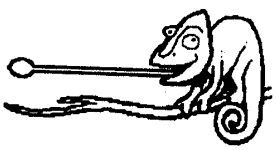
MB&S Mackay Brehm & Smith
Chartered Accountants • Professional Corporation

IN THIS ISSUE

PERSONAL TAX

74(1)

CLAWBACK PLANNING



The ***clawback*** of Old Age Security (***OAS***) for 2005 applied on income of $60,806, with the full clawback at $98,850.

Persons who have faced the clawback on the 2005 personal tax return may want to undertake some ***planning to avoid*** this extra cost in future years such as:

(a) ***Income Splitting***

The OAS clawback applies to ***each spouse separately***. Attention should be paid to ***income splitting possibilities*** with a spouse. One approach is applying for a ***division*** of Canada Pension Plan (***CPP***) where the higher income spouse is receiving more CPP than the lower income spouse.

(b) ***Transfer Assets***

Seniors with significant investment income may wish to ***transfer some of their capital*** to children or grandchildren, whether directly or through a Trust. Such a strategy should be ***carefully thought out***, both to ensure the transferor retains enough assets for their spending requirements and to ensure any transfers do not create new tax problems. Alternatively, a senior could transfer income-earning assets to an ***alter-ego or joint spousal trust***, or to a ***corporation***.

(c) ***Avoid Dividends***

A $100 dividend adds $125 to net income, so it increases clawback by $18.75 instead of $15.00 (15 per cent). The 2006 Federal Budget proposals exacerbate this problem by causing the same $100 cash dividend on a ***publicly traded security*** to add $145 to income, and $21.75 to clawback. If a senior can arrange to realize their investment income in the form of ***capital gains*** instead, only including half of the gains in income, their clawback could be reduced. (See 74(3) for more information.)

(d) ***Shifting Income***

Perhaps the senior could arrange his/her finances to ***receive less income*** in some years, and ***more in others***, to minimize clawback.

Similarly, dividends or salary from your own corporation could be structured to alternate between high and low income years.

(e) ***Discretionary Deductions***

Where a senior has ***discretionary deductions***, such as ***RRSP*** contributions or ***reserves on gains***, consider claiming these in years where they will reduce the clawback.

(f) ***Apply Late***

When a person applies for OAS, they can receive payments for ***a few months*** prior to their application. A high income senior might wish to ***delay applying*** if their income is such that all their OAS would be clawed back in any case.

EMPLOYMENT INCOME

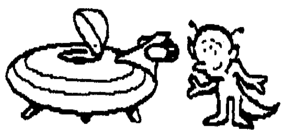
74(2)

TREASURY BOARD NON-TAXABLE TRAVEL ALLOWANCES

Effective ***December 5, 2005***, the ***Treasury Board*** per kilometre rates are:

	Effective Dec. 5, 2005	Effective Oct. 1, 2005	Effective Apr. 1, 2005	Effective July 1, 2004
Alberta	45.5	49.0	44.0	43.5
British Columbia	45.5	49.0	44.0	43.0
Manitoba	44.0	47.0	42.0	40.5
New Brunswick	45.5	49.5	44.5	43.5
Newfoundland and Labrador	49.0	52.5	47.5	47.5
Northwest Territories	52.5	54.5	49.5	49.0
Nova Scotia	46.0	49.5	44.5	44.0
Nunavut	52.5	54.5	49.5	49.0
Ontario	47.0	50.5	45.5	45.5
Prince Edward Island	45.5	49.0	44.0	44.0
Quebec	50.0	53.5	48.5	47.5
Saskatchewan	43.0	46.0	41.0	40.0
Yukon	55.0	57.0	52.0	50.5

The total ***meal and incidental allowance*** is ***$74.65*** per day.



For details see website ***http://www.tbs-sct.gc.ca/pubs_pol//hrpubs/TBM_113/tb-dv-c_e.asp***.

Editor's Comment

This could be a ***starting point*** for providing ***travel allowances*** to employees.

EMPLOYEE BENEFITS

A summary of some ***low or non-taxable "employee" benefits*** listed in the CRA ***T4130*** Guide include:

1. ***Board, lodging and transportation*** provided to an employee who works at a ***special or remote worksite (temporary*** duties).
2. ***Cellular telephones*** provided to an employee ***primarily*** to assist the employee in employment are ***non-taxable***. However, the ***personal-use portion*** should be included in the ***employee's income***.
3. ***Employee counselling services*** are ***not taxable*** if they relate to the wellness, mental or physical ***health*** of an employee or a relative, an employee's ***re-employment***, or an employee's ***retirement***.
4. Benefits provided to employees who have a ***disability*** are generally ***not taxable*** such as ***transportation*** costs between the employee's home and work location.
5. ***Merchandise*** sold to employees at a ***discount*** provides ***non-taxable*** benefits ***unless*** it is an arrangement to buy merchandise at ***less than cost***.
6. Up to ***two non-cash gifts*** and ***awards*** per year are not taxable to a maximum of $500 for gifts and $500 for awards (including taxes).
7. ***Internet service*** provided at an employee's home is ***not taxable*** as long as the employer is the ***primary beneficiary*** of the service.
8. ***Moving expenses*** reimbursed when an employee is ***transferred*** are ***not taxable***.

   CRA considers a ***non-accountable allowance*** for incidental relocation moving expenses of ***$650 or less*** to be a reimbursement and ***not taxable***.
9. Payments under a ***Private Health Services Plan*** are ***not taxable***.
10. If an employer pays ***professional membership dues*** on behalf of an employee, there is ***no taxable*** benefit to the employee if the employer is the ***primary*** beneficiary of the payment.
11. The use of a ***recreational facility or club*** is ***not taxable*** if it can be shown that the membership is ***principally*** for the ***employer's advantage***.
12. The reimbursement of a ***spouse*** or common-law partner's ***travelling expenses*** is ***not taxable*** if he/she went at the ***employer's request*** and was mostly engaged in ***business activities*** during the trip.
13. ***Subsidized meals*** are ***not taxable*** if the employee pays a reasonable charge that covers the cost of the food, its preparation, and service.
14. ***Overtime*** meals, or a reasonable allowance for overtime meals, are ***not taxable*** if the employee works ***three or more hours*** of overtime after his/her scheduled hours of work and the overtime is ***infrequent and occasional*** (less than three times a week).
15. A reasonable ***travel allowance*** for a ***salesperson*** is ***not taxable***.

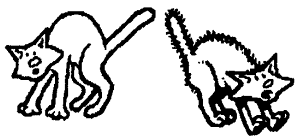
    Also, ***not taxable*** is an allowance for travelling away from the ***municipality*** where the employee ***regularly reports to work***.
16. ***Training costs*** when the training is mainly for the employer's benefit are ***not taxable***.
17. ***Distinctive uniforms*** to be worn while carrying on employment duties or, ***special clothing*** (including safety footwear) designed to protect from employment hazards, are ***non-taxable***. Reimbursed ***laundry*** or ***dry-cleaner*** services to clean these uniforms and clothing are also ***not taxable***.
18. Premiums paid to a ***wage-loss replacement plan*** or an ***income maintenance plan*** that are ***group plans*** are ***not taxable***.

Caution: ***Owner-managers*** must receive these benefits in their capacity as ***employees*** - not shareholders.

BUSINESS/PROPERTY INCOME

74(3)

NEW 2006 DIVIDEND PROPOSALS



Some ***points to consider*** with respect to the November 23, 2005 and the May 2, 2006 Federal Budget ***tax proposals*** on ***dividends*** from public companies and from high rate private company income after January 1, 2006 include:

1. the 45% ***gross-up*** and enhanced ***dividend tax credit*** could result in almost ***$65,000*** in dividends being ***received tax free*** if there is no other income.

   This assumes that the ***provinces*** follow the ***federal rules***.

2. A ***disadvantage*** is that if a person receives ***Old Age Security***, or other credits or income that are ***clawed back*** based on "***income***", the ***enhanced gross-up*** on the dividends will ***increase "income"***, thereby increasing the clawbacks.

3. The ***new rules*** are also ***proposed*** to apply to ***dividends paid*** after ***2005*** by ***Canadian-Controlled Private Corporations*** (CCPCs) to the extent that their income is subject to tax at the general corporate income tax rate - and is not investment income eligible for a refundable dividend tax on hand. CCPCs may have to ***reconsider*** the ***practice of bonusing out*** income in excess of the ***annual business limit*** - $300,000 for federal purposes.

   This may result in CCPCs having ***two pools*** of ***earnings*** with ***different tax rules*** on dividends from each pool.

OWNER-MANAGER REMUNERATION

74(4)

CREDITOR PROOFING

Persons that are ***potentially subject to claims by third parties*** such as directors or professionals should consider, along with insurance, ***asset protection techniques*** such as:

1. loans made to corporations should be ***secured***,
2. repayment of a loan should be ***several*** (not joint and several),
3. loans should be ***non-recourse***,
4. a partner should be a ***limited***, not a general partner,
5. real estate and other significant ***business assets*** should be owned by a ***sister corporation*** to the operating corporation that has the risk,
6. shares of an operating company should be held by a ***holding company*** so that ***dividends*** can be paid to ***remove the operating company's surplus*** and limit its exposure to creditors, and
7. if possible, a partnership activity should be carried out through a ***limited liability partnership***.

2006 FEDERAL BUDGET

74(5)

On May 2, 2006, the Honourable ***Jim Flaherty***, Minister of Finance, presented his first Budget to the House of Commons.

HIGHLIGHTS

A. PERSONAL INCOME TAX

Canada Employment Credit

For 2006, an individual will be entitled to deduct in computing tax the lesser of employment income and $250, multiplied by the appropriate percentage for the taxation year. (The $250 increases to ***$1,000 for 2007*** and subsequent years.)

Capital Gains of Fishers

For a disposition on or after ***May 2, 2006*** by an individual of a ***fishing property***, a share of the capital stock of a family fishing corporation, an interest in a family fishing partnership or a qualified fishing property, the provisions of the Act relating to eligible capital property gains, capital gains reserves, replacement property rollovers, intergenerational rollovers from an individual to a child of the individual, trust rollovers from a spousal or common-law partner trust to a child of the individual and the lifetime capital gains exemption ***will apply*** to these ***fishing properties***.

Tradespeople's Tool Expenses

For ***eligible tools*** acquired on or after May 2, 2006, there may be deducted in computing the income of an individual from employment as a tradesperson the tool costs in ***excess of $1,000***.

Textbook Tax Credit

For the 2006 and subsequent taxation years, an individual who is entitled to the education tax credit will be entitled to claim a ***textbook tax credit*** equal to the product obtained when the appropriate tax rate percentage for the year is multiplied by ***$65*** for each month in the year in which the individual was entitled to claim the education tax credit as a full-time student, or ***$20*** for each month in which the individual was entitled to claim the education tax credit as a part-time student.

This is worth about ***$80 per year*** for a full-time student.

Scholarship and Bursary Income

For the 2006 and subsequent taxation years, the total of ***all amounts*** received in the year on account of ***scholarships, fellowships, and bursaries*** be ***excluded*** from ***income***, if these amounts are received in connection with the individual's enrolment at a designated educational institution in a program in respect of which the individual may claim the education tax credit.

Pension Income Amount

For the 2006 and subsequent taxation years, the ***pension income*** on which the ***pension tax credit*** is calculated will be increased to ***$2,000*** from $1,000.

Tax Credit for Public Transit Passes

For the 2006 and subsequent taxation years, an individual will be entitled to deduct an amount equal to the product obtained when the appropriate tax rate percentage for the year is multiplied by amounts paid in respect of eligible ***public transit passes*** in respect of transit on or after ***July 1, 2006*** for the use of the individual, the spouse or common-law partner, or a child of the individual who has not before the end of the taxation year attained the age of 19 years. This includes a public transit pass that is valid for a period of at least ***one month*** of public transit.

Dividend Tax Credit

The federal dividend ***gross-up*** will be increased to ***45 per cent*** and the individual tax credit will be adjusted to 11/18ths of the gross-up in respect of certain taxable dividends ("eligible dividends") paid after 2005. (See 74(3) for more information.)

Donations of Publicly Listed Securities and Ecologically Sensitive Land

These ***gifts*** made by a ***taxpayer*** to a ***qualified donee*** on or after May 2, 2006 will ***not*** be subject to ***taxable capital gain*** treatment.

B. BUSINESS INCOME TAX

General Corporate Income Tax Rate

This rate will be ***reduced*** to ***19 per cent*** from 21 per cent by 2010.

Corporate Surtax

This ***surtax*** will be ***eliminated*** for taxation years that end after ***December 31, 2007***, with proration for taxation years that include that date.

Small Business Deduction Limit

The ***small business income*** eligible for the 12% tax rate will be increased to ***$400,000*** from $300,000 as of ***January 1, 2007***.

Small Business Rate

The ***small business deduction rate*** will be ***reduced*** for taxation years that end after 2007 to ***11.5%*** in ***2008***, and ***11%*** after 2008.

Federal Capital Tax

This tax will be ***eliminated*** effective ***January 1, 2006***.

Apprenticeship Job Creation Tax Credit

For the 2006 and subsequent taxation years, a taxpayer will be allowed an ***investment tax credit*** in respect of ***each eligible apprentice employed*** in the business after May 2, 2006 equal to the lesser of $2,000 and 10% of eligible salary and wages payable in respect of the employment.

The Budget also proposes a new ***$1,000 grant*** for first and second year apprentices effective ***January 1, 2007***.

Farming

Budget 2006 provides ***$1.5 billion*** in ***2006*** including $500 million for ***farm support***, plus a one-time investment of $1 billion to assist farmers in the transition to more ***effective programming*** for farm income stabilization and disaster relief.

C. EXCISE TAX ACT

GST Rate Cut

The 7% Goods and Services Tax (GST) will be ***cut to 6%*** effective ***July 1, 2006***.

GST Transitional Rules

The Budget includes ***transitional rules*** for transactions occurring close to or straddling the July 1, 2006, implementation date.

Repealing the Excise Tax on Jewellery

Budget 2006 proposes to ***repeal*** the excise tax on ***jewellery*** effective May 2, 2006.

Reducing Excise Duties for Canadian Vintners and Small Brewers

Budget 2006 proposes to provide ***excise duty relief*** to ***wines*** made from 100-percent ***Canadian-grown product***. Excise duty reductions for ***small brewers*** are also proposed.

These measures will be effective July 1, 2006.

D. UNIVERSAL CHILD CARE

Families

Budget 2006 introduces the ***Universal Child Care Benefit*** as of July 1, 2006. This new benefit will give families ***$100 per month per child*** under ***age 6***. This will be ***taxed*** in the hands of the ***spouse*** with the ***lower income*** but, will ***not reduce*** federal income-tested ***benefits***.

Families who receive the Canada Child Tax Benefit (***CCTB***) will receive the new benefit ***automatically***.

Families who ***do not*** receive the ***CCTB*** will be able ***to apply*** for the new benefit by submitting a completed CCTB application form to the Canada Revenue Agency.

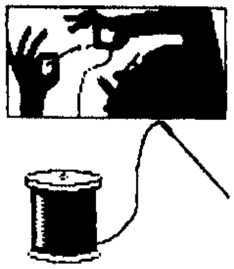
Children's Fitness Tax Credit

The Budget proposes to introduce, effective ***January 1, 2007***, a ***tax credit*** to promote physical fitness among children. For each child ***under 16***, the credit will be provided on up to ***$500 in eligible fees*** for programs of physical activity.

ESTATE PLANNING

74(6)

SPOUSAL RRSP



In a June 30, 2005 ***External Technical Interpretation***, CRA note that where ***funds are withdrawn*** from a ***Spousal RRSP*** and the annuitant's spouse has ***contributed*** to a Spousal RRSP for that person in the year of withdrawal or in the ***two previous years***, the amount withdrawn ***attributes back*** to the ***contributor***.

However, where the funds from the Spousal RRSP are ***rolled*** into a ***Registered Pension Plan***, the ***attribution rules*** will ***not apply***. Also, ***periodic retirement benefits*** from the RPP will ***not attribute*** back.

BULLION AS A QUALIFIED INVESTMENT

In a December 5, 2005 ***External Technical Interpretation***, CRA notes that new ***Regulations*** permit investments in ***gold and silver*** bullion coins, bars and certificates for ***RRSPs*** and other ***deferred income plans*** after February 22, 2005 if ***certain conditions*** are met.

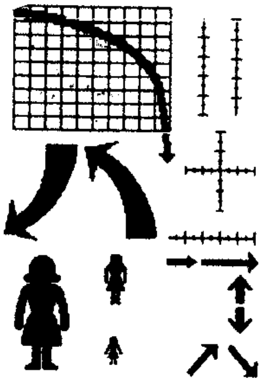
MARRIAGE BREAKDOWN

74(7)

SUPPORT PAYMENTS

In December, 2005, CRA released ***Guide P102*** - Support Payments.

The Guide reviews the tax rules on ***support payments***, ***registering*** your Order or Agreement, ***source deduction*** adjustments, ***specific purpose*** payments, payments to and from ***non-residents***, and ***reporting*** requirements.



If there is ***no Court Order or Written Agreement***, the ***spousal support*** payments are ***not*** included in ***income*** by the ***recipient*** or ***deductible*** by the payer.

Also, ***child support agreements*** made ***after*** April, 1997 will ***not*** be ***deductible/taxable*** to the ***payer/recipient***. ***Pre-May 1997 agreements*** will also have this ***non-deductible/non-taxable*** status ***if*** both persons ***elect*** to have this occur or, the Order or Agreement is ***changed*** after April, 1997 to ***increase or decrease*** the child support amounts.

A ***unilateral*** change ***by the parents*** may ***not*** be ***sufficient*** as the parties cannot unilaterally waive the rights of a child.

GST

74(8)

GST/HST WEB REGISTRY

As part of their obligations under the GST/HST, ***Registrants*** are required to ***ensure*** that ***Input Tax Credits*** are claimed only where suppliers are ***registered*** for GST/HST. Previously, the sole means available to verify this was to contact Canada Revenue Agency.

The February 23, 2005 Federal Budget proposed a publicly accessible ***web-based GST/HST Registry***. This has ***now been activated*** and the link is:

https://www.businessregistration-inscriptionentreprise.gc.ca/ebci/brom/registry/registryPrompt_en.jsp

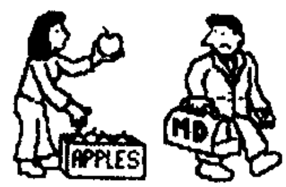
After entering a GST/HST number, business name, and date of transaction, the system will tell you whether the person was registered for GST/HST on that particular date.

This could also be valuable for ***real property transactions*** where a vendor needs to confirm that the ***purchaser is registered*** so that the vendor will not be required to collect GST/HST on the sale.

WEB TIPS

74(9)

HEALTHY EATING



You might want to check out this ***quick health link*** for diet and fitness information ***www.fitday.com.***

Included in this website are:

- a diet & fitness journal,
- a calorie & nutrition counter,
- a weight loss tracker.

When using this ***free*** system, you are able to ***select the items that you have eaten*** during a given day. The program will then ***provide a break down of the different types of fats, carbs, proteins and alcohols in your system*** and compare it to items such as your age, weight, and daily physical activity level. From this you will be able to ***track your daily intakes by category*** and find the right ***patterns for healthy eating and/or weight loss***.

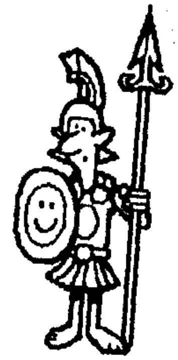
DID YOU KNOW...

74(10)

CROSSING THE BORDER WITH $10,000 OR MORE

Under new legislation, a person has to report to ***Canada Border Services Agency*** (***CBSA***) amounts equal to or greater than Can. ***$10,000*** or its equivalent in a foreign currency, that you are ***bringing into or taking out*** of Canada by completing ***Form E677***, Cross-Border Currency or Monetary Instruments Report - Individual.

If the currency or monetary instruments are ***not your own***, you must complete ***Form E667***.



If you are ***sending $10,000*** or more ***into*** or ***out of*** Canada through the ***mail***, you must complete ***Form E667***.

If you are sending the $10,000 by ***courier***, the courier must have the person in charge of the conveyance complete ***Form E668*** and attach it to ***Form E667***.

Failure to report the transfer may include ***forfeiture*** and ***penalties*** ranging from $250 to $5,000.

CBSA sends the Forms to the Financial Transaction and Reports Analysis Centre of Canada (FINTRAC) for assessment and analysis. See ***www.fintrac.gc.ca*** or call 1-800-461-9999.