

Changes announced to the new excessive interest and financing expenses limitation (“EIFEL”) regime

Purpose of the EIFEL regime

The EIFEL proposals restrict taxpayer capacity to deduct interest and other financing costs where certain thresholds are exceeded.

Changes announced to the EIFEL regime in November 2022

On November 3, 2022, the federal government announced proposals to modify certain elements of the original EIFEL regime.

Most importantly, the application date for the EIFEL rules has been delayed to taxation years of corporations and trusts **beginning on or after October 1, 2023 instead of January 1, 2023.**

Among other changes to the proposals, there are:

- 1.The net interest expense de minimis threshold (discussed below) is now \$1,000,000 instead of \$250,000;
- 2.The taxable capital limit (discussed below) is now \$50 million instead of \$15 million.

What is within the scope of the EIFEL regime

EIFEL generally **applies to all interest and financing expense**, except those related to certain public-private partnership infrastructure projects. EIFEL aims to limit the deduction of net interest and financing expenses exceeding 30% of adjusted taxable income (40% for taxation years beginning on or after October 1, 2023 and before January 1, 2024), unless an exclusion applies.

What is excluded from the EIFEL regime

Canadian-controlled private corporations

Canadian-controlled private corporations that, together with any associated corporations, have **taxable capital employed in Canada of less than \$50 million** are excluded from EIFEL.

\$1,000,000 threshold

Groups of corporations and trusts whose aggregate **net interest expense among their Canadian members** is **\$1,000,000** or less are excluded from EIFEL.

Canadian-resident corporations and trusts with substantially all of their business in Canada

Standalone **Canadian-resident corporations and trusts, and groups consisting exclusively of Canadian resident corporations and trusts** that carry on **substantially all of their business in Canada** are excluded from EIFEL. This exception only applies if no group member has an interest in a non-resident corporation that qualifies as a “foreign affiliate” (equity percentage of 10% and above) **and** if no non-resident holds a significant interest in any of the group members.

Interest paid and received within related or affiliated Canadian corporations

Payments of interest or lease financing amounts **made by one Canadian corporation to another related or affiliated Canadian corporation** are excluded from EIFEL. An election has to be filed to benefit from this exception.

Conclusion

Considering the scope of the new EIFEL regime, clients need to plan now to prepare for the new EIFEL regime.