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Federal Budget March 21, 2013

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2013 Federal budget summary

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INTRODUCTION

As indicated by the Honourable Jim Flaherty:

“We will remain focused on what matters to Canadians – jobs and economic growth, and ensuring Canada’s economic advantage today will translate into the long-term prosperity of tomorrow.”

Here are the highlights of the 2013 budget.

1 PERSONAL INCOME TAX MEASURES

1.1 Adoption Expense Tax Credit

The budget proposes to extend the adoption period by treating the time at which the adoption period begins as:

- the time that an adoptive parent makes an application to register with a provincial ministry responsible for adoption or with an adoption agency licensed by a provincial government; or
- if an adoption-related application is made to a Canadian court at an earlier time, that earlier time.

This measure will apply to adoptions finalized after 2012.

1.2 First-Time Donor’s Super Credit

The budget proposes to introduce a temporary First-time Donor’s Super Credit (FDSC). The FDSC will supplement the CDTC with an additional 25-per-cent tax credit for a first-time donor on up to $1,000 of donations. Accordingly, a first-time donor will be entitled to a 40-per-cent (33.4 per cent for a Québec resident) federal credit for donations of $200 or less, and a 54-per-cent (45.09 per cent for a Québec resident) federal credit for the portion of donations over $200 but not exceeding $1,000. Only donations of money will qualify for the FDSC.

An individual will be considered a first-time donor if neither the individual nor the individual’s spouse or common-law partner has claimed the CDTC or FDSC in any taxation year after 2007.

First-time donor couples may share the FDSC in a taxation year.

The FDSC will be available in respect of donations made on or after March 21, 2013 and may be claimed only once in the 2013 or a subsequent taxation year before 2018.

1.3 Lifetime Capital Gains Exemption

The budget proposes to increase the Lifetime Capital Gains Exemption (LCGE) to $800,000 effective for the 2014 taxation year.

In addition, the LCGE will be indexed to inflation for taxation years after 2014.

1.4 Deduction for Safety Deposit Boxes

The budget proposes to make the cost to a taxpayer of renting a safety deposit box from a financial institution non-deductible for income tax purposes.

This measure will apply to taxation years that begin on or after March 21, 2013.

1.5 Dividend Tax Credit

The budget proposes to adjust the gross-up factor applicable to non-eligible dividends from 25 per cent to 18 per cent and the corresponding dividend tax credit (DTC) from 2/3 of the gross-up amount to 13/18. Expressed as a percentage of the grossed-up amount of a non-eligible dividend, the effective rate of the DTC in respect of such a dividend will be 11 per cent.

This measure will apply to non-eligible dividends paid after 2013.

Thus, the maximum combined marginal rate for a non-eligible dividend received by a Québec resident will increase from 38.54 per cent to 39.91 per cent in 2014.

1.6 Registered Pension Plans: Correcting Contribution Errors

The budget proposes to enable administrators of registered pension plans (RPPs) to make refunds of contributions in order to correct reasonable errors without first obtaining approval from the Canada Revenu Agency (CRA), if the refund is made no later than December 31 of the year following the year in which the inadvertent contribution was made.

This measure will apply in respect of RPP contributions made on or after the later of January 1, 2014 and the day of Royal Assent to the enacting legislation.

1.7 Extended Reassessment Period: Tax Shelters and Reportable Transactions

The budget proposes to establish the normal reassessment period in respect of the tax shelters or reportable transactions to three years after the date that the relevant information return is filed.

This measure will apply to taxation years that end on or after March 21, 2013

1.8 Taxes in Dispute and Charitable Donation Tax Shelters.

The budget proposes to allow the CRA to take collection action if a taxpayer has objected to an assessment of tax, interest or penalties that results from the disallowance of a deduction or tax credit claimed in respect of a tax shelter relative to a charitable donation. In this case, the CRA will be permitted, pending the ultimate determination of the taxpayer’s liability, to collect 50 per cent of the disputed tax, interest or penalties.

This measure will apply in respect of amounts assessed for the 2013 and subsequent taxation years.

1.9 Extension of the Mineral Exploration Tax Credit for Flow-Through Share Investors

The budget proposes to extend eligibility for the Mineral Exploration Tax Credit for one year, to flow-through share agreements entered into on or before March 31, 2014.

1.10 Labour-Sponsored Venture Capital Corporations Tax Credit

The budget proposes to phase out the federal labour-sponsored venture capital corporations (LSVCC) tax credit, such as the Fonds de solidarité FTQ and Fondaction CSN.

Federal LSVCC Tax Credit Phase-Out

Taxation Year	2013	2014	2015	2016	After 2016
LSVCC tax credit rate	15%	15%	10%	5%	–

1.11 *Synthetic Dispositions*

1.11.1 Deemed Disposition

The budget proposes to treat certain transactions as dispositions for income tax purposes. This measure will apply where a taxpayer enters into one or more agreements that have the effect of eliminating all or substantially all the taxpayer's risk of loss and opportunity for gain or profit in respect of a property of the taxpayer.

This measure could apply to a forward sale of property, a put-call collar in respect of an underlying property, the issuance of certain indebtedness that is exchangeable for property, a total return swap in respect of property, or a securities borrowing to facilitate a short sale of property that is identical or economically similar to a property of the taxpayer, depending on the circumstances. This measure will generally not apply, for example, to ordinary hedging transactions, which typically only involve managing the risk of loss, to the tax treatment of ordinary-course securities lending arrangements, nor will it apply to ordinary commercial leasing transactions.

When applicable, the taxpayer will be deemed to have disposed of the property for proceeds equal to its fair market value and the taxpayer will also be deemed to have reacquired the property immediately after the deemed disposition at a cost equal to that fair market value.

1.11.2 Continued Ownership

The budget also proposes that a taxpayer deemed to have disposed of and reacquired a property, as described above, will be considered to not own the property for the purposes of determining whether the taxpayer meets the holding-period tests.

This two measure will apply to agreements and arrangements entered into on or after March 21, 2013.

1.12 *Character Conversion Transactions*

The budget proposes to treat the derivative-based return on a derivative forward agreement as being distinct from the disposition of a capital property that is purchased or sold under the derivative forward agreement. This measure will apply to derivative forward agreements that have a duration of more than 180 days entered into on or after March 21, 2013. It will also apply to derivative forward agreements entered into before March 21, 2013 if the term of the agreement is extended on or after March 21, 2013.

1.13 *Trust Loss Trading*

The budget proposes to extend, with appropriate modifications, to trusts the loss-streaming and related rules that currently apply on the acquisition of control of a corporation, including the limited exception allowing the ongoing use of noncapital losses from a business when a person or partnership becomes a majority-interest beneficiary of the trust

This measure will apply to transactions that occur on or after March 21, 2013, other than transactions that the parties are obligated to complete pursuant to the terms of an agreement in writing between the parties entered into before that date.

1.14 Non-Resident Trusts

The budget proposes to amend the deemed residence rules to apply if a trust holds property on conditions that grant effective ownership of the property to a Canadian resident taxpayer.

The budget also proposes to restrict the application of the trust attribution rule so that it applies only in respect of property held by a trust that is resident in Canada.

These measures will apply to taxation years that end on or after March 21, 2013.

1.15 Consultation on Graduated Rate Taxation of Trusts and Estates

The budget announces the Government's intention to consult on possible measures to eliminate the tax benefits that arise from taxing at graduated rates grandfathered *inter vivos* trusts, trusts created by will, and estates (after a reasonable period of estate administration).

2 BUSINESS INCOME TAX MEASURES

2.1 Manufacturing and Processing Machinery and Equipment: Accelerated Capital Cost Allowance

The budget proposes to extend the temporary support for investment in machinery and equipment for the manufacturing and processing sector by an additional two years. Manufacturing and processing machinery and equipment that would otherwise be included in Class 43 and that is acquired in 2014 or 2015 will qualify for the 50-per-cent straight-line CCA rate. Such eligible assets will be included in Class 29.

2.2 Clean Energy Generation Equipment: Accelerated Capital Cost Allowance

The budget proposes to expand Class 43.2 by making biogas production equipment that uses more types of organic waste eligible for inclusion in Class 43.2. The budget also proposes to broaden the range of cleaning and upgrading equipment used to treat eligible gases from waste that is eligible for inclusion in Class 43.2.

These measures will apply in respect of property acquired on or after March 21, 2013 that has not been used or acquired for use before March 21, 2013.

2.3 Scientific Research and Experimental Development Program

More detailed information will have to be provided on Scientific Research and Experimental Development (SR&ED) program claim forms about SR&ED program tax preparers and billing arrangements. In particular, in instances where one or more third parties have assisted with the preparation of a claim, the

Business Number of each third party will be required, along with details about the billing arrangements including whether contingency fees were used and the amount of the fees payable. In instances where no third party was involved, the claimant will be required to certify that no third party assisted in any aspect of the preparation of the SR&ED program claim.

The budget also proposes that a new penalty of $1,000 be imposed in respect of each SR&ED program claim for which the information about SR&ED program tax preparers and billing arrangements is missing, incomplete or inaccurate.

This measure will apply to SR&ED program claims filed on or after the later of January 1, 2014 and the day of Royal Assent to the enacting legislation.

2.4 Mining Expenses

2.4.1 Pre-Production Mine Development Expenses

The budget proposes that pre-production mine development expenses be treated as Canadian development expense (CDE) instead of Canadian exploration expense (CEE).

The transition of pre-production mine development expenses from CEE to CDE will be phased in. They will be allocated proportionally to CEE and CDE according to the following schedule based on the calendar year in which the expense is incurred:

Transition Schedule

Year	2013	2014	2015	2016	2017	After 2017
CEE proportion	100%	100%	80%	60%	30%	–
CDE proportion	–	–	20%	40%	70%	100%

This measure will generally apply to expenses incurred on or after March 21, 2013. The existing CEE treatment for pre-production mine development expenses will be maintained for expenses incurred before March 21, 2013; and will also apply for expenses incurred before 2017 either:

- under a written agreement entered into by the taxpayer before March 21, 2013; or
- as part of the development of a new mine where:
  - the construction was started by, or on behalf of, the taxpayer before March 21, 2013, or
  - the engineering and design work for the construction, as evidenced in writing, was started by, or on behalf of, the taxpayer before March 21, 2013.

2.4.2 Accelerated Capital Cost Allowance for Mining

The budget proposes to phase out the additional allowance available for mining (other than for bituminous sands and oil shale, for which the phase-out will be complete in 2015).

The additional allowance will be phased out over the 2017 to 2020 calendar years.

Transition Schedule

Year	2013-2016	2017	2018	2019	2020	After 2020
Percentage	100%	90%	80%	60%	30%	–

Where a taxpayer's taxation year includes more than one calendar year the additional allowance will be prorated, based on the number of days in each calendar year. This measure will generally apply to expenses incurred on or after March 21, 2013.

The additional allowance will be maintained with regard to assets acquired before 2018 for a new mine or a mine expansion either:

- under a written agreement entered into by the taxpayer before March 21, 2013; or
- as part of the development of a new mine or as part of a mine expansion where
    - the construction was started by, or on behalf of, the taxpayer before March 21, 2013, or
    - the engineering and design work for the construction, as evidenced in writing, was started by, or on behalf of, the taxpayer before March 21, 2013.

2.5 Reserve for Future Services

The budget proposes to amend the *Income Tax Act* to ensure that the reserve for future services under paragraph 20(1)(m) cannot be used by taxpayers with respect to amounts received for the purpose of funding future reclamation obligations.

This measure will apply to amounts received on or after March 21, 2013, other than amounts received that are directly attributable to future reclamation costs, that were authorized by a government or regulatory authority before March 21, 2013 and that are received:

- under a written agreement between the taxpayer and another party (other than a government or regulatory authority) that was entered into before March 21, 2013 and not extended or renewed on or after March 21, 2013, or
- before 2018.

2.6 Additional Deduction for Credit Unions

The budget proposes to phase out the additional deduction for credit unions over five calendar years, beginning in 2013. For 2013, a credit union will be permitted to deduct only 80 per cent of the amount of the additional deduction otherwise calculated (60 per cent for 2014, 40 per cent for 2015 and 20 per cent for 2016).

For 2017 and subsequent years, the additional deduction will be eliminated.

This measure will apply to taxation years that end on or after March 21, 2013. For a taxation year that includes March 2013, the measure will be prorated to apply only to the portion of the year that is on or after March 21, 2013.

2.7 Leveraged Life Insurance Arrangements

2.7.1 Leveraged Insured Annuities

The budget proposes to eliminate these unintended tax benefits by introducing rules for LIA policies (leveraged insured annuities).

Income accruing in an LIA policy will be subject to annual accrual-based taxation, no deduction will be allowed for any portion of a premium paid on the policy, and the capital dividend account of a private corporation will not be increased by the death benefit received in respect of the policy. In addition, for the purposes of a deemed disposition on death, the fair market value of an annuity contract assigned to the lender in connection with an LIA policy will be deemed to be equal to the total of the premiums paid under the contract.

This measure will apply to taxation years that end on or after March 21, 2013. This measure will not apply in respect of leveraged insured annuities for which all borrowings were entered into before March 21, 2013.

2.7.2 10/8 Arrangements

The budget proposes to ensure that unintended tax benefits are not available in relation to 10/8 arrangements. In respect of taxation years that end on or after March 21, 2013, the following income tax benefits will be denied:

- the deductibility of interest paid or payable on the borrowing that relates to a period after 2013;
- the deductibility of a premium that is paid or payable under the policy that relates to a period after 2013; and
- the increase in the capital dividend account by the amount of the death benefit that becomes payable after 2013 under the policy and that is associated with the borrowing.

In order to facilitate the termination of existing 10/8 arrangements before 2014, the budget also proposes to alleviate the income tax consequences on a withdrawal, from a policy under a 10/8 arrangement, made to repay a borrowing under the arrangement, if the withdrawal is made on or after March 21, 2013 and before January 1, 2014.

2.8 Restricted Farm Losses

The budget proposes to amend the rules on restricted farm losses (RFL) to codify the chief source of income test as interpreted in Moldowan. This amendment will clarify that a taxpayer’s other sources of income must be subordinate to farming in order for farming losses to be fully deductible against income from those other sources.

The budget also proposes to increase the RFL limit to $17,500 of deductible farm losses annually ($2,500 plus ½ of the next $30,000).

These measures will apply to taxation years that end on or after March 21, 2013.

2.9 Corporate Loss Trading

The budget proposes to introduce an anti-avoidance rule to support the existing loss restriction rules that apply on the acquisition of control of a corporation. The rule will deem there to have been an acquisition of control of a corporation that has loss pools when a person (or group of persons) acquires shares of the corporation that have more than 75 per cent of the fair market value of all the shares of the corporation without otherwise acquiring control of the corporation, if it is reasonable to conclude that one of the main reasons that control was not acquired is to avoid the restrictions that would have been imposed on the use of loss pools. Related rules are also proposed to ensure that this anti-avoidance rule is not circumvented.

This measure will apply to a corporation the shares of the capital stock of which are acquired on or after March 21, 2013 unless the shares are acquired as part of a transaction that the parties are obligated to complete pursuant to the terms of an agreement in writing between the parties entered into before March 21, 2013. Parties will be considered not to be obligated to complete a transaction if one or more of those parties may be excused from completing the transaction as a result of changes to the *Income Tax Act*.

2.10 Taxation of Corporate Groups

The examination of the taxation of corporate groups is now complete. The Government has determined that moving to a formal system of corporate group taxation is not a priority at this time. Going forward, the Government will continue to work with provinces and territories regarding their concerns about the uncertainty of the cost associated with the current approach to loss utilization.

3 INTERNATIONAL TAXATION

3.1 International Tax Evasion and Aggressive Tax Avoidance

3.1.1 International Electronic Funds Transfers

The budget proposes that the *Income Tax Act*, the *Excise Tax Act* and the *Excise Act*, *2001* be amended to require that certain financial intermediaries report to the CRA international electronic funds transfers (EFTs) of $10,000 or more.

This requirement will apply to the same financial intermediaries that are currently required to report international EFTs to the Financial Transactions and Reports Analysis Centre of Canada under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. This includes banks, credit unions, caisses populaires, trust and loan companies, money services businesses and casinos.

Reporting will be required beginning in 2015.

3.1.2 Information Requirements Regarding Unnamed Persons

The budget proposes to eliminate the *ex parte* aspect. Instead, the CRA will have to give notice to the third party when it initially seeks a court order from a judge of the Federal Court. As a result, the third party will be required to make any representations it chooses to make at the hearing of the application for the order, thus eliminating the need for a review for that purpose.

This measure will apply on Royal Assent to the enacting legislation.

3.1.3 Stop International Tax Evasion Program

The CRA will enter into a contract that will pay an individual only if the information results in total additional assessments or reassessments exceeding $100,000 in federal tax. The contract will provide for payment of up to 15 per cent of the federal tax collected (i.e., not including penalties, interest and provincial taxes). Payments will be made only after the taxes have been collected. Awards will be paid only where the non-compliant activity involves foreign property or property located or transferred outside Canada, or transactions conducted partially or entirely outside Canada.

To be eligible, individuals seeking rewards will have to meet program criteria. For example, individuals who have been convicted of the tax evasion about which they have information will not be eligible for a payment under the program. All reward payments will be subject to income tax.

3.1.4 Extended Reassessment Period: Form T1135

The budget proposes to extend the normal reassessment period for a taxation year of a taxpayer by three years if:

- the taxpayer has failed to report income from a specified foreign property on their annual income tax return; and
- the Form T1135 was not filed on time by the taxpayer, or a specified foreign property was not identified, or was improperly identified, on the Form T1135.

This measure will apply to the 2013 and subsequent taxation years.

3.1.5 Revised Form T1135

The revised form will require taxpayers to provide more detailed information regarding each specified foreign property, including:

- the name of the specific foreign institution or other entity holding funds outside of Canada;
- the specific country to which the property relates; and
- the foreign income generated from the property.

The revised Form T1135 will be required to be used for the 2013 and subsequent taxation years.

3.2 Foreign Reporting Requirements: Form T1135

Beginning with the 2013 taxation year:

- the CRA will remind taxpayers, on their Notices of Assessment, of the obligation to file Form T1135 if they have checked the "Yes" box on their income tax returns, indicating that they have specified foreign property in the taxation year with a total cost of more than $100,000; and
- the filing instructions on Form T1135 will be clarified.

The CRA is also in the process of developing a system that will allow Form T1135 to be filed electronically. The CRA will announce when electronic filing becomes available.

3.3 Thin Capitalization Rules

The budget proposes to further improve the integrity and fairness of the thin capitalization rules by extending the scope of their application to:

- Canadian-resident trusts; and
- non-resident corporations and trusts that operate in Canada.

This measure will apply to taxation years that begin after 2013 and will apply with respect to existing as well as new borrowings.

3.4 International Banking Centres

The budget proposes to repeal the International Banking Centres (IBC) rules.

This measure will apply to taxation years that begin on or after March 21, 2013.

3.5 Treaty Shopping

The Government intends to counter treaty shopping, and to consult on possible measures that would protect the integrity of Canada's tax treaties while preserving a business tax environment that is conducive to foreign investment.

4 SALES AND EXCISE TAX MEASURES

4.1 GST/HST and Health Care Services

4.1.1 GST/HST on Home and Personal Care Services

The budget proposes to expand the GST/HST exemption for homemaker services to exempt publicly subsidized or funded personal care services, such as bathing, feeding, and assistance with dressing and taking medication, rendered to an individual who, due to age, infirmity or disability, requires assistance in his or her home.

This measure will apply to supplies made after March 21, 2013.

4.1.2 GST/HST on Reports and Services for Non-Health Care Purposes

The budget proposes to clarify that GST/HST applies to reports, examinations and other services that are not performed for the purpose of the protection, maintenance or restoration of the health of a person or for palliative care. For example, taxable supplies would include reports, examinations and other services performed solely for the purpose of determining liability in a court proceeding or under an insurance policy. Supplies of property and services in respect of a taxable report, examination or other service would also be taxable. For example, charges for an x-ray or lab test in relation to a taxable examination would also be taxable.

This measure will apply to supplies made after March 21, 2013.

4.2 GST/HST Pension Plan Rules

4.2.1 Election to not Account for GST/HST on Actual Taxable Supplies

The budget proposes that an employer participating in a registered pension plan be permitted to jointly elect with a pension entity of that pension plan to treat an actual taxable supply by the employer to the pension entity as being for no consideration where the employer accounts for and remits tax on the deemed taxable supply.

This measure will apply to supplies made after March 21, 2013.

4.2.2 Relief from Accounting for Tax on Deemed Taxable Supplies

The budget proposes that an employer participating in a registered pension plan be permitted to be fully or partially relieved from accounting for tax on deemed taxable supplies where the employer's pension plan-related activities fall below certain thresholds.

Where the amount of the GST (and the federal component of the HST) that the employer was (or would have been, but for this measure) required to account for and remit under the deemed taxable supply rules in the preceding fiscal year of the employer is less than each of the following amounts:

- $5,000; and
- 10 per cent of the total net GST (and the federal component of the HST) paid by all pension entities of the pension plan in that preceding fiscal year.

This measure will apply in respect of any fiscal year of an employer that begins after March 21, 2013.

4.3 GST/HST Business Information Requirement

The budget proposes that the Minister of National Revenue be given the authority to withhold GST/HST refunds claimed by a business until such time as all the prescribed business identification information is provided.

This measure will apply on Royal Assent to the enacting legislation.

4.4 GST/HST on Paid Parking

The budget proposes that certain special exempting provisions for public sector bodies (PSBs) do not apply to supplies of paid parking.

This measure will apply to supplies made after March 21, 2013.

4.5 GST/HST Treatment of the Governor General

It has been agreed that the current GST/HST exemption for the Governor General should end and that GST/HST will be payable on purchases for the use of the Governor General.

This measure will apply to supplies made after June 30, 2013.

5 OTHER MEASURES

5.1 Electronic Suppression of Sales Software Sanctions

The budget proposes new administrative monetary penalties and criminal offences under the *Excise Tax Act* (i.e., in respect of GST/HST) and *the Income Tax Act* to combat this type of tax evasion.

New Administrative Monetary Penalties:

- For the use of Electronic suppression of sales (ESS) software, an administrative monetary penalty of $5,000 on the first infraction and $50,000 on any subsequent infraction.
- For the possession or acquisition of ESS software, an administrative monetary penalty of $5,000 on the first infraction and $50,000 on any subsequent infraction, except where a person exercised due diligence.
- For the manufacture, development, sale, possession for sale, offer for sale or otherwise making available of ESS software, an administrative monetary penalty of $10,000 on the first infraction and $100,000 on any subsequent infraction, except where a person exercised due diligence.

New Criminal Offences:

- For the use, possession, acquisition, manufacture, development, sale, possession for sale, offer for sale or otherwise making available of ESS software:
    - on summary conviction, a fine of not less than $10,000 and not more than $500,000 or imprisonment for a term of not more than 2 years, or both; or
    - on conviction by indictment, a fine of not less than $50,000 and not more than $1,000,000 or imprisonment for a term of not more than 5 years, or both.

These measures will apply on the later of January 1, 2014 and Royal Assent to the enacting legislation.

5.2 The Canada Job Grant

The Government will transform skills training in Canada through the introduction of the Canada Job Grant, as part of the renewal of the Labour Market Agreements in 2014-15.

5.2.1 Who is eligible?

Businesses with a plan to train unemployed and underemployed Canadians for an existing job or a better job will be eligible to apply for a Canada Job Grant. Canadians seeking training can, in partnership with an employer, benefit from the Canada Job Grant.

5.2.2 How much funding is available?

The Canada Job Grant could provide $15,000 per person or more for training, which includes up to $5,000 in federal contributions. Federal contributions must be matched by both provinces/territories and employers.

5.2.3 Where can the Canada Job Grant be used?

The Grant will be for short-duration training, and will include eligible training institutions, including community colleges, career colleges and trade union training centres.

The detailed design of the Grant will be negotiated with provinces and territories over the next year, in consultation with stakeholder groups including employer associations, educational institutions and labour organizations.

5.3 Extension and Expansion of the Hiring Credit for Small Business

This temporary credit would provide up to $1,000 against a small firm's increase in its 2013 Employment Insurance (EI) premiums over those paid in 2012 to employers with total EI premiums of $15,000 or less in 2012.

6 *CUSTOMS TARIFF* MEASURES

6.1 Tariff Relief for Canadian Consumers

The budget proposes to permanently eliminate all tariffs on baby clothes and sports and athletic equipment (excluding bicycles).

The tariff reductions will be given effect by amendments to the *Customs Tariff* and will be effective in respect of goods imported into Canada on or after April 1, 2013.