PERSONAL Newsletter

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2013 Tax Changes and How They May Affect You

The 2013 Budget introduced many new personal tax changes, several of which are of note because they may change the behaviour of those they affect. Some of the provisions have already been passed into law while others have yet to do so but likely will be enacted as presented.

First-Time Donor's Super Credit

To promote the spirit of giving, the federal government has introduced a temporary non-refundable first-time donor's super credit ("FDSC") which effectively adds 25% to the rates used in the calculation of the charitable donation tax credit that currently exists.

Currently the donation tax credit allows a credit of 15% on the first $200 of qualifying donations and 29% on the balance that exceeds $200. As a result of the change, first-time donors will be allowed a credit of 40% on the first $200 of qualifying donations and 54% on the balance that exceeds $200. The donations that qualify for the new super credit are those that are paid as donations of money only.

The maximum amount of the super credit will be calculated on up to $1,000 of monetary donations per individual. However, where a couple donates money as a first-time donor, the FDSC can be shared but the total claim that is shared by the couple cannot be on donations of more than $1,000. The credit is a temporary measure and will expire on December 31, 2017. Further, it is a one-time credit that can only be claimed in one year. If a taxpayer only uses a portion of it in the first year, the balance of the available credit will not be available in a subsequent year – it does expire. To put it simply, you can only be a first-time donor once, although multiple donations can be used in the year to make up your total super credit donation amount for that year.

A first-time donor is defined as someone who has not claimed a donation tax credit on their tax return since 2007. For a couple to be able to claim this credit, neither partner can have claimed a donation tax credit since 2007.

Dividend Tax Credit

Commencing in 2014, the government proposes to change the amount of the gross-up and the amount of the dividend tax credit on dividends classified as dividends other than eligible dividends on income slips.

Currently eligible dividends are grossed up by 38% and the federal tax credit is calculated as 6/11 of the grossed-up dividends (15.0198%). Dividends other than eligible dividends are currently grossed up by 25% and the federal tax credit is calculated as 2/3 of the gross-up amount (13.333%).

Beginning in 2014, the dividends received as other than eligible dividends will be grossed-up by 18% and the corresponding dividend tax credit will be reduced to 13/18 of the gross-up amount (11.0169%). This basically will have the effect of reducing the overall credit received from such dividends by 22%, from 16.67% of the actual dividend amount to 13% of the actual dividend amount.

In its 2013 budget papers, the federal government indicated that it expects for this measure alone to bring in an additional $500 - $600 million in tax revenues per year. By far, it was the largest tax revenue creator of the 2013 budget.

Lifetime Capital Gains Exemption

Currently the federal government allows an individual a lifetime capital gains deduction on the disposition of qualified property of $375,000, which is ½ of the $750,000 lifetime capital gains exemption (LCGE). This deduction is only allowed on the disposition of qualified property which includes shares of small corporations and qualified farming and fishing property.

Commencing for the 2014 taxation year, the government proposes to increase the lifetime capital gains exemption to $800,000 and the corresponding deduction thus to become $400,000. Further, commencing in 2015, these amounts will indexed to inflation and adjusted annually.

This increased exemption will apply to all individuals (even those who have previously fully used their lifetime capital gains exemption). Those individuals will thus have obtained a further exemption of $50,000 for use when disposing of qualified property in the future.

Safety Deposit Box Rentals

Taxpayers have for many years been able to deduct reasonable expenses related to the earning of investment income, one of them being the deduction of the cost of renting a safety deposit box to store paper copies of documents and securities. Since the advent of electronic records, the importance of storing paper records has declined and, likewise, most safety deposit boxes are no longer primarily used for income producing purposes but rather to store personal items and other valuables.

Commencing with taxation years beginning on or after March 21, 2013, the federal government will no longer allow the cost of renting a safety deposit box be seen as a deduction for tax purposes.

Adoption Expense Tax Credit

Many taxpayers incur significant expense to adopt a child. The current adoption tax credit allows a 15% federal credit on adoption expenses incurred in the year that an adoption is completed. The allowable expenses upon which the credit is based are those that are incurred between the time that parents are matched to the child and the time that the adoption is completed.

Since significant expenses can be incurred prior to the matching of a parent to a child, the 2013 budget expanded the definition of allowable expenses for the purpose of this credit to include expenses incurred to qualify as an adoptive parent.

These changes will take effect for 2013 and will apply to expenses incurred after the earliest of the time that:

- an adoptive parent registers with a provincial ministry or an adoption agency; or
- an application is made to a Canadian court.

The maximum eligible adoption expense that may be claimed for 2013 is $11,669 per child. This amount is indexed annually.

Foreign Income Verification Statements (Form T1135)

Individuals, corporations, and trusts that own, at any time during a year, a specified foreign property with a total cost of $100,000 or more, are required to complete and file a Form T1135–Foreign Income Verification Statement with their tax returns. Changes proposed in the 2013 budget aim to extend the reassessment period by 3 years in instances where such a requirement has not been met. The budget also proposes to enhance the form so as to collect more detailed information concerning various types of foreign property held.

Specified Foreign Property by definition includes the following:

- funds or intangible property (patents, copyrights, etc.) situated, deposited, or held outside Canada;
- tangible property situated outside of Canada;

- a share of the capital stock of a non-resident corporation held by the taxpayer or by an agent on behalf of the taxpayer;
- an interest in a non-resident trust that was acquired for consideration, other than an interest in a non-resident trust that is a foreign affiliate for the purposes of section 233.4 of the Act;
- an interest in a partnership that holds a specified foreign property unless the partnership is required to file a T1135;
- an interest in, or right with respect to, an entity that is a non-resident;
- a property that is convertible into, exchangeable for, or confers a right to
- acquire a property that is specified foreign property;
- a debt owed by a non-resident, including government and corporate
- bonds, debentures, mortgages, and notes receivable;
- an interest in a foreign insurance policy; and
- precious metals, gold certificates, and futures contracts held outside Canada.

Specified foreign property does not include:

- a property used or held exclusively in carrying on an active business;
- a share of the capital stock or indebtedness of a foreign affiliate;
- an interest in a trust described in paragraph (*a*) or (*b*) of the definition of "exempt trust" in subsection 233.2(1) of the Act;
- a personal-use property as defined in section 54 of the Act; and
- an interest in, or a right to acquire, any of the above-noted excluded foreign property.

The new extended three year assessment period will apply if:

- the taxpayer has failed to report income from a specified foreign property on their income tax return; and
- the Form T1135 was not filed on time by the taxpayer, or a specified foreign property was not identified, or was improperly identified, on the Form T1135.

The new assessment period will not apply in instances where:

- the correct income associated with each specified foreign property has been correctly reported; or
- where the Form T1135 has been completed accurately and filed on time.

Detailed information is now required for each specified foreign property held, particularly:

- the name of the specific foreign institution or other entity holding funds outside of Canada;
- the specific country to which the property relates; and
- the income generated from the property.

At this time, Form T1135 cannot be filed electronically and is required to be mailed separately to the Ottawa Technology Centre. However, changes are underway that will allow the T1135 to be filed electronically at some point in the future.