The AC Group

Of Independent Accounting Firms Limited

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

TAX TICKLERS… some quick points to consider…

- CRA's My Account for Individuals and My Service Canada Account are now linked such that users can easily switch between online personal tax information and other benefits (ex. EI, CPP, and OAS).
- Employers will soon be able to distribute T4s electronically (provided certain conditions are met).
- In September 2016, the CRA transmitted 315,160 banking records to the IRS under the information sharing requirements in the Foreign Account Tax Compliance Act (FACTA).
- CRA monitors publicly available information, including social media posts for certain Canadians (particularly "high-risk" taxpayers).
- CRA has required that Square Canada Inc. provide them with details on certain businesses using Square Readers to process sales.

EMPLOYMENT INSURANCE: Some Improvements

The 2017 Federal Budget proposed a number of changes to Employment Insurance (EI). Some of the proposals include the following:

A New Caregiving Benefit
This benefit will provide eligible caregivers up to **15 weeks** of EI benefits while they are temporarily away from work to support or **care for** a critically ill or injured **family member**.

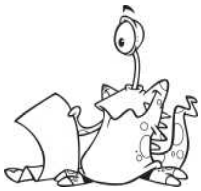
More Flexible Parental Benefits
This will allow parents to choose to receive **EI parental benefits** over an **extended period** (up to 18 months) at a lower benefit rate (33% of average weekly earnings). The existing benefit rate (55% over a period of up to 12 months) will remain available for parents who prefer this arrangement. Finally, women will be able to claim EI **maternity benefits** up to **12 weeks before** their **due date** (expanded from the current standard of 8 weeks).

Education While Receiving EI Benefits
Changes to enhance the ability of EI claimants to pursue **self-funded** training while **maintaining** their **EI** status were proposed.

Action Item: Ensure you are aware of these changes to Employment Insurance.

Tax Tips & Traps

SHARING ECONOMY: Know Your Tax Obligations



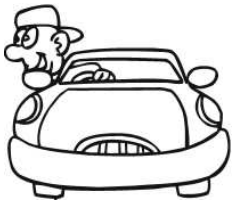
On March 17, 2017, CRA released a Tax Tip reminding those involved in the sharing economy to ensure that they comply with relevant **income tax** and **GST/HST obligations**. All income earned through sharing economy activities should be reported.

CRA identified five key sectors, being **accommodation sharing**, **ride sharing**, **music and video** streaming, **online staffing**, and **peer/crowdfunding**.

CRA also noted that it is **co-operating with industries**, the provinces, and the territories to **identify** and **address areas** where the tax system and compliance might be affected.

Action Item: If you are involved in the sharing economy, ensure you are compliant with your tax obligations.

UBER DRIVERS: Registration for GST/HST



Most businesses must register for a GST/HST account (and therefore collect and remit GST/HST as appropriate) if they earn revenues from worldwide taxable supplies greater than $30,000 within the previous four consecutive quarters, or exceed the $30,000 threshold in a single calendar quarter. However, a special rule applies to self-employed "taxi businesses" which requires them to register regardless of the quantum of revenues.

There has been some uncertainty as to **whether drivers of ride-sharing services**, such as Uber, are considered "taxi businesses".

The 2017 Federal Budget **ended this uncertainty**. It proposed that, **effective July 1, 2017**, ride-sharing services will be defined as a "taxi business" for GST/HST purposes and therefore **will be required** to charge and remit GST/HST. More specifically, a "taxi business" will now include **all persons** engaged in a business of **transporting passengers** for fares by motor vehicle within a municipality and its environs where the transportation is arranged for or coordinated through an electronic platform or system, such as a **mobile application or website**.

Action Item: Drivers of ride-sharing services should consider registering for GST/HST.

PERSONAL USE ASSET IN A CORPORATION: GST/HST and Other Tax Issues

A number of issues may arise if a shareholder uses a corporate asset personally without providing the corporation with fair market value (FMV) consideration. Barring a special relieving provision of the Act, the shareholder may be subject to a shareholder benefit, essentially resulting in double tax. Another issue that may arise relates to GST/HST. This was considered in the below Court case.

In a September 23, 2016 **Tax Court of Canada** case, at issue was whether the **input tax credits (ITCs)** for the corporate purchase of a $310,000 **recreational vehicle (RV)**, which was allegedly used for **both corporate and personal purposes**, would be permitted. For the periods that the taxpayer conceded that the vehicle was used personally, the shareholder paid $2,000 plus GST/HST per week. The Minister provided evidence from a 3rd party that the average rate for such a vehicle would be between $4,500 and $5,000 per week.

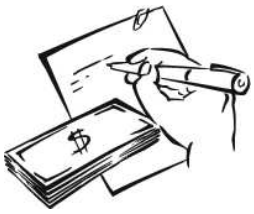
Taxpayer loses

The Court determined that the vehicle was acquired exclusively, or **at least primarily**, for the shareholder's **personal use**. To be eligible for an ITC, an asset must be acquired "for use primarily in commercial activities of the registrant". As such, the **GST/HST paid would not be recoverable** as an ITC.

Action Item: Assets acquired for personal use by shareholders should not generally be acquired by the corporation. Significant income tax and GST/HST issues may arise if such assets are held corporately.

DONATION OF PUBLICLY TRADED SECURITIES: Increase the Value of Charitable Giving

An individual who **gifts cash** or assets to a charity is able to claim a **donation tax credit** which reduces their personal tax liability. If the individual **gifts** certain **publicly traded securities directly to the charity**, they may enjoy **additional benefits**.



While the full value of the securities will be a charitable donation either way, if the securities are donated directly to the charity, the taxable portion of the capital gain is reduced to 0%. That means there is no tax liability on the disposition. For example, consider an individual who wishes to gift $5,000. If that individual sells $5,000 worth of publicly traded securities, they must then pay capital gains tax

on the disposition. However, if they donate the shares directly to the charity, they are not subject to the capital gains tax, but still benefit from the donation tax credit.

Though the planning may seem simple there are a number of **complexities** that may arise. For example, while similar benefits can be obtained when **gifting securities** acquired through an **employee stock option plan**, careful planning is required to eliminate the taxable benefit which normally arises on exercise of these options.

Corporations also benefit from **no capital gains tax** on these donations. In addition, they receive the added benefit of **increasing** their **capital dividend account** by the full amount of the capital gain, potentially allowing payment of tax-free dividends.

Action Item: When planning charitable giving, consideration should be given to gifting publicly traded securities, rather than cash, to better the tax benefits.

INVESTMENT MANAGEMENT FEES FOR RRSPs, RRIFs, AND TFSAs: Are Changes Coming?

In a November 29, 2016 **Technical Interpretation**, CRA opined that where **investment management fees** incurred by an RRSP, RRIF or TFSA are **paid** from outside of the plan (such as **by the annuitant or holder**) the plan's controlling individual would likely be subject to a **tax** equal to **100% of the fees paid**.

CRA opined that investment management fees represent a **liability of the registered plan trust** and should, therefore, be **paid using funds from the plan**. If paid from outside of the plan, the resulting indirect increase in value of the plan assets would likely constitute an advantage. That is, more assets would be retained in the tax-sheltered vehicle.

CRA further noted that it is not commercially reasonable for an arm's length party to gratuitously pay the expenses of another party. As such, there is a strong inference that a motivating factor of the above is to maximize the savings in the plan so as to benefit from the tax exemption afforded to the plan.

Recognizing that it is common practice for the holder of these accounts to pay the management fees, CRA indicated they will **defer** the application of this position **until January 1, 2018**.

Action Item: Be aware of changes in how investment management fees are charged in the near future to avoid this tax.

WEBSITE HISTORY: Finding What You Thought Was Lost on the Internet

Webpages are constantly evolving. An individual may wish to see the **history** of a **certain webpage** for any number of reasons.

Without a webpage or website self-reporting the changes made, identifying them can be difficult. However, there are a number of **tools available** on the Internet that may be useful in piecing together a webpage's historical data. One such tool, https://archive.org/web/, aims to record what a webpage looked like at various moments in time. This can enable users to see how a webpage has changed over time.

Action Item: Use this tool to find historical information on the internet.

CHARITIES AND FOR-PROFITS WORKING TOGETHER: Receipts for Cause-Related Marketing

A registered **charity** may work with a for-profit entity to **promote the sale** of the **for-profit's items** on the basis that **part of the revenues will go to the charity**. This is commonly called **cause-related marketing**. On February 9, 2017, CRA published guidance addressing this**.**

CRA noted that the **benefit** that a **for-profit receives** from this type of arrangement is considered an **advantage**. The charity must quantify this advantage and reduce it from the amount of the donation to calculate the **eligible donation**. Where the total value of the advantage cannot be calculated, the charity cannot issue a receipt. That said, CRA noted it may be possible to claim the donation as an advertising expense.

Action Item: Consider this type of arrangement to raise funds for your charity! Or, as a for-profit, to raise your profile in the community.

LEAVE OF ABSENCE: There Are Tax Consequences

A deferred salary leave plan (DSLP) permits an employee to fund, through salary deferrals, a leave of absence from their employment. Generally, salary deferrals are included in income when the amounts are earned. However, if certain **conditions are met** under a **DSLP**, the **employment income** is **taxed when** the **amounts** are **received**.

In a December 19, 2016 French **Technical Interpretation**, CRA opined that the **requirements** of a DSLP must be **met** when the **plan is entered into and throughout the duration of the plan**. One requirement is that the employee return to their employment after the leave of absence for a period that is not less than the leave period.

If, when entering into the agreement, the parties expect the employee to cease employment during the plan, it would not qualify as a DSLP. In this case, the deferred amounts would be included in the employee's income when earned.

On the other hand, if, at the time the agreement is made, it is clear that the employee will meet all the requirements, being temporarily out of work during the period should not, in and of itself, prohibit an employee from participating in a DSLP.

Action Item: Consider a deferred salary leave plan as an option for key employees wishing to take a leave of absence.

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.

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For any questions… give us a call**.**