

2024 FEDERAL BUDGET

Capital Gains Inclusion Rate Increase and Other Important Tax Measures

*Update Following the January 31, 2025 News Release:
Deferral in Implementation of Change to Capital Gains
Inclusion Rate*

RULES APPLICABLE TO INDIVIDUALS

Taxable Capital Gain

Capital gains are currently included in computing an individual taxpayer's income at a rate of 50% (the "inclusion rate"). For example, an individual who realizes a capital gain of \$400,000 from disposition of capital property must include a taxable capital gain of \$200,000 in his or her income for the year.

The federal budget tabled on April 16, 2024 (the "Budget") proposed to increase the capital gains inclusion rate to 66.67%. For individuals, the Budget proposed that the new inclusion rate (i.e. 66.67%) would only apply to capital gains realized in excess of \$250,000 for each year. The inclusion rate for capital gains realized by individuals below the \$250,000 threshold would remain at 50%.

In other words, under the proposed measures, an individual who realizes a capital gain of \$400,000 in a year on the disposition of capital property must include in his or her income a taxable capital gain equal to:

$$\begin{aligned} & \$250,000 \times 50\% + (\$400,000 - \$250,000) \times 66.67\% \\ & = \$225,000 \end{aligned}$$

The allowable capital loss rules would also be adapted in order to reflect the proposed amendments.

Subject to Royal Assent, the proposed measures should apply to capital gains realized on or after January 1, 2026.

Enhancement of the Lifetime Capital Gains Exemption ("LCGE") on the Disposition of Qualified Small Business Corporation Shares ("QSBCS") and Qualified Farm or Fishing Property ("QFFP")

An eligible individual who realized a net gain from the disposition of QSBCS is entitled to claim LCGE, which is a cumulative amount that individuals can claim over their lifetime. Currently, the maximum amount of LCGE an individual can claim is \$1,016,836.

The measures proposed in the Budget would increase the maximum amount eligible for LCGE to \$1,250,000 for transactions that occur after June 24, 2024. This amount will be indexed starting in 2026.

The CGE enhancement also applies **Qualified Farm or Fishing Property ("QFFP")**.

Introduction of the Canadian Entrepreneurs' Incentive ("CEI")

The purpose of the proposed CEI measures is to allow individuals to benefit from a lower capital gains inclusion rate when they dispose of CEI-qualified shares, which in addition to certain holding and participating requirements, have similar criteria as QSBCS ("CEI Shares"). Under these new rules, the inclusion rate of the capital gain on the disposition of CEI Shares would be reduced to 33.33% for a maximum amount of \$400,000. The maximum amount eligible for the CEI is proposed to increase by \$400,000 per year, to a maximum of \$2,000,000 in 2029.

As a result, starting in 2025, an individual who disposed of corporate shares that meet the conditions for both QSBCS and CEI Shares would be eligible to claim LCGE (to a maximum of \$1,250,000), as well as treating any excess capital gains at an inclusion rate of 33.33%, up to a maximum of \$400,000.

For example, for an individual who realizes a capital gain of \$3,000,000 in 2026 on the disposition of shares that meet the requirements for both QSBC and CEI Shares, the taxable capital gain after applying the maximum amount of LCGE and CEI would be as follows:

Calculation for a sale completed in 2026

$\$3,000,000 - \$1,250,000$ (CGD) = $\$1,750,000$ capital gain after applying LCGE (non-indexed amount)

$(\$800,000 \times 33.33\%) + (\$250,000 \times 50\%) + (\$700,000 \times 66.67\%) = \$858,330$ taxable capital gain to be included to the individual's income for the year

Under the Budget, corporate shares in certain industries will be excluded from the CEI measures, including corporations that represent interest in:

- Professional corporations ;
- Corporations that carry on business in the following sectors:
 - Financial
 - Insurance
 - Real estate
 - Food and accommodation
 - Arts, entertainment and recreation
 - Consulting services
 - Personal care services
- Corporations whose main asset is the reputation of one or more employees.

Proposed changes to the Home Buyers' Plan (HBP)

According to the current rules, the maximum amount eligible for the HBP is \$35,000. The repayment is spread over a period of 15 years, starting from the 2nd year following the withdrawal.

The 2024 federal budget proposed to increase the maximum amount to \$60,000. In addition, it is expected that the repayment can be made from the 5th year following the withdrawals made on January 1, 2022 and after. The repayment period remains to be 15 years.

RULES APPLICABLE TO CORPORATIONS AND TRUSTS

Taxable Capital Gain

The capital gains inclusion rate is currently 50% for corporations and trusts.

The Budget proposed an increase in the capital gains inclusion rate to 66.67% for corporations and trusts. The Budget provided no minimum threshold to which the new inclusion rate would apply for corporations and trusts. Subject to Royal Assent, this increase is scheduled to take effect from January 1, 2026.

For corporations, this change would affect tax attributes such as the Capital Dividend Account ("CDA") and the Refundable Tax On Hand ("RDTOH"), as well as having an effect on the passive income rules.

The CDA attributable to the non-taxable portion of capital gains realized from January 1st, 2026, would be reduced to 33.33%. For corporate-owned life insurance policies, the increased inclusion rate does not have a direct effect on the CDA generated at the death of the insured, which is equal to the difference between the death benefit and the adjusted cost base ("ACB") of the policy.

The additional tax to be paid by corporations as a result of the increase in the capital gains inclusion rate would generally increase the RDTOH balance.

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