Credit

4 (1) The definition *specified RDSP payment* in subsection 60.02(1) of the *Income Tax Act* is amended by striking out “and” at the end of paragraph (c), by adding “and” at the end of paragraph (d) and by adding the following after paragraph (d):

(e) if the eligible individual is not a *DTC-eligible individual* (as defined in subsection 146.4(1)), is made no later than the end of the fourth taxation year following the first taxation year throughout which the beneficiary is not a DTC-eligible individual. (*paiement de REEI déterminé*)

(2) Subsection (1) is deemed to have come into force on March 19, 2019.

5 (1) Paragraph (c) of the definition *disability savings plan* in subsection 146.4(1) of the Act is replaced by the following:

- (c) that is entered into in a taxation year in respect of which
 - (i) the beneficiary is a DTC-eligible individual, or
 - (ii) the beneficiary is not a DTC-eligible individual and an amount is to be transferred from a registered disability savings plan of the beneficiary to the arrangement in accordance with subsection (8). (*régime d'épargne-invalidité*)

(2) Subparagraph 146.4(4)(f)(i) of the Act is replaced by the following:

- (i) the beneficiary is not a DTC-eligible individual in respect of the taxation year that includes that time, unless the contribution is a specified RDSP payment in respect of the beneficiary, or

(3) The portion of subparagraph 146.4(4)(n)(i) of the Act before clause (A) is replaced by the following:

(i) if the calendar year is not a specified year for the plan and the conditions in clauses (p)(ii)(A) and (B) are not met in the calendar year, the total amount of disability assistance payments made from the plan to the beneficiary in the calendar year shall not exceed the specified maximum amount for the calendar year, except that, in calculating that total amount, any payment made following a transfer in the calendar year from another plan in accordance with subsection (8) is to be disregarded if it is made

(4) Subparagraph 146.4(4)(p)(ii) of the Act is replaced by the following:

(ii) the first calendar year in which the following conditions are met:

(A) the holder of the plan has requested that the issuer terminate the plan, and

(B) throughout the year, the beneficiary has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1).

(5) Subsections 146.4(4.1) to (4.3) of the Act are repealed.

(6) Section 146.4 of the Act is amended by adding the following after subsection (4.3):

Transitional rule

(4.4) If, after March 18, 2019 and before 2021, a registered disability savings plan would otherwise be required to be terminated because of subparagraph (4)(p)(ii) or any terms of the plan provided because of that subparagraph, then notwithstanding that subparagraph or those terms, the plan is not required to be terminated before 2021 in either of the following circumstances:

(a) the beneficiary of the plan has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1), or

(b) an election was made under subsection (4.1) and the election ceases to be valid after March 18, 2019 and before 2021 because of paragraph (4.2)(b).

(7) Subsections (1) to (5) come into force or are deemed to have come into force on January 1, 2021.

6 (1) Paragraph (b) of the definition *montant de retenue* in section 1 of the French version of the *Canada Disability Savings Regulations* is replaced by the following:

b) dans les autres cas, le montant total des subventions et des bons qui ont été versés dans un REEI au cours des dix années précédant ce moment, déduction faite du montant de toute subvention ou de tout bon versé au cours de cette période qui a été remboursé au ministre. (*assistance holdback amount*)

(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2021.

7 (1) The portion of subsection 5(1) of the Regulations before paragraph (a) is replaced by the following:

5 (1) Subject to section 5.1, an issuer of an RDSP shall repay to the Minister, within the period set out in the issuer agreement, the amount referred to in subsection (2) if

(2) Subsection 5(1) of the Regulations is amended by adding “or” at the end of paragraph (b) and by repealing paragraph (c).

(3) Subsection 5(3) of the Regulations is replaced by the following:

(3) Despite subsections (1) and (2), if the beneficiary of an RDSP that is a specified disability savings plan dies, the issuer of the RDSP shall repay to the Minister, within the period set out in the issuer agreement, any portion of an amount paid into the RDSP as a grant or bond within the 10-year period preceding the time of the death that remains in the RDSP at that time.

(4) This section does not apply if the event described in subsection (1) or (3) occurs after the calendar year in which the beneficiary attains 59 years of age.

(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2021.

8 (1) The portion of section 5.1 of the Regulations before paragraph (a) is replaced by the following:

5.1 If an event described in paragraph 5(1)(a), (b) or (d) occurs while the beneficiary of an RDSP is no longer a DTC-eligible individual, the issuer of the RDSP shall repay to the Minister, within the period set out in the issuer agreement, the lesser of

(2) The description of A in paragraph 5.1(b) of the Regulations is replaced by the following:

A is

(i) if the event occurs before the calendar year in which the beneficiary attains 51 years of age, the total amount of bonds and grants paid into the RDSP within the 10-year period before the day on which the beneficiary ceased to be a DTC-eligible individual, less any portion of that amount that was repaid to the Minister within that period,

(ii) if the event occurs after the calendar year in which the beneficiary attains 50 years of age but before the calendar year in which they attain 60 years of age and the beneficiary ceased to be a DTC-eligible individual before the calendar year in which they attained 50 years of age, the total amount of bonds and grants paid into the RDSP within the period of years before the day on which the beneficiary ceased to be a DTC-eligible individual that is determined by the following formula, less any portion of that amount that was repaid to the Minister within that period:

$$60 - n$$

where

n is the beneficiary's age on — or the age that they would have attained by — December 31 of the calendar year in which the event occurs,

(iii) if the event occurs after the calendar year in which the beneficiary attains 50 years of age but before the calendar year in which they attain 60 years of age and the beneficiary ceased to be a DTC-eligible individual after the calendar year in which they attained 49 years of age, the total amount of bonds and grants paid into the RDSP during the period beginning on January 1 of the year that is 10 years before the year in which the event occurs and ending on the day preceding the day on which the beneficiary ceased to be a DTC-eligible individual, less any portion of that amount that was repaid to the Minister within that period, or

(iv) if the event occurs after the calendar year in which the beneficiary attains 59 years of age, nil,

(3) Subsections (1) and (2) come into force or are deemed to have come into force on January 1, 2021.

9 (1) Section 5.2 of the Regulations is repealed.

(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2021.

10 (1) Section 5.3 of the Regulations is amended by adding the following after subsection (2):

(3) Subsection (1) does not apply in respect of any disability assistance payment made after the calendar year in which the beneficiary attains 59 years of age.

(2) Subsection (1) comes into force or is deemed to have come into force on January 1, 2021.

11 (1) The portion of subsection 5.4(1) of the Regulations before paragraph (a) is replaced by the following:

5.4 (1) If a disability assistance payment is made to a beneficiary who is no longer a DTC-eligible individual, the issuer of the RDSP shall repay to the Minister, within the period set out in the issuer agreement, the least of the following amounts:

(2) The description of A in paragraph 5.4(1)(c) of the Regulations is replaced by the following:

A is

(i) if the disability assistance payment is made before the calendar year in which the beneficiary attains 51 years of age, the total amount of bonds and grants paid into the RDSP within the 10-year period before the day on which the beneficiary ceased to be a DTC-eligible individual, less any portion of that amount that was repaid to the Minister within that period,

(ii) if the disability assistance payment is made after the calendar year in which the beneficiary attains 50 years of age but before the calendar year in which they attain 60 years of age and the beneficiary ceased to be a DTC-eligible individual before the calendar year in which they attained 50 years of age, the total amount of bonds and grants paid into the RDSP within the period of years before the day on which the beneficiary ceased to be a DTC-eligible individual that is determined by the following formula, less any portion of that amount that was repaid to the Minister within that period:

$$60 - n$$

where

n is the beneficiary's age on December 31 of the calendar year in which the disability assistance payment is made,

(iii) if the disability assistance payment is made after the calendar year in which the beneficiary attains 50 years of age but before the calendar year in which they attain 60 years of age and the beneficiary ceased to be a DTC-eligible individual after the calendar year in which they attained 49 years of age, the total amount of bonds and grants paid into the RDSP during the period beginning on January 1 of the year that is 10 years before the year in which the disability assistance payment is made and ending on the day preceding the day on which the beneficiary ceased to be a DTC-eligible individual, less any portion of that amount that was repaid to the Minister within that period, or

(iv) if the disability assistance payment is made after the calendar year in which the beneficiary attains 59 years of age, nil,

(3) Subsection 5.4(2) of the Regulations is replaced by the following:

(2) An issuer that repays the amount referred to in paragraph (1)(a) is to do so from the grants and bonds that were paid into the RDSP within the applicable period referred to in the description of A in paragraph (1)(c) and within the period referred to in the description of B in paragraph (1)(c), in the order in which they were paid into it.

(4) Subsections (1) to (3) come into force or are deemed to have come into force on January 1, 2021.

Employee Stock Options

12 (1) The portion of subsection 7(7) of the *Income Tax Act* before the first definition is replaced by the following:

Definitions

(7) The following definitions apply in this section and in subsection 47(3), paragraph 53(1)(j), subsection 110(0.1), paragraphs 110(1)(d), (d.01) and (e) and subsections 110(1.1) to (1.9) and (2.1).

(2) Subsection (1) comes into force or is deemed to have come into force on July 1, 2021.

13 (1) Subsection 87(2) of the Act is amended by adding the following after paragraph (j.96):

Continuing corporation

(j.97) for the purposes of paragraph 110(1)(e) and subsections 110(0.1) and (1.31), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(2) Subsection (1) comes into force or is deemed to have come into force on July 1, 2021.

14 (1) Section 110 of the Act is amended by adding the following before subsection (1):

Definitions

110 (0.1) The following definitions apply in this section.

consolidated financial statements has the meaning assigned by subsection 233.8(1). (*états financiers consolidés*)

specified person, at any time, means a qualifying person that meets the following conditions:

- (a)** it is not a Canadian-controlled private corporation;
- (b)** if the qualifying person is a member of a group that annually prepares consolidated financial statements, the total consolidated group revenue reflected in the last consolidated financial statements of the group presented to shareholders (or unitholders) — of the member of the group that would be the *ultimate parent entity*, as defined in subsection 233.8(1), of the group if the group were a *multinational enterprise group*, as defined in subsection 233.8(1) — before that time exceeds \$500 million; and
- (c)** if paragraph (b) does not apply, it has gross revenue in excess of \$500 million based on
 - (i)** the amounts reflected in the financial statements of the qualifying person presented to the shareholders (or unitholders) of the qualifying person for the last fiscal period of the qualifying person that ended before that time,
 - (ii)** if subparagraph (i) does not apply, the amounts reflected in the financial statements of the qualifying person presented to the shareholders, or unitholders, of the qualifying person for the last fiscal period of the qualifying person that ended before the end of the last fiscal period referred to in subparagraph (i), and
 - (iii)** if subparagraph (i) does not apply and financial statements were not presented as described in subparagraph (ii), the amounts that would have been reflected in the annual financial statements of the qualifying person for the last fiscal period of the qualifying person that ended before that time, if such statements had been prepared in accordance with generally accepted accounting principles. (*personne déterminée*)

vesting year, of a security to be acquired under an agreement, means

- (a)** if the agreement specifies the calendar year in which the taxpayer's right to acquire the security first becomes exercisable (otherwise than as a consequence of an event that is not reasonably foreseeable at the time the agreement is entered into), that calendar year; and
- (b)** in any other case, the calendar year in which the right to acquire the security would become exercisable if the agreement had specified that all identical rights to acquire securities become exercisable on a pro rata basis over the period that
 - (i)** begins on the day that the agreement was entered into, and
 - (ii)** ends on the day that is the earlier of
 - (A)** the day that is 60 months after the day the agreement is entered into, and
 - (B)** the last day that the right to acquire the security could become exercisable under the agreement. (*année d'acquisition*)

(2) The portion of paragraph 110(1)(d) of the Act before subparagraph (i) is replaced by the following:

Employee options

(d) an amount equal to 1/2 of the amount of the benefit deemed by subsection 7(1) to have been received by the taxpayer in the year in respect of a security (other than a security that is a non-qualified security) that a particular qualifying person has agreed after February 15, 1984 to sell or issue under an agreement, in respect of the transfer or other disposition of rights under the agreement or as a result of the death of the taxpayer because the taxpayer immediately before death owned a right to acquire the security under the agreement, if

(3) Subsection 110(1) of the Act is amended by adding the following after paragraph (d.3):

Employer deduction — non-qualified securities

(e) an amount equal to the amount of the benefit in respect of employment with the taxpayer deemed by subsection 7(1) to have been received by an individual in the year in respect of a non-qualified security that the taxpayer (or a specified person that does not deal at arm's length with the taxpayer) has agreed to sell or issue under an agreement with the individual, if

(i) the taxpayer is a qualifying person,

(ii) at the time the agreement was entered into, the taxpayer was the employer of the individual,

(iii) the amount is not claimed as a deduction in computing the taxable income of another qualifying person,

(iv) an amount would have been deductible in computing the taxable income of the individual under paragraph (d) if the security were not a non-qualified security,

(v) in the case of an individual who is not resident in Canada throughout the year, the benefit deemed by subsection 7(1) to have been received by the individual was included in computing the taxable income earned in Canada of the individual for the year, and

(vi) the conditions in subsection (1.9) are met in respect of the security;

(4) Section 110 of the Act is amended by adding the following after subsection (1.2):

Determination of non-qualified securities

(1.3) Subsection (1.31) applies to a taxpayer in respect of an agreement if

(a) a particular qualifying person agrees to sell or issue securities of the particular qualifying person (or another qualifying person that does not deal at arm's length with the particular qualifying person) to the taxpayer under the agreement;

(b) at the time the agreement is entered into (in subsection (1.31) referred to as the "relevant time") the taxpayer is an employee of the particular qualifying person or of a qualifying person that does not deal at arm's length with the particular qualifying person; and

(c) the particular qualifying person or the other qualifying person, if any, is a specified person.

Annual vesting limit

(1.31) If this subsection applies to a taxpayer in respect of an agreement, the securities to be sold or issued under the agreement, for each vesting year of those securities, are deemed to be non-qualified securities for the purposes of this section in the proportion determined by the formula

$$A/B$$

where

A is the amount determined by the formula

$$C + D - \$200,000$$

where

C is the total of all amounts each of which is the fair market value at the relevant time of each security under the agreement that has that same vesting year, and

D is the lesser of

(i) \$200,000, and

(ii) the total of all amounts each of which is an amount determined for C in respect of securities – other than securities designated under subsection (1.4), old securities (within the meaning of subsection 7(1.4)) and securities where the right to acquire those securities is an old right (within the meaning of subsection 110(1.7)) or is cancelled or expired before that time – that have that same vesting year under agreements (other than the agreement) entered into at or before the relevant time with the particular qualifying person referred to in subsection (1.3) (or another qualifying person that does not deal at arm's length with the particular qualifying person); and

B is the amount determined for C.

Non-qualified security designation

(1.4) If a particular specified person agrees, at any time, to sell or issue one or more securities of the particular specified person (or of another specified person with which the particular specified person does not deal at arm's length) to an employee of the particular specified person and the particular specified person designates one or more securities to be sold or issued under the agreement as non-qualified securities in the agreement, those securities are deemed to be non-qualified securities for the purposes of this section.

Ordering of acquisition of securities

(1.41) If a taxpayer acquires a security under an agreement and the acquired security could be a security that is not a non-qualified security, the security is to be considered a security that is not a non-qualified security for the purposes of this section.

Ordering of simultaneous agreements – subsection (1.31)

(1.42) If two or more agreements to sell or issue securities are entered into at the same time and the qualifying person that is the employer of the taxpayer referred to in subsection (1.31) designates the order of the agreements, then the agreements are deemed to have been entered into in that order for the purposes of subparagraph (ii) of the description of D in subsection (1.31).

(5) Section 110 of the Act is amended by adding the following after subsection (1.8):

Notification – non-qualified security

(1.9) If a security to be issued or sold under an agreement between an employee and a qualifying person is a non-qualified security, the employer of the employee shall

(a) notify the employee in writing that the security is a non-qualified security no later than 30 days after the day that the agreement is entered into; and

(b) notify the Minister in prescribed form that the security is a non-qualified security on or before the filing-due date for the taxation year of the qualifying person that includes the time that the agreement is entered into.

(6) Subsections (1) and (2) come into force or are deemed to have come into force on July 1, 2021.

(7) Subsections (3) to (5) apply in respect of agreements to sell or issue securities entered into after June 2021, other than rights under an agreement to which subsection 7(1.4) of the Act apply that are new options (within the meaning of that subsection) in respect of which an exchanged option (within the meaning of that subsection) was issued before July 2021.

15 (1) Paragraph (b) of the description of E in the definition *non-capital loss* in subsection 111(8) of the Act is replaced by the following:

(b) an amount deducted under paragraph (1)(b) or section 110.6, or deductible under any of paragraphs 110(1)(d) to (g) and (k), section 112 and subsections 113(1) and 138(6), in computing the taxpayer's taxable income for the year, or

(2) Subsection (1) comes into force or is deemed to have come into force on July 1, 2021.

16 (1) Paragraph 115(1)(d) of the Act is replaced by the following:

(d) the deductions permitted by subsection 111(1) and, to the extent that they relate to amounts included in computing the amount determined under any of paragraphs (a) to (c), the deductions permitted by any of paragraphs 110(1)(d) to (d.2), (e) and (f) and subsection 110.1(1),

(2) Subsection (1) comes into force or is deemed to have come into force on July 1, 2021.

17 (1) Subsection 143.3(5) of the Act is amended by striking out “and” at the end of paragraph (c), by adding “and” at the end of paragraph (d) and by adding the following after paragraph (d):

(e) this section does not apply to prohibit the deduction of an amount under paragraph 110(1)(e).

(2) Subsection (1) comes into force or is deemed to have come into force on July 1, 2021.

Agricultural Cooperatives: Patronage Dividends Paid in Shares

18 (1) Paragraph (a) of the definition *tax deferred cooperative share* in subsection 135.1(1) of the Act is replaced by the following:

(a) issued, after 2005 and before 2026, by an agricultural cooperative corporation to a person or partnership that is at the time the share is issued an eligible member of the agricultural cooperative corporation, pursuant to an allocation in proportion to patronage;