

Budget 2026: Overview of Tax Changes Impacting Business Owners

Understanding the opportunities, limitations and unanswered questions in Budget 2026.

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The federal government tabled Budget 2026 on November 5, 2026 ("Budget Day 2026"). It includes several tax measures that matter to business owners, investors and their advisors. The headline proposals are:

- the new Canada Growth Incentive (the "CGI");
- an expanded small business share rollover; and
- a potential mechanism (being studied by the Department of Finance) to allow tax losses to be transferred between related corporations. which - if it were to come to fruition - would be a first for Canada.

The Budget also makes targeted changes affecting non-resident vendors, trusts, estate freezes, CRA objections, resource companies and family farm transfers. We summarize the key proposals, explain how they work, and offer our views on where they fall short and where planning opportunities may arise. These measures are proposals only and may change before they become law.

It is important to emphasize that many of the tax proposals in Budget 2026 were not accompanied by detailed draft legislation; consequently, our comments are based on the budget documents themselves, which are far more general than draft legislation.

The Canada Growth Incentive

The CGI expands upon the current tax incentives available to taxpayers investing in shares of private business corporations in Canada. If you invest in or work for a growing Canadian business and acquire shares, you could later sell those shares and pay no tax on up to $15 million of any resulting capital gains. Under the Budget 2026 proposals:

- Individuals could exempt up to $15 million, per business, of capital gains on the disposition of qualifying shares.
- The individual must be at least 18 when the shares are acquired and resident in Canada for the year in which the exemption is claimed.
- The shares must have been issued from treasury directly to the individual (or a partnership of which they were a member) for consideration consisting of either cash or employment services. Continuity rules will allow certain share-for-share exchanges and corporate reorganizations.
- When the shares are issued:
    - the corporation must be a Canadian-controlled private corporation ("CCPC"); and
    - the combined assets of the corporation and its related corporations must not exceed $100 million.
- The shares must be held for 36 consecutive months before sale.
- Professional practices, consulting, real estate, financial services, resources, hospitality and franchises are excluded.
- The CGI deduction applies to shares issued on or after Budget Day 2026 and before 2037.

Comparing CGI and the Lifetime Capital Gains Exemption ("LCGE")

The LCGE already lets business owners sell qualifying small business corporation shares tax-free on roughly the first $1.275 million of profit (indexed annually to inflation). The CGI and LCGE overlap in several ways, and taxpayers may be able to choose between them, but cannot use both on the same share disposition.

Both exemptions share the following eligibility requirements:

- The claimant must be an individual resident in Canada.
- The corporation must be a CCPC at a key point in time.
- At certain times, the corporation's assets must be used in an active business carried on primarily in Canada.

The two exemptions differ in several important ways:

- The CGI limit is $15 million per business; the LCGE is $1.275 million over a lifetime.
- CGI shares must be issued directly by the CCPC to the taxpayer for cash or services (with allowances for certain reorganizations). The LCGE does not restrict how the shares were acquired (eg. in exchange for property).
- The CGI holding period is 36 months; the LCGE's is 24 months.
- At the time of the sale, the CGI requires the company to be a Canadian resident corporation but does not require it to have remained a CCPC; the LCGE requires the corporation to remain a CCPC at sale.
- The CGI has a $100 million limit for the carrying value of the corporation's assets; the LCGE has no size limit.
- The CGI excludes sectors that may qualify for the LCGE, such as real estate, farming or fishing, mining, financial services, food and accommodation, arts, recreation, or entertainment sectors. The CGI also excludes any business whose principal asset is the reputation or skill of one or more employees.
- The asset tests differ. For the LCGE, all or substantially all (generally 90% or more) of the value of the CCPC's assets must be used in a qualifying business carried on primarily in Canada at the time of sale, and at least 50% must have been so used throughout the prior 24 months. For the CGI, all or substantially all of the value of the CCPC's assets must be used (or intended to be used) in such a business when the shares are issued, and the business must be carried on primarily in Canada for the first two years thereafter. The CGI therefore allows a Canadian business to eventually expand internationally.
- CGI shares must be issued to and held directly by either an individual (other than a trust) or a partnership of which a qualifying individual is a partner.
- A qualifying individual must be at least 18 when CGI shares are issued; the LCGE has no age limit.

Trusts and the CGI

The LCGE contains "deeming" rules that look through a trust to its individual beneficiaries, potentially allowing beneficiaries to claim their own LCGE when a trust disposes of shares. The Budget does not state whether the CGI will include a similar look-through rule; it appears possible that shares held by a family trust will not qualify for the CGI. Once the implementing legislation is released, this point will presumably be made clear.

Alternative Minimum Tax Impact

Both exemptions are included at 30% for Alternative Minimum Tax ("AMT") purposes, which can reduce the benefit of each exemption.

AMT can be recovered against regular tax payable in the seven years following the sale. However, because the CGI exemption is larger, taxpayers may find it difficult to recover the AMT.

The Expanded Eligible Small Business Rollover

If you sell shares of an eligible small business corporation ("ESBC") and put the money into another one, you can delay paying tax on the profit until you sell the new investment. The Budget gives investors much more time to find and make that new investment. Details of the expanded rollover include:

- The window to reinvest proceeds becomes the year of sale plus the three following calendar years. It is currently the year of sale or the following year.
- Signing a simple agreement for future equity (commonly referred to as a "SAFE") or a similar future equity agreement extends the window by up to two more years.
- Proceeds that are never reinvested will attract prescribed-rate interest.
- The corporation's assets must be used primarily in an active business carried on throughout the share holding period. At the times that the shares are issued and disposed of, all or substantially all of the assets must be used in an active business.
- The business must be carried on primarily in Canada when the shares are issued and for the lesser of two years or the shares' holding period.
- The rollover applies to dispositions on or after January 1, 2027.

Why the Longer Replacement Period Matters

Under the existing ESBC rules, investors had to reinvest by the end of the calendar year after the year of sale, which could leave barely more than 12 months. In practice, this often conflicted with the non-compete obligations typically imposed on small business vendors, so many founders and investors could not invest in a new venture until those restrictions expired.

The proposed longer replacement period, together with the extra time available when investing through a SAFE, should make the rollover a more realistic option for the serial entrepreneurs it was meant to help.

The Corporate Loss Transfer Proposal

Canada is one of the few G7 countries without a formal system for taxing corporate groups together. Each corporation is taxed separately, so a loss in one company can't directly offset profit in a related company. Canadian taxpayers have long used various workarounds to use losses within a corporate group, but these can be complex, costly and unsuitable.

Budget 2026 invites comments on a new rule that would let closely related corporations transfer losses between themselves by election. The Department of Finance previously held consultations on this issue in 1985 and 2010 without making changes, so this is a meaningful step. If enacted, it would be one of the most significant changes to how corporate groups are taxed in decades.

The key features of the proposal are:

- Who qualifies: a parent corporation and its wholly owned subsidiaries, or sister subsidiaries wholly owned by the same parent corporation. Both must be Canadian-resident and taxable under Part I. Conduit-type corporations, such as mutual fund corporations, are excluded.
- Which losses: only current-year non-capital losses can be transferred, in whole or in part, by an annual joint election. Any amount the receiving corporation can't use that year is lost and can't be carried back or forward.
- Provincial restriction: each corporation must have a permanent establishment in only one province or territory, and both must be in the same one. The government invited views on whether, and how, this rule could be broadened while protecting provincial and territorial tax bases.
- Integrity concerns: a loss transfer could create an unintended tax loss by producing both a deduction and a higher cost base in the subsidiary's shares. Possible fixes include adjusting share cost bases or recalculating tax attributes when a corporation joins or leaves the group.

Unfortunately, the loss transfer rules as proposed will exclude many owner-managed groups. Sister companies owned directly by individuals or family trusts may not qualify because the proposed rule requires a parent corporation, and the single-province test rules out any group operating in more than one province.

The rule could be far more useful with a 90% or 95% ownership threshold and a formula-based provincial allocation. We also hope that existing loss consolidation planning will remain available alongside the new rule.

Comments are due by January 8, 2027, to clt-consultation-tpes@fin.gc.ca.

Mineral Exploration Tax Credit & Helium Expenses

- The Mineral Exploration Tax Credit and the Critical Mineral Exploration Tax Credit were set to expire on March 31, 2027. They are being extended by five years, so flow-through share agreements entered into on or before March 31, 2032 will qualify.
- Antimony is being added as an eligible critical mineral for flow-through share agreements entered into after Budget Day.
- For expenses incurred on or after Budget Day, helium exploration and development costs will qualify as Canadian Exploration Expenses and Canadian Development Expenses, consistent with the treatment of oil and gas. Costs to acquire helium resource properties will qualify as Canadian Oil and Gas Property Expenses.

Objections to Assessments

- For most taxpayers, the deadline to file a notice of objection is increasing from 90 days to one year after the day the notice of assessment is sent.
- For individuals and graduated rate estates, the deadline becomes the later of one year after the notice of assessment is sent and two years from the filing due date for the year being assessed.
- Because the longer deadline replaces it, taxpayers will no longer be able to apply to the CRA for an extension of time to object.
- The change applies to assessments sent on or after the day that is three months after royal assent.

Trust Distributions to Non-Residents

Trusts generally cannot roll out property tax-free to non-resident beneficiaries. Some planning has worked around this by distributing property to a Canadian corporation or partnership owned by a non-resident:

- Effective for distributions on or after Budget Day, the tax-deferred rollout by a trust to a corporation or partnership will be denied where the recipient corporation or partnership has a direct or indirect non-resident shareholder or partner.

Taxable Preferred Shares

For dividends paid on or after Budget Day, CCPCs will be fully exempt from Part VI.1 tax on taxable preferred shares. This change:

- Removes an administrative hurdle for CCPCs issuing fixed-value preferred shares in estate freezes and similar reorganizations; and
- Lets corporations customize their share capital to meet investors' needs.

Taxable Canadian Property ("TCP") and Section 116

TCP generally includes Canadian real or resource property and certain types of investments deriving their value from such property. Under s. 116, purchasers are required to withhold and remit 25% of 50% of the gross purchase price of TCP purchased from non-resident vendors. For dispositions after 2026, the s. 116 withholding and remittance rates are reduced to better reflect corporate tax rates, as follows:

- From 25% to 15% for capital property other than specified TCP; and
- From 50% to 30% for specified TCP, such as depreciable property, resource property and real property held as inventory.

In addition, where a non-resident transfers TCP under a fully tax-deferred section 85 rollover, no clearance certificate or purchaser withholding will be required if, within 30 days of the disposition:

- the section 85 election is filed;
- the purchaser concludes, after reasonable inquiry, that no amount will be included in the vendor's taxable income earned in Canada; and
- the purchaser files a notice with the CRA.

Transactions Involving Boot

If the purchaser pays cash, a promissory note or other non-share consideration ("boot"), the second condition above may be hard to meet, particularly where:

- the boot exceeds the vendor's tax cost; or
- the purchaser cannot readily confirm that cost.

In those cases, the parties may need to split the transaction into two parts:

- a fully tax-deferred section 85 transfer that qualifies for the exemption; and
- a taxable transfer that remains subject to the normal section 116 clearance certificate and withholding rules.

We expect careful structuring and diligence on this point.

If the section 85 election is later amended in a way that results in taxable income, the s. 116 withholding and remittance rules apply again. The applicable reporting and remittance dates are based on the date of the CRA's notice of reassessment.

Strengthened Anti-Avoidance Rule

The Budget also strengthens an anti-avoidance rule that denies a rollover on a transfer of property. The rule applies where the transferred property (or property substituted for it) is later disposed of within three years after the original transfer, as part of a series of transactions one of whose main purposes was to obtain an exemption from Canadian tax (such as under a treaty). The proposed changes are:

- the lookback period is extended from three to five years; and
- the rule will also apply to dispositions of property that principally derives its value from the transferred property or substituted property.

Opportunity to provide relief for section 85.1 rollovers?

Section 85.1 provides an automatic, election-free rollover when shares are exchanged for newly issued shares of an arm's length Canadian corporate buyer. It is often the go-to tool for larger corporate merger transactions, which are frequently cross-border and where deferral and relief from non-resident withholding are most needed. However, the new s. 116 relief described above applies only to s. 85 rollovers. Share-for-share exchanges under s. 85.1, though equally tax-deferred, receive no withholding relief.

We expect the s. 85 relief was not extended to s. 85.1 rollovers because of how the two rollovers work:

- A s. 85 rollover requires the purchaser to join the vendor in making a joint election.
- A s. 85.1 rollover applies automatically when its conditions are met, and the vendor may or may not decide to report the gain on the disposition.

Extending the s. 116 exemption to s. 85.1 rollovers would greatly facilitate these transactions. However, purchasers may have no way to ensure that the vendor will in fact treat the sale as fully tax-exempt. One possible solution is to allow the vendor and purchaser to file a joint designation or election, committing the vendor to applying s. 85.1, in order to apply the exemption from s. 116 withholding.

RRSP For Life

The Budget proposes the following changes to RRSPs:

- No mandatory RRIF conversion: an RRSP would no longer have to be converted into a RRIF at age 71.
- Survivor transfers: a surviving spouse or partner could become a successor holder of the RRSP, simplifying tax-free transfers to qualified survivors after the account holder's death.
- Minimum withdrawals: the minimum withdrawal requirements after age 71 will remain.

Intergenerational Farm and Fishing Property Rollover

The Budget proposes that starting January 1, 2027, the rollover allowing farm and fishing property to pass to the next generation without immediate capital gains tax will also cover transfers to a niece, nephew, grandniece or grandnephew of the taxpayer or of the taxpayer's spouse or common-law partner.

Next Steps

The impact of Budget 2026 will vary depending on your business structure, investments and broader planning objectives. McLeod Law's Tax Team is available to help you navigate the proposed changes, understand how they may apply to your circumstances and consider your next steps. Contact a member of the team to learn more.

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