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The New EIFEL Tax Regime

WESTWARD ADVISORS

WESTWARD'S VIEWPOINT

Corporations and trusts deducting interest and financing expenses related to leveraged life insurance plans should seek professional advice regarding the application of EIFEL to their situation.

The new EIFEL rules in Bill C-59 intend to **deny the deduction of "excessive" interest and financing expenses by certain corporations and trusts** commencing with taxation years beginning after September 30, 2023.

In many cases, EIFEL will not apply because the entity is part of a group that does not exceed the $50,000,000 taxable capital threshold, or does not exceed the $1,000,000 interest threshold, or does not carry on any activities outside Canada. Nevertheless, qualifying for one of these exclusions requires meeting the specific provisions of the *excluded entity* definition and requires professional tax advice.

For more information, clients can contact their Account Manager or Wayne Stone at waynes@westwardadvisors.com.

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SUMMARY OF EIFEL RULES

The Federal government's Bill C-59 includes the new **"Excessive Interest and Financing Expenses Limitation"** tax rules **(EIFEL)**. Bill C-59 received 1st reading in the House of Commons on November 30, 2023 and will be enacted when it receives royal assent.

EIFEL is applicable to taxation years beginning on or after October 1, 2023.[1]

EIFEL does not apply to natural persons or partnerships and therefore only applies to corporations and trusts.[2]

EIFEL also does not apply to three types of excluded entities: [3]

(i) Canadian-controlled private corporations with less than $50 million of associated group taxable capital,

(ii) groups of corporations or trusts with net group interest expense less than $1 million, and

(iii) certain groups that carry on all or substantially all their activities in Canada.

EIFEL generally limits an affected entity's deduction for interest and financing expenses to: [4]

- 40% of adjusted taxable income **(ATI)** in taxation years beginning after September 30, 2023 and ending before 2024, and
- 30% of ATI for taxation years beginning after 2023.

Conceptually, ATI represents tax-EBITDA, or taxable income before interest, taxes depreciation and amortization, with numerous technical adjustments. [5]

EIFEL allows for transferring excess deduction capacity to another entity in the group and for carrying forward excess deduction capacity to later taxation years. [6]

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1. See Bill C-59, coming into force provisions for new sections 18.2 and 18.21 of the *Income Tax Act*.
2. See the definition of "*taxpayer*" in proposed subsection 18.2(1) and related explanatory notes.
3. See paragraphs (a), (b) and (c) of the definition of "*excluded entity*" in proposed subsection 18.2(1) and related explanatory notes.
4. See the definition of "*ratio of permissible expenses*" in proposed subsection 18.2(1) and related explanatory notes.
5. See explanatory notes to the definition of "*adjusted taxable income*" in proposed subsection 18.2(1).
6. See the definitions of "*absorbed capacity*" and "*transferred capacity*" in proposed subsection 18.2(1) and related explanatory notes.