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Deferral of Canadian Capital Gains Inclusion Rate Increase



Introduction

The Canadian federal government has recently announced a significant update regarding the proposed increase in the capital gains inclusion rate. Initially set to take effect on 25 June 2024, the implementation of this increase has now been deferred to 1 January 2026. This briefing note aims to provide our clients with a comprehensive understanding of the deferral, its context, and its implications.

Background

In the 2024 Federal Budget, the government proposed an increase in the capital gains inclusion rate from 50% to 66.67%. This change was intended to apply to individuals, corporations, and trusts. For individuals, the higher inclusion rate would apply to capital gains exceeding an annual threshold of C\$250,000. The proposed changes were met with considerable concern and criticism from taxpayers and industry professionals.

For more details regarding the 2024 Federal Budget and its proposed increase in the capital gains inclusion rate, please refer to our previous briefing note [here](#). Please note that this Note supersedes our earlier note.

Deferral Announcement

On 31 January 2025, the Department of Finance announced that the increase in the capital gains inclusion rate from 50% to 66.67% has been deferred to 1 January 2026. This decision was made to provide clarity and certainty for taxpayers regarding their 2024 tax filings. The deferral means that the current inclusion rate of 50% will remain in effect until the new implementation date.

As a result of this deferral, the proposed increase in the withholding tax rate on dispositions of taxable Canadian property by non-residents of Canada from 25% to 35%, which was set to take effect on 1 January 2025, will also be deferred. Consequently, the withholding tax rate for such non-residents will remain at 25% throughout 2025.

The C\$250,000 annual threshold that will trigger the higher inclusion rate for individuals will also take effect on 1 January 2026.

Implications of the Deferral

The deferral of the capital gains inclusion rate increase brings several implications for taxpayers and industry professionals:

The deferral provides much-needed certainty for taxpayers who were unsure whether they needed to account for the proposed increase in their 2024 tax filings. The Canada Revenue Agency had previously indicated its intention to administer the changes as proposed, even though they had not been enacted into law. The deferral means that taxpayers can now file their 2024 returns based on the current 50% inclusion rate without concern for retroactive changes.

If enacted, the deferred higher effective tax rates would partially simplify compliance for taxpayers who have already had or will have dispositions in 2024 or 2025 by aligning the changes with the start of a new tax year. Such parties no longer need to go through the complexities associated with mid-year changes, although we would still recommend seeking professional advice to navigate other complex transition rules.

Investment fund managers and other industry professionals who had already prepared documentation based on the proposed higher inclusion rate will need to revert to the current rate. This may involve additional compliance work and the reissuance of tax slips.

The deferral comes at a time of political change, with Prime Minister Justin Trudeau announcing his resignation and the Governor General proroguing Parliament. The upcoming 2025 Canadian federal election adds further uncertainty to the future of the proposed changes.

Conclusion

The deferral of the capital gains inclusion rate increase to 1 January 2026 is a welcome development for taxpayers, as it provides much-needed clarity and simplifies compliance requirements. However, the political landscape and upcoming election introduce an element of uncertainty to the future of these proposed changes. Amidst this uncertainty, taxpayers now have an extended period to explore various estate planning opportunities in respect of structures involving Canadian real estate and Canadian natural resources. Careful estate planning is particularly relevant for private wealth structures which are owned by non-residents of Canada and which were set up to primarily hold Canadian real estate. The non-Canadian resident shareholders of such private wealth structures may be exposed to Canadian capital gain taxes (and thus the increase in the capital gains inclusion rate on 1 January 2026) when the non-Canadian resident shareholder makes a share transfer of the holding company even though it may have been incorporated outside Canada.

For further information or assistance with your estate or tax planning, please do not hesitate to contact us.

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