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## Important Items to Consider During RRSP Season

It is RRSP season again and there are several important considerations to take into account when planning your contribution for the year. The following are two of those considerations.

1. How much can I contribute for the year?
2. What happens if I overcontribute in the year?

### How much can I contribute?

How much you can contribute to your RRSP for 2012 depends upon how much RRSP deduction room you have in 2011. This is an amount that is calculated by the Canada Revenue Agency (the "CRA") and is displayed on your 2011 Notice of Assessment. It is also an amount that can be readily calculated. What is important to remember that the amount is always based upon the previous year's income, not the income for the year that you are calculating the amount you can contribute. So if you are calculating how much you can contribute for 2012, your calculations would be based on your 2011 income only plus any unused deduction room from previous years.

### RRSP Calculation for 2012 Return Deduction

|  |           |
|--|-----------|
| 2011 earned income .....   | \$ _____  |
| Multiply by 18% .....  | × 18%     |
| Equals: limitation (A) .....   | _____ (A) |
| Preliminary limit: lesser of (A) and \$22,970  | _____ (B) |
| Pension Adjustment (from all 2011 T4s, box 52, and 2011 T4As, box 34)                        | _____ (C) |
| Subtract: Line (C) from line (B) (if negative enter zero) .....                              | _____ (D) |
| Pension Adjustment Reversal (if any) (from 2011 T10 information slips) .....                 | _____ (E) |
| Past Service Pension Adjustment (from PSPA information slip T215 or T1004)                   | _____ (F) |
| 2012 current contribution limit: (D) + (E) - (F) .....                                       | _____ (1) |
| Unused contribution room (from 1991–2011 RRSP calculations) .....                            | _____ (2) |
| 2012 contribution limit (including carryovers): (1) + or - (2) (if negative enter nil) ..... | _____ (3) |
| Special rollover contributions ...   | _____ (4) |
| 2012 final contribution limit: (3) + (4)   | \$ _____  |

**Notes:**

- Earned income generally includes employment income, tips, royalties, net self-employed business income, net rental income from real property, alimony or maintenance payments, disability payments, and research grants received. Most taxpayers will only have employment income. Note that investment income, capital gains, and retirement income generally do not factor into the calculation of employment income.
- In general, you will have a PA on line C only if you were an employee in 2010 and had accrued benefits under a deferred income plan of your employer. You will have a PSPA on line F only if your employer has upgraded your pension benefits in respect of 1990 or later years, or if you purchased past service pension benefits in respect of service after 1989. You will have a PAR on line (E) only if you left your employment or otherwise terminated participation in a pension plan provision after 1996 and received a pension termination amount in 2011 which was less than the PAs and PSPAs associated with your participation in the plan.
- The yearly maximum contribution limit (\$22,970 for 2012) is adjusted from year to year.
- If the calculation above produces a different amount than what is indicated on your Notice of Assessment, you will need to find out why and notify the CRA, indicating to them where their information is incorrect (if that is the case), otherwise your calculation of contribution limit will not be accepted.
- Contributions for the year 2012 can be made during the 2012 calendar year and the first 60 days of 2013. The deadline for making 2012 contributions will be March 1, 2013.

In making your 2012 RRSP contributions, you must consider not only contributions made in the first 60 days of 2012 which you did not deduct in 2011, but also any contributions made in 1991 through 2011, inclusive, which you could not or did not deduct for

those years. Beginning with contributions for 1991, you may carry these undeducted amounts forward indefinitely, so they are available for deduction in 2012. These amounts should be shown on your Notice of Assessment for 2011 as unclaimed contributions carried forward from previous years.

If you have not kept a copy of your 2011 Notice of Assessment, the deduction amount for 2012 is readily available by calling the CRA, or by logging into your 'My Account' on the CRA Web site.

**What Happens if I Overcontribute?**

If you contribute more to your RRSP than what you are allowed, there could be costly consequences. You are allowed to overcontribute to an RRSP provided the overcontribution does not accumulate to more than \$2,000. If your overcontribution exceeds \$2,000 at any time, you may be assessed a prohibitive monthly penalty tax.

The rules impose a monthly 1% penalty tax on the contributor personally for each month at the end of which cumulative overcontributions exceed the permitted overcontribution amount of \$2,000. Note that under these rules overcontributions will accumulate from year to year, offset by new contribution room that accumulates from year to year. It is when the lifetime overcontribution exceeds \$2,000 that penalty tax arises. So it is very important to understand this overcontribution rule, as the penalties applied can be significant, particularly since they apply retroactive to the point in time when the overcontribution first occurred. The penalties will also accrue interest at the prevailing rates if left unpaid and may attract a further penalty tax of 5% if the proper forms are not filed by their due dates.

The penalty tax for overcontributions is applied at the rate of 1% of the excess amount calculated monthly, so that if, for example, the error is not discovered for a year, the potential penalty will amount to 12% of the overcontribution amount in excess of \$2,000. The tax will apply until the overcontribution is either used when further contributions are allowed in a subsequent year, or withdrawn (withdrawal of the amount from the RRSP may also be subject to tax on withdrawal depending upon when it is withdrawn).

If you find that you have overcontributed and will be subject to the penalty, you will need to file a Form T1-OVP within 90 days of the year in which the overcontribution occurred. If the form is not filed within 90 days of the end of the year, then a further late-filing penalty is imposed equal to 5% plus 1% per month of the balance owing times the number of months that the return is late, to a maximum of 12 months. As well interest at the government prescribed rates will be applied on the penalty owing if they it is not paid by the due date. As well the late filing penalty may be higher if the CRA charged you with a late filing penalty in any of the three previous years.

The CRA does have the authority to waive the 1% per month penalty tax if the taxpayer can demonstrate that the overcontribution was inadvertent and reasonable steps were or are being taken to remove the overcontribution.

A Form T3012A could be used in the year the overcontribution took place, to remove the funds from the RRSP without the usual withholding tax being applied. To obtain a refund without withholding tax, you must fill out Areas I and II on Form T3012A and submit it to your CRA Tax Services Office for certification. When it is returned to you, you can use it to obtain your funds free of withholding tax from your RRSP supplier.

Contributions withdrawn in this fashion must be included on line 129 of your tax return as income and then offset by a deduction of a like amount on line 232 and file a copy of the form with your tax return. If excess RRSP contributions are withdrawn without the use of Form T3012A, then tax will be withheld from the amount withdrawn and a Form T746 will be needed to be completed and filed with your tax return in order to obtain a deduction for the withdrawn amounts.

It can become quite a costly and complicated issue when you overcontribute and it is best to be sure of your deduction room when making your contribution for the year, but if you inadvertently find yourself in a situation where you have over contributed, avail yourself of a good tax professional to provide the best means to solve the issue at the least cost.

### Some Recent TFSA News

On November 26, 2012, the Department of Finance and the CRA announced that for 2013, the limit for contributions to a tax-free savings account ("TFSA") has been increased to \$5,500 from \$5,000 for previous years. The TFSA contribution limit was set at \$5,000 when the program was introduced in 2009. As set out in the definition of "TFSA dollar limit" in subsection 207.01(1) of the *Income Tax Act*, the 2009 amount is subject to indexing in increments rounded to \$500. 2013 is the first year that the indexation since 2009 has reached the first \$500 increment.

TFSA's offer an alternative means of accumulating savings on a tax free basis.