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Dear Clients/Friends:

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This is a quarterly newsletter which we send to clients, referral sources and friends. The information is meant to be educational and application of the concepts should be on an individual basis. Please do not hesitate to contact us should you require further clarification of any item.

OFFICE NEWS

Spring has sprung and another tax season is behind us. As always, it was great to see all of our clients again. We would like to thank all of you for bringing in your tax information to us in a timely matter.

Did you know that approximately 5% of personal income tax returns Efiled result in a request from Canada Revenue Agency ("CRA") for supporting documentation? In most cases, our office is sent a copy of the request and we will endeavour to handle it on your behalf in an efficient and cost-effective manner. For simple CRA requests, we will go ahead and provide them with the requested support; a service for which we bill a nominal amount. For more complex requests, we will contact you prior to preparing a response to CRA.

Effective June 21 and similar to last year, *our office will be closed on Fridays until labour Day.* Enjoy your summer!

PERSONAL TAX

MEDICAL EXPENSES - TRAVEL



In a November 8, 2012 *Tax Court of Canada* case, CRA disallowed as a medical expense \$14,883 of *travel costs* related to 101 round trips that Mr. Jordan made from Weyburn to Regina to *assist his wife in recovering* from an aneurysm.

Taxpayer wins

The Court allowed the deductions on the basis that they were incurred while his wife was receiving medical treatment and, therefore, should *not be restricted* to just the initial trip from Weyburn to Regina.

DISABILITY TAX CREDIT

In a December 18, 2012 *Tax Court of Canada* case, the Court determined that the Appellant was *not* entitled to a *Disability Tax Credit* for the 2010 taxation year in respect of her diagnosis under *Attention Deficit-Hyperactive Disorder* and DSM-IV Learning Disability.

The Court noted that there is no doubt that the difficulties experienced by the Appellant are not insignificant, however, they are *not sufficiently serious* to meet the definition of *mental or physical impairment* required to claim the credit.

MOVING EXPENSES AND REIMBURSEMENTS

When taxpayers move, they commonly incur significant costs, many of which are deductible as *moving expenses*, including:

- *Transportation and storage* costs (packing, hauling, in-transit storage and insurance) for possessions and household contents;
- Reasonable *travelling costs* (vehicle expenses, meals, accommodation) to move you and your family;
- *Temporary living costs* near the old or new location (meals, accommodation) for up to 15 days;
- *Lease cancellation* costs;
- Temporary home *costs while trying to sell your vacant*

IN THIS ISSUE

PERSONAL TAX
EMPLOYMENT INCOME
BUSINESS/PROPERTY INCOME
2013 FEDERAL BUDGET
OWNER/MANAGER REMUNERATION
ESTATE PLANNING
WEB TIPS
GST/HST
DID YOU KNOW

residence (interest, property taxes, insurance premiums, heat and utilities) after you have moved out to a maximum of \$5,000;

- *Transaction costs of selling* of your old house (real estate commissions, advertising, legal fees, and mortgage penalties);
- *Transaction costs of buying* a new house (legal fees and *land transfer taxes* excluding

Tax Tips & Traps

GST/HST) if the old house is sold due to the move;

- Costs *incidental to the move* (connecting and disconnecting utilities, changing legal documents such as a driver's license or automobile registration).

EMPLOYMENT INCOME

TAXABLE BENEFIT - EMPLOYER PROVIDED MOTOR VEHICLES REQUIRED TO BE TAKEN HOME AT NIGHT

It was noted by the CRA in Income Tax Technical News No. 40 (June 11, 2009), that travel from *home to the office* for some *employer provided motor vehicles* may still be considered *taxable benefits* even if the vehicles are *required to be taken home* and prohibited from any other personal use.

It should be noted that when calculating the benefit, the use of these vehicles is *not* considered *personal* if the employee proceeds *directly from home to a point of call* or returns home from that point of call.

RENTAL OF TOOLS AND MOTOR VEHICLE

In a November 29, 2012 *Technical Interpretation*, CRA indicates that they may consider *rental payments* made to an *employee* for the use of his or her vehicle and tools to be income from *employment*, and not from property, on the basis that the payments are received by virtue of an *employer/employee relationship*.



DOOR PRIZES

In a February 4, 2013 *Technical Interpretation*, CRA was asked about *door prizes* received by attendees at a

company social event where every attendee received a door prize.

CRA indicated that their tax-free \$500 *gifts and awards policy* would apply to gifts received by the employee, the employee's spouse, and any other non-arm's length person.

The questioner suggested that *gift cards* may be given. CRA noted these *near cash gifts* would *not* be included under their *gifts policy*. Therefore, the value would be *taxable* to the employees. CRA referred to the detailed discussion of their gifts and awards policy at www.cra.gc.ca/gifts.

BUSINESS/PROPERTY INCOME

SCIENTIFIC RESEARCH AND EXPERIMENTAL DEVELOPMENT (SR&ED)

In an October 25, 2012 *Tax Court of Canada* case, the Court found that CRA had incorrectly denied SR&ED expenditures of \$387,000 in 2008. CRA unsuccessfully argued that the company was *only reproducing existing technology* when it incurred expenses to develop a new Heating, Ventilation, and Air Conditioning system for multi-storey residential townhomes.



The Court found for the taxpayer on the basis that the Company had to make *modifications* to the system to make it work at the level *necessary* for commercial success.

This means that CRA will have to look at SR&ED *claims in their entirety* and *not* try and break them down into *component sections* as they have done in the past.

SALE OF FAMILY HOMES

In a September 6, 2012 *Tax Court of*

Canada case, the taxpayer was a police officer who had *three* unreported sales of *family homes* built in 2004, 2005 and 2007 in which *CRA assessed business income* of \$31,068, \$44,729 and \$29,872 and also assessed *gross negligence penalties*.

For the three properties, the ownership period between the date of purchase of the land and the date *listed for sale* varied between 67 and 110 days.

Taxpayer loses

The Court found that these homes were acquired and built with the *intention of selling* and were, therefore, *business income* and, that there was *gross negligence* in not reporting the income.

2013 FEDERAL BUDGET

Some of the provisions in the 2013 Federal Budget include:



First-Time Donor's Super Credit (FDSC)

Budget 2013 proposes a temporary FDSC providing an additional *25-per-cent tax credit for a first-time donor* on up to \$1,000 of donations.

A first-time donor will be entitled to a 40-per-cent federal credit for donations of \$200 or less, and a 54-per-cent federal credit for the remaining portion, not exceeding \$1,000.

An individual will be considered a first-time donor if neither the individual nor the individual's spouse or common-law partner has claimed a Charitable Donation Tax Credit in any taxation year after 2007.

The FDSC will be available in respect of donations of cash made on or after Budget Day (*March 21, 2013*) and may be claimed only once in the 2013 through 2017 tax years.

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Taxes in Dispute and Charitable Donation Tax Shelters

Budget 2013 proposes to allow the CRA to collect 50 per cent of the disputed tax, interest or penalties where an objection has been filed with regards to a disallowance of a deduction or tax credit claimed in respect of a *tax shelter* that involves a *charitable donation*. Normally, collection action cannot be taken while amounts are under objection or appeal.

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

The Canada Job Grant

Businesses with a plan to train Canadians for an existing job or a better job will be eligible to apply for a Canada Job Grant. The Grant will provide access to a maximum \$5,000 federal contribution per person towards training at eligible training institutions.

As there are various bodies involved, *negotiations* must still take place to finalize the detailed design of the Grant.

Extension and Expansion of the Hiring Credit for Small Business

Budget 2013 proposes to expand and extend for one year the temporary *Hiring Credit for Small Business*. This credit would offset up to \$1,000 of the increase in an employer's 2013 Employment Insurance (EI) premiums over those paid in 2012. Only employers with total EI premiums of \$15,000 or less in 2012 qualify.

Canada – U.S. Information Exchange & FATCA

Budget 2013 confirms the Government is engaged in negotiations with the U.S. for an agreement to enhance reciprocal *information exchange* under the Canada – United States Tax Treaty.

The agreement would include information exchange provisions in support of the *United States Foreign*

Account Tax Compliance Act provisions.

OWNER-MANAGER REMUNERATION

NEW IDEAS ON RETIREMENT PLANNING FOR BUSINESS OWNERS

For many years we have been advising our successful corporate business owners, to pay sufficient salary (now about \$135,000) in order to maximize your RRSP contribution room. This is because the amount you can contribute to your RRSP is based on 18% of the prior year's earned income. If you needed further money for personal living expenses, we have generally advised you to pay yourself dividends.

Ideally, if you, as a business owner, pay dividends vs. salary there should be no difference in the combined after tax dollars you retain. In recent years however, corporate and personal tax rates have changed, whereby *dividends currently have an advantage of 3.39%*, when corporate taxable income is less than \$500,000. In Ontario there is an added cost of paying yourself, the owner, a salary if total corporate salaries are above \$400,000 (soon to be \$450K). This is because you have to pay 1.95% for Employer Health Tax. In this case *the after tax advantage of paying dividends is over 4%*.

CPP does not have to be paid on dividend income. As a business owner, this might mean an overall savings of up to \$4,712. Of course, foregoing the CPP does reduce the benefits to the contributor and his or her family on retirement, disability or death.

Now comes a partial assessment of RRSP's as an effective after tax vehicle for retirement planning. Often RRSP's are invested in equity investments which may produce capital gains (50% taxable outside of the RRSP) and dividends

(taxed at about 32.5%) but when the funds are taken out of RRSP's the income is fully taxed, possibly at 46.41%. Consider for a moment, that rather than withdrawing money from your business and investing it in your RRSP, you leave the money in the business and invest it at the corporate level. This option would allow the tax preferred status of capital gains and dividends to be taken advantage of. *Depending on your unique situation, the conclusion may just be to no longer pay yourself a salary.*

This is a complex area of tax planning and this short background by no means covers all that needs to be considered.

We would appreciate the opportunity to further discuss the pros and cons of this strategy with you.

DIRECTOR LIABILITY

In an October 16, 2012 *Tax Court of Canada* case, the issue was whether the Appellant, as a *director* of the corporation, was *personally liable* for the *unremitted GST* of \$2,512.



Taxpayer wins

The Court noted that he had effectively *lost control* over the corporation's affairs.

It was also noted that the individual is not necessarily personally liable if external constraints (such as psychological, economic and social control) were such that a *reasonable person* who was a victim of the same control would have *done nothing*.

ESTATE PLANNING

DEFERRING OLD AGE SECURITY (OAS)

A person *may defer* receiving the OAS pension by not



Tax Tips & Traps

applying for it at age 65. The pension amount will be increased by **.6% per month** of deferral after your **65th birthday** or **July 1, 2013**, and stays in effect until your 70th birthday.

It also appears that a person that turns 65 before July 1, 2013 could consider delaying the receipt of OAS payments for up to five years beyond the 65th birthday. However, the OAS increase of .6% per month will not commence until July 1, 2013.

WEB TIPS

FINANCIAL CONSUMER AGENCY OF CANADA (FCAC)

The *FCAC* is an independent body working to empower Canadians to expand their *consumer education* in the *financial sector*.

FCAC operates a website, www.fcac-acfc.gc.ca/eng/index-eng.asp, with a host of information on various financial products and services available in Canada such as mortgages, credit cards,

insurance products, and other banking services.

Consumer education on the site comes in the form of *toolkits and calculators, written commentary, pamphlets, and questions and answers*, all of which are fairly simple to use and understand. The website also provides an area devoted to *education about fraud*.

In addition, it provides direction for consumers on *launching complaints* against various federally regulated financial institutions and payment card network operators.

As the *FCAC* is an *independent body*, information bias is reduced.

GST/HST

INPUT TAX CREDITS (ITCs) - TRAVEL ALLOWANCES

In a January 17, 2013 *Tax Court of Canada* case, ITCs of \$126,339 were claimed with regards to *travel allowances* paid to employed sales representatives for the *estimated* number

of *kilometers* driven.

Taxpayer loses

The Tax Court noted that:

1. The *allowances* paid were based on an *estimate* of the kilometres *to be travelled* and *not* on the *actual* kilometres driven for business.
2. The Excise Tax Act (ETA) permits ITCs related to non-taxable allowances, however, the allowance must be based on the actual *number of kilometres* driven.
3. The *requirements* were *not met*, and the *ITCs* were not allowed.



The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a newsletter such as this, a further review should be done by a qualified professional.

Although every reasonable effort has been made to ensure the accuracy of the information contained in this newsletter, no individual or organization involved in either the preparation or distribution of this letter accepts any contractual, tortious, or any other form of liability for its contents.

For any questions... give us a call.

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