EBT CHARTERED ACCOUNTANTS

In this edition:

This publication is a high-level summary of the most recent tax developments applicable to business owners, investors, and high net worth individuals. Enjoy!

TAX TICKLERS... some quick points to consider...

- Where an individual has a **physical or mental impairment** which **markedly restricts** the **activities of daily living**, a **disability tax credit** may be **available**.
- As of March 24, 2014, approximately 65% of taxpayers' personal tax refunds were made by **direct deposit**.
- Starbucks Corporation is planning to move its European headquarters to London from the Netherlands, in order to pay **more tax** in the U.K.

Contact us if you have questions or wish to discuss!

CHECKLIST FOR SMALL BUSINESSES: Free CRA Resource

On May 21, 2014, CRA published an updated **checklist** discussing the **phases** that a **small business** may experience. This listing provides information on the following **four sections**: Before you start, Start a business, Maintain a business and, Close or resume your business. Each of the sections contains a list of **key activities** and **links** to relevant **articles** and **videos**.

See www.cra-arc.gc.ca/tx/bsnss/sm/chcklst-eng.html for the checklist.

Action item: *Use this free CRA resource!*

DONATING BY WILL: Planning Ahead

Making a **donation through a Will**, as opposed to just prior to death, may be **advantageous** for a number of reasons.

A donation through a Will is **not subject to the general income limitation**; living donor claims are limited to 75% of the net income. As well, a donation under a Will is also deemed to occur in the donor's final year. Therefore, the **donation tax credit** can be claimed on the donor's **final tax return** even though the actual donation occurs after the donor's death. The Estate can then use the donation in the most tax advantageous manner.

Additional changes providing **further flexibility** were proposed in the **2014 Federal Budget**. These proposals permit **Executors** to **claim** the donation in the year in which it is made by the Estate, an earlier taxation year of the Estate, or the last two taxation years of the deceased individual. To qualify the donation must have been made **within 36 months** following the individual's death.

These changes are proposed to apply to donations made by a Will for deaths occurring on, or after, **January 1, 2016**.

Action Item: ***Consider charitable donations in your Will.***

U.S. AMNESTY PROGRAMS: Now even more Accessible!

On June 18, 2014, the Internal Revenue Service (**IRS)** updated its **website** in respect of "**Streamlined Filing Compliance Procedures**" (SFCP). Several changes **effective** for filings on, or after, **July 1, 2014** have been introduced.

The **SFCP** is a process by which individuals can **catch up** on their delinquent filings. Under these procedures, **three years** of **tax** and information filings and **six years** of **FBAR** (Foreign Bank Account Reporting) filings will be required. If the reason for previous non-compliance was **not willful**, most **penalties will be waived (however the obligation for taxes and interest remains).**

The new changes are widely considered to make the **SFCP** much more useful and **attractive**. Those who have more **complex returns**, such as taxpayers with **corporate interests**, significant investments or **tax planning** structures may be more inclined to use the SFCP. Previously, the returns of these individuals may have been considered "high risk" and, therefore, not eligible for penalty-free treatment. The risk assessment portion of the SFCP has now been eliminated.

A modified version of the SFCP has also been made available to those still residing in the US.

Action Item: ***If you are a US citizen, or subject to US Tax Filings, and have unreported income, contact us as there are now more accessible options to disclose the information.***

DIRECTOR LIABILITY: Understand your Exposure

Corporate directors may be **personally liable** when their corporation fails to deduct, withhold, remit, or pay certain amounts of **money held in trust for the government**. This includes unremitted GST/HST and payroll withholdings (including interest and penalties).

On April 17, 2014, the CRA released an updated **publication** (IC89-2R3) discussing **Directory Liability**. Specifically, the guide notes that **three prerequisites** must be met before a director can be **assessed personally**:

- the CRA must **demonstrate its inability to recover** the amounts directly from the corporation;
- the CRA must issue the **assessment** against the directors **within two years** from the time they last ceased to be directors; and
- the directors must not have **exercised** the degree of **care, diligence, and skill** ("due diligence") required to prevent the failure to deduct, withhold, remit or pay. The circumstances must be considered against an objective standard of a "reasonably prudent person". In other words, a taxpayer may consider, "What would a reasonably prudent person have done if they were in the same situation?"

The publication also discusses a wide range of other issues relevant to directors' liability.

Action Item: ***Directors of organizations should familiarize themselves with their potential risks.***

MOVING EXPENSES: Taxpayer Moving Between Two Jobs

In an April 11, 2014 Tax Court of Canada case, CRA denied the taxpayer's **moving expenses** on the basis that he did not change his **ordinary residence**. The taxpayer, a schoolteacher, **taught in Toronto** from **September to June** and **Ottawa** in **July**.

Taxpayer loses
An **eligible relocation** requires the taxpayer to **relocate** his place of **ordinary residence**. The taxpayer did not sell or lease his **house**, relocate his **spouse**, bring his **car**, change his **address**, or otherwise take up residence in the Ottawa area. Rather, he spent the summer with old friends and family, **always knowing he would return** to the Toronto residence in the fall. As there was **no change in ordinary residence**, he was not able to claim moving expenses.

Action Item: ***Ensure you fully relocate to a new residence before claiming the Moving Expense credit.***

PRICE ADJUSTMENT CLAUSE (PAC): Non-Arm's Length Purchase or Sale

A **PAC** is typically incorporated into a Sale Agreement entered into by **non-arm's length persons** to provide for an **adjustment** to the **transaction price** in the event that a third-party, such as CRA or a Court, successfully determines that the fair market value (FMV) of the transferred property is different than the amount otherwise determined by the parties.

A valid PAC may **prevent adverse tax consequences** that could otherwise arise.

For example, should CRA determine that the purchaser paid more than FMV for transferred property, the purchaser will not enjoy a bumped up cost base for the excess amount. As well, the transferor will be taxed on the actual proceeds received.

Action Item: ***Contact us should you be considering buying or selling a business.***

TRAVEL EXPENSES: Multiple Work Locations

In a February 11, 2014 Technical Interpretation, CRA confirmed that if an individual has **multiple regular places of employment** (RPE) and travels between them during the day, the trip from the individual's home to the first RPE, and the trip home from the last RPE, is personal. However, **travel between RPEs** is generally considered "**employment-related"** and, therefore, not a taxable benefit to the employee.

Action Item: ***Determine whether an individual's multiple work locations constitute RPE.***

GAMBLING WINNINGS: Document them!

In a March 6, 2014 Tax Court of Canada case, the taxpayer argued that $35,000 in bank deposits received were **gambling winnings** rather than unreported business income. The Court examined whether the deposits corresponded with the individual's casino player card records and did not find enough connection.

The Court determined that the **deposits** were **business income** and therefore taxable. Often, **gambling winnings** are considered "windfalls" and, therefore are **not taxable**.

Action Item: ***Fully document your gambling winnings and keep player card records.***

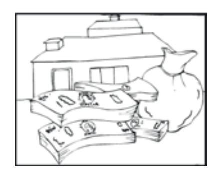
SIN VERIFICATION TOOL: Great for Verifying Payroll Information

Businesses (often payroll or human resource staff) may receive **invalid** or incorrect **Social Insurance Numbers** (**SINs**) for their employees. To avoid future problems, consider **verifying all SINs prior to entering them into a payroll system**.

The **Canadian Payroll Association** provides a free SIN verification tool for public consumption (http://www.payroll.ca/CPA/resources/Tools/SIN/en/Disclaimer.aspx).

Action Item: ***Verify SINs prior to entering them into your payroll system.***

T1135 FOREIGN PROPERTY DISCLOSURE: Some Relief



On July 8, 2014, CRA released a **revised** version of the **Form T1135 – Foreign Income Verification Statement,** relieving some of the onerous filing requirements as announced on June 25, 2013 and later on February 26, 2014. CRA noted that these **changes** will apply to T1135 filings **for 2014** and later tax years.

One major change CRA noted is that taxpayers who hold specified foreign property in an account with a **Canadian registered securities dealer** or a **Canadian Trust company** will have the **option** to **report** the **aggregate value** of such property on a **country-by-country** basis. The **highest** fair market **value** at the **end of any month** during the year **and** the fair market **value at year-end** will be required to be reported. **Income** (loss) from the property and any **gains** (losses) on disposition must also be **reported**.

Action Item: ***Be aware of possible foreign property disclosures.***

INTERNET BUSINESS ACTIVITIES: Update to the Effective Date

On May 23, 2014, subsequent to the release of Tax Tips and Traps #106, CRA announced a **delay** to the effective date for filing the new **Corporate Form Schedule 88, Internet Business Activities**.

A corporation is now required to file the Schedule 88 for tax years where the filing due date is after December 31, 2014 (generally where the year-end is after June 30, 2014).

Corporations that earn income from one or more **webpages or websites** must disclose this information, as well as additional details on this Schedule.

Action Item: ***Be aware of your business's online presence. Disclosure may be required when filing your corporation's tax return.***

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.

EBT

CHARTERED ACCOUNTANTS

Gaslight Plaza
307, 579 · 3 Street SE
Medicine Hat, AB
T1A 0H2

Tel · (403) 526 · 5011
Fax · (403) 526 · 1011
Web · ebtca.com