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ONTARIO BUDGET COMMENTARY – MAY 11, 2005

INTRODUCTION

The McGuinty government's second Budget, delivered on May 11, 2005, is primarily focused on education, health care and economic growth. The economic growth initiatives relate primarily to infrastructure investments in highway construction, improvements in schools, colleges, universities and hospitals, and major investments in public transit. The 2004-05 deficit is \$3 billion, a reduction of \$2.5 billion from 2003-04. The government anticipates balancing the Budget by fiscal 2008-09 at the latest.

No new taxes were announced. Instead, most of this year's tax-related measures focus on increasing harmonization with certain Federal tax measures and provisions, increasing provisions intended to minimize provincial tax avoidance, selectively enhancing certain tax credits, and other sundry measures.

Enhancement of Tax Credits

- The Ontario Property and Sales Tax Credit for seniors will be enhanced by increasing the 2005 income threshold for senior couples to ensure that couples receiving the guaranteed minimum level of income support retain their full Ontario Property and Sales Tax Credit benefit. The income threshold for single

seniors will remain unchanged because their guaranteed minimum level of income support remains below the \$22,000 threshold in 2005.

- The Ontario Film and Television Tax Credit is a refundable tax credit for Ontario labour expenditures incurred by Ontario-based, Canadian-controlled production companies producing eligible film and television productions in Ontario. As announced in December, 2004, the general credit rate is increased from 20% to 30% effective January 1, 2005. In addition, the Ontario Production Service Tax Credit rate is increased from 11% to 18%. This credit applies to labour expenditures not claimed for the Ontario Film and Television Tax Credit.
- The Budget proposes to enhance the Ontario Computer Animation and Special Effects Tax Credit by changing the basis of its calculation to include only Ontario labour expenditures net of certain government assistance reasonably related to those expenditures. This credit was previously based on the lesser of Ontario labour expenditures and 48% of the cost of production, net of certain government assistance. This change is effective for eligible expenditures incurred after May 11, 2005.

- The Budget also proposes to improve accessibility to the Ontario Interactive Digital Media Tax Credit, which is a 20% refundable tax credit available to eligible corporations for qualifying expenditures incurred to create and market original interactive digital media products in Ontario. Effective for eligible products completed after May 11, 2005, the requirement that the eligible corporation demonstrate a minimum 90% copyright ownership in an eligible product would be relaxed, provided that the product is not developed under a fee-for-service arrangement.
- The Ontario Sound Recording Tax Credit is a 20% refundable tax credit available to eligible Ontario sound recording companies for qualifying expenditures in respect of an eligible Canadian sound recording by an emerging Canadian artist or group. The Budget proposes that, for taxation years ending after May 11, 2005, the minimum period required by a corporation to carry on a sound recording business will be reduced from 24 to 12 months. For master tapes completed after May 11, 2005, the minimum playing time will be reduced from 40 to 15 minutes and distribution requirements relaxed.
- The Ontario Book Publishing Tax Credit is a 30% refundable tax credit available to eligible Ontario book publishing companies for qualifying expenditures on literary works by new Canadian authors. The Budget proposes to enhance this credit by increasing the number of children's books that may be published by the same author, effective for works published after May 11, 2005.

Professional Corporations

- The government has recently committed to extend the share structure of professional corporations owned by physicians to include non-voting shares owned by family members. This change is also proposed for dentists who operate their practices through professional corporations. No implementation date was announced.

Harmonization with Federal Tax Measures and Provisions

- The Budget proposes to parallel, with any necessary modifications, a number of tax measures applicable to non-refundable tax credits that were announced in the 2005 Federal Budget and other Federal releases, subject to the passage of the underlying Federal legislation. These measures, effective for the 2005 taxation year, include enhancements relating to amounts that can be claimed for dependants through the medical expense tax credit, a non-refundable tax credit for eligible adoption expenses and various enhancements to the disability tax credit and medical expense tax credit. As well, Ontario will adopt changes allowing specific charitable donations made before January 12, 2005 for Asian tsunami disaster relief to be claimed by Ontario taxpayers in either 2004 or 2005.
- Recently announced Federal regulatory changes aligning capital cost allowance rates with the useful life of assets and encouraging investment in assets used to generate efficient and renewable energy will be paralleled for Ontario corporate tax purposes, subject to Federal

implementation of these initiatives. Assets acquired before January 1, 2008, that are used to generate electricity from clean, alternative or renewable sources will continue to be eligible for 100% deduction under Ontario's capital cost allowance rules.

Tax Avoidance Measures

- The government announced its intention to implement measures that are designed to address Ontario corporate income tax avoidance. Discussions with government officials indicated that specific measures have not yet been designed. The intention will be to mitigate or eliminate Ontario corporate tax leakage from transactions that are perceived to reallocate income from Ontario to lower tax provincial jurisdictions, or "import" losses from a lower tax jurisdiction to Ontario.

The Ontario government announced its intention to discuss these issues with the other provinces and the Federal government with the objective of developing common rules to address aggressive interprovincial tax-planning arrangements.

- The Budget proposes that a taxpayer's liability for Ontario corporate income taxes be determined with reference to whether the corporation is resident, rather than incorporated, inside or outside of Canada. This change would harmonize Ontario's corporate tax rules with the Federal corporate income tax rules and those in other provinces. This measure would be effective for taxation years ending after May 11, 2005.

Retail Sales Tax

- The temporary exemption from the 5% retail sales tax on accommodations for destination marketing fees will be extended to include such fees billed on or before June 30, 2006. Eligibility rules will remain unchanged.
- The retail sales tax exemption for publications produced or purchased by religious, charitable or benevolent organizations will be updated to include CD-ROMs and DVDs used to promote the objects of the organization. The exemption is effective for purchases made after May 11, 2005.
- The retail sales tax exemption for publications purchased by schools, school boards, community colleges, universities and public libraries will be expanded to include educational DVDs purchased after May 11, 2005.
- Amendments have been proposed to extend the current retail sales tax exemption for child car seats to include booster seats. This amendment would be effective upon proclamation, to coincide with the implementation of the booster seat regulations that will make the use of booster seats mandatory for specified children.
- A pilot project is being proposed to simplify the tax determination for small software businesses. An optional method of calculating the retail sales tax for contracts involving both taxable and non-taxable services will be available. This proposal would permit participating businesses and purchasers to opt to use a blended tax rate applied to the total contract price.

- Multijurisdictional vehicle owners will be permitted to use appraisals to establish value for retail sales tax purposes when transferring vehicles from multijurisdictional use to Ontario use.

The use of appraisals will be restricted to vehicles that are purchased after September 30, 2001, that are owned by the same person for more than 60 months and on which the pro-rated multijurisdictional vehicle tax was paid in lieu of the point-of-sale retail sales tax.

OTHER MEASURES

Streamlining Remissions Process

- It is proposed that the Minister of Finance will have the authority to remit tax amounts under \$10,000 where such remissions would be in the public interest. This change will eliminate the need for cabinet to consider such remissions, consistent with the procedures in other provinces.

Redevelopment of Brownfield

- In the coming year, the Ministry of Finance will develop criteria for the removal of outstanding tax liens on Brownfield's properties. The Ministry will also work closely with the Federal government to co-ordinate the removal of outstanding Federal liens.

Tax Increment Financing

- In 2005-06, the government will examine options to implement Tax Increment Financing as a tool to promote urban regeneration. Consultations with interested municipalities and others on the policy framework and potential legislation for this initiative will occur in the summer and fall of 2005.

Resource Allowance

- The Corporations Tax Act is to be amended to clarify that income for Ontario tax purposes is to be used in computing Ontario resource profits for purposes of the resource allowance. This clarification is retroactive to 1997.

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