

2025 Issue No. 2  
9 January 2025

# Tax Alert – Canada

## Impact of prorogation on outstanding income tax proposals

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.

On 6 January 2025, the current session of Parliament was prorogued, with the next session scheduled to open on 24 March 2025 with a Speech from the Throne.

This Tax Alert provides a brief summary of the impact the prorogation has on outstanding federal income tax proposals.

### What does prorogation mean?

Prorogation means that the current session of Parliament and all proceedings before it come to an end. However, prorogation does not terminate the Parliament itself. That only happens when Parliament is dissolved for an election.

### What is the impact on outstanding income tax proposals?

Subject to certain exceptions, unfinished business before Parliament, such as notices of ways and means motions (NWMM) and non-enacted bills, “die” on the Order Paper and must be reintroduced or reinstated in a subsequent session.

In the case of the 23 September 2024 NWMM on the proposed capital gains inclusion rate increase, for example, this means that the NWMM will need to be reintroduced or reinstated in the House of Commons for the tax measures contained therein to continue through the legislative process towards eventual enactment of an implementing bill.

However, prorogation doesn't affect the status of proposals. Any outstanding government proposals generally remain proposed until stated otherwise by the current government or a newly elected government (in the event the current government falls in the next session).

## **How does the Canada Revenue Agency administer outstanding proposals?**

It is a longstanding practice of the Canada Revenue Agency (CRA) to ask taxpayers to file on the basis of proposed legislation (unless the proposed legislation results in an increase in benefits). This practice is intended to ease both the compliance burden on taxpayers and the administrative burden on the CRA.

### **Capital gains inclusion rate proposals**

The CRA has confirmed its previously stated intention to administer the increase in the capital gains inclusion rate (and related changes) on the basis of the proposed legislation contained in the 23 September 2024 NWMM.<sup>1</sup>

Although taxpayers have the legal option of filing under the current law, doing so may place them at risk for penalty and interest charges in the event the measures are eventually adopted as proposed. Although a new government may be elected before the proposed changes are enacted, the new government may nonetheless proceed to enact the measures (either as proposed or as amended on a prospective basis). However, the CRA has announced that it will provide limited relief from interest and penalties to corporations and trusts impacted by the proposed changes that have a filing due date on or before 3 March 2025.

Furthermore, the CRA has indicated that if, upon resumption of Parliament, no bill is passed by the House of Commons and the government signals its intent to not proceed with the proposed changes, the CRA will support taxpayers in ensuring any corrective reassessments of impacted returns are processed.

### **Other outstanding proposals**

Consistent with previous years, taxpayers may need to take into account any other outstanding income tax legislative proposals that the CRA may be administering on a proposed basis for income tax filing purposes. In particular, income tax technical amendments are generally administered on a proposed basis. There is a high likelihood that such amendments, given their technical nature, will be passed into law by the current or any subsequent government, even if it takes several years to do so.

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<sup>1</sup> See <https://www.canada.ca/en/revenue-agency/services/forms-publications/tax-packages-years/general-income-tax-benefit-package/5000-s3.html> and <https://www.canada.ca/en/revenue-agency/services/tax/individuals/frequently-asked-questions-individuals/adjustment-personal-income-tax-benefit-amounts.html>.

## **Is there any impact for financial reporting purposes?**

As a reminder, for financial reporting purposes, companies reporting under International Financial Reporting Standards must account for the effects of changes in income tax laws and rates in the period the legislation is substantively enacted (or enacted for US generally accepted accounting principles purposes). Measures at the proposal stage only are not taken into account.

The current prorogation does not impact the status of any income tax measures for financial reporting purposes. All measures that have previously become substantively enacted and enacted remain the same before and after prorogation.

As companies may have to file on the basis of certain proposed measures that are not yet substantively enacted, there will be a misalignment between a company's tax filings and tax provision for financial reporting purposes.

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