

The Tax Break

ARE YOU “MARRIED”?

YOU MAY BE – FOR INCOME TAX PURPOSES!

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.

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**.

Contact us immediately if there is any change in your marital status, as there are numerous current and future tax implications!

SPLITTING UP?

PROPERTY TRANSFER ISSUE

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**.

see over...

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- Splitting Up?
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IT’S THAT TIME AGAIN...

Personal tax season is once more upon us. We look forward to seeing you all in the coming weeks as you gather your tax information and bring it in – just remember the deadline for our Early Bird Draw is **March 31!**

We would also like to welcome **Cindy Ji, CGA** to the PEL team, and welcome **back Ivonne Mendoza** from maternity leave!

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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.

Significant tax costs can occur on the transfer of assets due to a relationship breakdown. Contact us before transferring major assets.



ARE YOUR RENOVATIONS “MEDICAL EXPENSES”?

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.

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

FITNESS CLUB DUES

TAX-FREE BENEFIT FOR EMPLOYEES?

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:

- (i) if an employer provides an **in-house fitness facility** available to **all employees**, and,
- (ii) 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.

Avoid unnecessary taxable benefits for employees by efficiently providing employer funded fitness programs.



WEB TIPS

FINANCIAL PREPARATION FOR RETIREMENT

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

- Budgeting in retirement
- Sources of retirement income
- Public pension benefits, tax credits, and other seniors’ benefits
- Working in retirement
- Preventing financial abuse/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.

We recommend that you obtain professional advice before acting on information contained in this newsletter.

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