

TAX STRATEGIES FROM **KURT ROSENTRETER** CHARTERED ACCOUNTANT



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2014 TAX PLANNING TIPS FIRST QUARTER

TAX TICKLERS... some quick points to consider...

- Make your RRSP contributions by March 3, 2014 to ensure the amount is deductible for the 2013 calendar year.
- Certain rules regulate the degree charities can participate in political activities. Is your charity onside? See www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltcl-ctvts/menu-eng.html.
- Are you a US Citizen, Resident or Green Card Holder? Information exchange and U.S. filing requirements have many implications and procedures to consider.

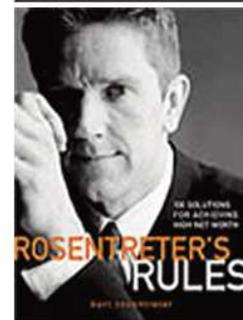
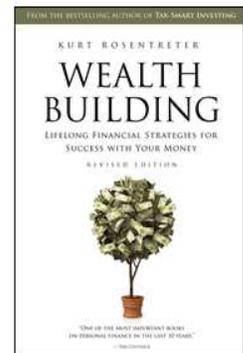
MEDICAL EXPENSES: Travel Costs

An individual can generally claim reasonable travel costs incurred for medical purposes as a medical expense only where substantially equivalent medical services are unavailable where the taxpayer resides. The following two Technical Interpretations discuss the Canada Revenue Agency's (CRA's) position on this matter.

In an April 5, 2013 Technical Interpretation, CRA considered whether initial travel costs incurred to participate in a foreign medical experimental drug research project and subsequent foreign travel costs after the drug became available in his locality would be considered a valid medical expense.

When the drug became available in Canada, the taxpayer's Canadian doctor advised the taxpayer to continue monitoring with the foreign doctor who had more expertise with the taxpayer's condition and the specific drug. CRA agreed that the reasonableness test was likely met even though medical services were available in a closer location, and would be considered a medical expense. In another April 5, 2013 Technical Interpretation, CRA discussed a scenario where, even though medical services were provided by local medical practitioners, the taxpayer was unable to secure the services of a local practitioner due to a shortage of medical practitioners. CRA indicated the fact that services were not being available was sufficient to support a claim for medical travel. In this case, the taxpayer's claim for travel to his previous residence to continue receiving treatment from his previous doctor in that area would meet the medical expense requirements.

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MEDICAL EXPENSES: Can Renovations be Claimed?

In a September 13, 2013 Tax Court of Canada case, the taxpayer's claim for amounts paid to install engineered hardwood flooring as a medical expense was denied by CRA. The engineered hardwood replaced fairly new carpet in the taxpayer's five year old home on the advice that her husband, who suffers from progressively debilitating Parkinson's disease and psoriatic arthritis, was at serious risk of the carpet causing a fall.

There was no dispute that the new flooring would enable the Appellant's husband to be more mobile and functional within the dwelling. However, in order to claim a medical expense, the law also requires that the expense:

- (i) not typically be expected to increase the value of the dwelling; and
- (ii) not normally be incurred by persons who have normal physical development or who do not have a severe and prolonged mobility impairment.



CRA argued that the engineered hardwood flooring had to be excluded under both requirements.

Taxpayer wins

The Court was satisfied with the evidence that modestly priced engineered hardwood flooring, as opposed to solid hardwood flooring, would not typically increase the value of the property, especially when replacing fairly new, quality carpet in only a portion of the home. The Court further concluded that the taxpayer "only put in what was necessary" and that this expense would not normally have been incurred in the absence of the medical need. As such, the expense was allowed.

MARITAL STATUS: Am I married?



In an October 3, 2013 CRA Release (Marital Status), CRA noted that:

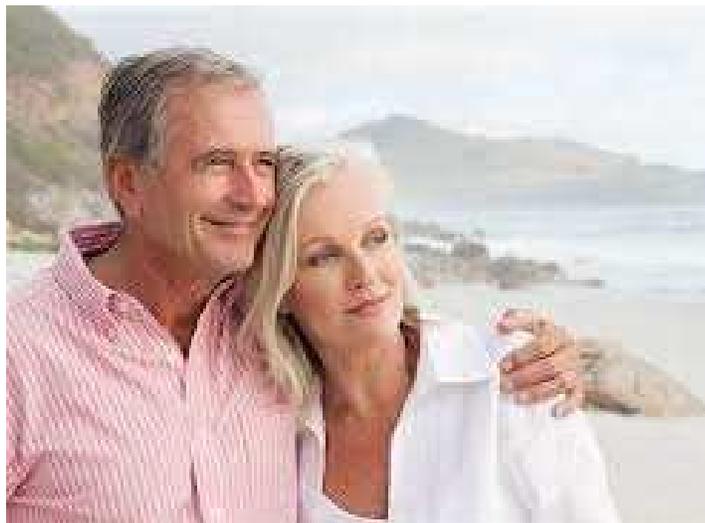
A spouse is a person to whom you are legally married.

A common-law partner is a person who is not your spouse but with whom you are living in a conjugal relationship, and to whom at least one of the following situations applies. Your partner:

- (i) has been living with you in a conjugal relationship, and this relationship has lasted at least twelve continuous months;
- (ii) is the parent of your child by birth or adoption; or
- (iii) has custody and control of your child (or had custody and control immediately before the child turned 19 years of age) and your child is wholly dependent on that person for support.

You are “separated” when you start living separate and apart from your spouse or common-law partner because of a breakdown in the relationship for a period of at least 90 days and you have not reconciled.

If you continue to reside in the same household and continue to share parenting and financial responsibilities, CRA will not consider a separation to have occurred for the purposes of the Canada Child Tax Benefit (CCTB) or the GST/HST credit legislation. An exception to this may occur when separate living quarters are self-contained in the same household.



Where there is a marital status change, CRA will recalculate your benefits based on the number of children you have and their ages, your province or territory of residence, and your revised family net income based on your marital status change. Your benefits will be adjusted the month following the month in which your marital status changed.

CCTB: If you or your new spouse or common-law partner have children who are residing with you, CRA will move all the children to the female parent’s account. If you are married or living common-law with a person of the same sex, one of you will receive the CCTB for all of the children.

To receive the CCTB, you and your spouse or common-law partner have to file a tax return every year, even if you have no income to report.

GST/HST CREDIT: If you did not apply for the GST/HST credit on your tax return and your status is now separated, widowed or divorced, you can apply now.

SPLITTING UP?: Property Transfer Issue



In a 2013 Advance Income Tax Ruling, CRA confirmed that shares of a company can be transferred at cost for tax purposes as part of a negotiated matrimonial property settlement.

A capital gain realized on the disposition of a capital asset, after the Divorce Agreement, by the spouse will not attribute back to the transferor. However, without filing the proper joint election, a capital gain on the sale of an asset prior to the signing of the Divorce Agreement may attribute back to the transferor. That is, the spouse who transferred the asset to the other spouse would have to report the capital gain and, therefore, have an increased tax liability.

FITNESS CLUB DUES: Tax-Free Benefit for Employees?

In a September 4, 2013 Technical Interpretation, CRA discussed employer paid fitness fees for the benefit of an employee. The CRA noted that generally the value of any benefit, in this case a fitness membership, to a taxpayer enjoyed as a result of an office or employment shall be included in computing employment income unless it is principally for the employer’s advantage.

In addition, the following certain specific scenarios may not result in a taxable benefit to the employee:

1. if an employer provides an in-house fitness facility available to all employees, and,
2. if an employer pays the fee to a facility outside the company where the membership belongs to the company rather than the individual employee. All employees must have access to the membership whether or not they choose to use it.



Note: Avoid unnecessary taxable benefits for employees by efficiently providing employer funded fitness programs.

GETTING MONEY OUT OF THE COMPANY: Insurance Policy Transfers

It may be possible for a shareholder to transfer his/her life insurance policy to a Corporation and receive cash at a low or nil tax cost. There are many calculations and implications to consider.

For example, where a policy has a fair market value of \$100,000, the policy, under the right circumstances, may be eligible to be transferred to the Corporation in exchange for \$100,000 with little or no tax cost.



There are, however, a number of cautions to be considered, such as the potential for significant tax where the policy is subsequently transferred back to the individual. Professional advice is advised before any transfer is made.

Action Item: Let us know if you personally own a life insurance policy to determine if this involved planning strategy may be appropriate for you!

CHARITABLE DONATION: Gift of "Free-Rent"

In a November 1, 2013 Tax Court of Canada case, the issue was whether the taxpayer could claim a charitable donation for the fair market value of free rent provided to a Registered Canadian Charitable Organization, Peaceful Schools, of which the taxpayer's spouse was the president.

Two rooms in the house, owned by the taxpayer's spouse were used by the charity although there was no rental arrangement, no rent paid, no rental income reported by the taxpayers, and no cash donation made.

Taxpayer loses

The Court noted that there was not a transfer of property as the Charitable Organization was simply allowed to use the rooms. There was no legal effect to this.



Planning strategy

The Court noted that the taxpayer and his wife could have rented the rooms, donated the receipts and received a charitable donation tax credit. CRA agreed that this was true but this is not what happened.

If rent had been charged, the rental income, net of expenses, would have to be reported.

Note: This may also apply to a person providing a personally owned tool, or a piece of equipment, for example a computer, or even an automobile for a charity to use.



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The Wealth Management Practice of Kurt Rosentreter

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