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Ontario Budget 2008

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INTRODUCTION

Amid growing economic uncertainty, the Honourable Dwight Duncan, Ontario's Minister of Finance, tabled the 2008 Ontario Budget, "Growing a Stronger Ontario" before the Ontario Legislature on March 25, 2008. A possible U.S. recession, a Canadian dollar hovering near parity with the U.S. greenback, soaring energy and resource costs, and relentless competition from overseas have challenged Ontario manufacturers in recent months.

Against this backdrop, the centrepiece of the 2008 Ontario Budget is, unsurprisingly, a $2 billion Skills to Jobs Action Plan, which pledges $560 million to train individuals for new careers, $465 million to expand post-secondary education programs and $970 million in capital funding to build and renew centres for learning. The Budget also includes $1 billion in funding for municipal infrastructure in 2007-08.

This Client Update highlights select Budget initiatives that are of interest to employers, human resources professionals and pension plan administrators.

PERSONAL TAX MEASURES

While the Budget does not propose any change to Ontario's personal income tax rates, it includes a host of changes to Ontario tax rules to parallel initiatives announced in the 2008 Federal Budget, including:

- introduction of a new savings vehicle, the Tax-Free Savings Account, that will allow Ontarians to earn tax-free investment income on contributions of up to $5,000 annually; and
- changes to extend the maximum contribution period and lifespan of a Registered Education Savings Plan by 10 years.
  The list of federal initiatives paralleled in the 2008 Ontario Budget are described more fully in Hicks Morley's February 27, 2008 "Federal Budget 2008? Client Update.

BUSINESS TAX RELIEF

The Budget also does not change Ontario's corporate income tax rates. Instead, the Budget proposes $750 million in new business tax relief measures over four years, which are primarily targeted at Ontario's manufacturing sector. The package includes the elimination of Ontario's Capital Tax retroactive to January 1, 2007 for businesses primarily engaged in manufacturing and resource activities (instead of effective January 1, 2008, as had previously been announced). The Budget also proposes changes to capital cost allowance rates applicable to manufacturing and production equipment parallel to changes announced in the 2008 Federal Budget.

The Budget includes a proposed 10-year corporate tax exemption for qualifying Canadian corporations that derive substantially all of their income from the commercialization of intellectual property developed by qualifying Canadian universities, colleges and research institutes.

HEALTH AND WELFARE BENEFITS

The Budget earmarks $154 million over 3 years to expand early detection and treatment programs for breast, cervical and colorectal cancers. As part of this initiative, for the first time, Prostate-Specific Antigen (PSA) tests – used to diagnose and monitor treatment of prostate cancer – will be covered under the public healthcare plan. Ontario's human papillomavirus (HPV) vaccination program for grade 8 girls will also be extended. The Budget proposes to make permanent the Retail Sales Tax exemption for qualifying nicotine replacement therapies. The Budget also pledges $190 million to a Chronic Disease Prevention and Management Strategy, which will focus initially on diabetes. These measures may result in reduced costs for employer-sponsored benefit plans to the extent that those plans currently cover these treatments, and to the extent that the government's illness prevention strategy is successful in reducing overall demand for healthcare.

The 2008 Federal Budget proposed changes to expand the list of expenses eligible for the Medical Expense Tax Credit (METC) effective for 2008 and subsequent tax years, and to expressly provide that over-the-counter (OTC) drugs and medications are not eligible for the METC (i.e., only drugs and medications that require a prescription are eligible for the METC). The Ontario Budget proposes changes to Ontario tax rules to mirror the METC initiatives announced in the 2008 Federal Budget.

The change to provide that drugs and other medications that are available OTC do not qualify for a medical expense tax credit may also have implications for insured and ASO benefit plans and health care spending accounts which now cover such expenditures. CRA takes the position that reimbursement for such expenses could jeopardize the preferred tax status of the benefit plan, whereas others take the view that there is no legal requirement that benefit plans only reimburse expenditures that would qualify for the METC unless the benefit plan specifically stipulates this as a requirement. There is expected to be further commentary on this issue in the next short while, which we will report on in a further Client Update.

MINIMUM WAGE INCREASE

The Budget confirms the government's plan to raise minimum-wage rates by 75 cents to $8.75 on March 31, 2008, to $9.50 on March 31, 2009, and to $10.25 on March 31, 2010.

LOCKED-IN ACCOUNTS

The 2007 Ontario Budget announced reforms of locked-in accounts used for retirement savings earned under a registered pension plan, including the introduction of a new, more flexible Life Income Fund ("LIF") and the removal of the old LIF and the Locked-in Retirement Income Fund ("LRIF") as retirement savings vehicles for transfers after January 1, 2009.

Under the new Ontario LIF, which became available on January 1, 2008, a LIF owner is no longer required to purchase an annuity at age 80 and can withdraw any remaining balance upon reaching age 90. The new Ontario LIF allows a one-time opportunity for the owner to unlock up to 25% of the funds in the LIF, as long as the individual has attained early retirement age under the pension plan from which the LIF funds originated. The new Ontario LIF also has a more flexible payment schedule which features the opportunity to withdraw additional income based on investment income returns in the previous year.

The 2008 Ontario Budget proposes to extend the enhanced annual withdrawal and 25% unlocking features of the new Ontario LIF to LIFs and LRIFs that were established before the end of 2008.

PENSION FIX FOR DIVESTED MINISTRY OF REVENUE EMPLOYEES

Bill 44, a Budget implementation bill, includes a measure to facilitate pension portability for employees of the Ontario Ministry of Revenue who will transfer to the CRA in connection with CRA taking over responsibility for administering certain Ontario corporate tax statutes beginning in April 2008.

If passed, this would override certain provisions of the *Pension Benefits Act* (Ontario) that would otherwise hinder a transfer

of pension assets and liabilities from the relevant Ontario public service pension plan to the federal plan in respect of the transferred Ministry of Revenue employees, and potentially require the transferred employee to maintain two separate pension entitlements.

This proposal is modeled after a 2007 Ontario Budget measure dealing with police personnel who transfer from a municipal police force to the Ontario Provincial Police or vice versa and is limited in scope.

FOCUS ON FINANCIAL SERVICES

The Budget pledges $4 million to create a Centre of Excellence for Education in Financial Services. The financial services industry employs more than 200,000 people in the Greater Toronto Area. In addition to funding, the Budget also announces measures to modernize the regulation of Ontario's financial sector in specific areas, as follows:

completion of new, more streamlined regulations to govern credit unions and caisses populaires;
introduction of new investment rules for mutual insurance companies and other Ontario insurers to implement a modern "prudent portfolio" approach, which would allow greater flexibility in the types of permissible investments these companies can make;
further harmonization of regulations governing securities dealers and advisers, and investment fund managers; and
appointment of a committee to conduct the next review of Ontario's Securities Act.

RED TAPE REDUCTION

The Budget proposes to reduce the regulatory burden associated with doing business in Ontario by introducing a "cap-and-trade" system for government regulations. Under such a system, whenever new regulations are enacted others must be eliminated. The Budget also proposes that the rules in various Ontario tax statutes regarding tax administration will be harmonized and combined into a single act, the *Taxes Administration Act*. Work on this proposal is expected to be complete in late 2009.

QUESTIONS?

If you have any questions arising out of this Client Update, please contact one of the members of our Pension & Benefits Group, or your regular Hicks Morley lawyer:

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