

The Canada Revenue Agency Issues General Comments on Capital Gains Crystallizations Prior to June 25, 2024

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April 30, 2024 was a busy day in the tax world. First, personal tax returns for most Canadian individuals were due. Second, not only did the Department of Finance release a 663 page Notice of Ways and Means Motion (NWMM) containing draft legislation with respect to certain tax matters discussed in the Federal Budget and prior announcements, the Canada Revenue Agency (the CRA) released a technical interpretation discussing whether capital gains crystallizations that are done prior to June 25, 2024 at the 50% inclusion rate would be subject to the general anti-avoidance rule (GAAR).

While the NWMM does not provide draft legislation with respect to the increased capital gains inclusion rate of 66.67%, the CRA has indicated that "where a taxpayer crystallizes an accrued capital gain prior to the increase in the capital gains inclusion rate, the GAAR would generally not apply to redetermine the inclusion rate in respect of the crystallized capital gain."

The CRA went further to indicate that taxpayers would not be immune from scrutiny if the crystallization is part of a series of transactions where one of the main purposes was to obtain a tax benefit other than (or in addition to) the taxation of the accrued capital gain at the 50% inclusion rate.

Although the lack of design details and draft legislation regarding the proposed increase to the capital gains inclusion rate continues to leave taxpayers with uncertainty, the CRA's comments are helpful. Taxpayers considering crystallizing capital gains prior to June 25, 2024, should reach out to a member of the Cassels [Tax & Trusts Group](#).

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