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YEAR-END TAX PLANNING

100(1)

Some ***2012 year-end tax planning tips*** include:

1. Certain ***expenditures*** made by ***individuals*** by ***December 31, 2012*** will be eligible for ***2012 tax deductions*** or ***credits*** including: moving expenses, child care expenses, safety deposit box fees, charitable donations, political contributions, medical expenses, alimony, eligible employment expenses, union professional or like dues, carrying charges and interest expenses, certain public transit amounts, and children's fitness and arts amounts.

2. You have until ***March 1, 2013*** to make tax deductible Registered Retirement Savings Plan ***(RRSP)*** contributions for the 2012 year.

   Consider contributing to a ***spousal RRSP*** to achieve income splitting in the future.

3. If you own a business, consider paying a ***reasonable salary*** to family members for services rendered to the business.

4. An individual whose ***2012 net income*** exceeds ***$69,562*** will lose all, or part, of their ***old age security***.

   Senior citizens will begin to lose their income tax ***age credit*** if net income exceeds ***$33,884***.

   Contact your professional advisors for assistance in ***managing*** 2012 personal income.

5. Consider purchasing assets eligible for ***capital cost allowance*** before the year-end.

6. Consider selling capital properties with an ***underlying capital loss*** prior to the year-end if you had ***taxable capital gains*** in the ***year***, or any of the ***preceding three years***. This capital loss may be offset against the capital gains.

7. ***Registered Education Savings Plan (RESP)***

   A ***Canada Education Savings Grant*** (CESG) for RESP contributions will be permitted equal to 20% of annual contributions for children (maximum $500 per child per year).

8. ***Health and dental premiums for the self-employed***

   Individuals will be allowed to ***deduct*** amounts payable for ***Private Health Service Plan*** coverage in computing ***business income*** provided they meet certain criteria.

9. A ***refund*** of ***Employment Insurance*** paid for non-arm's length employees ***may*** be available upon application to CRA.

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10. Taxpayers that receive *“eligible”* dividends from private and public corporations may have a significantly lower tax rate on the dividends. ***Notification*** from the corporation to the shareholder is required.

11. Eligible ***public transit passes*** will be entitled to a tax credit.

12. A ***Registered Disability Savings Plan*** may be established for a person who is eligible for the ***Disability Tax Credit***. Non-deductible contributions to a ***lifetime maximum of $200,000*** are permitted which are eligible for tax-deferred grants and bonds. Please contact your professional advisors for details.

13. If required income or Forms have ***not been reported*** in the past to the CRA, a ***Voluntary Disclosure*** to the CRA may be available to avoid penalties. Contact us for details.

2012 REMUNERATION

100(2)

Some ***general guidelines*** to follow in ***remunerating the owner*** of a ***Canadian-controlled private corporation*** include:

1. ***Bonusing down*** active business earnings in excess of the ***annual business limit*** may reduce the ***overall tax***. However, leaving corporate ***active business income*** over this amount presents a ***tax deferral***.

   Professional advice is needed in this area.

2. ***Notification*** must be made to the shareholders when an ***“eligible” dividend*** is paid - usually in the form of a ***letter dated*** on the date of the ***dividend declaration***. If all ***shareholders*** are ***directors***, the ***notification*** may be made in the ***Directors’ Minutes***.

   Please contact your ***professional advisor*** for advice before paying an ***eligible*** or ***ineligible*** dividend.

3. Elect to pay out tax-free ***“capital dividend account”*** dividends.

4. Consider paying dividends to obtain a refund of ***“refundable dividend tax on hand”***.

5. Corporate earnings in excess of personal requirements could be left in the company to obtain a ***tax deferral***. The effect on the ***“Qualified Small Business Corporation”*** status should be reviewed before selling the shares.

6. ***Dividend income***, as opposed to salaries, will reduce an individual’s ***cumulative net investment loss*** balance thereby providing greater access to the ***capital gain exemption***.

7. Excessive ***personal income*** affects receipts subject to ***clawbacks***, such as ***old age security***, the ***age credit***, ***child tax benefits***, and ***GST credits***.

8. Salary payments require ***source deductions*** to be remitted to the Canada Revenue Agency on a timely basis.

9. Individuals that wish to contribute to the Canada Pension Plan or a Registered Retirement Savings Plan may require a ***salary*** to create ***“earned income”***.

10. ***Salaries*** paid to family members must be ***reasonable***.

PERSONAL TAX RETURNS

100(3)

CHILD CARE EXPENSES (CCEs) - NANNY COSTS

In a June 13, 2012 ***Technical Interpretation***, CRA notes that specific ***Nanny costs*** such as ***transportation*** to travel from the caregiver’s country of permanent residence to the location of work in Canada, interim medical insurance coverage, and Ontario’s Workplace Safety and Insurance Board (***WSIB***) employer premiums under the Ontario Live-in Caregiver Program may be ***eligible CCEs.***

The ***Ontario WSIB*** identifies that: “a ***private householder*** who ***employs*** a ***domestic worker*** for ***more than 24 hours a week*** must register as an **employer** of domestic workers with the WSIB...”

This category includes employment of domestic workers such as babysitters, nannies and nursemaids.

EMPLOYMENT INCOME

100(4)

EMPLOYEE PROFIT SHARING PLANS

The March 29, 2012 Federal Budget proposed changes to ***Employee Profit Sharing Plans (EPSPs)***.

In the past, these Plans may have been used to split income, defer tax, and avoid CPP and EI payments.

The proposed measures incorporate the concepts of *"**specified employees**"* and "***excess EPSP amounts***". "Specified employees" will be required to pay ***tax at the top marginal rate*** in their provincial jurisdiction (29% federally in addition to the top applicable provincial marginal rate) on "excess EPSP amounts" which are generally calculated as ***amounts greater than 20% of the individual's salary***.

CRA considers "specified employees" to be ***employees who have a significant equity interest*** in their employer or ***do not deal at arm's length*** with their employer.

INSURABLE EARNINGS

In a July 13, 2012 ***Tax Court of Canada*** case, the **issue** was whether the CRA properly calculated the ***insurable hours*** and ***insurable earnings*** of the Appellant while he worked for a fishing and hunting outfitter in the Thunder Bay region in 2008.

Taxpayer Wins!

The Court noted that the Appellant worked from May 18, 2008 to September 29, 2008, 40 ***hours*** per week, for insurable earnings of ***$600*** **per** week, plus board and lodging valued at $450 per week for a total of $1,050 per week.

REIMBURSEMENT OF MOVING EXPENSES

In a June 26, 2012 ***Technical Interpretation***, CRA notes that:

- Where an ***employer reimburses*** an employee for eligible expenses incurred in ***moving*** the employee and the employee's family and household effects either because the employee has been transferred from one establishment of the employer to another or because of having accepted employment at a place other than where the former home was located, this ***reimbursement*** is ***not*** considered as conferring a ***taxable benefit*** on the employee.
- While the ***location*** of the former home within Canada is generally required to determine whether ***moving expenses*** are ***deductible*** by an employee who does not receive a reimbursement from his/her employer, it has ***no impact*** in determining whether an employer who has reimbursed such expenses has conferred a ***taxable benefit*** on the employee.

FITNESS MEMBERSHIP

In a June 26, 2012 ***Technical Interpretation***, CRA notes that ***generally***, the payment or reimbursement of ***fitness membership fees*** by an employer results in a ***taxable benefit*** to the employee ***unless*** the employer can demonstrate that the membership is ***principally*** for the ***employer's advantage***.

BUSINESS INCOME

100(5)

JOINT VENTURES

In a June 25, 2012 ***Technical Interpretation***, CRA notes that their ***new administrative policy*** requires each participant in a ***joint venture*** to ***calculate its net income*** from the ***joint venture*** for the ***period*** ending on the ***participant's fiscal period*** end. This new administrative policy, which came into effect for taxation years ending ***after March 22, 2011***, means that a participant in a joint venture is ***no longer eligible*** to compute income as if the joint venture had a ***separate fiscal period***.

SALARIES TO CHILDREN

In a September 6, 2012 ***Tax Court of Canada*** case, the Appellant operated a business that specialized in supplying custom window coverings and, in ***2007 and 2008***, deducted the amounts of ***$18,000 and $7,000***, respectively, for ***wages paid*** to her ***two children (aged 15-16 and 13-14)*** for services that they provided to the business.

Rather than pay wages, the ***Appellant paid*** for some of the children's ***extraordinary expenditures*** to reflect the wages.

Taxpayer wins-partly

The Court concluded that it is ***likely*** that the expenditures have ***both business and personal*** elements.

Based on the ***evidence***, the Court ***allowed a deduction*** for ***50%*** of the amounts claimed.

Editor's comment

It usually ***reduces the risk*** if ***regular salaries*** are paid to provide ***reasonable remuneration*** to family members who ***provide services*** to your business.

OWNER-MANAGER REMUNERATION

100(6)

DIRECTOR LIABILITY

Some points to consider with respect to ***director liability*** include:

1. The Excise Tax Act and the

Income Tax Act hold ***directors personally liable*** for ***unremitted GST/HST***, ***payroll withholdings***, and ***interest and penalties***. Directors are ***not necessarily liable*** for unpaid tax of the corporation.

2. A "***director***" is ***not defined*** in the Act and could include both ***de jure directors*** (lawfully and validly appointed according to corporate legislation) and ***de facto directors*** (persons that are acting as directors).

3. CRA may only take action against the director if they do so ***within two years*** of the ***resignation*** of the director. Therefore, resignation is very important as it limits liability and starts a two-year limitation period running.

4. It is ***important*** to ***stop acting*** as a director or manager, ***after resignation***, such as not signing corporate documents. Also, ***appointing a new director*** further establishes that you have ***resigned*** your position as a director.

Legal advice may be needed.

ESTATE PLANNING

100(7)

CANADA PENSION PLAN (CPP)

Under ***new CPP rules***, individuals that start ***receiving*** their ***CPP before age 65*** (as early as age 60) will suffer a ***greater penalty*** but, will have ***increased benefits*** if they ***defe***r past age 65 (as late as age 70).

For example, if an individual started receiving CPP payments ***early***, ***previously*** the ***penalty*** was ***0.5%*** per month or ***6%*** per annum. If a person started ***five years*** early at age 60, he/she would suffer a ***30% penalty***. This 0.5% per month penalty has been increased to ***0.6%*** to be phased in up to the year ***2016***. The benefit for ***deferring*** a receipt of CPP payments ***past 65*** is proposed to increase from ***0.5%*** to ***0.7%*** per month and is phased in by 2013.

Therefore, if he/she commenced to receive this at ***age 60***, the amounts that would be received would be ***36% less*** (60 months x .6%)**.** If they waited until ***age 70***, they would receive ***42%*** more (60 months x .7%).

TAX-FREE SAVINGS ACCOUNT (TFSA)

As the ***TFSA*** is available at $5,000 per year increments since 2009, by 2012 an individual ***aged*** 18 or over in the year is entitled to a ***maximum of $20,000*** of contributions. Some points to ***consider*** include:

1. As ***dividends and capital gains*** are entitled to ***special tax treatment*** (dividend tax credits and a 50% tax rate), it is usually best to have investments with this type of income in non-registered plans.

2. ***Withdrawals*** made in the year cannot be ***replenished*** until the ***following year*** with the exception of ***qualifying direct transfers***.

3. ***Foreign income*** which is subject to foreign taxes will ***not be eligible*** for the ***foreign tax credit*** in the TFSA.

4. Persons subject to ***U.S. tax***, such as U.S. citizens, will ***not receive benefit*** for U.S. purposes as the ***income earned*** in the ***TFSA*** will be ***taxed*** on the U.S. tax return.

WEB TIPS

100(8)

GOOGLE SEARCH ENGINE - TIPS AND TRICKS

Learning a few tips and tricks on how to use Google efficiently can save time and avoid headaches. Listed below are some of the more handy tips when using the Google search engine.

1) To ***search for more than one item***, use the word **'or'** between items you are searching. For example should you enter 'RRIF programs or guides' the search engine will populate hits for RRIF programs and RRIF guides.

2) To ***search for a keyword with a similar meaning*** enter **'~'** before the keyword and Google will search for webpages with the exact word and words with a similar meaning. For example searching 'RDSP ~tutorial' will search for webpages with RDSP tutorial, guide, lesson, reference and so on.

3) To ***search for the definition of a word***, type ***'define:'*** before the word that you are searching.

4) To ***search for an item using a range***, enter the item that you are looking for, followed by the low end of the range, then **'...'** and then by the high end of the range. For example, should you be searching for an IPhone with

a price range of $350-400, enter ***'IPhone $350…400'*** and Google will deliver results of IPhones priced in that range.

5) To ***search within a specific website***, type the item to search followed by ***'site:'*** and the website name.

6) To ***search an exact phrase***, ***double quote*** the search string. For example searching '2012 Federal Budget' will only populate results with the phrase '2012 Federal Budget' rather than producing results with '2012' or 'Federal' or 'Budget'.

7) To ***search the weather for a location***, preface the location with ***'weather'*** in the search engine.

INTERNATIONAL

100(9)

IRS UNVEILS NEW STREAMLINED FILING COMPLIANCE PROCEDURES FOR NON-RESIDENT, NON-FILER U.S. TAXPAYERS

The IRS has paved the way for non-resident, ***non-filing U.S. taxpayers*** to ***comply*** with their unmet ***U.S. tax filing obligations*** with less administrative burdens. The procedure is available for U.S. taxpayers who have ***resided outside the U.S.*** since January 1, 2009 and who haven't filed a U.S. tax return during the same period.

Compliance Risk Assessment

The new procedure is specifically designed for taxpayers who present a *"**low compliance risk**."* For these taxpayers, ***retroactive relief*** for failure to timely elect income deferral on RRSPs/RRIFs (Form 8891) is also available. Submissions that present high compliance risk aren't eligible for the streamlined processing procedure and may be subject to a full examination.

Participation

In order ***to participate***, a taxpayer must: (1) file delinquent ***tax returns***, with appropriate related information returns (e.g. Form 3520 or 5471), for the ***past 3 years***, (2) file ***FBARs*** (Form TD F 90-22.1) for the ***past 6 years***, (3) pay any tax and interest along with the delinquent tax returns, and (4) ***submit a questionnaire***, signed under penalties of perjury, with 20 "yes or no" questions outlining the factors considered in the ***initial risk assessment***.

Specialized ***U.S. tax advice*** is needed in this area.

IRS - WHISTLE-BLOWER LEGISLATION

The first award under the ***IRS Tax Whistle-Blower Legislation*** was provided to ***Bradley Birkenfeld***, the UBS AG banker who provided information to the IRS on how the bank helped thousands of Americans evade tax. The award was for ***$104 million***.

The ***Canada Revenue Agency*** has **no *whistle-blower program*** but ***relies*** on leads provided to the ***Informant Leads Centre*** to assist in discovering unreported income.

IRS TAXPAYER ADVOCATE SERVICE

This service operates outside of the IRS and operates as an ***assistance to get IRS issues resolved*** outside of the normal IRS system if it is merited by the taxpayer's circumstance.

This service is particularly useful in situations where the taxpayer is expecting a large refund where the ***IRS is simply taking too long to process*** the return and issue the refund.

More details on the service can be found at:

http://www.taxpayeradvocate.irs.gov

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.