

# FINANCIAL REPORTING DEVELOPMENTS

Private Companies

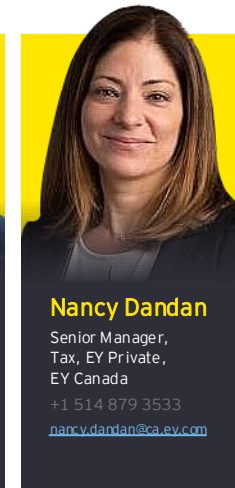
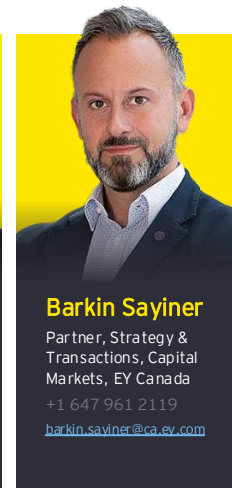
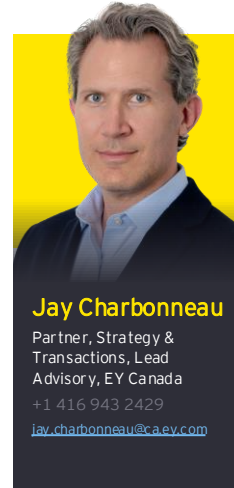
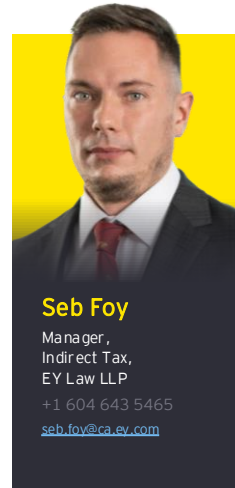
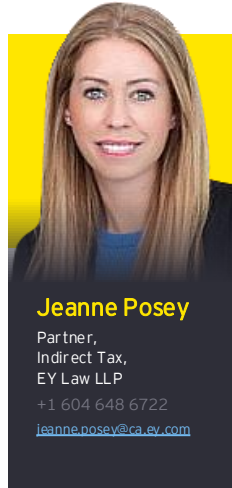
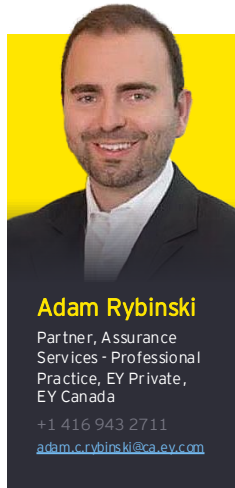
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13 November 2024





# PRESENTERS







# AGENDA

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01 Accounting Standards for Private Enterprises (ASPE) updates

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02 Canadian tax update

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03 Recent developments in Canada's capital markets

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04 Trends in real estate: A private company perspective

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05 Québec-only tax update



# ACCOUNTING STANDARDS FOR PRIVATE ENTERPRISES (ASPE)







# AGENDA

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01 Upfront non-refundable fees or payments – update to effective date

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02 AcG-21 Accounting for life insurance contracts with cash surrender value (CSV)

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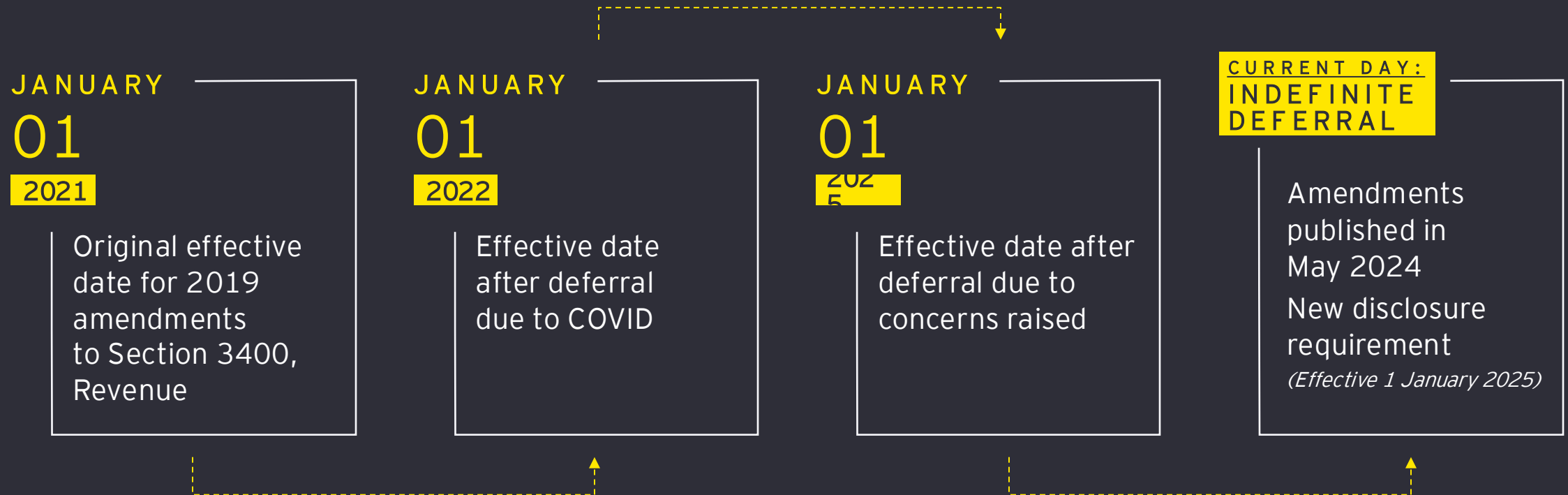
03 AcG-20 Customer's accounting for cloud computing arrangements

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04 IBOR reform

# UPFRONT NON-REFUNDABLE FEES OR PAYMENTS (SECTION 3400, REVENUE) - UPDATE TO EFFECTIVE DATE

“ An enterprise shall disclose the nature and amount of upfront non-refundable fees or payments recognized in revenue when the enterprise recognizes the fee or payment in revenue upon entering into the arrangement.



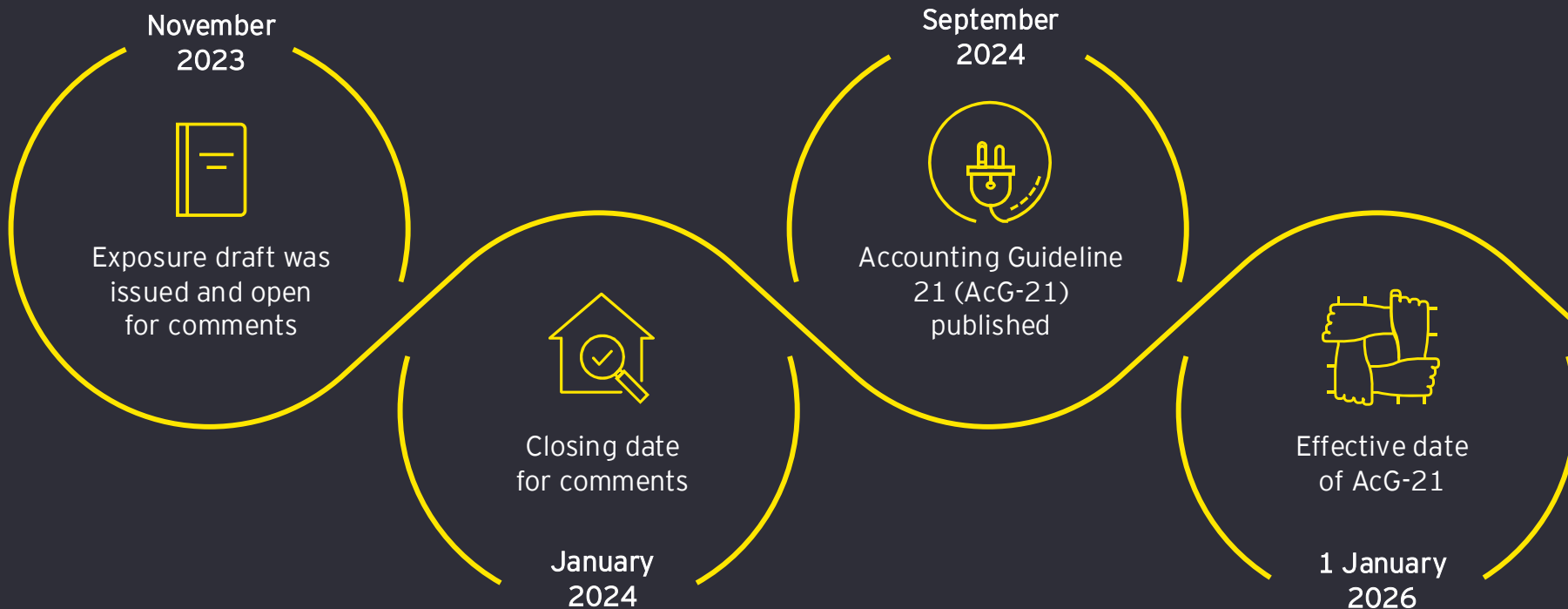


# ACG-21 ACCOUNTING FOR LIFE INSURANCE CONTRACTS WITH CASH SURRENDER VALUE

ASPE previously did not address accounting for cash surrender value (CSV) of a life insurance contract.

The new AcG provides guidance on:

- ▶ Recognition and measurement of CSV in a life insurance policy
- ▶ Presentation and disclosure of policy premiums and change in CSV



# • MAIN FEATURES OF THE NEW ACG-21

## RECOGNITION

Requires recognition as an asset the cash surrender value of a life insurance policy when the enterprise becomes **owner** and **beneficiary** of the underlying insurance contract

## MEASUREMENT

Measure cash surrender value at the amount that would be immediately realized upon termination of the policy prior to the death of the insured as provided by the issuer of the policy

## PRESENTATION

Requires presentation of policy premiums and changes in cash surrender value on a net basis:

- Net debit is presented as expense
- Net credit is presented as income

## DISCLOSURE

If not separately presented on balance sheet, the carrying amount of aggregate CSV for all insurance policies with CSV, and the balance sheet caption that includes CSV

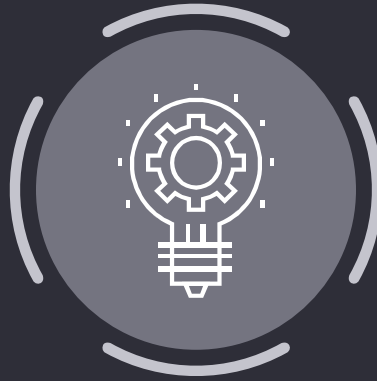
If not separately presented on income statement, the caption that includes the change in CSV



## EFFECTIVE DATE AND TRANSITIONAL PROVISIONS



AcG-21 applies to  
annual periods  
beginning on or after 1  
January 2026



Earlier application  
is permitted



Retrospective application,  
but only to life insurance  
policies that exist and have a  
CSV on or after the beginning  
of the earliest period presented



## ACG-20 CUSTOMER'S ACCOUNTING FOR CLOUD COMPUTING ARRANGEMENTS

- ▶ Does NOT address tangible elements of a cloud computing arrangement (e.g. PPE, leased assets)

### Optional simplification approach:

Expenditures related to the elements in an arrangement within the scope of AcG-20 are expensed as incurred.

- ▶ If simplification approach is NOT applied → AcG-20 guidance for determining whether there is a software intangible asset
  - ▶ If YES, capitalize directly attributable expenditures on implementation activities

### Accounting policy choice for expenditures on implementation activities for a software service:

- ▶ Capitalize expenditures when the arrangement is a software service (i.e., no intangible asset exists) and present such costs as a separate asset; or
- ▶ Continue to expense as incurred expenditures in accordance with existing requirements in Section 3064, Goodwill and intangible assets



## ACG-20 CUSTOMER'S ACCOUNTING FOR CLOUD COMPUTING ARRANGEMENTS (CONTINUED)

For a more in-depth walkthrough of AcG-20 accounting, access the link below:

[2023 Financial Reporting Developments Fall Series: Private Companies \(ASPE\)](#)





# IBOR REFORM – BACKGROUND

## DISCONTINUED

### **LIBOR**

(London Interbank Offered Rate)

### **CDOR**

(Canadian Dollar Offered Rate)

### **BA**

(Bankers' Acceptance) rate

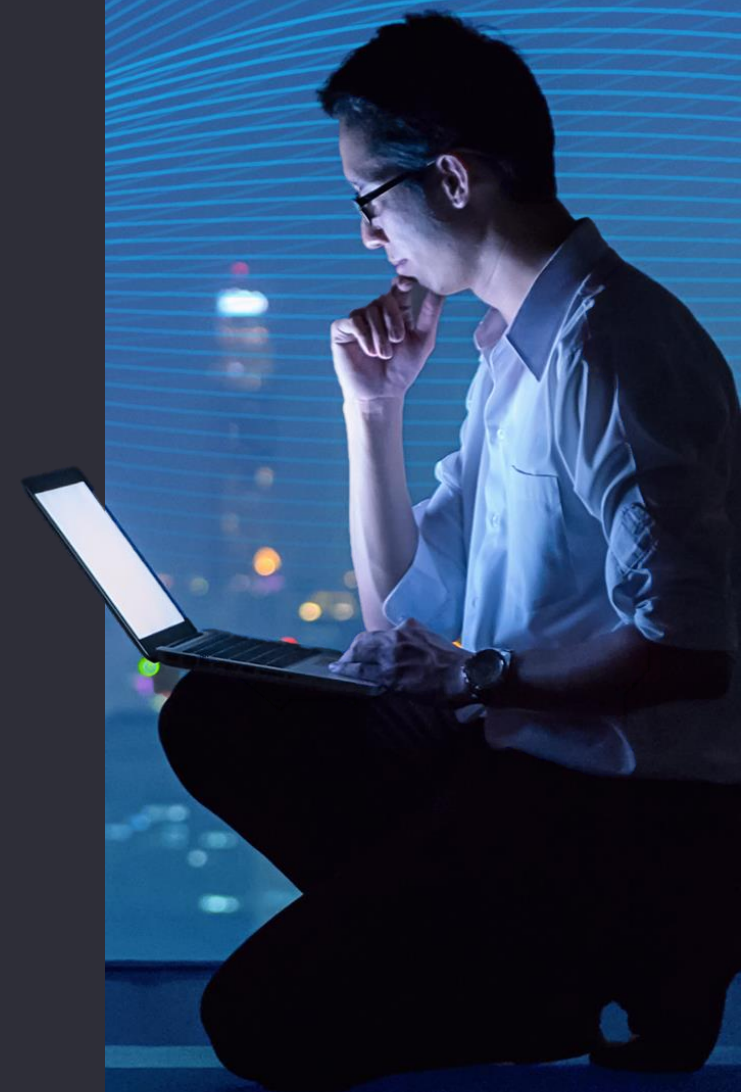
## NEW

### **SOFR**

(Secured Overnight Funding Rate)

### **CORRA**

(Canadian Overnight Repo  
Rate Average)



## DEBT MODIFICATION - OPTIONAL PRACTICAL EXPEDIENT

Amendments only apply to debt instruments issued in an **arm's length transaction** that reference interest rate benchmarks expected to be replaced with an alternative benchmark interest rate as a direct consequence of IBOR reform

Use of optional expedient - account for debt modifications that are related to IBOR reform as a **continuation** of the existing contract and not as an extinguishment

- ▶ If other terms are contemporaneously modified in a manner that changes, or has the potential to change, the amount or timing of contractual cash flows, first apply the optional expedient to those modifications which are related to the replacement of IBOR with an alternative benchmark rate. Then apply the normal "10% test" to the other changes.
- ▶ This optional expedient for debt modifications would be applied consistently for all eligible debt contracts



## • HEDGE ACCOUNTING – MANDATORY EXCEPTIONS

Applicable hedging relationships with hedge accounting elected:

- ▶ An interest-bearing asset or liability hedged with an interest rate swap to mitigate the effect of changes in interest rates
- ▶ A foreign currency denominated interest-bearing asset or liability hedged with a cross-currency interest rate swap to mitigate the effect of changes in interest rates and foreign currency exchange rates

Changes to the critical terms that are directly related to IBOR reform would not result in the discontinuation of the hedging relationship.

- ▶ Continue applying hedge accounting to existing hedging relationships only if all changes made to the contractual terms of a hedging item or a hedged item are directly related to the replacement of IBORs – critical terms of the hedging item and the hedged item need to continue to match after the changes are made
- ▶ Update hedge documentation to reflect the changes to the hedging item, the hedged item and the description of the specific risk exposure being hedged
- ▶ Prospectively cease applying the exception once all changes related to the replacement of IBORs have been made to the hedged item and hedging item

# DISCLOSURES

ASPE 3856.54A requires the disclosure of the following items that are subject to IBOR reform:

## Financial instruments

**Nature**  
**Carrying amount**

## Derivatives

**Notional amount**



# CANADIAN TAX UPDATE

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# OVERVIEW

## MANDATORY DISCLOSURE RULES

- ▶ Reportable transactions
  - ▶ Hallmarks for disclosure
- ▶ Notifiable Transactions
- ▶ Uncertain Tax Treatments
- ▶ Penalties



## GAAR AMENDMENTS

- ▶ Changes effective January 1, 2024



## 2024 TAX UPDATES

- ▶ Alternative Minimum Tax
- ▶ Carbon Rate for Small Businesses
- ▶ Non-Compliant Short-Term Rentals
- ▶ International Shipping Exemption



## DIGITAL SERVICES TAX

- ▶ Scope
- ▶ In-Scope Revenue
- ▶ Place of supply
- ▶ Thresholds



## EIFEL RULES

- ▶ Changes effective January 1, 2024
- ▶ Navigating the rules and how to report



## FEDERAL GREEN CREDITS

- Clean Economy Investment Tax Credits
- ▶ Clean technology manufacturing ITC
  - ▶ Clean Hydrogen ITC



## CAPITAL GAIN TAX INCLUSION

- ▶ Capital gains inclusion rate
- ▶ The increase in the lifetime capital gains exemption and
- ▶ The reduction of the employee stock option deduction



## 84.1 & BEPS UPDATES

- ▶ 2024 updates to Section 84.1
- ▶ PILLAR II Developments





# MANDATORY DISCLOSURE RULES

## Reportable transactions

Canada's earlier mandatory disclosure rules in respect of reportable transactions required the transaction to be an "avoidance transaction" within the meaning of the GAAR in subsection 245(2) of the ITA, and to have two of three "generic hallmarks,"

- i. a contingent fee arrangement for a promoter or tax advisor;
- ii. confidential protection for a promoter or tax advisor and
- iii. contractual protection for a taxpayer.

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The new Mandatory Disclosure Rules only one of the above hallmarks is required for a transaction to be reportable, provided that one of the main purposes of entering into the transaction is to obtain a tax benefit (a lower threshold than the existing "primary purpose" test required for an avoidance transaction under the GAAR).

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A taxpayer who enters into a reportable transaction (or another person who enters into the transaction for the benefit of the taxpayer) and a promoter or advisor (except to the extent that it is reasonable to believe that the information is subject to solicitor-client privilege), are required to report the transaction to the CRA within 90 days of the earlier of:

- 1) The date the taxpayer (or the person who entered into the transaction for the benefit of the taxpayer) became contractually obligated to enter into the transaction; and
- 2) The date the taxpayer (or the person who entered into the transaction for the benefit of the taxpayer) actually enters into the transaction.

# NOTIFIABLE TRANSACTIONS

## Notifiable Transactions:

A notifiable transaction is defined to mean a transaction that is the same as, or substantially similar to, a series of transactions that has been designated by the Minister.

Two transactions are substantially similar if they are expected to obtain the same or similar types of tax consequences, and the transactions are either factually similar or based on the same or similar tax strategy.

On November 1, 2023, the Minister of Finance designated 5 different transactions as Notifiable Transactions.

## Information Returns to report a Notifiable Transaction must include the following information:

1. Identification information of the person required to disclose;
2. Identification information of the person obtaining the tax benefit;
3. Describe any contingent fees with respect to the transaction;
4. Date of the transaction;
5. Identify whether the transaction is the same or substantially similar to a transaction or series of transactions;
6. Identify the reason for disclosing the notifiable transaction and describe the transaction in sufficient detail for the Minister to be able to understand the tax structure of the transaction; and
7. Provide such other information as is required by the information return.



# UNCERTAIN TAX TREATMENT



An uncertain tax treatment is a tax position taken in a corporation's income tax filings for which uncertainty as to the correctness of the position is noted in the relevant corporation's financial statements for the year. Bill C-47 requires a "reporting corporation" to file an information return in respect of a reportable uncertain tax treatment at the same time its income tax return is due. These rules came into effect with royal assent on June 22, 2023.

A "reporting corporation" for a taxation year is a corporation that:

- ▶ Has audited financial statements for the taxation year prepared in accordance with IFRS or other country-specific GAAP relevant for corporations that are listed on a stock exchange outside of Canada;
- ▶ The carrying value of the corporation's assets is greater than or equal to CA\$50 million at the end of the year; and
- ▶ The corporation is required to file a Canadian return of income for the taxation year.

# REASSESSMENT AND PENALTIES



## REASSESSMENT PERIOD

Under Bill C-47, the normal reassessment period would not commence in respect of a transaction that requires mandatory disclosure reporting until the taxpayer has complied with the reporting requirement.

Therefore, a reassessment will not become statute-barred unless the taxpayer complies with the mandatory disclosure reporting rules.



## TAXPAYER - REPORTABLE OR NOTIFIABLE (AMENDED)

The failure to file an information return in respect of a reportable or notifiable transaction is removed from the scope of the general penalty under section 238 of the Income Tax Act (the Act) for failure to file a return, effective 22 June 2023 (the same date the enhanced mandatory disclosure rules came into effect).

Under the mandatory disclosure rules for reportable and notifiable transactions, specific penalties already apply for failure to file an information return.



## PROMOTER - REPORTABLE OR NOTIFIABLE

With respect to an advisor or promoter of reportable or notifiable transactions, Bill C-47 includes a penalty equal to the total of (i) 100% of fees charged; (ii) CA\$10,000 and (iii) CA\$1,000 a day while failure continues up to a maximum of CA\$100,000.



## CORPORATION - UNCERTAIN TAX TREATMENT

With respect to a corporation subject to the requirement to report uncertain tax treatments, Bill C-47 includes a penalty of CA\$2,000 per week, up to CA\$100,000 for each position.



# GAAR AMENDMENTS

March 2023

The federal government announced changes to the general anti-avoidance rule, GAAR. These are the first substantial changes since the GAAR was introduced in 1988. These changes are in response to court cases where taxes assessed under GAAR have been challenged by the taxpayers.

January 2024

New Amendments introduced to the GAAR are effective January 1, 2024 other than the preamble which come into effect with Royal Assent in June, 2023.

Changes

Changes include:

1. a new preamble which sets out the intended purpose and operation of GAAR (new subsection 245(0.1) of the Income Tax Act);
2. reduced threshold for identifying an avoidance transaction from “primarily” to “one of the main purposes”;
3. added a rebuttable presumption that an avoidance transaction that is significantly lacking in economic substance results in a misuse or abuse; and
4. unless a transaction has been reported under the reportable transaction rules (including by means of a new voluntary disclosure rule) or the notifiable transaction rules:
  - a. provide for a penalty, equal to 25% of the increased taxes payable as a result of the application of GAAR, subject to a limited exception; and
  - b. extend the reassessment period by three years for assessments made as a consequence of the application of the GAAR.

June 2024

Royal Assent received bringing the Proposed Changes into effect retroactive to January 1, 2024.

# 2024 TAX UPDATES



## ALTERNATIVE MINIMUM TAX

Under Bill C-69, revisions to the AMT Calculation allow:

- i. individuals to claim 80% (instead of 50%, as previously proposed) of the charitable donation tax credit;
- ii. individuals to claim full deductions (instead of the previously proposed 50%) for the Guaranteed Income Supplement, social assistance and workers' compensation payments; and
- iii. certain disallowed credits under the AMT (i.e., the federal political contribution tax credit, various ITCs and the labour-sponsored funds tax credit), as well as the federal logging tax credit, to be eligible for the AMT carry-forward.



## CARBON RATE FOR SMALL BUSINESSES

A new refundable tax credit is introduced to return a portion of fuel charge proceeds to eligible businesses.

For the 2019-20 to 2023-24 fuel charge years, businesses eligible to receive the credit are:

- ▶ Canadian-controlled private corporations (CCPCs) that have no more than 499 employees throughout Canada in the calendar year in which the fuel charge year begins, and that file a tax return for the 2023 taxation year by 15 July 2024.



## NON-COMPLIANT SHORT-TERM RENTALS

Under Bill-C-69 residential property owners will be unable to deduct rental expenses incurred on or after January 1, 2024, to earn short-term rental income on a Canadian residential property that is offered for rent for less than 90 consecutive days if either:

1. The property is located in a province or municipality that has prohibited short-term rentals, or
2. The property owners fail to comply with all applicable provincial or municipal licensing, permitting or registration requirements for operating a short-term rental.



## INTERNATIONAL SHIPPING EXEMPTION

The income tax exemption for international shipping income for certain non-resident companies is expanded to include certain Canadian resident companies.

This measure will align the treatment of shipping companies with management in Canada under both the pillar two international shipping exclusion, which is to be implemented in Canada's GMTA, and the Act.

The measure will apply to taxation years that begin on or after 31 December 2023.



# CAPITAL GAINS TAX INCLUSION

The federal budget income tax measures relating to the increase in the (i) capital gains inclusion rate, (ii) the increase in the lifetime capital gains exemption and (iii) the reduction of the employee stock option deduction were not included under Bill C-69 but rather included instead part of the notice of ways and means motion (NWMM) that was tabled on 10 June 2024 and adopted the next day in the House of Commons.

## AUGUST PROPOSALS

The Department of Finance released several packages of draft legislative proposals for public comment on 12 August 2024, including the much-anticipated revised draft legislative proposals to implement changes to increase the capital gains inclusion rate (the August proposals).

### The principal changes include:

#### CAPITAL GAINS INCLUSION RATE

- ▶ implement previously announced changes to increase the capital gains inclusion rate from one-half to two-thirds for corporations and most trusts, and from one-half to two-thirds on the portion of capital gains realized in the year that exceed \$250,000 for individuals and some trusts, for capital gains realized on or after 25 June 2024.
- ▶ increase to the capital gains inclusion rate is effective for transactions occurring on or after 25 June 2024, which requires the need for transitional rules<sup>3</sup> for taxation years that begin before 25 June 2024 and end after 24 June 2024 (i.e., a transition year).

#### LIFETIME CAPITAL GAINS EXEMPTION

- ▶ LIFETIME CAPITAL GAINS EXEMPTION
  - ▶ Under the current rules for 2024, the LCGE may shelter capital gains realized on the disposition of qualified farm and fishing property or qualified small business corporation shares of up to \$1,016,836.
  - ▶ As proposed in Budget 2024, the LCGE limit will increase to \$1,250,000 with respect to dispositions that occur on or after 25 June 2024.
- The indexation of the LCGE will resume in 2026.

#### EMPLOYEE STOCK OPTION DEDUCTION

- ▶ The existing rules allow for an employee to claim a deduction of one-half of the stock option benefit originally taxed as employment income
- ▶ To reflect the new capital gains inclusion rate, the employee stock option deduction is reduced to one-third of the stock option benefit for stock options exercised on or after 25 June 2024.
- ▶ In the case of CCPC stock option benefits that satisfy the employment benefit deferral exception (i.e., stock options that are not subject to income tax until the year the employee disposes of or exchanges the acquired shares), the stock option deduction is reduced to one-third where the share is disposed of or exchanged on or after 25 June 2024.

# DIGITAL SERVICES TAX

On 20 June 2024, Bill C-59, Fall Economic Statement Implementation Act, 2023, received Royal Assent. The Bill included the introduction of the Digital Services Tax Act (DSTA) and related regulations to implement the Canadian Digital Services Tax (DST). On 3 July 2024, an Order in Council (the OIC) was posted on the Canadian government's website to provide notice that the DSTA would come into force as of 28 June 2024.

## SCOPE

The tax applies to Canadian Digital Services Revenue (the “DST”).

The DST is a 3% tax on Canadian Digital Services Revenue (CDSR) derived from the provision of digital services that will apply to resident and non-resident companies, both private and public

## IN-SCOPE REVENUE

1. Online marketplace services revenue;
2. Online advertising services revenue;
3. Social media services revenue; and,
4. User data revenue.

## USER LOCATION

Whether a user is located in Canada or outside Canada would be determined based on a taxpayer’s available data with respect to the user.

- ▶ Delivery or shipping address
- ▶ Billing Address
- ▶ Phone number area code
- ▶ GPS or IP address data

## THRESHOLDS

**Registration:** A taxpayer or a member of a consolidated group is required to register under the DSTA if it meets the €750m threshold and earns more than CA\$10m of Canadian digital services revenue.

**Taxation:** A taxpayer or an affected member of a consolidated group that meets the global threshold (€750m) and that the Canadian threshold (CA\$20m) will be taxed on amount that is in excess of the \$20m Canadian threshold



# EIFEL RULES

The Excessive interest and financing expenses limitation (“EIFEL”) rules were enacted on June 20, 2024, as part of Bill C-59, Fall Economic Statement Implementation Act, 2023, and generally apply for taxation years beginning on or after October 1, 2023

## WHAT ARE THE RULES

- ▶ EIFEL allows for the deductibility of interest and financing expenses (“IFE”).
- ▶ The rules put a cap on net IFE. The net IFE is the excess of IFE over interest and financing revenues (IFR).
- ▶ The cap on net IFE is equal to a fixed ratio of adjusted taxable income (ATI):
  1. 30% for tax years starting on or after January 1, 2024
  2. 0% for tax years starting on or after October 1, 2023, and before January 1, 2024

The CRA indicated that the required information relating to the EIFEL rules will be reported on new Schedule 130 of a taxpayer’s corporation or trust income tax return, and on new Schedule 130 of a partnership information return if the partnership’s members include a corporation or trust and the partnership has interest and financing expenses (IFE) or interest and financing revenues (IFR).

## WHO IS AFFECTED

The rules affect corporations or trusts with IFE or IFR, as well as corporations or trusts that:

- ▶ Hold interests in controlled foreign affiliates ; or
- ▶ Are members or have CFAs that are members of partnerships that have IFE and IFR



Excluded entities (as defined under subsection 18.2(1) of the ITA include:

- ▶ Canadian-controlled private corporation (must have less than \$50M of taxable capital employed in Canada) - inclusive of associated corps.
- ▶ Canadian-resident corporation or trust that has aggregate net interest and financing expenses of \$1 million or less
- ▶ A Canadian-resident corporation or trust that has limited ties to non-resident person

Schedule 130 is not yet available, but the CRA has noted that the Schedule 130 information is still required to be reported before the form is released.

# FEDERAL GREEN CREDITS

## Clean economy investment tax credits (ITCs)

The Clean Technology Manufacturing (CTM) Investment Tax Credit (ITC) is a refundable tax credit that applies to investment of capital for clean technology manufacturing and processing and critical mineral extraction and processing in Canada from January 1, 2024, to December 31, 2034.

### Clean Technology Manufacturing ITC

Provide support to Canadian companies that are manufacturing or processing clean technologies.

- ✓ 30 percent of the cost of investments in new machinery and equipment used to manufacture or process key clean technologies

### The Clean Hydrogen ITC

Provide support for Canadian companies that invest in projects that produce hydrogen.

- ✓ 15 to 40 percent refundable tax credit in machinery and equipment. Transportation of hydrogen may also be eligible.

### ELIGIBLE TAXPAYERS

- ▶ Canadian Corporations
- ▶ Real Estate Investment Trusts (in certain cases)
- ▶ First Nations
- ▶ Crown Corporations
- ▶ Pension Investment Corporations

### ELIGIBLE PROPERTY

- ▶ Certain non-emitting hydro, wind or solar equipment
- ▶ Fixed electricity storage systems
- ▶ Certain low-emitting natural gas equipment
- ▶ Pension Investment Corporations
- ▶ Qualified interprovincial transmission equipment





## 84.1 INTERGENERATIONAL BUSINESS TRANSFERS

To level the playing field, the federal government introduced special rules in Bill C-208, effective June 29, 2021, that allowed in certain circumstances an individual to transfer certain shares to a corporation controlled by their adult children or grandchildren without triggering the anti-surplus stripping rules as found under 84.1 of the ITA.

### 2024 Updates

Under the enacted amendments, two approaches can be taken to achieve an intergenerational transfer of the business that involves qualifying shares:

1. The first option is through an immediate intergenerational transfer, which must be completed within three years of the transaction date.
2. The second option is through a gradual intergenerational transfer, which can be completed within a period of up to 10 years.

### Other Amendments

Under the changes enacted under Bill C-59, the definition of a “child” now includes:

- ▶ Nieces;
- ▶ Grandnieces; and
- ▶ Nephews;
- ▶ Grandnephews;

## BEPS – PILLAR II Developments

### BEPS 2.0

1. Pillar One on new nexus and profit allocation rules with the objective of assigning a greater share of taxing rights over global business income to market countries, and
2. Pillar Two rules on new global minimum tax, approved in December 2021 by 141 jurisdictions participating in the BEPS 2.0 project.

### GLOBAL MINIMUM TAXES

The Global Anti-Base Erosion (GloBE) rules, a key component of the Pillar Two model rules, will introduce a 15% global minimum corporate tax rate for multinational enterprises (MNEs) with revenue above EUR750 million.

**On June 19, 2024, Federal Bill C-69, Budget Implementation Act, became substantially enacted to implement certain provisions of the budget tabled in Parliament on April 16, 2024.**

### Key changes in Bill C-69 include:

- ▶ Subsections 24(4) and (5) of the proposed GMTA limit the amount of covered taxes relating to controlled foreign companies and hybrid entities pertaining to the entity’s “passive income” that can be allocated to 15%.
- ▶ Subsection 18(16) of the Revised GMTA Proposal introduces the concept of marketable transferable tax credits, both from the perspective of entities generating the credits and from entities purchasing such credits.
- ▶ Updating certain definitions within the Global Minimum Tax Act to better align with the Organisation for Economic Co-operation and Development (OECD) model rules\*

# RECENT DEVELOPMENTS IN CANADA'S CAPITAL MARKETS

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# WHAT ARE WE SEEING?

## Canadian Market Update

- ▶ Many industries are undergoing rapid transition given changing macro-economic and geopolitical realities.
- ▶ GDP is below potential and is expected to improve in 2025. Inflation is now in check.
- ▶ Investor sentiment is improving although the yield curve remains inverted suggesting slower economic growth
- ▶ Businesses looking to invest in growth are still facing higher borrowing costs that haven't been seen in the past 15 years

## Market Impact on Commercial Lending

- ▶ Banks/Lenders continue to be:
  - ▶ Selective in capital deployment
  - ▶ Restrictive in covenant structuring/reporting
  - ▶ Holding lower amounts
  - ▶ Focused on pricing for risk and relationship
- ▶ Increased regulation of banks has created a global boom in private debt capital (non-bank financing).
- ▶ ESG has sustained its momentum in loan and bond issuances



Canada Inflation Rate



Canada Overnight Rate

# CANADIAN ECONOMIC OUTLOOK ECONOMIC OUTLOOK

## Key Economic Indicators

Source: Bloomberg

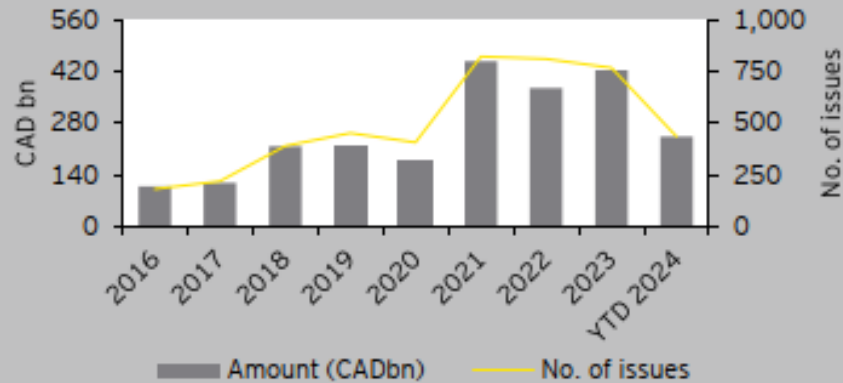
Quarterly Data	Q3 23	Q4 23	Q1 24	Q2 24	Q3 24	Q4 24	Q1 25	Q2 25	Q3 25	Q4 25	Q1 26
Economic Growth (GDP, QoQ% SAAR)	-0.30	0.10	1.80	2.10	1.20	1.60	1.80	2.00	2.00	2.10	2.20
Private Consumption (QoQ% SAAR)	0.10	3.20	3.60	0.60	0.90	1.40	1.80	1.80	2.00	2.10	2.30
Unemployment (% of active population, aop)	5.50	5.80	5.90	6.20	6.60	6.80	6.80	6.70	6.60	6.60	6.40
Inflation (CPI, ann. var. %, aop)	3.70	3.20	2.90	2.80	2.20	2.10	2.30	2.00	2.00	2.00	2.00
Exchange Rate (CAD per USD, eop)	1.36	1.32	1.35	1.37	1.35	1.36	1.35	1.34	1.33	1.33	
Target for the Overnight Rate (% eop)	5.00	5.00	5.00	4.75	4.25	3.75	3.25	3.00	3.00	3.00	2.75
3-Month T-Bill Rate (%)	5.13	5.05	5.22	4.66	4.22	3.65	3.18	2.97	2.77	2.61	2.53
10-Year Note (%)	4.03	3.11	3.47	3.50	2.96	2.95	2.93	2.88	2.87	2.91	2.86

- ▶ GDP growth is expected at 1.6% in 2024 and 2.1% in 2025
- ▶ Unemployment is likely to rise in Q4 before reversing course next year, as growth picks up
- ▶ Headline inflation has decelerated to a 3-year low, edging below 2.0% and driven by cheaper gasoline
- ▶ The Bank of Canada seems to be ahead of other central banks in cutting interest rates and the argument for further cuts remains strong

# CANADIAN LOAN ISSUANCES

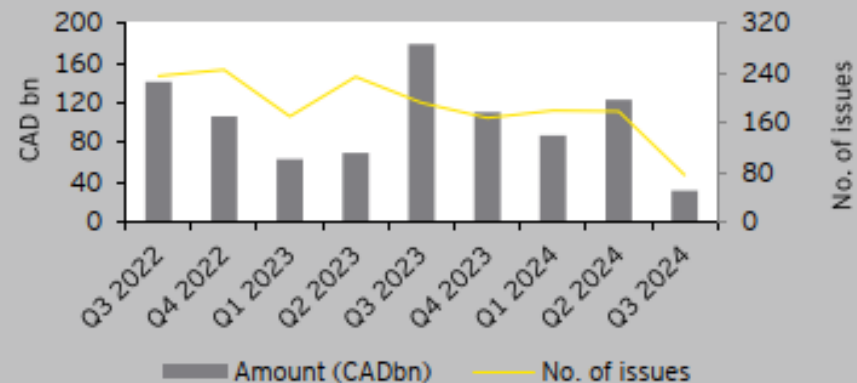
Canadian Loan Issuances, 2016 - YTD 2024

Source: Bloomberg

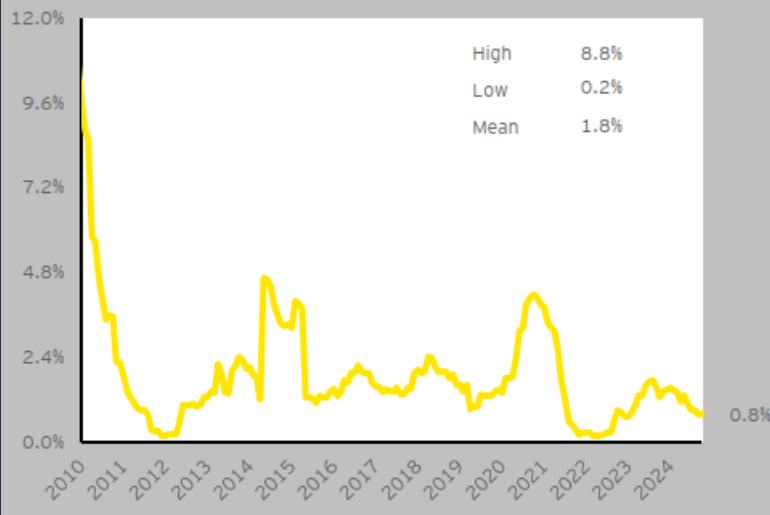


Canadian Loan Issuances, Q3 2022 to Q3 2024

Source: Bloomberg



- ▶ The Canadian loan market (revolving, term debt, and bonds) is significantly down from a quarter-to-quarter and year-over-year perspective
- ▶ This decline is attributed to ongoing economic uncertainties, geopolitical tensions, stricter regulations, and cautious market sentiment



## LTM Default Rate by Principal Outstanding

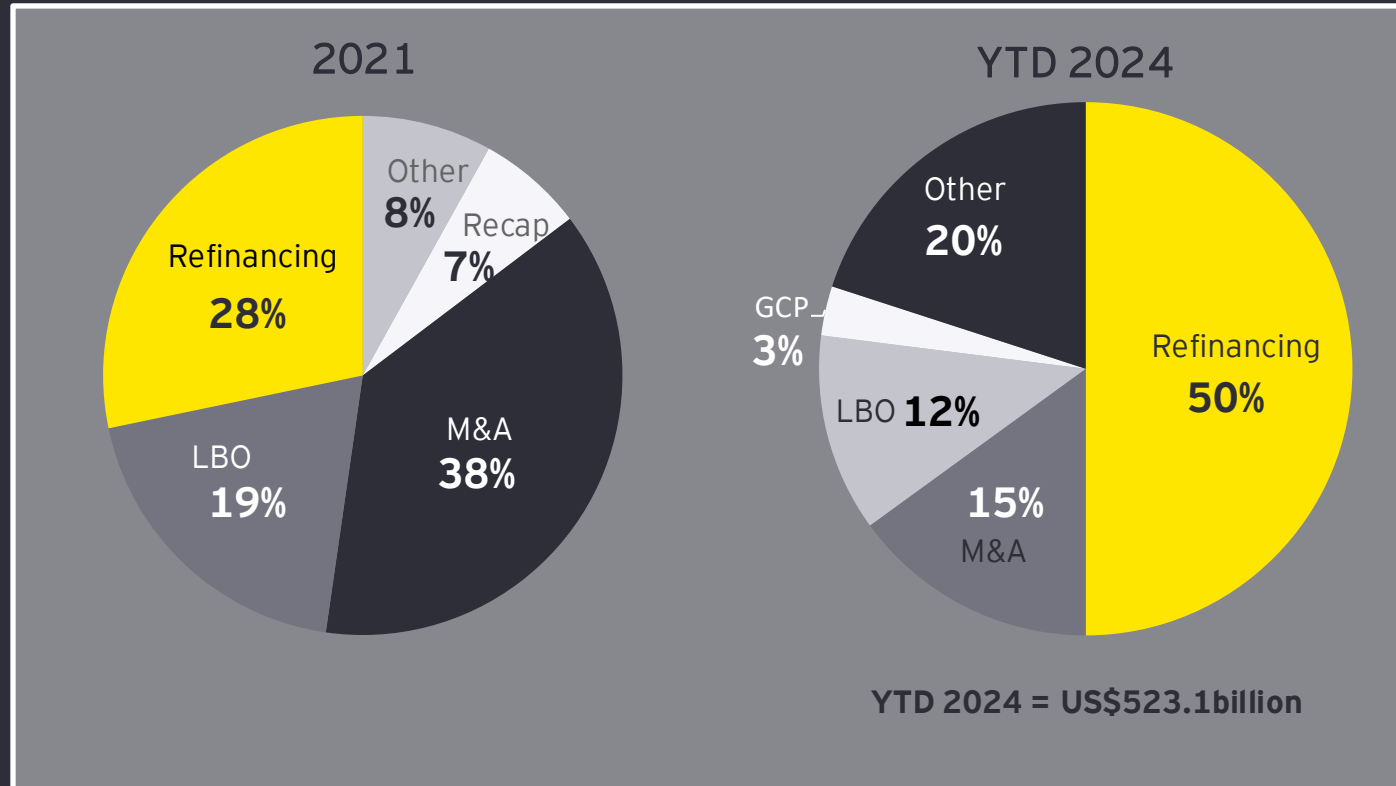
Source: S&P LCD Comps

- ▶ The loan default rate was satisfactory at 0.8% as of Q3 2024
- ▶ 'Special loan & restructuring' departments within the major banks are more active this year and are focused on managing borrowers and repatriating relationships to the 'line side'



# CANADIAN DEBT MARKETS

## Loan Volume by Purpose

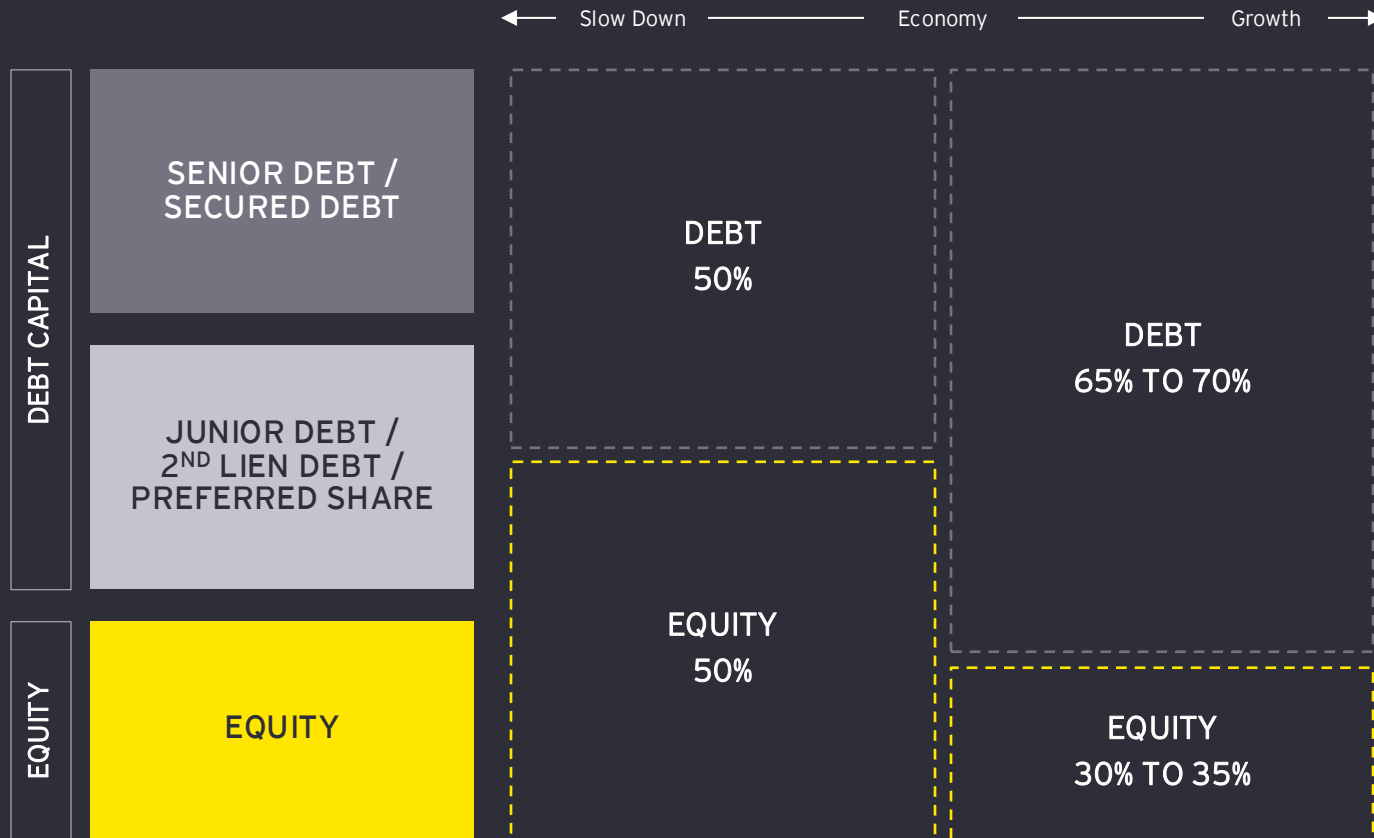


- ▶ 50% of all loan transactions completed YTD 2024 were for refinancing and restructuring purposes as compared to 28% in 2021.

### Realities of refinancing in 2024

- ▶ Covenants is not appropriate -> reset
- ▶ Cost of capital is too expensive -> restructure
- ▶ Amortization too short -> impacts cashflow
- ▶ Acquisitions and leveraged buy-out activities still account for 27% and are generally taking longer to complete
- ▶ The global M&A market should build momentum heading toward 2025 after showing signs of rebound in Q3

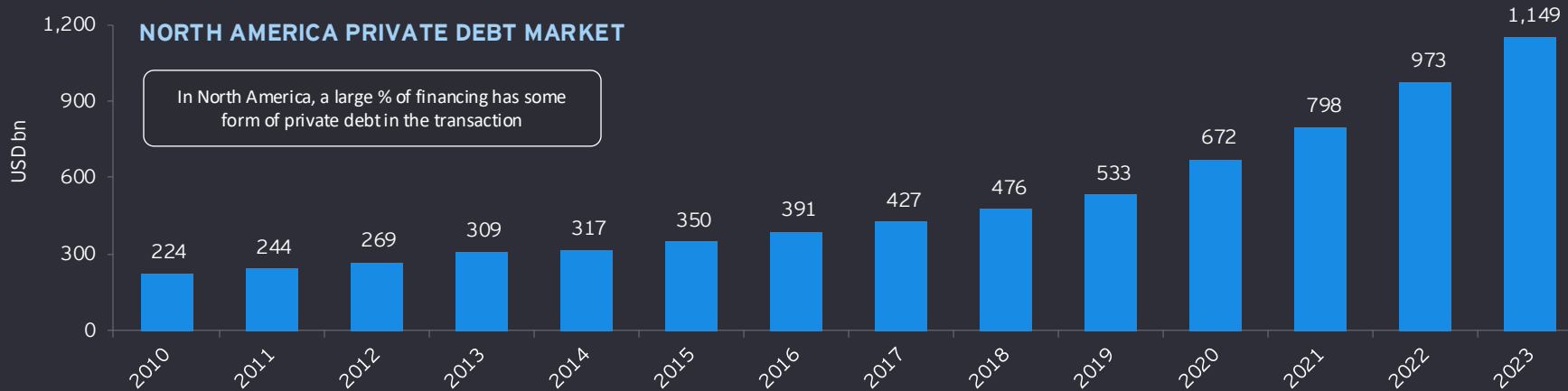
# THE EVOLUTION OF THE CAPITAL STACK... LOOKS DIFFERENT THAN PRE-COVID



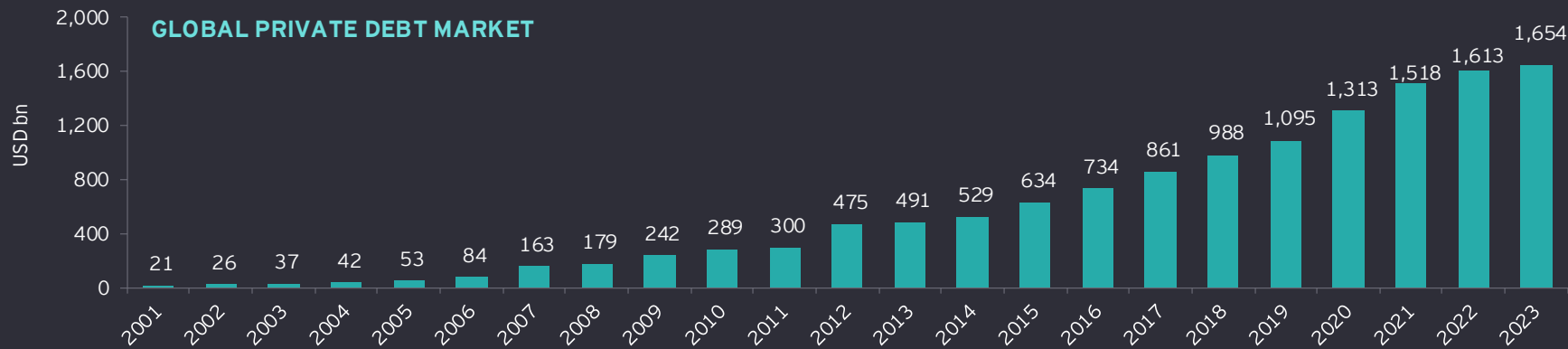
- ▶ At present, lenders prefer businesses to be capitalized with ~50/50 debt-to-equity
- ▶ Lenders expect you to keep balance sheets strong and healthy as lending conditions remain stricter and some businesses have deteriorated in their key metrics
- ▶ There is increased focus on assets/collateral, covenant compliance, and reporting by lenders
- ▶ Having the right mix of short-term, mid-term and long-term capital will help companies develop their optimum structure and their effective weighted average cost of capital

# FINANCING MARKET UPDATE

Availability of capital in the private debt markets is expected to continue to remain robust



Source: Preqin



Source: Pitchbook

## WHY PRIVATE LENDERS?

More dynamic, can fund quicker

Credit structuring more flexible and creative

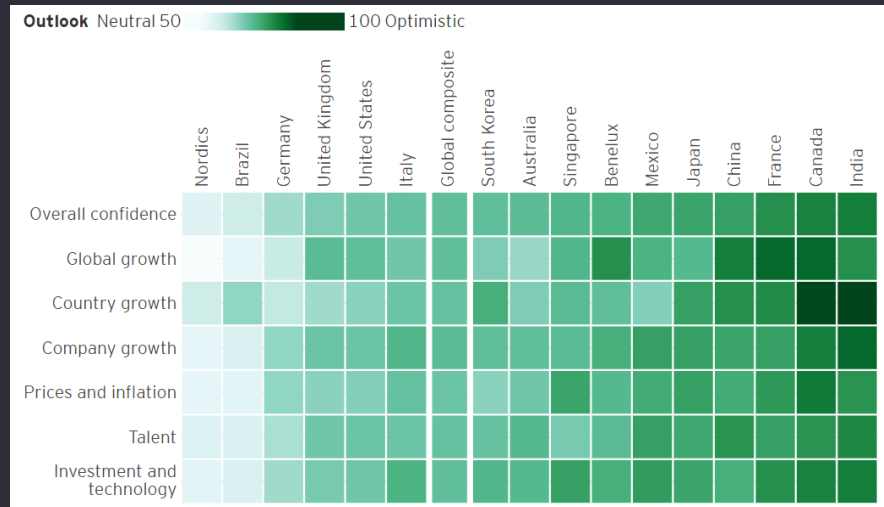
Longer term thinking

Existing bank offering less favourable credit terms



# CONFIDENCE OF CANADIAN CEO'S

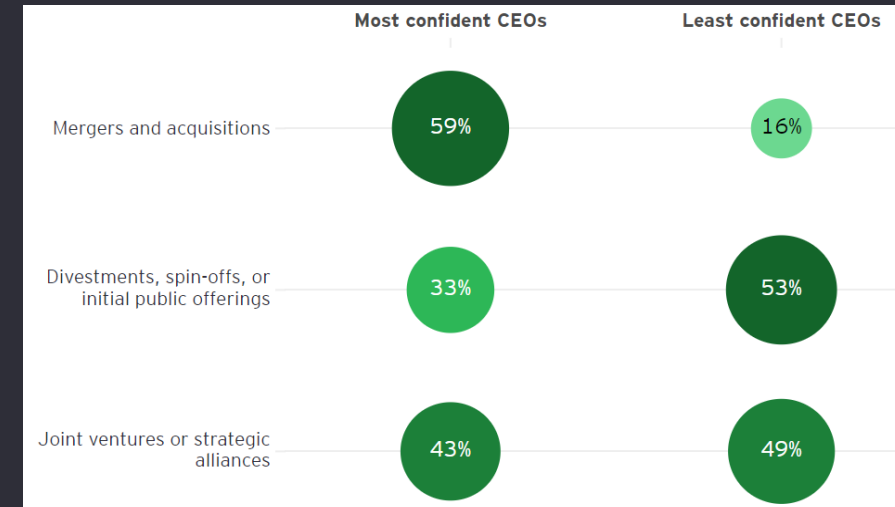
**Q: How confident do you feel about the outlook for the following areas over the next 12 months?**



Source: EY CEO Outlook Pulse - September 2024

- CEOs are confident, but not overly so, in their near-term outlook. They are not assuming strong economic tailwinds, but they see a path forward. And they are prepared to act and adapt to take advantage and grow in this ever-shifting business environment.
- There is a slight favour in their optimism about organic investments and their technology transformation compared to inorganic measures, such as M&A or joint ventures (JVs).

**Q: Do you expect to actively pursue any of the following transaction initiatives over the next 12 months?**



Source: EY CEO Outlook Pulse - Jan 2024

- For those CEOs looking to use M&A as a pillar of their transformation strategy there are clear benefits. M&A allows for rapid expansion into new markets or acquisition of new capabilities, often faster than organic growth, and can quickly boost revenue, market share and shareholder value.
- The least confident CEOs appear to be more focused on divestments and strategic alliances.

# WHAT DOES THIS MEAN FOR MY BUSINESS?



## WHAT ARE COMPANIES DOING?

- ▶ **PIVOT** - some businesses are taking action to:
  - ▶ better manage their cash flow collection and forecasting accuracy
  - ▶ Improve operational performance
  - ▶ Improve business perception
- ▶ **CERTAINTY OF CAPITAL** - as lender capital remains skittish and the outlook on the lending environment is cautious, some borrowers are re-amortizing/refinancing facilities ahead of maturities and establishing new facilities that may be utilized over the next 12 months
- ▶ **ALTERNATIVE DEBT STRUCTURE** - staggering debt maturities between short term and long term, where applicable, to optimize the cost of capital and incorporate flexibility



## THINGS TO CONSIDER

- ▶ Business owners want creative options that support strategic objectives. There are several levers available to raise capital:
  - ▶ Issue additional shares/ private placement/ employee debt
  - ▶ Borrow from a bank or private debt lender, and potentially consider:
    - ▶ M&A/ acquisition lines to support growth
    - ▶ asset-backed (ABL) facilities for flexibility
  - ▶ Sell assets/ division/ business
  - ▶ Add a strategic or private equity partner
- ▶ If you seek lender financing to meet your business planning needs:
  - ▶ Be proactive and plan ahead
  - ▶ Have a well thought out business plan reflecting post COVID normal



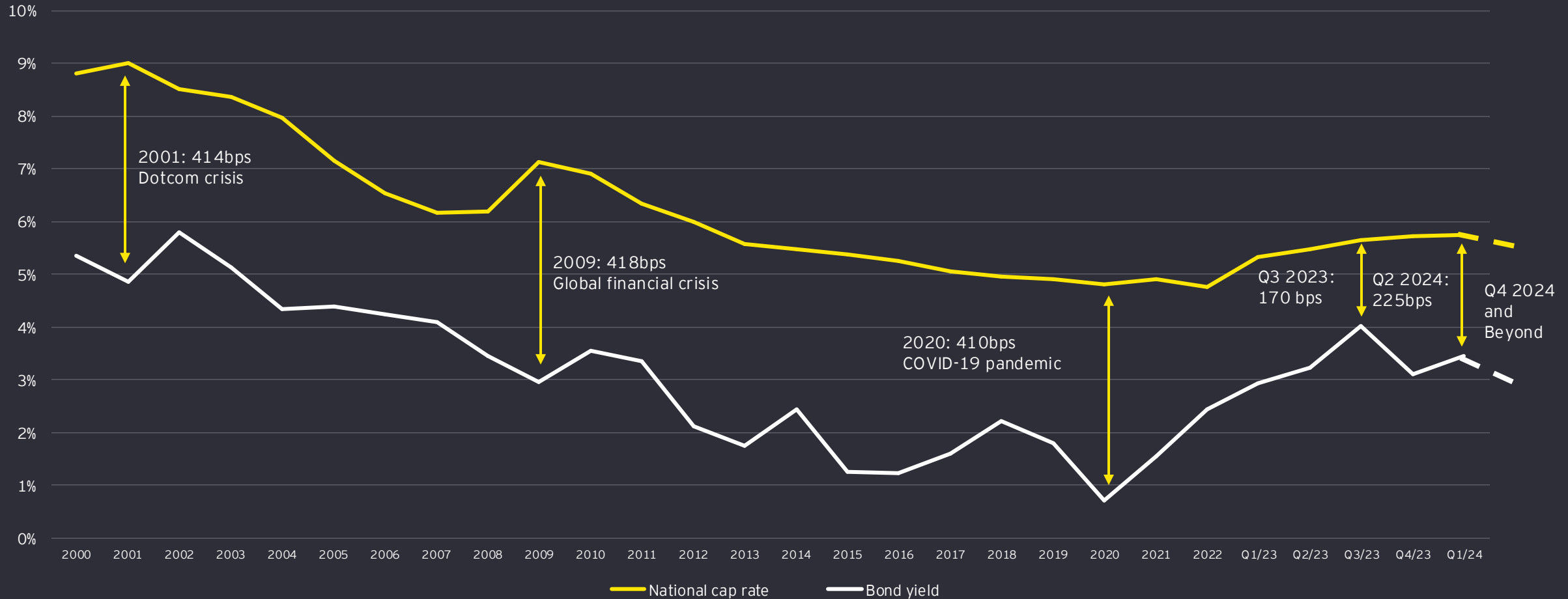
# TRENDS IN REAL ESTATE: A PRIVATE COMPANY PERSPECTIVE





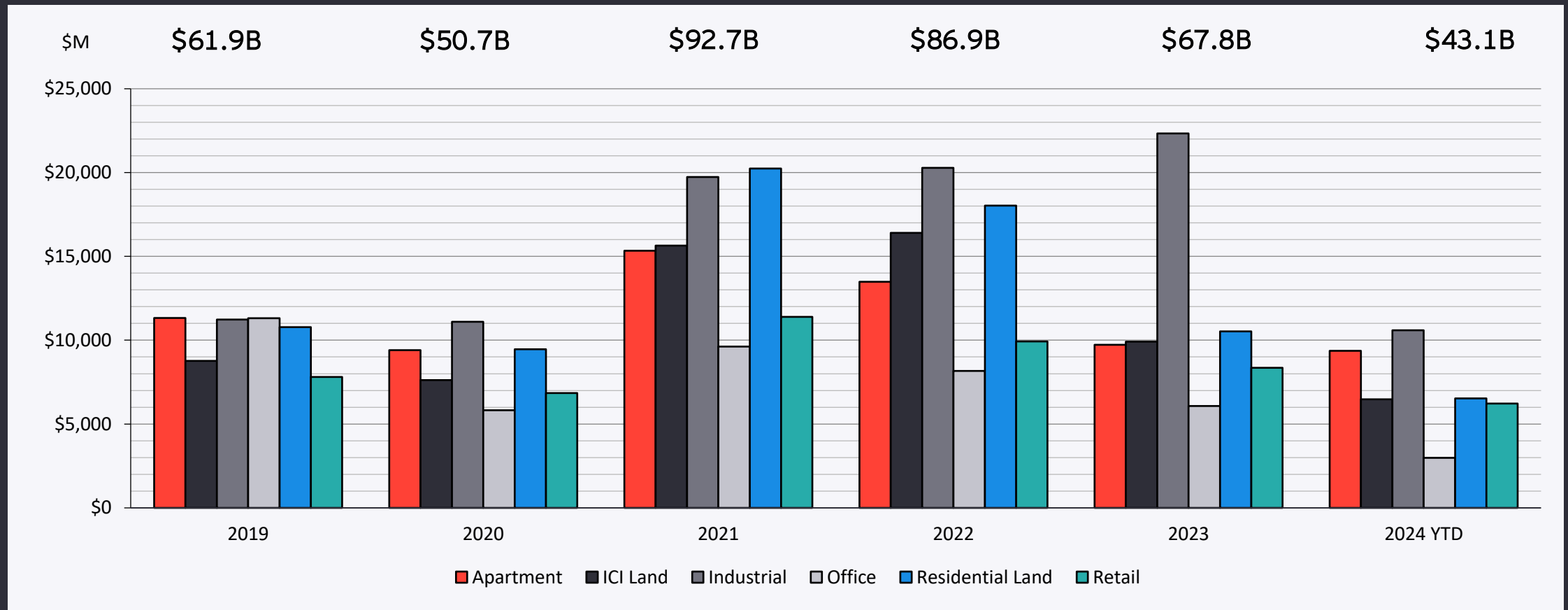
# SPREAD BETWEEN BOND YIELDS AND CAP RATES NORMALIZING

National cap rates vs. 10-year Government of Canada bond yields



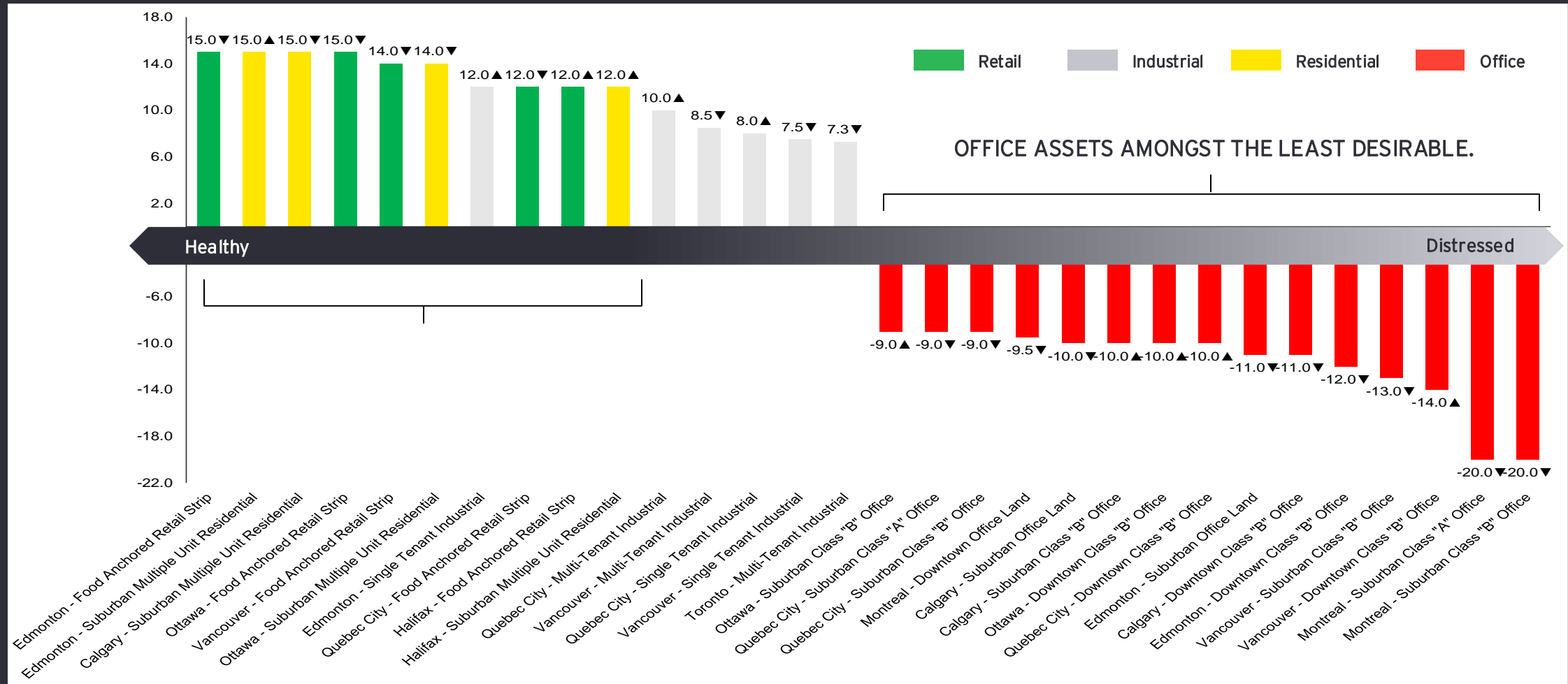
## INVESTOR PREFERENCE: DEAL FLOW DOWN OVERALL, INDUSTRIAL MARKET NORMALIZING AND OFFICE STRUGGLING, RESULTING IN A GREATER PROPORTION OF CAPITAL TOWARDS APARTMENTS AND RESIDENTIAL LAND

% of Total CRE Investment by Asset Class<sup>1</sup>



# INVESTOR PREFERENCE: ASSETS IN SECONDARY MARKETS ARE STARTING TO ATTRACT MORE INVESTMENT

Product/Market Barometer - Top 15 Preferred/15 Least Preferred





# OFFICE ASSETS: ILLUSTRATIVE EXAMPLE OF DIMINISHING ASSET VALUE AND DIFFICULTY SERVICING DEBT

1980s Class B Office	2019	2024E	change
Occupancy (market)	90%	65%	
Gross Contractual Rent	\$42.00	\$40.00	-5%
Gross Market Rent	\$45.00	\$40.00	-11%
Total Revenue	\$3,780,000	\$2,600,000	-31%
Operating Costs	\$1,620,000	\$1,370,000	-15%
Net Operating Income	\$2,160,000	\$1,230,000	-43%
Cap Rate	5.00%	6.25%	
Value	\$43,200,000	\$19,680,000	-54%
Debt Service Interest Rate	4.25%	7.20%	
Required DSCR	1.20	1.20	
Annual Debt Service Capacity	\$1,800,000	\$1,030,000	
Max Available Loan Amount	\$26,830,000	\$11,730,000	<-- Financing gap of \$15.1MM
LTV	62%	60%	

**54%** Decrease in FMV of property in 5 years

**\$15.1M** Funding gap at loan renewal

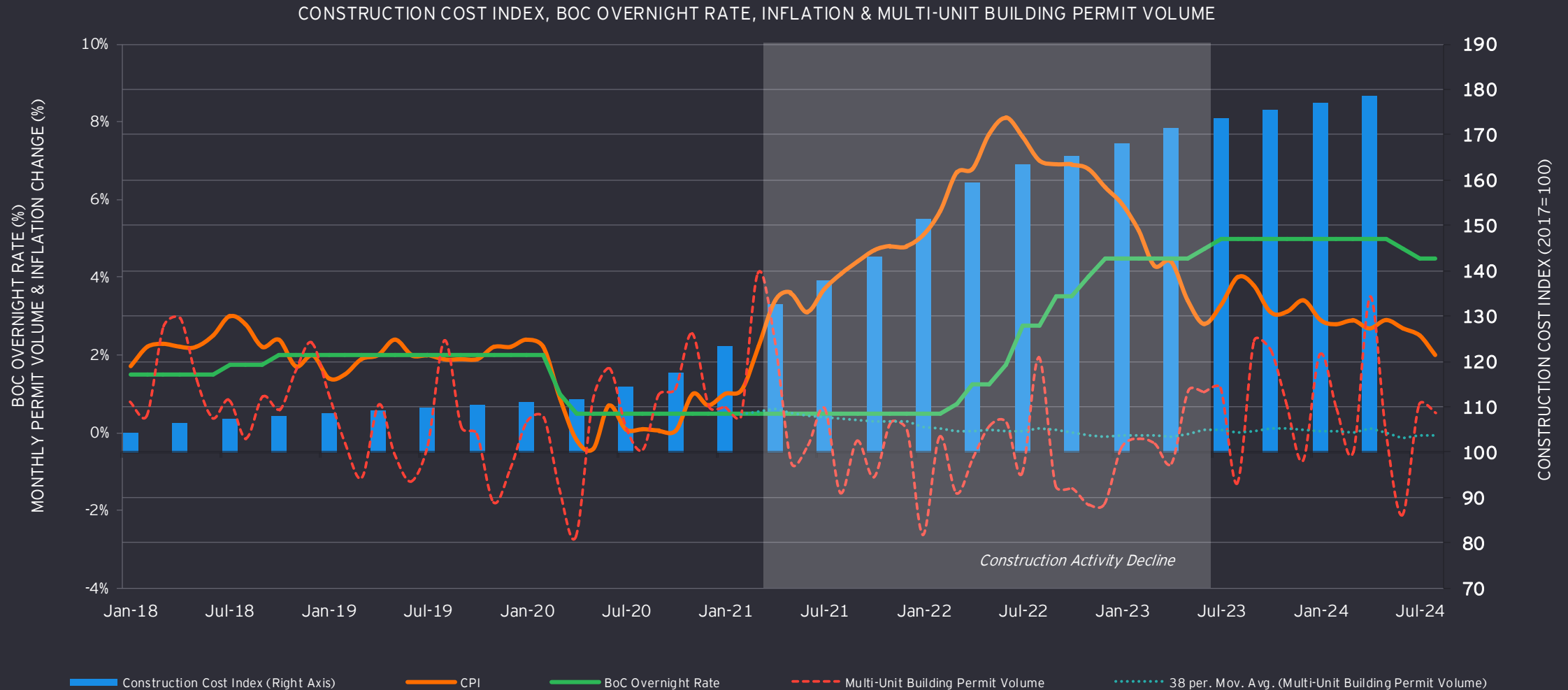


## OFFICE MARKET FUNDAMENTALS AT PLAY:

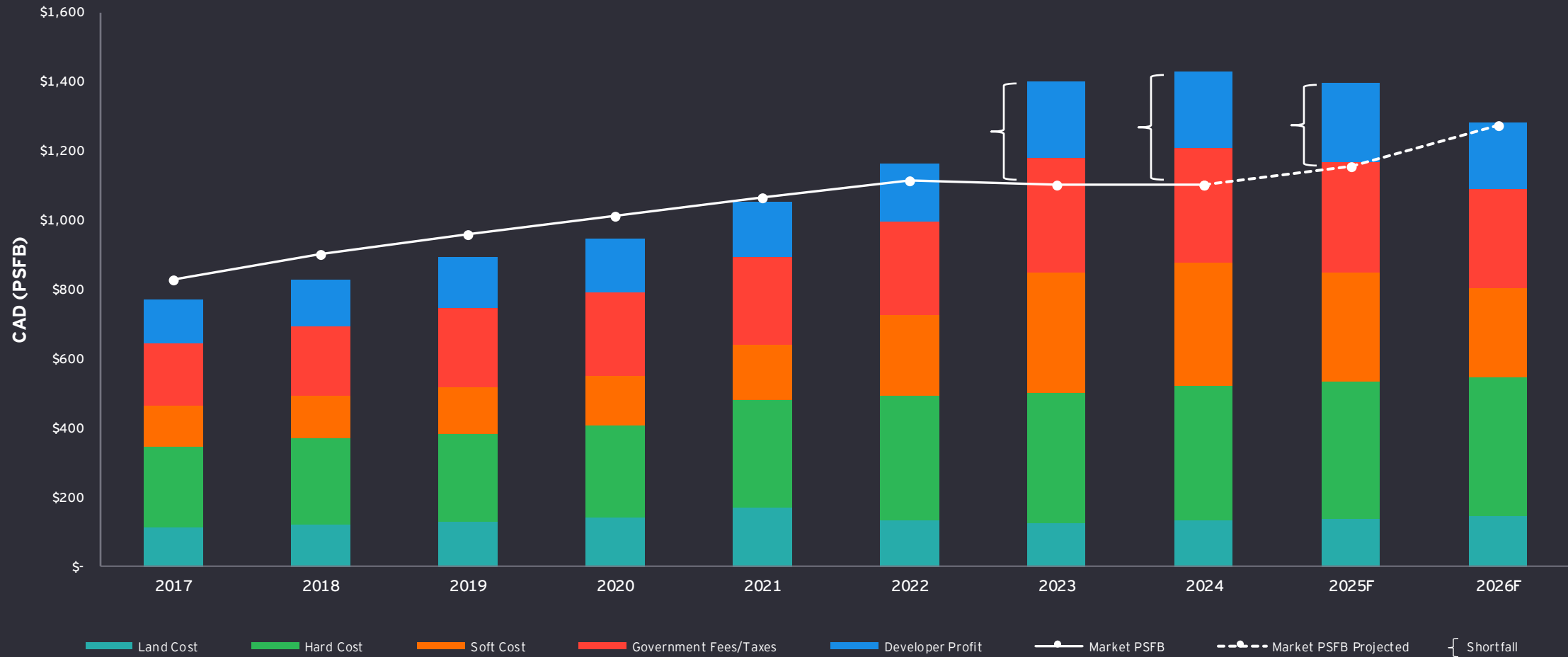
- ▶ Flight to quality
- ▶ Lower rental rate and higher vacancy
- ▶ Inflation driving up operating cost
- ▶ Decompression of cap rate lowering property value
- ▶ Lower cash flow unable to service existing higher debt
- ▶ Need for fresh capital injection upon refinancing

# A "PERFECT STORM" HITS RESIDENTIAL DEVELOPMENT

CONSTRUCTION COSTS ROSE 50% AND LENDING RATES MORE THAN DOUBLED



# CONDOMINIUM DEVELOPMENT: DIMINISHING DEVELOPMENT PROFIT PUTS DOWNWARD PRESSURE ON LAND VALUE



Source: EY Research, Urbanation, Realnet



# REAL ESTATE MARKET UPDATE - FALL 2024

## Housing crisis remains the red-hot issue

- ▶ Ongoing lack of affordability is driven by a national housing shortage, as the number of housing starts has not kept pace with the growing population
- ▶ Construction cost escalation has slowed but remains elevated, creating a “new normal” with downward pressure on land prices
- ▶ The condo market in most cities remains depressed, impacted by rising interest rates, resale prices often significantly lower than pre-construction prices; rising unsold inventories
- ▶ Pre-sale buyers, investors, developers, and lenders - takes time to reset prices and regain market confidence
- ▶ Given changes to government policy, softness in the condo pre-sale market, rising interest rates, strength in the rental market rents, and financing nuances, there has been a shift towards rental development
- ▶ Growing government initiatives to fund and incentivize additional housing development
- ▶ **Other trends:**
  - ▶ Repurposing office
  - ▶ Innovative ownership models
  - ▶ Non-real-estate corporate involvement in housing initiatives
  - ▶ Technological improvements for housing construction

## CMHC Debt Programs Grow in Popularity

- ▶ One major factor in the shift to rental projects is the increased interest in utilizing CMHC debt programs like Apartment Construction Loan Program (“ACLP”) and MLI.

### ACLP At A Glance

#### **BENEFITS:**

- ▶ All-in-one package that effectively acts as both construction and takeout financing.
- ▶ Substantially discounted debt (quotes as of May 2024 were 275 bps lower than traditional construction financing).
- ▶ Up to 100% loan-to-cost (although difficult to hit given DSCR requirements).
- ▶ Favorable payment terms with interest-only payments financed by the loan during construction, interest-only payments from occupancy to stabilization, and fully amortized payments thereafter.

#### **DRAWBACKS:**

- ▶ Uncertainty around likelihood of approval.

### ACLP Example

- ▶ When doing comparative analysis on a sample rental development in Downtown Toronto (~400 units/~250,000 SF of GFA), using ACLP generated an IRR of 12% compared to 8.5% with traditional construction financing.
- ▶ On the same cost basis, ACLP dropped the equity requirements from over \$55m to under \$25m.

# TAKING ADVANTAGE OF OPPORTUNITIES AND UNDERSTANDING RISKS IN THE REAL ESTATE MARKET TODAY

## DIRECT ACQUISITION OF ASSETS

Given interest rates, challenges facing development and certain asset classes (office/land), many investment buyers are now on the sidelines, creating less competition for good quality assets. Sellers are tending towards certainty of a transaction closing over maximizing price, further improving the buying power of well capitalized buyers. The best performing assets will continue to be apartments, industrial, necessity-based retail and certain niche assets. Opportunistic investors are looking at office. REITs/Pension funds likely sellers of RE in coming year(s).

## LOTS OF FLEXIBILITY FOR OFFICE TENANTS

The overall office leasing market is expected to experience positive absorption for the first time in several years; however, vacancy rates remain at historical highs. With exception of top-tier assets benefitting from fight to quality, tenants have a multitude of options upon lease expiry. Great opportunity to rethink space needs and accommodation strategy. Consider satellite locations, sustainability standards, and increased amenities to attract and retain employees.

## INDUSTRIAL MARKET REMAINS TIGHT

Increased industrial development activity will provide some relief, but most markets continue to experience low vacancy rates. While market rental rates have plateaued, this follows a sharp rise over the past few years. Industrial tenants with upcoming lease renewals, must be prepared for potential increases, sometimes more than double. Industrial owners can take advantage of sale-leaseback opportunities to raise capital/reduce debt.

## JOINT VENTURE STRUCTURING/INVESTMENT

Identifying a strategic joint venture partner is a great way to leverage the network and expertise that a developer or asset owner has and deploying your capital in a manner which gives you access to returns as if you were the sole owner, but doesn't require you to have all the in-house expertise of a real estate developer/owner.

## LENDING

Leverage is less readily available today. Top banks are only providing debt financing to their best clients, and many second and third-tier lenders are grappling with troubled real estate loans. Maintain key lender relationships and don't just assume that financing will be available to fund real estate decisions.



# QUEBEC TAX UPDATE



## 01 Quebec tax credits updates

- ▶ Changes to the tax credit for the development of e-business (CDAE)
- ▶ Changes to the tax credit for the production of multimedia titles (CTMM)
- ▶ Changes to the tax credit for investment and innovation (c3I)

## 02 Uncertain Tax Treatment

## 03 Mandatory Disclosure Rules

- ▶ Transfers and loans
- ▶ Crystallization and capital gains deduction
- ▶ Filing deadline for determined transactions



# CHANGES TO THE CDAE & CTMM - OVERVIEW

## Tax credit for the development of e-business (CDAE)

- ▶ Measure introduced in the 2008 provincial budget
- ▶ The tax credit was introduced to stimulate the hiring of local workers in the IT field by helping to cover a portion of their salaries
- ▶ Eligibility for the credit depends on three criteria that relate to activity, services and employees
- ▶ In 2008, the credit was fully refundable at a rate of 30% of eligible labour costs, up to 20,000\$ per employee
- ▶ As of 2024, the credit has a refundable and non-refundable portion:
  - ▶ 24% of eligible labour costs are refundable
  - ▶ 6% of eligible labour costs are non-refundable
- ▶ Currently, the eligible labour costs for an employee may not exceed \$83,333 in salary for a period of 365 days

## Tax credit for the production of multimedia titles (CTMM)

- ▶ Measure introduced in the 1996 provincial budget
- ▶ The tax credit was introduced to attract video game development companies and give them an incentive to establish in Québec
- ▶ The tax credit subsidizes a part of eligible labour costs for companies in the video game industry
- ▶ In 1996, the credit was fully refundable at a rate of up to 30%, of admissible labour costs
- ▶ As of 2024, the rates vary depending on the product:
  - ▶ 37.5% for a commercial multimedia title offered in French
  - ▶ 30% for a commercial multimedia title not offered in French
  - ▶ 26.25% for any other title
- ▶ Currently, the eligible labour costs for an employee may not exceed \$100,000 in salary for a period of 365 days

# NOTIFIABLE CHANGES TO THE CDAE & CTMM

## Harmonization of the rates for both CDAE & CTMM

Over the next 4 years, the base rates for both tax credits will be gradually harmonized until they are equivalent  
As of 2024, the refundable and non-refundable splits for CDAE & CTMM are 24%/6% and 30%/0%\*, respectively  
The objective is to bring both these credits to 10% non-refundable by 2028

*\*for commercial multimedia titles not offered in French*

## Elimination of the ceiling for eligible labour costs in favour of a floor

Along with the harmonization of the rates, RQ also plans to change a key component of both tax credits

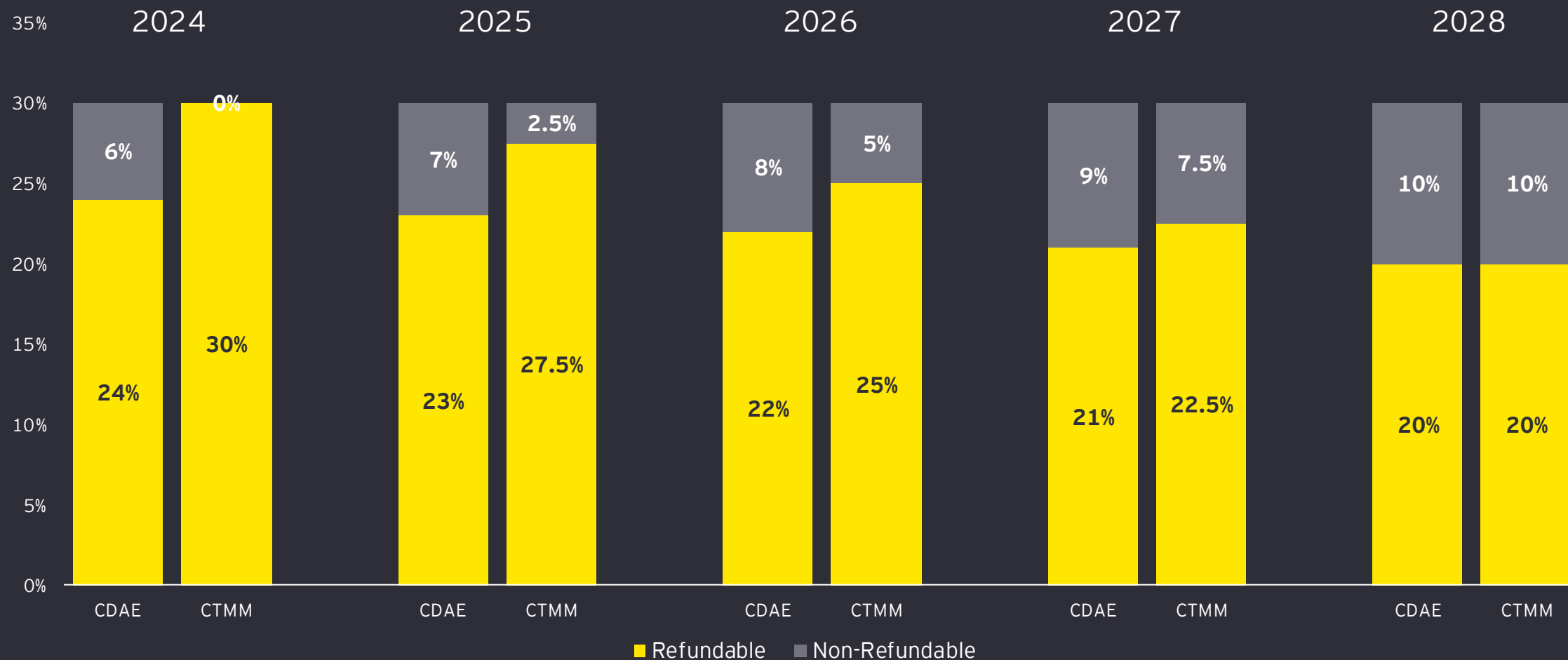
Currently, the eligible labour costs for both tax credits are capped at a maximum salary, with the CDAE having a ceiling of \$83,333 and the CTMM having a ceiling of \$100,000\*\* (\*\*exceptions apply).

For taxation years beginning after December 31, 2024, ceilings will be removed in favor of a floor corresponding to the amount used to calculate the basic personal tax credit. (2024 = \$18,056)

The aim of this change is to reward companies employing high value workers by providing a higher effective tax rate on higher salaries

# HARMONIZATION OF THE BASE TAX RATES VISUALIZED

(CTMM illustration for a commercial multimedia title not offered in French)





# AMENDMENT TO THE NOTION OF GOVERNMENT ASSISTANCE FOR C3i

## Tax credit for investment and innovation (C3i), brief recall

Measure introduced in the 2022 provincial budget

The tax credit is offered to corporations who acquire manufacturing and processing equipment, computer equipment or integrated management software packages (IMSP)

Credit is calculated on the portion of expenses to acquire an eligible asset that exceeds \$12,500 for manufacturing and processing equipment and \$5,000 for computer equipment and IMSPs

The tax rate for the C3i credit will vary accordingly to the year in which the asset was acquired as well as the territory in which the corporation will use the asset

For an asset acquired after December 31, 2023, the tax rates for the different territories are as follows:

- ▶ 25% for a territory with low economic vitality
- ▶ 20% for a territory with intermediate economic vitality
- ▶ 15% for a territory with high economic vitality

## Amending the notion of government assistance

A key component in the calculation of the C3i credit is to deduct from the acquisition cost of an asset all government assistance received to acquire it

In their latest budget, the Federal government has announced a variety of tax credits under the Clean Economy Investment Tax credits scope

These new tax credits have similar characteristics to the C3i tax credit and therefore some assets may qualify for both

Given these various new tax credits and their intersectionality with the C3i, Revenu Quebec has amended the notion of government assistance

With the amendment, any amount that is received or is receivable in respect to one of the Clean Economy Investment Tax credits would not be considered as government assistance in the computation of the C3i

# APFF PROVINCIAL ROUNDTABLE QUESTION 11 - SECTION 125.1 AND C3I

## Scenario

A corporation acquires an asset and subsequently sells to a financial institution while continuing to use the asset as part of a sale and leaseback contract.

Both the corporation and the financial institution make a joint election under section 125.1 of the Taxation Act

When this election is made, the lessee is deemed to have acquired the asset from the lessor at its FMV

Assume the asset is a specified property for purposes of the C3i tax credit and was used by the corporation for at least 730 days

## Question under consideration

If the corporation sells the asset to the financial institution less than 730 days after initially acquiring it, does RQ believe the company cannot claim the c3i tax credit for the initial acquisition of the asset because it did not hold the asset for at least 730 days, even though the asset is deemed to have been acquired again by the company subsequently?

## RQ response

A corporation is eligible to claim C3i for expenses paid to acquire an eligible asset

Additionally, the asset must be used in Québec and must keep being used in Québec for a period of 730 days after its acquisition

Therefore, RQ's position is that so long as the asset is used only in Québec, it would be eligible for C3i

The 730 days condition would be satisfied on the basis that there was no interruption in the use of the asset by the corporation to earn a business income

## APFF PROVINCIAL ROUNDTABLE QUESTION 11 - SECTION 125.1 AND C3I CONT'D

Follow up  
question 1

If Revenue Quebec answers question a) affirmatively, will it consider the property deemed acquired due to the election under section 125.1 of the LI not to be a "specified property" because it does not meet the condition outlined in the definition of "specified property" due to its use before this deemed acquisition? Or will Revenue Quebec consider the acquisition date of the property by the company as the initial acquisition date since the company took possession of the property at that time and assumed all risks of loss from that moment?

RQ response

Based on the facts, the original acquisition date would be considered



# APFF PROVINCIAL ROUNDTABLE QUESTION 13 - C3I AND CHANGES IN DEVELOPMENT

## Scenario 1

OPCO 1 is a manufacturing company

In its tax year ended December 31st, 2022, the corporation incurred expenses to develop a machine for its business but had to abandon the project due to internal restructuring.

OPCO 2 is OPCO 1's only shareholder. In 2023, OPCO 2 continued the development and completed the machine by the end of 2023 and finishes the project

Once finished, OPCO 2 uses the asset in its operations

## Question under consideration

Assuming all other conditions are met, would the expenses paid by OPCO 1 for the development be considered eligible expenses regarding C3i for the tax year ended in 2022, even if it did not acquire the asset?

## RQ response

A corporation is eligible to claim C3i for expenses paid to acquire an eligible asset

Eligible expenses are defined as the expenses paid by the corporation for the acquisition of the eligible asset

In this scenario, OPCO 1 did not complete the development project and therefore did not acquire the asset

As such, the expenses paid in their 2022 tax year are not eligible expenses for C3i purposes

## APFF PROVINCIAL ROUNDTABLE QUESTION 13 - C3I AND CHANGES IN DEVELOPMENT CONT'D

### Follow up question 1

With all the same facts as the original scenario:

Can the expenses paid by OPCO 1 be considered eligible expenses for OPCO 2 since it acquired the asset?

---

### RQ response

Eligible expenses only include those paid by the acquiring corporation, therefore those paid by OPCO 1 cannot be considered

---

### Follow up question 2

With all the same facts as the original scenario:

If on January 1st, 2023, OPCO 1 is wound-up into OPCO 2, would the expenses paid by OPCO 1 be eligible? If yes, would they be eligible for OPCO 1 or 2 (after liquidation)?

---

### RQ response

OPCO 2 would be able to claim the C3i on behalf of OPCO 1, for the expenses paid in 2022 by OPCO 1

# APFF PROVINCIAL ROUNDTABLE QUESTION 13 - C3I AND CHANGES IN DEVELOPMENT CONT'D

## Scenario 2

All facts are identical to those presented in Scenario 1 but instead OPCO 1 and OPCO 2 amalgamate to form OPCO 3 on July 1, 2023.

OPCO 3 continues the businesses of OPCO 1 and OPCO 2.

OPCO 3 incurs expenses to complete the project.

## Question under consideration

Assuming all other conditions are met, would the expenses paid by OPCO 1, 2 & 3 for the development be considered eligible expenses regarding C3i? If yes, which OPCO must make the claim?

## RQ response

OPCO 3 will have acquired the eligible asset, since OPCO 3 finished the project

Legislation does not provide for particular rules regarding the application of C3i in the event of an amalgamation

Legislation does state that the OPCO resulting from the amalgamation is the deemed to be the continued existence of the previous two OPCOs

OPCO 3 can claim C3i for the expenses incurred by OPCO 1 and OPCO 2 before the merger, and for its own expenses after the merger, assuming all other conditions are met.



## APFF PROVINCIAL ROUNDTABLE QUESTION 13 - C3I AND CHANGES IN DEVELOPMENT CONT'D

### Follow up question 1

If the development of the asset is completed by OPCO 2 before the amalgamation and OPCO 3 incurs tuning expenses after the amalgamation, would the answer to Scenario 2 be the same?

### RQ response

Similar to the original question, OPCO 1 cannot make a C3i claim since the eligible asset would have been acquired by OPCO 2. OPCO 2 will also not be able to claim OPCO 1's expenses as they did not themselves pay them.

As for OPCO 3's tuning expenses, these may qualify if they are capital in nature and added to the capital cost of the asset and all other conditions are met.

# APFF PROVINCIAL ROUNDTABLE QUESTION 15 - C3I AND THE EXCLUSION THRESHOLD

## Scenario

On December 1, 2023, Corporation X incurs \$500,000 in costs to acquire an asset  
The asset is assumed to be CCA class 53 and is specified property for purposes of the C3i tax credit  
The asset was delivered on January 15, 2024, this is the acquisition date for Corporation X  
Corporation X incurs \$25,000 to install the asset on January 30, 2024  
Corporation X has a fiscal year end on March 31, 2024  
The asset will be used in an area of intermediate economic vitality  
The costs incurred in 2023 have a C3i rate of 30% while the costs incurred in 2024 have a C3i rate of 20%

## Question under consideration

Since the corporation has a tax year that straddles 2023 and 2024, what method must be used when applying exclusion threshold?  
Should it be prorated, by choice, or another method?

## RQ response

For the purpose of the C3i, the exclusion threshold must be applied chronologically  
Therefore, because the initial cost of \$500,000 came first, the exclusion threshold will be applied to this amount  
The installation costs of \$25,000 will not be subject to the exclusion threshold

# UNCERTAIN TAX TREATMENT

## APFF PROVINCIAL ROUNDTABLE QUESTION 12

### Facts & interpretation

New sections 1079.8.15.2 to 1079.8.15.7 of the Quebec Taxation Act (« QTA ») outline the rules relating to the disclosure of an uncertain tax treatment (UTT)

These rules state that a corporation subject to tax for a tax year and that is required to file an information return for the year concerning a UTT under subsection 237.5(2) of the Income Tax Act (« ITA ») must declare this UTT to RQ using the prescribed form.

As these rules are tied to 237.5(5) of the ITA, a tax issue that is only relevant in Québec would not be covered by federal tax legislation and thus would not be included in the definition of a UTT in section 1079.8.15.2 and would therefore not be subject to the disclosure obligation in Quebec.

### Question under consideration

Could Revenu Québec confirm if this interpretation is correct?

### RQ response

The definition of a UTT as described in article 1079.8.15.2 designates a UTT as an uncertain treatment that must reported accordingly to 237.5(5) of the ITA

In accordance with the CRA's guidelines ,a UTT that must be disclosed are only those in relation to the ITA

Since section 1079.8.15.3 references UTTs subject to 237.5(5) of the ITA, RQs opinion is that any UTT related to an exclusively provincial tax issue is not subject to 1079.8.15.2

RQ will examine the opportunity to modify the wording of the current sections to possibly include provincial tax issues in the future.

A legislative amendment could eventually be proposed to the Minister of Finances of Québec



# MANDATORY DISCLOSURE RULES - TRANSFERS AND LOANS

## APFF PROVINCIAL ROUNDTABLE QUESTION 16

### Scenario

An individual, the « Seller », is the sole shareholder of ABC Inc. that is a CCPC and SBC  
During 2022, the Seller sold all of their shares of ABC Inc. for \$500,000, shares are QSBC shares  
The entire sale price of \$500,000 is subject to a vendor take-back mortgage in favor of the buyer of the shares  
The seller reports the disposition, claims a reserve and an exemption for the capital gain not covered by the reserve

### Question under consideration

Does the vendor take-back mortgage granted by the Seller to the buyer constitute a "transfer or loan" for the purposes of the mandatory disclosure rules for determined transactions, particularly for transaction 3 "Multiplication of the capital gains deduction"?

### RQ response

Legislation states that any operation that is very similar to a determined transaction would have to be disclosed  
Very similar is not clearly defined  
It is expected that simply having a balance of sale/take back mortgage would not trigger the disclosure rules so long as it is made in good faith as part of a sale contract  
In the coming weeks, RQ will publish an example of an excluded operation relating to balances of sale

# MANDATORY DISCLOSURE RULES - TRANSFERS AND LOANS CONT'D

## APFF PROVINCIAL ROUNDTABLE QUESTION 16

Follow up  
question 1

Would the answer be the same if the Seller was a discretionary family trust and the trust attributed the capital gain not covered by the reserve to a particular beneficiary who in turn claimed the capital gains exemption?

RQ response

Whether a situation falls under a specified transaction depends on the analysis of the facts of each case.

In the case of a genuine commercial transaction involving the disposition of eligible small business corporation shares by a trust, which then allocates the portion of the capital gain not covered by the reserve to a particular beneficiary, no disclosure obligation applies if one of the following conditions is met:

- ▶ The trust pays at the time of allocation, other than by a note, the amount related to the portion of the capital gain allocated to the particular beneficiary, and the latter does not make any loan or transfer as described in paragraph d) of specified transaction 3 in favor of a particular person or a person related to the particular person;
- ▶ Excluded transaction 3 applies.

Conversely, if the allocation to the beneficiary of the portion of the capital gain not covered by the reserve is made by a note and excluded transaction 3 does not apply, the beneficiary must file the information return.

# MANDATORY DISCLOSURE RULES - CRYSTALLIZATION AND CAPITAL GAINS DEDUCTION - APFF PROVINCIAL ROUNDTABLE QUESTION 17

## Scenario

Mr. A holds all of OPCO's class D non-participating, voting shares, a family trust holds OPCO's class C participating, non-voting shares

Mr. A and his family are the beneficiaries of the family trust, the class C shares are QSBC shares

On January 1st, 2024, the trustees allocate a portion of the class C shares to Mr. A, the FMV is \$1,000,000, ACB is \$10

Mr. A wishes to crystalize his capital gains deduction on his class C shares.

Mr. A exchanges his class C shares for class E shares under subsection 85(1)

The agreed amount is the FMV, resulting in a \$1M capital gain, Mr. A claims the capital gains deduction

## Question under consideration

With respect to the mandatory disclosure rules and the facts presented, is Mr. A considered to have transferred, directly or indirectly in any manner, an amount that can reasonably be considered as being, directly or indirectly, the entire proceeds of disposition to a non-arm's length person?

## RQ response

Determining whether a situation is covered by a determined transaction essentially depends on the analysis of the facts of each situation

Mr. A satisfies conditions a), b) and c) of determined transaction 3; Multiplication of the capital gains deduction

Had there been a transfer of the proceeds of disposition in respect to d), the transaction would have been determined

In the current scenario, Mr. A has not transferred the proceeds of disposition to a particular person therefore he is not subject to the disclosure obligation



# MANDATORY DISCLOSURE RULES - FILING DEADLINE FOR DETERMINED TRANSACTIONS - APFF PROVINCIAL ROUNDTABLE QUESTION 18

## Scenario

A trust sold shares of a private company on February 1, 2023.  
There are 6 related beneficiaries who share the proceeds of the sale  
There is no certainty whether the shares are QSBC shares, but good reasons to believe they are  
From March 2023 to June 2023, there were interest-bearing loans made by the beneficiaries in favor of a company controlled by one of them, exceeding the authorized thresholds  
It is now 2024, before the deadline for filing tax returns, and the beneficiaries have not yet filed their returns.  
During 2023, the conditions of paragraphs a), b), and d) of Schedule A of the Regulation I-3, r. 2 - "Regulation concerning mandatory disclosure transactions" regarding operation 3 concerning the MULTIPLICATION OF THE CAPITAL GAINS DEDUCTION, are believed to be met.  
The conditions of paragraph c) do not seem to be met because the trust allocated the capital gain only when filing its 2023 tax return, and the taxpayers have not yet deducted the eligible capital gain from their income.  
The taxes will be filed in the coming days.  
It is believed that they do not have to make a disclosure at the moment but once they have filed, all the conditions of application will be met.

## Question under consideration

Considering that condition c) is only met once the amounts have been deducted, what would be the filing delay of the mandatory disclosure?

# MANDATORY DISCLOSURE RULES - FILING DEADLINE FOR DETERMINED TRANSACTIONS CONT'D - APFF PROVINCIAL ROUNDTABLE QUESTION 18

## RQ response

The obligation to disclose determined transaction applies from the later of the following dates:

- ▶ The day the shares were disposed of
- ▶ The day of the transfer or the loan

Based on the facts of the scenario, the loan is the day that triggers mandatory disclosure rules

The beneficiaries are required to file the information return within 60 days following the day of the loan

# Thank you

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