FTR Now

Federal Budget 2014

Date: February 13, 2014

On February 11, 2014, the Minister of Finance, the Honourable James Flaherty, tabled the 2014 Federal Budget "The Road to Balance: Creating Jobs and Opportunities" (Economic Action Plan 2014). This *FTR Now* focuses on some of the key proposals that are of particular interest to employers, human resources professionals and pension plan administrators.

TAX INITIATIVES FOR EMPLOYERS

PENSION TRANSFER LIMITS

The lump sum commuted value that can be transferred tax-free from a defined benefit Registered Pension Plan ("RPP") to another registered retirement vehicle is subject to certain *Income Tax Act* (Canada) ("ITA") limits.

One consequence of these rules is that where lump sum commuted value payments are reduced on account of RPP funding deficits, the amount that can be transferred tax-free will generally be based on the value of that reduced lump sum payment. Payments that exceed the tax-free transfer amount will be included in income and subject to tax. Changes were introduced in 2011 for situations where an underfunded plan was being wound up due to an employer's insolvency, whereby the tax-free transfer amount would be determined as though the RPP were fully funded.

The Budget proposes to extend these transfer limit changes to lump sum transfer payments made after 2012, where commutation payments have been reduced as a result of plan underfunding and one of the following scenarios is met:

- for an RPP other than an individual pension plan, the reduction in the estimated pension benefit that results in the reduced commutation payment is approved pursuant to applicable pension standards legislation; or
- for an individual pension plan, the commutation payment to the individual is the last payment made from the plan

As is currently the case, the application of these rules will require the approval of the Minister of National Revenue.

U.S. FOREIGN ACCOUNT TAX COMPLIANCE ACT

The Budget reiterates the intergovernmental agreement reached between Canada and the United States on February 5, 2014 with respect to the U.S. *Foreign Account Tax Compliance Act* ("FATCA") and the exchange of tax information between the two countries.

The U.S. enacted FATCA to deter the use of offshore accounts to evade the payment of U.S. tax. FATCA, which is scheduled to take effect July 1, 2014, would require foreign financial institutions ("FFIs") that hold assets related to U.S. taxpayers to share certain information with the U.S. Internal Revenue Service ("IRS"). FFIs that fail to share U.S. accountholder information with the IRS will be subject to a U.S. source income withholding tax of 30%. FFIs that share information with the IRS will be required to withhold 30% from payments to those of its accountholders who fail to provide documentation with respect to U.S. citizenship or residency, or close their accounts.

FATCA had raised a number of compliance concerns for Canadian sponsors and administrators of pension and other retirement and savings plans that cover U.S. taxpayers. In particular, sponsors and administrators of these plans have expressed concern about disclosures that might be required by financial institutions for purposes of ensuring compliance with FATCA, and to avoid the 30% withholding tax.

On February 5, 2014, the Canadian and U.S. governments signed an intergovernmental agreement ("IGA") that, if ratified, will (among other things) exempt a number of accounts from FATCA reporting, including RPPs, registered retirement savings plans, deferred profit sharing plans, pooled registered pension plans, registered retirement income funds and tax free savings accounts. As a result, sponsors and administrators of such plans will be relieved from FATCA disclosure obligations in respect of those arrangements. To be ratified, the IGA must be incorporated into federal legislation and approved by Parliament.

GST/HST EXEMPTIONS AFFECTING BENEFITS PLANS

The Budget proposes to exempt acupuncturists' and naturopathic doctors' professional services from GST/HST, as well as fees to design an individualized therapy plan to cope with a disorder or disability. The Budget proposes to make electronic eyewear that enhances the sight of visually impaired individuals GST/HST-free where ordered by a physician or other specified health professional. To the extent such devices and services are covered by an employer's health benefits plan, the plan will no longer have to bear the cost of associated GST/HST.

MEDICAL EXPENSE TAX CREDIT

The expenses eligible for the Medical Expense Tax Credit are to be expanded to include certain disability-related expenses, including expenses for certain individualized therapy plans and costs associated with service animals specially trained to assist individuals with severe disabilities.

The proposed changes will mean that these additional qualifying expenses can be recognized under a private health services plan without jeopardizing the tax-preferred status of the plan.

AMATEUR ATHLETE TRUSTS/RRSP CONTRIBUTIONS

The Budget proposes to treat contributions made to a qualified amateur athlete trust (“Athlete Trust”) after 2013 as earned income for the purposes of determining the athlete beneficiary’s RRSP contribution limit. Elections can also be made to have Athlete Trust contributions made in 2011, 2012, and 2013 qualify as “earned income,” and the amateur athlete’s RRSP contribution limit will be re-determined accordingly. Elections must be made on or before March 2, 2015.

SEARCH AND RESCUE VOLUNTEERS TAX CREDIT

The Budget proposes to introduce a Search and Rescue Volunteers Tax Credit (“SRVTC”) for search and rescue volunteers who perform at least 200 hours of volunteer search and rescue service during the year. The SRVTC allows eligible search and rescue volunteers to claim a 15% non-refundable tax credit based on an amount of $3,000. Volunteer hours will be excluded from the 200 hours requirement if the individual provides search and rescue services, otherwise than as a volunteer, to the same organization. Individuals who perform at least 200 hours of combined eligible search and rescue services and volunteer firefighting services in a given year will be able to choose between the existing Volunteer Firefighters Tax Credit and the new SRVTC.

Eligible search and rescue volunteers who currently receive honoraria in respect of their duties as emergency service volunteers will also be able to choose between the new SRVTC and the existing tax exemption of up to $1,000 for honoraria, unless the honoraria is paid by a government, municipality or public authority. Honoraria paid by a government, municipality or public authority will be subject to Canada Revenue Agency reporting obligations, respecting paid remuneration.

The team president or another individual in a similar role within an organization that provides search and rescue services will need to be prepared to certify the hours of eligible search and rescue volunteers.

This measure is to apply to 2014 and subsequent taxation years.

MISCELLANEOUS PROPOSALS

In addition to the initiatives summarized above, the Budget also addresses a number of other matters that may impact employers.

TRAINING AND EMPLOYMENT INITIATIVES

The government announced several initiatives to address unemployment amongst certain targeted groups, including older workers and persons with disabilities. These initiatives will include funding to a variety of support programs, including the “Ready, Willing & Able” initiative of the Canadian Association for Community Living and the Canadian Employers Disability Forum (“Canadian Business SenseAbility”).

The Budget also proposes changes to the Canada Job Grant program, and would introduce several measures to assist with apprenticeships, including the Canada Apprentice Loan (an interest-free loan for qualified registered apprentices) and a new pilot project – Flexibility and Innovation in Apprenticeship Technical Training.

TEMPORARY FOREIGN WORKERS

The government proposes to reform the Temporary Foreign Worker Program. Among other things, the proposed reforms are aimed at strengthening the Labour Market Opinion process and limiting the use of the program in high-unemployment areas.

EMPLOYMENT INSURANCE

The Budget would enhance access to sickness benefits for those claimants in receipt of “Parents of Critically Ill Children and Compassionate Care” benefits. Claimants receiving these benefits will be able to temporarily suspend their claims in order to access sickness benefits should they fall ill while they are away from work to care for a critically ill or injured child or gravely ill family member at significant risk of death.

In addition the Budget provided that EI premium rates will remain frozen at the 2013 level through 2016, and that a new EI premium rate setting process is to be implemented in 2017.

SUPPORT FOR SMALL BUSINESSES

For small business owners, the Budget proposes to reduce the frequency of some employers’ remittances on account of source deductions by making the following changes. The threshold level of average monthly withholdings at which employers are required to remit up to two times per month will be increased from $15,000 to $25,000 and the threshold level of average monthly withholdings at which employers are required to remit up to four times per month will be increased from $50,000 to $100,000. These changes will apply in respect of amounts withheld after December 31, 2014.

FEDERAL PUBLIC SERVICE

The Budget announced several initiatives related to the federal public service, including:

- a stated intention to implement a modernized disability and sick leave management system (including a formal short-term disability plan);

- amendments to both the *Public Service Employment Act* and the *Public Service Employment Regulations* to enhance employment opportunities for veterans in the federal public service;
- the transitioning in of changes to benefits available to federal public services employees and retirees, including equal cost-sharing for retirees who participate in the Public Service Health Care Plan ("PSHCP"), and increasing the number of years of service required to be eligible for the PSHCP in retirement from two to six years; and
- Crown corporations will be expected to implement certain pension plan changes for greater alignment with the pensions available to other federal employees, including changes to move to equal cost sharing between employees and employers (required by 2017), an age 65 retirement age for new hires, and raising the age at which certain benefits will become available.

FIRST NATIONS EDUCATION

The Budget also announced that there will be reform of on-reserve education systems from kindergarten to grade 12 and that the government will introduce the *First Nations Control of First Nations Education Act*.

CONCLUSION

We will continue to monitor the Budget initiatives and keep you informed of program details as they emerge and the introduction of implementation legislation.

Should you have any questions about the Budget and how it might impact your organization, please contact your regular Hicks Morley lawyer.
