

À votre service...pour le soin de votre avenir. Depuis 1968.



Here for you now ... Here for your future. Since 1968.

18 Spadina Road, Ste. 300/18, chemin Spadina, bureau 300  
Toronto ON M5R 2S7

## **2009 Year End Tax Tips**

**for**

**RTO/ERO Members**

---

<i>2009 Year-End Tax Tips</i> .....	3
<i>Rental Properties and Real Estate</i> .....	3
<i>Income Splitting</i> .....	3
<i>Pension Income Splitting</i> .....	4
<i>Taxation of Capital Gains</i> .....	5
<i>Loss Utilization</i> .....	5
<i>Registered Retirement Savings Plans (RRSPs)</i> .....	6
<i>The Home Buyers' Plan (HBP) - Using Funds in your RRSP</i> .....	7
<i>The Life Learning Plan (LLP)- Using Funds in your RRSP</i> .....	7
<i>Tax-Free Savings Account (TFSA)</i> .....	8
<i>Tax Rates</i> .....	8
<i>Non-Registered Mutual Fund Investments</i> .....	9
<i>Interest Income</i> .....	9
<i>Interest Deductibility</i> .....	9
<i>Foreign Spin-offs</i> .....	10
<i>Old Age Security (OAS) Claw-back</i> .....	10
<i>Age Tax Credit</i> .....	10
<i>Pension Income Tax Credit</i> .....	10
<i>Medical Expense Tax Credit</i> .....	11
<i>RTO/ERO Membership Fees</i> .....	12
<i>Disability Supports Deduction</i> .....	12
<i>Refundable Medical Expense Supplement</i> .....	13
<i>Disability Tax Credit</i> .....	13
<i>Registered Disability Savings Plan (RDSP)</i> .....	14
<i>Caregiver Tax Credit</i> .....	14
<i>Charitable Donations Tax Credit</i> .....	14
<i>Political Contributions Tax Credit</i> .....	15
<i>Home Renovation Tax Credit</i> .....	15
<i>Public Transit Tax Credit</i> .....	15
<i>Children's Fitness Tax Credit</i> .....	16
<i>Universal Child Care Benefit</i> .....	16
<i>Child Tax Credit</i> .....	16
<i>Northern Residents Deduction</i> .....	16
<i>Senior Homeowners' Property Tax Grant</i> .....	17
<i>Tax Installments and Withholding Taxes</i> .....	17
<i>Alimony and Maintenance</i> .....	17
<i>Foreign Reporting Requirements</i> .....	18
<i>Foreign Investment Entities and Non-resident Trusts</i> .....	18
<i>Canada/U.S. Tax Issues</i> .....	19

## 2009 Year-End Tax Tips

Income tax rules change almost constantly largely as a result of new government budgets. Members of RTO/ERO should continually monitor their taxes to ensure that they are getting all the advantages available to them. This publication contains a number of points to consider for 2009, as well as some planning ideas for the future.

**NOTE:** *Some of these strategies are based on tax legislation that is not yet law. Each person's tax situation is unique and you should consult your tax advisor before undertaking any action on the basis of the following tips or any other general advice.*

### Rental Properties and Real Estate

In an effort to disallow losses from rental property activity, Canada Revenue Agency (CRA) has in the past argued that there must be a "reasonable expectation of profit". Two Supreme Court of Canada cases however, have reviewed this concept and have concluded that as long as the rental property activity was undertaken in pursuit of profit (i.e. it was a bona fide commercial activity and was not a personal endeavour), then there is no reason for reviewing whether there was "reasonable expectation of profit" and the losses should therefore be deductible. If, on the other hand, the rental activity has a personal element, the taxpayer will then have to prove that it was undertaken in a commercial manner (i.e. there was a reasonable expectation of profit). If the taxpayer cannot prove this, then the losses incurred may not be deductible.

**The Federal Department of Finance has issued proposed changes to the Income Tax Act that if enacted would reinstate the "reasonable expectation of profit" test. These rules are still in draft form, and it's expected that changes will be**

**made to the rules before they are finalized. You should contact your tax advisor for more information.**

If you own a rental property that has declined in value, you may be able to recognize the loss by transferring the property to certain related persons. A terminal loss in respect of the building can be deducted against your income from other sources. However, if the rental property includes land, any capital loss on land may be denied.

Whether or not you can recognize a terminal loss will depend on the transferee of the property. Prior to December 1, 1999, a terminal loss could be recognized if you transferred the property to your spouse or to a corporation controlled by you and/or your spouse. Effective for transfers after November 30, 1999, you can no longer recognize a terminal loss if you transfer depreciable property to an affiliated person (such as your spouse or a corporation that you and/or your spouse control). However, it may still be possible to trigger the loss if the transferee is a non-affiliated person, for example a child. Consult your tax advisor to see if this strategy is suited to your particular situation.

### Income Splitting

Income-splitting is a tax planning technique whereby a taxpayer who pays tax at a high rate shifts income to a family member who pays tax at a lower rate. As there are many legislative provisions that serve to prevent

this from happening, you should consult with your tax advisor to ensure that you are aware of the tax consequences of any transfer of income (transfer of property, loan of money, etc.).

Nevertheless, there are still a number of tax planning arrangements that can be used effectively to redistribute income in a family unit. For example:

1. Have your business pay a reasonable salary to your spouse or children.
2. Contribute to a spousal RRSP. You will still get to claim the tax deduction on your tax return.
3. Invest payments received under the Child Benefit System in a child's name. The investment income will be taxable in the child's hands.
4. Share Canada Pension Plan (CPP) income with your spouse or common-law partner.
5. The higher income spouse or common-law partner should assume most or all of the personal household expenses, including tax payments, leaving the lower income spouse or common-law partner with as much income as possible for investment income earning purposes.
6. Transfer or sell assets to family members for fair market value consideration. Any future income earned from these assets will be taxed in their hands. If a loan is received in consideration, reasonable interest must be charged and paid by January 30<sup>th</sup> of the following year. (The minimum interest rate that must be charged is prescribed by the CRA.)
7. The initial income earned on property loaned to a non-arm's length person may be attributed back to the transferor. However, income earned on that income will not be attributed.
8. Create testamentary trusts in your will to split income.
9. Buy capital property with a low yield but high capital gains potential in the names of your minor children. Any income earned will be attributed to you; however any future capital gains will be taxed in your children's hands.
10. Give cash or other assets to adult children. Gifts are subject to a deemed disposition at fair market value.
11. Your spouse or common-law partner and/or children can participate in an incorporated business by owning shares acquired with their own funds. Any dividends or capital gains related to the shares will be taxable in their hands. However, the "kiddie tax" may apply in respect of dividends received by children under the age of 18.
12. Create inter-vivos trusts to provide income-splitting opportunities.
13. Contribute to a Registered Education Savings Plan (RESP). Contributions are not tax-deductible; however the earnings within the plan accumulate on a tax-deferred basis. If your child does not pursue a post-secondary education, the principal you contributed is returned to you; however you may have to forfeit all the earnings. See your investment advisor for more details.

## Pension Income Splitting

Pension income-splitting was introduced for 2007 and subsequent years. If you are receiving income that qualifies for the income tax credit, you will be able to allocate up to one-half of that income to your spouse or common-law partner. To qualify for pension income splitting, the pension income must satisfy certain criteria. If you were 65 years of age or older in 2009, eligible pension income includes lifetime annuity payments under a registered pension plan, a registered retirement savings plan or a deferred profit sharing plan, and payments out of or under a registered retirement income fund. If you were under 65 years of age in 2009, eligible

pension income includes lifetime annuity payments under a registered pension plan and certain other payments received as a result of the death of a spouse or common-law partner. Eligible pension income does not include payments under the Canada Pension Plan (CPP) or Old Age Security (OAS) payments. Your tax advisor can assist you in implementing this planning strategy.

### **Taxation of Capital Gains**

A capital gain occurs when you sell a capital property for more than its original cost. Capital gains receive very favourable tax treatment and are taxed at 50% of the regular tax rate.

With the lower rate of tax on capital gains compared to dividends and interest, now is a good time to review your investment mix with your adviser to determine if you are obtaining the maximum tax effectiveness from your investments.

#### ***Capital Gains Deduction***

The \$100,000 capital gains deduction has been eliminated for gains realized after February 22, 1994. However, you were able to file a special election to utilize this deduction on filing your 1994 personal tax return. If you continue to hold property for which a capital gains election was made, you should continue to monitor the revised cost base or the special tax account so as to consider it when you sell the property.

#### ***Enhanced Capital Gains Deduction***

If you own a qualifying farm property or shares in a qualified small business corporation, you are entitled to a cumulative capital gains deduction. The maximum lifetime deduction is \$750,000 (minus the amount you claimed under the \$100,000 general deduction). You should plan your affairs to maximize the likelihood of benefiting from this deduction. As there

are many potential tax traps and other costs to such a tax planning approach, **professional advice is a necessity.**

If you plan to take advantage of this enhanced deduction, talk to your tax advisor about the applicable related rules dealing with Cumulative Net Investment Loss (CNIL), Allowable Business Investment Loss (ABIL) and Alternative Minimum Tax (AMT).

#### ***Capital Gains Deferral***

Individuals can defer tax on the capital gain if the proceeds from the disposition of a qualified small-business investment are re-invested into an eligible small business investment. The proceeds must be reinvested within 120 days after the end of the year. The cost base of the new investment is reduced by the capital gain deferred.

## Loss Utilization

The realization of losses inherent in assets on hand is still an appropriate year-end tax planning strategy. If you have realized capital gains in 2009 or in any of the three preceding years (that have not already been reduced by losses or your capital gains deduction), consider selling investments with accrued losses before the end of the year. Remember that a disposition of public shares is deemed to take place at the settlement date, which is three business days after the trading date. Capital losses realized in a year can be used to offset current year or future capital gains, or they can be carried back and applied to reduce realized capital gains in the three preceding years (note: generally, capital losses can only be deductible against capital gains). Also, if your spouse or common-law partner has realized a capital gain and you own investments with an unrealized loss (or vice versa), there are ways to transfer the loss to the spouse with the gain. Your tax advisor can assist you in implementing this planning strategy.

## Registered Retirement Savings Plans (RRSPs)

Your RRSP contribution for any given year is based on your earned income for the prior year. Earned income includes salaries, business income, disability pensions under the CPP or QPP, taxable alimony/maintenance received, rental income less losses, and deductible alimony/maintenance paid. Earned income does not include retirement allowances, investment income, capital gains or pension income. Your 2009 income determines your 2010 RRSP contribution limit and to make the maximum contribution of \$22,000 in 2010, you will require earned income of at least \$122,222 in 2009. The maximum amount you can contribute will also depend on whether you are a member of a Registered Pension Plan (RPP) or a Deferred Profit Sharing Plan (DPSP). You

can contribute any amount up to your maximum to an RRSP set up for yourself, your spouse/common-law partner, or a combination of both. To be a beneficiary of a plan you must be under the age of 71 at the beginning of the year. If you are older than this, but you have earned income and your spouse or common-law partner is under 71 at the beginning of the year, you can still make a contribution to his or her plan. You have until March 1, 2010 to make contributions to your RRSP for 2009, however if you turn 71 during 2009, the contribution must be made, and the plan collapsed, by December 31, 2009. For most individuals, this means the RRSP will be transferred into a Registered Retirement Income Fund (RRIF), used to purchase an annuity, or a combination of both. You should speak with your tax advisor to determine which option is best for you.

Contributions to an RRSP do not have to be in the form of cash. For example, you can use qualified investments (at fair market value). As a general rule, you should not transfer investments that have declined in value to an RRSP. There are very complex tax rules around the transfer of investments into an RRSP as well as implications for the eventual disposal of the assets, so consult your tax advisor to see how it might affect you.

### *Additional Planning Points About RRSP*

- If you received an amount on termination of employment that qualifies as a retiring allowance, a special RRSP contribution may be available which is over and above your regular contribution room. The amount that can be transferred is \$2,000 times the number of years you worked for your employer prior to 1996 plus an additional \$1,500 times the number of years you worked for your employer prior to 1989 during which time your employer made no vested contributions

to a registered plan on your behalf.

This additional contribution must be made to your plan and cannot be made to your spouse or common-law partner's plan.

- You can over-contribute to your RRSP – within limits – without having to pay a penalty tax. In general, the cumulative amount you can over-contribute to your plan is \$2,000.
- If you are a member of an RPP or a DPSP and you leave before retirement or terminate your participation in the plan, your RRSP contribution limit may be increased by a pension adjustment reversal (PAR). The PAR is intended to restore lost RRSP contribution room in the event that your pension entitlement or the termination benefit under the RPP or DPSP is less than the foregone RRSP contribution room. The PAR is generally added to your contribution room for the year that you leave.
- A penalty tax used to apply if the foreign property in your plan exceeded 30%. The 2005 federal budget introduced rules that no longer restrict the amount of foreign investments you can hold in your RRSP. This change applies for 2005 and subsequent years.

### **The Home Buyers' Plan (HBP) - Using Funds in your RRSP**

You and your spouse or common-law partner can each "borrow" up to \$25,000 tax-free from your respective RRSP's to use to purchase a home in Canada, provided you are both first-time buyers. You are considered a first-time buyer if, during the four calendar years prior to the year of withdrawal and up to 30 days before the withdrawal, neither you nor your spouse or common-law partner owned a home in which either of you resided.

If you contribute an amount to your RRSP, you cannot make a HBP withdrawal within

90 days of that contribution, or your ability to claim a deduction for that contribution may be restricted. You have until October 1 of the year following the withdrawal to complete the acquisition of the home or a substitute. If you fail to acquire a home by October 1 of the next year, you must return the borrowed funds to your RRSP by December 31 of that year to avoid a penalty.

The money you borrow must be returned to your RRSP in annual installments over 15 years, commencing in the second year following the year of the withdrawal. If the required repayment is not made, an amount will have to be included as income in the year of the shortfall. However, you may choose to repay more than the minimum annual amount, in which case, there will be less to repay over the remainder of the 15 year period, therefore reducing the repayment amount for subsequent years.

The Home Buyers' Plan can be used more than once in a lifetime. To participate in the program a second time the full amount previously withdrawn must be paid back into your RRSP before the beginning of the given year in which you wish to participate a second time and you must still qualify as a first-time buyer.

### **The Life Learning Plan (LLP)- Using Funds in your RRSP**

You can make a tax-free RRSP withdrawal to finance full-time training or education for you or your spouse or common-law partner. Withdrawals are limited to \$10,000 per year, over a period of up to four calendar years, and are subject to a cumulative total of \$20,000.

To qualify, you or your spouse or common-law partner must be enrolled or committed to enroll as a full-time student in a qualifying education program – which must be at least three months in duration – at a

designated educational institution. The full-time criterion is dropped for disabled students.

Withdrawals must be repaid to the RRSP over a maximum 10-year period starting in the year after the last year that the qualifying individual was enrolled as a full-time student. However, the repayments must commence no later than the sixth year after the initial withdrawal, even if full-time enrolment continues. If the required repayment is not made, an amount will have to be included in income.

Contact your tax advisor to discuss whether you or your spouse or common-law partner would qualify under the HBP or LLP programs.

## **Tax-Free Savings Account (TFSA)**

One of the more popular announcements in the 2008 federal budget was the introduction of a new Tax-Free Savings Account. Starting in 2009, every Canadian resident individual (other than a trust) who is 18 years of age or older is able to contribute up to \$5,000 a year (indexed for inflation) to a TFSA. A TFSA will generally be permitted to hold the same investments as an RRSP. However, it will be prohibited from holding investments in any entities that you do not deal with at arm's length, such as shares in a corporation you control.

Unlike RRSP's, you will not obtain a deduction for contributions to a TFSA in calculating income for tax purposes. However, you will not include in income for tax purposes any income, losses or gains from investments held within a TFSA, or amounts withdrawn from it. Further, the amounts withdrawn from a TFSA will also not be included in determining your eligibility for income-tested benefits or credits, such as the age or

medical credit or OAS clawback.

If you do not contribute to a TFSA in one year, the amount can be carried forward indefinitely to future years. Interest on money borrowed to invest in a TFSA will not be deductible. Excess contributions will be subject to a tax of 1% per month.

The Department of Finance has proposed amendments to overcome deliberate over-contributions over a short period of time sufficient to outweigh the cost of the 1% per month over-contribution penalty tax. Proposed amendments will tax deliberate over-contributions at a 100% tax rate.

This new plan can prove to be a worthwhile savings vehicle and can also provide you with some interesting opportunities to manage your retirement income. Your tax advisor can assist you in determining what savings vehicle is the best option for you, given your particular circumstances.

## **Tax Rates**

Effective January 1, 2009, the federal income tax rates and income thresholds are as follows:

- 15% will apply to income up to \$40,726.
- 22% will apply to income between \$40,727 and \$81,452.
- 26% will apply to income between \$81,453 and \$126,264.
- 29% will apply to income earned in excess of \$126,265.

Effective January 1, 2009 the Ontario income tax rates and income thresholds are as follows:

- 6.05% will apply to income up to \$36,848.
- 9.15% will apply to income between \$36,849 and \$73,698.
- 11.16% will apply to income earned in excess of \$73,699.

Ontario also has a surtax of 20% which applies to Ontario tax in excess of \$4,257 and a surtax of 36% which applies to Ontario tax in excess of \$5,370.

An Ontario health care premium also applies to individuals who are residents of Ontario on the last day of the year. The premiums and income thresholds for 2009 are as follows:

- \$0 for taxable income up to \$20,000.
- Up to \$300 for taxable income from \$20,001 to \$36,000.
- \$300 to \$450 for taxable income from \$36,001 to \$48,000.
- \$475 to \$600 for taxable income from \$48,001 to \$72,000.
- \$625 to \$750 for taxable income from \$72,001 to \$200,000.
- \$775 to \$900 for taxable income from \$200,001 to \$200,600.
- \$900 for taxable income over \$200,600.

The premium will be computed when you file your tax return.

## Non-Registered Mutual Fund Investments

It is important to consider the timing of the sale or purchase of a non-registered mutual fund. If you're considering a purchase, you may want to defer the purchase until early 2010. Most mutual funds distribute income and capital gains once a year, around mid-December. If you purchase units of a mutual fund just prior to a distribution, you will be allocated a full share of the fund's income and capital gains for that year. Deferring the purchase until January 2010 will ensure that you won't have to report any income for 2009. Alternatively, if you are thinking about selling units of a non-registered mutual fund, you should sell them before the distribution date (again, usually around mid-December). By selling your mutual funds before this time, you avoid receiving the income distribution and instead realize a capital gain or loss.

## Mutual Fund Corporations

The comments above relate to investments in mutual fund trusts. A mutual fund corporation is structured with multiple classes of shares, each of which has a value that tracks a particular portfolio of securities. For example, one class of shares may track a fixed income portfolio while another class of shares may track an equity portfolio. Investors can therefore choose which classes of shares to purchase, much like choosing which units of a normal mutual fund trust to purchase. One of the key tax differences between a mutual fund trust and a mutual fund corporation is the timing of the taxation of a sale of the investment. When you sell a unit of a mutual fund trust, you will realize either a capital gain or loss on the sale. On the other hand, each class of shares of a mutual fund corporation can be converted into any other class of shares of the corporation without triggering a capital gain or loss. A capital gain or loss from shares of a mutual fund corporation is only triggered when the investor sells his or her class(es) of shares of the corporation (i.e. does not switch them for shares of another class of the corporation). This deferral of tax allows an investor to switch between investment objectives (e.g. fixed income to equity, or Canadian equity to International equity, etc.) without any immediate tax consequences. You should consult with a professional investment advisor to determine if an investment in a mutual fund corporation is appropriate for you.

## Interest Income

Interest earned on investments made after 1989 must be reported on an annual basis, regardless of when the interest is actually paid. If you will soon acquire or roll over a short-term investment such as a GIC or a Treasury Bill, consider arranging for a maturity date early in 2010. This will allow you to defer the reporting of the interest income until 2010.

## Interest Deductibility

In general, interest is deductible from income for tax purposes provided it is incurred on money borrowed to earn business or property income (other than capital gains). Remember: borrow the maximum amount for business and investment purposes, borrow as little as possible for personal reasons, and always repay loans on which interest is non-deductible (i.e. on personal debt) before you repay those on which interest is deductible.

## Foreign Spin-offs

If you received common shares of a foreign corporation (“spin-off shares”) from another foreign corporation in 2009, the value of the shares received is generally taxed as foreign dividend income.

However, you may be able to make a special election to avoid being taxed on the foreign source dividend on otherwise taxable distributions received after 1997. To qualify for the deferral, the distribution of shares must be made by a widely held and actively traded U.S. public corporation. In addition, U.S. tax law must also provide for a tax deferral to the distributing corporation and its U.S. resident shareholders. (Note: spin-off shares received from other foreign corporations, other than U.S. corporations, may also qualify for the deferral; however it must be approved on a case-by-case basis by CRA.) For qualifying distributions in 2009, the election must be made by including a letter with your tax return for the year. If the election is made, there is a cost base adjustment to the original and the spin-off shares based on their relative fair market values. Your tax adviser can assist you in determining if you qualify to make this election.

## Old Age Security (OAS) Claw-back

The claw-back tax will apply if your net income for 2009 is greater than \$66,335. The amount you have to repay is 15% of the amount by which your net income exceeds \$66,335 but not exceeding the amount of OAS you have received. This tax is based on individual, rather than family, net income so its impact can be reduced or eliminated by lowering your individual net income (for example, if you are in position to control the receipt of your income and/or see Income Splitting above).

The CRA collects the claw-back tax by withholding a portion of your monthly OAS payment. When you file your 2009 tax return, a calculation of the claw-back tax will be made based on your actual net income for the year. If too much was withheld, you will get credit for it. If not enough was withheld, you will have to pay the difference. If you are just over the \$66,335 claw back threshold and your spouse or common-law partner’s net income is below it, consider splitting your CPP benefits or qualifying pension income with your spouse or common-law partner if that will bring your net income below the limit. If you received OAS in 2009 and do not file a tax return, CRA may ask you to do so. Failure to comply with this request may result in the entire OAS payment being withheld.

## Age Tax Credit

If you are 65 or older, you may be eligible to claim an age tax credit. This credit results in a combined federal and Ontario tax savings of about \$1,224 (but will vary depending on your province of residence). The credit is geared to income, starting with a reduction of 15% of the amount by which your income exceeds \$32,312. Thus, once your income exceeds \$75,032, your age credit will be fully eliminated.

This credit can be transferred between spouses or common-law partners. Entitlement to this credit is based on individual income, so you should talk to your tax advisor about ways of keeping your income below the threshold.

### **Pension Income Tax Credit**

If you are 65 or older, you are entitled to a non-refundable tax credit on up to \$2,000 of eligible pension income. This credit results in a combined federal and Ontario tax savings of about \$374 (but will vary depending on your province of residence). Eligible pension income does not include OAS, CPP, or Guaranteed Income Supplement payments. If you are under 65 years of age, only certain payments are eligible for the credit. This credit can be transferred between spouses or common-law partners. Consult your tax advisor to determine the types of payments that qualify, and whether you can transfer some of your unused credit to your spouse or common-law partner.

### **Medical Expense Tax Credit**

Medical expenses in excess of the lesser of \$2,011 and 3% of your net income that were paid in any twelve month period ending in 2009 are eligible for a non-refundable tax credit. The federal credit is 15% and the Ontario credit is 6.05%, for a combined credit of 21.05%. The provincial credit amount varies by province.

Medical expenses can be claimed for yourself, your spouse or common-law partner and for certain other related persons. Therefore, you should time your payment of major medical expenses to maximize the available tax credit.

The list of eligible medical expenses is extensive and includes:

- Payments to medical practitioners, dentists or nurses, or to public or

licensed private hospitals in respect of medical or dental services provided to the patient.

- Payments for eyeglasses or devices for the treatment or correction in vision, lab tests and dentures, where these have been prescribed by a medical practitioner or dentist
- Payments for drugs and medication where these are prescribed by a medical practitioner or dentist and recorded by a pharmacist
- Premiums paid by the taxpayer to private health services plans
- Payments for real-time captioning services or for sign-language interpretation services, to the extent that the payment is made to a person in the business of providing such services.
- Costs of voice-recognition software, provided the need has been certified in writing by a medical practitioner
- Additional costs related to the purchase of gluten-free food products compared to the cost of comparable non-gluten-free food products for a patient who has celiac disease, provided it has been certified in writing by a medical practitioner.
- Premiums (including deductible and co-insurance portion) under a provincial drug insurance plan.
- Reasonable supplemental expenses for the construction of a principal resident considered necessary to enable a person with a serious, prolonged mobility impairment to gain access to this residence or to be mobile or functional within it.
- Reasonable expenses for renovations or alternations to a dwelling to enable a person who has a severe and prolonged mobility impairment to gain access to or to be mobile or functional within the dwelling.
- Amounts paid for a full-time attendant or for full-time care in a nursing home for a disabled person who is entitled to the disability credit. This may also apply to seniors who are entitled to the

disability credit or who live in a retirement home.

- Amounts paid as remuneration for the care and supervision of a person eligible for the disability credit who resides in a home exclusively for such persons.
- Payments for transportation (e.g. taxicabs and trains) or reasonable expenses for a private vehicle for transportation to and from a hospital, clinic or doctor's office, provided the patient has traveled a distance in excess of 40km to obtain medical services not otherwise available nearer to home. The expenses for a private vehicle can be calculated using the detailed method i.e., prorating the total expenses such as fuel, oil, license fee, insurance and maintenance and repairs based on the mileage for medical purposes over total mileage for the year. All of the receipts for expenses must be kept. Alternatively, the simplified method of calculating vehicle expenses can be used by multiplying the number of eligible medical km by the allowance rate set by the CRA which varies by province (see the CRA website). For Ontario, the rate is 55.5 cents per km.
- Reasonable travel expenses (e.g. meals and accommodation) incurred to obtain medical services at a location that is at least 80 km away from the locality where the patient lives, provided it has been certified in writing by a medical practitioner. For meal expenses, you can keep all receipts and claim the actual amount. Alternatively, you can claim a flat rate of \$17 a meal, to a maximum of \$51 per day, per person without receipts.

This list is not all-inclusive. The government is continually amending the list of expenses that qualify for this credit. You should contact a tax advisor to ensure that you are maximizing your medical expense claim.

Expenses reimbursed by either your employer or a private or government-

sponsored health care plan cannot be claimed as medical expenses.

**Remember that the premiums you pay for coverage under the RTO/ERO health plans are considered medical expenses for the purposes of the tax credit. This includes insurance taken out for foreign travel. These amounts may be significant and should not be overlooked.**

### RTO/ERO Membership Fees

Our auditors have provided the following response to the question of RTO/ERO membership fees being tax deductible:

**“Membership in the RTO/ERO entitles the members to access a number of potential benefits/group plans, one of which is health insurance coverage. Based on this fact and our review of the legislation and other available information relating to the deductions of dues and other expenses of performing employment duties, and the definition of qualifying medical expenses tax credit, we are of the opinion that the membership fees paid to RTO/ERO are not eligible for deductions as ‘dues’ or to be claimed as ‘medical expenses’ for purposes of the medical expense tax credit.”**

Members may require receipts for a variety of reasons. RTO/ERO will, therefore, continue its practice of issuing a membership fee receipt **on written request.**

### Disability Supports Deduction

If you are entitled to claim the disability amount, you may deduct from your income expenses paid for attendant care. This attendant care must allow you to earn income from employment or self-employment or to take an occupational training course for which you receive a training allowance. The deduction is

limited to 2/3 of earned income which is basically salary and business income.

Although subject to certain limitations, this deduction may also be a medical expense for purposes of the medical expense tax credit even if you are not earning income. The maximum annual amount that can be claimed is \$10,000 (\$20,000 in the year of death).

As of 2004, the deduction under this provision also includes amounts paid for certain disability supports (for example, sign-language interpreters and talking textbooks), which will allow the costs of such supports to be deducted from income if they are incurred for education or employment purposes. Any expenses claimed under this deduction will not be eligible for the medical expense tax credit.

The 2005 federal budget further expanded the list of expenses that qualify for this deduction to include job coaching services, reading services and deaf-blind intervening services. In addition, Bliss symbol boards, Braille note takers, page turners and devices and software designed to enable a disabled person to read print will also be eligible for this deduction where the need for the device or software is certified by a medical practitioner.

### **Refundable Medical Expense Supplement**

A refundable medical expense supplement is also available to eligible individuals who have business or employment income of at least \$3,116. The refundable credit is 25% of medical expenses that qualify for the regular medical expense tax credit and 25% of the disability support deduction up to a maximum of \$1,067 for the 2009 tax year. It is reduced by 5% of the taxpayer's (and spouse or common-law partner's) income in excess of \$23,633. This credit is in addition to the non-refundable tax credit for medical expenses.

### **Disability Tax Credit**

Individuals suffering from a severe and prolonged mental or physical impairment can claim a federal disability tax credit of \$7,196. If the disabled person is a child under 18 years of age, there is an additional supplement of \$4,198, for a total disability amount of \$11,394. To qualify, a doctor must certify on Form T2201 that there exists a severe and prolonged impairment that "markedly restricts" the individual's daily living activities. The impairment must have lasted, or can reasonably be expected to last, for a continuous period of 12 months.

The 2005 Federal budget extended the ability to claim the disability credit in the following situations:

- Individuals who would be markedly restricted but for therapy administered to them at least three times each week for a total duration averaging not less than 14 hours a week in order to sustain one of their vital functions – for example, individuals on kidney dialysis and cystic fibrosis sufferers.
- Individuals with multiple restrictions where the cumulative effect is to result in a marked restriction in a basic activity of daily living.

The disability credit cannot be claimed if you or anyone acting on your behalf has claimed a medical expense credit relating to a full-time attendant or nursing home care. However, you may claim the attendant care deduction and the disability credit at the same time, as long as no additional attendant or nursing home claim has been made on behalf of the same taxpayer. To confuse this issue even further, the disability tax credit can also be claimed where an amount is claimed as a medical expense for attendant care (to a maximum of \$10,000 per year).

The rulings relating to this area of credits are exceedingly complex and often confusing. Before filing a return, it is

recommended you have a tax adviser analyze your particular circumstances to come up with the appropriate claim or combination of claims.

## Registered Disability Savings Plan (RDSP)

The RDSP was initially announced as part of the 2007 federal budget, to be effective for 2008 and subsequent years. The intent of the plan is to improve the financial security of children with severe disabilities. To establish an RDSP for a particular person, that person must be eligible for the Disability Tax Credit (as detailed above).

The plan will operate similar to a RESP. Contributions to the plan will not be deductible, but the income on the amounts contributed will accrue on a tax-deferred basis. When the amounts are finally paid out of the plan, only the investment income earned in the plan will be taxed in the beneficiary's hands. Payments will be required to commence by end of the year in which the beneficiary reaches 60 years of age. Amounts paid out of an RDSP will not be taken into account for the purposes of calculating income-tested benefits.

Contributions to a RDSP will be limited to a lifetime maximum of \$200,000 for each beneficiary, with no annual limits. Contributions will be permitted until the end of the year in which the beneficiary reaches 59 years of age.

The RDSP contributions will qualify for a Canada Disability Savings Grant (CDSG) at matching rates of 100%, 200%, or 300%, depending on family net income and the amount contributed, subject to a lifetime limit of \$70,000. An RDSP will be eligible to receive a CDSG until the end of the year in which the beneficiary reaches 49 years of age.

In addition, a Canada Disability Savings Bond (CDSB) of up to \$1,000 will be paid

annually to the RDSP's of low- and modest-income beneficiaries and families, subject to a lifetime limit of \$20,000.

As with the Disability Tax Credit, the exceptions and rulings relating to this area are exceedingly complex. It is recommended you have a tax adviser analyze your particular circumstances to help determine if your dependant qualifies for an RDSP.

## Caregiver Tax Credit

This credit is available if you reside with and provide in-home care for a parent or grandparent who is 65 years of age or older. The age restriction is removed if the relative is dependent on you by reason of mental or physical infirmity. The credit amount is \$4,198 but is reduced on a dollar-for-dollar basis by the amount of the dependent's income that exceeds \$14,336. Therefore, no credit will be available if the dependent's income exceeds \$18,534. The availability of this credit will also depend on whether some other credits have been claimed in respect of this dependent. Contact your tax advisor to determine whether you qualify for this credit.

## Charitable Donations Tax Credit

The charitable donations federal tax credit is calculated as 15% of the first \$200 of donations and 29% of the balance in excess of \$200. You will also receive a similar provincial tax credit. However the rate of the credit will vary depending on your province of residence. It is suggested that you channel donations through one family member so that the maximum credit can be gained. Donations do not have to be in the form of cash. For example, a donation of a life insurance policy to a registered charitable organization may qualify as a credit provided certain conditions are met (the tax rules dealing with this type of donation are complex, seek professional advice before making such a donation). If

you donate capital property to a charity, you can establish the amount of the gift to be any amount between the cost and the fair market value of the property (this may result in a capital gain). Capital gains realized on gifts of publicly-traded securities, such as shares, bonds and mutual fund units, listed on certain stock exchanges before May 2, 2006, are taxed at one-half of the normal capital gains tax rate, but capital gains realized on gifts after May 2, 2006, the taxable portion of the gain is reduced to nil. There are similar rules to provide preferential tax treatment where you exercise a stock option in order to donate shares to a charity. Capital gains realized on gifts of certified Canadian cultural property are exempt from tax.

Unused claims can be carried forward for up to five years, and back one year for donations made in the year of death. The annual limit on the amount of charitable donations eligible for the donation credit is 75% of net income and 100% of net income for gifts by individuals in the year of death (and prior year). In addition, there are special rules to increase the 75% limit where you gift appreciated capital property to a charity. Consult with your tax advisor before making non-cash donations.

### **Political Contributions Tax Credit**

Contributions to federal registered political parties generate a federal tax credit for 2009 as follows: 75% of the first \$400, 50% on the next \$350, and 33.33% of any contribution over \$750 up to \$1,275. The maximum credit allowed is \$650, which means that you do not receive credit for political contributions over \$1,275 and the credit cannot be carried forward to another year for future use. Therefore, consider spreading your contribution over two or more years. Or, you could split the contribution with your spouse or common-law partner. A \$500 political contribution

by each spouse will generate a total tax credit of \$700, while one \$1,000 contribution by one spouse will only generate a tax credit of \$558. Some provinces provide similar credits against provincial income taxes for contributions made to provincial political parties. To claim the credit, you must attach a copy of the receipt to your return.

### **Home Renovation Tax Credit (HRTC)**

The 2009 federal budget introduced a temporary 15% non-refundable home renovation tax credit for certain eligible expenditures made after January 27, 2009 and before February 1, 2010 with respect to a taxpayer's principal residence. Eligible expenditures include amounts incurred for labour, material, equipment rentals and permits in relation to a renovation or alternation of an eligible dwelling provided the expenditures are on personal-use areas of the residence.

The credit will apply to expenditures in excess of \$1,000 but not more than \$10,000, resulting in a maximum credit of \$1,350. The credit will apply only to the 2009 taxation year and will be claimed on your 2009 income tax return (including expenditures made in January 2010). The claim must be supported by receipts.

Contact your tax advisor, or the CRA website, to determine if your expenditures are eligible.

### **Public Transit Tax Credit**

If you and your family members rely heavily on public transit throughout the year, this tax credit can provide substantial tax savings. The cost of eligible travel on a local bus, streetcar, subway, commuter train, commuter bus or ferry qualifies for this non-refundable tax credit. It can be

claimed by you or your spouse or common-law partner for eligible transit costs incurred by you, your spouse or common-law partner and any dependant children under 19 years of age. If you want to make a claim for this credit, you must save your receipts to support the claim. There is no maximum limit to the amount that can be claimed. Contact your tax advisor, or the CRA website, to determine whether your transit passes are eligible to qualify for this credit.

### **Children's Fitness Tax Credit**

If you have children under the age of 16, effective 2007 and subsequent years, you may claim a credit for up to \$500 of eligible fitness expenses for each of your children who are under 16 at the beginning of the taxation year. In order to qualify for the tax credit a program must be:

- ongoing (either a minimum of eight weeks duration with a minimum of one session per week or, in the case of children's camps, five consecutive days);
- supervised;
- suitable for children; and
- substantially all of the activities must include a significant amount of physical activity that contributes to cardio-respiratory endurance plus one or more of: muscular strength, muscular endurance, flexibility or balance.

You should either receive, or ask for, a receipt from organizations providing eligible programs of physical activity in which your child is enrolled. The organizations will determine the part of the fee that qualifies for the tax credit. Speak to your tax advisor to determine if your child's activity is an eligible program.

### **Universal Child Care Benefit**

The Universal Child Care Benefit (UCCB) is a benefit paid to all families with eligible children, regardless of the family's income level. Families are entitled to a childcare allowance of \$100 per month for each child under six years of age. This allowance will be taxable in the hands of the lower-income spouse or common-law partner. Ask your tax advisor for further details on how to obtain the UCCB payments.

### **Child Tax Credit**

For 2009, a non-refundable tax credit equal to \$2,089 per child under the age of 18 at the end of the taxation year can be claimed by parents whose child resided with them throughout the year. Either parent may claim the tax credit and any unused portion may be transferred to the claiming parent's spouse or common-law partner. Given the current minimum federal tax rate of 15%, this new credit would equate to a \$313 federal income tax savings per child.

### **Northern Residents Deduction**

To qualify for the northern residents deduction, you must have lived, on a permanent basis, in a prescribed northern or intermediate zone for a continuous period of at least six consecutive months. This period can begin or end in the taxation year.

All places in the Yukon, Nunavut, and the Northwest Territories are located in a prescribed northern zone. Some places in the provinces of Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Quebec and Saskatchewan can also be included in a prescribed northern zone or in a prescribed intermediate zone. For a complete list of places in prescribed zones, please refer to form T4039.

The deduction is equal to \$8.25 per day of residence in the prescribed northern zone or

\$4.12 per day of residence in the intermediate zone. The deduction is calculated on Form T2222.

The deduction is doubled for any part of the period during which the taxpayer maintained a self-contained domestic establishment and no other person residing in that establishment claimed the northern resident's deduction.

The maximum deduction that you may claim is limited to 20% of your net income for the year.

### **Senior Homeowners' Property Tax Grant**

In addition to the current property tax credit for Ontario residents, in 2008 Ontario introduced a new property tax grant to seniors with low and moderate incomes who own their own homes. This new grant is available starting in 2009. The maximum grant for 2009 is \$250, increased to \$500 for 2010 and subsequent years.

The maximum grant will be available to single seniors in Ontario with an annual income up to \$35,000 (proportionately reduced for seniors with income between \$35,000 and \$50,000). The maximum grant will be available to senior couples in Ontario with annual combined income of up to \$45,000 (proportionately reduced for couples with income between \$45,000 and \$60,000).

Ontario seniors who own their own home will apply for this grant when they file their 2009 and subsequent income tax returns. Speak to your tax advisor to determine if you qualify for the grant.

### **Tax Installments and Withholding Taxes**

If you are required to make quarterly tax installments, you should review your

expected 2009 tax liability before remitting your final installment (which is due December 15, 2009). This will be especially important if you had unusual income inclusions in the previous year or you expect increased deductions this year. The current rate of interest charged by CRA on late or deficient income tax payments is 5%. This rate is subject to change each quarter.

### **Alimony and Maintenance**

Rules regarding alimony and maintenance payments changed significantly as of May 1, 1997. Periodic spousal support payments continue to be taxable to the recipient and deductible by the payer, provided certain conditions are met. For new or varied child support agreements made after April 30, 1997, the recipient will not pay tax on the payments and the payer will not receive a tax deduction for them. If the agreement or order does not identify an amount as being solely for the support of a spouse or common-law partner, it will be treated as child support. Similarly, any third-party payments that are not clearly identified as being solely for the benefit of the spouse or common-law partner will be treated as child support.

Generally, the rules remain unchanged for alimony and maintenance payments made pursuant to a written separation agreement or court order in place before May 1, 1997. These amounts are deductible for tax purposes if they meet certain criteria. Also, if the person making the payments is allowed to deduct them, the person receiving the payments must include the amounts in income. The new rules can be applied to orders or agreements made prior to May 1, 1997, but a tax advisor should be consulted, as filings with CRA will be required.

## Foreign Reporting Requirements

As a resident of Canada, you are required to report your worldwide income on your Canadian tax return, even if the offshore investment vehicles rely on the fact that your interest is unknown to Canadian authorities. You may also be required to file an information return if you have transferred or loaned funds or property to a foreign-based trust, received funds or property from or are indebted to a foreign-based trust, or have a foreign affiliate.

If you own certain foreign property (shares, bank accounts, real property, etc.) with a combined cost in excess of \$100,000 (Canadian), you must report and provide details on such holdings using a CRA prescribed form by the due date for filing your income tax return for the year.

Failure to file the required forms or to disclose the required information may result in substantial penalties. Therefore, if you have foreign investments, contact your tax advisor to ensure that you are reporting as required.

## Foreign Investment Entities and Non-resident Trusts

In 2005, there were further changes to the draft income tax legislation that deals with Foreign Investment Entities and Non-Resident Trusts. These new rules are very complex and far reaching. The following is a brief and general overview of the rules; however, you should contact your tax advisor to discuss if the new foreign investment entity rules or the non-resident trusts rules apply to you.

### *Foreign Investment Entity Rules*

The Foreign Investment Entity rules require Canadian taxpayers to include an amount in their taxable income to reflect the accrued income or gain in the value of certain

foreign entities in which they hold an interest. These rules apply to individuals, corporations and trusts and are generally effective for taxation years beginning after 2002.

As noted above, the rules are very extensive and rely on a number of definitions. Generally the rules will apply if the taxpayer (other than an exempt taxpayer) holds a participating interest in a non-resident entity that is a foreign investment entity unless the participating interest is an exempt interest. These rules only apply if the interest is owned at the end of the taxation year.

It is not possible to provide you with a complete list of the types of entities to which these rules may apply. However, the following examples provide you with a general outline of the types of entities that could be caught by these rules. If you have an ownership interest in any of these types of investments, consult with your tax advisor to determine if the rules apply in your situation.

Examples of assets to which the Foreign Investment Entity Rules may apply:

- Foreign mutual funds (although most will be exempt if widely held and income is paid out within 120 days of year end).
- Foreign insurance policies.
- Shares in a private company resident in a foreign country.
- Shares of a Canadian company convertible or exchangeable for shares of a foreign company.
- Foreign retirement plans or foreign pension plans.
- Stock options and other rights to acquire an interest or shares in a foreign entity.
- Beneficiary of a foreign personal trust (inter-vivos or testamentary).

- Interest in a foreign partnership (with a special “look-through” rule).

The rules contain a number of exemptions so even though you may own an interest in one of the investments noted above, you may not be subject to the Foreign Investment Entity rules. It is only through a careful review of your particular situation that the impact of the new rules can be confirmed.

#### ***Non-Resident Trust Rules***

The Non-Resident Trust rules will tax certain foreign trusts in the same manner as Canadian resident trusts. These rules are also effective for trust year ends commencing after 2002. These rules apply to certain trusts which are resident in a foreign country and can be inter-vivos or testamentary trusts, discretionary or non-discretionary trusts. These rules are very complex. If you have an interest in a foreign trust, either as a trustee, contributor or beneficiary, a careful review of the proposed legislation should be undertaken.

### **Canada/U.S. Tax Issues**

#### ***If you Own U.S. Real Estate***

For Canadian residents who receive rent from U.S. real estate, a U.S. withholding tax of 30% normally applies to the gross amount of the rent. As an alternative, you can elect to pay tax on a net income basis. In this case, you must file a U.S. tax return at the end of the year, reporting your net rental income. By making this election with the Internal Revenue Service and providing the appropriate information to the tenant, the 30% withholding tax is not required. Once you make this election, it is permanent and can only be revoked in limited circumstances.

Many people assume that because their expenses always exceed their rental income, there is no need to file a U.S. tax return or to have U.S. tax withheld at

source. However, if tax is not withheld at source, a tax return must be filed within 19½ months of the year-end if you want to claim expenses. Failure to do so may mean that you will not be entitled to claim any deductions and tax will be assessed on the gross income. As the rules are very complex, you should seek professional advice if you own a U.S. property that you use personally and also rent for part of the year.

#### ***U.S. Citizens Living in Canada***

The United States taxes its citizens and permanent residents, and green card holders on their worldwide income, whether or not they live in the U.S. As a result, if you are a U.S. citizen or green card holder living in Canada you may be required to file a tax return under both systems. A return that is never filed is never statute barred meaning the U.S. can demand that a return be filed.

Since the two tax jurisdictions contain important differences, you should not assume that a foreign tax credit can be claimed to eliminate any U.S. tax liability.

#### ***U.S. Estate Tax***

Canadian residents who own certain U.S. property such as real estate, shares of U.S. companies, tangible personal property located in the U.S. and debts issued by U.S. residents, including the government, may be subject to U.S. federal estate tax liability on death. U.S. estate tax applies on the fair market value of the U.S. property on the date of death. If you own or are planning to buy U.S. property, you should consult your tax advisor to review your exposure to this tax. There are strategies available to defer, reduce or eliminate this potential liability.

#### ***U.S. Residency Regulations***

If you spend a considerable amount of time in the U.S. each year, you should contact your tax advisor to ensure that you are complying with U.S. residency rules. You may find that you are required to fill out a

special declaration (the “Closer Connection Exemption Statement”) in order to be exempt from paying U.S. taxes.

Under current rules, U.S. social security benefits received by residents of Canada are only subject to tax in Canada. The U.S. will not tax these benefits. The full amount of the benefits received will be included in your Canadian net income, but 15% of that amount will be deductible in computing taxable income. As a result, only 85% of the benefits received in a year will be subject to tax in Canada.

*U.S. Social Security Payments*

**CAUTION: The information contained in this document comprises tax tips only and should not be considered as tax advice. RTO/ERO assumes no liability for the outcomes that may result from persons using the contents of these tips in their tax planning. Persons using this information for tax planning are cautioned that the full application of these tax tips is best done with the advice of their tax advisor. Neither RTO/ERO nor its employees or agents are tax advisors.**

This document was prepared for RTO/ERO by Grant Thornton LLP. Grant Thornton LLP is a Canadian Member of Grant Thornton International Ltd.

Permission is granted to reproduce this document.

Inquiries: Tel: 416 962 9463 or 1 800 361 9888  
Fax: 416 962 1061  
ltimms@rto-ero.org

Tax Tips is also available at our website: [www.rto-ero.org](http://www.rto-ero.org)

To get more information, you can also visit the Canada Revenue Agency website at <http://www.cra-arc.gc.ca>