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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...

- The federal government has proposed to reduce the base CPP contribution rate from 9.9% to 9.5%, effective January 1, 2027. This would reduce CPP contributions by about $133 for both the employee and employer where the employee earns $70,000.
- For 2026, the limit on the deduction for non-taxable allowances paid by an employer to an employee using a personal vehicle for business purposes will increase by one cent to 73 cents per km for the first 5,000 kms driven and to 67 cents for each additional km.
- The federal government has proposed to allow 100% immediate expensing for greenhouses, retroactive to November 4, 2025.
- US citizens are required to report their world-wide income on US personal tax returns even if they do not live in the US. As of April 13, 2026, the fee to renounce US citizenship was reduced from $2,350 to $450.

IMPORTANCE OF STRONG INTERNAL ACCOUNTING: Gross Negligence Penalties

A January 6, 2026 Tax Court of Canada case reviewed assessments of unreported revenues of over $6.4 million over two taxation years, 2013 and 2014. These amounts were determined through bank deposit analysis by CRA. Over $1.7 million of the amount resulted from failure to translate revenues denominated in foreign currency to Canadian dollars. The court noted that CRA's use of average foreign exchange rates to calculate the difference was reasonable. CRA reassessed outside the ordinary reassessment period and imposed gross negligence penalties.

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Taxpayer loses

The court noted that the under-reported revenue was a misrepresentation. The taxpayer's owner and manager, B, was well-educated, having obtained both a commerce degree and designation as a chartered accountant. B's assumption that his software converted foreign currency was not sufficient – the implications of the weakening Canadian dollar in the years in question should have been apparent to him.

The choice not to engage additional accounting resources despite knowing that both he and the one employee engaged in the taxpayer's accounting were overwhelmed with work indicated an indifference to tax compliance. This justified reassessment past the normal reassessment period. The indifference also led to the court's conclusion

that B, and through him the taxpayer, was grossly negligent in the tax filings and the penalty was upheld.

ACTION: Ensure sufficient internal accounting and bookkeeping resources are in place. Inadequate accounting support can lead to errors, reassessments beyond the normal limitation period and gross negligence penalties.

TRANSFER OF ASSETS TO SHAREHOLDER'S CHILD: Shareholder Benefit

A January 5, 2026 Court of Quebec case considered whether a corporation's sale of a cottage to the shareholder's sons resulted in a denied capital loss to the corporation and a taxable shareholder benefit.

In 2015, the corporation sold a cottage that it had constructed for $1,248,821 to the shareholder's sons for $700,000. Following an audit, Revenu Québec (RQ) denied the corporation's capital loss of $406,934 on the basis that the cottage was personal-use property. RQ also assessed a shareholder benefit of $536,759, representing the difference between cost and sale price plus a minor adjustment. The case did not specify why the denied loss and the shareholder benefit were not the same.

In conducting its analysis, the court referred extensively to Tax Court of Canada cases, noting that the relevant federal and provincial provisions were similar, requiring the same type of analysis.

Corporation loses – capital loss

Losses realized on the disposition of personal-use properties are specifically denied. An asset can be a personal-use property even if it is owned by a corporation. Whether a property is a personal-use property depends on whether it is held for personal use by the taxpayer or persons related to the taxpayer (such as a shareholder).

The court emphasized that the actual, predominant use of the property was the determining factor, as opposed to merely the stated investment intention. The court noted that the documentary evidence suggested a personal purpose:

- utilities and cable bills were placed in the spouses' names;
- insurance coverage was changed from corporate to personal names (the property was described as a secondary residence);
- reports referred to the property as a future residence for the family; and
- there was very limited support that the property was being used for its stated investment purpose as a rental property.

The court concluded that the cottage was used primarily for the personal enjoyment of the shareholder and his family and thus was personal-use property. As such, the capital loss was denied.

Shareholder loses – shareholder benefit

The corporation fully financed and constructed the cottage, then sold it to related parties at a price significantly below cost. The court found that such a transaction would not have occurred between arm's-length parties and that RQ reasonably quantified the benefit as the difference between cost and sale price. As such, a taxable shareholder benefit was applicable.

In assessing the quantum of the benefit, the shareholder argued that construction deficiencies reduced the value of the property and relied on a 2015 appraisal to support a fair market value (FMV) of $700,000 at the time of transfer (in 2015). The court was not persuaded, noting that the valuation was prepared in contemplation of a related-party transaction and a quick sale. Further, the appraiser did not testify. The court then noted that the property was listed earlier for $1,175,000 and was later sold by the sons in 2022 for $1,775,000, which further undermined the credibility of the low appraisal.

The court noted that the FMV of an asset is not automatically used when determining the value of a taxable benefit. Having rejected the reliability of the shareholder's FMV evidence, the court accepted RQ's calculation of the shareholder benefit as the difference between the construction cost (approximately $1.25 million) and the sale price.

The court also noted that, in a previous audit, the cottage was determined by RQ to be used personally and a taxable benefit was added to the shareholder's income for 2012 and 2013. The resulting additional assessments were upheld after objection. No gross negligence penalties were assessed. The reassessments were issued within the normal reassessment period.

ACTION: When transferring assets from a corporation to a shareholder or relative, ensure that the transfer is made at fair market value and that proper evidence supports this assertion.

SHAREHOLDER BENEFITS:
Offset by Loan to Corporation?

A December 17, 2025 Court of Quebec case considered whether shareholder benefits arising from approximately $1.6 million in personal expenses paid by a corporation from 2014 to 2017 should be included in the shareholder's income or whether they could be offset by loans that he had made to the corporation. From 2015 to 2017, the taxpayer had made three loans to the corporation, totalling approximately $1.5 million.

Taxpayer loses

The expenses that the corporation paid on behalf of the shareholder included travel, meals, entertainment, retail purchases and construction costs. The court acknowledged that shareholder benefits can sometimes be offset against shareholder loans, but only where there is clear evidence that the loan account was intended to reimburse the corporation. However, the court rejected this possibility, finding that the taxpayer had failed to prove that there was a real intention to repay or set off the personal benefits in the year the benefits were received. This finding was supported by the absence of objective evidence, such as journal entries and written documentation. In addition, the taxpayer denied that the expenses were personal until several years after receipt, indicating that he had not intended to repay them at the relevant time. Rather, the court found that the loans were provided to fund operations and growth, not to repay personal benefits.

The court found that Revenu Québec could reassess outside the normal reassessment period for 2014 and 2016, concluding that the taxpayer made a misrepresentation attributable to carelessness or willful omission by failing to report substantial shareholder benefits.

The court also upheld gross negligence penalties totalling over $200,000. The court noted that the repeated omission of accounting for personal expenses paid by the corporation over several years appeared to be a system put in place by the sole shareholder and director to avoid tax. The court emphasized the magnitude of the omission (over 400% of the income reported), the taxpayer's business experience, the absence of voluntary disclosure and the fact that professional accounting support existed.

ACTION: Documenting and accounting for corporately paid personal shareholder expenses should be done on an ongoing basis.

INDIVIDUALS BUYING AND SELLING HOUSES: GST/HST

A February 2, 2026 Tax Court of Canada case considered whether spouses who repeatedly built and sold houses were builders and whether GST was applicable.

CRA had reassessed the taxpayers for GST of $22,875 for the March 2016 reporting period after they completed building and first occupied a house in British Columbia. The taxpayers had purchased seven houses and sold five (including building several houses on bare land) over an 11-year period (2010 to 2021).

The taxpayers argued that they were not builders and therefore did not have to remit GST on the use or sale of the property. Alternatively, if they were considered builders, they argued that the house was built primarily for their family's residence, such that they qualified for the personal-use exception. This exception applies to individual taxpayers who are builders where the complex is primarily used as a place of residence by the taxpayer (or relative). The house cannot have been used primarily for any other purpose between substantial completion and primary use as the builder's residence. If the taxpayers were builders, and the exception did not apply, they would have had to remit GST on the self-supply of the property when they first began to use it.

Taxpayers lose – builder

Emphasizing the frequency of similar transactions, the relatively short ownership and occupancy period, and the appellants' familiarity with building and selling houses for profit, the court found that the taxpayers were builders. Although the taxpayers argued that they sold the house because the bedroom layout was unsuitable for their toddler, the court found the explanation unconvincing given their involvement in the construction.

Taxpayers lose – personal-use exception

The court then addressed the taxpayers' argument that they should benefit from the personal-use exception. The court found that the taxpayers' primary use of the house was as inventory to sell rather than for residential use. Their occupancy lacked the enduring quality associated with a genuine family residence and instead appeared incidental to a broader pattern of profitable development and sale. The court distinguished this situation from one in which resale was only a secondary intention and the taxpayer genuinely lived in the house. The brief residential occupancy did not overcome evidence that the house was primarily held for resale.

The court upheld CRA's assessment of GST on their appraised valuation of $915,000, based on comparable sales and professional appraisal methodology.

ACTION: Repeatedly buying or building, briefly occupying, and then selling homes for profit may result in individuals being classified as builders, causing GST/HST to apply even in some cases where the properties were personally occupied.

ADDING RELATIVES TO LEGAL TITLE OF A PROPERTY: Beneficial Ownership

A recently released July 14, 2023 Technical Interpretation reviewed whether a taxpayer remained the beneficial owner of 100% of her residence after adding her two daughters to title for nominal consideration. Her daughters had signed an acknowledgement that the intention was not to gift the property to them, but rather that the property would pass equally to all six of the taxpayer's children on her death. The taxpayer paid all costs related to the property and neither daughter lived in it.

CRA noted that the beneficial owner would report all gains on the property and could offset those gains using the principal residence exemption. All relevant factors must be considered to determine beneficial ownership, including the following:

- the rights to:
  - Possession;
  - collect rent;
  - mortgage the property;
  - transfer title to the property (by sale or by will);
- the obligations to:
  - maintain and repair the property; and
  - pay property taxes related to the property.

CRA noted that this was not an exhaustive list of relevant factors, and that all relevant factors must be considered to determine beneficial ownership. However, CRA opined that, based on the facts provided, the taxpayer was likely the beneficial owner throughout her lifetime, with no disposition when her daughters were added to the title.

ACTION: Adding an individual's name to the title of a property could result in a number of tax consequences. Prior to any such action, consult a professional for guidance to ensure the intention behind such actions are properly documented and the tax implications understood .

CANADA CHILD BENEFIT (CCB): Shared Custody

In a February 2, 2026 Tax Court of Canada case, the taxpayer argued that she was a shared-custody parent entitled to half of the CCB. The court noted that there are two approaches under which parents can meet the residency requirements to be shared-custody parents, as follows:

i. the child resides with each parent at least 40% of the time; or
ii. he child resides with the parents on an approximately equal basis.

The court noted that the explanatory notes to amendments implementing these approaches indicated that (ii) was intended to accommodate situations where the 40% test is generally met, but the time temporarily falls below 40% for reasons such as illness or vacation.

Taxpayer loses

The court noted that the test is not parenting time (that is, measuring waking hours during which the child is in the care and custody of each of the two parents), but where the child resides. The court opined that residing requires the presence of both the parent and the child carrying on their normal routines of life in or from a physical structure to which they return on a regularly recurring basis. The taxpayer resided with the child on some weekends (generally three weekends per month). She also spent periods of three to four hours at a time with the child during the week in malls, movie theatres, restaurants or attending their recreational activities. The court noted that these periods did not constitute residing, but merely visiting. The child did not reside with the taxpayer for more than two days per week, well below the 40% threshold required, so the taxpayer was not a shared-custody parent.

ACTION: Review living arrangement to determine if the time with the child constitute residency, or only visits..

LABOUR MOBILITY DEDUCTION: Temporary Relocation Expenses

The labour mobility deduction provides eligible trades-people and apprentices working in the construction industry with a deduction for certain temporary relocation expenses. The temporary lodging must be at least a minimum distance closer to each temporary work location

than the taxpayer's ordinary residence. It is proposed that, effective for 2026 and subsequent years, the minimum distance would be reduced to 120 km from the current 150 km. It was also proposed that the maximum deduction would increase to $10,000 from the current $4,000.

Expenditures are not eligible to the extent that the taxpayer is entitled to receive a reimbursement, an allowance or any other form of assistance in respect of the expense, unless included in the taxpayer's income.

An October 9, 2025 Technical Interpretation confirmed that receiving an allowance would not make a taxpayer's expenditure completely ineligible for the labour mobility deduction but rather would reduce the amount that could be claimed. Only the portion of expenses that exceed the non-taxable allowance received from an employer would be eligible.

ACTION: Construction tradespeople and apprentices working temporarily away from home should maintain detailed records of relocation expenses, reimbursements and allowance received to calculate and claim labour mobility deductions.