

Single Administration of Ontario Corporate Tax



October 6, 2006

“Businesses throughout Ontario will benefit from one tax return, one set of rules and one point of contact as a result of a corporate income tax collection agreement signed today by Canada’s New Government and the Government of Ontario.”

- *Joint Canada / Ontario Press Release*

Memorandum of Agreement Concerning Single Administration of Ontario Corporate Tax

Describes the major elements of a single corporate tax administration:

- Scope
- Timeline
- Tax policy and administration elements
- Funding commitments
- National initiative relating to provincial income allocation and inter-provincial tax avoidance
- Transition commitments and necessary agreements

A copy of the MOA is available at:

http://www.fin.gc.ca/toce/2006/txmoa_e.html

Scope: Canada Revenue Agency (CRA)

Administration of Ontario Corporate Taxes

CRA:

- Corporate Income Tax
- Corporate Minimum Tax
- Capital Tax
- Ontario Special Additional Tax (OSAT)

Hybrid:

- Electricity Act taxes (processing by CRA, Audit by Ontario Ministry of Revenue (OMoR))

Under Negotiation:

- Corporate Registry Annual Information Return

OMoR retaining for now:

- Mining Act taxes
- Insurance Premiums taxes

Funding Elements

- Canada agrees to pay transition costs and virtually all of the on-going costs of administering Ontario's corporation income tax under a TCA
- \$400M to assist the province in ensuring a smooth transition to a single corporate tax administration
- Ontario will be subject to administrative fees according to the TCA formula for the administration of certain provincial tax credits
- CRA will administer non-TCA taxes on a cost-recovery basis, e.g. Capital Tax

Ontario Legislation

The *Strengthening Business through a Simpler Tax System Act, 2007* (Bill 174) implements the *Taxation Act, 2007* effective for taxation years ending after 2008

The *Taxation Act, 2007*:

- Provides for federal administration of Ontario corporate taxes; and
- Consolidates into a single statute Ontario's personal income tax and the corporate taxes that will be administered by the CRA

Corporate Tax Provisions in the *Taxation Act, 2007*

- Provides for CRA administration of Ontario's income tax, capital tax, minimum tax and OSAT
- Adopts the federal definition of taxable income and federal administration provisions (including payments, collections and appeals)
 - Most of the existing Ontario differences from federal taxable income are not being replaced, resulting in a \$90 million annual Ontario corporate income tax cut

Ontario Legislation cont'd

- Continues the resource allowance through a tax credit/debit mechanism
 - The *2006 Economic Outlook and Fiscal Review* also proposed a new R&D tax credit to replace the current additional deduction for R&D. This tax credit is not in Bill 174
- Maintains the current 14% general tax rate, M&P credit, small business deduction, surtax and refundable tax credits
- Includes the tax credit/debit mechanism for transitioning to federal tax pools
- Harmonizes with the federal LCT base for non-financial institutions

Inter-Provincial Anti-Avoidance

- Concerns tax planning that, while having a legal basis, often goes beyond the policy intent of the law and involves a deliberate approach to avoid the payment of provincial tax
- A Federal-Provincial Sub-committee of the Federal-Provincial Committee on Taxation has been charged with studying problems relating to corporate activities designed to reduce overall provincial corporate income tax rates

Inter-Provincial Anti-Avoidance

cont'd

- OMoR recently initiated an anti-avoidance program that may continue during transition to CRA administration
- CRA is designing an initiative to complement its normal review of transactions that affect provincial income taxes
 - *Increased efforts in early identification and improved targeting of avoidance transactions and schemes*

Transition Commitments

CRA and Ontario to negotiate:

- **Transition Agreements**

- *Timetable*
- *Administrative transition strategies*

- **Human Resources Agreement**

- **Service Management Framework Agreement**

- *Management and accountability framework for new relationship*

- **Memoranda of Understanding for the administration of other taxes**

- *Definite: Capital Tax, Special Additional Tax on Life Insurers*
- *Possible: Corporate Registry Annual Information Return*
- *Hybrid: Electricity Act taxes*
- *Ontario retaining for now: Mining Tax, Insurance Premiums Tax*

Transition Strategies: Early Compliance Gains

- **The business community has made it clear during consultations that they do not want to wait for implementation of a single return to start realizing compliance cost savings**
- **CRA and OMoR are looking at activities that would achieve early integration of federal and Ontario tax administration prior to a single tax return**
- **The legal framework is already in place:**
 - *MOA provides for early integration of audit and related functions*
 - *Ontario Budget Measures Act 2006 enables the province to delegate corporate tax administration functions to the CRA*

Early Compliance Gains

Early integration opportunities could include:

- Single point of contact for Ontario and federal corporate tax enquiries
- Increased collaboration on audits
- Ontario adopting some CRA administrative practices for conducting audits
- Following the completion of negotiations of the Transition Agreement and the Human Resources Agreement, the early transfer of the OMoR audit function to the CRA, i.e. the CRA would conduct T23 audits, integrated with T2 audits, on behalf of OMoR
- Early transfer of functions related to integrated audits, e.g.
 - *Objections and appeals*
 - *Tax rulings*

What happens next?

- **Now:** CRA and OMoR transition planning for 2009 harmonized return; planning for transfer of other corporate tax administration functions; enacting legislation
- **Early to mid-2007:** Enhanced collaboration on audit and supporting functions
- **End of 2007:** All policy and administrative details are finalized, including any necessary legislative amendments and the signing of appropriate agreements
- **February 2008:** Commencement of instalment payments to the CRA for taxation years ending after December 31, 2008
- **2009:** Harmonized tax return