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## Tax Tips & Traps

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### In this edition:

|  |   |
|--|---|
| TAX TICKLERS .....                     | 1 |
| MEDICAL EXPENSES .....                 | 1 |
| Travel Costs                           |   |
| MEDICAL EXPENSES .....                 | 2 |
| Can Renovations be Claimed?            |   |
| MARITAL STATUS .....                   | 2 |
| Am I Married?                          |   |
| SPLITTING UP? .....                    | 2 |
| Property Transfer Issue                |   |
| FITNESS CLUB DUES .....                | 3 |
| Tax-Free Benefit for Employees?        |   |
| GETTING MONEY OUT OF THE COMPANY ..... | 3 |
| Insurance Policy Transfers             |   |
| CHARITABLE DONATION .....              | 3 |
| Gift of "Free-Rent"                    |   |
| WEB TIPS .....                         | 3 |
| Financial Preparation for Retirement   |   |

*This publication is a high-level summary of recent tax developments applicable to business owners, investors, and high net worth individuals. Enjoy!*

### TAX TICKLERS... some quick points to consider...

- Make your **RRSP contributions** by March 3, 2014 to ensure the amount is deductible for the 2013 calendar year.
- Certain rules regulate the degree **charities** can participate in political activities. Is your charity onside? See [www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/menu-eng.html](http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/menu-eng.html).
- Are you a **US Citizen, Resident or Green Card Holder**? Information exchange and U.S. filing requirements have many implications and procedures to consider.

Contact us if you have further questions or wish to discuss!

### MEDICAL EXPENSES: Travel Costs

An individual can generally claim **reasonable travel costs** incurred for medical purposes as a medical expense only where substantially **equivalent medical services** are **unavailable** where the **taxpayer resides**. The following two Technical Interpretations discuss the Canada Revenue Agency's (CRA's) position on this matter.

In an April 5, 2013 Technical Interpretation, CRA considered whether **initial travel costs** incurred to participate in a **foreign medical experimental drug** research project and subsequent foreign travel costs after the **drug became available** in his locality would be considered a **valid medical expense**.

When the drug became available in Canada, the taxpayer's **Canadian doctor advised** the taxpayer to **continue monitoring with the foreign doctor** who had more expertise with the taxpayer's condition and the specific drug. **CRA agreed** that the **reasonableness test was likely met** even though medical services were available in a closer location, and would be considered a medical expense.

## Tax Tips & Traps

In another April 5, 2013 Technical Interpretation, CRA discussed a scenario where, even though medical services were provided by local medical practitioners, the taxpayer was unable to secure the services of a local practitioner due to a **shortage of medical practitioners**. CRA indicated the fact that **services were not being available** was **sufficient** to support a claim for **medical travel**. In this case, the taxpayer's claim for travel to his previous residence to continue receiving treatment from his previous doctor in that area would meet the medical expense requirements.

**Action Item: Travel for medical services may be considered a medical expense in certain scenarios. Contact us to see if your medical travel may qualify.**

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### MEDICAL EXPENSES: Can Renovations be Claimed?

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In a September 13, 2013 Tax Court of Canada case, the taxpayer's claim for amounts paid to install **engineered hardwood flooring** as a medical expense was denied by CRA. The engineered hardwood **replaced fairly new carpet** in the taxpayer's five year old home on the advice that **her husband**, who suffers from progressively debilitating Parkinson's disease and psoriatic arthritis, **was at serious risk** of the carpet causing a fall.

There was no dispute that the new flooring would **enable the Appellant's husband to be more mobile and functional** within the dwelling. However, in order to claim a medical expense, the law also requires that the expense:

- (i) **not typically be expected to increase the value** of the dwelling; and
- (ii) **not normally be incurred** by persons who have normal physical development or who do not have a severe and prolonged mobility impairment.

CRA argued that the engineered hardwood flooring had to be excluded under both requirements.

#### Taxpayer wins

The Court was satisfied with the evidence that **modestly priced engineered hardwood flooring**, as opposed to solid hardwood flooring, **would not typically increase the value** of the property, especially when replacing fairly new, quality carpet in only a portion of the home. The Court further concluded that the taxpayer **"only put in what was necessary"** and that this expense **would not normally have been incurred** in the absence of the medical need. As such, the expense was allowed.

**Action Item: Large medical expenses are routinely reviewed by CRA. Contact us before incurring significant costs to determine if they may qualify as a medical expense.**

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### MARITAL STATUS: Am I married?

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In an October 3, 2013 CRA Release (Marital Status), CRA noted that:

A **spouse** is a person to whom you are legally married.

A **common-law partner** is a person who is **not your spouse** but with whom you are living in a **conjugal relationship**, and to whom at least **one** of the following situations applies. Your partner:

- (i) has been living with you in a conjugal relationship, and this relationship has lasted at least **twelve continuous months**;
- (ii) is the **parent of your child** by birth or adoption; **or**
- (iii) has **custody and control** of your child (or had custody and control immediately before the child turned 19 years of age) and your child is wholly dependent on that person for support.

You are **"separated"** when you **start living separate and apart** from your **spouse** or **common-law partner** because of a **breakdown** in the relationship for a period of at least **90 days** and you have not reconciled.

If you continue to **reside** in the **same household** and continue to **share parenting** and financial responsibilities, CRA will **not** consider a **separation** to have occurred for the purposes of the Canada Child Tax Benefit (CCTB) or the **GST/HST credit** legislation. An **exception** to this may occur when **separate living quarters** are self-contained in the same household.

Where there is a **marital status change**, CRA will **recalculate** your benefits based on the number of children you have and their ages, your province or territory of residence, and your revised family net income based on your **marital status change**. Your benefits will be adjusted **the month following** the month in which your marital status changed.

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# Tax Tips & Traps

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**CCTB:** If you or your new spouse or common-law partner have children who are residing with you, CRA will move all the children to the **female parent's account**. If you are married or living common-law with a person of the **same sex**, one of you will receive the CCTB for all of the children. To receive the CCTB, you and your spouse or common-law partner have to **file a tax return every year**, even if you have no income to report.

**GST/HST CREDIT:** If you did not apply for the GST/HST credit on your tax return and your status is now **separated, widowed or divorced**, you can **apply now**.

**Action Item:** *Contact us as soon as there is a change in your marital status as there are numerous current and future tax implications, such as changes to your Canada Child Tax Benefits and GST/HST Credits!*

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### **SPLITTING UP?: Property Transfer Issue**

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In a 2013 Advance Income Tax Ruling, CRA confirmed that shares of a company can be transferred at cost for tax purposes as part of a negotiated **matrimonial property settlement**.

A capital gain realized on the disposition of a capital asset, after the Divorce Agreement, by the spouse will **not attribute** back to the transferor. However, without filing the proper joint election, a capital gain on the sale of an asset prior to the signing of the Divorce Agreement may attribute back to the transferor. That is, the spouse who transferred the asset to the other spouse would have to report the capital gain and, therefore, have an increased tax liability.

**Action Item:** *Significant tax costs can occur on the transfer of assets due to a relationship breakdown. Contact us before transferring major assets upon a matrimonial breakdown.*

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### **FITNESS CLUB DUES: Tax-Free Benefit for Employees?**

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In a September 4, 2013 Technical Interpretation, CRA discussed **employer paid fitness fees** for the benefit of an employee. The CRA noted that generally the **value** of any **benefit**, in this case a fitness membership, to a taxpayer enjoyed as a **result of an office or employment** shall be **included in computing employment income** unless it is principally for the **employer's advantage**.

In addition, the following certain specific scenarios may **not** result in a **taxable benefit** to the employee:

1. if an employer provides an **in-house fitness facility** available to **all employees**, and,
2. if an employer pays the fee to a facility outside the company where the **membership belongs to the company** rather than the individual employee. **All employees** must have **access** to the membership whether or not they choose to use it.

**Action Item:** *Avoid unnecessary taxable benefits for employees by efficiently providing employer funded fitness programs.*

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### **GETTING MONEY OUT OF THE COMPANY: Insurance Policy Transfers**

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It may be possible for a shareholder to **transfer his/her life insurance policy to a Corporation** and **receive cash** at a **low or nil tax cost**. There are many calculations and implications to consider.

For example, where a policy has a fair market value of \$100,000, the policy, under the right circumstances, may be eligible to be transferred to the Corporation in exchange for \$100,000 with little or no tax cost.

There are, however, a number of **cautions** to be considered, such as the **potential for significant tax** where the **policy** is subsequently **transferred back** to the **individual**. **Professional advice** is advised before any transfer is made.

**Action Item:** *Let us know if you personally own a life insurance policy to determine if this involved planning strategy may be appropriate for you!*

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### **CHARITABLE DONATION: Gift of "Free-Rent"**

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In a November 1, 2013 Tax Court of Canada case, the issue was whether the taxpayer could claim a **charitable donation** for the **fair market value** of **free rent** provided to a Registered Canadian Charitable Organization, Peaceful Schools, of which the taxpayer's spouse was the president.

# **Tax Tips & Traps**

Two rooms in the house, owned by the taxpayer's spouse were used by the charity although there was no rental arrangement, no rent paid, no rental income reported by the taxpayers, and no cash donation made.

#### **Taxpayer loses**

The Court noted that there was **not a transfer of property** as the Charitable Organization was simply allowed to use the rooms. There was no legal effect to this.

#### **Planning strategy**

The Court noted that the taxpayer and his wife could have rented the rooms, donated the receipts and received a charitable donation tax credit. CRA agreed that this was true but this is not what happened.

If rent had been charged, the rental income, net of expenses, would have to be reported.

**Action Item:** *This may also apply to a person providing a personally owned tool, or a piece of equipment, for example a computer, or even an automobile for a charity to use.*

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### **WEB TIPS: Financial Preparation for Retirement**

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On November 18, 2013 the Financial Consumer Agency of Canada released a financial preparation guide entitled "**Living in Retirement**". The Guide deals with a number of topics including:

- Budgeting in retirement
- Sources of retirement income
- Public pension benefits, tax credits, and other benefits for seniors
- Working in retirement
- Preventing financial abuse and fraud
- Dealing with transitions such as changing living needs, care giving, and the loss of independence

The Guide can be found by searching for "Living in Retirement" at [www.fcac-acfc.gc.ca](http://www.fcac-acfc.gc.ca).

**Action Item:** *Plan early for retirement – check out this Guide!*

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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