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YEAR-END TAX PLANNING

December 31, 2022 is fast approaching... see below for a list of tax planning considerations. Please contact us for further details or to discuss whether these may apply to your tax situation.

SOME 2022 YEAR-END TAX PLANNING TIPS INCLUDE:

- 1) Certain expenditures made by individuals by December 31, 2022 will be eligible for 2022 **tax deductions or credits**, including digital news subscriptions, moving expenses, labour mobility tax credit expenditures (NEW), child care expenses, charitable donations, political contributions, registered journalism organization contributions, medical expenses, alimony, eligible employment expenses, union, professional or like dues, carrying charges, air quality improvement expenditures (NEW) and interest expense. Ensure you keep all receipts that may relate to these expenses.
- 2) Certain expenditures for **surrogate mothers and fertility treatments** are proposed to be eligible for the **medical expense tax credit** as of January 1, 2022.
- 3) A senior whose 2022 net income exceeds \$81,761 will lose all, or part, of their **old age security** pension. Senior citizens will also begin to lose their age credit if their net income exceeds \$39,826. Consider limiting income over these amounts, if possible. Another option would be to defer receiving old age security receipts (for up to 60 months) if it would otherwise be eroded due to high-income levels.

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

- 4) If you own a **business or rental property**, consider making a **capital asset purchase** by the end of the year. Many capital assets purchased and made available for use in 2022 will be eligible for a **100% CCA write-off** under the new immediate expensing rules.

Some **zero-emission electric vehicles** purchased by businesses may be eligible for a 100% write-off (limited in some cases to the first \$59,000). Alternatively, zero-emission vehicles purchased in 2022 may be eligible for a federal incentive rebate of up to \$5,000.

- 5) Consider **selling non-registered securities**, such as a stock, mutual fund or exchange-traded fund, that has declined in value since it was bought to trigger a capital loss that can offset capital gains in the year. Anti-avoidance rules may apply when selling and buying the same security, even where the same security is held in different brokerage accounts.
- 6) Consider **restructuring your investment portfolio** to convert non-deductible interest into deductible interest. It may also be possible to convert personal interest expense, such as interest on a house mortgage or personal vehicle, into deductible interest.
- 7) If you have equity investments or loans made to a Canadian small business that has become insolvent or bankrupt, an **allowable business investment loss (ABIL)** may be available. For loans to corporations to be eligible, the borrower must act at arm's length. ABILs can be used to offset income beyond capital gains, such as interest, business or employment income.
- 8) If a **commercial debt** you owe (generally a business loan) has **been forgiven**, special rules apply that may result in additional taxes or other adjustments to the tax return.
- 9) You have until Tuesday, March 1, 2023, to make tax-deductible **registered retirement savings plan (RRSP)** contributions for the 2022 year. Consider having the higher income earning individual contribute to their spouse's RRSP via a "spousal RRSP" for greater tax savings.

NEW! While it will not affect 2022 income, individuals are expected to be able to begin making contributions to the new tax-free **first home savings plan (FHSP)** part way through 2023. Eligible contributions are deductible, and withdrawals for eligible purposes (to purchase a first home) are not taxable. Up to \$8,000 can be contributed annually, up to a maximum lifetime limit of \$40,000.

- 10) Individuals 18 and older may deposit up to \$6,000 into a **tax-free savings account** in 2022. An additional \$6,500 may be contributed starting on January 1, 2023. Consider a catch-up contribution if you have not contributed the maximum amounts for prior years. An individual's contribution room can be found online on CRA's My Account.
- 11) A **Canada education savings grant** for registered education savings plan (RESP) contributions equal to 20% of annual contributions for children (maximum \$500 per child per year) is available. In addition, lower-income families may be eligible to receive a Canada learning bond.
- 12) A **registered disability savings plan (RDSP)** may be established for a person under 60 and eligible for the disability tax credit. Non-deductible contributions to a lifetime maximum of \$200,000 are permitted. Grants, bonds and investment income earned in the plan are included in the beneficiary's income when paid out of the RDSP.
- 13) **Canada pension plan (CPP)** receipts may be **split** between spouses aged 65 or over (application to CRA is required). Also, it may be advantageous to apply to receive CPP early (age 60-65) or late (age 65-70).
- 14) Are you a **U.S. resident, citizen or green card holder**? Consider U.S. filing obligations concerning income and financial asset holdings. Filing obligations may also apply if you were born in the U.S.
- Information exchange agreements have increased the flow of information between CRA and the IRS. Collection agreements enable CRA to collect amounts on behalf of the IRS.
- 15) If income, forms or elections have been missed in the past, a **voluntary disclosure** to CRA may be available to avoid penalties.

- 16) **Interest-free loans** of up to **\$40,000** are available to homeowners and landlords who undertake **retrofits** identified through an authorized **EnerGuide energy assessment**.
- 17) **NEW!** The **Underused Housing Tax (UHT)** imposes a **national annual 1% tax** on the value of non-resident (for immigration purposes), non-Canadian owned **residential real estate** considered to be vacant or underused. In general, no disclosure or tax is required for citizens, permanent residents, and publicly traded corporations. However, some taxpayers, such as private corporations, must file an annual declaration, even if they meet an exemption such that they do not need to pay the 1% tax. Legal ownership of real estate must be considered as of December 31, 2022, with filings and/or taxes first being due on April 30, 2023.
- 18) **NEW!** Tax-free **Canada dental benefit** payments of up to \$650 per child per year are available to cover dental expenses (as of October 1, 2022) for children under 12 if they do not have dental insurance coverage. The benefit is available to families with an adjusted net income less than \$90,000. Applications can be made online through CRA's MyAccount.
- 19) **NEW!** The tax-free **Canada housing benefit** provides a one-time top-up of \$500 to low-income renters (those with adjusted net income below \$35,000 for families or \$20,000 for individuals). Applications can be made online through CRA's MyAccount.

2022 REMUNERATION

Higher personal income levels are taxed at higher personal rates, while lower levels are taxed at lower rates. Therefore, individuals may want to, where possible, **adjust income out of high-income years** and into low-income years. This is particularly useful if the taxpayer is expecting a large fluctuation in income due to, for example, an impending:

- maternity/paternity leave;
- large bonus/dividend; or
- sale of a company or investment assets.

In addition to increases in marginal tax rates, individuals should consider other **costs of additional income**. For example, an individual with a child may receive reduced **Canada child benefit (CCB)** payments. Likewise, excessive personal income may **reduce receipts of OAS, GIS, GST/HST credit** and other provincial/ territorial programs.

There are various ways to **smooth income over several years** to ensure an individual is maximizing access to the lowest marginal tax rates. For example,

- Taking more or less **earnings out of the corporation** (in respect of owner-managed companies).
- **Realizing capital gains/losses** by selling investments.
- Deciding **whether to claim RRSP** contributions made in the current year or carry forward the contributions.
- **Withdrawing funds from an RRSP** to increase income. However, care should be given to the loss in the RRSP room based on the withdrawal.
- Deciding **whether or not to claim CCA** on assets used to earn rental/business income.

Dividends paid to shareholders of a corporation that do not "meaningfully contribute" to the business may result in higher taxes due to the "tax on split income" rules.

Year-end planning considerations not specifically related to changes in income levels and marginal tax rates include:

- 1) **Corporate earnings** in excess of personal requirements could be **left in the company** to obtain a tax deferral (the personal tax is paid when cash is withdrawn from the company).

The effect on the "qualified small business corporation" status should be reviewed before selling the shares where large amounts of capital have accumulated. In addition, changes that may limit access to the small business deduction where significant corporate passive investment income is earned should be reviewed.
- 2) If dividends are paid out of a struggling business with a tax debt that cannot be paid, the recipient could be held **liable for a portion of the corporation's tax debt**, not exceeding the value of the dividend (Section 160 assessments).

- 3) Individuals that wish to contribute to the **CPP or an RRSP** may require a salary to generate earned income. RRSP contribution room increases by 18% of the previous years' earned income up to a yearly prescribed maximum (\$29,210 for 2022; \$30,780 for 2023).
- 4) Dividend income, as opposed to a salary, will reduce an individual's cumulative **net investment loss** balance, thereby potentially providing greater access to the capital gain exemption.
- 5) Consider paying taxable dividends to obtain a refund from the "**refundable dividend tax on hand**" account in the corporation. The refund amount may be restricted if "eligible" dividends are paid. Eligible dividends are subject to lower personal tax rates.
- 6) It is costlier, from a tax perspective, to earn income in a corporation from **sales to other private corporations** in which the seller or a **non-arm's length person** has an interest. As such, consideration may be given to paying a bonus to the shareholder and specifically tracking it to those higher-taxed sales. Such a payment may reduce the total income taxed at higher rates.
- 7) Careful tracking of an individual shareholder's labour and capital contribution to the business, as well as risk assumed in respect of the business, should be maintained in a permanent file. Dividends paid that are not reasonable in respect of those contributions may be considered "**split income**" and taxed at the highest tax rate. Several other exceptions may also apply.
- 8) Access to the corporate federal small business deduction is reduced where **more than \$50,000 of passive income** is earned in the corporation. Consider whether it is appropriate to remove passive income-generating assets from the corporation and whether a shift in the types of passive assets held is appropriate. In some provinces, it may actually be beneficial to have access to the federal small business deduction reduced. As many variables affect these decisions, consultation with a professional advisor is suggested.
- 9) If you provide services to a small number of clients through a corporation (that would otherwise be considered your employer), CRA could classify the business as a **personal services business**. There are significant negative tax implications of such a classification. Consider discussing risk and exposure minimization strategies (such as paying a salary to the incorporated worker) with a professional advisor in such scenarios.