

Michael's Tax Tips & Updates

taxation news and information bulletin

July 2013

Individuals

- Where a taxpayer receives a lump-sum equity payment this amount must be included in income for the year of receipt. However CRA notes that provided the income related to previous years is \$3,000 or greater and the taxpayer completes a form T1198 setting out the breakdown of income between the relevant years, and files it with the tax return in the year of receipt, CRA will recalculate the taxpayer's taxes for all the prior years with an interest charge and assess the lesser of this total or the taxes as due on all the income in the year of receipt.
- Where a taxpayer has been required by court order to make support payments, plus interest on any support payments in default, CRA will disallow any deduction made by the taxpayer for any interest so incurred. Interest is deemed an amount not payable for support but to compensate for late payment.
- The Tax Court of Canada has ruled that donations "in kind" such as clothing, electronic equipment, toiletries and food products must include prescribed information on the receipts, and proof of fair market value.
- CRA has issued a Technical Interpretation regarding life insurance commission earnings.
- Where a self-employed commission salesperson receives an "advance commission" subject to a potential chargeback, the advance must be included in income in the year received. Any subsequent chargeback would be deductible to the extent it was incurred for earning an income.
- The maximum Registered Retirement Savings Plan (RRSP) limit for 2013 is \$23,820. Contributions can be made up to 60 days after the end of the calendar year.
- The tax free savings account (TFSA) limit has been increased to \$5,500 for the year 2013. Remember unused contribution room carries forward to future years.
- It is worthy to note once again that the Federal government provides a non-refundable tax credit of up to \$750 for first time home buyers who meet the qualifying criteria.
- The Canadian Bar Association and family lawyers have been working with the CRA to address tax-related issues around relationship breakdowns. Proof of separation by CRA can be onerous and frustrating in an already tense situation. The CBA is expecting a response to the issues raised this fall when another meeting is to be held with CRA.

Additional tax considerations

- The United States is considering legislation that would allow Canadians aged 55 and older to spend 240 days in the country without a visa. However it is worthy to note that Provincial healthcare limits on the time spent out of the country ranging from 6 to 7 months could reduce this amount of time regardless of US changes.
- The Income Tax Act requires a designation of principal residence on disposition in order to claim the principal residence exemption. If the property has been used throughout the period of ownership as a principal residence making the gain on the sale entirely exempt and there is no additional property, the designation form T2091 need not be filed.

However if more than one property is owned and the taxpayer has not filed form T2091 with his/her return for the taxation year in which a property was disposed, he/she is still considered to have designated that property as his/her principal residence if the gain was not reported on their tax return.

This can lead to an inappropriate selection as to a principal residence and preclude the selection of another property as a principal residence with a more beneficial designation.

Businesses

- Care must be taken by taxpayers working under the umbrella of their own corporation not be considered a personal service business (employee). Similar rules apply as to those concerning contractor vs. employee

relationships. If found to be a PSB many expenses may be disallowed as well as the small business deduction.

- Where an allowance is paid to an employee for the use of their motor vehicle and the allowance is not solely bases on the number of kilometers travelled, the allowance is deemed not to be reasonable. It will thus be considered a taxable travel allowance to the employee who may then be able to deduct related expenses. However because it is a taxable allowance, the employer will not be entitled to the HST input tax credit. The employee may be entitled to an HST rebate.
- The Tax Court of Canada has ruled that where a taxpayer has engaged in securities trading with short holding periods and numerous transactions, that he/she was engaged in the business of trading securities and that income treatment of the gains and losses was more appropriate than capital treatment.

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