Michael's Tax Tips & Updates

taxation news and information bulletin

November 2010

2010 changes affecting individuals

- As previously discussed, the Home Buyers Plan withdrawal limit from an RRSP has been increased to $25,000 to buy or build a qualifying home. This home can be for the individual, or it can be for a related person with a disability.

- CRA's guide RC4112 Lifelong Learning Plan (LLP) describes how an individual is allowed to withdraw up to $10,000 in a calendar year from an RRSP to finance full-time training or education in a qualified educational program. You can withdraw amounts until the fourth year after the initial withdrawal to a maximum of $20,000. The withdrawals must be repaid over a period of no more than 10 years.

- The "equivalent to spouse credit" (now known as the wholly dependent person tax credit) availability discussed in the last newsletter requires some clarification. In cases where there is joint custody, the parents must decide which one will make the claim. However, where there is a requirement for one parent to pay child support in respect of the dependent person the parent paying the support cannot claim the wholly dependent person tax credit.

- On June 28, 2010 CRA introduced a new simplified logbook for motor vehicle expenses. CRA will now consider a sample period as evidence of a full year's usage if the taxpayer has previously maintained a logbook for a full twelve month period. The sample logbook must be for a continuous 3 month period and the sample period mileage must be within 10% of the base year.

- A June 25, 2010 Technical Interpretation bulletin notes that a weight–loss program would qualify as a medical expense if it is for therapeutic or rehabilitative reasons and the services are provided by a medical practitioner

Additional tax considerations

- Taxpayers must be careful not to fall into TFSA penalties by inadvertently over contributing to the fund. The annual $5,000 limit cannot be offset against a withdrawal and re-deposited in the same year. The withdrawal does not get credited until the following year, and the over contribution penalty is 1% per month. If you have received a TFSA Return Package from CRA regarding a perceived over contribution, you must complete and return it to CRA to avoid an assessment.

- DTS - A June 7, 2010 Technical Interpretation bulletin notes there is no specific provision in the Income Tax Act that precludes an individual from requesting a reassessment of prior year returns. Consequently, where a Disability Tax Credit certificate is signed in one year but certifies that the impairment began in an earlier year s.152 (4.2) permits CRA to reassess any of the prior 10 calendar years.

- CRA notes that business income from the sale of gift certificates should be recognized at the date of sale of the gift certificate. However they will allow a reasonable reserve on the basis of past experience.

Corporations

- The deadline for acquisition of computers and software which qualify for the 100% CCA rate is February 2011. Remember, this 100% CCA rate is not subject to the half-year rule. (Also available to proprietors and partnerships)

- Management fees are frequently used, particularly between related companies. However like any expense, to be deductible to the payer, the fees must be reasonable. The courts have noted that tax planning using management fees is not objectionable as long as true consideration has been given the company receiving the management services and the amount of the fees corresponds to the fair market value of the services obtained. A written agreement is highly recommended.

- CRA notes that once a director of a corporation resigns, the Excise Tax Act imposes a 2 year statute of limitations on his or her liability. However, the ETA does not define when a person ceases to become a director. Therefore if the individual continues to act as a director, and fails to record their resignation in the corporation's official record, they can be deemed a de-facto director with all the associated liability.

- Remember, the deadline for filing T4's and T5's is the last day of February. T3's must be filed by end of March.

Harmonized Sales Tax

- HST/GST registrants are required to report the total of HST/GST collected on line 103 of the HST/GST reporting form. There is no requirement to separate the HST collected from the GST where registrants may have supplies in different jurisdictions.

- CRA has also issued a warning to businesses about the failure to report and remit HST/GST held in trust. These funds are trust amounts and must not be used to finance the cash requirements of a struggling business. Enhanced collection and garnishment procedures will be enacted including assessment of the directors of a corporation and the seizure and sale of assets.

- For more information on the HST go to www.ontario.ca/taxchange

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