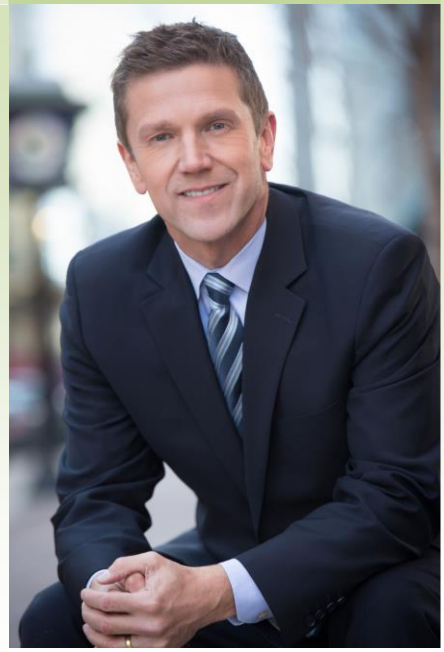
# Kurt Rosentreter Tax Planning Tips Q1 2020



## Tax Ticklers – Some Quick Points to Consider

- The amount of income an individual can earn without paying tax (basic personal amount) will begin increasing in 2020. In the first year, it will rise to $13,229 (from $12,069 in 2019), and will reach $15,000 in 2023. The benefit will begin to be phased out when an individual has earnings of approximately $150,000.
- The purchase of a zero-emission vehicle, if associated with an income earning purpose (e.g. used in a business), may be eligible for a 100% immediate write-off as long as the federal government purchase incentive was not obtained.
- TFSAs – As of 2017, the average number of contributions per individual was 14.49, the average fair market value of each account was $19,633, and the average unused space was $30,947.
- There are 2.21 million corporations in Canada (according to 2016 statistics that were recently released). Total tax payable for 2016 was $72.21 Billion.

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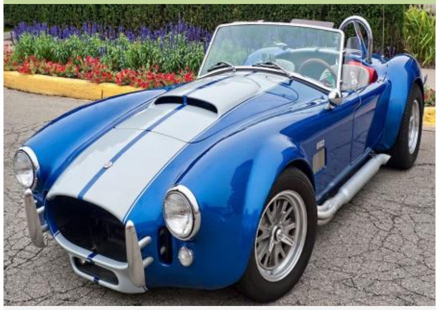


*Kurt's Comments:*

*In addition to employment/business travel logs, CRA may ask for support of total travel. Retain records that support total kilometres traveled such as repair receipts.*

## Motor Vehicle Expenses: Total Kilometres Driven

In a September 17, 2019 Tax Court of Canada case, at issue was the deductibility of vehicle expenses, and in particular, the portion of total vehicle use that was for employment purposes. While initially challenged by CRA, the Court eventually accepted the credit card statements as support for the amounts expended. The taxpayer held and produced a T2200 which indicated that motor vehicle expenditures were requirements of employment.

**Taxpayer loses – vehicle expenses**

The taxpayer had initially claimed 90% employment usage but later asserted that only 1,015 of her total 1,353 kilometres travelled (75%) were for employment purposes. This percentage is used to determine the portion of total vehicle expenses that can be deducted. The Court then noted that the total kilometres driven for the year were more likely approximately 10,000 based on the odometer readings listed on the third-party garage repair invoices provided throughout the year. As the reported employment kilometres (which were supported by a vehicle log) were about 10% of the total reported on the invoices, only 10% of expenses were allowed.

## Employment Expenses: Costs of an Assistant

A November 5, 2019 Tax Court of Canada case reviewed the deductibility of employment expenses by a manager overseeing the Canadian sales force and operations of a multinational manufacturer of dental instruments and products. The taxpayer's employer had no Canadian office, and she travelled extensively to meet with sales representatives, dealers and customers throughout Canada.

**Expense of assistant**

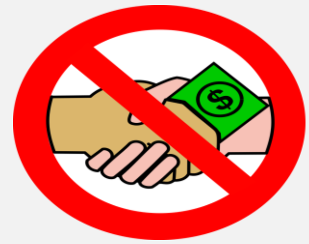
Almost half of the taxpayer's claimed expenses, which exceeded $80,000, related to her husband's role as her assistant. The Court noted that a deduction can be claimed for salary paid to an assistant, but that there were several problems with her claim, including the following:

- The taxpayer's husband was treated as self-employed and not as an employee. Any deduction must be for salary, requiring it be paid to an employee. This alone was fatal to the deduction claim.

## Employment Expenses: (Con't)

- The amount was not paid to her husband. Rather, they simply had a single joint bank account through which they both transacted. Lack of payment alone would prevent any deduction.
- The taxpayer's employer indicated it was the taxpayer's decision whether she required an assistant. As her employer did not require her to hire an assistant, no deduction was available. This item alone would also prevent any deduction.
- The husband's services described were largely clerical, administrative, secretarial or driving, for which his hourly fee of $75 was not "anywhere close to the range of reasonable".
- The husband's hours set out in quarterly billings were not supported – he could only account for a small fraction of the hours invoiced.
- The husband claimed business expenses of almost 75% of his fees; however, the couple could not describe what expenses he incurred. The taxpayer "was sure this was a mistake".

No deduction was allowed for these costs.



***Kurt's Comments:***

***Support and documents are often requested by CRA when deductions against employment income are claimed. Ensure to retain all such support. If no T2200 has been provided for the current year, enquire with your employer as to whether one is available for the next.***

## Travel Expenses: Shareholder-Employees

For an employee to deduct travel or motor vehicle expenses against employment income, the employee must be normally required to work away from the employer's place of business, be required to pay the travel expense under the contract of employment, and have a signed and completed T2200. Also, the employee cannot receive an allowance excluded from income.

In 2017, CRA began denying travel expenses claimed on the personal tax return of many employees who were also shareholders of the employer or related to a shareholder. After receiving concerns from stakeholders regarding this new assessing practice, CRA reversed their assessments, indicating that "clear guidelines for taxpayers and their representatives" were important to the Canadian self-assessment system and that additional consultation and guidance was needed in this area.

***Kurt's Comments:***

***Instead of deducting amounts against employment income, consider whether it would be better for the company to reimburse expenses of shareholder-employees, or perhaps, pay a tax-free travel allowance. If amounts will continue to be paid personally, retain support that shows how the travel expenditures are reasonable as compared to those of other similar arm's length workers.***

## Travel Expenses: (Con't)

In September of 2019 CRA released the promised guidance. It noted that the following conditions had to be met for employment expenses incurred by shareholder-employees to be deductible:

- The expenses were incurred as part of the employment duties and not as a shareholder.
- The worker was required to pay for the expenses personally as part of their employment duties.

When the employee is also a shareholder, the written contract may not be adequate, and the implied requirements may be more difficult to demonstrate. However, CRA noted that both of these conditions may be satisfied if the shareholder-employee can establish that the expenses are comparable to expenses incurred by employees (who are not shareholders or related to a shareholder) with similar duties at the company or at other businesses similar in size, industry and services provided.

## Federal Carbon Tax: Costs and Rebates

On December 16, 2019, the Department of Finance announced the climate action incentive payment amounts for 2020. These payments are associated with the provinces that are subject to the federal backstop legislation. The following amounts may be claimed on the 2019 personal tax returns:

| Category | Ontario | Manitoba | Saskatchewan | Alberta |
|---|---|---|---|---|
| Single adult/first adult in a couple | $224 | $243 | $405 | $444 |
| Second adult in a couple or first child of a single parent | $112 | $121 | $202 | $222 |
| Each child under 18 not already included above | $56 | $61 | $101 | $111 |
| Baseline example for family of four | $448 | $486 | $809 | $888 |

A 10% supplement is available for those that live in rural areas (communities outside of census metropolitan areas, CMAs).

***Kurt's Comments:***

***Ensure that changes in family status (marriage, new children etc.) are included in your 2019 personal tax return to get the full benefit of the program. Also note that most other provinces have similar rebate/incentive programs in place.***

## Federal Carbon Tax: (Con't)

The 2020 climate action incentive payment payable to eligible Albertans will reflect fuel charge proceeds generated over a 15-month period. This consists of three months (January – March 2020) with a carbon price of $20 per tonne, plus 12 months (April 2020 – March 2021) with a carbon price of $30.

Also note that no federal incentive payments will be available for residents of New Brunswick this year since it will introduce a provincial program commencing on April 1, 2020 which removes the applicability of the federal backstop legislation.

## U.S. Expatriates: New Relief Procedures

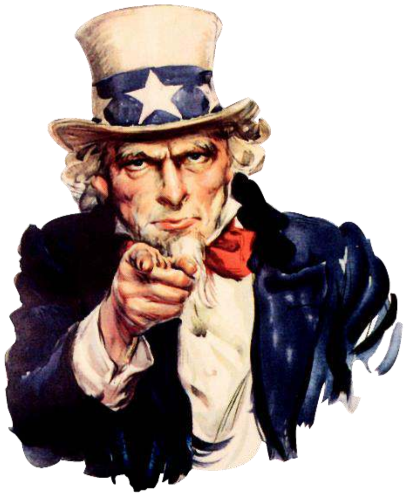
On September 6, 2019, the IRS announced Relief Procedures for Certain Former Citizens, a new process to facilitate eligible individuals in becoming compliant with their U.S. tax obligations, in conjunction with renouncing their U.S. citizenship (IR-2019-151). There was no announced specified termination date; however, a closing date will be announced in the future.

Eligible individuals will be required to file U.S. tax returns, including all relevant disclosure filings, including financial account disclosures, for the year they renounce their citizenship and the five preceding years. Eligibility criteria include the following:

- Only individuals (not corporations, trusts, partnerships, estates or other entities) are eligible.
- Past non-compliance must be non-willful.
- The individual must never have filed as a U.S. citizen or resident (an FAQ question indicated that prior filing of a 1040NR return, in the belief the individual was neither a resident nor a citizen will not disqualify them).
- The individual's net assets cannot exceed $2 million U.S. at either the date of relinquishing citizenship or the date of the submission under these procedures, and their average net income tax for the five years preceding loss of citizenship cannot exceed an inflation-adjusted amount ($168,000 U.S. for 2019).

***Kurt's Comments:***

*Often, children of U.S. parents are surprised to learn that they too are considered U.S. persons and subject to U.S. taxation. This program may assist them in correcting their affairs and obligations.*



## U.S. Expatriates: (Con't)

- Taxes payable for the six years required to be filed cannot exceed $25,000 in aggregate after foreign tax credits and before penalties or interest are calculated. This does not include the "exit tax" which might apply outside the procedure, but is also not reduced for any U.S. withholdings.
- The individual must have relinquished U.S. citizenship after March 18, 2010.
- The individual must obtain a Social Security Number, if they do not already have one.

Assuming these criteria are met, no penalties or interest will apply, and any taxes payable for the six years, up to the $25,000 maximum, will be waived entirely. The individual will also be exempt from the "covered expatriate" rules, which could otherwise impose additional tax and filing requirements. However, the IRS will process submissions by non-eligible individuals under the ordinary rules, potentially attracting significant interest and/or penalty charges.

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# How Kurt and Team Can Help You with Taxes

- Oversee annual tax return preparation
- Thorough personal and business tax planning opportunity reviews
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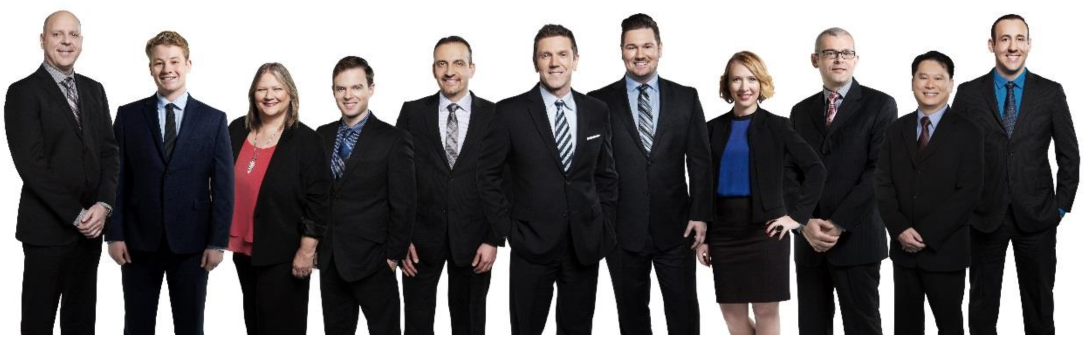
- Tax smart portfolio investment strategies
- Small business advanced tax planning
- Tax effective design of retirement cash flows
- Tax wise Will design
- Personal tax deductions and tax credits



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