TAX NEWSLETTER Spring 2016

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Special points of interest:

- *Personal tax instalments:*
  - ► *June 15, 2016*
  - ► *September 15, 2016*
  - ► *December 15, 2016*
  - ► *March 15, 2017*
- *Self-employed tax filing deadline is June 15, 2016.*
- *Interest rate to be paid on corporate taxpayer overpayments for second quarter is 1%.*
- *Beware of scammers impersonating the Canada Revenue Agency*

Record Keeping

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In this day and age, you are more likely to find bills and statements in your inbox than your mailbox. So, the question becomes, can electronic records be kept for tax purposes, as opposed to maintaining hard copy records?

The answer is yes. The Canada Revenue Agency (CRA) will accept electronic records for the purposes of: Income Tax; Employment Insurance (EI; Canada Pension Plan (CPP); and Harmonized Sales Tax (HST).

CRA requires business records whose original format is electronic be kept in their original format. You are permitted to convert your hard copies to electronic formats. These records must contain all the information necessary to determine the amount of tax you owe, or the refund you are entitled to, under the Income Tax Act.

Where electronically kept records are converted from one format to another, it is your responsibility to ensure the converted records are reliable and readable, and does not result in the loss, destruction, or alteration of relevant information and data.

The rules for electronic record keeping are the same as hard copy record keeping. That is to say, electronic records must be kept for six years from the date of the Notice of Assessment, though documents or contracts related to property acquisition must be kept for six years from the year of disposition.

All hard copy accounting records must be kept in Canada, either at your place of business or residence. CRA recommends keeping archived or backup electronic records at a different site to safeguard them from being at risk in case of fire, flood, theft, etc.

Records kept on an international server are not considered to be held in Canada. In order to keep records on a non-Canadian server, you must apply for, and receive, permission from CRA.

Impact of 2016 Federal Budget on Families

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On March 22, 2016, the newly elected Federal Liberal Government tabled its first budget, bringing proposed changes to tax credits and benefits for Canadian families with children. The effects of these changes on families will depend on the number and ages of the children in the family, as well as the income of the parents.

Family Tax Cut Credit

Introduced in 2014, and providing limited income splitting to eligible families, the credit permitted a notional transfer of income from the higher income spouse (or common-law partner) to the lower income spouse. The maximum transfer was $50,000 of taxable income, which effectively reduced the family's combined tax payable by $2,000. The Budget proposes to eliminate the family tax cut for 2016 and subsequent years.

Children's Fitness and Arts Credits

These credits were introduced in 2006 and 2011 respectively and permitted a claim of up to $1,000 and $500 per eligible child towards qualifying expenses. For most Canadians, these credits were federal credits only, as the majority of provinces did not provide similar credits. These credits provided a tax savings of $75 per $500 of qualifying expenses. For example, if the maximum amount was claimed under both credits for one child, the family would see a tax savings of $225. The Budget proposes to reduce the fitness and arts credits to $500 and $250 respectively per child for 2016, and fully eliminate both for 2017 and later years.

Education and Textbook Credits

These long-standing credits are proposed to be eliminated effective January 1, 2017. Based on the proposed legislation, any unused credits from prior years may still be claimed. The Budget does not propose any change to the related tuition tax credit where students are able to claim/transfer eligible tuition amounts. Unlike the other provinces, the Alberta (AB) tax legislation does not refer to the Federal Income Tax Act and, therefore, the AB education amount will not be eliminated with this proposed change. AB would have to make a legislative change to eliminate this credit. The AB government has said "Should the education tax credit be changed or eliminated federally, Alberta will assess the implications for its own education tax credit at that time." It seems logical that they would also eliminate the credit.

Canada Child Benefit (CCB)

The Budget introduced the new CCB, to replace the Universal Child Care Benefit (UCCB) and the Canada Child Tax Benefit (CCTB). The UCCB was a tiered taxable benefit based on a child's age (children under 6, $160/month; children aged 6 to 17 years, $60/month), while the CCTB was an income-tested non-taxable benefit. As the CCTB was based on family income, the maximum benefit was reduced where family income exceeded $44,701, and a couple with two children would have received no benefit once the family income reached $118,250. The new CCB will be a tax-free benefit based on family income and age of the children.

To illustrate the impact of the changes, under the previous UCCB/CCTB program, consider an AB family with two children under age 6, with a family income of $400,000 ($200,000 earned by each spouse). In 2015, this family would not have received any CCTB due to high family income, but would have received a net UCCB after-tax amount of $2,304. Under the new CCB program in 2016, this family would not be eligible for benefits.

While the proposed changes may be wide-sweeping and appear to have a significant financial impact on Canadian families, some of the eliminated programs did not provide considerable after-tax assistance for those families having two spouses with high income.

To determine the amount of CCB that your family may be eligible to receive, please visit the website http://www.budget.gc.ca/2016/tool-outil/ccb-ace-en.html.

Donation Tax Credits for Deaths after January 1, 2016

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As of January 1, 2016, gifts made in the year of death are considered to be made by the estate of an individual and can be claimed on the deceased's year of death tax return ("terminal return") or on their prior year tax return, plus:

1. Gifts made in the year of death by a spouse or common-law partner can be claimed on the deceased's return, as well as any made in the prior five years that have not been fully utilized. However, gifts made in the year of a spouse's death, per the will, can no longer be claimed on the surviving spouse's return.
2. If a donation is made by the estate while the estate is a Graduated Rate Estate ("GRE"), the credit can be claimed on the terminal return or in the return for the immediately preceding year. Alternatively, these donations can be claimed in the estate return in the year of the donation or any preceding year of the estate. The donation credit can be allocated between the individual and the GRE, however desired.
3. These rules also apply when the gift is made by way of a direct designation of a life insurance policy, RRSP, RRIF, or TFSA. Again, the surviving spouse is unable to claim any donations made by the estate on their returns.

Estates qualify as a GRE up to 36 months after the individual's death. For donations made by the estate, there is an additional 24-month extension to allow the donations to be carried back to the year of death or immediately preceding year. This means that any donations made within 60 months of the date of death will be eligible, provided the estate is a GRE when the donation is made.

Gifts of "qualifying securities" to a charity will result in taxable capital gains of nil (so not included in the donor's taxable income), while the full fair market value of the gift will be eligible for a charitable donation credit. The term "qualifying securities" includes shares, bonds, and mutual funds listed on a prescribed stock exchange. The same results apply for gifts of cultural or ecological property. Again, the timeline for eligible donations is 60 months, as outlined above.

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For spousal or common-law partner trusts, there is a deemed taxation year end upon the death of the beneficiary. Where charitable gifts are made by this type of trust after the deemed year end, the trust can claim the donation in the deemed taxation year or in the following five years, provided the donations are made before the filing due date of the return. The filing due date of the return will be 90 days after the deemed year end of the trust.

Changes to Testamentary Trusts—The New Rules Are Here

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Much has been written on the legislative changes to testamentary trusts, which were originally announced in 2014. These revised rules became effective January 1, 2016. Although beyond the scope of this article, generally, preferential tax treatment that had previously existed has been restricted or removed for certain testamentary trusts. Under the new rules, many of the tax benefits have been restricted to “graduated rate estates.”

The following questions may help you determine if these new rules may impact your estate planning:

- Does your current will create multiple testamentary trusts?
- Does your current will create a spousal testamentary trust?
- Is your current estate plan designed to have multiple wills?
- Does your current estate plan involve alter ego or joint partner trusts?
- Does your current will or estate plan provide for any large donations to a registered charity?
- Is it anticipated the estate will exist for longer than 36 months?
- Are you involved in an existing estate that has continued for longer than 36 months?
- Does your estate anticipate disabled beneficiaries?

If the answer to any of the above questions is yes, it may be prudent to review the potential impact of these new rules on your estate plan with your accountant to ensure there are no unanticipated consequences of the new rules.

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