Cassels

Budget 2022 Bill Receives Royal Assent

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On June 23, 2022, Bill C-19, *Budget Implementation Act*, 2022, No. 1 received Royal Assent (Bill C-19). Bill C-19 implements certain tax measures announced in Budget 2021 and Budget 2022, and various other initiatives, including the new *Select Luxury Items Tax Act*. The following is a summary of certain measures contained in Bill C-19.

Since Canada has a minority federal government, the corporate income tax measures in Bill C-19 were considered substantively enacted for IFRS and Accounting Standards for Private Enterprise (ASPE) purposes on June 9, 2022 (the date the bill passed third reading. For US GAAP purposes, these measures are considered enacted for US GAAP purposes on June 23, 2022 (i.e., upon Royal Assent).

Income Tax Measures

Rate Reduction for Zero-emission Technology Manufacturers

Bill C-19 introduces a temporary reduction in the federal corporate tax rate applicable to “zero-emission technology manufacturing profits” (ZETM Profits) for taxation years that begin after 2021 and before 2032. The reduced rates are 7.5% on ZETM Profits that would otherwise be taxed at the 15% general corporate income tax rate, and 4.5% on ZETM Profits that would otherwise be taxed at the 9% small business tax rate. The reduction will be phased out gradually beginning in 2029.

The reduced rate is provided by way of a deduction from tax and is determined by way of a formula based on ZETM Profits, which are also determined by way of a formula based on the proportionate cost of capital and labour used or engaged in “qualified zero-emission manufacturing activities” (described below) (Qualified ZETM Activities).

Qualified ZETM Activities include activities performed in connection with the manufacturing or processing of: solar, wind, and water energy conversion equipment, geothermal energy equipment, equipment for ground source heat pump systems, electrical energy storage equipment used for storage of renewable energy or for providing grid-scale storage or other certain ancillary services, equipment used to charge, or to dispense hydrogen to, a zero-emission vehicle, and equipment used for the production in Canada of hydrogen by electrolysis of water or the production of gaseous, liquid or solid biofuel.

Immediate Expensing

Bill C-19 also provides for immediate expensing of up to $1.5 million per year for certain "immediate expensing property" that is acquired by an "eligible person or partnership". An "eligible person or partnership" means a "Canadian-controlled private corporation" (CCPC), an individual (other than a trust) resident in Canada, or a Canadian partnership all of the members of which are either a CCPC or an individual (other than a trust) resident in Canada. The immediate expensing is available in the year in which the property becomes available for use.

To qualify as "immediate expensing property," the property must be acquired by a CCPC (or a partnership of which at least one member is a CCPC) after April 18, 2021 and become available for use before January 2024, or acquired by an individual or a Canadian partnership after December 31, 2021 and become available for use before January 2025.

Further, "immediate expensing property" is any property but will specifically exclude property included in any of Classes 1 to 6 (e.g., buildings), Class 14.1 (e.g., goodwill and customer lists), Class 17 (e.g., roads and similar surface constructions, and electrical generating equipment), Class 47 (e.g., equipment used for the transmission or distribution of electrical energy and equipment that is part of a liquified natural gas facility), Class 49 (e.g., pipelines for the transmission of petroleum and natural gas) and Class 51 (e.g., pipelines for the distribution of natural gas). The "immediate expensing property" must be designated as such, in prescribed form by the taxpayer, in the year the property becomes available for use.

Capital Cost Allowance for Clean Energy Equipment

Bill C-19 expands capital cost allowance (CCA) Classes 43.1 and 43.2 to include additional types of clean energy equipment that are acquired on or after April 19, 2021, and become available for use before January 2024. Specifically included in CCA Classes 43.1 and 43.2 are pumped hydroelectric energy storage installations, equipment used to produce solid biofuel, equipment used to dispense hydrogen for use in automotive equipment powered by hydrogen, and equipment used to produce hydrogen through the electrolysis of water.

Other Measures

Bill C-19 also includes the new *Select Luxury Items Tax Act*, which implements the tax on certain luxury goods which was initially announced in Budget 2021 (the Luxury Tax). The Luxury Tax applies to domestic sales, and importation into Canada, of new motor vehicles and new aircraft priced over $100,000 and new vessels (i.e., boats and ships) priced over $250,000. The Luxury Tax is to be calculated at the lesser of 10%

of the total price of the item and 20% of the total price of the item that exceeds the relevant price threshold. The Luxury Tax generally applies as of September 1, 2022. However, the Luxury Tax applicable to aircraft has been deferred to come into force on a later day to be fixed by order of the Governor in Council.
