Kurt Rosentreter Tax Planning Tips Q1 2019

Tax Ticklers – Some Quick Points to Consider

- The annual TFSA contribution limit for 2019 will be increased to $6,000 (from $5,500) due to indexation. For those who have been eligible to build contribution room since inception of the program in 2009 and have never contributed, the total maximum room as of January 1, 2019 is $63,500.
- For 2019, the Employment Insurance premium rate is reduced to 1.62% (from 1.66%). The maximum insurable earnings is $53,100 (from $51,700), resulting in a maximum employee premium of $860 (a net increase of $2) and maximum employer premium of $1,204 (a net increase of $3).
- Registered charities will now be able to pursue their charitable purpose by engaging in non-partisan political activities in the development of public policy without limitation. These rule charges are largely retroactive to January 1, 2008. Previously, a registered charity must have limited their non-partisan political activities to 10% of their resources.

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Kurt's Comments:

If incurring child care costs with a recreational or educational component, consideration may be given to claiming these amounts as a child care expense, up to the maximum allowed amount.

That is, an annual amount of $8,000/child under 7, $5,000/child aged 7 to 16 and $11,000 for a disabled child.

Childcare Costs: Art, Sport & Educational Camps

A September 11, 2018 Tax Court of Canada case examined the eligibility of a number of child care costs with a recreational and educational component. The taxpayer and his spouse worked full time and had two children, aged 10 and 12.

The Court acknowledged two separate lines of cases related to eligibility of child care expenses (all informal and, therefore, not binding on CRA).

The first set argues that the definition of a "child care expense" is restrictive such that recreational or educational activities do not qualify. The reasoning is that expenses to develop the physical, social and artistic abilities of the child would have been incurred whether or not the parents had been working.

The second line of cases requires that one evaluate whether the purpose of the expense was to allow the parent(s) to work. A bona fide expense would not be denied solely because the activity was recreational or educational in nature.

Taxpayer Wins, Mostly
The Court accepted the second set of cases as guidance, noting that if Parliament had intended to limit such activities, it would have said so in more specific and restrictive language. As such, the Court accepted the majority of the taxpayer's child care expenses that contained a recreational and educational component.

Parental Discretion
The Court found that the taxpayer's decision to engage university students, who were paid $5/hour more than what was paid to high school students, was irrelevant as "it is not for the state to decide who minds the appellant's children as long as the expenses are reasonable." In other words, it is the parents that are responsible for choosing who they wish to use, and they do so, based on the child's needs; this choice is an exercise of parental discretion.

Childcare Costs: Art, Sport & Educational Camps (Con't)

The Minister also suggested that the child who was 12 years of age in the year may not have needed some of these expenditures due to his age, to which the Court responded that Parliament grants child care expenses for eligible children up to age 16 – it is up to the parent to decide whether a child 12 or older should stay home alone.

Limitations
Costs related to activities on a Saturday, and during school hours, were denied as they did not facilitate the taxpayers' ability to work. Amounts related to camp were limited to a weekly amount of $125 (as the child was over 7), as specifically provided for in the Income Tax Act. Camp costs for children under 7 are limited to a weekly amount of $200. A higher amount may be available for those with a disability.

CRA Administrative Policy
As this case was informal, it is not precedential. While it may provide a filing position, CRA may still challenge these types of child care expenses. CRA's webpage continues to state that fees for leisure or recreational activities, and fees related to education costs, cannot be claimed as a child care expense.

Travel Expenses: Home to Work Site

Travel from home to a regular place of employment is usually a personal expenditure, the costs of which cannot be claimed as an employment expense. However, if the taxpayer is required to travel away from the employer's place of business, amounts may be deductible by the employee.

A June 29, 2018 Tax Court of Canada case examined this issue. The taxpayer travelled from home to three different construction sites to carry on employment duties. Specifically, the taxpayer's work for a Toronto construction corporation required frequent travel to sites requiring round trips of 167 km (Hamilton) and 92 km (Aurora), and infrequently to a site requiring a 94 km round trip (Whitby).

Kurt's Comments:

Although it may be possible to deduct travel amounts against employment income, such amounts are often challenged by CRA.

Travel Expenses: Home to Work Site (Con't)

CRA argued that each was a regular place of employment, such that no deduction was available. The Court, however, concluded that this was travel "away from the employer's place of business or in different places", as required by the Income Tax Act. As such, the costs of this travel could qualify as deductible employment expenses.

While the taxpayer was not ultimately successful in his claim due to his receipt of an allowance from his employer, the case may provide a basis for business travel from home to a construction site.

As implied above, there are other conditions that must be met in order to deduct amounts against employment income. For example, the employee must not receive a non-taxable allowance in respect of the travel, and an appropriately completed T2200 from their employer must have been issued.

Federal Carbon Tax: Costs and Rebates

On October 23, 2018, draft amendments to the Federal Fuel Charge Regulations and the Greenhouse Gas Pricing Act were released. As of April 1, 2019, a federal carbon tax is scheduled to be imposed in respect of Ontario, New Brunswick, Manitoba, and Saskatchewan. The federal backstop legislation will be partially used in Prince Edward Island, Yukon, and Nunavut. The other provinces and territory are not subject to this regime as they have, or are, instituting their own custom carbon pricing structures.

In the first year, the federal tax will, for example, subject gasoline purchases to a 4.42 cents/L tax while 3.91 cents/cubic meter will be assessed on marketable natural gas. The rates will be increased annually until 2024.

According to a Government Backgrounder entitled "Ensuring Transparency" the direct proceeds from the federal carbon tax will be returned to the territory or province of origin. For the provinces subject to the federal carbon tax, approximately 90% of funds will be returned directly to individuals and families through a Climate Action Incentive (CAI) payment. The remainder will be returned through electricity generation support in remote communities; support for small and medium enterprises; and support for municipalities, universities, schools, colleges, hospitals, non-profit-organizations, and indigenous communities.

The following are sample published payout amounts and estimated costs for 2019.

Province	Climate Action Incentive Payments ($)					Carbon Tax Cost ($)
	Family of 4	Avg. House-hold	1st Adult	2nd Adult	Each Child	Avg. House-hold
Ontario	307	300	154	77	38	244
Manitoba	339	336	170	85	42	232
Saskatchewan	609	598	305	152	76	403
New Brunswick	256	248	128	64	32	202

Kurt's Comments:

Review the website on this page to review exposure and potential rebates in our particular jurisdiction.

Businesses may want to budget for increased costs to operate.

Federal Carbon Tax: (Con't)

Also note that a 10% top-up will apply for those residing in rural areas.

The legislation does not set out the amounts of the payments. Rather, it provides that the amounts for each year may be specified by the Minister of Finance. Absent amounts specified for any specific province; the amounts are nil. It is not clear whether the amounts included in the above release are estimates, or are the amounts specified in accordance with this provision. Payments are expected to increase annually to reflect increases in the federal carbon tax, until at least 2022.

The Government of Canada website (https://www.canada.ca/en/environment-climate-change/services/climate-change/pricing-pollution-how-it-will-work.html) provides additional information specific to each jurisdiction.

The other provinces which are not subject to the federal program generally have similar systems in place which include the collection of levies, and a partial refund to individuals, with the remainder being used to fund the programs or other credits and direct expenditures. For example, in Alberta, the carbon levy is applied at a rate of $30/ton in 2019 to diesel, gasoline, natural gas and propane at the gas station and on heating bills. It does not apply to electricity. A carbon rebate valued at $300 for the first taxpayer, $150 for the spouse, and $45 for each child will be available with the payments beginning to be phased out at an income of $47,500 for individuals ($95,000 for families).

Canada Pension Plan (CPP): Costs and Benefits are Increasing

Starting January 1, 2019, the CPP will be enhanced. This means that both employees and employers will be required to contribute more, but, retirement, survivor, and disability pensions will also increase. The changes will be gradually phased in over 7 years: Phase 1 will take place from 2019 to 2023; and Phase 2 will take place in 2024 and 2025.

Kurt's Comments:

Employers should budget for higher CPP costs on continual increases over the coming seven years.

Canada Pension Plan (Con't)

Phase 1 – The prior 4.95% base employer/employee contribution rate will increase annually to 2023, as follows, 5.10%, 5.25%, 5.45%, 5.70%, 5.95%.

Phase 2 – In 2024, an additional 4% contribution will be required on earnings in excess of the Year's Maximum Pensionable Earnings (YMPE), up to 107% of the YMPE. For example, if the YMPE is $70,100, the additional limit will be approximately $75,000 ($70,100 x 107%). The 4% rate will be applied to the difference between the two numbers: $4,900 ($75,000 - $70,100). For 2025 and later, the 107% multiplier will be increased to 114%.

Eligibility for CPP benefits will not be affected, however, some benefits will increase. In 2019, the CPP retirement benefits will begin to grow, eventually covering 1/3 of average earnings up to the maximum amount (which will also be increasing by 14%). One's benefits will depend on how much and how long they contributed to the enhanced CPP. Post-retirement benefits will also be increased. Disability benefits will be increased depending on one's contributions, and the survivor's benefit will also be increased based on the deceased spouse or common-law partner's contribution.

KURT ROSENTRETER

Manulife Securities Incorporated
302 – 3 Church Street
Toronto, Ontario M5E 1M2
Phone 416-628-5761 EXT 230
416-225-8650
Kurt.rosentreter@manulifesecurities.ca

Find us on the Web:
www.kurtismycfo.com
www.uppercanadacapital.com

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