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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 Tidbits

Some quick points to consider…

- The **2024 RRSP contribution limit** is **$31,560**, requiring earned income in 2023 of at least $175,333. The 2025 limit will be $32,490 (requiring earned income in 2024 of at least $180,500).
- The annual **TFSA contribution** limit for 2024 is **$7,000**.
- The annual **interest rate** charged by CRA on **late tax and installment payments** has **increased** to **10%** for the first quarter of 2024. Additional penalties may apply on underpaid installment payments.
- Over **6,100 audits** on **COVID-19 wage subsidies** have been completed or are in progress. In terms of dollar figures, $8.9 billion in claims have been audited, and $7.5 billion in claims are currently being audited. Of the audited claims, $458 million of claims have been denied.

New Trust Reporting: Unexpected Exposure

Changes requiring **more trusts** (and estates) to **file tax returns** and **more information** to be **disclosed**, first proposed in the 2018 Federal Budget, were delayed several times in the legislative process. The final rules (that are now law) first apply for 2023, with a filing deadline of **April 2, 2024**. As such, many trusts and estates (including many arrangements not commonly considered "trusts") will be required to file for the first time in early 2024.

Required reporting has been **expanded** to **include** situations where a **trust acts as an agent** for its beneficiaries (often referred to as a **bare trust**). This occurs when the **person on title** or holding the asset is **not** the **true beneficial owner** but rather holds the asset for the benefit of another party. There are many **common situations** that may constitute reportable bare trusts in which **no lawyer** or **written agreement** may have ever been involved or drafted. Many parties involved in a bare trust arrangement may **not realize** that they are, much less that there may be a filing requirement with CRA.

The following lists some **examples** of **potential bare trust arrangements**; CRA has not commented on several of the examples below. It is uncertain how they will interpret and enforce the law.

- a child on **title of a parent's home** (without the child having beneficial ownership) for probate or estate planning purposes only;
- a parent on **title of a child's property** (without the parent having beneficial ownership) to assist the child in obtaining a mortgage;
- **one spouse** being on **title of a house** or asset although the other spouse is at least a partial beneficial owner;
- a parent or grandparent holding an **investment or bank account in trust for** a child or grandchild;
- a **corporate bank account opened by the shareholders** with the corporation being the beneficial owner of the funds;
- a **corporation being on title** of an **individual's real estate, vehicle** or other asset, and vice-versa;
- assets **registered to one corporation** but beneficially **owned by a related corporation**
- use of a **nominee corporation** for real estate development purposes;
- a **property management company** holding operational bank accounts in trust for their clients, or individuals managing properties for other corporations holding bank accounts for those other corporations;
- **a lawyer's specific trust account** (while a lawyer's general trust account would largely be carved out of the filing requirements, a specific trust account would not); and
- a **partner of a partnership** holding a **bank account or asset** for the benefit of all the other partners of a partnership.

In addition to bare trust arrangements, other trusts that have not had to file in the past may have a filing obligation under these expanded rules.

Exceptions from filing a return for trusts and bare trust arrangements are available in limited cases. If filing is required, the **identity and residency** of all the **trustees**, **beneficiaries, settlors** and anyone with the **ability** (through the terms of the trust or a related agreement) to exert **influence** over trustee decisions regarding the income or capital of the trust must be disclosed.

Failure to make the required **filings and disclosures on time** attracts penalties of $25 per day, to a maximum of $2,500, as well as further penalties on any unpaid taxes. New **gross negligence** penalties may also apply, being the greater of $2,500 and **5% of** the highest total **fair market value** of the **trust's property** at any time in the year. These will apply to **any person or partnership** subject to the new regime.

CRA has recently indicated that, for **bare trusts only**, the **late filing penalty** would be **waived for** the **2023 tax year** in situations where the **filing is made after** the due date of **April 2, 2024**. However, CRA noted that this **does not extend** to the penalty applicable where the **failure to file** is made **knowingly** or due to **gross negligence**. As there is limited guidance as to who would qualify, it is recommended that disclosures should be made in a timely manner.

ACTION: Consider whether you may have a bare trust arrangement. If so, or if you are unsure, contact us to discuss.

Automobile Deduction and Benefit Rates: 2024 Limits Released

Various **automobile deductions** and **taxable benefit rates** are **limited** to amounts **prescribed** by the Department of Finance **annually**.

On December 18, 2023, the **2024 limits** were announced as follows:

- The **limit** on the **deduction** for **non-taxable allowances** paid by an employer to an employee using a personal vehicle for business purposes will **increase** in 2024 by 2 cents to **70 cents/km** for the first 5,000 km driven and to **64 cents** for each additional km. For Yukon, the Northwest Territories and Nunavut, the tax-exempt allowance will continue to be 4 cents/km higher, which is 74 cents for the first 5,000 km driven and 68 cents for each additional km.
- The ceiling on the **capital cost** for **CCA** of most passenger vehicles will **increase to $37,000** from $36,000, and the limit for **zero-emission passenger** vehicles will **remain** at $61,000.
- The limit on **leasing costs** will **increase to $1,050/month** (from $950/month) for new leases entered into on or after January 1, 2024.
- The **maximum allowable interest** will **increase** to **$350/month** (from $300/month) for new loans entered into on or after January 1, 2024.
- The **general prescribed rate** used to determine the **taxable benefit** relating to the personal portion of automobile **operating expenses** paid by employers will **remain at 33 cents/km**. For taxpayers employed **principally in selling** or leasing automobiles, the rate will **remain at 30 cents/km**.

Action: Compare automobile allowances and other payments made against the limits to determine whether expenditures that do not reduce tax are being made.

T-Slips: Filing and Distribution Issues

Various changes and issues have arisen in respect of **T-slips** to be filed and processed for the **2023 year.**

Dental benefits

Beginning with the **2023 year**, issuers of the **T4** Statement of Remuneration Paid and **T4A**, Statement of Pension, Retirement, Annuity, and Other Income must report whether the recipient or any of their family members were **eligible** to access **dental insurance** or dental **coverage** of any kind (including health spending and wellness accounts) from their current or former **employment**.

The T4 will include **new box 45, employer-offered dental benefits**.

The T4A will include a **new box 015, payer-offered dental benefits**. This box must be completed if an amount is reported in box 016, pension or superannuation.

CRA indicated that it is **mandatory** to indicate whether the **employee/former employee** or any of their **family members** were eligible, on **December 31** of that year, to access any **dental care insurance**, or coverage of dental services of any kind, that the employer offered.

The employer/issuer must select which of the following scenarios apply.

1 Not eligible to access any dental care insurance, or coverage of dental services of any kind
2 Payee only
3 Payee, spouse and dependent children
4 Payee and their spouse
5 Payee and their dependent children

Electronic Distribution

In a **December 13, 2023** update to CRA's webpage, CRA discussed the ability to distribute **T4, T4A, T5 and T4FHSA** slips using the issuer's **secure electronic portal without obtaining** written or electronic **consent** from the employees or recipients. However, using a secure electronic portal is **not available** where any of the following situations exist:

- the employee or recipient **requested** that **paper copies** of the slips be provided;
- the employee or recipient **cannot reasonably** be expected to have **access** to the **slips** in **electronic format** at the time the slips are issued; or
- for T4s, if the issuer distributes the T4 when the employee is on **extended leave** or is a **former employee** at the time the slip is issued.

Employers/payers must also **provide the option** to receive these slips in **paper** form.

If distributing these slips by **email**, the employer/payer **must** receive **consent** in writing or electronic format before sending by email.

Electronic filing thresholds

Effective January 1, 2024, certain **information returns** must be filed **electronically** with **CRA** where **more than 5** information **returns** (reduced from 50) of a **particular type** are required for a calendar **year**. The impacted information slips include forms NR4, T5007, T5018, T4A-NR, **T5**, T5013, **T4A**, **T4** and **T3**. A penalty of $125 will apply where between 6 and 50 slips are filed on paper.

Errors on T-slips

In a recent communication, CRA addressed the concern that auditors and appeals officers may base a **decision** on **issued T-slips without considering** the possibility that the issuer made an **error** in their **preparation**.

CRA stated that it is the **taxpayer's responsibility** to **verify** the validity and **accuracy** of the **information slip**. If the taxpayer notices an **error**, the taxpayer should **contact** the **issuer** to attempt to discuss/**resolve** the issue. **CRA** noted that they **cannot validate** the **accuracy** of a slip as the relevant information to do so is retained by the issuer and the taxpayer. If the issuer refuses to correct the form, the taxpayer can **inform CRA** by **filing an employee complaint** with the employer accounts and services section.

When a taxpayer **objects** to CRA's assessment/reassessment, the **taxpayer must provide the reason** for the objection. The **appeals officer** should investigate the **accuracy** of the information **slip** when it is **part** of the **disputed issue**. The appeals officer may also ask the taxpayer to **provide representations**.

Action: Various changes to T-slip completion, filing and distribution are effective for 2023 slips, filed in early 2024. Ensure that these changes are incorporated into your business processes.

Personal Services Business: CRA Education Initiative

In general, a personal services business (PSB) exists where the **individual** performing the work would be considered to be an **employee of the payer** if it were **not** for the **existence** of the individual's **corporation**. These workers are often referred to as **incorporated employees**. Where it is determined that the income is earned from a PSB, the **corporate tax rate increases** significantly (potentially as high as 39% over the small business rate, depending on the province). In addition, significantly **fewer expenditures are deductible** against the income.

Since 2022, CRA has been conducting an **educational pilot project** in respect of **PSBs**. They have recently **published findings** from the project and highlighted **future planned phases**.

Phase I – Identifying companies that hire PSBs

Phase I of the project was conducted from **June to December 2022**. The results were as follows:

- approximately **10%** of participating corporations were **likely** to be **carrying on PSBs**;
- approximately **64%** of **potential PSBs** were incorrectly **claiming** the **small business deduction** (an average of $16,711 of additional federal corporate tax would be payable if this were corrected);
- nearly **74%** of **potential PSBs** work in the following **three industries**:
  - **transportation and warehousing** (35%), with 95% of these working in freight trucking;
  - **professional, scientific** and **technical services** (26%); and
  - **construction** (13%).

Phase II – Identifying potential PSBs

CRA indicated that Phase II is planned for **October 2023 to June 2024**, and will examine approximately **2,100** randomly selected **corporations** identified as **potential PSBs**. The examination will include a **voluntary interview** and focus on the **2022 tax year**. CRA indicated that they hope to gain **greater insight** into how and why **PSBs operate** the way they do.

Phase III – Assisted compliance for PSBs

CRA indicated that the **timing** of Phase III has **not yet** been **determined**. They expect to address the **2022 and subsequent tax years** with continued education, **review** of PSBs and **assisted compliance** of **non-compliant** PSBs.

Action: Identification of PSBs has become a focal point for CRA. If there is a risk of your corporation carrying on a PSB, inquire as to the corporation's exposure and potential mitigation strategies.

Working From Home Expenses: Employment Expenses

The **$2/day flat rate method** available to claim expenses for employees working from home was a temporary administrative measure only available from 2020 to 2022; it is **no longer available in 2023**. As such, **employees working from home** can only use the **detailed calculation** when claiming expenses.

For **2023 and subsequent years**, a deduction can only be claimed where one of the following criteria is met:

i. the work space was the **place** where the individual **principally** (**more than 50%** of the time) **performed their duties of employment**; or
ii. the individual used the space **exclusively** during the period to earn **employment income** and used it on a **regular and continuous basis** for **meeting clients**, customers or other people with respect to employment.

CRA indicated that they would consider i) to be **met** by employees who were required to work from home **more than 50% of the time** for a **period of at least four consecutive weeks** in the year.

Action: The $2/day temporary flat rate method cannot be used by employees to claim home office expenses in 2023. Instead, receipts and records must be kept to make claims under the detailed method.

Canada Dental Care Plan (CDCP): New Income-Tested Benefit

On December 11, 2023, Health Canada issued details on the **Canada dental care plan** that would **cover** a **wide variety of dental services** for certain Canadian residents. The plan will be rolled out from late 2023 to 2025.

To be **eligible**, the **individual** and their spouse or common-law partner (if applicable) must meet all of the following conditions:

- have an **adjusted family net income** (AFNI) of **less than $90,000**;
- be a **Canadian resident** for tax purposes;
- have **filed their tax return** in the previous year; and
- **not have access to dental insurance**, meaning that it is not available through the taxpayer's or a family member's employer or pension, or not purchased through a group plan.

Eligibility for **children under 18** will be determined by their **parents'**/guardians' **eligibility**.

Individuals will need to meet the **eligibility requirements annually**. More information on the annual reassessment process will be provided by the government at a later date.

The CDCP will **pay** for eligible services provided by an oral health **provider** (such as dentists, denturists, dental hygienists and dental specialists), less a **portion** that is to be **paid directly by the patient** (the "co-payment"). No co-payment is required if AFNI is **under $70,000**. The co-payment starts at **40%** for AFNI **between $70,000 and $79,999** and **increases to 60%** for AFNI **between $80,000 and $89,999**.

Oral health providers are encouraged to **follow** the **CDCP fees**, which are not the same as the provincial and territorial fee guides, so their patients do not face additional charges at the point of care. **Oral health providers** who have **enrolled** with CDCP will **bill the plan directly**. Health Canada noted that patients should **ask** if the **provider has enrolled** in the CDCP when **booking their appointment** to limit unexpected out-of-pocket payments.

The program will be first rolled out to seniors with application invitation letters **starting in December 2023**. Eligible seniors will be **able to engage** in covered services as early as **May 2024**. Those with a **disability tax credit** certificate (T2201) or **under 18 years** of age can begin to apply as of **June 2024**. The remaining eligible residents will be able to apply in **2025**.

CRA noted that only those who are **70 years old** or older by March 31, 2024, have AFNI of less than $90,000 for 2022, and were Canadian tax residents for 2022 will receive the initial application **instruction letters**.

Once an individual has applied and is determined to be eligible, Service Canada will share the individual's information with Sun Life, the contracted service provider, for enrolment into the CDCP. Eligible **individuals** will receive a **member card**, and be notified of the start date of their coverage. The **start date** will **vary** based on when each group can apply, when the application is received and when enrollment is completed.

Oral health providers will be able to **enroll** voluntarily as a participating CDCP **provider** directly with Sun Life in early 2024. **Details** on this process will be available on Health Canada's webpage when enrollment opens. Oral health providers **enrolled** in the CDCP will be required to **submit** the **claims directly** to **Sun Life** for payment rather than having patients seek reimbursement from Sun Life for services covered under the plan.

ACTION: If you are an eligible individual, apply for this new benefit when invited. If you are a oral health care provider, consider enrolling as a provider in the plan.

Farm Losses Can Be Restricted: May Apply Even When Significant Time and Cash is Invested

A November 8, 2023 **Tax Court of Canada** case considered whether a taxpayer's **losses** from **farming activities** deductible against non-farming income were restricted to the $17,500 ($2,500 plus half of the next $30,000) permitted by the **restricted farm loss rules** for the 2014 and 2015 years. The restriction applies where the **taxpayer's chief source of income** for a taxation year is **neither farming** nor a **combination of farming and some other** source of income that is a **subordinate source of income** for the taxpayer.

The taxpayer was a **physician** but also operated a **farm** that **produced organic beef**. The taxpayer provided the following relevant details.

	Medical practice	**Farming**
Gross revenue	$805,321 – 2014, $851,621 – 2015	$174,433 – 2014, $31,128 – 2015
Net income (loss)	$648,480 – 2014, $697,050 – 2015	($530,363) – 2014, ($595,904) – 2015
Staff employed	three part-time employees	four full-time employees and three seasonal part-time employees
Taxpayers' work schedule	commenced work on weekdays between 7 am and 9 am and ended between 2 pm to 5 pm	five hours/day on weekdays (before and after performing physician duties) and 8-16 hours/day on the weekends
Hours worked by taxpayer (approx.)	1,900 hours/year	2,500 hours/year
Capital investment	There were no significant assets. The operating facilities were rented for $250/year from the municipality, likely as an incentive to maintain a local physician.	The operation included over 800 head of cattle, 5,314 acres of land, three large shelter and storage buildings, a building for processing meat, two more buildings under construction, and various pieces of equipment such as tractors, trucks and haying equipment.
History	The taxpayer commenced a continually profitable practice as a physician in 1975.	The farming operation commenced shortly after 1975. Various different crops/products were attempted. Losses were reported in all years but two.

Taxpayer loses

The Court noted that the taxpayer's **farm activities** took place **before and after normal working hours** and **gave way** to her **medical practice** if an issue arose that required her attention. As such, the Court found that the **centre** of the taxpayer's **routine** was her **medical practice**. Further, the Court noted that the **farm** was **only commenced after** the medical practice and that **all of the investment** in the farm **came from the medical practice**. The farm required the cash inflow of the medical practice to survive. The **farming business** had **always** been **subordinate to the medical practice** as a source of income, rather than the other way around, and there was **no demonstration** that this **would change** in the foreseeable future. As such, the Court determined that the **restricted farm loss rules would apply** and the taxpayer's deduction would be limited to $17,500.

Court's additional commentary

The Court noted that the **result was most unfortunate** as it resulted in the **denial of a loss** for a **bona fide farming business** that would have been **available** to the operator of **any other business**. In particular, the Court noted how this case demonstrated the **difficulty** in **growing** a **viable farming business** with the current **restricted farm loss rule punishing** those willing to put in the significant time and capital required to do so.

Action: If farming activities consume a significant portion of your resources but you earn income from other significant sources as well, seek consultation to determine if farming losses may be restricted.

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.

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If you have any questions, give us a call!