

Capital Gains & HST Update

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Agenda - Income Tax

- Tax on Capital Gains (“**CG**”)
 - Pre & Post Budget Change
 - Impact Based on Ownership
- Dispositions Subject to CG
 - Actual Dispositions (sales, crystallization)
 - Deemed Dispositions (death, emigration, change in use)
- Joint Committee Proposal
- Q&A

Scope

INCLUDES

Investment property

Budget 2024 proposal to increase CG inclusion rate

High level overview of income tax considerations

Canadian owners

Income tax considerations

Nova Scotia rates at the top marginal rates (54% personal tax on ordinary income, 48.28% personal tax on non-eligible dividends, 52.67% corporate tax on passive income)

DOES NOT INCLUDE

Personal use property, other capital property

Other proposed changes in Budget 2024

Specific tax advice – consult your tax advisor(s)

Non-resident owners

GST/HST (covered by Melinda), deed transfer tax, non-resident taxes, probate, life insurance

Scenarios based on different provincial residency

Capital Gains - Defined

- Holding property on account of income or capital
- CG applies to dispositions (or deemed dispositions) of capital property
- $CG = \text{proceeds} - \text{adjusted cost base} - \text{selling costs}$ (i.e. commissions, legal fees)
- $\text{Taxable CG} = \text{capital gain} \times \text{inclusion rate}$

Proceeds of Disposition	1,500,000
Adjusted Cost Base	425,000
Sellings Costs	75,000
Capital Gain	<hr/> 1,000,000
Inclusion Rate	%
Taxable Capital Gain	CG x %

Ownership Structures

- Co-Ownership
- Partnership
- Corporation
- Trust

Tax on Capital Gains – Pre June 25, 2024

- Only a portion of CG are taxable (i.e. inclusion rate)
- Passive income in corporations in NS subject to 22% permanent tax + 30.67% refundable tax. Refundable tax recoverable at 38 1/3% of taxable dividends paid
- Consider AMT when accelerating capital gains pre-budget

	Individual	Trust	Corporation
Capital gain (CG)	1,000,000	1,000,000	1,000,000
CG %	50%	50%	50%
Taxable CG	500,000	500,000	500,000
Corporate Tax %			22.00%
Corporate Tax (Permanent)			(110,000)
After Corporate Tax Proceeds			890,000
Capital Dividend (Non-taxable portion of gain)			500,000
Taxable Dividend			390,000
Personal Tax %	54%	54%	48.28%
Personal Tax	(270,000)	(270,000)	(188,292)
After Tax Proceeds	\$ 730,000	\$ 730,000	\$ 701,708
Effective tax rate on CG	27%	27%	30%

Tax on Capital Gains – On or After June 25, 2024

- Effective June 25, 2024
- Inclusion rate **increases** to 2/3 for:
 - Individual CG > \$250K (annually)
 - Trusts
 - Corporations
- Additions to CDA **decreases** to 1/3
- Additions to RDTOH **increases** where higher taxable capital gain
- Where CG rate > AMT rate, AMT less of an issue

	Individual	Joint	Trust	Corporation
Total CG	1,000,000	1,000,000	1,000,000	1,000,000
Threshold CG	250,000	500,000	-	-
Lower CG %	50%	50%	-	-
Remaining CG	750,000	500,000	1,000,000	1,000,000
CG %	66.67%	66.67%	66.67%	66.67%
Total TCG	625,000	583,333	666,667	666,667
Corporate Tax %				22.00%
Corporate Tax (Permanent)				(146,667)
After Corporate Tax Proceeds				853,333
Capital Dividend				333,333
Taxable Dividend				520,000
Personal Tax %	54%	54%	54%	48.28%
Personal Tax	(337,500)	(315,000)	(360,000)	(251,056)
After Tax Proceeds	\$ 662,500	\$ 685,000	\$ 640,000	\$ 602,277
Effective tax rate on CG	34%	32%	36%	40%

Tax on Capital Gains – Comparison

	Individual	Joint	Trust	Corporation
Pre-Budget	27%	27%	27%	30%
Post-Budget	34%	32%	36%	40%
Additional Tax (%)	7%	5%	9%	10%
Change on \$1M CG	\$ 67,500	\$ 45,000	\$ 90,000	\$ 99,431

Dispositions Subject to Capital Gains

- Sale of capital property (actual or crystallized)
- Deemed dispositions:
 - On death (owned personally)
 - No changes to \$250K threshold in year of death
 - On death (owned by AET/JPT)
 - Deemed disposition taxed in the trust at top marginal rate
 - No \$250K threshold available
 - Property can be transferred in or rolled out on a tax-deferred basis
 - On emigration
 - Excludes real or immovable property situated in Canada

Dispositions Subject to Capital Gains

➤ Change In Use

1. Personal use to income-producing
2. Income-producing to personal use
3. Exemptions & elections available to defer tax in certain circumstances
4. Capital to income (i.e. apartment building converted to condos)

Joint Committee Proposals (Excerpt)

1. Taxpayers permitted to file an election to deem to have realized CGs before June 25 including a payment of tax liability over a period of time
2. Move effective date to January 1, 2025
3. Grandfathering for binding agreements to sell capital property entered into prior to Budget Day
4. Inclusion rate relating to a pre-June 25 disposition should be subject to the pre-June 25 50% inclusion rate (i.e. capital gains reserves)
5. CG recognized by a trust or a partnership prior to June 25 to retain status as a CG from a pre-June 25 disposition when allocated to beneficiaries or members (which otherwise occurs at the end of the year)
6. Add \$250K threshold to GREs, QDTs, AETs and JPTs
7. Allow carryforward and indexation of \$250K annual threshold

Other Investment Property Income Tax Considerations

- Tenant inducements
 - Capital additions (added to UCC of building)
 - Deductible over term of lease
 - Deductible as incurred (certain conditions must be met)
- Lease commissions
 - CRA position to treat in same manner as tenant inducements
 - Generally fully deductible
- Current versus capital expenditures
 - enduring benefit
 - maintenance or betterment
 - integral part of separate asset
 - relative value

Specific Income Tax Questions:

1. **If a residential apartment building is converting to be sold as condominiums, does a change in use qualify to trigger the gain at the lower rates prior to June 25, 2024?**
2. **How will the capital gains tax specifically impact sole proprietors upon the sale of a property?**
3. **What are the implications of selling rental investment property post-June 2024? Any considerations for estate planning regarding these types of assets for optimizing tax savings?**
4. **Is it better to own as an individual or through a corporation?**



HST Update: Rebate for purpose-built housing

- ❖ Background / refresher on the self-assessment process
- ❖ Rebate eligibility for purpose-built housing (PBH)
- ❖ What does “begin construction” mean
- ❖ How do I apply for the rebate?
- ❖ Q&A



Self-assessment process

Three 'Rs'

- **Recover** – HST is 'generally' recoverable on land and building costs via ITCs
- **Remit** – HST must be remitted on the 'fair market value' of the building and land
- **Rebate** a portion of the HST remitted in step 2 above may be recoverable. Purpose built housing = 100% recovery

Rebate eligibility – What we already know

- Applies to newly constructed apartment buildings, additions, student housing, seniors' residents and conversions from commercial to residential.
- It will not apply to substantial renovations of current residential buildings
- The build must be at least 4 residential units, each having a private kitchen, bath and living space or 10 private rooms or suites.
- 90% of the units are for long-term residential purposes
- Construction began after September 13, 2023, but before 2031, and must be substantially completed before 2036.
- Does not apply to single houses, duplexes, triplexes etc.



Rebate eligibility – What's new?

- ✓ **Clarification:** what “**begin construction**” means

“Generally, the CRA interprets construction to begin at the time the excavation work relating to the residential complex begins.”

Rebate eligibility – What's new?

Conversions:

The construction or alteration must begin after September 13, 2023, but before 2031, and be substantially completed before 2036 provided, on September 13, 2023, the property that is converted was:

1. In existence,
2. not in the process of being constructed, and
3. not being used as a residential complex.

Rebate eligibility – What's new?

Additions:

The construction of the addition begins after September 13, 2023, but before 2031, and is substantially completed before 2036 where:

- The addition includes 4 or more residential units and at least 4 of those units each contains private kitchen facilities, bath living area or at least 10 residential units; and
- 90% or more of the residential units of the addition are for residential rentals.



How do you apply for the rebate?

- Applications opened May 13, 2024 (online only)
- Option to also file the Provincial portion of the rebate
- Updates coming



Specific HST Questions:

1. **What's happening at CRA? Are they willing to compromise on value at audit vs. appeal?**
2. **Are there benefits in the changes for purchases of commercial to convert to residential? Or what do you need to watch for?**
3. **Will the new HST rebate be applicable to small scale developers adding secondary suites? And/or adding new rentable space in an existing building (ie finishing attics/basements and adding structure under HRMs new relaxed density changes)?**
4. **How does the removal of HST on new construction affect construction costs/rebates, and do developers still need to self assess?**

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