Intelligence MEMOS

From: William B.P. Robson

To: Canadian Taxpayers

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Re: **Government Must Clarify or Drop the 2024 Budget's Capital Gains Tax Changes**

The 2024 federal budget announced higher capital-gains taxes that will be effective June 25. Instead of paying tax on half of all gains under current rules, individuals will pay tax on half of gains under $250,000 and on two-thirds of gains over $250,000, and companies will pay tax on two-thirds of all gains.

These proposals are bad in principle. They will worsen the slide in Canada's productivity, wages and living standards. They will likely prove a train wreck in practice.

The budget announced the changes only, and they are not in the budget implementation bill. The next two months will feature a scramble by the government to release the rules before June 25 and a scramble by taxpayers who do not know what the rules will be. If a last-minute walk-back looms, Canadians would be far better off if the government ditched the proposals now.

Dismissing a federal budget's proposals as unworkable from the start might seem premature. But a government that focuses on announceables, with little time for or interest in advice from its own officials or outside experts, often gets things wrong.

Consider Bill C-59, the omnibus bill to implement measures from last year's budget and fall statement, currently before the House standing committee on finance. It is a 500-page monster, with an opening summary that runs to six pages – the length a single bill should be. Further, it enacts or amends legislation dealing with issues such as digital-services taxation, stock buybacks, intercorporate dividends, investment tax credits, the GST, cannabis, tobacco and vaping taxes – the list goes on.

Critics of omnibus bills, including the Liberals before their election in 2015, call them a threat to democracy. They are certainly a threat to good government. Members of Parliament have not given – and cannot give – C-59 due consideration. Witnesses in the standing committee have decried many peculiarities in its drafting. Tellingly, one section of the bill addresses errors in previous omnibus legislation.

The new capital-gains tax rules will be complicated. Along with the higher general inclusion rates, the government proposes a lower inclusion rate for owners of some businesses, as well as changes to the lifetime capital-gains exemption for owners of other businesses. The proposals will affect estate planning, stock options and charitable donations. The record-keeping challenges alone are severe. What are the odds of an administrative and legislative mess?

The tens of thousands of Canadian tax filers caught in the recent "bare trust" debacle might say those odds are high. The trust debacle involved a 2018 budget announcement, subsequent tweaks and 2022 legislation that required taxpayers, for the first time, to file information returns related to informal trusts such as children managing joint accounts to help aged parents or parents sharing titles on homes to help children with mortgages.

Trying to file these returns – or just learn if they needed to – cost those tax filers countless hours and, by **one estimate**, as much as $1-billion on legal and tax advice. Seeing a compliance and political disaster unfolding, the government announced – days before the filing deadline – that the requirement would not apply this year. More anxiety and expense loom while the government tries to get it right.

Disturbingly, the government might not see a last-minute walk-back of its capital-gains tax changes as a fail. The June implementation of a higher inclusion rate that is retroactive – affecting past gains, not just those that accrue in the future – matters more to its revenue plans than the permanent changes. Taxpayers with capital gains have an interval to dispose of their assets and pay the current inclusion rate.

The budget projections show an immediate $7-billion revenue jump from the hike – far more than its continuing yield. That jump is key to the government's commitments to keep the deficit below $40-billion and lower the ratio of its debt to GDP this year.

C.D. Howe Institute fellow-in-residence Don Drummond has **pointed out** that revenue from people selling ahead of an expected inclusion-rate hike would boost the government's current-year results, even if the hike itself never occurs. That is a bleak read of the government's motives. But when announcements come first and implementation is an afterthought, that might be the result.

Canadians do not need higher taxes. With investment already depressed and living standards slipping, Canadians especially do not need another debacle that further shakes their confidence in the federal government's motives and competence.

The government should back the budget's capital-gains tax proposals with rules or abandon them. Either way, June is too late. Canadians need clarity now.

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A version of this Memo first appeared in The Globe and Mail.