1 St. Clair Ave. East, Suite 900 Toronto, Canada M4T 2V7 Tel: 416-923-0809 Fax: 416-923-1549 www.alpertlawfirm.ca

THE FEBRUARY 25, 2016 ONTARIO BUDGET

This issue of the Legal Business Report provides current information to the clients of Alpert Law Firm Professional Corporation on important tax changes outlined in the February 25, 2016 Ontario Budget. These proposals were enacted by legislation which received Royal Assent on April 19, 2016. It is important to note that this Legal Business Report only contains Budget highlights, and the 2016 Ontario Budget and the legislation which received Royal Assent on April 19, 2016 should be consulted for the full list of tax implications arising from the provincial Budget.

Alpert Law Firm Professional Corporation is experienced in providing legal services to its clients in corporate-commercial transactions, tax and estate planning matters, wealth preservation, tax dispute resolution, tax litigation and estate administration. Howard Alpert has been certified by the Law Society as a Specialist in Estates and Trusts Law, and also as a Specialist in Corporate and Commercial Law.

A. MEASURES AFFECTING INDIVIDUALS

1. Personal Income Tax Rates

The February 25, 2016 Budget (the “2016 Budget”) proposes no changes to the personal income tax (“PIT”) rates. The top combined federal and provincial PIT rates (i.e., the rates on income over $220,000) are as follows:

Personal Tax Rates	2014	2015	2016
Ordinary Income	49.53%	49.53%	53.53%
Capital Gains	24.76%	24.76%	26.76%
Eligible Canadian Dividends	33.82%	33.82%	39.34%
Non-eligible Canadian Dividends	40.13%	40.13%	45.30%

The increase in the PIT rates from 2015 to 2016 is a result of an increase in the top federal personal income tax rate from 29% to 33%, commencing in the 2016 taxation year.

2. Dividend Tax Credit and Gross-Up

The federal government introduced in the 2015 federal budget a progressive reduction in the small business corporate income tax rate from 11% in 2015 to 9% in

1 St. Clair Ave. East, Suite 900 Toronto, Canada M4T 2V7 Tel: 416-923-0809 Fax: 416-923-1549 www.alpertlawfirm.ca

2019, which has now been frozen by the federal government at 10.5% in the 2016 federal budget. Corresponding changes were made to the federal non-eligible dividend tax credit rate and gross-up rate. Following such changes, Ontario will correspondingly reduce the non-eligible dividend tax credit rate to 4.2863 per cent starting in the 2016 taxation year. Ontario also proposes to review its non-eligible dividend tax credit for 2017 and subsequent years.

3. <u>Personal Income Tax Calculation</u>

Ontario has a complex provincial PIT calculation system, including the Ontario surtax and the Ontario Tax Reduction. Ontario proposes to look into ways to simplify the system.

4. <u>Tax on Split Income with Children</u>

Ontario proposes to parallel the federal approach to taxing split income with related children by applying the top marginal PIT rate to all such income, i.e. 53.53% in 2016. This measure is effective starting January 1, 2016.

5. <u>Tuition and Education Tax Credits</u>

Ontario proposes to change the way financial assistance is offered to students by making it more transparent, timely and better targeted. Ontario proposes to eliminate the tuition and education tax credit in September 2017 and reinvest the tax savings into a new Ontario Student Grant and/or other postsecondary, education, training and youth jobs programs.

Ontario students would still be able to claim (i) the Tuition Tax Credit for eligible tuition fees paid in respect of studies up to September 4, 2017; and (ii) the Education Tax Credit for months of study before September 2017. Unused credits can still be carried forward to 2017 and subsequent tax years on the condition that the taxpayer remains a resident of Ontario.

6. <u>Healthy Homes Renovation Tax Credit (HHRTC)</u>

Ontario proposes to end the HHRTC which was introduced in 2011 to assist seniors to afford renovations that improve the safety and accessibility of their own homes. The HHRTC offered little support to lower-income seniors and the program was not very effective.

1 St. Clair Ave. East, Suite 900 Toronto, Canada M4T 2V7 Tel: 416-923-0809 Fax: 416-923-1549 www.alpertlawfirm.ca

B. MEASURES AFFECTING BUSINESSES

1. Corporate Income Tax Rates

The 2016 Budget proposes no changes to the corporate income tax rates, which are as follows for the 2016 taxation year:

	Rates
General	11.5%
M&P	10%
Active Business Income (CCPCs)	4.5%
Investment income (CCPCs)	11.5%

Due to changes in the federal tax rate, the federal/Ontario combined corporate tax rates will change as follows:

	2015	**2016**
General	26.5%	26.5%
M&P	25%	25%
Active Business Income up to $500,000 (CCPCs)	15.5%	15%
Investment Income (CCPCs)	46.17%	50.17%

2. Research and Development Tax Credits

Ontario proposes to revamp the provincial research and development ("R&D") tax credit regime. Currently, Ontario provides (i) the Ontario R&D Tax Credit ("ORDTC")—a 4.5 per cent non-refundable tax credit for all businesses on eligible R&D expenditures; (ii) the Ontario Innovation Tax Credit ("OITC")—a 10 per cent refundable tax credit for small to medium-sized corporations on eligible R&D expenditures; and (iii) the Ontario Business Research Institute Tax Credit ("OBRITC")—a 20 per cent refundable tax credit on eligible R&D expenditures incurred pursuant to contracts with eligible research institutes.

Ontario proposes to reduce (i) the ORDTC rate from 4.5 per cent to 3.5 per cent and (ii) the OITC rate from 10 per cent to 8 per cent for all eligible R&D expenditures incurred in taxation years that end after May 31, 2016. The tax savings will be reinvested in targeted sectors of the Ontario economy, including advanced manufacturing and etc.

3. Apprenticeship Training Tax Credit

Ontario made a commitment to changing the apprenticeship training tax credit ("ATTC") in the 2015 Budget. The 2016 Budget announces that the province will continue to review the ATTC regime and the Ministry of Training, Colleges and Universities will engage key stakeholders and partners in this process. More details will be announced in 2016.

C. OTHER MEASURES

1. Property Tax Measures

Ontario proposes the following measures in order to strengthen Ontario's property tax and assessment system:

(i) Business Property Tax Capping Program ("BPTCP"): Ontario will continue consultations with municipal and business stakeholders in 2016 under the BPTCP initiative introduced in the 2015 Budget. The program is aimed at improving the equity of the property tax system based on local conditions.

(ii) Vacant Unit Rebate and Vacant/Excess land Subclasses: Ontario proposes to continue the review of its tax rebate and reductions to property owners who have vacancies in commercial and industrial buildings or land.

(iii) Provincial Land Tax: Ontario will continue its effort to address inequities in the provincial land taxation regime affecting residents of Northern Ontario, which was first announced in the 2015 Budget.

(iv) Property Assessment System: Ontario will implement the recommendations of the Assessment Review, including the advance disclosure process to allow feedback from businesses and municipalities prior to the determination of the assessed values.

2. Tobacco Tax

Ontario proposes to increase the tobacco tax rate from 13,975 cents to 15.475 cents per cigarette and per gram of tobacco products other than cigars, starting on February 26, 2016. Starting in 2017, the tobacco tax rate will further increase based on inflation over each of the next five years.

3. Tax Avoidance

As a part of an ongoing initiative (see the Alpert Law Firm's 2014 and 2015 Ontario Budget summaries), Ontario will continue its battles against tax evasion, aggressive tax avoidance, both domestically and internationally. The 2016 Budget proposes to establish special audit teams in partnership with the Canada Revenue Agency to focus on underground economic activities and to introduce legislation to strength the government's enforcement capabilities and levy additional penalties in applicable circumstances.

D. LAND TRANSFER TAX PARTNERSHIP EXEMPTION

On February 18, 2016, the Ontario Ministry of Finance (the "Ministry") introduced a retroactive amendment to the partnership exemption from land transfer tax with Regulation 35/16. Prior to the amendment, the partnership exemption made available an exemption from land transfer tax in respect of a transfer of beneficial interest in land that occurs on a transfer of an interest in a partnership that owned land in Ontario, provided that the transferred interest did not exceed 5% of the entitlement to partnership profits at the beginning of the year. This is commonly called the *de minimis* threshold. Since the partnership exemption was enacted in 1989, it has been used by many pooled investment vehicles, such as real estate investment trust (REITs) to avoid land transfer tax by acquiring minimal interests in partnerships that owned land in Ontario, despite the fact that the ultimate investors in those situations would normally considered to be the beneficial owners of the land in Ontario.

The amendment revoked the *de minimis* exemption from land transfer tax for a trust or partnership that acquires a partnership interest, although persons other than a trust or partnership can still qualify for the exemption. More importantly, Regulation 35/16 will apply retroactively to transfers that occurred after July 18, 1989, which likely will trigger assessments on trusts and partnerships that previously satisfied the now-defunct *de minimis* exemption. However, the Ministry also stated that they will not target

1 St. Clair Ave. East, Suite 900 Toronto, Canada M4T 2V7 Tel: 416-923-0809 Fax: 416-923-1549 www.alpertlawfirm.ca

historical transactions relying on the exemption provided that a written ruling in respect of the transaction was obtained from the Ministry of Finance prior to February 19, 2016.

This issue of the Legal Business Report is designed to provide information of a general nature only and is not intended to provide professional legal advice. The information contained in this Legal Business Report should not be acted upon without further consultation with professional advisers.

Please contact Howard Alpert directly at (416) 923-0809 if you require assistance with tax and estate planning matters, tax dispute resolution, tax litigation, corporate-commercial transactions or estate administration. No part of this publication may be reproduced by any means without the prior written permission of Alpert Law Firm Professional Corporation.