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Reducing Red Tape: Restoring the Alberta Advantage

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The Government of Alberta has taken significant steps to promote and facilitate investment in the province by removing residency requirements for corporate directors and reducing the corporate tax rate.

Red Tape Reduction Implementation Act

On July 23, 2020, Bill 22 - *Red Tape Reduction Implementation Act 2020* (Bill 22) received Royal Assent and will come into force on various dates by proclamation. Bill 22 is an omnibus bill designed to remove unnecessary red tape and will amend 15 pieces of Alberta legislation with the purpose of encouraging investment and enhancing Alberta's competitiveness. These objectives are especially critical as the economy begins to reopen in the wake of COVID-19.

Repeal of Resident Canadian Director Requirement

Notably, Bill 22 includes changes to the *Business Corporations Act* (Alberta) (the ABCA) to remove Canadian residency requirements for corporate directors. Removing these residency requirements represents a significant step forward to encourage investment in Alberta.

Under the current legislation, one quarter of the directors of a corporation incorporated under the ABCA must be resident Canadians. In addition, directors generally cannot transact business at a meeting of directors unless one quarter of the directors present are resident Canadians. The purpose of these requirements was to ensure Canadian participation in businesses that are incorporated in Alberta, but they were often ineffective at achieving meaningful results. Rather, in many cases, the residency requirement presents an impediment for foreign investors, often sending such investors to other provinces where similar residency requirements do not exist.

By removing the residency requirement for corporate directors, the amendments to the ABCA will bring Alberta in line with British Columbia, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Yukon, Northwest Territories, and Nunavut. In addition, these amendments bring Alberta in line with British Columbia and Nova Scotia, the only other Canadian provinces which permit the formation of an unlimited liability corporation (a ULC). ULCs are commonly used by US investors in cross-border tax planning, due to their hybrid nature. A ULC is characterized as a corporation for Canadian income tax purposes but is treated as a partnership or disregarded entity for US tax purposes, unless it elects to be classified as a corporation.

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Reduced Corporate Tax Rate

On June 29, 2020, the Government of Alberta announced Alberta’s Recovery Plan (the Recovery Plan), an economic stimulus package to help businesses recovering from the COVID-19 pandemic. The Recovery Plan includes a reduction in the Alberta general corporate tax rate from 10% to 8%, effective July 1, 2020.

The reduction in the corporate tax rate accelerates the previously announced reductions under the Job Creation Tax Cut, which had already reduced the Alberta corporate tax rate to 10% effective January 1, 2020 and was set to further reduce the rate to 9% on January 1, 2021 and to 8% on January 1, 2022. As of July 1, 2020, Alberta’s general corporate tax of 8% is significantly lower than peers such as Ontario (11%) and British Columbia (12%). The small business tax rate remains at 2%. As a result, Alberta now has the lowest combined federal-provincial general corporate tax rate in Canada, at 23%.

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