



Periodic Information Newsletter

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PERSONAL TAX

MEDICAL EXPENSES - TUITION, TRAVEL

1. Tuition and Residential Costs

Where, due to a *physical or mental handicap*, an individual is *certified to require specialized care* or care and training at a *school or institution*, the cost of such care and training may be an eligible *medical expense*.

2. Travel Expenses

An individual may claim *transportation and travel expenses* as *medical expenses* if substantially *equivalent medical services* were *not available* in the locality where the individual resides.

In addition, costs related to a person who *accompanies* the individual may qualify as medical expenses where the individual has been *certified by a medical practitioner* to be incapable of travelling without the assistance of an attendant.

MEDICAL EXPENSES - DRUGS

Certain *drugs, medicaments or other preparations* prescribed by a medical practitioner or dentist and *recorded by a pharmacist* are medical expenses.

MEDICAL EXPENSE - DEPENDANT PARENT

A taxpayer may claim a *medical expense* incurred in respect of a dependant parent.

It is possible for someone to be *dependent on more than one person*. Accordingly, it is possible that more than one person may claim a portion of an allowable credit.

MEDICAL EXPENSE - TRAVEL INSURANCE

The cost to acquire certain *medical travel insurance policies* can *qualify* as a *medical expense* if paid as a premium, contribution or other consideration to a Private Health Services Plan.

MOVING EXPENSES

In a February 16, 2007 *Tax Court* of Canada case, the Court permitted most of the *moving expenses* including \$3,500 for *storage and transportation* of household effects, \$350 for *travel*, \$50 for *meals*, \$96 for *accommodation*, \$16,200 for *real estate commissions*, \$451 and \$1,276 for *legal services*, and \$2,534 for *land transfer tax*.

TRANSIT PASS CREDIT (TPC)

Taxpayers may claim a *TPC* for passes for buses, commuter trains, local ferries, streetcars, and subways on behalf of *family members* including spouses and children under age 19.

The Transit Pass must be for at least a *month's* duration and should contain *information* such as the *period* for which the pass is valid, the *transit authority* that issued the pass, the *amount paid* for the pass, and the identity of *the rider*.

In a December, 2006 *CRA Interpretation*, CRA confirmed that the *TPC* would *not be available* for *daily or weekly* passes.

ON-LINE TUITION FEES

In a November 10, 2006 *Tax Court* of Canada case, the taxpayer was enrolled in an *on-line Master of Science* postgraduate degree at the University of Liverpool in *England*. The tuition fees were \$16,278. The Program was taken *exclusively over the Internet* while the taxpayer was physically in Canada.

Taxpayer Wins!

The Court permitted a *tax credit* for the on-line tuition fees.

FITNESS TAX CREDIT

Effective *January 1, 2007*, parents who enroll children under the age of 16 in organized sports will be eligible for a *Fitness Tax Credit*. Eligible programs must include at least *thirty minutes* of physical activity for kids under ten and an *hour* for those ten and over. The program must last a minimum of *one session a week* for *eight weeks*, except for camps where kids get a full week of exercise.



Qualifying *costs* could also include *membership fees* at facilities and community centres, fees charged for teams or programs *at schools* that are managed either by the school or a third party, *camps* with a physical activity theme, and fees for *training or coaching* courses, as long as they meet the *physical activity requirement*.

For *Children's camp fees* to qualify for the *fitness tax credit* in 2007, the camp must have a *five-day duration* with more than 50% of the program time devoted to physical activity - up to a maximum of *\$500*.



UNIVERSAL CHILD CARE BENEFIT (UCCB)

Parents and primary caregivers who have *not yet applied* for the \$100 per child per month *Universal Child Care Benefit* (UCCB) should be aware that benefits will only be paid *retroactively* to a maximum of *eleven months*.

The *UCCB* came into effect in *July, 2006*. All persons with children under six benefit, regardless of income or the type of child care they choose.

Persons receiving the Canada Child Tax Benefit (CCTB) should automatically be receiving the UCCB. However, *higher income Canadians* who are not eligible to receive the CCTB *must apply* for UCCB. (For information search Universal Child Care Benefit at www.cra.gc.ca).

The benefit is *taxable* in the hands of the *lower-income* spouse.



EMPLOYMENT INCOME

FITNESS CLUB MEMBERSHIPS

Generally the payment or reimbursement of *club dues* or *membership fees* by an employer results in a *taxable benefit* to the employee. However, if it is primarily to the *employer's advantage* for an employee to be a member of a club, the employee will *not* have a *taxable benefit*.

In general terms, CRA do *not consider* a situation to be primarily *advantageous* to the *employer* where the employee's membership in a *fitness facility* is part of an *employee-wellness program* designed to provide indirect benefits to the employer, such as the employee being healthier and better able to perform his/her duties.

MEAL REIMBURSEMENT

An employer may pay a *tax-free allowance* for *travel expenses* (including meals) to an employee who is travelling *away from the municipality* where the employment ordinarily occurs. This also applies to *reimbursements*.

EMPLOYMENT VS. INDEPENDENT CONTRACTOR

In a February 6, 2007 *Federal Court of Appeal* case, 11 *drywallers* were found to be *employees*, not independent contractors. The Court noted that there was *no evidence* as to the independent contractor *intention or status*.

In a September 15, 2005 *Tax Court* of Canada case, the Court found that twenty-seven workers were found to be *employees* not independent contractors. The workers were engaged to complete *credit card application forms*.

There are *significant extra costs*, such as Canada Pension Plan and Employment Insurance, that the payor must now pay.



BUSINESS/PROPERTY INCOME

PRIVATE HEALTH SERVICES PLAN (PHSP)

Business proprietors and *partners* may deduct premiums payable under a *PHSP* in respect of the individual and family members living with the individual, within certain *dollar limits*.



OWNER-MANAGER REMUNERATION

2007 INDIVIDUAL PENSION PLANS

An *Individual Pension Plan* (IPP) is a pension obligation between a sponsoring company and its employee(s). It can be offered *selectively* (i.e. to owner-managers) and *retroactively*. The retroactive aspect allows a large *tax-deductible deposit* representing *past service* going back to potentially *1991*.

With this large first year deposit and the regular annual deposits, one can achieve a much *larger tax sheltered retirement account* than available in an RRSP program alone.

An IPP is *most advantageous* for a person who is *age 50+* and has been taking *regular salaries* out of his/her corporation.



ESTATE PLANNING

RRSP - FRAUDULENT SCHEME

In an April 2, 2007 *Tax Court* of Canada case, the taxpayer contended that he was the *victim of a scheme* by which he was *defrauded* out of his \$53,300 of RRSP funds and that he should not be required to include any amount in his income.

Taxpayer Loses

The Court noted that even though it is difficult not to be *sympathetic* with the taxpayer, this *cannot have a bearing* on the tax consequences that flow from the transactions.

CHARITABLE DONATION

In a February 14, 2007 *CRA Release*, CRA notes that a *gift* for tax purposes also *includes a gift in kind*, which is a gift of property other than cash.

A Registered Charity that accepts a *gift in kind* can issue a *donation receipt* for a charitable donation tax credit. The receipt should be for "*fair market value*".

ELIGIBLE PENSION INCOME

The October 31, 2006 *Department of Finance Release* announced that persons eligible for the \$2,000 *pension income credit* will be able to *transfer* up to 50% of this income to a resident spouse/common-law partner in 2007 and subsequent years.

For individuals *aged 65* before the end of the year, "*pension income*" includes *lifetime annuity* payments from a superannuation or pension plan, an *annuity* from a Deferred Profit Sharing Plan, or a Registered Retirement Savings Plan, a "*payment*" from a *Registered Retirement Income Fund* or the *income portion* of a *general annuity contract*.

For individuals *under 65 years of age* a "qualified pension income" includes *lifetime annuity* payments under a *superannuation or pension plan*. It also includes other "pension income" amounts received as a result of the *death* of the individual's spouse or common-law partner.

Before doing this transfer on the *2007 Personal Tax Return*, it is important to consider *other tax implications* such as the loss of *low income credits* that may otherwise be available to the recipient spouse.

CHARITABLE DONATION SCHEMES

In a February 9, 2006 *Federal Court of Appeal* case, the Federal Court upheld the Tax Court decision that *denied* the Appellant's *charitable donation credits* claimed because the donations were not truly for the amount appearing on the receipts. Also, *gross negligence penalties* were *upheld* by the Federal Court of Appeal.



INTERNATIONAL

U.S. ESTATE TAX ON U.S. PROPERTY

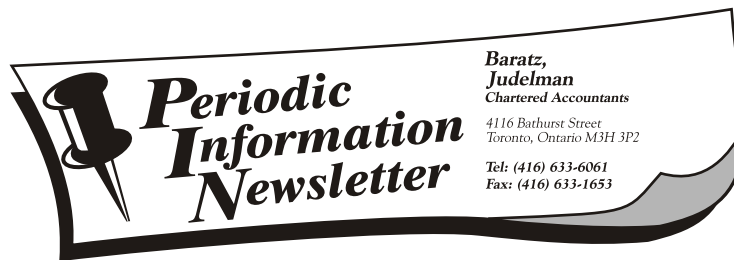
A *Canadian citizen/resident* who dies is subject to *U.S. Estate Tax* on *U.S. situs assets*, subject to a tax credit of \$13,000 which applies on \$60,000 of U.S. situs assets. Also, a *prorated exemption* is calculated by multiplying *\$2 million* by the Canadian person's *U.S. situs assets* divided by the value of the *worldwide assets*.

In addition, a *marital exemption* is allowed equal to this *prorated exemption*.

ENGAGED IN A TRADE OR BUSINESS IN THE U.S.

Canadian businesses engaged in a *trade or business* in the *U.S.* must file a *U.S. Federal Income Tax Return*. If it is uncertain whether you are engaged in a U.S. business it may be advisable to file a "*protective*" U.S. Income Return showing *zero tax liability* on business income.

If you are engaged in a U.S. business but you do not have a "*permanent establishment*" in the U.S. there may be no U.S. Federal Income Tax liability but you still *must file a U.S. Income Tax Return* to take advantage of this Tax Treaty claim.



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