



TAX STRATEGIES FROM **KURT ROSENTRETER** CHARTERED ACCOUNTANT



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2014 TAX PLANNING TIPS THIRD QUARTER

TAX TICKLERS... Some Quick Points to Consider...

- Where an individual has a physical or mental impairment which markedly restricts the activities of daily living, a disability tax credit may be available.
 - As of March 24, 2014, approximately 65% of taxpayers' personal tax refunds were made by direct deposit.
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CHECKLIST FOR SMALL BUSINESSES: Free CRA Resource

On May 21, 2014, CRA published an updated checklist discussing the phases that a small business may experience. This listing provides information on the following four sections: Before you start; Start a business; Maintain a business and; Close or resume your business. Each of the sections contains a list of key activities and links to relevant articles and videos.

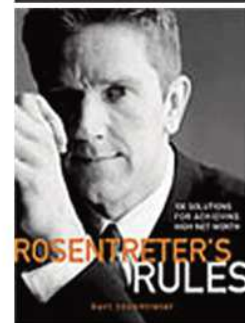
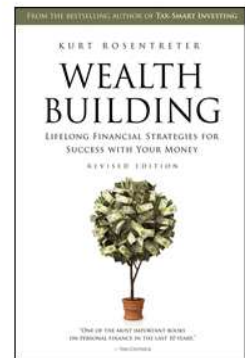
See www.cra-arc.gc.ca/tx/bsnss/sm/chcklst-eng.html for the checklist.

DONATING BY WILL: Planning Ahead

Making a donation through a Will, as opposed to just prior to death, may be advantageous for a number of reasons.

A donation through a Will is not subject to the general income limitation; living donor claims are limited to 75% of the net income. As well, a donation under a Will is also deemed to occur in the donor's final year. Therefore, the donation tax credit can be claimed on the donor's final tax return even though the actual donation occurs after the donor's death. The Estate can then use the donation in the most tax advantageous manner.

Kurt's National Best Selling Books



Additional changes providing further flexibility were proposed in the 2014 Federal Budget. These proposals permit Executors to claim the donation in the year in which it is made by the Estate, an earlier taxation year of the Estate, or the last two taxation years of the deceased individual. To qualify the donation must have been made within 36 months following the individual's death.

These changes are proposed to apply to donations made by a Will for deaths occurring on, or after, January 1, 2016.

U.S. AMNESTY PROGRAMS: Now even more Accessible

On June 18, 2014, the Internal Revenue Service (IRS) updated its website in respect of "Streamlined Filing Compliance Procedures" (SFCP). Several changes effective for filings on, or after, July 1, 2014 have been introduced.

The SFCP is a process by which individuals can catch up on their delinquent filings. Under these procedures, three years of tax and information filings and six years of FBAR (Foreign Bank Account Reporting) filings will be required. If the reason for previous non-compliance was not willful, most penalties will be waived (however the obligation for taxes and interest remains).



The new changes are widely considered to make the SFCP much more useful and attractive. Those who have more complex returns, such as taxpayers with corporate interests, significant investments or tax planning structures may be more inclined to use the SFCP. Previously, the returns of these individuals may have been considered "high risk" and, therefore, not eligible for penalty-free treatment. The risk assessment portion of the SFCP has now been eliminated.

A modified version of the SFCP has also been made available to those still residing in the US.

DIRECTOR LIABILITY: Understand your Exposure

Corporate directors may be personally liable when their corporation fails to deduct, withhold, remit, or pay certain amounts of money held in trust for the government.

This includes unremitted GST/HST and payroll withholdings (including interest and penalties).

On April 17, 2014, the CRA released an updated publication (IC89-2R3) discussing Directory Liability. Specifically, the guide notes that three prerequisites must be met before a director can be assessed personally:

- the CRA must demonstrate its inability to recover the amounts directly from the corporation;
- the CRA must issue the assessment against the directors within two years from the time they last ceased to be directors; and
- the directors must not have exercised the degree of care, diligence, and skill ("due diligence") required to prevent the failure to deduct, withhold, remit or pay. The circumstances must be considered against an objective standard of a "reasonably prudent person". In other words, a taxpayer may consider, "What would a reasonably prudent person have done if they were in the same situation?"

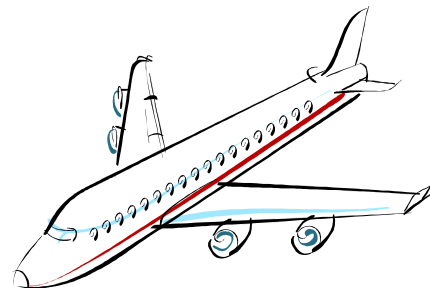
The publication also discusses a wide range of other issues relevant to directors' liability.

MOVING EXPENSES: Taxpayer Moving Between Two Jobs

In an April 11, 2014 Tax Court of Canada case, CRA denied the taxpayer's moving expenses on the basis that he did not change his ordinary residence. The taxpayer, a schoolteacher, taught in Toronto from September to June and Ottawa in July.

Taxpayer loses

An eligible relocation requires the taxpayer to relocate his place of ordinary residence. The taxpayer did not sell or lease his house, relocate his spouse, bring his car, change his address, or otherwise take up residence in the Ottawa area. Rather, he spent the summer with old friends and family, always knowing he would return to the Toronto residence in the fall. As there was no change in ordinary residence, he was not able to claim moving expenses.



PRICE ADJUSTMENT CLAUSE (PAC): Non-Arm's Length Purchase or Sale

A PAC is typically incorporated into a Sale Agreement entered into by non-arm's length persons to provide for an adjustment to the transaction price in the event that a third-party, such as CRA or a Court, successfully determines that the fair market value (FMV) of the transferred property is different than the amount otherwise determined by the parties.



A valid PAC may prevent adverse tax consequences that could otherwise arise. For example, should CRA determine that the purchaser paid more than FMV for transferred property, the purchaser will not enjoy a bumped up cost base for the excess amount. As well, the transferor will be taxed on the actual proceeds received.

TRAVEL EXPENSES: Multiple Work Locations

In a February 11, 2014 Technical Interpretation, CRA confirmed that if an individual has multiple regular places of employment (RPE) and travels between them during the day, the trip from the individual's home to the first RPE, and the trip home from the last RPE, is personal. However, travel between RPEs is generally considered "employment-related" and, therefore, not a taxable benefit to the employee.



GAMBLING WINNINGS: Document them!

In a March 6, 2014 Tax Court of Canada case, the taxpayer argued that \$35,000 in bank deposits received were gambling winnings rather than unreported business income. The Court examined whether the deposits corresponded with the individual's casino player card records and did not find enough connection.



The Court determined that the deposits were business income and therefore taxable. Often, gambling winnings are considered "windfalls" and, therefore are not taxable.

SIN VERIFICATION TOOL: Great for Verifying Payroll Information

Businesses (often payroll or human resource staff) may receive invalid or incorrect Social Insurance Numbers (SINs) for their employees. To avoid future problems, consider verifying all SINs prior to entering them into a payroll system.

The Canadian Payroll Association provides a free SIN verification tool for public consumption (<http://www.payroll.ca/CPA/resources/Tools/SIN/en/Disclaimer.aspx>).

T1135 FOREIGN PROPERTY DISCLOSURE: Some Relief

On July 8, 2014, CRA released a revised version of the Form T1135 – Foreign Income Verification Statement, relieving some of the onerous filing requirements as announced on June 25, 2013 and later on February 26, 2014. CRA noted that these changes will apply to T1135 filings for 2014 and later tax years.

One major change CRA noted is that taxpayers who hold specified foreign property in an account with a Canadian registered securities dealer or a Canadian Trust company will have the option to report the aggregate value of such property on a country-by-country basis. The highest fair market value at the end of any month during the year and the fair market value at year-end will be required to be reported. Income (loss) from the property and any gains (losses) on disposition must also be reported.

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- **Tax smart portfolio investment strategies**
- **Small business advanced tax planning**
- **Tax effective design of retirement cash flows**
- **Tax wise Will design**



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