Goodmans LLP Update

Tax Update

November 20, 2015

Government Clarifies Grandfathering for Existing Stock Options

In its 2015 election platform, the Liberal Party announced its plan to change the taxation of stock options, by capping the amount that may be claimed under the 50% stock option deduction generally available in respect of eligible stock options. Since the election, there has been concern among tax practitioners and the business community that any proposed limits might be applied to the future exercise of stock options that have already been granted.

In connection with his first Economic and Fiscal Update, the Minister of Finance sought to alleviate concerns by assuring Canadians that the Department of Finance is still considering what changes, if any, would be appropriate, and that any changes would not be retroactive.

"*Any decision we take on stock options will affect stock options issued from that date forward*," Morneau said today in Ottawa. "*Any stock options that have been issued prior to that date will be under that taxation regime that was in effect prior to that date*," Morneau said. "*That I hope should relieve those Canadians who have that concern from taking actions that would be inappropriate*."[1]

This is welcome news to current optionholders who were faced with the difficult decision of whether to prematurely exercise existing options. In addition, today's message seems to signal that future options which are granted before the Government announces any changes will be grandfathered. Accordingly, any corporation that is contemplating option grants or would typically issue stock options to its employees should consider the timing of those option grants in light of today's announcement.

For further information on the taxation of stock options, please contact any member of our Tax Group.

[1] Source: http://www.bloomberg.com/news/articles/2015-11-20/canada-tax-change-to-affect-just-new-stock-options-morneau-says