
Goldfarb, Shulman, Patel & Co. LLP

CHARTERED ACCOUNTANTS
A member of: URBACH HACKER YOUNG INTERNATIONAL

Telephone (905) 326-6800

Ontario Budget – May 18, 2004

On May 18, 2004, Ontario Finance Minister Greg Sorbara delivered the 2004 Ontario Budget. The Budget is aimed at deficit reduction over the medium term, while providing funding for programs and services, including health care and education. As part of Ontario's multi-year fiscal plan, the interim deficit of \$6.2 billion in 2003-04 will be reduced to \$2.2 billion in 2004-05, \$2.1 billion in 2005-06 and \$1.5 billion in 2006-07. Ontario expects to balance its books by 2007-08.

Over the medium term, Ontario will increase health spending to improve and transform the health care system. The increased spending is to be funded, in part, by a new income-based Ontario Health Care Premium for 2004 of up to \$450 per individual. The maximum Premium will double to \$900 for 2005 and subsequent years. Other revenue-raising measures include the elimination of various tax credits and incentive programs, the increase of certain user fees, and the increase of tobacco taxes and alcohol volume levies and fees. The Budget does not propose any changes to the corporate or personal tax rates.

In summary, the Budget proposes that:

- The capital tax will be gradually reduced each year, until it is ultimately eliminated by 2012. Starting in 2005, the current \$5 million deduction from taxable capital will be increased by \$2.5 million per annum, until it reaches \$15 million in 2008. Starting in 2009, the capital tax rate of 0.3% will be reduced each year, until it is fully eliminated by 2012.
- Ontario will parallel 2004 Federal budget proposals to enhance the capital cost allowance rate for computer equipment and data infrastructure equipment; to extend the carry-forward period for business losses from 7 to 10 years; and to relax the associated corporation rules for purposes of the Ontario Innovation Tax Credit.
- Ontario will introduce a new 25% refundable Apprenticeship Training Tax Credit, to a maximum of \$5,000 per eligible apprentice per year, to encourage the hiring of apprentices in certain skilled trades, including certain construction trades, industrial trades, motive power trades and services trades.

- The Ontario Research Employee Stock Option Credit will not be available after 2004 for stock option benefits or capital gains arising from stock options granted to certain employees involved in the performance of scientific research and experimental development (“SR&ED”) in Ontario.
- Several tax incentive programs will expire, including electrical supply and conservation incentives, the Retail Sales Tax rebate for vehicles purchased to transport disabled persons, and the Ontario Home Ownership Savings Plan.
- The implementation of the average value assessing system for property taxes, which was to commence in the 2005 taxation year, will be deferred.
- To assist the recovery of Ontario’s tourism industry and to support the hotel industry, destination marketing fees will be exempt from the 5% RST for a one-year period, effective immediately.

PERSONAL TAX MEASURES

Personal Tax Rates

The Budget does not propose any changes to the personal tax rates. The following combined Federal and Ontario personal income tax rates will apply for 2004 and beyond:

Taxable Income Brackets ¹	Rates
\$ 0 to \$ 33,375	22.05%
\$ 33,376 to \$ 35,000	25.15%
\$ 35,001 to \$ 58,772	31.15%
\$ 58,773 to \$ 66,752	32.98%
\$ 66,753 to \$ 69,242	35.39%
\$ 69,243 to \$ 70,000	39.41%
\$ 70,001 to \$ 113,804	43.41%
Over \$ 113,804	46.41%

Ontario Health Care Premium

Effective 2004, the Budget proposes to introduce a new Health Care Premium (the “Premium”) of up to \$900 per individual, which will be payable with the individual’s annual tax return. The premium structure for the 2005 and subsequent calendar years will be as follows (for 2004, the Premium will be one-half of the amounts shown below):

¹ The income brackets shown above reflect all applicable taxes and surtaxes, and do not include any personal tax credits. This chart shows the primary 2004 Federal and Ontario tax brackets, which will be indexed for inflation after 2004.

Taxable Income	Rate	Maximum Premium Applicable to Income Level	Maximum Cumulative Premium
Up to \$20,000	0%	Nil	Nil
\$20,000 - \$25,000	6%	\$300	\$300
\$25,001 - \$36,000	0%	Nil	\$300
\$36,001 - \$36,600	25%	\$150	\$450
\$36,601 - \$48,000	0%	Nil	\$450
\$48,001 - \$48,600	25%	\$150	\$600
\$48,601 - \$72,000	0%	Nil	\$600
\$72,001 - \$72,600	25%	\$150	\$750
\$72,601 - \$200,000	0%	Nil	\$750
\$200,001 - \$200,600	25%	\$150	\$900
Over \$200,600	0%	Nil	\$900

The Premium will apply to individuals who are residents of Ontario on the last day of their taxation year. Trusts and non-resident individuals will be exempt from the Premium. Employers will be required to withhold the Premium from employees, as a component of income tax withheld, commencing July 1, 2004.

Individuals who become bankrupt during the year will be required to pay the Premium based on their taxable income for the full calendar year. For individuals who die or emigrate from Canada during the year, the Premium will be determined based on taxable income reported in the final Ontario tax return.

Ontario Property and Sales Tax Credits for Seniors

Effective for the 2004 and subsequent taxation year, the maximum basic property tax credit for seniors will be increased from \$500 to \$625. In conjunction with this increase, the maximum property and sales tax credit for seniors will increase from \$1,000 to \$1,125.

Ontario Home Ownership Savings Plan ("OHOSP")

The Budget proposes that no new OHOSPs be registered, and no new contributions be made to existing OHOSPs, after May 18, 2004. Existing OHOSPs will continue to benefit from the potential refund of Land Transfer Tax for home purchases made until the end of 2005. The withdrawal of funds from existing OHOSPs after 2005 will not be subject to penalties or recovery of previously received tax credits.

Ontario Research Employee Stock Option (“ORES”) Credit

The Budget proposes that the ORES credit be eliminated after the end of the 2004 tax year. For details concerning the ORES credit, please refer to GSP’s 2000 Ontario Budget Commentary.

Ontario Tax Reduction for Individuals

Commencing with the 2004 calendar year, the Budget proposes that individuals must calculate the Ontario tax reduction before claiming foreign tax credits.

BUSINESS TAX MEASURES

Capital Tax Elimination

In order to enhance business investment in Ontario, the Budget proposes to introduce a long-term plan to gradually eliminate the capital tax as follows:

- i) Commencing January 1, 2005, the current \$5 million capital tax deduction from taxable capital, which exempts the first \$5 million of taxable capital from capital tax, will be increased by \$2.5 million each year, until the deduction reaches \$15 million by January 1, 2008.
- ii) Commencing January 1, 2009, the capital tax rate of 0.3% will be reduced each year, until the capital tax is fully eliminated on January 1, 2012.

The proposed plan to eliminate capital tax for regular corporations is as follows:

	Capital tax deduction (\$ Millions)	Capital tax rate (%)
Current	5	0.3
January 1, 2005	7.5	0.3
January 1, 2006	10	0.3
January 1, 2007	12.5	0.3
January 1, 2008	15	0.3
January 1, 2009	15	0.225
January 1, 2010	15	0.15
January 1, 2011	15	0.075
January 1, 2012	Eliminated	Eliminated

The proposed increases in the capital tax deduction and the proposed reductions to the capital tax rate will be pro-rated for taxation years straddling the effective dates. Special rules will apply to the phase out of capital tax levied upon financial institutions.

Capital Tax Amendments

Under the present capital tax legislation contained in the Corporations Tax Act (“CTA”), all liabilities of a corporation are included in the computation of its PUC, other than its *current accounts payable*. In a recent court case, QEW 427 Dodge Chrysler (1991) Inc., the Ontario Superior Court of Justice held that *current accounts payable*, which are not subject to capital tax, includes amounts owed to creditors, and not just to trade suppliers.

As a result of this court decision, the Budget proposes to amend the CTA to provide that:

- i) Effective for taxation years ending after May 18, 2004, the definition of current accounts payable will be amended to confirm that it applies only to amounts payable to a supplier for purchases of goods and services.
- ii) Effective for taxation years ending after May 19, 1993, liabilities incurred in connection with the purchase or trading of shares, bonds or other securities will not be considered current accounts payable.

Federal Concordance

The Budget proposes to harmonize the CTA with the following Federal income tax changes announced in the 2004 Federal Budget (please refer to GSP’s 2004 Federal Budget Summary for further details), as follows:

- i) The capital cost allowance (“CCA”) rate will increase from 30% to 45% for computer equipment and from 20% to 30% for data network infrastructure equipment (e.g. switches, multiplexers, routers, hubs, modems, and domain name servers), for such equipment acquired after March 22, 2004.
- ii) The carry-forward period for business losses arising in taxation years ending after March 22, 2004 will be extended from 7 to 10 years.
- iii) The deductibility of fines and penalties, patronage dividends and unused charitable donations will be limited.
- iv) Amendments will be made to the general anti-avoidance rule and the affiliated persons rules.
- v) The relaxation of the associated corporations rule for purposes of the federal investment tax credit for SR&ED will also apply to the Ontario Innovation Tax Credit.

Ontario Film and Television Tax Credit (“OFTTC”)

The OFTTC provides Ontario-based, Canadian-controlled production companies with a 20% refundable tax credit on Ontario labour expenditures incurred in making film and television productions. To further encourage production activity in Ontario, the Budget proposes that, for productions commencing principal photography after March 27, 2003, qualifying labour expenditures will not be reduced by equity investments from Canadian government film agencies.

In addition to the foregoing, the OFTTC would also be amended to parallel the following enhancements to the federal Canadian Film or Video Production Tax Credit announced on November 14, 2003, including their effective dates:

- i) The extension to the commencement time for a production, which will allow qualifying labour expenditures to be incurred as early as two years before principal photography begins; and
- ii) The provision allowing a person, other than the production company, to hold an interest in a film or television production, unless the production or one of the investors is associated with a tax shelter.

Apprenticeship Training Tax Credit (“ATTC”)

The Budget proposes to introduce a new ATTC to encourage the hiring of apprentices in certain skilled trades. Corporations and unincorporated businesses will be eligible for a 25% refundable tax credit on eligible expenditures² incurred with respect to eligible apprentices³. For businesses with total payroll costs not exceeding \$400,000, the tax credit rate will be increased to 30%.

An employer will be eligible for a tax credit of up to \$5,000 per year per eligible apprentice, to a maximum of \$15,000 over the first 36 months of the apprenticeship. The maximum annual tax credit of \$5,000 will be pro-rated for the number of days the apprentice is employed with that employer during the year.

Skilled trades qualifying for the ATTC would include:

² Defined as salaries and wages paid after May 18, 2004 and before January 1, 2011 to an eligible apprentice.

³ Defined as apprentices that are in their first 36 months of an apprenticeship training program in a *qualifying skilled trade* on or after May 19, 2004, and have commenced employment before January 1, 2008.

Construction Trades

Plumber
Sheet metal worker
Electrician
Refrigeration and air conditioning mechanic
Brick and stone mason
General carpenter
Ironworker
Hoisting engineer
Power lineworkers

Motive Power Trades

Automotive service technician
Fuel and electrical systems technician
Auto body and collision damage repairman
Truck and coach technician
Motive power machinist
Heavy duty equipment technician
Marine engine mechanic

Industrial Trades

General machinist
Tool and die maker
Machine tool designer
Industrial electrician
Industrial mechanic (millwright)
Precision metal fabricator
Cabinet maker
Mould maker

Services Trades

Electronic service technician
Micro-electronics manufacturer
Network cabling specialist
Information technology support analyst

Prior to December 31, 2007, the government will consult with stakeholders on the effectiveness of the ATTC, and expect that stakeholders will provide evidence of the tax credit's effectiveness, as a condition for continuing the incentive program.

Co-Operative Education Tax Credit (“CETC”)

The CETC provides employers with a 10% refundable tax credit (15% for small businesses) on the salaries and wages paid to students or apprentices in qualifying work placements.

As a consequence of the introduction of the ATTC, salaries and wages paid after May 18, 2004 for apprenticeships in their first 36 months will no longer qualify for the CETC. While the CETC will continue to be available for qualifying co-op placements, it will no longer be available for employment commencing after October 25, 2004 for apprenticeships not in their first 36 months and for work placements in approved fields of study, other than co-operative education programs.

Resource Allowance

Ontario proposes not to parallel the federal measure which has replaced the 25% resource allowance with a deduction for Crown royalties and mining taxes paid, effective for taxation years ending after December 31, 2002. Instead, Ontario will maintain the resource allowance and the non-deductibility of Crown royalties and mining taxes system.

Elimination of Various Tax Incentives

The Workplace Accessibility Tax Incentive and Workplace Child Care Tax Credit will expire for eligible expenditures made after December 31, 2004. Employment commencing after July 5, 2004 will no longer qualify for the Graduate Transitions Tax Credit.

Donations, sales or licences granted after December 31, 2004 will no longer qualify for the Educational Technology Tax Incentive. For licences granted before January 1, 2005, no amount will be deductible with respect to the licence after December 31, 2004.

Elimination of Tax Incentives for Electricity Supply and Conservation

The Budget proposes to repeal the following tax incentives for electricity supply and conservation:

- i) The 10-year corporate income tax holiday and the 10-year property tax holiday, effective November 26, 2002;
- ii) The corporate income tax deduction for self-generation announced in the 2003 Ontario Budget; and
- iii) The immediate 100% corporate income tax write-off for electrical energy-efficient equipment announced in November 2002.

EMPLOYER HEALTH TAX (“EHT”) MEASURES

The Budget proposes to make several amendments to the EHT legislation, which are summarized as follows:

Changing the Instalment Base to Coincide with the Liability Base

Currently, employers are required to remit EHT instalments on the 15th day of each month, using an estimate based on the prior month’s payroll. To simplify the process of remitting instalments, payments will be based on the actual payroll for each month and will be due on the 15th day of the following month.

This initiative will be effective January 1, 2005. In order to change to the new system, employers will not be required to remit an instalment in January 2005. Instead, their first instalment will be due on February 15, 2005, based on remuneration for January 2005.

Permanent Establishments

On April 27, 2004, the Ontario Superior Court of Justice ruled that Ontario-based professional sports teams should not be subject to EHT with respect to salaries paid to players and others for games played outside Ontario. As a result of this decision, the Budget proposes to clarify that as long as a person reports to work at a permanent establishment in Ontario, all of that employee's remuneration is subject to the EHT. This measure will be retroactive to January 1, 1990.

Taxable Benefits

EHT is calculated based on remuneration paid to employees. The Budget proposes to clarify that taxable benefits and other amounts included in an employee's income by reason of section 5, 6 or 7 of the Federal Income Tax Act are taxable for EHT purposes. These amounts include, among other things, automobile benefits, low-interest employee loans, and employee group term life insurance benefits. This measure will be retroactive to January 1, 1990.

Increasing the Late-Filing Penalties

Effective for taxation years ending after May 18, 2004, EHT late-filing penalties will be made consistent with those imposed under the CTA, i.e. penalties of up to 17% of the EHT owing, escalating to 50% of EHT owing for repeat late-filers.

Research-Intensive Companies

Commencing May 18, 2004, the Budget proposes that the benefits realized by employees of research-intensive companies arising from the exercise or disposition of stock options, will be subject to the EHT.

RETAIL SALES TAX ("RST") MEASURES

One-Year RST Exemption for Destination Marketing Fees

In support of the hotel industry's initiative in funding tourism marketing and assisting in the recovery of Ontario's tourism industry, the Budget proposes that destination marketing fees be exempt from RST for a one-year period. The temporary exemption from the 5% RST accommodations tax will be effective for destination marketing fees billed after May 18, 2004 and before May 19, 2005.

RST Residential Rebate

The Budget proposes to expand the current RST residential rebate for solar energy systems to include wind energy systems, micro-hydroelectric systems and geothermal heating/cooling systems. The rebate will be available for purchases made after March 27, 2003 and before November 26, 2007.

Transfer of Assets Between Related Corporations and Partnerships Rules

The Budget proposes to revise the RST rules relating to exempt transfers of assets between related corporations. In addition, rules for the transfer of assets between partnerships and their members will be regulated and will be made consistent with the rules for related corporations. A draft regulation setting out the proposed rules will be made available for industry comment, with the objective to finalizing the proposals in the fall of 2004.

RST Rebate for Vehicles Purchased for Persons with Permanent Physical Disabilities

Effective May 19, 2004, Ontario will no longer provide a rebate of RST paid on motor vehicles to transport persons with permanent physical disabilities. Rebates will remain available to qualifying purchasers for vehicles purchased before May 19, 2004, provided delivery occurs on or before July 31, 2004. Rebates will also continue to be available for vehicles acquired through long-term lease contracts entered into before May 19, 2004, provided delivery of the vehicle occurs on or before July 31, 2004. The current RST exemption will be maintained for equipment, such as hand controls and wheelchair lifts, designed solely for the use of people who are chronic invalids or have a physical disability.

OTHER MEASURES

Tobacco Tax Increase

As of May 19, 2004, tobacco tax rates in Ontario will increase to 11.1¢ per cigarette, tobacco stick or gram of cut tobacco.

The Budget proposes legislative amendments that will provide the Minister of Finance with regulatory authority to prescribe future tobacco tax rates, and to set differential tobacco tax rates for certain tobacco products.

Levies and Fees on Spirits, Wine and Beer

The Budget proposes to increase various levies and fees on spirits, wine, and beer, effective June 21, 2004. Under the proposed changes, the volume levy applied to each litre of spirits will increase by 25 cents to 54 cents per litre, the volume levy applied to each litre of wine coolers and spirit coolers will increase by 9 cents to 28 cents per litre, the wine levy will increase by 12 cents to \$ 1.62 per litre, and the brewers' basic fee will increase by 4.5 cents per litre. In addition, changes were announced to the new brewers' basic fee rates charged to a microbrewery.

Driver's Licence Fees

The Budget proposes that the driver's licence fees will be increased from \$50 to \$75 per five-year period, effective September 1, 2004.

Other User Fee Increases

Other user fee increases will be implemented in late 2004 or early 2005 for Ontario government services such as filing civil court claims, reinstating suspended driver's licences, and certain small claims court procedures.

Ontario Commercialization Investment Fund ("OCIF")

In order to support venture capital financing for the earlier stages of high-risk technology businesses, the Budget proposes the introduction of OCIFs, which would raise capital from institutional, corporate and/or accredited investors (but not from Labour Sponsored Investment Funds or Community Small Business Investment Funds), each of whom must invest a minimum of \$25,000. An OCIF must be sponsored by a research institute that qualifies under the Ontario Business Research Institute Tax Credit, such as Ontario universities and hospital research institutes.

The Ontario government will provide an annual grant to an OCIF, calculated as 30% of eligible investments made in a year, to the extent that the investments are supported by new capital raised by the OCIF. Eligible investments must be risk capital, must be deployed in an investee business having less than \$1 million in assets at the time of initial investment, and must have a strong link to the intellectual property of the sponsor. The business must be incorporated and operating in Ontario, and must require the financing for research and product development.

The grants will support up to \$30 million of capital raised by OCIFs per year, if that capital is fully invested in eligible investments. This would represent potential maximum support of \$9 million per year for the program.

Labour Sponsored Investment Funds (“LSIF”)

The Budget proposes several changes involving LSIFs. These include:

- i) A moratorium will be placed on new LSIF registrations effective May 18, 2004. Applications for registration received by May 18, 2004 will be processed.
- ii) The restriction on LSIF investments in companies listed on a stock exchange will be relaxed, so that an LSIF may invest up to 25% of its investments in a year in listed companies.
- iii) LSIFs will be allowed to control investee companies.
- iv) Rules will be introduced allowing the amalgamation of LSIFs through asset purchases.
- v) Investment requirements of LSIFs will be amended.

Trust Beneficiaries’ Liability Act

The Budget includes a commitment by the Ontario government to propose technical legislation to clarify that investors in publicly traded trusts will not be liable for the activities of the trust.

RECENT COURT DECISION OF INTEREST

Valuation of Donated Art

Frank Klotz v. Her Majesty the Queen

The central issue in the Klotz case, recently heard by the Tax Court of Canada (“TCC”), was the valuation of artwork donated by Mr. Klotz to Florida State University. Klotz paid \$75,000 for the prints in question, but received a donation receipt for \$258,400, being the supposed fair market value of the artwork.

Klotz acquired the prints under a syndicated deal available to the public at large. In Klotz’s case, he was made aware of this deal through his financial advisor. Under the donation program, the promoter acquired large quantities of prints for roughly \$50 US each. The promoter then, in turn, sold these prints to the donors for prices that ranged from \$290 Cdn. to \$320 Cdn. per print. The donors, under pre-established arrangements, immediately donated the prints to one of 23 educational institutions located in the United States. Each print was appraised at a minimum of \$1,000 Cdn. In Klotz’s case, out of the 250 prints donated, 201 were appraised for exactly \$1,000 Cdn., and the remainder were appraised for amounts between \$1,100 Cdn. and \$2,000 Cdn.

The benefit of the donation arrangement to Mr. Klotz and any other participants is clear: assuming a marginal tax rate of 50%, for each print donated having a value of \$1,000, a donor would realize \$500 of income tax savings for a cost of \$300. This was Mr. Klotz's primary reason for participating in the donation program, as was articulated by Associate Chief Justice ("ACJ") Bowman of the TCC, who stipulated that ... "Mr. Klotz's motivation in participating in this program was purely the anticipated tax benefit. The broadening of the cultural or intellectual horizons of the students at FSU was not a factor. He never asked what FSU was going to do with the prints."

The anticipated tax benefits of the print donation program required that the donated prints be classified as "personal-use property" ("PUP")⁴ for income tax purposes. Where a capital property is classified as a PUP, an individual is deemed to have acquired the PUP at a cost equal to the greater of its actual cost or \$1,000. Therefore, assuming the prints were PUP for income tax purposes, a donor would realize a capital gain only to the extent that a print was appraised for greater than \$1,000, since its cost for income tax purposes would be deemed to be \$1,000 under the PUP rule.

In assessing Mr. Klotz for his 1999 taxation year, the Minister of National Revenue (the "Minister") adopted the following positions:

- i) The value of the prints donated by Mr. Klotz amounted to \$75,000, not \$258,400, and the donation credit should be reduced accordingly;
- ii) Alternatively, if the value of the prints exceeded the cost, a capital gain should result to Mr. Klotz in respect of the excess of the value of the donated prints over their actual cost, because the prints were not PUP⁵; and
- iii) A 50% gross negligence penalty was properly assessed against Mr. Klotz.

In rendering its decision, ACJ Bowman agreed with the Minister on the valuation issue, but held in favour of Mr. Klotz on the PUP and the gross negligence penalty issues.

With respect to the valuation issue, ACJ Bowman rejected the appraisal report of the print valuator for several reasons. The most notable reason given was that the appropriate value to be used was the value of the total gift, being 250 prints donated en masse, rather than the aggregate of the value of each individual print. The best evidence of what 250 prints would sell for was what they in fact sold for, namely \$75,000. The notion of valuing the prints for something other than what Klotz paid for such prints was, as succinctly articulated by ACJ Bowman, "devoid of common sense and out of touch with ordinary commercial reality".

With respect to the PUP issue, ACJ Bowman rejected the Minister's position that Parliament had such a restrictive interpretation in mind, when it drafted the definition of PUP. In his view, such a restrictive definition would lead to anomalous results. Despite his rejection of this narrow view of the definition of PUP, ACJ Bowman stipulated that, even had he accepted such an interpretation, he still would have

⁴ The definition of a PUP provides that it "includes property that is used primarily for the personal use or enjoyment" of the taxpayer, a person related to the taxpayer, or where the taxpayer is a trust, a beneficiary under the trust or any person related to the beneficiary.

⁵ The Minister's rationale was that the prints were never used or enjoyed by Mr. Klotz personally. Mr. Klotz never saw them, and he never had physical use and possession of them.

viewed the prints as being PUP, because one way of using an object is to give it away, whether the motive be altruistic, charitable, or fiscal.

Finally, with respect to the gross negligence penalty issue, ACJ Bowman held that it was not appropriate to impose such a penalty. After reviewing previous case law, he stipulated that such a penalty should only be invoked as a punishment for reprehensible behaviour. ACJ Bowman did not find evidence that such behaviour existed in Mr. Klotz's situation, because he relied on the advice of his financial advisor, he had an appraisal from a qualified appraiser, and he had two legal opinions in respect of the merits and risks of the donation program. While ACJ Bowman agreed with the Minister that Mr. Klotz was cavalier about verifying the print values, he did not agree that the failure to exercise due diligence was tantamount to gross negligence.

Clearly, ACJ Bowman's decision in Klotz contains both favourable and unfavourable aspects to taxpayers. The main benefit from the Klotz decision is that taxpayers can take some comfort that, where they participate in an "aggressive" tax scheme, their reliance on the advice of professional advisers can stem their exposure to gross negligence penalties. On the other hand, the Klotz decision leaves the CRA with significant ammunition to deny taxpayers the donation benefits that have been derived from other programs that have advocated "buy low, donate high" schemes, involving such properties as art, comic books, trading cards, vintage wine, etc.

Finally, it is noteworthy that two significant amendments to the Income Tax Act have recently been introduced as a consequence of the multitude of "buy low, donate high" schemes, as follows:

- i) The deemed cost of \$1,000 will no longer apply to PUP that is acquired by a taxpayer, or by a person who does not deal at arm's length with the taxpayer, in circumstances in which it is reasonable to conclude that the acquisition of the property relates to an arrangement, plan or scheme that is promoted by another person or partnership, and under which it is reasonable to conclude that the property will be the subject of a gift which gives rise to a tax donation credit. This amendment has passed into law and is applicable to property acquired after February 27, 2000.
- ii) As of December 6, 2003, the value of a gift of property for charitable donation purposes will be limited to the donor's cost of the property, where the property is donated within three years of its acquisition by the donor (except if the gift is made as a consequence of an individual's death), or is otherwise acquired through a gifting arrangement or in contemplation of a donation. This proposed amendment will not apply to gifts of business inventory, publicly traded securities, certified cultural property, ecological gifts, or real property situated in Canada.

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To discuss the impact of the Ontario budget on your business, please contact your partner at Goldfarb, Shulman, Patel & Co. LLP.

COMBINED FEDERAL AND ONTARIO CORPORATE TAX RATES

The following combined Federal and Ontario tax rates will apply to corporations subject to Ontario tax:

		2003	2004	2005	2006
Small business rate on active income up to \$225,000*	Federal Ontario	13.12% <u>5.50%</u> 18.62%	13.12% <u>5.50%</u> 18.62%	13.12% <u>5.50%</u> 18.62%	13.12% <u>5.50%</u> 18.62%
Small business rate on active income from \$225,000 to 250,000*	Federal Ontario	22.12% <u>5.50%</u> 27.62%	13.12% <u>5.50%</u> 18.62%	13.12% <u>5.50%</u> 18.62%	13.12% <u>5.50%</u> 18.62%
Small business rate on active income from \$250,000 to 300,000*	Federal Ontario	22.12% <u>5.50%</u> 27.62%	22.12% <u>5.50%</u> 27.62%	13.12% <u>5.50%</u> 18.62%	13.12% <u>5.50%</u> 18.62%
Small business rate on active income from \$300,000 to 320,000*	Federal Ontario	24.12% <u>5.50%</u> 29.62%	22.12% <u>5.50%</u> 27.62%	22.12% <u>5.50%</u> 27.62%	22.12% <u>5.50%</u> 27.62%
Small business rate on active income from \$320,000 to 400,000*	Federal Ontario	24.12% <u>12.50%</u> 36.62%	22.12% <u>5.50%</u> 27.62%	22.12% <u>5.50%</u> 27.62%	22.12% <u>5.50%</u> 27.62%
M & P rate	Federal Ontario	22.12% <u>11.00%</u> 33.12%	22.12% <u>12.00%</u> 34.12%	22.12% <u>12.00%</u> 34.12%	22.12% <u>12.00%</u> 34.12%
General rate (active income not eligible for the small business rate)	Federal Ontario	24.12% <u>12.50%</u> 36.62%	22.12% <u>14.00%</u> 36.12%	22.12% <u>14.00%</u> 36.12%	22.12% <u>14.00%</u> 36.12%
Investment income	Federal Ontario	35.79% <u>12.50%</u> 48.29%	35.79% <u>14.00%</u> 49.79%	35.79% <u>14.00%</u> 49.79%	35.79% <u>14.00%</u> 49.79%

* These rates do not take into account the effect of the clawback of the Ontario small business deduction. The clawback applies where taxable income falls between \$320,000 and \$800,000 in 2003, and between \$400,000 and \$1,128,519 in 2004 and thereafter. The Ontario clawback rate is 4.67%.

In addition, the table does not take into account that a corporation's business limit for Federal tax purposes is clawed back where the corporation, together with any associated corporations, had taxable capital, as computed for Federal Large Corporation Tax purposes, in excess of \$10 million in the preceding year.