Michael's Tax Tips & Updates

taxation news and information bulletin

July 2012

Individuals

- The Children's Arts (CATC) and Fitness Tax Credits (CFTC) cannot both be claimed where one program involves both activities. Separate receipts would be required for each distinct program.

- In an October 2011 Technical Interpretation CRA notes that legal costs related to child or spousal support payments are deductible in the year the costs were incurred on an accural basis. In some cases this deduction may result in a non-capital loss which may be carried back or forward to offset income in other years.

- Commencing in 2011 amounts paid for occupational, trade or professional examinations will be included in amounts eligible for the tuition tax credit. Of course amounts reimbursed by an employer are excluded.

- In cases of shared custody, CRA now allows each parent to receive the Canada Child Tax Benefit, the Universal Child Care Benefit, and the child component of the HST credit calculated as if the child was their eligible dependent and they will be paid 50% of the benefits associated with the child.

- Recent changes to the Canada Pension Plan will mean a person who delays receiving their CPP until after age 65 will receive a larger increase than was available prior to 2012. Therefore an individual that starts receiving CPP at age 70 will receive 42% more than if they had commenced the pension at 65. Individuals that elect to receive their CPP at age 60, will receive 36% less than if they waited until age 65.

- Specified Foreign Properties having an aggregate cost of $100,000 or more must be reported on form T1135. Real property used primarily for personal use is excluded from this requirement. The penalty for failure to report is $2,500.

- When a U.S. citizen purchases an insurance policy from a Canadian insurer, Internal Revenue Code IRC4371 could apply an excise tax payable where the insurance contract or annuity policy is with respect to a "U.S. insured risk". The excise tax rate is 1% of the gross amount of the premiums.

- For the 2012 taxation year the Province of Ontario will introduce a "temporary" 2% surtax on individuals earning more than $500,000 a year.

Additional tax considerations

- An individual's principal residence typically has no tax consequences. However in the case of a deceased individual there may be tax savings available. Like most property a person's residence is deemed disposed of at fair market value on death. The estate acquires the property at the same value. If the deceased's principal residence is then sold the estate incurs costs such as realty commissions and legal fees resulting in a loss from the fair market value. Under certain circumstances this loss may be carried back to the terminal return and deducted from capital gains first, then all other sources of income.

- With respect to wind-ups, CRA notes that before a corporation or a Trust/Estate can be wound-up, the person who is responsible for the winding-up and distribution of the property is required to obtain a clearance certificate verifying that all amounts for which the corporation or Trust can be reasonably expected to be liable under the Act have been paid or that acceptable security for payment has been provided.

- The Voluntary Disclosure Program is designed to encourage taxpayers to catch up on tax filing arrears in exchange for the waiving of the penalties. A valid disclosure must meet four conditions: it must be voluntary; complete; be subject to a penalty; and generally the delay in filing must be more than one year.

- Damage payments received pursuant to a settlement agreement to avoid or terminate litigation may generally be accorded similar tax treatment as an amount received pursuant to a judicial ruling. Generally any damages in respect of personal injury or death would be non-taxable. Any amount compensating for the loss of income from business or property will be taxable as income.

Businesses

- In a February 2012 Technical Interpretation CRA notes that income of a corporation from active business income is defined as the total of a corporation's income from "active business" including income "pertaining to" or "incident to" that business. Thus where a holding company receives rental income from its operating company where the expense is deducted in computing active business income by the operating company, the investment income (rent) is deemed to be active business income received from an associated company.

- Associated corporations must share the $500,000 annual small business deduction as well as other credits such as SR&ED.

- Employer provided meal allowances will not be taxable where the following conditions are met: the allowance is a reasonable amount; it is received for travelling away from the municipality and the metropolitan area where the employer's establishment is located; and the travelling is done in the performance of the duties of an office or employment.

- The CRA has a new policy with respect to GST/HST registration. An application will be effective on the date the CRA receives the request unless the entity has actually collected GST/HST prior to that time. While backdating has always been done in the past the CRA may now backdate only at its discretion, and it is not required to do so.

Visit our website at:
www.michaelolearycga.com

Michael O'Leary, CGA
Professional Corporation

16610 Bayview Ave., Suite 204
Newmarket, Ontario L3X 1X3
Phone: 905-898-3320
Fax: 905-898-3856
Email: mike@michaelolearycga.com
sara@michaelolearycga.com