

YOUR ACCOUNTANT



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Newsletter by E-mail

If you would like to receive our newsletters by e-mail (in Adobe PDF format), please e-mail to Sherry Dunn at admin@rolfebenson.com. Please include in your request the name (**individual and/or corporate**) which appears on the newsletter mailing label.

Clients

Located on our website (www.rolfebenson.com) is a link **SEND THIS FILE**. Please use this secure form when your files are too large to be sent via regular email.

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Personal Tax

APPRENTICESHIP GRANTS

Apprenticeship Incentive Grant (AIG)

The AIG is a taxable grant of \$1,000 per year up to a maximum of \$2,000 per person, available to registered apprentices once they have successfully completed their first or second year/level (or equivalent) of an Apprenticeship Program in one of the Red Seal Trades. There is a deadline to apply.

Apprenticeship Completion Grant (ACG)

The ACG is a \$2,000 taxable grant to encourage apprentices registered in designated Red Seal Trades to complete their Apprenticeship Program and receive their certification. Eligibility is retroactive to 1 January 2009.

The ACG is offered to apprentices who complete their training, become certified journeymen/journeywomen in a designated Red Seal Trade and who obtain either the Red Seal Endorsement or a provincial or territorial Certificate of Qualification.

There is a deadline to apply.

Trades Included in the Red Seal Program

To date, there are fifty trades included in the Red Seal Program on a national basis. For a list of Red Seal Trades, Google "Red Seal Trade".

Editor's Comment

BC also offers Provincial Apprenticeship Grants.

MEDICAL EXPENSE - TUITION COSTS

In a 20 January 2010 External Technical Interpretation, CRA notes that where, due to a physical or mental handicap, a student who is certified to require specialized care, or care and training, at a school or institution, may claim a medical expense tax credit for the cost of such care, or such care and training.

MEDICAL EXPENSES

In a 2 February 2010 Tax Court of Canada case, the taxpayer had progressive Multiple Sclerosis and successfully deducted as a medical expense the amount paid to the Huron Lodge (a home for the aged) in Windsor, Ontario.

NURSING HOME

The *Income Tax Act* provides a medical expense for full-time care in a nursing home if the patient has been certified by a medical practitioner to lack normal mental or physical capacity, and in the foreseeable future will continue to be dependent on others.

Employment Income

OVERTIME MEAL ALLOWANCES

Starting 1 January 2009 where an employer provides overtime meals or an allowance for overtime meals to its employees, the CRA will not assess a taxable benefit where:

- the amount of the overtime meal allowance, or the cost of the meal, is reasonable;
- the employee works two or more hours of overtime right before or right after his/her scheduled hours of work; and
- the overtime is infrequent and occasional in nature. (CRA generally considers less than three times a week, or more in special circumstances, as being infrequent and occasional.)

CRA will generally consider an amount not exceeding \$17 as being reasonable.

IN-SERVICE PROGRAM WHICH PROVIDES A LAPTOP COMPUTER

In a 6 January 2010 External Technical Interpretation, CRA notes that it has considered several programs where employers have provided their employees with personal computers, printers, software and/or Internet access for developing their employees' computer and Internet skills.

Business/Property Income

TRUCKS OR TRACTORS FOR HAULING FREIGHT

The *Income Tax Act* provides a 40% Capital Cost Allowance rate for a truck or tractor designed for hauling freight and that has a "gross vehicle weight rating" in excess of 11,788 kilograms.

In a CRA Technical Interpretation, CRA notes that this may apply to a taxpayer that hauls its own freight.

Also, in an 9 October 2009 Technical Interpretation, CRA notes that garbage trucks used for the collection and hauling of residential and industrial waste would normally also qualify.

EVENTS AT A GOLF CLUB

In a 22 January 2009 Technical Interpretation, CRA notes that where a business holds a day of golf for all employees and the company pays for the green fees, rental of golf equipment, and food provided to the employees, the *Income Tax Act* does not allow a deduction in respect of any expenditure for the use of a golf facility.

However, with respect to the meals, CRA notes that a golf club facility does not include the dining room, reception hall, conference room,

lounges or a bar of a golf club so the deduction of expenses incurred to buy food and beverages is not restricted by the golf facility rules.

Also, assuming that the food was offered to all employees, and it is one of six special events held in the year by the company, the *Income Tax Act* allows a 100% deduction for the food and beverages, as opposed to the 50% which is normally allowed.

Owner/Manager Remuneration

THE TWO-YEAR LIMIT

In a 5 March 2010 Tax Court of Canada case, CRA assessed Mr. M. as the "de facto director" of the corporation, for the unpaid GST (plus interest and penalties) owed by a company.

The taxpayer had resigned as a director on 15 January 2004 and the assessment was not issued until more than two years later, 29 June 2006.

Taxpayer Wins!

The Court noted that, even though the Excise Tax Act provides a two-year statute of limitations, a person who is not a director may be considered a "de facto director" if they hold himself/herself out as a director such that a third party relies upon that person's implicit authority as a director. In this case, the taxpayer was not a "de facto director" of the company.

2010 Federal Budget

On 4 March 2010 the Honourable Jim Flaherty, Minister of Finance, presented his fifth Budget to the House of Commons.

Some proposals include:

A. PERSONAL INCOME TAX

1. Medical Expense Tax Credit – Purely Cosmetic Procedures

Budget 2010 proposes that expenses incurred for purely cosmetic procedures (including related services and other expenses such as travel) be ineligible to be claimed under the Medical Expense Tax Credit. This generally includes surgical and non-surgical procedures purely aimed at enhancing one's appearance such as liposuction, hair replacement procedures, botulinum toxin injections, and teeth whitening.

These expenses will also become subject to GST/HST.

This will apply to expenses incurred after 4 March 2010.

2. Charities: Disbursement Quota Reform

Budget 2010 proposes to reform the disbursement quota for fiscal years that end on or after March 4, 2010.

3. Employee Stock Options

Budget 2010 proposes to prevent both the stock option deduction to the employee and a deduction by the employer from being claimed for the same employment benefit.

Budget 2010 also proposes to repeal the stock option tax deferral election to employees of public corporations.

Budget 2010 also proposes to introduce a special elective tax treatment for taxpayers who elected under the current rules to defer taxation of certain public share stock option benefits until the disposition.

B. OTHER TAX

Online Notices

Budget 2010 proposes that the *Income Tax Act*, *Excise Tax Act*, *Excise Act*, 2001, *Air Travellers Security Charge Act*, Canada Pension Plan and *Employment Insurance Act* be amended to allow for the electronic issuance of those notices that can currently be sent by ordinary mail if authorized by a taxpayer.

Estate Planning

VOLUNTEERS

In a 11 March 2007 External Technical Interpretation, CRA notes that where an individual is a volunteer without remuneration, or at most minimal remuneration, reimbursements of automobile expenses, airline tickets, and payment of allowances for meal expenses to attend meetings of the Board of Directors (including allowances to cover meals for their spouses) are not considered income for tax purposes.

TURNING AGE 71 IN 2010

Taxpayers turning age 71 in 2010 could consider making one year advance contributions to their RRSP. For example, by making the 2011 contribution in December, 2010 (just before the RRSP is wound-up), this over-contribution may be deducted in January, 2011 if there is sufficient 1% penalty for the month of December on the excess contributions over \$2,000. However this penalty is minor compared to the large tax deduction in 2011.

Professional advice is recommended.

TAX-FREE SAVINGS ACCOUNT

On 16 October 2009, Finance News Release 2009-099 provided technical amendments to the TFSA rules including a 100% tax on the income under the "advantage" rules, in addition to the existing 1% per month penalty tax on over-contributions.

GIFT OF ECOLOGICAL PROPERTY

In an 9 October 2009 Technical Interpretation, CRA notes that when a taxpayer makes a gift of land which is ecological property, in addition to being able to claim a donation tax credit (in the case of an individual) or a deduction for gifts (in the case of a corporation), the capital gain, resulting from the disposition of the land is cancelled.

Employee vs. Independent Contractor

In a 23 December 2009 Court of Appeal for Ontario case, the Court found the Agreement between Elizabeth McKee and Reid's Heritage Homes (RHH) was one of employment, not independent contractor.

The Court then noted that it is an implied term in an employment situation that the employee is entitled to reasonable notice of termination.

In this case Mrs. McKee worked exclusively for RHH. She was also under the control of RHH as to where she was to sell, the promotion methods, what she was to sell, and how much it was to sell for. With respect to the "tools", Mrs. McKee performed her sales functions in model homes

provided by RHH and RHH supplied her stationery and forms. Also, Mrs. McKee was financially dependent on RHH and had no expectation that she might earn a profit as distinct from the fixed commissions. Also, the sales force of which Mrs. McKee was a member was a crucial element of RHH's business organization.

Editor's Comment

It is important to have the terms of the engagement in writing and that the relationship meets the required tests if independent contractor status is to be obtained.

Also, another downside for the payer is that when a recipient is considered to be an employee, the payer may be subject to penalties for failing to withhold and remit source deductions for income tax, CPP, EI and Workers Compensation. The payer may also have liability if the worker was to have received other benefits.

GST/HST

PLACE OF SUPPLY RULES

On 25 February 2010, Finance Release 2010-014 introduced new Place of Supply Rules related to where the recipient of a service or an intangible property is located with respect to the GST/HST rules.

For example, Ontario (13%) and British Columbia (12%) are proposing to introduce HST on 1 July 2010.

DIRECT SELLING INDUSTRY

On 13 January 2010, CRA introduced GST/HST Info Sheet GI-052 - Direct Selling Industry - The Network Sellers Method for Network Sellers and Sales Representatives. This eight-page Release reflects proposals from the 27 January 2009 Federal Budget for any fiscal year of a Network Seller that begins on or after 1 January 2010.

INPUT TAX CREDITS

In a 28 January 2010 Tax Court of Canada case, the issue was whether Comtronic was entitled to Input Tax Credits (ITCs) where the GST Registration Number of the supplier shown on the invoice was not that of the supplier but was a validly issued number belonging to someone else as part of an identity theft operation.

Taxpayer Loses

The Court noted that under the *Excise Tax Act* an ITC cannot be claimed unless the claimant has obtained prescribed information including the name of the supplier and the registration number assigned to the supplier.

CREDIT CARD EXPENSES AND THE REGISTRANT'S USE OF FACTORS FOR CLAIMING INPUT TAX CREDITS

In an 28 April 2010 CRA Release P-184, CRA discussed the use of the Factor Method, instead of the Exact Calculation Method, to compute the eligible Input Tax Credits (ITCs) in relation to credit card reimbursements for expenses incurred by employees.

ELECTRONIC FILING

On 4 January 2010, CRA proposed mandatory electronic filing requirements for certain GST/HST Registrants beginning 1 July 2010.

Under the measures, the following groups will be required to file their GST/HST Returns electronically:

- GST/HST Registrants with greater than \$1.5 million in annual taxable supplies (except for charities);

- Registrants required to recapture Input Tax Credits for the provincial portion of the HST on certain inputs in Ontario or British Columbia; and
- builders affected by the transitional housing measures announced by Ontario or British Columbia.

CHARITIES

Charities and certain non-profit organizations already file requests for rebate of a portion (usually 50%) of the GST which has been paid each year which is not eligible for input tax credits. After the implementation of the HST in BC on July 2010, 57% of the provincial portion of the HST will also be eligible for this rebate. In the case of a registered charity the total rebate percentage for HST paid in BC will thus be 54.08%

$$\text{(being } \frac{5}{12} \times 50\% + \frac{7}{12} \times 57\%)$$

Firm News

Now that we have a total staff of 50, it is interesting to look at ourselves and see what we are. It is so important these days to be inclusive (as opposed to exclusive) and in that direction we find that 18 of our staff speak 15 languages other than English, including Farsi, Slovak, German, Punjabi, Hindi, Mandarin, Cantonese, Japanese, Czech, Russian, French and Spanish. Some of our staff were born in other countries and others have learned their language from their parents who came to Canada from other countries. It gives us a wonderful tapestry of life and does offer our clients the ability to converse with somebody in our office who speaks their language. We are involved internationally as part of an association of separate and independent accounting firms in 462 locations in 103 countries. From time-to-time our language skills are useful in dealing with our associates. Some of our clients may find it useful to know that we do have these connections.

As accountants, we love statistics and one of them is that in our 52 years of practice we have been 33 years at 900 West Hastings and before that, 19 years in the Credit Foncier Building. In the Credit Foncier Building we took over space previously occupied by Russell & DuMoulin one of the oldest law firms in Vancouver who subsequently moved to the MacMillan Bloedel building and now Bentall Five. At 900 West Hastings we followed Campbell Sharp Nash & Field (now Grant Thornton) and Peat Marwick (now KPMG) in the premises we now occupy. Although we have not moved very much, what is around us has changed significantly. Our wonderful view of the harbour is now impaired by Waterfront Centre, the Trade & Convention Centre, the Fairmont Waterfront, the Daon Building (now Axa), the new Fairmont Hotel and the Shaw Tower leaving a small view of Stanley Park, the Lions Gate Bridge and the second narrows bridges (and for a while the fast ferries). We have 15 staff members who have been with us for more than 10 years and Natalie Chadwick, Susan Tufts, Sumako Rankin and yours truly have been here for more than 25 years. Would you believe that our two young partners, Tim Saxvik and Rob Watts have been here for 23 years and they claim to be 39. To some lack of change is stability to others it indicates lack of progress. From one hand adding machine, one manual typewriter and the liquid photocopier, we now have 65 computers, a state-of-art network system, voice mail, emails and we still have snail mail.

The cornerstone of a firm is its clients and reputation. We have some clients who have been with us since we started and many, many clients who have been around for 30 and 40 years. To add to these, we have many new clients who seem to appreciate the mixture of tradition, service, stability and state-of-the-art processes.

The magic words in the English language are "Thank you" and Canadians are respected worldwide for using these words with regularity. We are no exception and would like to thank all of you who have been part of our history for helping to make us a better firm.

DRLR