4th QUARTER 2013

The PEL Tax Break

EMPLOYMENT INCOME

GIFTS TO EMPLOYEES – NON-TAXABLE?

According to CRA's gifts and awards policy:

1. Up to **$500 in gifts and awards per year per employee can be paid out as a non-taxable benefit** under the **CRA's "gifts and awards policy."**

A "**gift**" is defined as recognition of a **personal event or milestone** in an employee's life, such as a birthday, marriage, retirement or the birth or adoption of a child, or as recognition of a public or religious holiday where gifts are traditionally exchanged, such as Christmas or Hanukkah.

An "**award**" has to be for an employment-related accomplishment such as outstanding service, employees' suggestions, or meeting or exceeding safety standards. **Performance based "awards"** (such as exceeding production standards, completing a project ahead of schedule or under budget, putting in extra time to complete a project) do **not benefit from the exemption** and are therefore **taxable benefits**.

2. The "gifts and awards policy" also only applies to non-cash items. **Cash, and near-cash items** such as gift cards and gift certificates, are not included in the policy and are **always taxable**, regardless of the reason they are given.

3. The "gifts and awards policy" **cannot** be used against **taxable** parking or employer-provided transportation because the policy cannot be used to make otherwise taxable benefits non-taxable.

4. **Prize draws or lotteries** are **not included** in the "gifts and awards policy". Generally, where all, or a majority of, participants in an **employer-promoted contest** are employees and their family members, any **winnings** are considered a **taxable** employment benefit.

EMPLOYEE EXPENSES: NOT DEDUCTIBLE?

In a July 9, 2013 Tax Court of Canada case, a group home counselor took residents of the group home shopping, to medical appointments, and to recreational activities as part of his employment duties. The **employee argued** that it was an **implicit term** of his contract that he incurs expenses for the use of **his own personal vehicle** and, therefore, the amounts should be deductible on his personal tax return.

Taxpayer loses

The taxpayer's manager noted that many employees do not use their own vehicle for transporting residents and instead take a taxi or public transportation.

Because the employee was **not required** under his contract of employment to use his vehicle, the Court **disallowed** the expenses.

This may apply to a wide range of employees, including those who have received T2200s from their employers. A T2200 (Declaration of Conditions of Employment) is the form signed by employers that allow employees to deduct certain employment expenses from his or her income.

IN THIS ISSUE...

SEASON'S GREETINGS!

The PEL team wishes all of you a Happy Holiday Season and all the best for 2014! May the joy of the season be shared by all.

As in the past, in lieu of Christmas cards, we will be making donations to worthy causes, including a donation to assist the Filipino community recently hit by Typhoon Haiyan.

If you are receiving this newsletter by mail and would like to receive it by email instead (or vice versa), or if you no longer wish to receive our newsletter, please contact Julie at julie@accountantsplus.ca or 604.299.9274.

PERSONAL TAX

CRA ATTACK: CONDO SALES

It has been noted recently in several news articles, that the CRA has increased activity in reviewing **condominium sales**. It appears that CRA is reviewing **land titles records** to identify short-term condo holds. In such cases, CRA reassesses the gains as “**ordinary business income”** on the assumption that the **vendor’s intention** was always to **resell** or flip the condo at a profit.

While this may be true in some cases, in others the intent was to reside in the property for an extended period. In such cases where the intent was not business in nature, the sale may be considered a capital gain (taxed at half the rate of “ordinary business income”) or no gain at all if qualifying as, and determined to be, a principal residence.

CRA seems to have adopted a policy of “reassess and penalize first, and ask questions only if the taxpayer objects”.

If you have received such a reassessment, contact us immediately so that an Objection can be filed. Objections need to be filed within 90 days of the date on the Notice of Reassessment.

CHILDREN’S ARTS & FITNESS CREDITS – THE SEPARATE RECEIPT ISSUE

In an April 13, 2013 Ministerial Correspondence, CRA noted that a specific **program cannot qualify for both** the Children’s Fitness Tax Credit (CFTC) and the Children’s Arts Tax Credit (CATC). However, they acknowledged that an Organization **may offer distinct programs**, some of which qualify for each credit. They indicated such Organizations should either issue separate receipts, or a single receipt that clearly **segregates the amounts** paid for each program.

If your child is enrolled in more than one program with an organization, ask for a separate receipt for each program.

TAX DISPUTES

GETTING AUDITED – NET WORTH ASSESSMENTS

In a May 14, 2013 Tax Court of Canada case, two taxpayers carried on a fishing business that was being audited. The CRA auditor applied a **net worth calculation** to estimate their earnings because he was unable to reconcile the income from the accounting records to the growth in their assets, largely fishing licenses.

Taxpayer loses

The taxpayers argued that the CRA should not have used the net worth method, but confined their review to the accounting records. The Court noted that maintaining accounting records is not sufficient - they **must be reliable, credible and accurate** - and the **disparity** between the growth of their assets and the income reported justified use of the **net worth method.**

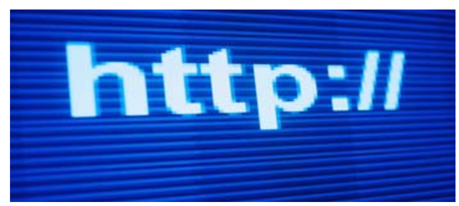
TIP: maintain reliable accounting records!

TAX TICKLERS

QUICK POINTS TO CONSIDER

- You may be able to save approximately 2% in personal taxes if you declare and pay “non-eligible dividends” in 2013, rather than 2014.
- Receiving government loans can reduce Scientific Research and Experimental Development Credits.
- Considering the purchase or sale of a business? Taxation relating to Restrictive Covenants (ex. non-competition clauses) has changed.

If any of these items are applicable, contact us for further details and planning possibilities.



WEB TIPS

CRA’s YOUTUBE CHANNEL

The CRA hosts a YouTube channel which provides a wide range of short video clips on various personal tax topics. The video clips are generally basic and easy to understand. Some of the topics include: Children’s Fitness Tax Credit, E-services for Individuals, Pension Income Splitting, and Direct Deposit. To find the channel, go to YouTube.com and search for “CRA Channel”.

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