

## MTI NEWSLETTER - TAX TIPS & TRAPS

*This publication is a high-level summary of the most recent tax developments applicable to business owners, investors, and high net worth individuals. Enjoy!*

### TAX TIDBITS:

Some quick points to consider...

- CRA has been significantly delayed in posting several tax slips to its online portal this year. Adjustments to filed personal tax returns may be needed to report income that was missed.
- Individuals reporting capital gains have until June 2, 2025 to file their income tax returns and make associated payments without being subject to penalties or interest.
- An individual may claim a charitable donation tax credit for their spouse or common-law partner's gift made within the past five years, even if the donation predates their spousal relationship.
- A parking space may be a component of a condominium unit for principal residence exemption purposes, even if it was purchased separately from the unit.
- On April 1, 2025, the HST rate in Nova Scotia dropped to 14% (from 15%). Ensure to update the HST charged for sales in or to this jurisdiction.

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### CANADA DISABILITY BENEFIT:

#### New Support!

The Canada disability benefit is a new monthly payment for working-age persons with disabilities who have low income. The first payments will be made in July 2025.

To be eligible for this benefit, individuals must meet the following criteria:

- be a resident of Canada (for tax purposes);
- have a valid disability tax credit certificate;
- be between the ages of 18 and 64;
- have filed an income tax return for the previous tax year; and
- be either a Canadian citizen, permanent resident,

protected person, a temporary resident (that lived in Canada for the past 18 months) or registered (or entitled to be registered) under the Indian Act.

The maximum benefit for the July 2025 to June 2026 period is \$2,400 (\$200 per month), but is reduced by the following:

- 20% of income above \$23,000 if the beneficiary is single;
- 20% of income above \$32,500 if the beneficiary is married or has a common-law partner; and
- 10% of income above \$32,500 if the beneficiary is married or has a common-law partner and both are eligible.

The first \$10,000 of working income (\$14,000 for a couple) is exempt from this calculation. Income is based on the

most recent taxation year that ended before the payment period begins.

If the individual is married or in a common-law relationship, their partner must also file a tax return for the previous tax year. In limited cases, the person applying for the benefit can ask to remove the requirement that their spouse or common-law partner file an income tax return. This includes situations where the partner is not resident in Canada, the partner does not live with their partner for reasons that they cannot control (e.g. one partner lives in a long-term care home), or it is unsafe for the person to ask their spouse to file a tax return.

While the application process has not yet opened, individuals should ensure the following is completed in preparation:

- apply for the disability tax credit;
- ensure that their (and their spouse's) 2024 personal tax returns are filed; and
- obtain a social insurance number.

Details on the application process will be posted on this webpage (<https://www.canada.ca/en/services/benefits/disability/canada-disability-benefit.html>).

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***ACTION: If you or a family member are eligible for this new benefit, ensure you prepare for a timely application.***

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## VERIFY IT IS THE CRA CALLING:

### Fraud Prevention

Have you received a call claiming to be from CRA but are unsure if it is legitimate?

CRA has launched a webpage (<https://www.canada.ca/en/revenue-agency/corporate/scams-fraud/verify-cra-contact.html>) to assist taxpayers in determining whether the call is actually from CRA. Taxpayers can go to the webpage and enter the 10-digit number that they were given to call back. The website will automatically confirm the validity of the phone number. CRA also reminded taxpayers not to rely on the number displayed on their caller ID.

Only phone numbers listed on the CRA website can be found using this tool. It does not include individual CRA employees' direct work numbers

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***ACTION: Use CRA's verification tool to confirm the legitimacy of calls before responding.***

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## LOSSES FROM PERSONAL SCAMS:

### No Tax Deduction Available

A June 18, 2024 Technical Interpretation discussed the tax treatment of losses resulting from a personal scam, as opposed to an investment scam. Two examples of personal scams were provided, as follows:

- a grandparent scam that generally involves the fraudster impersonating a grandchild, claiming that they are in trouble and require financial assistance (e.g. they have been in an accident, have been kidnapped or are stranded abroad); and
- a phishing scam where the fraudster impersonates an entity (e.g. a financial institution, a utility company or CRA) and attempts to pressure their victim into providing personal or financial information or assets.

CRA noted that there is no tax relief specific to fraud. In some instances, a capital loss or even a business loss may result from investment scams. However, a loss incurred by a victim of a personal scam would generally not result in a loss from employment, business, property or a business investment loss as there is no income-earning activity related to the loss.

The property that is lost is generally personal funds that would likely be considered to be capital property. The lost cash would normally be personal use property, such that any losses would be deemed to be nil.

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***ACTION: Be mindful of falling victim to fraudulent scams. There is no tax relief with respect to losses resulting from personal scams.***

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## TAX RELIEF:

### Support For Those Impacted by Tariffs

In response to the tariffs, the federal government has announced several measures to support businesses and individuals.

In accordance with a March 21, 2025 Release from the Prime Minister, CRA will implement the following measures:

- deferring GST/HST remittances and corporate income tax payments from April 2 to June 30, 2025;
- waiving interest on GST/HST and T2 instalment and arrears payments required to be paid between April 2 and June 30, 2025; and
- providing interest relief on existing GST/HST and T2

balances between April 2 and June 30, 2025.

Interest will resume starting July 1, 2025. CRA also reminded that taxpayers must continue to file GST/HST returns and T2 returns by their due dates to remain compliant with filing requirements.

On March 7, 2025, the Department of Finance issued a News Release announcing the following measures:

- launching the Trade Impact Program through Export Development Canada that will deploy \$5 billion over two years to help exporters reach new markets for Canadian products and help companies navigate the economic challenges imposed by the tariffs;
- making \$500 million in favourably priced loans available through the Business Development Bank of Canada to support impacted businesses in sectors directly targeted by tariffs, as well as companies in their supply chains;
- providing \$1 billion in new financing through Farm Credit Canada to reduce financial barriers for the Canadian agriculture and food industry; and
- temporarily increasing access to and lengthening the maximum duration of agreements in the EI work-sharing program. This program provides EI benefits to employees who agree with their employer to work reduced hours due to a decrease in business activity beyond their employer's control, allowing employers to retain experienced workers and avoid layoffs, and helping workers maintain their employment and skills.

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***ACTION: Review and leverage available tax deferrals and government financing programs as appropriate to ease the impact of tariffs.***

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## BUSINESS AND RENTAL LOSSES:

### Dog Breeder and Vacation Rentals

A December 20, 2024 Tax Court of Canada case reviewed the denial of losses from two activities, a dog breeding business and the short-term rental of properties in the Okanagan region of BC. The operation had been carried on by a married couple in the taxation years 2004 to 2010.

#### **Dog activities**

The Court undertook an extensive analysis of the taxpayers' activities breeding champion dogs to establish a reputation for their kennel and generate revenues from stud fees and sales of puppies and semen, resulting in significant losses from 1999 to 2018. The Court first

discussed whether the venture had elements of a hobby or other personal pursuit, concluding that the taxpayers' lifelong connection to dogs suggested such elements.

Although the evidence demonstrated that the taxpayers intended to earn income, their dog-breeding activities were not a source of income as they were not conducted in a commercially reasonable manner. The Court cited the following factors as particularly relevant:

- recurring large losses over many years, with almost \$1 million of losses over the 20-year period, with less than \$50,000 in total revenues;
- use of credit card financing rather than securing less expensive commercial loans or lines of credit;
- rudimentary budgeting processes, lacking any plan to limit costs from various dog shows or on an overall basis;
- loose management of expenses, which were generally only summarized after the end of the year for income tax filings;
- unsophisticated books and records mingled with their law practices and rental operations;
- restrictive marketing that limited sales, which was not comparable to other commercial breeders; and
- the opinion of their own expert witness that activities generating such losses over a fifteen-year period cannot be a business.

The Court ruled that these losses were properly disallowed.

#### **Rental activities**

In 2001, the taxpayers purchased a house in a recreational area that they rented on a short-term basis. In 2005, they acquired the adjacent house to expand their rental business. The Court concluded that the taxpayers intended to earn income from the properties. In reviewing the commerciality of the activity, the Court noted the following factors:

- prior to purchasing the properties, they had undertaken research that indicated that short-term rental would be more profitable than long-term rental and obtained appraisals of market rents;
- limited rentals from 2006 to 2010 were attributable to unexpected factors including a decline in the US dollar and wildfires in several of those years that reduced demand for short-term rentals;
- they discovered that significant repairs were required to the second property, and a shortage of tradespeople delayed the repairs, resulting in that property being unavailable for extended periods;
- one of the taxpayers had prior experience with rental properties;

- the taxpayers obtained short-term rental insurance, obtained assistance for property cleaning and on-site management of renter issues and maintained a guest book to obtain feedback and solicit repeat business;
- mortgage financing and the financing of the repair costs reflected businesslike operations;
- they carefully budgeted furnishing and decorating the properties, with an eye to quality and risk mitigation with extended warranties and the scotch-guarding of upholstery, practices different from those applied to their personal appliances and furniture;
- they advertised the properties and monitored the practices of neighbouring rental properties;
- they revised their strategies over time, including implementing guest book suggestions, expanding advertising to online platforms (e.g. Airbnb and VRBO) and taking advantage of long-term rental opportunities; and
- subsequent years' results showed significant profits.

As the factors reflected sufficient commerciality, the rental losses were allowed.

#### **Statute-barred returns?**

CRA had reassessed several years after the ordinary reassessment period of three years from initial assessment. The Court noted that this was permitted only if the taxpayers had made a misrepresentation attributable to carelessness, neglect, willful default or fraud. The Court noted that this is determined on an issue-by-issue basis and not on a year-by-year basis. Any reassessment can relate only to the misrepresentation(s) in question.

The Court concluded that the taxpayers had a bona fide belief that both the dog and rental activities were sources of income, a conclusion reached with the assistance of professional tax preparers. Their difference of opinion with CRA was either not a misrepresentation or was not attributable to carelessness or neglect. Where deductibility was a question of judgement, whether in determining whether a source of income existed or whether a specific expense was properly deductible, the returns could not be reassessed. As a result, several years were largely statute-barred.

However, some expenses were clearly not related to the income-earning activities. The taxpayers' practice of accounting for expenses only after the end of the year, rather than as they were incurred, resulted in an increased risk of error. To the extent that clearly personal expenses

had been claimed, this resulted from carelessness or neglect, and these expenses could therefore be disallowed after the ordinary reassessment period.

The Court identified several expenses that could therefore be disallowed in years that were otherwise statute-barred.

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***ACTION: Ensure your business or rental activities are conducted in a commercially reasonable and well-documented manner to support loss claims and avoid disallowed deductions.***

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## **GST/HST REGISTRATION AND REMITTANCE:**

### **Tax Payer Relief**

A December 20, 2024 Federal Court case reviewed an application for judicial review of CRA's decision denying penalty and interest relief related to the taxpayer's failure to register for GST/HST and file GST/HST returns for the 2020 through 2022 years. CRA notified the taxpayer on June 23, 2023 that he was required to register for GST/HST. CRA issued notices of assessment on July 31, 2023 for outstanding balances for 2020, 2021 and 2022, including failure to file penalties and arrears interest. CRA denied the taxpayer's request for relief from the penalties and interest.

#### **Taxpayer loses**

The Court found that CRA's decision not to provide relief was reasonable. The fact that the payer remitted GST/HST on the taxpayer's behalf did not absolve the taxpayer of its responsibility to register for GST/HST, file the returns and remit payments. The Court also agreed with CRA that the payer's remittance did not provide a basis for providing the taxpayer with relief.

The Court noted that CRA was also not required to consider the taxpayer's "prompt registration and filing" of his overdue returns (the date the taxpayer registered and filed was not provided in the ruling) in its decision as over a month had passed after he was informed of his obligation to register and file returns. Further, whether the taxpayer "acted quickly to remedy the omission or the delay in compliance" is only considered if "circumstances beyond [the taxpayer's] control" prevented them from complying with the Act. In this case, the taxpayer admitted that the issue arose due to human error. There was, therefore, no extraordinary circumstance, as CRA

explained that "human error...[is] considered within [the Applicant's] control."

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***ACTION: Register for and file GST/HST returns promptly. Failure to do so can lead to penalties and interest.***

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## DE FACTO DIRECTOR:

### Personal Liability

A director of a corporation, non-profit organization or other entity can be personally liable for payroll source deductions and GST/HST that the entity fails to remit to CRA, unless the director exercised due diligence to prevent failure to remit these amounts on a timely basis. An individual can be held personally liable for up to two years after they resign as a director.

A November 29, 2024 French Quebec Court of Appeal case considered whether the taxpayer was a de facto director of a corporation and therefore liable for unremitted QST and source deductions for 2012 and 2013.

### Taxpayer loses

Although the taxpayer had formally resigned as a director in 2010, the taxpayer continued to act as a director. Therefore, the Court ruled he was a de facto director and liable for the corporation's debts. This determination was based on the fact that the taxpayer remained involved in banking, contract negotiations, discussions with Revenu Québec and other corporate decisions after he resigned.

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***ACTION: If you resign as director, ensure to cease acting as a director.***

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The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a newsletter such as this, a further review should be done by a qualified professional.

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For any questions... give us a call.