

How the 2023 Federal Budget Will Impact HR & Payroll



The 6 things HR directors need to know about.

The government tabled the federal budget for 2023 on March 28. As usual, this year's budget includes a number of significant items that may have a direct impact on your organization. But also as usual, the changes are enveloped in a massive document that no HR director on the planet wants or has the time to read. To spare you the agony, we've created this briefing distilling the nearly 400-page [budget document](#) into a list of the 6 key changes that HR directors need to know about to keep their payroll operations and employment benefits operations compliant.

1. Greater Risk of GAAR Tax Enforcement

Arguably the most significant changes in the 2023 federal budget are the changes to the income tax enforcement rules set out in what's called the general anti-avoidance rule (GAAR) designed to prevent companies and other taxpayers from trying to game the tax system. **Basic Rule:** The GAAR applies when a taxpayer obtains a "tax benefit" via an "avoidance transaction" that results in a "misuse or abuse" of the *Income Tax Act*. If the Canada Revenue Agency (CRA) finds that you've violated the GAAR, it may seek to deny you the tax benefit you sought to gain by entering into the transaction. The budget does 3 things to put your company at greater risk of being subject to a GAAR enforcement action by CRA:

- Technical changes to the definitions of "tax benefit," "avoidance transaction" and "misuse or abuse" will make it easier for CRA to prove that a transaction violates the GAAR;
- The CRA would have 3 years beyond the normal reassessment period to assess whether a transaction runs afoul of the GAAR, unless the transaction was previously disclosed to CRA; and
- In addition to stripping away your tax benefits from a transaction, CRA would also be able to hit your company with a penalty of 25% of the tax benefit if it finds you guilty of violating the GAAR.

2. Higher Tax Deductions for Tradesperson Tools

Under current rules, tradespersons are allowed to deduct up to \$500 of the amount by which the cost of acquiring new tools as a condition of employment exceeds the Canada employment tax credit (\$1,368 in 2023). The budget proposes to double the maximum

deduction to \$1,000, starting in the 2023 tax year.

3. New Retirement Compensation Arrangement (RCA) Rules

As usual, many of the key budget items affecting HR involve changes to employee benefit tax rules. For budget 2023, that includes RCAs. Specifically, the budget provides that an RCA trust that's supplemental to a registered pension plan wouldn't have to pay refundable taxes on the fees or premiums paid to secure a letter of credit. It would also allow employees to request a refund of previously remitted refundable taxes on fees or premiums paid for letters of credit by RCA trusts based on retirement benefits paid by the corporation to employees with RCA benefits secured by letters of credit. In addition, employers would be eligible for a refund of up to 50% of retirement benefits paid, up to the refundable tax previously paid on the fees or premiums. These changes would all take effect for the 2023 tax year.

4. New Registered Disability Savings Plan (RDSP) Rules

The budget would extend for another 3 years, until 2026, a temporary measure allowing a qualifying family member (parent, spouse or common-law partner) to open an RDSP and hold the plan for an adult whose capacity to enter into an RDSP contract is in doubt.

It would also expand the definition of "qualifying family member" to include a brother or sister of the beneficiary who's age 18 or older.

5. New Rules for Employee Ownership Trusts (EOTs)

The budget allows corporations to establish EOTs, a form of employee ownership where a trust holds shares of a corporation for the benefit of the corporation's employees, effective Jan. 1, 2024. New rules would encourage owners to sell their shares to an EOT and facilitate purchase of those shares by not requiring employees to pay directly to acquire shares. To be considered an EOT, a trust must:

- Hold shares of the qualifying business for the benefit of employee beneficiaries of the trust;
- Make distributions to employee beneficiaries using a formula that considers an employee's length of service, compensation and hours worked; and
- Hold a controlling interest in the shares of one or more qualifying businesses.

6. New International Tax Rules for Gig Workers

Canada has been working with other OECD countries to change international tax rules to deal with [gig workers who work abroad](#). The problem is that the country where a gig worker is located might seek to tax or regulate the company that employs the gig worker even though it's not located in the country. **Example:** A Canadian company that hires a gig worker living in Germany might be subject to German tax, labour, employment and other laws.

The budget includes provisions implementing an OECD protocol dealing with this problem (Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting). Specifically, there are 2 pillars to the so-called "BEPS 2.0" initiative:

- Pillar One would establish new rules for allocating taxing rights between countries to deal with taxation of digital and gig workers; and
- Pillar Two would impose a 15% global minimum tax on multinational national enterprises (MNEs) with global revenues of at least €750 million (roughly \$1.119 billion Canadian).

The budget restates Canada's intention to implement Pillar Two, along with a domestic minimum top-up tax on Canadian entities of MNEs.