

# TAX TIPS & TRAPS

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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 TICKLERS... some quick points to consider...**

- CRA has released a smartphone APP that alerts users of their tax filing and payment deadlines (for corporate tax, payroll, and GST/HST accounts).
- If child care expenses are incurred, you may be eligible for a tax deduction on your personal tax return.
- Ignoring a request to file a tax return from CRA may result in serious tax implications.



Contact us if you have questions or wish to discuss!

**SMALL BUSINESS JOB CREDIT: Small Employers Save on EI Premiums**

On September 11, 2014 Minister of Finance Joe Oliver announced the introduction of the **Small Business Job Credit**. The credit will be **automatically** administered (no need to apply) to eligible businesses that pay **employer EI premiums** equal to or **less than \$15,000** in **2015** and/or **2016**. The credit is expected to be worth approximately **39 cents per \$100** of insurable earnings.



For example, at 2014 rates, the employer EI premiums payable for an employee earning \$48,600 totals \$1,279. For 2015, a savings of approximately \$190 would be experienced for the same pensionable earnings.

**Action item: No action needed – if eligible, your business will be automatically credited!**

**LIAISON OFFICER INITIATIVE (LOI): CRA Project to Assist with Tax Compliance**



LOI pilot projects are taking place from March 2014 to December 2015 in **Ontario and Quebec**. **New pilot projects** will commence in **B.C., the Prairies, and Atlantic Canada** in the **fall of 2014**.

# Tax Tips & Traps

The CRA has been, and will be, sending out participation invitations to a small group of taxpayers in these regions. The acceptance of a Liaison Officer is **voluntary** and could provide the following: a **small business support visit**; a **books and records review**; and **compliance support arrangements**. During the program, which normally consists of one **2-3 hour** visit with a Liaison Officer, CRA may share information such as common errors within the business sector, industry benchmarks, possible books and records deficiencies, and available CRA resources.

For more information on the LOI, go to <http://www.cra-arc.gc.ca/loi/>.

**Action Item:** *CRA may contact you to participate in the LOI program. Contact us should you have further questions on this program or are considering participating.*

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## PRINCIPAL RESIDENCE: Partial Conversion to an Office

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In an August 7, 2014 **Technical Interpretation**, CRA commented on a situation where an individual **converted** the **basement** of his **principal residence into an office** (including the addition of a **separate entrance**) to be used by his **Corporation**.



When a portion of a personal use property is converted into business use, a **disposition is deemed** to occur on the converted portion. This means that the principal residence exemption will no longer be available for that portion.

However, it is CRA's practice to **not deem** changes as **dispositions** when:

- the property **retains its character** as a primary residence;
- **no capital cost allowance** has been requested on the building; and
- **no structural change** has occurred.

CRA opined that the changes in this case, which included the opening of an exterior wall, could be **considered a structural change**. Therefore, a **disposition** may be deemed to occur.

It was also noted that the **Corporation** would **pay** for the **improvements** to the property. If the renovations **increased the value** of the residence, the Corporation may be deemed to confer a **taxable advantage on the shareholder**.

**Action Item:** *Contact us before converting a portion of your house into an incoming earning asset or office.*

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## TAX PAYMENTS: Doing it Online

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On August 11, 2014, CRA released information regarding their online **payment service** which allows **individuals** and **businesses** to **pay tax bills** directly from their bank. This option can be used if the taxpayer has an account at one of the following **financial institutions**:



- BMO Bank of Montreal (personal only)
- Scotiabank
- RBC Royal Bank
- TD Canada Trust
- Envision Financial
- Libro Credit Union

Transaction totals are subject to the account's **daily** or **weekly limits** as determined by the financial institution.

**Action Item:** *Consider paying your tax bill online.*

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## COLLECTIONS AT THE CRA: Options When You Can't Pay Your Tax Bill

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On May 5, 2014, CRA updated their article, **When You Owe Money – Collections at the CRA**, which discussed **programs available** should taxpayers not be able to pay their tax debt in full. Such programs may include a **payment arrangement**. The website also references other websites that taxpayers may find useful: IC98-1R4 – **Tax Collection Policies**, IC13-2 – **Government Program Collection Policies**, and IC13-3 – **Customs Collections Policies**, as well as a link to the Office of the Superintendent of **Bankruptcy website**.

**Action Item:** *If you think you may struggle to pay your tax bill, contact us earlier, rather than later, so we can help to find a solution.*

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## ESTATE PLANNING: Consider all Digital Assets

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When Estate planning, consideration should be given to **digital assets** held by an individual. Digital assets can span a wide range including **social network accounts**, **websites**, **photos** and **videos**, **email accounts**, **online documents** (ex. used in banking or investments), and **online businesses**.



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# Tax Tips & Traps

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When planning, consider the following four steps:

- **Make a list** of digital assets and passwords;
- **Draft instructions** for the Executor to set out wishes;
- Consider naming a **digital Executor** to deal solely with these assets; and
- **Store the information securely.**

To date, **technology** is **outpacing** the **law** in this area and specialized legal advice may be required.

**Action Item: Include a summary of, and directions with regards to online accounts and assets in your Will, or an attached note, as applicable.**

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## REGISTERED CHARITIES: "Ineligible" Board Members

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On August 27, 2014, CRA noted that they have the authority to **refuse or revoke** the registration of a **Registered Charity** and to **suspend** the Organization's **receiving privileges** when an **"ineligible individual"** is a Board Member or controls or manages the Organization.



Generally, an individual is **ineligible** if he/she:

- has been convicted of an **offense**;
  - related to a financial dishonesty; or
  - relevant to the operation of the Organization; or
- was connected to an Organization whose **registration was revoked** for a serious breach of the requirements for registration. The connection was as:
  - a director, a trustee, officer, or like official;
  - an individual in a position of management or control; or
  - a promoter of a tax shelter and participating in that tax shelter caused a revocation of an Organization's registration.

**Action Item: Review the registered charity's Board Members and Directors for "ineligible individuals". On a go-forward basis, make it a policy to ask potential new Board Members and Directors if they are "ineligible individuals".**

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## LUMP-SUM SUPPORT PAYMENT: Deductible?

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In order for **spousal support payments** to be deductible to the payer, the recipient must have **discretion** as to its use, the individuals must be living separate and apart because of a **breakdown** in their marriage or common-law **relationship**, and, the amount must be:



- payable to the recipient;
- payable as an allowance for the maintenance of the recipient;
- payable on a **periodic basis**; and
- payable under an order of a **competent tribunal** or under a **written agreement**.

In a June 20, 2014 **Technical Interpretation**, CRA discussed the third criterion noted above, the amount must be payable on a **periodic basis**.

Generally, an amount paid as a **single lump sum** does **not qualify** as an amount payable on a periodic basis. However, there may be **situations** where this is not the case. This occurs primarily where the amount represents a series of periodic payments in arrears after the date of the Court Order or Written Agreement.

This **could apply** to a **single** lump-sum arrears payment, or to **multiple** lump-sum arrears payments.

That said, a lump-sum payment to obtain a **Release** from a liability imposed by an Order or Written Agreement may **not** be considered to be a **periodic payment**.

**Action Item: Let us know if you are considering a lump-sum support payment, or, need help with the tax implications of a relationship breakdown.**

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## TRANSFERS OF ASSETS TO A CORPORATION: There may be a Tax Cost!

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In a July 29, 2014 Tax Court of Canada case, the taxpayer **transferred oilfield equipment** (Equipment) to his **Company** in 2004 and 2005 in return for fair market value proceeds of \$135,000 and \$73,500 respectively. The taxpayer did not report any gains for 2004 on the basis that the adjusted cost base (ACB) of the Equipment was equal to the proceeds. For 2005 the taxpayer reported a gain of \$43,500. In this case, the assets were acquired over time, often from related business ventures, and limited or no records were available.



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CRA reassessed on the basis that:

- the Equipment transferred was **inventory rather than capital** (this means that 100% of the gain on sale would be taxable as opposed to 50%);
- the **ACB** for the two years of transfers was only **\$30** because there was no evidence to support the contrary; and
- **GST** should apply on the transfer.

Subsequently, CRA issued a **second reassessment** to increase the proceeds again by \$90,093. This reassessment was issued **outside the three-year period** in which CRA is normally allowed to reassess.

#### **Taxpayer loses**

The Court found that the taxpayer's **evidence** to support the original amount paid for the Equipment, the ACB, was **insufficient** to rebut the Minister's assumption that it was only \$30. Therefore, the gains on sale were increased from \$0 (in 2004) and \$43,500 (in 2005) to almost \$135,000 and \$73,500 respectively.

The taxpayer was also found to be **liable for GST** on the sale of the Equipment to his Company.

**Action Item: Retain receipts for capital purchases. Not doing so could result in a reassessment based on a nominal cost base and an inflated tax liability.**

#### **Taxpayer wins**

The Court determined that the **long period** that the taxpayer held the Equipment prior to selling it was more indicative of a

**capital investment** than an inventory investment. Therefore, the sale was held to be on account of capital rather than inventory.

Also, the Court found that the **second CRA reassessment** to increase the proceeds was not valid (it was **statute-barred**) as the taxpayer did not make a misrepresentation attributable to neglect, carelessness or willful default.

**Action Item: Contact us if CRA has questions or is proposing an audit.**

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## RENOUNCING U.S. CITIZENSHIP: It's Getting more Expensive

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Up to 2010, there was no **expatriation application fee charged** by the IRS. However, in 2010 the State Department introduced a fee of **\$450**. This fee rose to **\$2,350** on **September 12, 2014**.

**Action Item: Renouncing your US citizenship takes time and money. Carefully consider before making this decision.**

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.

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