

Ministry of Finance

October 2006

Budget Measures Act, 2006 (No.2) - Bill 151 - *Corporations Tax Act***6016****About this Notice**

This notice provides information on amendments to the *Corporations Tax Act* (CTA) included in the Budget Measures Act, 2006 (No.2) - Bill 151, introduced October 18, 2006. This bill includes proposed amendments to the CTA to implement measures announced in the 2006 Ontario Budget, as well as other technical amendments.

The proposed amendments must be passed by the legislature and receive royal assent to become law.

Manufacturing and Processing Credit

It is proposed that subclause 43 (2) (b) (ii) of the CTA be amended to update references to the *Income Tax Act* (Canada). The references to **Canadian investment income** and **foreign investment income** are replaced with a reference to **aggregate investment income**, as defined in subsection 129 (4) of the *Income Tax Act* (Canada).

Ontario Interactive Digital Media Tax Credit

Section 43.11 of the CTA currently provides for an Ontario interactive digital media tax credit to certain qualifying small corporations in respect of eligible labour and marketing expenditures. The proposed amendments to that section would:

- (a) increase the tax credit rate from 20 per cent to 30 per cent for qualifying small corporations with respect to eligible expenditures incurred after March 23, 2006 and before January 1, 2010;
- (b) extend the tax credit at the 20 per cent rate to corporations that exceed the current size restrictions, applicable to eligible expenditures incurred after March 23, 2006 and before January 1, 2010;
- (c) extend the tax credit at the 20 per cent rate to corporations that develop certain eligible products pursuant to contractual arrangements with a third party, applicable to eligible labour expenditures incurred after March 23, 2006 and before January 1, 2010; and
- (d) clarify the extent to which the tax credit may be claimed by a corporation in respect of expenditures incurred by a qualifying predecessor corporation.

Agricultural Cooperative Corporations

The re-enactment of section 50 of the CTA proposes to provide that new section 135.1 of the *Income Tax Act* (Canada) applies for the purposes of the CTA after 2005. A corporation that is an eligible member of an agricultural cooperative corporation may defer the inclusion in income of all or a portion of a payment made by the agricultural cooperative corporation in the form of a tax deferred cooperative share, pursuant to an allocation in proportion to patronage. This deferral lasts until the disposition (or deemed disposition) of the share.

Tax Shelter Provisions

The proposed amendment to section 56.1 of the CTA would ensure that a corporation is unable to make a deduction in respect of a tax shelter investment if any person is liable to a penalty under subsection 237.1 (7.4) of the *Income Tax Act* (Canada) in respect of the tax shelter.

Exclusion of Capital Gain on Certain Donations from the Corporate Minimum Tax

The proposed amendment to section 57.4 of the CTA would ensure that a capital gain arising on the donation after May 1, 2006 of certain publicly traded securities to qualifying charities or on the donation after that day of ecologically sensitive land under the Ecological Gifts Program will not be subject to Corporate Minimum Tax

Loss Carry-Back Request Provisions

It is proposed that subclause 80 (11) (b) (i) of the CTA be amended to allow a reassessment to be made within three years after the end of the normal reassessment period for a taxation year if the reassessment is required because the corporation has filed a loss carry-back request before the applicable filing deadline, or would be required if the request had been filed before the deadline. A consequential amendment is made to clause 80 (15) (a) of the CTA.

It is proposed that subsection 80 (16) of the CTA be amended to allow for the reassessment of all relevant taxation years (other than taxation years preceding the taxation year to which the loss is to be applied) if a corporation has filed a loss carry-back request. Amendments to subsection 80 (16) of the CTA also permit a loss carry-back request to be made in respect of listed personal property losses.

The proposed enactment of subsection 80 (16.1) of the CTA would allow a corporation to file a written request to amend a return if the corporation's foreign accrual property income for a taxation year has been reduced by a deductible loss of a foreign affiliate that arose in a subsequent taxation year.

Extension of Reassessment Period to Deny a Deduction for Illegal Payments

The proposed enactment of subsection 80 (25.2) of the CTA authorizes the Minister of Finance to reassess a corporation after the expiry of the normal reassessment period in order to deny a deduction in respect of certain illegal payments. Consequential amendments are made to subsections 84 (1.0.1) and 85 (1.1) to refer to reassessments under subsection 80 (25.2).

Extension of Time to Commence an Appeal

A proposed amendment to the CTA clarifies that the minister may extend the time to commence an appeal under the CTA if an application for the extension is made before the expiry of the time limit for instituting the appeal (90 days).

For More Information

Please contact the Ministry Information Centre between 8:15 a.m. and 5 p.m.

- English: 1 800-263-7965 (Canada & U.S.)
- French: 1 800-668-5821 (Canada & U.S.)
- TTY (Teletypewriter): 1 800-263-7776

Website at www.trd.fin.gov.on.ca