TAX TICKLERS… some quick points to consider…

- In 2015, over 28 million personal tax returns were filed with the CRA.
- Canada/U.S. border tracking may impact EI, OAS and Child Tax Benefits if collecting ineligible amounts. Over the next 5 years the Government expects savings of $48 million, $21 million and $125 million to each program respectively.
- Medical marihuana can be claimed as an eligible medical expense, provided all the standard criteria for claiming a medical expense are met.

NEW FEDERAL LIBERAL GOVERNMENT: Impact on Tax Rules?

On October 19, 2015, the **Federal Liberal Party**, led by **Justin Trudeau**, obtained a **majority of the available seats,** giving the required strength to more **quickly pass bills** and implement the **party platform.**

On December 7, 2015, the new Federal Liberal Government **introduced a number of provisions** in the Federal Liberal campaign platform including:

- Federal **Personal Tax Rates** – commencing January 1, 2016 the following two changes will take effect:
  - tax rate on incomes in excess of **$200,000** will **increase** by 4%, from 29% to **33%**,
  - tax rate on the **2nd income bracket** (about $45K – $90K) will decrease by 1.5% from 22% to **20.5%** (resulting in a maximum savings of about $670).
- The **TFSA annual contribution limit** for 2016 and onwards will be returned to **$5,500** from the one-time $10,000 limit in 2015.
- The **federal donation tax credit** for donations in excess of $200 (made after 2015) will be **increased to 33%**, but only **to the extent** the individual has **income subject to** the new **33% personal tax** rate (income over $200,000 for 2016). All taxpayers will still receive a 15% federal donation tax credit on the first $200 of gifts. Taxpayers who do not have earnings in the top tax bracket of 33% will receive a 29% federal donation tax credit on gifts in excess of $200, which is the same credit that was available in prior years.

  For example, consider a taxpayer that has an income of $225,000, and claims $60,000 of charitable donations. If the donations were made and claimed in 2016, the federal donation tax credit would be $18,732, whereas if the donations were claimed in 2015, the credit would be $17,372.

- **Increase of 4%** in general to the refundable tax incurred on **investment income for Canadian Controlled Private Corporations**. These changes will, in effect, eliminate a tax deferral opportunity which would have otherwise been created with the above 4% increase in top personal tax rates.

Beyond the above tax related changes which have already been introduced into legislation, the Federal Liberals have also proposed a significant number of other tax related changes in their party platform including:

- **Canada Child Benefit** – The Universal Child Care Tax Benefit, National Child Supplement, and Child Tax Benefit will be rolled into this new Benefit. A base amount of $6,400 per child under 6 and $5,400 per child aged 6 to 17 will be paid. The payments will be reduced based on a percentage of family income level. No reduction will occur for income below $30,000. Amounts will be non-taxable. Per the Liberal campaign materials, the break-even point compared to the previous regime is family income of $150,000. (i.e. Families under $150,000 should fare better under the Liberal platform and vice-versa.) The Benefit will be fully eroded at approximately $200,000, however, this will vary depending on the number and ages of children.

The Federal Liberal Government announced on December 7, 2015 that this proposed program will begin July 1, 2016.

- **Family Tax Cut** – The Federal Liberal Government announced on December 7, 2015 their intention to eliminate the Family Tax Cut for 2016 and subsequent tax years. The pension income split will remain.
- **CPP Benefits** – Increases to benefits contemplated.
- **EI Premiums** – To be reduced from $1.88 to $1.65 per $100 by 2017. Increased availability and flexibility to be introduced.
- **RRIF** – The reduction to the minimum withdrawal rates to be maintained in accordance with the 2015 Budget.
- **Teacher and Early Childhood Educator School Supply Tax Credit** – The Federal Liberal party platform noted this proposed refundable credit is planned to be effective for 2015. That said, there has been no announcement by the Government as of January 6, 2016 to formalize this credit for the 2015 year. The credit is to be valued at a maximum of $1,000 x 15% = $150. It is uncertain whether receipts would be required or not.
- **Guaranteed Income Supplement** – The supplement is proposed to be increased by 10% for single, low-income seniors.
- **Northern Residents' Deduction** – The deduction is proposed to be increased by approximately 1/3rd and indexed annually for inflation. The amount available for those living in the Intermediate Zone will increase by the same proportion.
- **Home Buyers' Program** – Flexibility to be increased for those that have experienced sudden and significant life changes (e.g. job relocation, death of a spouse, marital breakdown etc.).
- **Deduction for Stock Options** – Consideration has been given to a cap on the 50% deduction, however, the first $100,000 annually would still qualify. According to the Minister of Finance, the changes will not impact stock options already in effect.
- **Labour-Sponsored Venture Capital Corporation Tax Credit** – To be reinstated. Under the Harper Government this Credit was scheduled to be phased out by 2017.
- **Education and Textbook Credits** – To be cancelled in favour of increasing student grants. The Tuition Credit will remain.

NEW – HOME ACCESSIBILITY TAX CREDIT: Renovations that Pay Off!

This new non-refundable credit will provide federal tax relief of **15% on up to $10,000** of eligible expenditures per calendar year, per qualifying individual (a person **65 years of age or older** at the end of the particular taxation year or a person eligible for the **Disability Tax Credit**). If there is more than one eligible individual in a residence, the maximum eligible expenditure for that property will be $10,000.

A qualifying renovation is a renovation or alteration that is of an enduring nature and is integral to the eligible dwelling. The renovation must:

- allow the qualifying individual to **gain access to**, or to be mobile or functional within, the eligible dwelling; or
- **reduce the risk of harm** to the qualifying individual within the eligible dwelling or in gaining access to the dwelling.

The credit is eligible for expenditures **after 2015**. This credit may be compounded with the similar provincial credits offered in BC, Ontario, and New Brunswick.

Action Item: As the $10,000 limit is annual, consider improving the house in stages over a number of years.

CAREGIVERS FROM OVERSEAS: Child Care Expenses

In an August 14, 2015 **Technical Interpretation**, CRA noted that costs incurred to **hire a child care worker** would be eligible child care expenses. Such costs include **fees to an immigration lawyer** and to Service Canada to obtain a **labour market opinion**, advertising expenses, **placement agency** fees, and mandatory registration fees.

Action Item: Retain invoices and receipts related to all expenses incurred to hire a child care worker as they may be eligible amounts.

STATUTE-BARRED ASSESSMENTS: Relying on Promoters

In a December 16, 2014 **Tax Court of Canada** case, at issue was whether the Minister could **assess** the taxpayers **outside of the normal reassessment period** (generally three years after the notice of Assessment is issued for individuals). A taxpayer can be assessed outside the normal period if there is a **misrepresentation** that is **attributable** to **neglect**, **carelessness, wilful default** or **fraud**.

In 2002 the taxpayers **withdrew** $80,000 and $148,000 from their **RRSP** and transferred it into a "high performance" investment but did not report the withdrawal from the RRSP as income. The taxpayer relied on the promoter for tax filing advice. In 2009 the Minister assessed the taxpayers with income for the 2002 year based on the withdrawals.

Taxpayers lose
The Court noted that to **rely mainly on promoters, their agents**, and **co-workers** who were **not experts,** was **not prudent** behaviour. Further, there were additional **red flags** that should have made the taxpayers suspicious of the information provided by the promoters. Also, one of the taxpayers **did not review their tax return**.

As such, the Court found that the taxpayers did **not exercise** the required **degree** of **diligence**. The Appeal was dismissed and the Minister was permitted to assess beyond the normal period.

Action Item: Review your tax returns and tax related activities to ensure you are duly diligent. Ask an expert if there are areas of question.

KEEPING CONTACT INFO CURRENT: Denied Objection Extension Request

In an August 26, 2015 **Tax Court of Canada** case, the taxpayer wished to object to a CRA Notice of Assessment (NoA) but missed the deadline for filing the Notice of Objection. The NoA was **received** by the **taxpayer's wife**, however, the taxpayer and his wife were going through **divorce** proceedings at the time of receipt and the mail was **not forwarded** to the **taxpayer**. Presumably, as the taxpayer did not see the NoA in time, he was unable to file a Notice of Objection in the proper time frame.

Taxpayer loses
A **NoA** is **deemed** to have been **received** by the person to whom it was sent on the **day** it was **mailed**. Non-receipt of the NoA cannot generally be used as grounds for extension of time unless an error is made by CRA. In this case, because the client did not update his address with CRA in a timely fashion, the Appeal was dismissed and the taxpayer was not permitted the extension.

Action Item: Ensure your contact information, including address, is up-to-date with the CRA.

CRA PROJECT: Small Business Deduction

The accounting community across Canada has recently noted a series of **correspondence from CRA** requesting details of **corporate businesses operations** in connection with a review of the small business deduction **claim** for some clients. If a business is determined to be a **Personal Services Business** (PSB) or a **Specified Investment Business** (SIB), the small business deduction is denied, and additional taxes are applied. A PSB is often referred to as an "incorporated employee". Basically, it exists where an individual provides employee-like services through a closely held corporation, rather than providing them directly as an employee. Generally, a corporation earning investment income (interest, real estate rental, royalties, capital gains and dividends) is generating SIB income.

Many of these letters appear directed to corporations in the **real estate sector** like real estate agents and those earning **rental income**. It has also been noted that letters have begun to be issued in respect of other sectors as well.

Action Item: In many situations, an appropriate explanation will conclude CRA's interest in the corporation. If such a CRA inquiry is received, contact us as soon as possible.

CRA SELECTION FOR AUDIT: Why Me?

CRA audits are now generally selected by CRA's Business Intelligence Units. **Selection for audit** usually means that CRA has already **identified** the taxpayer as being at **higher risk of non-compliance**. For example, this could mean that your business falls within a CRA target area, or, perhaps, that you are claiming a credit in which CRA has historically found high levels of non-compliance. At a recent forum, CRA indicated that since the implementation of their focus on higher risk taxpayers, **33% of audits** have discovered **unreported income**.

Action Item: Keep well-organized records. In many situations, expenses may be denied if a proper trail cannot be demonstrated. This is especially true if you are operating in an industry of high interest to CRA.

FILING SLIPS WITH CRA: New Electronic Requirements

The **following types** of information returns must be filed by Internet if **more than 50 information returns** of that type are required to be filed for a calendar year: T1204, NR4, T5007, T4A(P), T5018, T4E, AGR-1, T4A-NR, T4RIF, T5, T4A(OAS), T5013, T4A, T4, T4RSP, T5008, T3, along with several non-numbered Forms such as the RRSP Contribution Information Return.

Penalties for not electronically filing the forms are as follows, but will not apply before January 2016.

- 51 to 250 $250
- 251 to 500 $500
- 501 to 2,500 $1,500
- 2,501 or more $2,500

Action Item: Submit these forms online to avoid penalties. If this is the first time you are submitting these forms, contact us to determine whether any should have been filed for past years and whether a voluntary disclosure should be made.

Hufton Valvano Grover Philipp LLP

CHARTERED PROFESSIONAL ACCOUNTANTS

CANADAHELPS.ORG: Research/Donate to your Favorite Charity

CanadaHelps.org is a non-profit organization that simplifies the **fundraising** process for **registered charities across Canada**. This group provides a **profile** of every registered charity in Canada, enabling users to **directly donate to a charity** by **cash** (accepting various forms of payment – Visa, MasterCard, Interact, Paypal etc.) or to **donate publically traded securities** (which many small charities would otherwise not be willing to, or have the processes to accept). The group charges a **small processing fee** for their services which funds their operations.

The website provides **donation receipts**, as well as **tracks the total receipts for the year**, greatly easing the document collection/retention burden for personal tax filing purposes.

Action Item: Ensure your charity has an up-to-date profile on this website.