2017 Issue No. 19
27 April 2017

Tax Alert — Canada

Ontario budget 2017-18

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

"The 2017 budget is a balanced budget, the first one since the 2008-09 global recession.

"For Ontarians, this is just a beginning… a balanced budget gives us the means to shape our future and build a fairer society.

"Moving forward, our focus will continue to be on giving businesses the tools they need to succeed by maintaining our competitive corporate income tax rates, modernizing regulations and reducing business costs."

Ontario Finance Minister Charles Sousa
2017-18 budget speech

On 27 April 2017, Ontario Finance Minister Charles Sousa tabled the province's fiscal 2017-18 budget. While the budget contains no changes to corporate or personal income tax rates, it does include several tax measures affecting individuals and corporations.

As set out in Table A, the minister anticipates a deficit of $1.5 billion for 2016-17, which is $2.8 billion less than projected a year ago. The minister is also projecting a return to a balanced budget for each of the next three years. Measured in relation to the size of the economy, the Ontario accumulated deficit is expected to decline to 21.4% of gross domestic product (GDP) by 2019-20.

In 2016, Ontario's real GDP grew by 2.7%. The government projects real GDP growth of 2.3% in 2017, 2.1% in 2018, 2% in 2019 and 1.7% in 2020.

Table A: Projections of Ontario budgetary deficit

	2016-17 ($ billions)	2017-18 ($ billions)	2018-19 ($ billions)	2019-20 ($ billions)
Revenue outlook	133.2	141.7	144.9	149.3
Program expense outlook	(123.5)	(129.5)	(132.3)	(135.8)
	9.7	12.2	12.6	13.5
Interest on debt	(11.3)	(11.6)	(12.0)	(12.6)
Reserve	-	(0.6)	(0.6)	(0.9)
(Deficit)	(1.5)	0.0	0.0	0.0
Accumulated deficit	193.5	193.5	193.5	193.5
% of GDP	24.2%	23.2%	22.3%	21.4%

Numbers may not add due to rounding.

Following is a brief summary of the key tax measures.

Business tax measures

Corporate tax rates

No changes are proposed to the corporate tax rates or the $500,000 small-business limit.

Ontario's 2017 corporate tax rates are summarized in Table B.

Table B: Corporate tax rates

	2017	
	ON	Federal and ON combined
Small-business tax rate	4.5%	15.0%
Manufacturing and processing tax rate	10.0%	25.0%
General corporate tax rate	11.5%	26.5%

Other business tax measures

- **Paralleling federal changes to the small-business deduction:** The government proposes to parallel changes made to the federal small-business deduction by reducing a corporation's Ontario business limit by the same amount that the federal business limit is reduced. This would apply where a corporation assigns any portion of its business limit to another corporation under certain circumstances.

- **Ontario Computer Animation and Special Effects Tax Credit:** As previously announced, the Ontario *Taxation Act, 2007* will be amended to directly list excluded productions for this tax credit. This amendment is being made to maintain Ontario's longstanding treatment of talk shows as ineligible for the province's film and television tax credits.

Personal tax

Personal income tax rates

The budget does not include any changes to personal income tax rates.

The 2017 Ontario personal tax rates are summarized in Table C.

Table C: 2017 Ontario personal tax rates

First bracket rate	Second bracket rate	Third bracket rate	Fourth bracket rate	Fifth bracket rate
$0 to $42,201	$42,202 to $84,404	$84,405 to $150,000	$150,001 to $220,000	Above $220,000
5.05%	9.15%	11.16%	12.16%	13.16%

For taxable income in excess of $150,000, the 2017 combined federal–Ontario personal income tax rates are outlined in Table D.

Table D: Combined 2017 federal and Ontario personal tax rates

Bracket	Ordinary income*	Eligible dividends	Non-eligible dividends
$150,001 to $202,800	47.97%	31.67%	38.80%
$202,801 to $220,000	51.97%	37.19%	43.48%
Above $220,000	53.53%	39.34%	45.30%

**The rate on capital gains is one-half the ordinary income tax rate.*

Personal tax credits

This budget proposes the following personal tax credit changes.

- **Public transit tax credit for seniors:** The budget proposes a new Ontario seniors' public transit tax credit for individuals aged 65 or older, effective 1 July 2017. The credit will be a refundable tax credit equal to 15% of eligible public transit costs incurred on or after 1 July 2017. Details regarding this credit, including eligibility criteria for public transit costs, will be announced in time for implementation of the credit (presumably before 1 July 2017).

- **Medical expense tax credit:** Ontario will parallel changes to the medical expense tax credit that were announced in the 2017-18 federal budget. Specifically, the federal government announced that the list of expenses eligible for the medical expense tax credit will be clarified to ensure that individuals who incur costs related to the use of reproductive technologies (such as in-vitro fertilization), but do not have a medical infertility condition, are eligible to claim the credit. Ontario will adopt these changes once they are approved by the federal government. This measure will apply to 2017 and subsequent taxation years.

- **Ontario caregiver tax credit:** Ontario will replace the provincial caregiver and infirm dependant tax credits with a new 5.05% non-refundable Ontario caregiver tax credit (OCTC). Effective for 2017 and subsequent taxation years, the OCTC will be available in respect of relatives who are infirm dependants (including adult children of the claimant or of the claimant's spouse or common-law partner). For the 2017 taxation year, the maximum credit amount is $4,794, and will begin to be phased out when the dependant's net income exceeds $16,401.

Multijurisdictional tax filers

The budget proposes technical amendments to the manner in which the provincial surtax and the Ontario tax reduction are calculated for multijurisdictional tax filers (i.e., residents of Ontario who pay tax to another province, and nonresidents of Ontario who pay tax to Ontario).

Effective for taxation years ending after 31 December 2016, the provincial surtax for an individual (or trust) will be calculated based on the total amount of Ontario tax on taxable income; this surtax will be added to the individual's (or trust's) total amount of tax payable, which will then be prorated based on the percentage of income allocated to Ontario. Similarly, the Ontario tax reduction amounts will also be prorated based on the percentage of income allocated to the province.

Employer health tax

Ontario has announced its intention to target methods and structures used by some employers to avoid paying the employer health tax (EHT). Ontario is proposing to eliminate the EHT exemption for any employer that is a designated member of a partnership, as defined under the *Income Tax Act* (Canada). This anti-avoidance measure will not take effect before 1 January 2018, in order to provide stakeholders with an opportunity for feedback and consultation.

The government has not ruled out the introduction of other anti-avoidance measures in the future as it has stated that it will also be reviewing other methods and structures used to avoid paying the EHT.

Other tax measures

15% nonresident speculation tax

As previously announced, Ontario proposes to introduce a 15% nonresident speculation tax (NRST) levied on foreign entities or taxable trustees purchasing a residential property in the Greater Golden Horseshoe region of Southern Ontario. The NRST will apply to agreements of purchase and sale signed on or after 21 April 2017 and will be applicable on the value of the consideration for the property. This tax is in addition to the general tax levied under the *Land Transfer Tax Act*.

For purposes of the NRST, a foreign entity is:

- An individual who is not a Canadian citizen or permanent resident of Canada;
- A corporation not incorporated in Canada;
- A corporation incorporated in Canada but controlled wholly or partly by a foreign national or other foreign corporation,[1] unless the corporation's shares are listed on a Canadian stock exchange; or
- A corporation directly or indirectly controlled by a nonresident individual or other foreign corporation under the de facto control rules in section 256 of the federal *Income Tax Act*.

A taxable trustee is a trustee that is:

- A foreign entity holding title in trust for beneficiaries; or
- A Canadian citizen or permanent resident of Canada, or Canadian corporation holding title in trust for foreign entity beneficiaries.

The NRST will apply to transfers of land containing at least one but not more than six single family residences. It will not apply to multiresidential rental apartment buildings with more than six units, or to agricultural, commercial or industrial lands. Certain entities and individuals will either be exempt from the NRST or will be eligible for rebates.

---

[1] Partial control, for purposes of the NRST, was not defined.

The Ontario budget also stated that the legislation to implement this new tax will allow for its application to other regions of the province in the future, should market conditions warrant it.

For further details, see EY Tax Alert 2017 Issue No. 18, *Ontario proposes new 15% nonresident speculation tax*.

Land transfer tax

As previously announced, Ontario intends to combat the practice of "paper flipping," in order to reduce the avoidance of land transfer tax (LTT) and decrease excessive speculation in the housing market. Paper flipping refers to the practice of entering into a contractual agreement to purchase a residential unit and then assigning the property to another person prior to the closing date. It also includes arrangements where one party substitutes another party in a contract to purchase a residential unit.

The government has announced that in order to ensure that the correct amount of LTT is collected, purchasers will be required to declare, at the time when a property transfer is registered and LTT is payable, whether they entered into a purchase agreement by way of assignment or a similar arrangement. For example, any consideration for an assignment would then be included as part of the value of the consideration used to calculate the LTT payable. Further details for this measure will be provided in the coming months.

Ontario also stated that it intends to work with the federal government to explore more comprehensive reporting requirements with respect to paper flipping.

Tobacco tax

Effective 28 April 2017, the budget proposes to increase the tobacco tax rate from 15.475 cents to 16.475 cents per cigarette and per gram of tobacco products other than cigars. Tobacco tax rates will increase an additional 2 cents per cigarette and per gram for each of 2018 and 2019.

In addition, the province is proposing a number of amendments to the *Tobacco Tax Act* to further reduce the prevalence of unregulated tobacco. For example, the *Tobacco Tax Act* will be amended to enhance Ontario's oversight of raw leaf tobacco with increased penalties and fines for non-compliance, and create new penalty and offence provisions related to the maintenance of books and records.

Fuel tax

Ontario currently provides certain companies (registered dyers) with the authority to colour fuel. Coloured fuel purchased from registered dyers is tax exempt and can only be used for specified purposes under the *Fuel Tax Act*.

Ontario has stated its intention to allow biodiesel, a renewable alternative to fossil fuel, to be more widely available as part of the province's tax-exempt coloured fuel program. It is, therefore, proposing to amend the *Fuel Tax Act* to add a new category of registered dyers who will be permitted to dye biodiesel (not blended or mixed in any way with other types or grades of fuel). These registered dyers would be exempt from the fuel transportation requirements currently imposed on all registered dyers.

Property tax

The budget confirmed a number of property tax measures included in its Fair Housing Plan. For further details, see EY Tax Alert 2017 Issue No. 18, *Ontario proposes new 15% nonresident speculation tax.*

The budget also proposes the following property tax measures:

- **Railway right-of-way taxation:** Property tax rates on railway rights-of-way will be updated to reflect the average annual percentage change in taxes on commercial properties, beginning in 2017. This measure will result in an increase of approximately $6 per acre for 2017. In addition, the lowest property tax rates on railway rights-of-way will be adjusted to a minimum of $80 per acre in 2017 (up from the current $35 per acre).

- **Small-scale agricultural processing and commercial activities on farms:** A legislative framework will be introduced to provide municipalities with the flexibility to reduce property tax rates for eligible small-scale value-added and commercial activities on farms. These operations are currently taxed at industrial or commercial rates. The proposed changes will allow a portion of the assessment attributable to the value-added processing or commercial activity to be taxed at a reduced rate.

Provincial land tax

The provincial land tax (PLT) is the property tax paid in unincorporated areas of northern Ontario outside municipal boundaries. The budget confirms the province's commitment to moving forward with PLT reform, and indicates that the government will introduce legislative amendments to further support increased equity both in taxation and in how services are paid for.

Hotel tax

The budget proposes to expand the authority provided under the *City of Toronto Act, 2006* to allow the city to levy a hotel tax. Similarly, the *Municipal Act, 2001* will be amended to also allow single-tier and lower-tier municipalities to levy a hotel tax.

All municipalities that adopt a hotel tax and have an existing Destination Marketing Fee (DMF) program in place will be required to share their hotel tax revenue with the applicable not-for-profit tourism organization. The amount to be shared must match the total revenue generated by the existing DMF program. For municipalities that do not have an existing DMF program, at least 50% of their hotel tax revenue will need to be shared with the respective Regional Tourism Organization or a not-for-profit tourism organization.

Tax avoidance initiatives

To combat income tax avoidance, Ontario will work closely with the federal government to protect the common tax base and eliminate unfair tax advantages. The province is devoting additional expert resources to identify and address income tax loopholes and sophisticated tax planning schemes.

In addition, Ontario will conduct a policy, legislative and administrative review of all taxes, including those shared with the federal government, to identify and eliminate loopholes, strengthen administration of existing tax laws and enhance partnerships with the Canada Revenue Agency and other government entities.

Learn more

For more information, please contact your EY or EY Law advisor or one of the following professionals:

Toronto

Karen Atkinson
+1 416 943 2172 | karen.e.atkinson@ca.ey.com

Neil Moore
+1 416 932 6239 | neil.moore@ca.ey.com

Ottawa

Ian Sherman
+1 613 598 4335 | ian.m.sherman@ca.ey.com

London

John Sliskovic
+1 519 646 5532 | john.t.sliskovic@ca.ey.com

Kitchener

Cynthia McIntyre
+1 519 581 5455 | cynthia.m.mcIntyre@ca.ey.com

And for up-to-date information on the federal, provincial and territorial budgets, visit ey.com/ca/budget.

EY | Assurance | Tax | Transactions | Advisory

About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization and may refer to one or more of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

About EY's Tax Services
EY's tax professionals across Canada provide you with deep technical knowledge, both global and local, combined with practical, commercial and industry experience. We offer a range of tax-saving services backed by in-depth industry knowledge. Our talented people, consistent methodologies and unwavering commitment to quality service help you build the strong compliance and reporting foundations and sustainable tax strategies that help your business achieve its potential. It's how we make a difference.

For more information, visit ey.com/ca/tax.

About EY Law LLP
EY Law LLP is a national law firm affiliated with EY in Canada, specializing in tax law services, business immigration services and business law services.

For more information, visit eylaw.ca.

About EY Law's Tax Law Services
EY Law has one of the largest practices dedicated to tax planning and tax controversy in the country. EY Law has experience in all areas of tax, including corporate tax, human capital, international tax, transaction tax, sales tax, customs and excise.

For more information, visit eylaw.ca/taxlaw.

A member firm of Ernst & Young Global Limited.

This publication contains information in summary form, current as of the date of publication, and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional advice. Before taking any particular course of action, contact EY or another professional advisor to discuss these matters in the context of your particular circumstances. We accept no responsibility for any loss or damage occasioned by your reliance on information contained in this publication.

ey.com/ca