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

Tax Tidbits

Some quick points to consider…

- The Office of the Taxpayer's Ombudsperson reported a **surge in CRA complaints**, including delays and poor information from telephone contact centers, in processing T1 **adjustments** and in responding to **service complaints**. Other common areas of complaint related to collections action and difficulties accessing online accounts after being locked out.
- CRA is using **AI tools** designed to identify **outliers** relative to **industry norms** and **historical filing** patterns. Returns that depart from expected patterns may face increased audit risk, even when the tax positions are fully supported.
- In a recent court case, **negligent record keeping** rendered the taxpayer's records so **unreliable** that **no GST** on subcontract fees were **allowed** as **input tax credits**. Ensure to keep records updated and organized.

Real Estate: Change in Use?

A May 29, 2026 **Tax Court of Canada** case reviewed whether two **real estate** properties were held on **account of income or capital**, and if there was a **change** in **how** they were **held prior** to their **sale** in 2017 that resulted in gains of $13.25 million. **CRA's administrative comments** indicate that the **gain** on the sale of property should be reported entirely in the year the property is disposed of and **apportioned between income** (full gain is taxed) **and capital gains** (only half the gain is taxed) based on the **value when** the nature of the **property** was **converted** from capital to inventory.

The properties were originally acquired in 1996 and 1998 and were used for many years as **income-producing commercial rental** properties. While **discussions to convert** the properties to residential **condominiums** for sale began in **2005** and 2006, the first development agreement was not signed until 2008, rezoning was approved in 2010 with **financing** approved in **2011** and demolition and construction began in 2012. In **2008**, the **properties** were **rolled** into a **new corporation** that eventually **sold** them **in 2017**.

The **taxpayer** argued that the properties were **acquired and held as capital assets**, resulting in $13.25 million of capital gains. The **taxpayer** argued that **development planning** activities did **not**, by themselves, **change** the **character** of the **properties** from capital to inventory.

CRA argued that **all gains** on both properties were **business income**. CRA relied on the **2008 rollover date** as the relevant **acquisition date** for **determining the taxpayer's intention** (income or capital) rather than the 1996/1998 acquisition dates by the ultimate ownership group.

Taxpayer wins, mostly

The **court disagreed** with **CRA's approach** in determining that the gains were business income.

The court found that the **original intention** was to hold the properties on account of **capital**, based on the **ultimate ownership group's intention** when they acquired the properties in 1996/1998, **rather than** on the **intention** on the date when the property was rolled over (as asserted by CRA). The question was then whether, and if so, when, the properties were **converted from capital** property to **inventory**.

The court **accepted** the **taxpayer's testimony** that, although they were **exploring** the **possible conversion** of the commercial rental properties to residential condos for resale, including entering into development agreements beginning in 2008 and obtaining rezoning approval in 2010, they had **not decided** whether they would **proceed** with that project, even if it was possible. The court accepted that these steps were **exploratory** and **preparatory** in nature and that the **taxpayer retained the ability** to **abandon** the **project** and continue holding the properties as capital property.

The **court** found that the properties were **converted** from **capital** property **to inventory** on September 16, **2011** when financing was secured, as this was the point that the taxpayer became **irrevocably committed to the condominium project** based on the terms of the development agreements. This was the point in time that the **taxpayer's** unilateral **right to terminate** the development project **ceased**.

> **ACTION:** There are tax implications of changing the purpose of real property from income to capital or vice versa. Seek consultation to determine exactly what the implications are, and what can be done.

Mutual Fund Trailing Commissions: GST/HST

Mutual fund trailing commissions now constitute **taxable supplies** subject to **GST/HST** as CRA has determined that they no longer meet the definition of a financial service. While CRA previously stated that they will **enforce** the **application** of GST/HST to these taxable supplies made by dealers on or after July 1, 2026, CRA announced that they will **delay** the **enforcement date to January 1, 2028** to provide the industry with more time to take necessary actions to comply.

Despite the delay, CRA stated that dealers are **encouraged** to apply this **tax treatment as soon as possible**. CRA noted there are **circumstances** where **trailing commissions were already taxable** and the tax status for those supplies has not changed.

Dealers that choose to **collect GST/HST** in relation to **trailing commissions earned** prior to January 1, 2028, will be **eligible** to claim **input tax credits** (ITCs) to the extent that the GST/HST paid on their business inputs is attributable to those supplies. Mutual fund managers that **pay** the **GST/HST** on trailing commissions in these circumstances are also **eligible** to **recover** the **GST/HST** paid, subject to the normal rules. Prior to January 1, 2028, if a dealer **claims ITCs** for the **GST/HST paid** on business inputs attributed to supplies made in exchange for trailing commissions, CRA will **enforce** the **dealer's remittance of tax** on the supplies to which the inputs were attributed (that related ITCs were claimed for).

> **ACTION:** GST/HST may soon be charged, if not already, on mutual fund trailing commissions.

Voluntary Disclosures Program (VDP): Comments from CRA

On June 15, 2026, CRA released a Tax Tip (The **Voluntary Disclosures Program**: Your second chance to set things right) that addressed the following **concerns** that **taxpayers may have** regarding program.

- *I'll be* ***flagged*** *for* ***future audits*** *if I come forward.* CRA noted that coming forward through the program does **not trigger** increased surveillance of future tax filings.

- *It's probably **not worth it financially**.* CRA noted that the savings on penalties, up to 100%, and significant interest relief for approved applications can be helpful (taxpayers must still pay the underlying tax).
- *I'm **not sure what to expect**, the outcome feels uncertain.* CRA stated that the updated program was designed to provide greater clarity regarding the relief taxpayers can expect. Taxpayers may also request a pre-disclosure discussion to better understand their situation before applying.

> **ACTION:** CRA is continually developing new systems, leads and technologies for catching unreported income. If applicable, ensure to get caught up sooner rather than later.

Travel from Home to Work: Long Commute

In a June 23, 2026 **Tax Court of Canada** case, the taxpayer deducted **lodging** expenses, **vehicle expenses** and **hydro** and **internet costs** against his 2021 and 2022 employment income. The taxpayer **resided** in **Kimberly**, BC. After being **unable** to **find work** closer to home, he took a job in Salmon Arm and then switched to a position in Kelowna, both of which required **driving more than five hours** from Kimberly. As the taxpayer's spouse was not willing to move from Kimberly for personal reasons, the taxpayer **rented** an **apartment** near each city where he worked and **returned** to **Kimberly** once or twice **each month**. While the taxpayer largely worked at the employer's office, he performed **some work** at his **rented apartment**.

Taxpayer loses

As the taxpayer provided **no evidence** to **support** that he was **ordinarily required** to **carry on** the duties of the office or **employment away** from the **employer's place of business or in different places**, the court found that he did not meet the requirements to claim either motor vehicle expenses or lodging expenses as a travel expense. The court reiterated the **well-established principle** that **travel from home to a place of work** is **personal**, whether the distance travelled is short or long.

In addition, the employer did **not** state on the **T2200** that the taxpayer was **required** to **incur hydro or internet costs** in performing his duties of employment. The court further noted that, even if the T2200 provided the appropriate confirmation, the fact that there was **personal internet use** (as admitted by the taxpayer) but **no evidence allocating internet usage between personal and employment** left the court unable to conclude that any portion of the internet usage was consumed directly in the performance of employment duties.

The court **upheld** CRA's **denial** of the employment expenses.

> **ACTION:** CRA considers travel costs from home to work personal and non-deductible. Caution should be afforded when incurring these types of costs.

Employment Expenses: Commission Salespersons

A June 17, 2026 **Tax Court of Canada** case reviewed the taxpayer's **deduction** of $86,231 in fees paid to a corporation he controlled against his **commission income** for the 2014 year. The corporation prepared a **business plan** intended to **increase future sales**, with the work subcontracted to the taxpayer's son. The court also noted that the corporation had non-capital losses of $500,000, meaning that the fee would not attract corporate tax. It was **undisputed** that the taxpayer's employer **required the preparation of a business plan and** that the taxpayer's **remuneration** was based on **5% of his employer's total sales**, the bulk of which the taxpayer generated.

The taxpayer was not a shareholder of his employer but was president and reported directly to the shareholders or their representatives.

Taxpayer loses

The court found that, while the **employer required** the **taxpayer to prepare the business plan**, the employment contract did **not require** the taxpayer to hire or **pay a third party** to prepare it. The court noted that prior **jurisprudence** states that the **contract** of **employment** must require the taxpayer not only **to perform a task** but **also to incur the cost** without any reimbursement by the employer. The court also provided the example that a commissioned salesperson cannot deduct the costs of hiring an assistant unless the contract of employment requires the taxpayer to incur the cost.

In addition, to be deductible, an amount must **be expended in the year**, **requiring actual payment** rather than merely incurring costs in the year of deduction. As the court concluded that the **payment was not made** before the end of **2014**, this requirement was **not met**.

The court further noted that, even if the taxpayer met all conditions for deducting costs incurred to earn commission income, the **expense** was **unreasonably high** and that the **maximum** reasonable amount would be **$21,558**. The court arrived at this amount by finding that **both** the **hours worked** and the **hourly value for the services** were **overstated** and reduced each by 50%.

Although the deduction was denied for the reasons above, the court found that there was a **sufficient tie** between the **taxpayer's remuneration** and the **corporation's sales**, rather than sales made personally, to satisfy the requirement that the taxpayer was remunerated in whole or part **by commission**. The court also held that the required **purpose** to **earn employment income** was met because the **expenditure** was **incurred** both to **preserve** the taxpayer's **employment** and to **enhance future commission income**, even though the benefits of the business plan were expected to arise in later years.

> **ACTION:** For employment expenses to be deductible against commission income, ensure that the employee is actually required to incur the cost and that it is paid by the employee in the year.

Guaranteed Income Supplement (GIS): Retroactive Lump-Sum Payment

In a May 7, 2026 French **Federal Court of Appeal** case, the taxpayer had received a **lump-sum payment** of $69,144 in respect of **salary** and **associated interest** from 2012, 2013 and 2014 related to a wrongful dismissal dispute.

The **salary portion** of the payment was a **retroactive lump-sum payment** related to prior years, allowing it to be deducted from taxable income in the year of receipt and **taxed as if received** in the **prior years to which it related**. The taxpayer's income tax return had been assessed accordingly.

However, the **full lump-sum payment** was included in the taxpayer's income in the year received (2017) for purposes of determining his **eligibility for** the **GIS**. As a result, he was not entitled to any GIS for the twelve months commencing in July of the following year. He argued that his income for GIS purposes should be reduced consistent with the income tax treatment of these payments.

Taxpayer loses

While the **calculation** of **income** for GIS is similar to income for tax purposes, it is **not identical**. The **entire lump-sum payment** was his **income for GIS** for the year received. This resulted in his income being too high to qualify for GIS for the twelve months commencing in July of the following year.

While this case focused on GIS, the same concept applies to OAS payments.

> **ACTION:** Lump-sum payments may be fully included in income for determining OAS/GIS eligibility, resulting in potentially significant erosions of such payments. Consider the impact on these benefits when receiving large one-time payments.

RESP Holders Emigrating to the US: Tax Issues

A May 15, 2026 Advisor.ca article (What happens to an **RESP when a family moves** to the **U.S.**?, Carson Hamill) discussed the tax implications of a **registered education savings plan** (RESP) held when a family moves from Canada to the US. Some considerations included the following:

- making a **Canadian resident** (e.g. a grandparent) the **subscriber** may **simplify administration**;
- the **Canada education savings grant** (CESG) is **only available** if the **beneficiary** is a **resident of Canada** regardless of the contributor's residence;
- **previously received CESG** can **remain** in the **RESP** and **income** continues to **accumulate** with **no Canadian tax**;
- the **US** does **not provide tax relief** in respect of RESPs, so **income** earned within an RESP while a **US resident** is subject to **US tax**;
- **complex reporting** on various IRS forms may be required to avoid substantial penalties; and
- there may also be **state income tax issues** to address.

> **ACTION:** Careful consideration of all of these issues is important in deciding whether the RESP remains a prudent financial strategy after emigration.

Qualified Disability Trusts: Multiple Contributors

A **qualified disability trust** (QDT) is a **testamentary trust** that is eligible for **graduated tax rates**, unlike most testamentary trusts. A QDT elects with one or more disabled beneficiaries and is subject to **several complex criteria**, including the restriction that a beneficiary may file an election with **only one trust** in any specific year.

A June 2, 2026 **Technical Interpretation** discussed a strategy where **multiple individuals** (e.g. two divorced parents and four grandparents of a disabled individual) structure their wills to contribute to a **single testamentary trust** for a **disabled beneficiary** (DB). Their wills would provide that, if the individual is the **first** of the individuals **to die**, a **trust** would be **created** for DB, funded with estate assets. As the remaining individuals pass away, their wills would provide that **estate assets** are contributed to the **existing trust**.

CRA opined that, when an **individual bequeaths property** in their will **to an existing testamentary trust**, the contribution **does not disqualify** that existing trust **as a testamentary trust** provided that the **contribution** is **made** by an individual **on or after** that individual's **death and as a consequence thereof**. As such, the **existing testamentary trust** would **remain** a **testamentary trust** and would **not** be **disqualified** from continuing to qualify as a QDT.

CRA noted that **whether a transfer** is **made** by an individual **on or after** that individual's **death** and **as a consequence thereof** is a **question of fact and law** that can only be determined after a review of **all** the **facts and circumstances** applicable to a particular situation.

ACTION: Properly structured wills could permit multiple individuals to direct assets to a single qualified disability trust, allowing the trust to benefit from marginal tax rates.

If you have any questions, give us a call at (226) 210-3600!