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Newsletter

Spring 2005

INDIVIDUAL PENSION PLANS (IPPs)

Author: Patricia Day, CA, CBV, CFP, TEP

Individual Pension Plans (IPPs) are suddenly popular again. This is due to lower administration costs and higher contribution limits.

What are IPPs?

They are registered retirement plans that can be used for business owners and executives of incorporated companies. An IPP is designed to allow retirement contributions that would be greater than what is allowed to an RRSP.

What are the benefits?

- Potentially larger annual contributions than to an RRSP.
- Additional contributions for past service years, allowing the company a large immediate deduction.
- Improved asset protection.
- Possible additional contribution on retirement if the IPP is short of funds.

What are the disadvantages?

- Larger fees than RRSPs, with set-up fees and annual administration and filing requirements, as well as an actuarial report every three years.
- Less flexibility to withdraw funds than RRSPs since funds must be taken out as a pension.

Who is the best candidate?

- An individual who is earning more than the maximum for RRSP purposes [Income must be employment income (included on a T4); therefore, unincorporated businesses and partnerships do not qualify].
- Individuals 55 years and older receive the most benefit; however, IPPs are sometimes good for people over 45 years.

What to do if you are interested?

We can introduce you to investment advisors who handle IPPs, or talk to your existing advisor about whether this would be suitable for you.

Inside this issue:

Special points of interest:

- *Next personal tax instalments:*

  - June 15, 2005
  - Sept. 15, 2005
- *Electronic and paper records must be retained for six years.*
- *Visit our web site at www.ggfl.ca for more interesting articles!*

Example of Additional Contributions with IPPs

- An individual aged 55, making $100,000 in salary, and contributing the maximum to an RRSP since 1991.
- Past Service Contribution of approximately $140,000 may be made and deducted by the company.

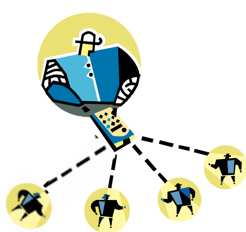
Annual Contribution Limits:

	IPP	RRSP	Advantage with IPP
2004	$23,700	$15,500	$8,200
2005	$25,500	$16,500	$9,000
2006	$27,400	$18,000	$9,400

EMPLOYEE OR INDEPENDENT CONTRACTOR? THAT IS THE QUESTION!

Author: Terry Soloman, BBA, CA

The determination of an individual as an employee or independent contractor has been a near constant source of litigation and confusion.



The accepted judicial and administrative test has been based on a four-pronged, fact-based analysis.

The determination of an individual as an employee or independent contractor has been a near constant source of litigation and confusion due to its impact on CPP, EI and income tax matters. The Federal Court of Appeal's recent decision in *Ambulance St-Jean v. Canada* [2004] F.C.J. No 1680, has helped remove some of the uncertainty in this analysis.

Since the Federal Court of Appeal's decision in *Wiebe Door Services Ltd. v. Minister of National Revenue* [1986] 2 C.T.C. 200, the accepted judicial and administrative test has been based on a four-pronged, fact-based analysis of the individual circumstances of the case at hand.

The criteria are:

1. Degree of control;
2. Ownership of tools;
3. Chance of profit and risk of loss; and
4. Extent of integration with employer.

For CRA's point of view, click here: http://www.cra-arc.gc.ca/E/pub/tg/rc4110/rc4110-98e.pdf

Unfortunately, these criteria often point in contradictory directions. As a result, employers and individuals are unable to structure their arrangements with any degree of certainty. This uncertainty, in an area as pervasive as this, is unacceptable. The *Ambulance St-Jean* case has attempted to clarify the importance of the intention of the parties:

> *Although the stated intent of the parties or their mutual understanding are not necessarily determinative of the nature of their relationship, they are, however, entitled to considerable weight in the absence of evidence to the contrary, such as behaviour which betrays or contradicts the said intent or understanding.*

This analysis is consistent with prior comments of the Federal Court of Appeal in *Wolf v. Canada* [2002] F.C.J. 375, where Décary J. A. stated:

> *When a contract is genuinely entered into as a contract for services and is performed as such, the common intention of the parties is clear and that should be the end of the search.*

Ambulance St-Jean builds on this by stating that the intention of the parties should prevail unless there is evidence that it was a sham. In *Ambulance St-Jean,* the court analyzed factors, similar to *Wiebe Door,* support the parties' contention that there was a common intention to operate under the terms of a contract for services. The *Wiebe Door* factors were not a stand-alone test.

It remains to be seen whether this approach will gain judicial acceptance. At the very least, it confirms intention is a determinative factor where the *Wiebe Door* criteria do not provide a clear answer.

THE TAX ADVANTAGES OF LEASING YOUR AUTOMOBILE

Author: Paul Vivian, CA and Sandra Adachi, CA

Do you claim a tax deduction for the use of your automobile for business or employment purposes? Does your company provide you with the use of a vehicle that generates a taxable benefit for income tax purposes? If the answer to either of these questions is yes, you should be aware of the potential tax advantages of leasing your vehicle rather than purchasing it outright.

Tax deductions for automobiles

If you use your automobile for business or employment purposes, you may be in a position to deduct expenses related to the business use of that vehicle on your income tax return.

If you own your vehicle, you will ordinarily be able to deduct capital cost allowance (depreciation) and interest costs related to the ownership of your vehicle, whereas if you lease your vehicle, you will be able to deduct the lease payments. (Of course, operating costs such as gas and maintenance are also deductible. Regardless of whether you own or lease your vehicle, you may only deduct the business percentage of the costs.)

In theory, over the lifetime of the vehicle, the tax deductions attributable to ownership versus leasing should be relatively equivalent. However, the complexities of the Income Tax Act result in anomalies that can provide income tax advantages to leasing. Some of these advantages include:

1. The Income Tax Act provides for restricted income tax deductibility for so-called "luxury" vehicles (those that cost over $30,000 excluding sales taxes). Automobiles that cost in excess of this limit can only be depreciated for tax purposes up to this limit and related financing costs can only be deducted to a maximum of $300 per month. A similar limit applies for leased vehicles—deductible lease costs may not exceed $800 per month plus taxes, which is intended to be equivalent to the purchase of a $30,000 vehicle. In practice, by proper structuring of the lease terms, it may be possible to lease a vehicle that has a value in excess of $30,000 without any restrictions on tax deductibility by ensuring that the monthly lease payments do not exceed the $800 per month limit.
2. If you acquire your vehicle early in the tax year, leasing will typically provide a higher tax deduction in the initial year. This is the case because a newly acquired "purchased" vehicle only allows for 50% of the normal capital cost allowance in the year of acquisition.

Taxable benefits for automobiles

Company-owned or leased cars that are provided as a "perk" to an employee will generate a taxable benefit to the employee in the form of a minimum "standby" charge. For a company-owned vehicle, the standby charge is a flat 2% of the vehicle's cost per month, with a reduction provided in certain cases where the business use of the vehicle is at least 50%. For a leased vehicle, the standby charge is 2/3 of the monthly lease costs (the same reduction can apply if business use is at least 50%), which is typically lower than the 2% per month calculation. Furthermore, extending the lease term can reduce the monthly payments and the standby charge as well. A reduction in the standby charge reduces the tax cost to the employee.

Sales tax consequences

In provinces that levy sales taxes, leasing a vehicle has the advantage of spreading the sales tax cost inherent in the acquisition over the life of the lease, instead of the one time "up-front" sales tax cost applicable to a purchase. One negative is that when you lease a vehicle, your finance charge is effectively built into the lease price. In a leasing contract, therefore, you pay PST on the finance cost, which you do not do if you borrow to purchase a vehicle. This disadvantage may be offset by the fact that you do not pay sales taxes on the residual value of the vehicle unless you exercise a purchase option at the end of the contract.

Final thoughts

Income tax considerations should represent only one of the many factors to consider when making the determination as to whether or not to lease or purchase a vehicle. Seeing a competent tax advisor to evaluate the pros and cons of each alternative in any particular fact situation makes sense. However, leasing can provide tax benefits that should not be ignored in making your final decision

You should be aware of the potential tax advantages of leasing your vehicle rather than purchasing it outright.

CHECK YOUR CHEQUES

Author: Christian Perry, CA

Did you know that at the end of every business day, approximately five million cheques are transported between Canadian financial institutions? By the end of 2006, cheque clearing will be made more efficient using an electronic imaging process to transfer information among financial institutions. However, in order to make way for the image-based clearing system, the official specifications for Canadian cheques are changing.

For the most part, cheques will look the same as always, but there are a few changes to look out for:

- Dates will have to be in a standardized place and in a numeric format – either MMDDYYYY or DDMMYYYY – with pre-printed characters below indicating which order is being used.

- The location of other information (such as the cheque amount) will also be standardized.

- All cheques will have to be pre-numbered, with the serial number being included in the line of machine-readable code at the bottom of the cheque.

- Carbon strips will no longer be permitted on the back of cheques.

So, before you place that bulk order with your printer, check your cheques to make sure that they will be compatible with the new standard.

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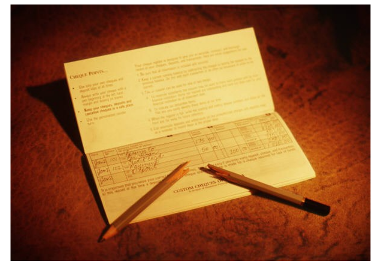

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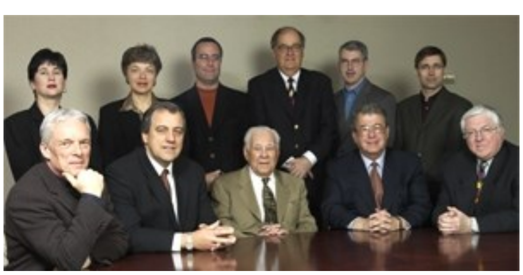
For further information, click here:

http://www.cdnpay.ca/news/new_cheque_specs.asp

GGFL—Ranked 6th Largest Ottawa CA Firm—O.B.J. Feb. 2005



Back Row: Patricia Day, Deborah Bourchier, Jeffrey Miller, Alan Freed, John Baldwin, Hugh Faloon
Front Row: Richard Fage, Bruce Johnston, Leon Gluzman, Gerald Levitz, Claude Gingras

GGA celebrates its 25th Anniversary!

GGA is an associate firm of GGFL, founded in 1980 by Joseph Ginsberg and Claude Gingras. Congratulations!

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