

# Delayed Implementation of New Stock Option Rules

Dec 20, 2019

By Carol J. Burns and Barbara Worndl

In Canada's 2019 Federal Budget, the Government announced its intent to limit the use of the current employee stock option tax regime that results in preferential personal tax treatment for certain employee stock options. Under the existing rules, an employee is entitled to deduct one-half of the amount of the stock option benefit (the "**Deduction**") in respect of employee stock options that meet certain tests, effectively resulting in the benefit being taxed at 50% of ordinary income tax rates. The Government announced that the Deduction would be limited to an annual cap of \$200,000 (based on the fair market value of the underlying shares at the time of grant) on stock options granted to an employee that vest in a particular year. The cap on the availability of the Deduction was to apply only to employees of "large, long-established, mature firms", rather than start-ups and rapidly-growing Canadian businesses. The Government's concern was that, under the current rules, the Deduction disproportionately benefits a small number of high-income individuals.

On June 17, 2019, a Notice of Ways and Means Motion containing the draft measures was tabled. Under these proposed provisions, the new cap would not apply to stock options granted by Canadian-controlled private corporations and would also not apply to options granted by corporations or trusts that meet prescribed conditions, which are yet to be drafted. The Government invited interested parties to make submissions with respect to the prescribed conditions by September 16, 2019. The new rules were to be effective January 1, 2020.

On December 19, 2019, the Department of Finance announced that it is continuing to review the submissions it received and has delayed the effective date of the new rules. Further details with respect to the new rules will be announced in the next Federal Budget, at which time a new coming-into-force date will be announced. In addition, the Department of Finance stated that the new effective date will provide individuals and businesses with time to review and adjust to the new rules.

## Authors



**Carol J. Burns**  
Partner  
T 416.865.7787  
cburns@airdberlis.com



**Barbara Worndl**  
Partner  
T 416.865.7754  
bworndl@airdberlis.com

This communication offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the particular issues that concern them.