
Segal LLP | Taxation Services
2009 Year End Tax Planning Letter

Dear Clients and Friends,

As we count down the days until the end of the year, now is the time to consider personal tax planning measures that could help reduce your 2009 tax burden.

Non Refundable Tax Credits

The 2009 budget proposed to introduce two new non-refundable tax credits “Home Renovation Tax Credit” and the “First Time Home Buyers’ Credit”.

Although not passed in legislation, it is speculated that they will become law before the 2009 tax returns are due.

Home Renovation Tax Credit (HRTC)

- The HRTC is based on eligible expenses for improvements to your house, condo or cottage.
- Currently it is only available for the 2009 tax year and can be claimed on your 2009 income tax return.
- Home owners can claim a 15% non-refundable tax credit for eligible expenditures in excess of \$1,000 but not more than \$10,000, for a maximum credit of \$1,350 ($\$10,000 - \$1,000 \times 15\%$).
- This credit is available for eligible costs of work performed or goods acquired after January 27, 2009 and before February 1, 2010.

First Time Home Buyers’ Credit

- A first time home buyer who acquires a qualifying home after January 27, 2009 is entitled to claim a new non-refundable tax credit of \$5,000 that will provide a tax savings of \$750 ($\$5,000 \times 15\%$)
- The credit can be claimed by the individual who acquires the home, or by the spouse or common-law partner of that individual provided that neither have owned and lived in another home in the calendar year of the new home purchase or in any four preceding calendar years.

- The credit will also be available in respect of a home acquired by an individual who is eligible for the disability tax credit (“DTC”), or for the benefit of a DTC-eligible relative, if the home is acquired to enable the DTC-eligible person to live in a more accessible dwelling. In this case, you do not have to be a first-time home buyer.

Eligible Dividends

- If your company has a significant balance in the eligible dividend account now is the time to consider paying a dividend to the individual shareholder. For Taxpayers in the highest bracket, the tax rate for an eligible dividend for 2009 is 23.06% and is scheduled to increase in 2010 to 26.57% and will continue to increase to 29.54% by 2012.

Tax-Free Savings Account

- The Tax Free Savings Account (“TFSA”) Program began in 2009 and permits Canadian residents 18 years of age or older to contribute \$5,000 annually to the new TFSA.
- Starting in 2010 the \$5,000 annual maximum contribution limit will be indexed to inflation. However due to the economic downturn and low inflation rate, the annual maximum contribution may likely remain the same.
- A TFSA will be much like an RRSP as income and capital gains earned within the TFSA will not be taxable. However, unlike an RRSP, the contributions will not be deductible and withdrawals will not be taxable.
- Withdrawals from a TFSA can be made at any time and for any purpose.
- Unused contribution room can be carried forward indefinitely and any amount withdrawn will be added to the contribution room for the following year.

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- Funds can be given to a spouse to establish their own TFSA and the normal attribution rules will not apply.

Tax Loss Selling

- Consider triggering capital losses before the end of the year to offset any capital gains realized in 2009 or in one or more of the last three years.
- Beware that specific rules prohibit you from buying an identical asset within 30 days of the sale.
- Normally, stock transactions are settled within three business days. Due to weekends and holidays, consider completing all trades by December 23, 2009.

Registered Retirement Savings Plans

- The maximum contribution room for 2009 is limited to the lesser of \$21,000 or 18% of your 2008 ‘earned income’ minus your pension adjustment. Your available contribution room should also be printed on the Notice of Assessment from Canada Revenue Agency (“CRA”).
- The deadline for your 2009 contribution is March 1, 2010. If you have excess cash available, consider making your 2010 contribution early – any time after January 1, 2010.
- A salary of at least \$122,222 is required in 2009 to earn the maximum RRSP contribution room of \$22,000 for the 2010 taxation year.
- If you are turning 71 years old in 2009, you must terminate your RRSP this year. You can convert the RRSP into a Registered Retirement Income Fund, into an annuity, or it can be withdrawn in a lump sum. You must make your 2009 RRSP contribution by December 31, 2009.
- If you are terminating your RRSP in 2009 and you have earned income, consider making an over-contribution to your RRSP. This will result in a tax deduction for 2010 even though you can no longer contribute to your RRSP in that year. Since the over-contribution will be subject to a 1% penalty per month, it is advisable that the contribution be made in December to minimize the penalty.

- Consider making a contribution to a spousal RRSP to achieve income splitting in the future. The contributions will grow tax-deferred until withdrawn, and will be taxed in the spouse’s name at that time. The contributor is entitled to the deduction at the time the contribution is made.
- A spousal RRSP is particularly useful if you are over 71 but your spouse is younger than 71. Although you may not be permitted to contribute to your own plan, you are permitted to make contributions to a spousal plan provided the spouse is under 71 at the end of the year.
- Consider paying a retiring allowance to family members who cease working for your business. Transfers to an RRSP are permitted for years of service before 1996, subject to certain limitations.
- Even if your children have no tax to pay, you may wish to file tax returns on their behalf. If they have ‘earned income’, they will generate RRSP contribution room which can be carried forward indefinitely.
- Starting January 28, 2009, the maximum eligible withdrawal permitted from an RRSP for the Home Buyer’s Plan has been increased from \$20,000 to \$25,000.
- If you participate in the Home Buyer’s Plan, the requirement to repay the funds begins in the second year after the year in which you withdrew. The repayment can be made up to 60 days after the end of the second year. If the repayment is not made on time, the amount will be added to your taxable income.

Registered Disability Savings Plan

- The RDSP program began in 2009 and will be available to any Canadian resident that is eligible for the disability tax credit.
- Contributions will be limited to a lifetime maximum of \$200,000 for each beneficiary with no annual limits.
- Contributions may be made until the end of the year in which the beneficiary reaches 59 years of age.

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- Depending on family income and the contribution amount to the RDSP, the plan may also be eligible for the Canada Disability Savings Grant or the Canada Disability Savings Bond.

Registered Education Savings Plan

- A Canada Education Savings Grant (“CESG”) for RESP contributions will be permitted equal to 20% of your annual contributions to a maximum of \$500 per year and \$7,200 lifetime per child.
- The maximum amount that can be contributed to a plan is \$50,000.
- Depending on your family income, your child could receive an additional CESG grant for 2009 contributions:
 - If your net family income is below \$38,832, the grant will be 40% on the first \$500 RESP contribution each year;
 - If your net family income is between \$38,832 and \$77,664 the grant will be 30% on the first \$500 RESP contribution each year.

Make a Charitable Donation

- If your contributions are in excess of \$200, you will benefit from a greater level of tax savings. Since the CRA permits either spouse to claim the donations, you should have one spouse claim all donations made by both spouses.
- If you have little or no tax owing this year, you may choose not to claim the charitable donation. Unclaimed charitable donations can be carried forward for up to 5 years. Consider saving your unclaimed donations for a future year.
- One advantage of having the lower-income spouse claim all the donations is that the lower-income spouse may receive a tax refund that can be re-invested without the ‘attribution rules’ applying to tax the investment income in the hands of the higher-income spouse.

- Donations to US charities can only be claimed on your Canadian tax return if they were made to a prescribed university or to the extent that you have US source income.
- Instead of cash, donate stocks or mutual funds units that have unrealized capital gains. Capital gains taxes are eliminated on gains that are generated when publicly traded securities are donated directly to a charity. This rule has been extended to contributions to private foundations.
- Similarly, if you exercise stock options and donate the shares, you may be able to exclude the resulting employment benefit from your income.
- Consider donating matured flow-through shares, which usually become liquid through a tax-free rollover into an eligible mutual fund after a two-year holding period. After the flow-through entity converts exploration tax deductions into capital gains, the fund will typically have a cost base near zero. A sale could result in a capital gain, the tax on which negates some of the tax benefits from purchase. Donating fund units instead of selling could eliminate the tax liability on the gain. Assuming a cost base of zero and being in the highest tax bracket the donation will cost about 8 cents per dollar donated of flow-through shares.

Pension Splitting

- Canadian residents that receive income that qualifies for the pension income tax credit can allocate up to one-half of that income to their spouse or common-law partner.
- Eligible pension income includes lifetime annuity payments under a registered pension plan and certain other payments received as a result of death of the individual’s spouse or common-law partner.
- For individuals age 65 and older, eligible pensions also includes lifetime annuity payments under a registered pension plan, a registered retirement savings plan or a deferred profit sharing plan and payments out of or under a registered retirement income fund.

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- The Old Age Security clawback may be affected by the pension splitting. The amount split will reduce the income of the person receiving the pension income and increase the income of their spouse used to calculate the clawback.

Medical Expenses

- You can only claim medical expenses in excess of a minimum threshold. For 2009, the threshold is the lesser of 3% of your “net income” or \$2,011. So if your 2009 income exceeds \$67,033, you can only claim medical expenses in excess of \$2,011 paid in the year.
- You are permitted to select any 12 month period ending in 2009 when claiming medical expenses.
- You can plan for the timing of certain medical expenses, since they are based on when they are paid. For example, you may wish to pay for orthodontic treatment in full before the end of the year, even if the treatment will span the next year.

Adjust your December Instalments

- If your income has decreased since last year, you may be able to decrease your December instalment payment. Use caution since any under-payment will result in non-deductible interest charges.

Interest Expense

- Interest may be deductible if it is incurred for the purpose of earning income from a business or from property, while interest on money borrowed for personal purposes is not deductible. Any excess cash should be applied first against paying off your non-deductible loans. You may also wish to consider restructuring your borrowings such that the interest incurred is tax deductible.

Defer Tax on Stock Options

- Income tax on stock option benefits of publicly listed companies can be deferred.

- There is a limit on how much you are allowed to defer. The limit is \$100,000 and it is based on the fair market value of the shares at the time the option is granted.
- If you wish to take advantage of this deferral, you must notify your employer before January 15, 2010.

Capital Gains

- If you do not receive all of the proceeds of sale upon closing, you may be able to defer some of the tax for up to five years. This can be extended to 10 years for farm property.
- Capital gains on the sale of shares of a qualifying corporation may be sheltered by the capital gains exemption, with a lifetime limit of \$750,000.
- If you have previously claimed an allowable business investment loss (“ABIL”) or if you have a cumulative net investment loss (“CNIL”), your ability to claim the capital gains exemption in 2009 may be restricted. Steps should be taken to rectify this issue, in order to claim the capital gains exemption.

Shareholder Loans Should be Repaid

- If you or family members have borrowed money from a corporation in 2008, the loan must be repaid by the end of fiscal 2009. If the loan is not repaid at that time, it will be treated as income for 2008.
- Also, remember to pay any interest owing to the corporation by January 30, 2010 in order to avoid receiving a taxable benefit on unpaid interest.

Declare a Bonus

- Canadian controlled private corporations can take advantage of lower corporate tax rates if their taxable income is below \$500,000. In order to bring taxable income down to this level, consider declaring and accruing a bonus.
- The bonus must actually be paid out within 179 days after the fiscal period.

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Elementary and Secondary School Scholarships

- Scholarships and bursaries received by a student attending elementary or secondary school are not subject to personal income tax.

Other Suggestions

- The following expenses must also be paid by December 31st in order to be claimed as a deduction for 2009.
 - Moving expenses
 - Charitable donations
 - Union/membership dues
 - Childcare expenses
 - Safety deposit box fees and investment counsel fees
 - Interest on student loans
 - Political contributions
 - Deductible alimony / maintenance payments

Also, if income in an inter-vivos trust is to be taxed on a beneficiary's return, the income must be paid or payable to the beneficiary by December 31, 2009.

- If you own a business, consider paying a reasonable salary to family members for their services rendered to the business.
- Consider purchasing assets eligible for capital cost allowance before the year-end.
- Up to \$33,430 of ineligible dividends can be received by an Ontario resident who has no other income, without any income tax liability resulting. The Ontario Health Premium of \$450 will still be payable.
- Up to approximately \$50,320 of eligible dividends can be received by an Ontario resident who has no other income, without any income tax liability. However, there will be a minimum tax liability and the Ontario Health Premium of \$750 will still be payable.
- An eligible dividend is a dividend that is designated to be an eligible dividend by the corporation that pays the dividend. A corporation may designate a dividend to be an eligible dividend if it is paid from income that is not subject to the small business deduction or investment income.

- Reimburse your employer for the personal usage of the Company's car to avoid receiving a taxable benefit. The reimbursement relating to the standby charge must be repaid during the year. The reimbursement relating to the operating cost benefit may be repaid within 45 days after the end of the year.

Public Transit Tax Credit

- The public transit tax credit includes weekly passes and cost-per-trip electronic payment cards along with monthly passes.
- For weekly passes to apply for the credit a taxpayer must have at least 4 consecutive weekly passes providing unlimited public transit use for an uninterrupted period of between 5 and 7 days.
- For cost-per-trip electronic payment card to apply for the credit the card must be used for 32 one-way trips during a 31 day period and the card is issued by a public transit authority that records and provides a receipt for the cost and usage of the card.
- Remember to keep each receipt and pass.

Tools for Tradespersons

- Employed tradespersons may be entitled to a tax deduction of up to \$500 for the cost of new tools that their employer requires the employee to purchase. The tools must be new and cannot be electronic communication devices and electronic data-processing equipment. The deduction starts after \$1,044 of tools has been purchased in the year. To receive the maximum deduction \$1,544 worth of new tools needs to be purchased in the year.

Fitness Tax Credit

- Parents can claim up to \$500 of expenses incurred to send their children to an eligible fitness program. Eligible programs include activities that contribute to your child's strength, endurance, flexibility, and balance. For example, swimming lessons, hockey or dance classes may qualify, so make sure to retain your receipts. The program must last for at least eight weeks, with at least one session per week.

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Income-Splitting

- Consider making an investment loan to your lower-income spouse to split income earned on non-registered assets and reduce taxes on the income. The CRA allows these loans as long as you charge at least the CRA prescribed interest rate on the loan and document the interest payments. The set interest rate will apply for the duration of the loan. Payment of the interest is due at the end of the calendar year and must be paid no later than January 30th of the following year.
- Other income-splitting strategies your professional advisor can help you with include hiring your spouse or child and transferring capital assets to your children.

Universal Child Care Benefit

- All parents with children under the age of six are entitled to receive the Universal Child Care Benefit. The amount is \$100 per month and it is taxable in the hands of the lower income spouse.

Child Tax Credit

- The credit is worth approximately \$300 per child under the age of 18, and either parent may claim it. Unused credits can be transferred between spouses.

Personal Amounts

- The basic personal amount, the spouse or equivalent to spouse amount, and the wholly dependent person amount is \$10,320 for the 2009 taxation year.

Corporate Tax Rates

- Federal corporate tax rates are scheduled to be reduced from 19.0% in 2009 to 15.0% by 2012.

- With the proposed reduction in the federal corporate tax rates, there may be a benefit for an individual to operate as a personal services business (“PSB”). A PSB is essentially a corporation that is established by an individual that would otherwise operate as an employee of an entity. If the employee incorporates a company and invoices his or her employer through a corporation, the corporation would be considered a PSB and would be subject to tax at the general corporate tax rates.
- If an individual does not require their entire income for personal living expenses, the PSB would offer a significant deferral of tax and possibly a tax savings. With a combined federal and Ontario corporate tax rate of 26% in 2012 (assuming Ontario reduces its corporate tax rate to approximately 11% below the current level of 14%, as proposed in its 2009 budget), an individual could enjoy a tax deferral of approximately 20% by leaving funds in the corporation but would incur a small tax cost of approximately 1.5% by paying the after tax income as a dividend.

The information contained in this letter is of a general nature and is not intended to address the particular circumstances or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without professional advice.

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