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YEAR END CONSIDERATIONS
DECEMBER 31, 2009

As we draw to a close of the year 2009, year end tax planning should be given top priority as it relates to your personal and corporate affairs. In this regard, we would suggest the following matters be considered.

1. RRSP

Contribute to your RRSP's as soon as possible as the more you increase your capital to finance your retirement, the greater the cash flow will be. For 2009, you can claim an RRSP contribution of up to 18% of income earned from employment or business in 2008, up to a maximum of $21,000. You are allowed to make an excess contribution of as much as $2,000 without it being subject to the 1% per month special tax. If you contribute less than the maximum allowable amount of your RRSP in a previous year, you can use your unused RRSP contribution room for 2009 by contributing an additional amount equal to the amount of the unused room. Again, don't wait too long to make up unused room or you will end up with a smaller accumulation of capital in your RRSP when you retire and when you really need the additional cash flow. The contribution must be made by March 1, 2010. After January 27, 2009, the amount that can be withdrawn from an RRSP under the Home Buyers' Plan has been increased from $20,000 to $25,000.

2. RRIF

If you turned 71 in 2009, you must terminate your RRSP no later than December 31 of that year. Do not wait until the last minute to plan for your RRSP maturing. If you do not make appropriate decisions by December 31, the full market value of your RRSP will be added to your taxable income in 2009. There are many options available including, but not limiting to, transferring your RRSP to a Registered Retirement Income Fund or (RRIF), receiving an annuity, receiving a lump sum, or choosing a combination of these options. You must act now to make the appropriate choice. If your spouse is younger than you, consider creating a spousal RRSP so that you can contribute to the spousal plan until your spouse turns 71, provided of course, that you have unused contribution room. If you turn 71 during the year, make your final RSP contribution before the end of the year. Contributions to your RSP cannot be made after the end of the year in which you turn 71. Don't forget that any assets or funds transferred to this spousal plan become the property of the spouse.

3. Borrowed Funds

Interest paid on funds borrowed to make an RRSP contribution is not deductible so therefore you must consider the advantages of whether or not to borrow funds. If you do borrow, make sure that the earnings in your RRSP are growing at a higher rate than your interest payment.

Two income tax cases (Singleton, Ludco) and confirmed by the Lipson case, may now allow you to use your equity in investment assets to purchase a personal use asset, then borrow funds to repurchase/re-invest in the investment asset and deduct the interest expense. Consult with your tax professionals first before undertaking such a transaction.

4. The $750,000 Capital Gains Exemption

Shares in a qualified small business corporation, qualified fishing property and qualified farm property (including shares of a corporation or partnership interest) still qualify for the lifetime capital gains exemption. This exemption has been

increased from $500,000 to $750,000 for taxable capital gains after March 18, 2007. However, if you have already claimed the $100,000 personal capital gains exemption, which was abolished in 1994, you are now only entitled to an exemption to a maximum of $650,000. If you plan to use this exemption in the current year or subsequently and if you have an outstanding cumulative net investment loss (more popularly referred to as CNIL) as at December 31, 2009, you cannot claim the full exemption before using up the CNIL amounts, that is, you must reduce the CNIL to zero. If you are a shareholder of a private corporation, the quickest way to reduce your CNIL is to increase your investment income, and particularly, the interest or dividend income you receive from the corporation. However, you should consult your tax professional before adopting any of these strategies as ABIL deductions in item # 6 will affect the use of the capital gains exemption as well.

5. Capital Losses

If you suffered capital losses in the current year, you can use these losses to reduce your taxes for the current year. Of course, now you are going to ask, How? By using the current year's capital loss against any capital gains realized in the current year, you can net out as to the amount that will be ultimately taxable. Be Careful! Superficial loss rules prevent the taxpayer from claiming a capital loss on an asset that the taxpayer clearly intended to continue to hold. Therefore, if you purchase an identical asset within 30 days of selling the first asset, these rules will apply. Complicated? - You betcha! Again, consult your tax professional before arbitrarily realizing your capital losses. Be cognizant of non-arms length sales and/or sales to affiliated persons.

If you had capital gains in a prior year and capital losses in the current year, you may be able to carry back these losses against prior years' gains and recover taxes paid in said prior year. **Please review your 2006, 2007, 2008 capital gain to see if there are 2009 capital losses available for carry back.** Consult with your tax professional before proceeding with any loss selling.

6. How to Offset Taxable Income With an Allowable Business Investment Loss (ABIL)

If you are fortunate enough to have an ABIL, you will be able to reduce your overall taxable income. An ABIL is a loss on shares and/or debt you own of a small business corporation. In fact, although capital losses can only be used to reduce capital gains, an ABIL can be used to reduce your overall income. However, the paperwork, the documentation, the overall financial details must be in place prior to claiming this ABIL on your tax return. Proper preparation and details as to planning will go a long way in allowing you to have this ABIL claimed properly on your tax return and accepted.

7. Investment Deadline

When making your investment decisions for year end purposes, remember that security transactions are often finalized on the settlement date, that is, 3 business days after the trade date. The last date allowed for trading securities in 2009 is December 24. If the transaction is a cash sale (payment made and security documents delivered on the trade date) you have until December 31, 2009.

8. Defer Your Income

Good year end tax planning often includes, among other measures, deferring some income to the next year. Therefore, it may be advantageous to shift taxable income to the year 2010, as tax rates for individuals begin to decrease. This planning must be measured when one considers if their income for next year will be substantially higher or substantially less. Each case is different and your tax professional can be very helpful for budgeting these decisions.

9. Donations

If you have not already done so, now is the time to reconsider your donations program for 2009 and benefit from the charitable donations tax credits. The Federal Credit is equal to 15% of the first $200, and 29% for any donation in excess of $200. Have you even considered donating shares of public companies? Donations of these shares after May 1, 2006 are subject to no capital gains tax.

If you are thinking about making a charitable gift before the end of the year, and exercising stock

options acquired during the same period, then transferring the shares acquired under employee stock options to a charity can also be an effective tax-saving strategy. Donating the shares to a qualifying charity would effectively reduce the **employment** benefit to nil. This easing measure only applies in respect of shares acquired that were donated in the year and in the 30 days after the option was exercised. Under such circumstances, it seems preferable to exercise the option and donate the shares, rather than to sell them once the options are exercised and donate the proceeds. After March 18, 2007, donation of public listed securities to private foundations are eligible for the zero inclusion rate for capital gains purposes. Also, donations of medicine from inventory will be entitled to additional deductions equal to the lesser of:

- 50% of the Fair Market Value of the medicine over its costs and;
- the cost of the medicine.

The government has introduced rules to curtail the use of certain aggressive charitable gifting strategies. All donations-in-kind could be caught - not just those made as part of a charitable gifting arrangement. If you have donated property other than cash to a charity, you should contact your tax professional to determine if you are impacted by these rules.

10. Tax Advantage of Tax Shelters

Beware - beware - beware! Tax shelters are a known means of reducing income taxes. However, many Canadians have discovered, the hard way, that the most important aspect of a tax shelter is the quality of the product and not the immediate tax savings that may be had. Therefore, before making any decisions, no matter how simplistic they would appear on the surface, and no matter how enticing, we strongly recommend and urge you to consult your tax professional before doing anything as it relates to tax shelters.

11. Shareholder Loans

If you have borrowed money from your corporation, you must repay the loan before the following fiscal year end so as to avoid being taxable in your hand as a shareholder benefit. If you delay, the full amount of the loan will be added to your income for the previous year. The exception is if the loan is made to an employee shareholder for purchasing a residence, securities issued by the employer or a car for work purposes. Interest on shareholders' loans are considered a taxable benefit.

Alternatively, there may be situations where you have loaned an amount to your company. Although such loans are often non-interest bearing, it might be beneficial to charge your company interest. If you have borrowed an amount from, or loaned an amount to your corporation, you should contact your tax professional to review the tax consequences.

12. Bonus

For December 31, 2009 year ends, a small business tax deduction is available to Canadian controlled private corporations with federal active incomes of less than $500,000. If the annual business income of your company exceeds $500,000, the company could pay out a bonus to bring its income below $500,000. If the company's fiscal year is not a calendar year, the amount must be determined on a pro rata basis from the number of days in the fiscal year that fall within each of the calendar years. However, you must be aware of the fact that this bonus must be paid within 180 days of the corporation's fiscal year end as well as the income taxes thereto applicable within the appropriate time period after the 179 day period. In order for a corporation to claim a deduction for a bonus paid to an employee, or a shareholder, it must validly document the bonus. Once it does so, it is required to withhold and remit source deductions by their respective due dates.

13. Taxation of Dividends

Starting in 2006, the Federal Government has introduced a new tax rate for "eligible" dividends paid by public and private companies. Prior to 2006 the top tax rate on all dividends received from Canadian companies was 31.34%. For 2009 "eligible" dividends will have an approximate tax rate of 23.06% while "ineligible" dividends are still taxed at 31.34%. Contact your tax professional as to how the new dividend tax systems affect both your personal and corporate taxes.

14. RRSP's - Children

Another example of often overlooked opportunity involves advising clients and their children about setting up an RRSP, even before the deduction becomes useful. This can build strong savings habits, long term investment growth and a big fat deduction when children finally start paying taxes. A single RRSP contribution of $400 at age 10 compounding at an average return of 9%, will grow to almost $46,000 by the time the child is 65. Therefore, if the child makes $400 contribution every year until he turns 19, he will have more than $300,000 in his RRSP. You may suggest that once the child turns 19, the child can add the over-contribution amount of $2,000 to the RRSP and the RRSP will grow to more than $425,000 by the time that child turns 65. Amazing!

15. Contribute to RESP

Registered Education Savings Plans are becoming more attractive since 1998. The government grant is equal to 20% of the contribution to the child's RESP (to an annual maximum of $400). The maximum annual grant is increased to $500 for families with incomes of $38,832 or less, and to $450 for families with incomes between $38,832 and $77,664. These grants accumulate in the RESP along with contributions to the plan until the child goes to college or university. If you fail to make an RESP contribution in a year, or if your contribution yields a grant of less than the maximum, the unused CESG room is carried forward, but your ability to utilize CESG room in the future is limited. Therefore, if you are considering making an RESP contribution, it is beneficial to make it before the end of the year to ensure that the CESG is maximized (Canada Education Savings Grant or CESG).

Starting in 2007, there is no annual limit for contributions to RESP's. For each beneficiary, the lifetime limit on amounts that can be contributed to RESP's is $50,000. Eligibility for the 20% grant will be based on $2,500 contribution per year. The lifetime maximum grant of $7,200 remains the same.

16. Summary - RRSP Season

a) Don't wait until the rush of the RRSP season before contacting your professional.

b) Meeting with your professional to review your current situation to see that you have been maximizing your contributions.

c) Obtain copies of your RRSP summary information, ie: the annual notice of assessment or reassessments from the Canada Customs and Revenue Agency, and make sure that it reconciles with the T-1 returns properly filed.

d) With a little bit of creativity, you should be able to increase the amount of your annual RRSP contributions from a family perspective.

17. Medical Expenses

In general, medical expenses in excess of the lesser of $2,011 and 3% of your net income that are paid in any 12-month period ending in 2009 are eligible for a non-refundable federal tax credit. Therefore, proper timing of the payment of major medical expenses could increase your available tax credit. Also, remember that premiums paid to private health and dental service plans, including those taken out for foreign travel, are considered medical expenses for purposes of the credit. These amounts can be significant and should not be overlooked. Also consult your tax professional about who should claim all medical expenses to optimize this credit.

The net income limitation noted above applies to medical expenses you claim for you, your spouse or common-law partner and minor children. However, if you pay medical expenses for a dependant other than your spouse or common-law partner and minor children, the ability to claim a medical expense credit is based on the dependant's net income, not your own. As a result, even limited payments can qualify where the dependant's income is quite low. Don't forget to claim these amounts when you file your tax return.

18. Disability Tax Credit

Rules have recently been introduced to enhance the types of impairments that qualify for this credit. For example, it has been extended to individuals with multiple restrictions, where the cumulative effect is to result in a marked restriction in a basis activity of daily living. Many children with Type 1 diabetes should now also qualify for this credit. If you have not claimed this credit in the past, but

you think you might qualify, Form T2201 must be completed by a qualified medical practitioner and filed with your tax return for the year.

19. Adoption Expenses

Effective for 2005 and subsequent years, there is a new non-refundable tax credit for certain expenses incurred to adopt a child. This credit is subject to a maximum claim of $10,000 (indexed for taxation years after 2005).

Eligible expenses include court, legal and administrative expenses, reasonable travel and living expenses, fees paid to a licenced adoption agency, mandatory fees paid to a foreign institution and document translation fees. The credit can be claimed in the year the adoption is finalized and includes all eligible expenses incurred during the adoption period.

20. Tuition and Education Credits.

If your kids are at school, then they may qualify for **Education and Tuition Credits**. But the beauty of this is that if your kids do not have any income to use up these credits, they can be transferred to you.

A student may deduct from federal taxes payable an Education Credit of 15% of $465 per month ($60.75 a month) for each month in the year that the student is enrolled as a full-time student at qualifying programs. (Note: There is no full-time enrolment requirement for students who are disabled.) Part-time students are entitled to claim a federal education credit of 15% of $140 a month ($21 per month).

In addition to the Education Credit, students may also be eligible for a credit for tuition fees paid where fees are in excess of $100 (for post-secondary level or paid to an institution certified by the Minister of Human Resources). The credit is equal to 15% of the tuition paid for the year.

These education and tuition credits may be transferred to a spouse, parent, or grandparent, subject, of course, to certain limits; the lesser of the total amount of tuition and education credits combined and $5,000, less the amount claimed by the student. Any unused education and tuition credits can be carried forward for future use by the student.

21. Have Your Kids Report Capital Gains.

If an investment is owned by your kids, the gain can be reported on their tax return. This could dramatically slash - even eliminate - the tax bite. How so? With the basic personal credits guaranteed to each taxpayer under our tax laws, a child or grandchild with no other income can make up to $20,640 a year (with the new 50% capital gains rate) in capital gains per child tax free! And even if the gain exceeds this amount, so that your child is in the lowest tax bracket, the tax rate is only about half what a high-income earner would pay. (Note: in most cases, the funding parent must normally pay tax on interest and dividends generated by the investment until the year the child turns 18).

22. Scholarships

All scholarships, fellowships and bursaries received in connection with the enrolment in a program eligible for the education credit will be exempt from taxation. Currently the exemption is $3,000.

23. Textbook Tax Credit

Students will be eligible for a new tax credit to recognize the cost of textbooks. Full-time students - $65/month, part-time students - $20/month. The amounts will be added to tuition and education amounts for purposes of transfers to supporting individuals and carryforward provisions. Effectively, this is an increase in the education credit. See Point # 20.

24. Public Transit Tax Credit

A non-refundable federal credit for transit passes for buses, trams, subways, trains, and ferries will be eligible but must be for a duration of at least 28 days, must be reasonable to expect the individual will return daily to the place of departure. In 2007, electronic pay-per-use passes and weekly transit passes will also qualify. You can claim transit passes for individuals, spouse/partner and children who are under age 19 at the end of the year. This is effective for the cost of transit passes used after July 1, 2006.

25. Taxpayer Relief Provisions
The fairness rules allow individuals and testamentary trusts to request a refund for prior taxation years. However, such adjustments are limited to the ten prior years**.** If you think you may be entitled to a refund for the 1998 taxation year, you should make sure that the request is made before January 1, 2009.

26. Canada Employment Credit
Non-refundable credit to help alleviate the fact that certain employment related expenses cannot be claimed. For 2007, it is based on the lesser of employment income and $250. For subsequent years, it will be based on the lesser of employment income and $1,000 (subject to indexing). Employees who deduct commission expenses will also be entitled to this credit.

27. Pension Splitting
Commencing in 2007, a pensioner can transfer up to 50% of eligible pension income to his/her spouse or common-law partner. To split pension income, a Joint Election must be filed with each spouse's tax return on or before filing due date of returns. Certain income does not quality for pension splitting. Contact your tax professional on how the pension splitting will affect your personal taxes.

28. Estate Planning
Is your Will up-to-date? What taxes is your estate facing upon your demise? An excellent New Year's Resolution would be getting your estate planning in order. Consult with your professional advisors.

29. File Returns For Your Kids. Even if a return is not required, kids with employment income should still file. Salary income builds their RRSP contribution room. So by filing returns when kids are young, a catch-up contribution can be made later, based on 18% of the accumulated salaries. Also, tuition and education credits not required to nil-out tax can be carried forward for use in future years.

30. Claim Interest on "Disappearing Investments". If you've borrowed for an investment or business that has been sold at a loss or gone belly-up, but you are still stuck with making interest payments, the interest may continue to be deductible. (In the event you have managed to salvage some proceeds and the money is put to personal use rather than re-invested, a portion of your continuing interest charges won't be deductible).

31. Foreign Taxes
Double taxation by another country is a frequent cause of unnecessary and unexpected tax bills. If you do business or invest in other countries, or are a citizen of a country other than Canada, get expert advice from a professional who understands the tax laws of both countries.

If you have received investment income from a foreign source, don't forget to claim a foreign tax credit on your return. As a result of certain tax rules, your federal foreign tax credit may be restricted. If so, it's possible to claim a foreign tax credit against provincial income taxes, and any excess foreign tax credit may be deductible. If you paid US taxes, then file a US return for a refund of all or part of the US taxes paid.

If you hold US investments through your RRSP, the Canada-US Treaty now allows your carrier to apply for a refund of US withholding tax.

32. Reserves
If you sold an investment for a capital gain, but you're not entitled to receive cash proceeds until after the end of the year, you're allowed to defer a portion of your capital gain by claiming a reserve. Reserves on capital gains may enable you to defer your tax over a five-year period. Consult with your tax professional to take complete advantage of this option.

33. Objection Expenses
You can deduct legal fees paid for advice to object to or appeal an assessment under the Income Tax Act, the Unemployment Insurance Act, the Canada pension Plan or the Quebec Pension Plan, plus any related accounting fees (net of any award or reimbursements for such expenses).

34. Which Province Taxes Your Income?
Employment and investment income are taxed by the province in which you reside on December 31st. This holds true even if the income was earned in another province. On the other hand, business income is taxed in the province where the business was conducted, provided you have a permanent establishment in that province.

If you are moving or transferring to a province with a lower tax rate, you should consider accelerating your departure to arrive before the end of year deadline. Conversely, if a move to a province with a higher tax rate is in your future, postpone your relocation until after the year end, if at all possible.

35. Get Your GST Back
If you have employment expenses or you are a partner in a business deducting expenses that were not claimed by the partnership, you can claim a rebate to recover the GST included in the price of goods and services for which you have claimed a deduction. You must report your GST rebate as income in the following year.

36. When to Consider Incorporating
Here are four key guidelines as to when you should seriously consider incorporating a business:

➜ **Healthy Profits -** This means that your annual taxable income, including from your business, should be well in excess of the $35,000 threshold where the lowest tax bracket ends.

➜ **No Losses Expected -** If you incorporate your business, tax losses are deductible only to the corporation - not you. So don't incorporate until you have achieved profitability.

➜ **Low-Bracket Family Members -** By putting family members on the payroll, salaries you pay them can be deductible from your business income as long as they are not unreasonably large, given the services performed.

➜ **Use of Your Company's Profits -** You can leave at least some of your business profits in the company or you may be able to make tax-effective use of low-income family members as shareholders.

➜ **Professionals** - Such as doctors and lawyers, can now incorporate.

The Bottom Line - Dramatic reductions in corporate tax rates are now kicking in - so dramatic that they will reshape tax planning, making incorporation an even more lucrative strategy than it was before. When you combine the Small Business Deduction with the lower rates, you can save a bundle. This is provided that either you leave at least some of your profits in your company for reinvestment, or if you do need your company's profits to live on, that you have a spouse, parent, or adult child in a low tax bracket. With combined federal and provincial corporate rate at about 34% and individual rates at about 46%, tax planning is about keeping more of one's income. Hence, one must plan carefully not to pay tax on the same income. Consult with your tax professionals when contemplating such a move.

37. First Time Home Buyers' Credit
A first time home buyer who acquires a qualifying home after January 27, 2009 (ie: closing after this date) is entitled to claim a new non-refundable tax credit of $5,000 that will provide a tax savings of $750 ($5,000 x 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 or 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. In this case, you do not have to be a first-time home buyer. However, the home must be acquired to enable the person with a disability to live in an environment better suited to the personal needs and care of that person.

38. Tax-Free Saving Account - ("TFSA")
Commencing in 2009, a Canadian resident individual (other than Trusts) over the age of 18, can open this account with a financial institution. This is a registered plan but contributions are not tax deductible. Income and capital gains earned in the plan will not be taxable. Annual contribution room is $5,000 per year and annual contribution

room can be carried forward indefinitely. There are no restrictions on when withdrawals can be made.

Tax-free savings accounts will generally be allowed to hold the same qualified investments as RRSP's, such as cash, guaranteed investment certificates (GICs), term deposits, mutual funds, government and corporate bonds, publicly traded securities, and in certain cases, shares of small business corporations.

Note that your TFSA cannot hold investments in "non-arm's length entities", which generally means companies in which you, your spouse and other related persons, either individually or collectively, own 10% or more of the shares.

You can make a tax-free withdrawal from a TFSA at any time. When you make such a withdrawal, the amount withdrawn will be added to your contribution room in the next year, and can be re-contributed in the future.

Like an RRSP, interest on funds borrowed and fees incurred to invest in a TFSA are not tax-deductible, but unlike an RRSP, a TFSA can be used as collateral for a loan.

Keep in mind when choosing your investments that capital losses realized in a TFSA cannot be claimed against capital gains realized outside the TFSA account. You should contact your tax professional to review the tax consequences and greater understanding of this plan.

39. Harmonization of Ontario Corporate Tax

For year ends after 2008, only a federal corporate income tax will be filed.- e.g. fiscal year starting February 1, 2008 and ending January 31, 2009. No Ontario corporate return will be required. Instalments for 2009 year ends go to the CRA.

40. Contribute to a Registered Disability Saving Plan (RDSP)

The RDSP is a tax-deferred registered savings plan open to Canadian residents eligible for the Disability Tax Credit, as well as their parents and other eligible contributors. Up to $200,000 can be invested within the plan with no annual contribution limits. While contributions are not tax deductible, all earnings and growth accrue on a tax-deferred basis. Contribute before the December 31 deadline to qualify for the 2009 matching Canada Disability Savings Grant and potentially, the Canada Disability Savings Bond.

41. Home Renovation Tax Credit

The deadline is fast approaching to qualify for the home renovation tax credit (HRTC). The HRTC is a 15% tax credit for eligible renovation expenditures made to your home or vacation property. The credit applies to any amounts spent over $1,000, up to a maximum of $10,000, producing a maximum credit of $1,350.

Although the deadline for the credit is January 31, 2010, the Canada Revenue Agency (CRA) has stated that as long as any materials your purchase to be used in a renovation are acquired by this deadline, they will qualify for the credit, even if they are installed after January 2010. The same, however, does not hold true for labour expenses, as only work completed before February 2010 will qualify for the credit, even if the amount is prepaid.

42. Capital Cost Allowance

If you are self-employed or a small-business owner, consider accelerating the purchase of new business equipment or office furniture that you may have been planning to do in 2010. You are permitted to deduct under the "half-year rule", one-half of a full year's tax depreciation in 2009, even if you bought it on December 31. For 2010, you can then proceed to claim a full year's depreciation. For computer equipment purchased after January 27, 2009 and before February 2011, you can write off 100% of the cost in the year of acquisition - - with no half-year rule.

43. Child Care Expenses

The child care expenses you can deduct on your Canadian income tax return includes more than day care costs and the nanny's salary. Also deductible are fees for certain babysitting expenses, day camps, boarding schools and summer camps. Contact your tax professional on how much is allowable and how to optimize this deduction.

44. Self-Employed May be Able to Deduct Moving Expenses

If you are self-employed and work out of your home and move to a new home more than 40 kilometres away, a recent Tax Court decision means that you may be deduct your moving expenses for Canadian income tax purposes in the same way as an employee who moves to take a new job or an employment transfer. Contact your tax professional before undertaking such a transaction.

45. Moving Expenses Incurred by a Student

If moving expenses have been incurred by a student to move from school back home, either for the summer or permanently, these expenses can generally be deducted for Canadian income tax purposes by the student against income earned at the moved-to location.

46. Sales Commissions, Sales Related Expenses

An employee who earns sales commissions and incurs sales related expenses is permitted to deduct those expenses, including related reasonable automobile expenses, in computing income for Canadian Income Tax purposes. The employer must provide the sales rep with a completed form T2200.

47. Harmonized Sales Tax

Effective July 1, 2010, Ontario plans to harmonize its provincial sales tax with the federal GST. Among other harmonized sales tax (HST) related matters, the bill and other explanatory documents announced new details on the following:

- Descriptions of the items subject to point-of-sale rebates for the provincial portion of the HST (eg: qualifying books, children's clothing and footwear, newspapers and prepared food and beverages sold for $4 or less)
- The calculation of the $10 million threshold for "large businesses" for the purposes of input tax credit restrictions on the provincial component of the HST. The details of the calculation appear to be generally similar to the Quebec Sales Tax model.
- Descriptions of the items subject to the input tax credit restrictions, including energy
- How the input tax credits on restricted items will be phased in after the first five years of HST implementation
- New taxes to replace certain alcohol fees, effective July 1, 2010

The bill and other documents also announced that:

- Point-of-sale rebates for the provincial portion of the HST will apply to designated items at any point in the distribution chain where the Ontario component of the HST applies (ie: supplies made by producers, wholesalers and distributors)
- Public service bodies and farming businesses will not be subject to the input tax credit restrictions
- The government of Ontario will pay HST on all its purchases

We Can Help

Your Rich Rotstein LLP adviser can help you assess the effect of these tax changes on your business, and point out ways to take advantage of their benefits or ease their impact. We can also keep you abreast of the progress of these proposals as they make their way into law and help you bring any concerns you may have to the attention of the Ontario Ministry of Finance.

WORD OF CAUTION

48. Personal Services Business

A Canadian employee cannot simply resign his employment and start billing for his services through a corporation. Such an arrangement may be considered to be a "personal services business" with the result that most corporate expenses will be disallowed.

49. Employers are Required to Deduct and Remit Canadian Income Taxes From Their Employees

Employers are required to deduct and remit Canadian income taxes (as well as Canada Pension Plan and Employment Insurance premiums) from their employees. If they fail to do so, they are subject to interest and penalties. If they hire workers as independent contractors, the risk and liability is with the employer if the Canada Revenue Agency (the Canadian Income Tax Department) determines that the worker is in fact an employee. If a shareholder withdraws money from the corporation and has no intention of returning it back to the corporation, the corporation

is required to withhold and remit source deductions by their respective due dates.

50. Did not File Canadian Income Tax Returns for a Number of Years?

If you have not filed Canadian income tax returns for an number of years, there is no reason to be worried about severe penalties. CRA (Canadian Income Tax Department) has a policy designed to encourage taxpayers to come forward and make a voluntary disclosure about unfiled tax returns, known as Voluntary Disclosure or Tax Amnesty. They will not charge any penalties, just the normal interest due. We are Chartered Accountants who have assisted numerous taxpayers with Voluntary Disclosures, and can assist in any Canadian province.

51. Salary Versus Management Fees

Generally speaking, the CRA does not challenge the reasonableness of salaries or bonuses paid to a principal shareholder, who is active in a corporation's business, provided that there is a history of distributing profits to the employee-shareholder, or that the employee-shareholder is being rewarded for his or her special expertise. However, the CRA does not extend this administrative position to management fees because of its concern about the inappropriate multiplication of the small business deduction and the inter-corporate transfer of losses. It is also of the opinion that individuals receiving twice (double-dipping) such management fees are writing off expenses to earn such income, first through the corporation, and then on their T1 personally.

Recently Canada Revenue Agency (CRA) have undertaken an initiative and has looked at the reasonableness and appropriateness of the management/consulting fees paid to the shareholders or family members of the shareholders. It will be up to the taxpayer to prove that the fees were incurred to earn income (generally, by showing that services were provided under a written agreement) and that the amount of the fee was reasonable (by leading evidence regarding the nature, amount, and continuity of the services provided).

Upon review, most of such individuals were considered deemed employees as well as present arrangements of paying management fees are not acceptable. We have been advised such individuals should be on the payroll of the corporation. Accordingly, to prevent corporate audits and reassessment of personal returns in the future, we are advising our clients that such shareholders or family members of the shareholders, should be on the payroll of the corporation.

52. Inter-Vivos Trusts

There is talk within the tax community that certain CRA offices are undertaking a special project to audit domestic inter-vivos trusts. Typically, these have been set up to own shares or partnership interests in order to facilitate income splitting with lower income spouses and children.

The CRA is apparently concerned that many trusts have paid the beneficiaries with promissary notes, some of which may be unenforceable due to Ontario Limitations Act. There is also concern that the trustees (usually the parent(s) have taken the cash out of the trust for their own use. In these cases, the CRA may challenge the deduction that the trust took in relation to the amounts paid out, or might assess a benefit to the parents.

Other issues raised are the absence of proper accounting records or trustee minutes, and inability to locate the original settlement property (often a silver coin) which established the trust in the first place. Finally, the CRA intends to look at the 21 year rule to ensure compliance on that front.

Accordingly, we hereby advise all our clients to correct above listed deficiencies, and in particular, make sure all the disbursements are properly documented and filed with all the necessary back-ups.

53. Looming Tax Deadlines

Dec. 15, 2009	Final quarterly instalment of tax due	For individuals (other than unincorporated farmers and fishermen)
Dec. 31, 2009	Final payment dates for a 2008 tax deduction or credit	• Alimony and Maintenance payments • Charitable donations • Child care expenses • Contributions to your own RRSP if you are 69 by December 31 • Investment counsel fees and other investment expenses • Medical expenses • Moving expenses (of individuals) • Political contributions • Safety deposit box rental fees (not deductible in Quebec) • Tuition fees
Jan. 15, 2010	Stock option benefits U. S. Taxes	• Last day for employees to file or revoke designations to defer stock option benefits on options exercised in 2009 • Estimated tax payments for individuals
Jan. 30, 2010	Intra-Family loan	Pay Intra-Family loan interest related to previous taxation year, to avoid income attribution
Feb. 28, 2010	T4, T5	Last day to issue T4's, T4A's and T5's to persons and CRA
March 1, 2010	RRsP	Last day to make personal and spousal RRSP contributions applicable to previous taxation year.
March 31, 2010	Inter-vivos tax return	Last day to file inter-vivos / living trust return. If it is a leap year, the deadline is March 30th.
April 15, 2010	U. S. Tax return	U. S. Resident tax return or six month extension request deadline.
April 30, 2010	Canadian personal tax return	Deadline to file your Canadian personal t ax return and pay any balance owing
June 15, 2010	Canadian tax return	Deadline for filing Canadian tax return if you or your spouse have self-employed income. However, if there is a balance owing, that must be paid by April 30th.
June 15, 2010	U. S. Tax return	Deadline for filing U.S. tax return for U.S. citizens living in Canada and non-resident aliens, not subject to withholding tax.

Monthly	Corporations have to pay instalments of their current year taxes, by the last day of each month.
Two months from your taxation year end	The balance of the corporation tax payable is due.
Three months from your taxation year end	For corporations claiming the small business deduction, the balance of the corporation tax payable is due.
Six months from your taxation year end	Corporations must file a *T2 Corporation Income Tax Return* no later than six months after the corporation's year end.

54. Top Marginal Tax Rates - 2009 and 2010

The following charts provide a summary of key Ontario top personal (2009) and corporate tax rates for 2009 and 2010 These rates should be carefully considered when mapping out tax planning strategies with your advisors, but remember that tax rates are always subject to change.

Personal Tax Rates (%)
Federal & Ontario Combined Top Marginal Tax Rates

2009			
Interest & Ordinary Income	Capital Gains	Ineligible Canadian Dividends	Eligible Canadian Dividends
46.41	23.21	31.34	23.06

2009 Ontario Corporate Tax Rates (%)			
	Active Business Income		Investment Income
	Up to $500,000	Over $500,000	All Amounts
M&P	16.50	31.00	48.67
Non M&P	16.50	33.00	

2010 Ontario Corporate Tax Rates (%)			
	Active Business Income		Investment Income
	Up to $500,000	Over $500,000	All Amounts
M&P	16.00	29.00	47.67
Non M&P	16.00	31.00	

All of the above should be done in conjunction with your tax professional, so that you can maximize the benefits of year end planning. These suggestions are not all inclusive and are a guide only. They are not intended to be a substitute for competent professional advice. No action should be initiated without consulting with your tax professionals.

Yours very truly,
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