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### Special points of interest:

- **Personal tax instalments:**
  - ▶ December 15, 2014
  - ▶ March 15, 2015
  - ▶ June 15, 2015
  - ▶ September 15, 2015
- **Deadline for 2014 RRSP contributions is March 2, 2015.**
- **Individuals 18+ may deposit up to \$5,500 into a Tax-Free Savings Account in 2014.**
- **Voluntary Disclosure to CRA may avoid penalties on unreported income, forms, or elections.**

## New Tax Savings for Families

*Beth Porter, CA, CFP, Partner, Noseworthy Chapman Chartered Accountants, St. John's, NL, DFK Affiliate Firm*

On October 30, 2014, Prime Minister Stephen Harper announced various new tax measures that will provide tax savings to families with children under the age of 18. These proposed changes, which were first suggested by the Conservatives during the 2011 federal election campaign, will come into effect in 2014 and 2015. Here is a summary of the proposed changes:

### Family Tax Cut Credit

This credit will be effective beginning in 2014 and provides the effect of income splitting between parents on up to \$50,000 of income. Essentially, each spouse's taxable income will remain the same, as reported on their personal income tax returns; however, the tax credit will be based on a calculation as if one spouse transferred one-half of the difference between the spouses' incomes to the other spouse, up to a maximum income level of \$50,000. The maximum credit that can be claimed by either spouse is \$2,000.

In order to be eligible for the credit, the following criteria must be met:

- ◆ the individual and their spouse or common-law partner must be Canadian residents at the end of the taxation year;
- ◆ the couple must have at least one child under 18 at the end of the year;
- ◆ at the end of the year, the couple cannot have been separated for a period of more than 90 days that begins in the year;
- ◆ the child must ordinarily reside with the individual or his/her spouse throughout the year;
- ◆ both spouses must file a tax return; and
- ◆ the couple must not have elected to split pension income during the year.

Please note that because this is a 'notional' calculation, and taxable incomes are not affected, there are no provincial tax savings unless the provinces announce similar tax

credit measures.

### Universal Child Care Benefit

Currently, the Universal Child Care Benefit (UCCB) is \$100 per month for each child under the age of six; however, it is proposed that this monthly benefit will increase from \$100 to \$160 starting in 2015. In addition, a new benefit of \$60 per month will be available for children aged six to 17. This enhanced UCCB will replace the Child Tax Credit for 2015 and subsequent years. The increased benefit for the period of January to June 2015 will be distributed to eligible taxpayers with their July 2015 payments.

### Child Care Expense Deduction

The announcement also proposes an increase to the Child Care Expense Deduction. The maximum deduction is currently limited to \$7,000 annually for each child under age seven, \$4,000 annually for children aged seven to 16 (and infirm dependent children over age 16), and \$10,000 for children who are eligible for the Disability Tax Credit. The proposed changes will see an increase of \$1,000 for each of these annual per-child limits to \$8,000, \$5,000, and \$11,000 respectively.

### Children's Fitness Tax Credit

Finally, the government also confirmed its intent to increase the maximum amount that may be claimed annually for the Children's Fitness Tax Credit (CFTC) per child from \$500 to \$1,000 effective for the 2014 personal tax year. The tax credit would also become refundable in 2015 and subsequent years.

Please see Finance Canada's website for further information on these proposals:

[http://www.fin.gc.ca/n14/data/14-155\\_1-eng.asp](http://www.fin.gc.ca/n14/data/14-155_1-eng.asp)

## Divorce and Treatment of Child and Spousal Support Payments

*Zuhair Ladha, CA, Tax Manager, Kingston Ross Pasnak LLP, Edmonton, AB, DFK Member Firm*

Amongst the many issues covered during a divorce or separation, the issue of spousal and child support payments is one that causes a lot of grief for both the payor and the recipient. Individuals who are in the process of divorcing or separating need to consider some of the issues and implications of support payments, especially if children are involved. In order to ensure a smooth process, the divorcing parties should each consult their accountant when undertaking a divorce or separation to ensure the support payments are addressed properly in the agreement or court order to support the intended tax consequences.

A general tax rule exists for the treatment of support payments. Child support payments are not tax deductible by the payor and the amount is not included in income by the recipient. Contrast this with spousal support payments which are tax deductible by the payor and the amounts are included in the income of the recipient. Payments are only reported for income tax purposes if they are paid and received during the year, including arrears.

In order to be considered a support payment subject to the above rules, some key requirements must be met. Spousal and child support payments need to be made on a periodic basis for the maintenance of the recipient spouse or for the maintenance of the children respectively. The payments must be made according to a clearly defined written agreement signed by both spouses or through a court order. It is also important that spousal support payments are clearly identified as a separate amount from child support payments in the agreement or court order; if they are not, all payments will be considered child support payments. The timing of the payments must also be outlined in the written agreement or court order and the recipient must be living separate and apart from the payor or be the legal parent of the payor's child. Finally, the recipient must directly receive the payment and have full discretion as to the use of the funds for the child or the recipient.

Once the written agreement is finalized or the court order is received, a copy should be filed with CRA with the form T1158 Registration of Family Support Payments in order to notify CRA about the payments and to allow for the correct tax treatment.

A key issue to keep in mind is that any payments made under the agreement would be considered to be allocated first to child support and then to spousal support, only after the child support payments are fulfilled. It may be possible to use separate agreements for child and spousal support amounts, ensuring that child support does not supersede spousal support payments, but rather that amounts are allocated as intended. Lump sum payments are not considered to be support payments except if they are considered to be payment of arrears under the agreement.

As you can see, the issue of support payments is quite extensive and it is recommended to seek tax advice in conjunction with legal advice in order to ensure that agreements are drafted appropriately and the payments are reported correctly.

Further information can be found on CRA's Website:

<http://www.cra-arc.gc.ca/supportpayments/>



## Recent Changes to Trust Legislation

*Tracey Harrod, CPA, CMA, Tax Manager, Taylor Leibow LLP, Hamilton, ON, DFK Affiliate Firm*

In the 2013 budget, the Federal Government expressed concerns about testamentary trusts. They felt that the graduated tax rates of testamentary trusts may have led to abusive income splitting plans and erosion of the tax base.

Bill C-43 released October 23, 2014, has clarified proposed measures to minimize the tax advantages of testamentary trusts. The main changes, effective January 1, 2016, are:

- ◆ Testamentary trusts that have existed for greater than 36 months must have a deemed year end on December 15, 2015. They will be taxed at the highest marginal rate in 2016 and beyond. New testamentary trusts will be taxed at the graduated rates for the first 36 month only, with the exception of those with a beneficiary eligible for the disability tax credit.
- ◆ All trusts must pay instalments, beginning in 2016, based on their December 31, 2015, income.
- ◆ Upon the death of the spouse, accrued gains in spousal, alter ego, and joint partner trusts will be taxed in the beneficiary's hands rather than the trust.
- ◆ In the case of multiple wills, only one trust can be designated as a Graduated Rate Estate ("GRE"), eligible for the graduated rates.
- ◆ The proposed changes also allow the establishment of a Qualified Disability Trust ("QDT"). The beneficiary of a QDT must qualify for the Disability Tax Credit. Trustees may elect with one or more beneficiaries to be a QDT and the beneficiary can only benefit from one QDT. Additional tax will apply if QDT income that benefited from the graduated tax rates is later distributed to an ineligible beneficiary.

### Issues Concerning Proposed Legislation

The proposed legislation has a few draw backs:

- ◆ Only one trust can be designated as a GRE, and only the GRE can carry losses back to the deceased's final return. The Trustee may have difficulty in deciding on the GRE designation.

- ◆ Spousal and common-law partner trusts, alter ego trusts, and joint spousal and common-law partner trusts (so called life interest trusts) are subject to a deemed disposition of assets at the death of the life interest beneficiary and a deemed taxation year-end. The trust's income for the year, along with the deemed disposition, will be required to be included in the income of the deceased beneficiary. This causes a mismatch as to who is paying the tax and who holds the trust's assets. The tax will be in the hands of the beneficiary and the asset is in the life interest trust. This may cause issues because the beneficiaries of the life interest trust may be different than those of the deceased beneficiary.
- ◆ There are also drawbacks to the 36 month GRE. There is no ability to apply for an extension in the case of a litigious estate that cannot be settled in this time period.

There are a number of other effects of these new rules that should be considered when reviewing your estate plans.

### What Should be Done?

The tax advantages of testamentary trusts are not as favourable as before the proposed changes; however, there are still sound business and personal reasons for their creation.

The proposed legislation will require you to re-examine new and existing estate planning with regards to wills and the establishment of trusts. Attention should be focused on spousal trusts, alter ego trusts, and joint spousal trusts to ensure the tax liability on the death of the life interest beneficiary is minimized and that there are funds to pay tax liabilities without diminishing what was intended to be a capital beneficiary's inheritance.

## What do you have to do to register a charity? What does it mean to provide a public benefit?

*Leslie Milton, CPA, CA, LPA, CFP, Associate Partner, Ginsberg Gluzman Fage & Levitz, LLP, Chartered Accountants, Ottawa, ON, DFK Affiliate*

There are many benefits to obtaining status as a registered charity, not the least of which is the ability to issue donation receipts to donors.

In order to gain registered charity status in Canada, you must apply to the Canada Revenue Agency (CRA), because they are the ones who review the applications and grant the requests. In order to make the decision, CRA applies the [principles of common law](#), and determines whether or not the organization was established for the “benefit of the public.”

Canadian common law defines a charitable organization as one whose purpose falls within one of the following:

- ◆ the relief of poverty;
- ◆ the advancement of education;
- ◆ the advancement of religion; or
- ◆ other purposes beneficial to the community in a way the law regards as charitable.

With regards to the public benefit, the organization must offer something tangible and cannot charge fees

for services whose purpose is to exclude members of the public.

There are many instances where charities charge fees – an admission to a museum for example. However, because the museum does not exclude anyone from entering, and the benefit of the admission fee is tangible, a museum would fall within the definition of a charitable organization.

CRA will look to the scope and nature of the activities of the charity on a case-by-case basis.

As mentioned above, gaining registered charity status has many benefits. However, simply gaining the status does not guarantee you keep it. There are things you are required to do to [protect your status as a registered charity](#).

For more information on this, and other NPO and registered charity issues, check out GGFL’s blog on [www.GGFL.ca](http://www.GGFL.ca).