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The New Eligible Dividend Rules

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Brief History

- November 23, 2005 – Department of Finance News Release.
- Announces that, effective January 1, 2006, taxation will be reduced for “eligible dividends” in order to level the playing field for corporations and income trusts.
- Many questions/issues.
- Draft legislation released June 29, 2006 – 66 pages of draft amendments and explanatory notes.

Department of Finance Release Brief History

- September 29, 2006: CICA-CBA Joint Committee on Taxation releases comments to Department of Finance.
- 2nd round of draft legislation released October 16, 2006 – mostly minor changes but some changes noteworthy.
- Bill C-28, which contains eligible dividend draft legislation, received First Reading October 18, 2006 and passed by the House of Commons on December 11, 2006.

Department of Finance Release Brief History (cont'd)

- Received 3rd reading on February 14, 2007 and Royal Assent on February 21, 2007.
- October 31, 2006 – Department of Finance News Release – new “Distribution Tax” for publicly traded income trust and partnerships.
- October 31, 2006 Release appears to be a response to recent announcements of BCE and Telus and Jack Mintz's paper *“Income Trust Conversions: Estimated Federal and Provincial Revenue Effects”*

The New Tax Pools

- By definition, dividends are paid out of after-tax corporate retained earnings.
- New rules introduce two new tax pools:
 - General-rate income pool (“GRIP”); and
 - Low-rate income pool (“LRIP”)
- At most, a given corporation will have one GRIP or one LRIP at any time.

General Rate Income Pool ("GRIP")

- New definition of GRIP appears in subsection 89(1) of the Act.
- Applicable only for a taxable Canadian corporation that is a Canadian-controlled private corporation ("CCPC") or a deposit insurance corporation ("DIC").
- DIC's are ignored for the purposes of this presentation.

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Subsection 89(1) "general rate income pool" at the end of a particular taxation year, of a taxable Canadian corporation that is a Canadian-controlled private corporation or a deposit insurance corporation in the particular taxation year, is the positive or negative amount determined by the formula

$$A - B$$

where

A is the positive or negative amount that would, before taking into consideration the specified future tax consequences for the particular taxation year, be determined by the formula

$$C + 0.68(D - E - F) + G + H - I$$

where

C is the corporation's general rate income pool at the end of its preceding taxation year,

D is

(a) unless paragraph (b) applies, the corporation's taxable income for the particular taxation year, and

(b) if the corporation is a deposit insurance corporation in the particular taxation year, nil,

E is the amount determined by multiplying the amount, if any, deducted by the corporation under subsection 125(1) for the particular taxation year by the quotient obtained by dividing 100 by the rate of the deduction provided under that subsection for the particular taxation year,

F is

(a) if the corporation is a Canadian-controlled private corporation in the particular taxation year, the lesser of the corporation's aggregate investment income for the particular taxation year and the corporation's taxable income for the particular taxation year, and

(b) in any other case, nil,

G is the total of all amounts each of which is

(a) an eligible dividend received by the corporation in the particular taxation year, or

(b) an amount deductible under section 113 in computing the taxable income of the corporation for the particular taxation year,

H is the total of all amounts determined under subsections (4) to (6) in respect of the corporation for the particular taxation year, and

I is

(a) unless paragraph (b) applies, the amount, if any, by which

(i) the total of all amounts each of which is the amount of an eligible dividend paid by the corporation in its preceding taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the corporation in its preceding taxation year, or

(b) if subsection (4) applies to the corporation in the particular taxation year, nil, and

B is 68% of the amount, if any, by which

(a) the total of the corporation's full rate taxable incomes (as would be defined in the definition "full rate taxable income" in subsection 123.4(1), if that definition were read without reference to its subparagraphs (a)(i) to (iii)) for the corporation's preceding three taxation years, determined without taking into consideration the specified future tax consequences, for those preceding taxation years, that arise in respect of the particular taxation year,

exceeds

(b) the total of the corporation's full rate taxable incomes (as would be defined in the definition "full rate taxable income" in subsection 123.4(1), if that definition were read without reference to its subparagraphs (a)(i) to (iii)) for those preceding taxation years;

"taxable Canadian corporation" means a corporation that, at the time the expression is relevant,

(a) was a Canadian corporation, and

(b) was not, by virtue of a statutory provision, exempt from tax under this Part;

"Canadian-controlled private corporation" means a private corporation that is a Canadian corporation other than

(a) a corporation controlled, directly or indirectly in any manner whatever, by one or more non-resident persons, by one or more public corporations (other than a prescribed venture capital corporation), by one or more corporations described in paragraph (c), or by any combination of them,

(b) a corporation that would, if each share of the capital stock of a corporation that is owned by a non-resident person, by a public corporation (other than a prescribed venture capital corporation), or by a corporation described in paragraph (c) were owned by a particular person, be controlled by the particular person,

(c) a corporation a class of the shares of the capital stock of which is listed on a prescribed stock exchange, or

(d) in applying subsection (1), paragraphs 87(2)(vv) and (ww) (including, for greater certainty, in applying those paragraphs as provided under paragraph 88(1)(e.2)), the definitions "excessive eligible dividend designation", "general rate income pool" and "low rate income pool" in subsection 89(1) and subsections 89(4) to (6), (8) to (10) and 249(3.1), a corporation that has made an election under subsection 89(11) and that has not revoked the election under subsection 89(12);

GRIP – Timing

- GRIP is calculated at the end of a particular taxation year.

GRIP – Calculation – Overview

- Computed by formula:
A – B
- Can be a positive or negative amount.

GRIP – Calculation of “B”

- See subsection 248(1) for the definition of “specified future tax consequences”.
- CICA-CBA Joint Tax Committee suggest that ‘68%’ be replaced with ‘63%’ to be consistent with proposed subsection 89(7) – discussed later.
- See new T2 Schedule 53 – GRIP Calculation

GRIP Calculation – Overview

- In broad terms, A is the corporation's GRIP at the end of the taxation year determined without reference to any specified future tax consequences.
- Specified future tax consequences includes the carryback of non-capital losses under paragraph 111(1)(a).
- B adjusts that amount calculated under A to the extent that specified future tax consequences for preceding taxation years reduce the corporation's taxable income subject to tax at the general corporate rate.

GRIP Addition – Subsection 89(4) – Becoming a CCPC

- New subsection 89(4) added – relevant for element 'H' in the definition of A under GRIP.
- Applies to a CCPC that was, in its preceding taxation year, a corporation resident in Canada other than a CCPC.
- If applicable, the following amount can be added to GRIP at the end of the particular taxation year:

$$A + B + C - D - E - F - G - H$$

where

- A is the total of all amounts each of which is the cost amount to the corporation of a property immediately before the end of its preceding taxation year,
- B is the amount of any money of the corporation on hand immediately before the end of its preceding taxation year,

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Subsection 89(4) GRIP addition -- becoming CCPC -- If, in a particular taxation year, a corporation is a Canadian-controlled private corporation or a deposit insurance corporation but was, in its preceding taxation year, a corporation resident in Canada other than a Canadian-controlled private corporation or a deposit insurance corporation, there may be included in computing the corporation's general rate income pool at the end of the particular taxation year, the amount determined by the formula

$$A + B + C - D - E - F - G - H$$

where

A is the total of all amounts each of which is the cost amount to the corporation of a property immediately before the end of its preceding taxation year;

B is the amount of any money of the corporation on hand immediately before the end of its preceding taxation year;

C is the amount, if any, by which

(a) the total of all amounts that, if the corporation had had unlimited income for its preceding taxation year from each business carried on, and from each property held, by it in that preceding taxation year and had realized an unlimited amount of capital gains for that preceding taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that preceding taxation year

exceeds

(b) the total of all amounts deducted under subsection 111(1) in computing the corporation's taxable income for that preceding taxation year;

D is the total of all amounts each of which is the amount of any debt owing by the corporation, or of any other obligation of the corporation to pay any amount, that was outstanding immediately before the end of its preceding taxation year;

E is the paid up capital, immediately before the end of its preceding taxation year, of all of the issued and outstanding shares of the capital stock of the corporation;

F is the total of all amounts each of which is a reserve deducted in computing the corporation's income for its preceding taxation year;

G is the corporation's capital dividend account, if any, immediately before the end of its preceding taxation year; and

H is the corporation's low rate income pool immediately before the end of its preceding taxation year.

GRIP Addition – Subsection 89(4) – Becoming a CCPC (cont'd)

- In broad terms, the formula in subsection 89(4) is intended to determine what the corporation's GRIP would have been at the end of its preceding taxation year had it been a CCPC in that taxation year.
- This formula is necessary to prevent otherwise manipulation of GRIP by changing the status of a corporation.
- CICA-CBA Joint Committee comments on certain issues with respect to proposed calculations in subsections 89(4)-(6) and (8)-(10).

GRIP Addition – Subsection 89(5) – Post Amalgamation

- New subsection 89(5) added.
- Relevant for element 'H' of the definition of 'A' of GRIP.
- Applies when a CCPC is formed as a result of an amalgamation to which subsection 87(1) applies.

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Subsection 89(5) GRIP addition -- post-amalgamation -- If a Canadian-controlled private corporation or a deposit insurance corporation (in this subsection referred to as the "new corporation") is formed as a result of an amalgamation (within the meaning assigned by subsection 87(1)), there shall be included in computing the new corporation's general rate income pool at the end of its first taxation year the total of all amounts each of which is

(a) in respect of a predecessor corporation that was, in its taxation year that ended immediately before the amalgamation (in this paragraph referred to as its "last taxation year"), a Canadian-controlled private corporation or a deposit insurance corporation, the positive or negative amount determined in respect of the predecessor corporation by the formula

$$A - B$$

where

A is the predecessor corporation's general rate income pool at the end of its last taxation year, and

B is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the predecessor corporation in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the predecessor corporation in its last taxation year; or
(b) in respect of a predecessor corporation (in this paragraph referred to as the "non-CCPC predecessor") that was, in its taxation year that ended immediately before the amalgamation (in this paragraph referred to as its "last taxation year"), not a Canadian-controlled private corporation or a deposit insurance corporation, the amount determined by the formula

$$A + B + C - D - E - F - G - H$$

where

A is the total of all amounts each of which is the cost amount to the non-CCPC predecessor of a property immediately before the end of its last taxation year,

B is the amount of any money of the non-CCPC predecessor on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the non-CCPC predecessor had had unlimited income for its last taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

(ii) the total of all amounts deducted under subsection 111(1) in computing the non-CCPC predecessor's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the non-CCPC predecessor, or of any other obligation of the non-CCPC predecessor to pay any amount, that was outstanding immediately before the end of its last taxation year,

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the non-CCPC predecessor,

F is the total of all amounts each of which is a reserve deducted in computing the non-CCPC predecessor's income for its last taxation year,

G is the non-CCPC predecessor's capital dividend account, if any, immediately before the end of its last taxation year, and

H is the non-CCPC predecessor's low rate income pool immediately before the end of its last taxation year.

GRIP Addition – Subsection 89(6) – Post Winding Up

- New subsection 89(6) added.
- Relevant for element 'H' of the definition 'A' of GRIP.
- Relevant if subsection 88(1) applies to the winding-up of a subsidiary into a parent that is a CCPC.
- Addition amount is added to the parent's GRIP at the end of the taxation year that immediately follows the taxation year during which it receives the assets of the subsidiary on the winding up.

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Subsection 89(6) GRIP addition -- post-winding-up -- If subsection 88(1) applies to the winding-up of a subsidiary into a parent (within the meanings assigned by that subsection) that is a Canadian-controlled private corporation or a deposit insurance corporation, there shall be included in computing the parent's general rate income pool at the end of its taxation year that immediately follows the taxation year during which it receives the assets of the subsidiary on the winding-up

(a) if the subsidiary was, in its taxation year during which its assets were distributed to the parent on the winding-up (in this paragraph referred to as its "last taxation year"), a Canadian-controlled private corporation or a deposit insurance corporation, the positive or negative amount determined by the formula

$$A - B$$

where

A is the subsidiary's general rate income pool at the end of its last taxation year, and

B is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the subsidiary in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the subsidiary in its last taxation year; and

(b) in any other case, the amount determined by the formula

$$A + B + C - D - E - F - G - H$$

where

A is the total of all amounts each of which is the cost amount to the subsidiary of a property immediately before the end of its taxation year during which its assets were distributed to the parent on the winding-up (in this paragraph referred to as its "last taxation year"),

B is the amount of any money of the subsidiary on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the subsidiary had had unlimited income for its last taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

(ii) the total of all amounts deducted under subsection 111(1) in computing the subsidiary's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the end of its last taxation year,

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the subsidiary,

F is the total of all amounts each of which is a reserve deducted in computing the subsidiary's income for its last taxation year,

G is the subsidiary's capital dividend account, if any, immediately before the end of its last taxation year, and

H is the subsidiary's low rate income pool immediately before the end of its last taxation year.

GRIP Addition – Subsection 89(7) – 2006 “Bump”

- New subsection 89(7)
- Relevant for element ‘C’ of the definition of ‘A’ of GRIP.
- If a corporation was (or, but for an election under subsection (11), would have been), throughout its first taxation year that includes any part of January 1, 2006, a Canadian-controlled private corporation, its general rate income pool at the end of its immediately preceding taxation year is deemed to be the greater of nil and the amount determined by the formula

$$A - B$$

(7) GRIP addition for 2006 -- If a corporation was (or, but for an election under subsection (11), would have been), throughout its first taxation year that includes any part of January 1, 2006, a Canadian-controlled private corporation, its general rate income pool at the end of its immediately preceding taxation year is deemed to be the greater of nil and the amount determined by the formula

$$A - B$$

where

A is the total of

- (a) 63% of the total of all amounts each of which is the corporation's full rate taxable income (as defined in subsection 123.4(1)), for a taxation year of the corporation that ended after 2000 and before 2004, determined before taking into consideration the specified future tax consequences for that taxation year,*
- (b) 63% of the total of all amounts each of which is the corporation's full rate taxable income (as would be defined in subsection 123.4(1), if that definition were read without reference to its subparagraphs (a)(i) and (ii)), for a taxation year of the corporation that ended after 2003 and before 2006, determined before taking into consideration the specified future tax consequences for that taxation year, and*

(c) all amounts each of which was deductible under subsection 112(1) in computing the corporation's taxable income for a taxation year of the corporation (in this paragraph referred to as the "particular corporation") that ended after 2000 and before 2006, and is in respect of a dividend received from a corporation (in this paragraph referred to as the "payer corporation") that was, at the time it paid the dividend, connected (within the meaning assigned by subsection 186(4)) with the particular corporation, to the extent that it is reasonable to consider, having regard to all the circumstances (including but not limited to other shareholders having received dividends from the payer corporation), that the dividend was attributable to an amount that is, or if this subsection applied to the payer corporation would be, described in this paragraph or in paragraph (a) or (b) in respect of the payer corporation; and

B is the total of all amounts each of which is a taxable dividend paid by the corporation in those taxation years.

GRIP Addition – Subsection 89(7) – 2006 “Bump”

- The 63% rate assumes a combined 37% federal-provincial tax rate for the 2000 – 2005 taxation years.
- CICA-CBA Joint Committee has significant comments about subsection 89(7) – discussed later.

Low Rate Income Pool ("LRIP")

- Generally relevant for determining the extent to which the non-CCPC can pay eligible dividends in any given taxation year without making an excessive eligible dividend designation.
- Defined in subsection 89(1) of the Act.

Subsection 89(1) "low rate income pool", at any particular time in a particular taxation year, of a corporation (in this definition referred to as the "non-CCPC") that is resident in Canada and is in the particular taxation year neither a Canadian-controlled private corporation nor a deposit insurance corporation, is the amount determined by the formula

$$(A + B + C + D + E + F) - (G + H)$$

where

A is the non-CCPC's low rate income pool at the end of its preceding taxation year,

B is the total of all amounts each of which is an amount deductible under section 112 in computing the non-CCPC's taxable income for the year in respect of a taxable dividend (other than an eligible dividend) that became payable, in the particular taxation year but before the particular time, to the non-CCPC by a corporation resident in Canada,

C is the total of all amounts determined under subsections (8) to (10) in respect of the non-CCPC for the particular taxation year,

D is

(a) if the non-CCPC would, but for paragraph (d) of the definition "Canadian-controlled private corporation" in subsection 125(7), be a Canadian-controlled private corporation in its preceding taxation year, 80% of its aggregate investment income for its preceding taxation year, and

(b) in any other case, nil,

E is

(a) if the non-CCPC was not a Canadian-controlled private corporation in its preceding taxation year, 80% of the amount determined by multiplying the amount, if any, deducted by the corporation under subsection 125(1) for that preceding taxation year by the quotient obtained by dividing 100 by the rate of the deduction provided under that subsection for that preceding taxation year, and

(b) in any other case, nil,

F is

(a) if the non-CCPC was an investment corporation in its preceding taxation year, four times the amount, if any, deducted by it under subsection 130(1) for its preceding taxation year, and

(b) in any other case, nil,

G is the total of all amounts each of which is a taxable dividend (other than an eligible dividend, a capital gains dividend within the meaning assigned by subsection 130.1(4) or 131(1) or a taxable dividend deductible by the non-CCPC under subsection 130.1(1) in computing its income for the particular taxation year or for its preceding taxation year) that became payable, in the particular taxation year but before the particular time, by the non-CCPC, and

H is the total of all amounts each of which is an excessive eligible dividend designation made by the non-CCPC in the particular taxation year but before the particular time;

LRIP – Timing

- Unlike GRIP, the LRIP is computed at any particular time in a taxation year.
- Given above, the non-CCPC's LRIP at the end of the preceding taxation year is already adjusted to take into account any taxable dividends other than eligible dividends paid, and excessive eligible dividend designations made, by the non-CCPC in the preceding taxation year.
- New schedule 54 of T2.

LRIP Addition – Subsection 89(8) – Ceasing to Be a CCPC

- New subsection 89(8).
- In broad terms, the formula in the provision is intended to determine what the corporation's LRIP would have been at the end of its preceding taxation year had it not been a CCPC in that taxation year.

Subsection 89(8) LRIP addition -- ceasing to be CCPC -- *If, in a particular taxation year, a corporation is neither a Canadian-controlled private corporation nor a deposit insurance corporation but was, in its preceding taxation year, a Canadian-controlled private corporation or a deposit insurance corporation, there shall be included in computing the corporation's low rate income pool at any time in the particular taxation year the amount determined by the formula*

$$A + B + C - D - E - F - G - H$$

where

A is the total of all amounts each of which is the cost amount to the corporation of a property immediately before the end of its preceding taxation year;

B is the amount of any money of the corporation on hand immediately before the end of its preceding taxation year;

C is the amount, if any, by which

(a) the total of all amounts that, if the corporation had had unlimited income for its preceding taxation year from each business carried on, and from each property held, by it in that preceding taxation year and had realized an unlimited amount of capital gains for that preceding taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that preceding taxation year

exceeds

(b) the total of all amounts deducted under subsection 111(1) in computing the corporation's taxable income for its preceding taxation year;

D is the total of all amounts each of which is the amount of any debt owing by the corporation, or of any other obligation of the corporation to pay any amount, that was outstanding immediately before the end of its preceding taxation year;

E is the paid up capital, immediately before the end of its preceding taxation year, of all of the issued and outstanding shares of the capital stock of the corporation;

F is the total of all amounts each of which is a reserve deducted in computing the corporation's income for its preceding taxation year;

G is

(a) if the corporation is not a private corporation in the particular taxation year, the corporation's capital dividend account, if any, immediately before the end of its preceding taxation year, and

(b) in any other case, nil; and

H is the positive or negative amount determined by the formula

$$I - J$$

where

I is the corporation's general rate income pool at the end of its preceding taxation year, and

J is the amount, if any, by which

(a) the total of all amounts each of which is an eligible dividend paid by the corporation in its preceding taxation year

exceeds

(b) the total of all amounts each of which is an excessive eligible dividend designation made by the corporation in its preceding taxation year.

LRIP Addition – Subsection 89(9) – Post Amalgamation

- New subsection 89(9).
- In broad terms, the formula in the provision is intended to determine what the predecessor's LRIP would have been at the end of its last taxation year had it not been a CCPC in that taxation year.

Subsection 89(9) LRIP addition -- amalgamation -- If a corporation that is resident in Canada and that is neither a Canadian-controlled private corporation nor a deposit insurance corporation (in this subsection referred to as the "new corporation") is formed as a result of the amalgamation or merger of two or more corporations one or more of which is a taxable Canadian corporation, there shall be included in computing the new corporation's low rate income pool at any time in its first taxation year the total of all amounts each of which is

(a) in respect of a predecessor corporation that was, in its taxation year that ended immediately before the amalgamation, neither a Canadian-controlled private corporation nor a deposit insurance corporation, the predecessor corporation's low rate income pool at the end of that taxation year; and

(b) in respect of a predecessor corporation (in this paragraph referred to as the "CCPC predecessor") that was, throughout its taxation year that ended immediately before the amalgamation (in this paragraph referred to as its "last taxation year"), a Canadian-controlled private corporation or a deposit insurance corporation, the amount determined by the formula

$$A + B + C - D - E - F - G - H$$

Where

A is the total of all amounts each of which is the cost amount to the CCPC predecessor of a property immediately before the end of its last taxation year,

B is the amount of any money of the CCPC predecessor on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the CCPC predecessor had had unlimited income for its last taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

(ii) the total of all amounts deducted under subsection 111(1) in computing the CCPC predecessor's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the CCPC predecessor, or of any other obligation of the CCPC predecessor to pay any amount, that was outstanding immediately before the end of its last taxation year,

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the CCPC predecessor,

F is the total of all amounts each of which is a reserve deducted in computing the CCPC predecessor's income for its last taxation year,

G is

(i) if the new corporation is not a private corporation in its first taxation year, the CCPC predecessor's capital dividend account, if any, immediately before the end of its last taxation year, and

(ii) in any other case, nil, and

H is the positive or negative amount determined by the formula

$$I - J$$

where

I is the CCPC predecessor's general rate income pool at the end of its last taxation year, and

J is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the CCPC predecessor in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the CCPC predecessor in its last taxation year.

LRIP Addition – Subsection 89(10) – Post Winding-Up

- New subsection 89(10).
- Same general purpose as subsections 89(8) – (9).

Subsection 89(10) LRIP addition -- winding-up -- If, in a particular taxation year, a corporation (in this subsection referred to as the "parent") is neither a Canadian-controlled private corporation nor a deposit insurance corporation and in the particular taxation year all or substantially all of the assets of another corporation (in this subsection referred to as the "subsidiary") were distributed to the parent on a dissolution or winding-up of the subsidiary, there shall be included in computing the parent's low rate income pool at any time in the particular taxation year that is at or after the end of the subsidiary's taxation year (in this subsection referred to as the subsidiary's "last taxation year") during which its assets were distributed to the parent on the winding-up,

(a) if the subsidiary was, in its last taxation year, neither a Canadian-controlled private corporation nor a deposit insurance corporation, the subsidiary's low rate income pool immediately before the end of that taxation year; and

(b) in any other case, the amount determined by the formula

$$A + B + C - D - E - F - G - H$$

where

A is the total of all amounts each of which is the cost amount to the subsidiary of a property immediately before the end of its last taxation year,

B is the amount of any money of the subsidiary on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the subsidiary had had unlimited income for its last taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

(ii) the total of all amounts deducted under subsection 111(1) in computing the subsidiary's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the end of its last taxation year,

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the subsidiary,

F is the total of all amounts each of which is a reserve deducted in computing the subsidiary's income for its last taxation year,

G is

(i) if the parent is not a private corporation in the particular taxation year, the subsidiary's capital dividend account, if any, immediately before the end of its last taxation year, and

(ii) in any other case, nil, and

H is the positive or negative amount determined by the formula

$$I - J$$

where

I is the subsidiary's general rate income pool at the end of its last taxation year, and

J is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the subsidiary in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the subsidiary in its last taxation year.

Election to Not Be a CCPC – New Subsection 89(11)

- New subsection 89(11).
- If prescribed form filed with Minister on or before its filing-due date for a particular taxation year, the corporation is deemed not to be a CCPC for purposes of new paragraph (d) of the definition of CCPC that is added under subsection 125(7) to accommodate the election.
- See new T2002.

Subsection 89(11) Election: non-CCPC -- Subject to subsection (12), a corporation that files with the Minister on or before its filing-due date for a particular taxation year an election in prescribed form to have this subsection apply is deemed for the purposes described in paragraph (d) of the definition "Canadian-controlled private corporation" in subsection 125(7) not to be a Canadian-controlled private corporation at any time in or after the particular taxation year.

CCPC Definition

- As stated on previous slide, new paragraph (d) of CCPC definition under subsection 125(7) added that excepts a corporation from being a CCPC. New paragraph (d) exception reads as follows:

In applying subsection (1), paragraphs 87(2)(vv) and (ww) (including, for greater certainty, in applying those paragraphs as provided under paragraph 88(1)(e.2)), the definitions "excessive eligible dividend designation", "general rate income pool" and "low rate income pool" in subsection 89(1) and subsections 89(4) to (6), (8) to (10) and 249(4.1), a corporation that has made an election under subsection 89(11) and that has not revoked the election under subsection 89(12);

- Applies only for purposes of SBD and various other specified purposes.

Subsection 125(7) "Canadian-controlled private corporation" means a private corporation that is a Canadian corporation other than

(a) a corporation controlled, directly or indirectly in any manner whatever, by one or more non-resident persons, by one or more public corporations (other than a prescribed venture capital corporation), by one or more corporations described in paragraph (c), or by any combination of them,

(b) a corporation that would, if each share of the capital stock of a corporation that is owned by a non-resident person, by a public corporation (other than a prescribed venture capital corporation), or by a corporation described in paragraph (c) were owned by a particular person, be controlled by the particular person,

(c) a corporation a class of the shares of the capital stock of which is listed on a prescribed stock exchange, or

(d) in applying subsection (1), paragraphs 87(2)(vv) and (ww) (including, for greater certainty, in applying those paragraphs as provided under paragraph 88(1)(e.2)), the definitions "excessive eligible dividend designation", "general rate income pool" and "low rate income pool" in subsection 89(1) and subsections 89(4) to (6), (8) to (10) and 249(3.1), a corporation that has made an election under subsection 89(11) and that has not revoked the election under subsection 89(12);

Revoking the Election – Subsection 89(12)

- Election under subsection 89(11) to not be a CCPC applies until it is revoked under subsection 89(12).

Subsection 89(12) Revoking election -- *If a corporation files with the Minister on or before its filing-due date for a particular taxation year a notice in prescribed form revoking, as of the end of the particular taxation year, an election described in subsection (11), the election ceases to apply to the corporation at the end of the particular taxation year.*

Revoking Elections – New Subsection 89(13)

- New subsection 89(13):
If a corporation has, under subsection (12), revoked an election, any subsequent election under subsection (11) or subsequent revocation under subsection (12) is invalid unless
 - (a) the Minister consents in writing to the subsequent election or the subsequent revocation, as the case may be, and*
 - (b) the corporation complies with any conditions imposed by the Minister.*
- Elections and revocations under 89(11) – (13) will not be prescribed for purposes of section 600 of the Income Tax Regulations – late filed elections. Caution!

Subsection 89(13) Repeated elections -- consent required -- *If a corporation has, under subsection (12), revoked an election, any subsequent election under subsection (11) or subsequent revocation under subsection (12) is invalid unless*

- (a) the Minister consents in writing to the subsequent election or the subsequent revocation, as the case may be; and*
- (b) the corporation complies with any conditions imposed by the Minister.*

Definition of "Eligible Dividend"

- Defined under subsection 89(1).
- Dividend needs to be a taxable dividend – therefore in no case can capital dividends or capital gains dividends be eligible dividends.
- Received by a person resident in Canada.
- Paid after 2005.
- Designation under new subsection 89(14) must be made.
- *"Eligible dividend" means a taxable dividend that is received by a person resident in Canada, paid after 2005 by a corporation resident in Canada and designated, as provided under subsection (14), to be an eligible dividend;*

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Proposed Amendment -- 89(1)"eligible dividend"

"eligible dividend" means

(a) a taxable dividend that is received by a person resident in Canada, paid after 2005 by a corporation resident in Canada and designated, as provided under subsection (14), to be an eligible dividend, and

(b) in respect of a person resident in Canada, an amount that is deemed by subsection 96(1.11) or 104(16) to be a taxable dividend that is received by the person;

Application: Bill C-52 (First Reading March 29, 2007), s. 6, will amend the definition "eligible dividend" in subsection 89(1) to read as above, deemed to have come into force on October 31, 2006.

Technical Notes (Dec. 21, 2006): The definition "eligible dividend" in subsection 89(1) identifies those dividends that qualify, in the hands of individuals resident in Canada, for the proposed enhanced dividend "gross-up" and the enhanced dividend tax credit. As part of a series of amendments implementing new rules for "SIFT partnerships" and "SIFT trusts" (both of which terms are defined in subsection 248(1)), the definition is amended to include as eligible dividends certain amounts distributed by SIFT trusts to their beneficiaries and certain amounts allocated by SIFT partnerships to their members. In broad terms, these are amounts of a SIFT trust's (or SIFT partnership's) "non-portfolio earnings" distributions (or allocations) that have been taxed at a rate comparable to the rate that applies to corporations. The notes relating to new section 122 and new Part IX.1 of the Act explain in more detail how those amounts are taxed.

Designation Under Subsection 89(14)

- Must notify each person (including partnership) in writing at the time each person or partnership to whom it pays all or any part of the dividend is an eligible dividend.
- *A corporation designates a dividend it pays at any time to be an eligible dividend by notifying in writing at that time each person or partnership to whom it pays all or any part of the dividend that the dividend is an eligible dividend.*
- Given above wording, it was initially unclear whether that partial eligible dividends designations could be made – unlike capital dividends (see wording under subsection 83(2)).
- However, better view seems to be no partial eligible dividend designations.
- CICA-CBA Joint Committee comments on this in September 29, 2006 letter to Department of Finance.

Subsection 89(14) Dividend designation -- *A corporation designates a dividend it pays at any time to be an eligible dividend by notifying in writing at that time each person or partnership to whom it pays all or any part of the dividend that the dividend is an eligible dividend.*

Designation Under Subsection 89(14) (cont'd)

- Again, subsection 89(14) will not be prescribed for purposes of Regulation 600 – late filed elections. Caution! CICA-CBA Joint Committee comments on this in September 29, 2006 letter to Department of Finance.
- Note that a designation under subsection 89(14) will be deemed to have been made in a timely manner if it is made on or before the day that is 90 days after the day which new draft legislation becomes law.
- See CRA comments on how to designate under subsection 89(14) – December 20, 2006 News Release.

Penalty Tax – Excessive Eligible Dividend Designations

- New Part III.1 of The Act introduced.
- New sections 185.1 and 185.2
- Applies a tax to a corporation that has made an “excessive eligible dividend designation”.
- If a CCPC has made an excessive designation in an amount that exceeds its GRIP at the end of the year, the tax under Part III.1 is equal to 20% of the excessive designation.
- If a non-CCPC designates an eligible dividend at a time when it has a positive LRIP balance, the Part III.1 tax will be equal to 20% of the amounts of the dividend that should have been LRIP.
- Defined in subsection 89(1) as referenced to by subsection 248(1).
- See new T2 schedule 55

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"excessive eligible dividend designation", made by a corporation in respect of an eligible dividend paid by the corporation at any time in a taxation year, means

(a) unless paragraph (c) applies to the dividend, if the corporation is in the taxation year a Canadian-controlled private corporation or a deposit insurance corporation, the amount, if any, determined by the formula

$$(A - B) \times C/A$$

where

A is the total of all amounts each of which is the amount of an eligible dividend paid by the corporation in the taxation year,

B is the greater of nil and the corporation's general rate income pool at the end of the taxation year, and

C is the amount of the eligible dividend,

(b) unless paragraph (c) applies to the dividend, if the corporation is not a corporation described in paragraph (a), the amount, if any, determined by the formula

$$A \times B/C$$

where

A is the lesser of

(i) the total of all amounts each of which is an eligible dividend paid by the corporation at that time, and

(ii) the corporation's low rate income pool at that time,

B is the amount of the eligible dividend, and

C is the amount determined under subparagraph (i) of the description of A, and,

(c) an amount equal to the amount of the eligible dividend, if it is reasonable to consider that the eligible dividend was paid in a transaction, or as part of a series of transactions, one of the main purposes of which was to artificially maintain or increase the corporation's general rate income pool, or to artificially maintain or decrease the corporation's low rate income pool;

Subsection 185.1 (1) Tax on excessive eligible dividend designations -- *A corporation that has made an excessive eligible dividend designation in respect of an eligible dividend paid by it at any time in a taxation year shall, on or before the corporation's balance-due day for the taxation year, pay a tax under this Part for the taxation year equal to the total of*

(a) 20% of the excessive eligible dividend designation, and

(b) if the excessive eligible dividend designation arises because of the application of paragraph (c) of the definition "excessive eligible dividend designation" in subsection 89(1), 10% of the excessive eligible dividend designation.

Definition of Excessive Eligible Dividend Designation

- Paragraph (b) formula, which applies to non-CCPCs, effectively introduces an ordering rule by requiring corporations to first pay taxable dividends other than eligible dividends to the extent of its LRIP (in order to avoid the penalty tax under Part III.1) at the time it pays the dividends.
- Note the anti-avoidance rule in paragraph (c) – need to be careful!

Definition of Excessive Eligible Dividend Designation (cont'd)

- Paragraph (c) will apply *“if it is reasonable to consider that the eligible dividend was paid in a transaction, or as part of a series of transactions, one of the main purposes of which was to artificially maintain or increase the corporation’s general rate income pool, or to artificially maintain or decrease the corporation’s low rate income pool”*.
- See following slides for consequences of falling into this anti-avoidance rule.

Definition of Excessive Eligible Dividend Designation – Anti-Avoidance Rule

- Explanatory Notes further explain what the Department of Finance means by “artificially maintained or increased...” as follows:

In general terms, it is intended that a corporation be considered to have artificially maintained or increased its GRIP if the transaction or series of transactions produces a GRIP that is unreflective of income retained by it after payment of tax under Part I (whether the tax is paid by the corporation or another corporation) at a rate not less than that which applies to full rate taxable income (as defined in subsection 123.4(1) of the Act). Likewise, it is intended that a corporation generally be considered to have artificially maintained or decreased its LRIP if the transaction or series of transactions produces a LRIP that is unreflective of income retained by it after payment of tax under Part I (whether the tax is paid by the corporation or another corporation) at a rate less than that which applies to full rate taxable income.

Part III.I – Extra Penalty Tax

- As noted above and in definition of “excessive eligible dividend designation”, paragraph (c) is an anti-avoidance rule.
- If paragraph (c) applies, penalty tax is increased by 10% and would be 30% of the full amount of the eligible dividend.
- Caution!

Part III.I – Penalty Tax

- If paragraph (c) of excessive eligible dividend designation does not apply, an election can be made under new subsection 185.1(2) to treat excessive amount as an ordinary taxable dividend.
- The election must be made in prescribed manner on or before the day that is 90 days after the mailing of the notice of assessment that deals with the Part III.I tax that the corporation would otherwise pay.
- A late-filed election will not be possible.

Subsection 185.1(2) Election to treat excessive eligible dividend designation as an ordinary dividend -- If, in respect of an excessive eligible dividend designation that is not described in paragraph (1)(b) and that is made by a corporation in respect of an eligible dividend (in this subsection and subsection (3) referred to as the "original dividend") paid by it at a particular time, the corporation would, if this Act were read without reference to this subsection, be required to pay a tax under subsection (1), and it elects in prescribed manner on or before the day that is 90 days after the day of mailing the notice of assessment in respect of that tax that would otherwise be payable under subsection (1), the following rules apply:

(a) notwithstanding the definition "eligible dividend" in subsection 89(1), the amount of the original dividend paid by the corporation is deemed to be the amount, if any, by which

(i) the amount of the original dividend, determined without reference to this subsection

exceeds

(ii) the amount claimed by the corporation in the election not exceeding the excessive eligible dividend designation, determined without reference to this subsection;

(b) an amount equal to the amount claimed by the corporation in the election is deemed to be a separate taxable dividend (other than an eligible dividend) that was paid by the corporation immediately before the particular time;

(c) each shareholder of the corporation who at the particular time held any of the issued shares of the class of shares in respect of which the original dividend was paid is deemed

(i) not to have received the original dividend, and

(ii) to have received at the particular time

(A) as an eligible dividend, the shareholder's pro rata portion of the amount of any dividend determined under paragraph (a), and

(B) as a taxable dividend (other than an eligible dividend) the shareholder's pro rata portion of the amount of any dividend determined under paragraph (b); and

(d) a shareholder's pro rata portion of a dividend paid at any time on a class of the shares of the capital stock of a corporation is that proportion of the dividend that the number of shares of that class held by the shareholder at that time is of the number of shares of that class outstanding at that time.

Part III.I – Penalty Tax (cont'd)

- Note conditions pursuant to subsection 185.1(3), for election under subsection 185.1(2) to apply:
- *An election under subsection (2) in respect of an original dividend is valid only if*
 - (a) it is made with the concurrence of the corporation and all its shareholders*
 - (i) who received or were entitled to receive all or any portion of the original dividend,*
and
 - (ii) whose addresses were known to the corporation; and*

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Subsection 185.1(3) Concurrence with election -- *An election under subsection (2) in respect of an original dividend is valid only if*

- (a) it is made with the concurrence of the corporation and all its shareholders*
 - (i) who received or were entitled to receive all or any portion of the original dividend, and*
 - (ii) whose addresses were known to the corporation; and*
- (b) either*
 - (i) it is made on or before the day that is 30 months after the day on which the original dividend was paid, or*
 - (ii) each shareholder described in subparagraph (a)(i) concurs with the election, in which case, notwithstanding subsections 152(4) to (5), any assessment of the tax, interest and penalties payable by each of those shareholders for any taxation year shall be made that is necessary to take the corporation's election into account.*

Part III.I – Penalty Tax (cont'd)

(b) either

(i) it is made on or before the day that is 30 months after the day on which the original dividend was paid, or

(ii) each shareholder described in subparagraph (a)(i) concurs with the election, in which case, notwithstanding subsections 152(4) to (5), any assessment of the tax, interest and penalties payable by each of those shareholders for any taxation year shall be made that is necessary to take the corporation's election into account.

Part III.I – Penalty Tax (cont'd)

- For large dividend-payers, such election may contain practical problems regarding shareholder consent.
- See new subsection 185.1(4) that excludes shareholder concurrence for subsection 185.1(3) if all of the affected shareholders are persons all of whose taxable income is exempt from tax under Part I. If applicable, the election must be made within 30 months after the payment of the original dividend.

Subsection 185.1(4) Exception for non-taxable shareholders -- *If each shareholder who, in respect of an election made under subsection (2), is deemed by subsection (2) to have received a dividend at a particular time is also, at the particular time, a person all of whose taxable income is exempt from tax under Part I,*

(a) subsection (3) does not apply to the election; and

(b) the election is valid only if it is made on or before the day that is 30 months after the day on which the original dividend was paid.

Part III.I – New Section 185.2

- Every corporation that pays a taxable dividend (other than a capital gains dividend) in a taxation year must now file by the corporation's filing-due date file a return under Part III.I.
- New return will be prescribed by the Minister.

Subsection 185.2 (1) Return -- Every corporation resident in Canada that pays a taxable dividend (other than a capital gains dividend within the meaning assigned by subsection 130.1(4) or 131(1)) in a taxation year shall file with the Minister, not later than the corporation's filing-due date for the taxation year, a return for the year under this Part in prescribed form containing an estimate of the taxes payable by it under this Part for the taxation year.

Part III.I – Joint Liability

- New subsection 185.2(3)
- If CCPC pays an eligible dividend to a non-arm's length shareholder and makes an excessive designation in respect of the eligible dividend, the shareholder is jointly and severally liable with the corporation for a proportionate share of the Part III.I tax.

Subsection 185.2(3) Joint and several liability from excessive eligible dividend designations --
Without limiting the liability of any person under any other provision of this Act, if a Canadian-controlled private corporation or a deposit insurance corporation pays an eligible dividend in respect of which it has made an excessive eligible dividend designation to a shareholder with whom it does not deal at arm's length, the shareholder is jointly and severally, or solidarily, liable with the corporation to pay that proportion of the corporation's tax payable under this Part because of the designation that the amount of the eligible dividend received by the shareholder is of the total of all amounts each of which is a dividend in respect of which the designation was made.

Year End on Status Change

- New subsection 249(3.1) added.
- Applies to a CCPC if it ceases to be a CCPC otherwise than because of an acquisition of control.
- If applicable, the corporation's taxation year is deemed to end immediately before the status change.

Year End on Status Change (cont'd)

- *Under the old rules, a corporation must be a CCPC throughout any particular taxation year in order to be eligible to claim the small business deduction. One effect of the new deemed year-end rule is that this requirement will in all cases be met where a corporation is a CCPC at any time in a particular taxation year, since under this new rule corporations can no longer be a CCPC for only part of a taxation year.*

Subsection 249(3.1) Year end on status change -- *If at any time a corporation becomes or ceases to be a Canadian-controlled private corporation, otherwise than because of an acquisition of control to which subsection (4) would, if this Act were read without reference to this subsection, apply,*

(a) subject to paragraph (c), the corporation's taxation year that would, if this Act were read without reference to this subsection, include that time is deemed to end immediately before that time;

(b) a new taxation year of the corporation is deemed to begin at that time;

(c) notwithstanding subsections (1) and (3), the corporation's taxation year that would, if this Act were read without reference to this subsection, have been its last taxation year that ended before that time is deemed instead to end immediately before that time if

(i) were this Act read without reference to this paragraph, that taxation year would, otherwise than because of paragraph 128(1)(d), section 128.1 and paragraphs 142.6(1)(a) or 149(10)(a), have ended within the 7-day period that ended immediately before that time,

(ii) within that 7-day period no person or group of persons acquired control of the corporation, and the corporation did not become or cease to be a Canadian-controlled private corporation, and

(iii) the corporation elects, in its return of income under Part I for that taxation year to have this paragraph apply; and

(d) for the purpose of determining the corporation's fiscal period after that time, the corporation is deemed not to have established a fiscal period before that time.

Miscellaneous Amendments

- Subsection 82(1) amended to include 45% gross-up amount of eligible dividends into taxable income.
- Section 121 – dividend tax credit calculation – is amended to include 11/18 of the 45% gross-up amount as a dividend tax credit.

Eligible Dividends – General Comments

1. Careful GRIP and LRIP tracking will be necessary – extra compliance.
2. Tax compliance software will obviously need to assist in the calculation of GRIP and LRIP.
3. Will CRA keep track of GRIP and report it or confirm it on Notice of Assessment under Part I or Part III.I? Haven't seen this yet.
4. New tax return under Part III.I now required to be filed when dividends paid – extra compliance.

Eligible Dividends – General Comments (cont'd)

5. With the exception of public corporations (that need to pay LRIP balances as taxable dividends first to avoid Part III.I tax), no ordering rules apply for the payment of eligible dividends.
6. What does *“artificially maintain or increase the corporation’s GRIP, or to artificially maintain or decrease the corporation’s LRIP”* under paragraph (c) of the definition of “excessive eligible dividend designation” mean? See Explanatory Notes. Not real helpful.

Eligible Dividends – General Comments (cont'd)

7. Provincial responses to new rules have not been consistent.
8. The notional addition to the GRIP balance for 2006 reporting full rate income for corporations for taxation years 2001 – 2005 is nice but why only those taxation years taken into account?

Eligible Dividends – General Comments (cont'd)

9. Some concern has been expressed that existing subsection 104(19) may not be sufficient to enable the retention of the eligible dividend character at the beneficiary level for such dividends received by a trust and allocated to the beneficiary(ies) debatable. No amendment in October 16, 2006 Release and no further amendment contemplated.

Eligible Dividends – General Comments (cont'd)

10. Alternative minimum tax thresholds have not been adjusted. Accordingly, the increased dividend tax credit may cause AMT to apply in unintended situations.
11. Given the policy reasons for eligible dividends, should public companies have a capital dividend account like CCPCs?
12. With reduced rate on eligible dividends, does the use of personal services business corporations now make sense?
13. Existing shareholders agreements will likely need to be revisited to deal with GRIP usage.

CICA-CBA Joint Committee on Taxation Comments

- Joint Committee released comments to Department of Finance on September 29, 2006 – 17 page letter.

Highlights

1. Suggests having all dividends paid by non-CCPCs be eligible dividends if blanket election filed. Less compliance. Department of Finance comments briefly on this issue at 2006 CTF conference.
2. Comments that alternative methods of notification for subsection 89(14) designation be considered.
3. Recommends that corporations be permitted to designate portions of dividends as eligible dividends.

CICA-CBA Joint Committee on Taxation Highlights (cont'd)

4. Recommend that the decision to not allow late filed designations (not be prescribed under Regulation 600) be reconsidered and that there be a right for a CCPC to designate a dividend as an eligible dividend subsequent to the payment of the dividend.
5. Recommends that taxable dividends paid by a CCPC that gave rise to dividend refunds not be subtracted from the calculation under subsection 89(7).
6. Recommends that taxable income that qualified for the M + P deduction be included in computing opening GRIP under subsection 89(7) since such income is excluded from the definition of "full rate taxable income".

CICA-CBA Joint Committee on Taxation Highlights (cont'd)

7. Recommends that Finance clarify that non-capital losses for 2006 and subsequent taxation years are not to be taken into account when determining GRIP under subsection 89(7).
8. Recommends that the aggregate reduction of GRIP – see element 'B' in definition of GRIP – as a result of the carryback losses to pre-2006 taxation years should be limited to the amount of opening GRIP determined under subsection 89(7).
9. Recommends that a corporation's GRIP be determined using taxable income computed without any deduction under paragraph 110(1)(k) – Part VI.I deduction.

CICA-CBA Joint Committee on Taxation Highlights (cont'd)

10. Recommends that contributed surplus be a deduction in the formulae in subsections 89(4)-(6) and (8)-(10) if the contributed surplus is described in paragraph 84(1)(c.3).
11. Recommends that the determination of whether a corporation is a CCPC be made without regard to a right referred to on paragraph 251(5)(b) where the right is contained in a purchase and sale agreement and relates to shares of the corporation or another corporation. This issue could affect a corporation's ability to pay eligible dividends before the completion of the sale.

CICA-CBA Joint Committee on Taxation Highlights (cont'd)

12. Recommends that a corporation be required to file a return under Part III.I for a taxation year only if it has paid an eligible dividend in the year.
13. Recommends that paragraph 74.4(2)(f) – reduction of corporate attribution benefit for 5/4 of taxable dividends paid – be amended to apply a factor of '29/20' to eligible dividends – this was accepted and was a last minute change to the Bill.

New T5 Slip

Canada Revenue Agency Agence du revenu du Canada		Year Année		T5 STATEMENT OF INVESTMENT INCOME ÉTAT DES REVENUS DE PLACEMENTS	
10	Dividends from Canadian corporations - Dividendes de sociétés canadiennes Actual amount of eligible dividends Montant réel des dividendes admissibles	20	Taxable amount of eligible dividends Montant imposable des dividendes admissibles	20	Federal credit - Credit fédéral Dividend tax credit for eligible dividends Crédit d'impôt pour dividendes admissibles
11	Actual amount of dividends other than eligible dividends Montant réel des dividendes autres que des dividendes admissibles	11	Taxable amount of dividends other than eligible dividends Montant imposable des dividendes autres que des dividendes admissibles	12	Dividend tax credit for dividends other than eligible dividends Crédit d'impôt pour dividendes autres que des dividendes admissibles
Other information (see the back) Autres renseignements (voir au verso)		21	Report code Code du feuillet	22	Recipient identification number Numéro d'identification du bénéficiaire
Recipient's name (last name first) and address - Nom, prénom et adresse du bénéficiaire		Payer's name and address - Nom et adresse du payeur			
Currency and identification codes Codes de devise et d'identification		23	Foreign currency Devises étrangères	24	Transit - Succursale
T5 (06)				25	Recipient account Numéro de compte du bénéficiaire

**For information, see the back.
Pour obtenir des renseignements, lisez le verso.**
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2007 Top Marginal Rates, Dividend Tax Credit Rates and Amount of Dividends that May be Received Without Incurring Tax in 2007*

	Combined Top	Eligible Dividend		Amount of Eligible	
	Marginal Rates	Tax Credit Rate		Dividends Received Tax Free	
	Eligible	Applied to	Applied to	Actual	Taxable
	Dividends	Actual Dividend	Taxable Dividend	Dividend	Dividend
Federal	14.55%	27.50%	18.97%	\$66,420	\$96,310
British Columbia	18.47	17.40	12.00	150,840	218,720
Alberta ^a	17.45	11.60	8.00	53,225	77,175
Saskatchewan	20.35	15.95	11.00	59,780	86,680
Manitoba	23.83	15.95	11.00	46,930	68,050
Ontario ^b	24.64	9.72	6.70	45,535	66,025
Québec	29.69	17.26	11.90	26,580	38,540
New Brunswick	23.02	17.40	12.00	56,715	82,235
Nova Scotia	28.35	12.83	8.85	28,045	40,665
Prince Edward Island	24.44	15.23	10.50	40,890	59,290
Newfoundland	32.52	9.64	6.65	13,780	19,980

Proposed Corporate Tax Rates

Table 3: Proposed Corporate Income Tax Rates, 2007 - 2011

	2006	2007	2008	2009	2010	2011
	(percent)					
Federal Rates	22.12	21.0	20.5	20.0	19.0	18.5
Alberta	10.0	10.0	10.0	10.0	10.0	10.0
Total	32.12	31.0	30.5	30.0	29.0	28.5

Alberta Tax Summary

	2006		2007		2008		2009		2010		2011	
	Bonus	No Bonus	Bonus	No Bonus	Bonus	No Bonus	Bonus	No Bonus	Bonus	No Bonus	Bonus	No Bonus
Taxable income	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Bonus	\$ 700,000	\$ -	\$ 600,000	\$ -	\$ 600,000	\$ -	\$ 600,000	\$ -	\$ 600,000	\$ -	\$ 600,000	\$ -
Taxable income after bonus	\$ 300,000	\$ 1,000,000	\$ 400,000	\$ 1,000,000	\$ 400,000	\$ 1,000,000	\$ 400,000	\$ 1,000,000	\$ 400,000	\$ 1,000,000	\$ 400,000	\$ 1,000,000
Corporate income tax												
Federal - small business rate	\$ 39,360	\$ 39,360	\$ 52,480	\$ 52,480	\$ 46,000	\$ 46,000	\$ 44,000	\$ 44,000	\$ 44,000	\$ 44,000	\$ 44,000	\$ 44,000
Federal - general rate	\$ -	\$ 154,840	\$ -	\$ 132,720	\$ -	\$ 123,000	\$ -	\$ 120,000	\$ -	\$ 114,000	\$ -	\$ 111,000
Alberta - small business rate	\$ 9,000	\$ 12,000	\$ 12,000	\$ 12,900	\$ 12,000	\$ 13,800	\$ 12,000	\$ 15,000	\$ 12,000	\$ 15,000	\$ 12,000	\$ 15,000
Alberta - general rate	\$ -	\$ 62,220	\$ -	\$ 57,000	\$ -	\$ 54,000	\$ -	\$ 50,000	\$ -	\$ 45,000	\$ -	\$ 50,000
Total corporate income tax	\$ 48,360	\$ 268,420	\$ 64,480	\$ 255,100	\$ 58,000	\$ 236,800	\$ 56,000	\$ 229,000	\$ 56,000	\$ 223,000	\$ 56,000	\$ 220,000
Dividend Pool												
Non - Eligible	\$ 251,640	\$ 255,580	\$ 335,520	\$ 336,900	\$ 342,000	\$ 355,200	\$ 344,000	\$ 363,000	\$ 344,000	\$ 369,000	\$ 344,000	\$ 372,000
GRIP	\$ -	\$ 476,000	\$ -	\$ 408,000	\$ -	\$ 408,000	\$ -	\$ 408,000	\$ -	\$ 408,000	\$ -	\$ 408,000
Personal income tax												
Salary - Federal	\$ 273,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -
Total personal income tax on Salary	\$ 273,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -	\$ 234,000	\$ -
Personal income tax												
Eligible Dividend	\$ -	\$ 86,510	\$ -	\$ 71,193	\$ -	\$ 65,277	\$ -	\$ 59,361	\$ -	\$ 59,361	\$ -	\$ 59,361
Total personal income tax on eligible dividend	\$ -	\$ 86,510	\$ -	\$ 71,193	\$ -	\$ 65,277	\$ -	\$ 59,361	\$ -	\$ 59,361	\$ -	\$ 59,361
Personal income tax												
Non-eligible dividend	\$ 61,863	\$ 62,831	\$ 84,580	\$ 84,928	\$ 90,489	\$ 93,981	\$ 95,318	\$ 100,583	\$ 95,318	\$ 102,245	\$ 95,318	\$ 103,077
Total personal income tax on non-eligible dividend	\$ 61,863	\$ 62,831	\$ 84,580	\$ 84,928	\$ 90,489	\$ 93,981	\$ 95,318	\$ 100,583	\$ 95,318	\$ 102,245	\$ 95,318	\$ 103,077
Total taxes	\$ 383,223	\$ 417,761	\$ 383,060	\$ 411,221	\$ 382,489	\$ 396,069	\$ 385,318	\$ 388,944	\$ 385,318	\$ 384,606	\$ 385,318	\$ 382,438
Net cash flow (income minus total taxes)	\$ 616,777	\$ 582,239	\$ 616,940	\$ 588,779	\$ 617,511	\$ 603,941	\$ 614,682	\$ 611,056	\$ 614,682	\$ 615,394	\$ 614,682	\$ 617,562
Net cash flow after tax per \$ of income	\$ 0.61678	\$ 0.58224	\$ 0.61694	\$ 0.58878	\$ 0.61751	\$ 0.60394	\$ 0.61468	\$ 0.61106	\$ 0.61468	\$ 0.61539	\$ 0.61468	\$ 0.61756

2006 Marginal Tax Rates on \$1,000,000 Active Business Income

	Tax Rate	Less than \$300,000	Tax Rate	Between \$300,000 and \$400,000	Tax Rate	Greater than \$400,000
Federal corporate tax	13.120%	\$ 39,360	22.120%	\$ 22,120	22.120%	\$ 132,720
Provincial Corporate tax	3.000%	\$ 9,000	3.000%	\$ 3,000	10.370%	\$ 62,220
Total Corporate tax	16.120%	\$ 48,360	25.120%	\$ 25,120	32.490%	\$ 194,940
Federal personal tax	19.584%	\$ 49,281	14.549%	\$ 10,894	14.549%	\$ 58,932
Provincial personal tax	5.000%	\$ 12,582	5.000%	\$ 3,744	3.625%	\$ 14,683
Total personal tax	24.584%	\$ 61,863	19.549%	\$ 10,482	18.174%	\$ 73,616
Total taxes		\$ 110,223		\$ 35,602		\$ 268,556
After tax cashflow		\$ 189,777		\$ 64,398		\$ 331,444
Combined marginal tax rate		36.741%		35.602%		44.759%

2007 Marginal Tax Rates on \$1,000,000 Active Business Income

	Tax Rate	Less than \$400,000	Tax Rate	Between \$400,000 and \$430,000	Tax Rate	Greater than \$430,000
Federal corporate tax	13.120%	\$ 52,480	22.120%	\$ 6,636	22.120%	\$ 126,084
Provincial Corporate tax	3.000%	\$ 12,000	3.000%	\$ 900	10.000%	\$ 57,000
Total Corporate tax	16.120%	\$ 64,480	25.120%	\$ 7,536	32.120%	\$ 183,084
Federal personal tax	19.584%	\$ 65,708	14.549%	\$ 3,268	14.549%	\$ 56,292
Provincial personal tax	5.625%	\$ 18,873	5.625%	\$ 1,264	2.900%	\$ 11,221
Total personal tax	25.209%	\$ 84,581	20.174%	\$ 4,532	17.449%	\$ 67,513
Total taxes		\$ 149,061		\$ 12,068		\$ 250,597
After tax cashflow		\$ 250,939		\$ 17,932		\$ 319,403
Combined marginal tax rate		37.265%		40.226%		43.964%

2008 Marginal Tax Rates on \$1,000,000 Active Business Income

	Tax Rate	Less than \$400,000	Tax Rate	Between \$300,000 and \$460,000	Tax Rate	Greater than \$460,000
Federal corporate tax	11.500%	\$ 46,000	20.500%	\$ 12,300	20.500%	\$ 110,700
Provincial Corporate tax	3.000%	\$ 12,000	3.000%	\$ 1,800	10.000%	\$ 54,000
Total Corporate tax	14.500%	\$ 58,000	23.500%	\$ 14,100	30.500%	\$ 164,700
Federal personal tax	19.584%	\$ 66,977	14.549%	\$ 6,678	14.549%	\$ 54,602
Provincial personal tax	6.875%	\$ 23,513	6.875%	\$ 3,156	1.450%	\$ 5,442
Total personal tax	26.459%	\$ 90,490	21.424%	\$ 9,834	15.999%	\$ 60,044
Total taxes		\$ 148,490		\$ 23,934		\$ 224,744
After tax cashflow		\$ 251,510		\$ 36,066		\$ 315,256
Combined marginal tax rate		37.122%		39.889%		41.619%

2009 Marginal Tax Rates on \$1,000,000 Active Business Income

	Tax Rate	Less than \$400,000	Tax Rate	Between \$400,000 and \$500,000	Tax Rate	Greater than \$500,000
Federal corporate tax	11.000%	\$ 44,000	20.000%	\$ 20,000	20.000%	\$ 100,000
Provincial Corporate tax	3.000%	\$ 12,000	3.000%	\$ 3,000	10.000%	\$ 50,000
Total Corporate tax	14.000%	\$ 56,000	23.000%	\$ 23,000	30.000%	\$ 150,000
Federal personal tax	19.584%	\$ 67,369	14.549%	\$ 11,203	14.549%	\$ 50,922
Provincial personal tax	8.125%	\$ 27,950	8.125%	\$ 6,256	0.000%	\$ -
Total personal tax	27.709%	\$ 95,319	22.674%	\$ 17,459	14.549%	\$ 50,922
Total taxes		\$ 151,319		\$ 40,459		\$ 200,922
After tax cashflow		\$ 248,681		\$ 59,541		\$ 299,079
Combined marginal tax rate		37.830%		40.459%		40.184%

2010 Marginal Tax Rates on \$1,000,000 Active Business Income

	Tax Rate	Less than \$400,000	Tax Rate	Between \$400,000 and \$500,000	Tax Rate	Greater than \$500,000
Federal corporate tax	11.000%	\$ 44,000	19.000%	\$ 19,000	19.000%	\$ 95,000
Provincial Corporate tax	3.000%	\$ 12,000	3.000%	\$ 3,000	10.000%	\$ 50,000
Total Corporate tax	14.000%	\$ 56,000	22.000%	\$ 22,000	29.000%	\$ 145,000
Federal personal tax	19.584%	\$ 67,369	14.549%	\$ 11,348	14.549%	\$ 51,649
Provincial personal tax	8.125%	\$ 27,950	8.125%	\$ 6,338	0.000%	\$ -
Total personal tax	27.709%	\$ 95,319	22.674%	\$ 17,686	14.549%	\$ 51,649
Total taxes		\$ 151,319		\$ 39,686		\$ 196,649
After tax cashflow		\$ 248,681		\$ 60,314		\$ 303,351
Combined marginal tax rate		37.830%		39.686%		39.330%

2011 Marginal Tax Rates on \$1,000,000 Active Business Income

	Tax Rate	Less than \$400,000	Tax Rate	Between \$400,000 and \$500,000	Tax Rate	Greater than \$500,000
Federal corporate tax	11.000%	\$ 44,000	18.500%	\$ 18,500	18.500%	\$ 92,500
Provincial Corporate tax	3.000%	\$ 12,000	3.000%	\$ 3,000	10.000%	\$ 50,000
Total Corporate tax	14.000%	\$ 56,000	21.500%	\$ 21,500	28.500%	\$ 142,500
Federal personal tax	19.584%	\$ 67,369	14.549%	\$ 11,421	14.549%	\$ 52,013
Provincial personal tax	8.125%	\$ 27,950	8.125%	\$ 6,378	0.000%	\$ -
Total personal tax	27.709%	\$ 95,319	22.674%	\$ 17,799	14.549%	\$ 52,013
Total taxes		\$ 151,319		\$ 39,299		\$ 194,513
After tax cashflow		\$ 248,681		\$ 60,701		\$ 305,487
Combined marginal tax rate		37.830%		39.299%		38.903%

2006 \$1,000,000 Active Business Income – Income Paid Out as Dividend in 2009 and Forward

	Tax Rate	Less than \$300,000	Tax Rate	Between \$300,000 and \$400,000	Tax Rate	Greater than \$400,000
Federal corporate tax	13.120%	\$ 39,360	22.120%	\$ 22,120	22.120%	\$ 132,720
Provincial Corporate tax	3.000%	\$ 9,000	3.000%	\$ 3,000	10.370%	\$ 62,220
Total Corporate tax	16.120%	\$ 48,360	25.120%	\$ 25,120	32.490%	\$ 194,940
Federal personal tax	19.584%	\$ 49,281	14.549%	\$ 10,894	14.549%	\$ 58,932
Provincial personal tax	5.000%	\$ 12,582	5.000%	\$ 3,744	0.000%	\$ -
Total personal tax	24.584%	\$ 61,863	19.549%	\$ 10,482	14.549%	\$ 58,932
Total taxes		\$ 110,223		\$ 35,602		\$ 253,872
After tax cashflow		\$ 189,777		\$ 64,398		\$ 346,128
Combined marginal tax rate		36.741%		35.602%		42.312%

This spreadsheet calculates the marginal tax rates assuming income greater than \$400,000 (eligible income) in the corporation is paid out as a dividend in 2009. I.e. Corporate income tax is paid at 2006 marginal corporate tax rate and personal tax is paid at 2009 marginal tax rate. Note that the spreadsheet does not account for time value of money.

2006 Maximum Amount of Dividend without Personal Tax

	Rates /	Credit amounts	Non- eligible dividends	Rates /	Credit amounts	Eligible dividends
Actual dividend			\$ 33,420			\$ 59,345
Taxable dividend	125.00%		\$ 41,775	145.00%		\$ 86,050
Federal tax	grad. rate		\$ 6,735	grad. rate		\$ 17,007
Alberta tax	10.00%		\$ 4,178	10.00%		\$ 8,605
Total tax before tax credits			\$ 10,912			\$ 25,612
Dividend tax credit - Federal	13.33%		\$ 5,569	18.97%		\$ 16,320
Dividend tax credit - Alberta	6.00%		\$ 2,507	7.50%		\$ 6,454
Basic personal credit - Federal	15.25%	\$ 8,839	\$ 1,348	15.25%	\$ 8,839	\$ 1,348
Basic personal credit - Alberta	10.00%	\$ 14,899	\$ 1,490	10.00%	\$ 14,899	\$ 1,490
Total credits			\$ 10,913			\$ 25,612
Taxes payable			\$ (0)			\$ (0)

2006 Maximum Amount of Dividend without Personal Tax (cont'd)

Federal Alternative Minimum Tax calculation

Dividend		\$ 33,420		\$ 59,345		
Basic exemption [127.53(1)]		\$ 40,000		\$ 40,000		
Taxable income		\$ -		\$ 19,345		
Federal tax before credits	15.25%	\$ -	15.25%	\$ 2,950		
Alberta tax before credits	35.00% of federal	\$ -	35.00% of federal	\$ 1,033		
Total tax before personal tax credit		\$ -		\$ 3,983		
Basic personal credit - Federal	15.25%	\$ 8,839	\$ 1,348	15.25%	\$ 8,839	\$ 1,348
Basic personal credit - Alberta	10.00%	\$ 14,899	\$ 1,490	10.00%	\$ 14,899	\$ 1,490
Total personal credit		\$ 2,838		\$ 2,838		
Alternative Minimum Tax		\$ -		\$ 1,145		

Tax Rate – Investment Income

	2006		2007		2008		2009		2010		2011	
Investment income	\$	1,000	\$	1,000	\$	1,000	\$	1,000	\$	1,000	\$	1,000
Corp tax	46.16%	\$ 462	45.79%	\$ 458	44.67%	\$ 447	44.67%	\$ 447	44.67%	\$ 447	44.67%	\$ 447
Refundable tax	- 26.67%	\$ (267)	- 26.67%	\$ (267)	- 26.67%	\$ (267)	- 26.67%	\$ (267)	- 26.67%	\$ (267)	- 26.67%	\$ (267)
Net Corp tax		194.9		191.2		180		180		180		180
Personal tax	24.58%	\$ 198	25.21%	\$ 204	26.46%	\$ 217	27.71%	\$ 227	27.71%	\$ 227	27.71%	\$ 227
Total taxes		\$ 393		\$ 395		\$ 397		\$ 407		\$ 407		\$ 407
After tax cash flow		\$ 607		\$ 605		\$ 603		\$ 593		\$ 593		\$ 593
Effective tax rate on top rate investment income earned in corporation		39.28%		39.51%		39.70%		40.72%		40.72%		40.72%
Effective tax rate on top rate investment income earned		39.00%		39.00%		39.00%		39.00%		39.00%		39.00%

Traditional Remuneration Strategies – Revisited Summary

- By 2009 there is a nominal difference between a bonus down to small business deduction (“SBD”) limit and no bonus (i.e. full dividend).
- Allows for a deferral of personal taxes if funds kept inside the corporation, i.e. tax deferral of approximately 8% for 2007 (increasing to 10.5% for 2011).
- Need to determine what the cash needs are of shareholder and corporation; automatic bonus down to SBD limit is not necessary.
- Reduction of bonus will reduce section 67 risks.
- Watch SR + ED issues.

Asset Sale vs. Share Sale

- The following example illustrates the cash flow difference between:
 1. Selling the shares of a corporation personally, and
 2. Selling the assets of a corporation and paying a dividend to the shareholder.

Asset Sale vs. Share Sale – Example

- Facts – Share sale
- Mr. Apples sells shares.
- FMV = \$1,000,000
- ACB = \$0
- Mr. Apple is a resident of Alberta.
- No ECGD

Asset Sale vs. Share Sale – Example (cont'd)

Proceeds	1,000,000
ACB	0
Capital Gain	<u>1,000,000</u>
½ Taxable	500,000
Tax Rate	39%
Personal Tax	<u>195,000</u>
Total Cash Flow	
Proceeds	1,000,000
Personal Taxes	<u>(195,000)</u>
Total Cash Flow	805,000

Asset Sale vs. Share Sale – Example (cont'd)

Facts – Asset Sale

- Mr. Apples owns 100% of Opco.
- Only Asset is goodwill.
- FMV = \$1,000,000
- Corporation and Shareholder are resident of Alberta.
- Assume SBD for Opco is not available.

Asset Sale vs. Share Sale – Example (cont'd)

Corporation	
Proceeds	1,000,000
Taxable portion – 50%	500,000
Tax Rate	31%
	<hr/>
	155,000
Cash to Distribute	1,000,000
Corporate Taxes	(155,000)
	<hr/>
	845,000
CDA Dividend	(500,000)
Eligible Dividend	(345,000)

Asset Sale vs. Share Sale – Example Consequences

Personal Taxes	
CDA Dividend	(\$500,000) Not Taxable
Eligible Dividend	345,000
Taxable Income	345,000
Effective Dividend Tax Rate	17.45%
	60,202
Total Cash Flow	
Proceeds	1,000,000
Corporate Taxes	(155,000)
Personal Taxes	(60,202)
Total Cash Flow	784,798

Asset Sale vs. Share Sale – Example Summary

- Total Cash flow:

-	Share Sale	\$805,000
-	Asset Sale	\$784,798

- Difference between proceeds share sale and asset sale is narrowing.
- Not as big a bias for seller to sell shares.
- May defer taxes personal taxes if funds are invested in corporation.

The New Reality

- “Plain Vanilla” has become “Rocky Road”;
- Common strategies require re-thinking/ revisions;
- Administrative and planning costs are higher;
- Educating clients is important; and
- A thorough understanding of your client’s needs and goals is more important than ever.

- The costs to calculate GRIP, designate dividends and track amounts received are material and may be hard for clients to appreciate.
- Dealing with excessive GRIP designations is similar to dealing with excessive CDA elections.
- Focusing purely on the results of GRIP without understanding your client’s overall needs and objectives can result in unexpected negative results. A more holistic view than before may be required.
- Time spent educating clients on the concepts behind the new dividend taxation rules will usually pay off in the form of valuable input from your client that will help you guide them to the optimal decision.

Other Considerations

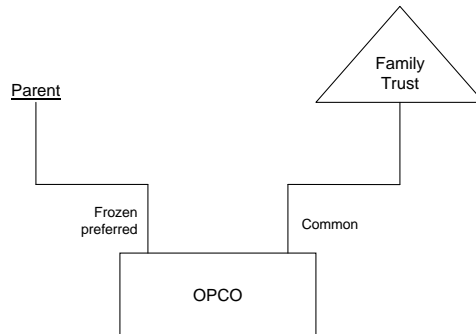
- OAS clawback
- Reduce CNIL
- Increases net income so can affect child care, etc.
- Increased AMT possible
- Loss of QSBC status (see notes to previous slide)
- Loss of high rate refundable tax credits
- Increased corporate installments

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- Clawback pursuant to subsection 180.2(2) may be triggered by either a bonus or the payment of an eligible dividend
- While child care expense deduction is limited to 2/3 of the earned income of the parent with the lowest earned income.
- Pursuant to subsection 127(10.2), income above the federal small business limit will grind down expenditure base for purposes of the enhanced rate, refundable SR&ED tax credit in the subsequent year. This may not be an issue of concern if the expenditure limit grind down already applies as a result of the associated groups taxable capital for purposes of Part 1.3 of the Act.

Estate Planning



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- Cost to redeeming shares now reduced, effectively, to capital gains rate for eligible dividends.
- Redeem parent's shares over time using GRIP instead of RDTOH.
- Preferred ordering of dividends
 1. Eligible dividends that trigger dividend refund;
 2. Ineligible dividends that trigger a dividend refund;
 3. Eligible dividends that do not trigger a dividend refund; and
 4. Ineligible dividends with no dividend refund
- The retention of earnings in Opco to create GRIP can increase the value of the shares of Opco (or an investment holding company) thereby increasing the amount of capital gain deferred by an estate freeze;
- Be mindful of subsection 74.4(2) and the implications if Opco ceases to be a small business corporation.
- Subparagraph 256(1.3)(f)(ii) deems each beneficiary to own all the shares owned by an inter-vivos trust where the trustees have discretion as to distribution of income OR capital. Even if trust document does not allow any minor or spouse beneficiary to receive 10% or more of the accumulating income or capital, the trustees' ability to exercise discretion can result in subparagraph 256(1.3)(f)(ii) applying with the resulting application of subsection 74.4(2).

Post Mortem Planning

	Old	New 2010	New 2007	
Capital gain to decedent	19.5	19.5	19.5	
Estate's capital loss carried back	(19.5)	(19.5)	(19.5)	(A)
Tax cost of deemed disposition	0	0	0	
Tax on deemed dividend in estate	24.08	14.5	17.5	(B)
Costs of 164(6) (B-A)	4.58%	(5.0)	(2.0)	(B-A)

(1) Excludes effect of dividend refund

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- The “pipeline” strategy of rolling shares of investco or Opco to a holding company for a beneficiary for ACB and PUC equal to the fair market value at the date of the decedent’s death pursuant to subsection 85(1) and in compliance with section 84.1 is commonly used to defer the immediate creation of tax where there are appreciated assets.
- This strategy can be beneficial when the tax rate on the deemed dividend that would be realized by the estate using the subsection 164(6) strategy results in a significantly higher tax rate than the resulting capital loss will recover. The pipeline does not necessarily eliminate double tax but the deferral of the extra tax can be valuable.
- With the reduction of the tax rate on eligible dividends, the tax rate to the estate on the deemed dividend created under the subsection 164(6) strategy will be much closer, to, and perhaps even be less than, the savings from the capital loss carryforward. As a result, the “pipeline” strategy may become less beneficial.
- Beneficiaries can receive the underlying assets and, for their own estate planning purpose, roll them into their own holding company for high PUC and ACB pursuant to subsection 85(1) and in compliance with section 84.1. Attention to subsection 74.4(2), however, is also warranted.
- The 50% solution may be more advantageous
- Subparagraph 88(1)(d) may be helpful where non-depreciable assets are significant

Income Splitting

- Eligible and “non-eligible” dividends can be streamed
- The amount of tax free dividends that can be received increased to over \$45,535, federally, for 2006.
- AMT could result.
- Separate share classes may be required

The amount of eligible dividends that can be received tax free will vary from the amounts noted above based on the province of residence and the year of inclusion.

Income Splitting (cont'd)

- Allocation from family trust can eliminate need for separate classes
- Best use of GRIP is to high income shareholders
- Avoid use of GRIP for:
 - Non-residents
 - Lower income taxpayers
 - Where RRSP and other deductions are used to reduce income



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Federal Budget 2007 Highlights

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June 20, 2007

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tax advisors

Personal Income Tax Measures

New Child Tax Credit

- New non-refundable child tax credit for parents in the amount of \$2,000 (indexed) for each child under the age of 18 years at the end of a taxation year.
- Where a child resides together with the child's parents throughout the year, either of those parents may claim the credit. In other cases, the credit will be claimable in respect of a child by the parent who is eligible to claim the wholly dependent person credit for the year in respect of the child.
- Accordingly, each \$2,000 tax credit will equate to \$310 of Federal tax savings. Assuming that Alberta would follow suit, each Alberta parent of a child under the age of 18 would receive a combined Federal-Provincial tax reduction in the amount of \$510 per child.

Personal Income Tax Measures (cont'd)

Spousal amounts

- The Budget proposes to modestly increase the income thresholds from what a spouse can currently earn from \$7,581 to \$8,929 for 2007

Public Transit Tax Credit Expansion

- Public transit tax credits will be expanded for innovative fare products like electronic fare cards and weekly passes when used on an ongoing basis.

Personal Income Tax Measures (cont'd)

Lifetime Capital Gains Deduction

- Currently, farmers, fishers and small business owners, can claim a capital gains deduction on the disposition of qualified farm property, qualified fishing property and qualified small business corporation shares. The current maximum deduction is \$500,000. The Budget proposes to increase the maximum to \$750,000.
- In order to give effect to the measure for the 2007 taxation year, the capital gains exemption will be capped at \$625,000 for dispositions occurring on or after March 19, 2007 through to December 31, 2007.
- RRSPs - Currently the age limit to contribute to and convert a RRSP to a RRIF is 69. The Budget proposes to increase the age limit to age 71.

Personal Income Tax Measures (cont'd)

RRSPs - Qualified Investments

- The Income Tax Act specifies those investments that are qualified investments for RRSPs and other registered plans.
- The Federal Budget proposes to extend eligibility for qualified investments for any debt obligation that has an investment grade rating and has a minimum \$25 million dollar issuance and any security (other than a futures contract) that is listed on a designated stock exchange.
- Introduction of "Registered Disability Savings Plan" - A new plan, a Registered Disability Savings Plan, will be introduced to assist parents and others to save for the long-term financial security of a child with a severe disability. The plan will be designed with similar principles as those of a Registered Education Savings Plan.

Personal Income Tax Measures (cont'd)

Donations to Private Foundations

- Donations of publicly listed securities to public charities have been eligible for a reduced inclusion rate on capital gains since 1997 and a complete exemption since May 2, 2006. The Federal Budget proposes to eliminate the taxation of capital gains arising from donations of publicly listed securities to private foundations for gifts made on or after March 19, 2007. These proposals have significant tests that must be met and include an anti-avoidance measure to prevent inappropriate planning.

Personal Income Tax Measures (cont'd)

Registered Education Savings Plans

- As has been common in recent Budgets, the contribution limits and Canada Education Savings Grant limits are proposed to be modified and increased.

Increased Income Tax Installment Threshold

- Currently, individuals are required to make quarterly installment payments in respect of income taxes if the estimated income tax payable for the current year or the actual income tax payable for either of the two preceding years (that exceeds the amounts withheld at source) is greater than \$2,000. The Federal Budget proposes to increase this installment threshold amount to \$3,000 starting with the 2008 taxation year.

Personal Income Tax Measures (cont'd)

Working Income Tax Benefit

- The Federal Budget announced a new refundable tax credit for low income working Canadians. This credit will be a maximum of \$500 for single individuals and \$1,000 for families. It will be computed as 20% of earned income in excess of \$3,000 to the maximums mentioned. The credit is reduced by 15% of net family income in excess of \$9,500 for single persons and \$14,500 for families.

Scholarships/Bursaries

- The Budget proposes to exclude from an individual's income the total of all amounts received in the taxation year on account of scholarships and bursaries in connection with the individual's enrollment in an elementary or secondary school.

Business Tax Measures

Increased Capital Cost Allowance ("CCA") for Buildings

- Currently, most non-residential buildings are eligible for a CCA rate of 4% under Class I of Schedule II to the Income Tax Regulations.
- The Federal Budget proposes that the CCA rate for buildings used for manufacturing or processing in Canada of goods for sale or lease be increased to 10% and that the CCA rate for other non-residential buildings be increased to 6%.
- In order to be eligible for one of the additional new allowance rates, the building will be required to be placed into a separate class.
- In addition, at least 90% of the building (measured by square footage) must be used for the designated purpose at the end of the taxation year.
- These new rules apply for properties acquired on or after March 19, 2007 or where the building was under construction on or after March 19, 2007.

Business Tax Measures (Cont'd)

Increased CCA Rate for Computers

- Computer equipment of a type that is currently described in Class 45 is presently eligible for a CCA rate of 45%. This rate will increase to 55% for assets acquired on or after March 19, 2007.

Business Tax Measures (Cont'd)

Temporary Incentive for Manufacturing and Processing Machinery Equipment

- Currently, machinery and equipment used in manufacturing and processing are eligible for a CCA rate of 30% under Class 43 of Schedule II to the Income Tax Regulations.
- The Federal Budget proposes to temporarily increase the CCA rate for M&P machinery and equipment that would otherwise be included in Class 43, to a 50% straight-line rate.
- These new rules will apply to eligible machinery and equipment acquired on or after March 19, 2007 and before 2009. Accordingly, manufacturing and processing corporations that require new capital equipment for its 2007 and 2008 taxation year should take a close look at these new proposals.

Business Tax Measures (Cont'd)

Increased Installment Threshold

- Currently, corporations are required to pay corporate income tax by installments to the extent that their threshold (generally the previous year's corporate income tax liability) is \$1,000 or greater.
- The Federal Budget proposes to increase the minimum threshold from \$1,000 to \$3,000 beginning for taxation years that commence in 2008.
- For Canadian Controlled Private Corporations, the Budget proposes that the installment frequency be reduced from monthly installments to quarterly installments to the extent that the taxable income of the Canadian Controlled Private Corporation for either the current or previous year does not exceed \$400,000, the corporation qualifies for the small business deduction for either the current or previous year, the taxable capital employed in Canada of the corporation does not exceed \$10 million in either the current or previous year and the corporation has no compliance irregularities under the Income Tax Act and the Excise Tax Act for the preceding 12 months.

Business Tax Measures (Cont'd)

GST Filing for Small Businesses

- Currently, GST registrants with taxable supplies that do not exceed \$500,000 in a fiscal year may elect to have reporting periods that are fiscal years which enables them to file an annual GST return and make quarterly installment payments.
- The Federal Budget proposes to triple the taxable supplies threshold to \$1,500,000.

Business Tax Measures (Cont'd)

Investment Tax Credit for Child Care Spaces

- The Federal Budget proposes to introduce a tax credit to encourage businesses to create licensed child care spaces for the children of their employees and, potentially, for children in the surrounding community.
- The proposed measure will provide eligible taxpayers with a non-refundable investment tax credit equal to 25% of eligible expenditures to a maximum credit of \$10,000 per child care space created.

Business Tax Measures (Cont'd)

- Taxpayers eligible for this new credit will be those that carry on a business in Canada and the provision of child care spaces must be ancillary to one or more businesses of the taxpayer that do not include the provision of such spaces.
- Eligible expenditures will include the cost of depreciable property and the amount of specified start-up costs, acquired or incurred solely for the purpose of the creation of the new child care space and a licensed child care facility.
- Certain specified expenses will not be eligible for an investment tax credit and will include motor vehicles and property that is, or is located in or is attached to, a residence of the employer, of an employee of the employer, of a person who holds an interest in the employer, or any person related to the employer.

Other Measures

Duty

- The government proposes to double the value of goods that may be imported into Canada duty and tax free by returning Canadian residents after a 48 hour absence from Canada from \$200 to \$400.

Other Measures

Trust T3 Information Returns

- A number of taxpayers and tax professionals have expressed concern with the existing due-date for the issuance of trust T3 information slips.
- The government has announced that it is currently working with the investment funds industry to develop a process that appropriately balances the desire of taxpayers for sufficient time to prepare their tax returns and the desire of commercial trusts for sufficient time to complete their income and prepare their T3 information slips.
- New draft regulations are expected shortly which, if the new proposals are implemented, will result in a new process for 2007 T3 slips.

Other Measures

Green Levy on Fuel-Inefficient Vehicles

- The Budget proposes to introduce a "green levy" to apply to new automobiles designed primarily to carry passengers, including station wagons, vans and sport utility vehicles, but not pick-up trucks, in accordance with the vehicle's fuel-efficiency rating.
- This rating will be calculated on the basis of weighted average fuel consumption taking into account 55% of city fuel consumption and 45% of highway fuel consumption as determined in accordance with information published by the Government of Canada.
- Vehicles that have a weighted average fuel consumption of 13 or more litres per 100 kilometres will be subject to the levy of the following rates:
 - 1. At least 13 but less than 14 litres per 100 kilometres, \$1,000;
 - 2. At least 14 but less than 15 litres per 100 kilometres, \$2,000;
 - 3. At least 15 but less than 16 litres per 100 kilometres, \$3,000; and
 - 4. 16 or more litres per 100 kilometres, \$4,000.

Other Measures

- The green levy will be imposed under the Excise Tax Act and will be payable by the manufacturer or importer at the time vehicles are delivered to the purchaser (usually a dealer) or imported.
- The levy will not apply to vehicles that are manufactured in Canada and exported for sale in other countries, or to vehicles that are imported and are subsequently exported.
- The new green levy will apply to new vehicles delivered or imported after March 19, 2007.
- The inventory of vehicles held by dealers on March 19, 2007 will not be subject to the levy, allowing dealers to sell these vehicles to final consumers without the application of the levy.



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Alberta Budget 2007 Highlights

Enhanced Dividend Tax Credit (DTC)

- Increased DTC rate applicable to eligible dividends to 10%
- Reduce the DTC rate applicable to dividends paid from income taxed at the small business rate to 35%

Enhanced Dividend Tax Credit (DTC) (cont'd)

These changes will be phased in as follows:

	DTC Rate for Eligible Dividend	DTC Rate for Small Dividends
2007	8.0%	5.5%
2008	9.0%	4.5%
2009	10.0%	3.5%

Charitable Donations

- The personal tax credit for charitable donations above \$200 will be increased to 21% from 12.75%
- The personal tax credit on the first \$200 of charitable donations will remain unchanged at 10%.

Small Business Threshold

- April 1, 2007 new threshold - \$430,000

Education Amounts

- The education amount will be increased to \$600 per month from \$475 per month for full-time students
- The education amount will be increased to \$180 per month from \$143 per month for part-time students

Indexation

- The budget proposes to increase the 2007 personal tax credits by 3.6%.

Additional Alberta Tax Measures

- Matched Federal increase in age for RRSPs and Registered Pension Plans
- Paralleled change introducing Registered Disability Savings Plan
- Paralleled change increasing lifetime capital gains exemption for small business, etc.
- Matched changed in CCA rates at Federal level, except the change for oilsands
- New fuel tax act came into effect April 1, 2007

Federal Tax Rates

	2006	2007	2008	2009	2010	2011
General and M&P income	22.12%	22.12%	20.50%	20.00%	19.00%	18.50%
Small Business Rates	13.12%	13.12%	11.50%	11.00%	11.00%	11.00%
Investment income	35.79%	35.79%	34.67%	34.67%	34.67%	34.67%
Threshold up to which the small business rate applies	\$ 300,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000
Federal -personal income tax rate (highest bracket)	29.00%	29.00%	29.00%	29.00%	29.00%	29.00%
Eligible dividend gross up %	45%	45%	45%	45%	45%	45%
Eligible dividend tax credit (% of the grossed up amount)	18.9660%	18.9660%	18.9660%	18.9660%	18.9660%	18.9660%
Non-eligible dividend gross up %	25%	25%	25%	25%	25%	25%
Non-eligible dividend tax credit (% of the grossed up amount)	13.333%	13.333%	13.333%	13.333%	13.333%	13.333%

Alberta Tax Rates

	2006	2007	2008	2009	2010	2011
General and M&P income	10.37%	10.00%	10.00%	10.00%	10.00%	10.00%
Small Business Rates	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%
Investment income	10.37%	10.00%	10.00%	10.00%	10.00%	10.00%
Threshold up to which the small business rate applies	\$ 400,000	\$430,000	\$460,000	\$500,000	\$500,000	\$500,000
Alberta personal income tax rate	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%
Eligible dividend gross up %	45%	45%	45%	45%	45%	45%
Eligible dividend tax credit (% of the grossed up amount)	7.5000%	8.0000%	9.0000%	10.0000%	10.0000%	10.0000%
Non-eligible dividend gross up %	25%	25%	25%	25%	25%	25%
Non-eligible dividend tax credit (% of the grossed up amount)	6.000%	5.500%	4.500%	3.500%	3.500%	3.500%