TAX HIGHLIGHTS FOR THE 2023 PERSONAL TAX SEASON

There have been many developments in Canadian income tax over the past year. With the ever-changing and expanding reporting requirements for taxpayers, it is becoming more and more important to stay on top of the rule changes. We have summarized some of the major changes for 2023 below.

New Tax Changes and Highlights

Underused Housing Tax (UHT) Deadline Extension for 2022 and Additional Exclusions for 2023

The UHT is a 1% tax on the value of residential property owned by certain entities which was legislated in June of 2022. In 2023, the Department of Finance and CRA announced two things. Firstly, the deadline to file the 2022 UHT return was extended to April 30, 2024, which effectively means that affected owners with a UHT filing requirement would need to file both 2022 and 2023 UHT returns by April 30, 2024 in order to avoid penalties. Secondly, they modified the rules for 2023 to provide relief from filing a UHT return for certain property owners. As a result, certain taxpayers may have a UHT filing requirement for 2022 but no requirement for 2023 and future years. For more information about the UHT and the changes announced, please see this post on our website.

Expanded Trust Reporting

Expanded trust reporting has been in the works for several years and finally became law effective for the 2023 taxation year. We had previously provided information relating to these disclosure requirements but want to remind clients of their obligations, particularly in circumstances **where a trust may exist without a written trust agreement.** Included below are some examples of arrangements that could be considered a trust which would be required to file an annual trust income tax return beginning with the 2023 tax year:

1. A parent who adds an adult child on title of a property. In these circumstances, there may be no change in beneficial ownership from the parent to the child if the child is holding the property in favour of the parent and there was no intention to gift.
2. An adult child who adds a parent on title of a property to qualify for a mortgage. In these circumstances, the parent may not have contributed anything to the property and is holding the property in favour of the child.
3. Bare trustee arrangements where the legal title owner of property does not also hold beneficial ownership.
4. Shares of private corporations held "in trust" by a parent or other individual. These arrangements are common where minor children are shareholders in private corporations, particularly professional corporations where only individuals are permitted as shareholders.
5. Bank or investment accounts held "in trust" by a parent or other individual. These accounts may have been created to hold funds of a minor child.

Even if there was no activity in the trust for the year, if the trust income tax return is not filed by the deadline, a penalty of up to $2,500 or 5% of the trust assets per year can apply. For more information about the new trust reporting rules, please see this post on our website.

Residential Property Flipping Rule

Canadian resident taxpayers are able to claim the Principal Residence Exemption (PRE) on qualifying dispositions of real estate, such as a family home or cottage. However, be aware that you may not be able to claim the PRE if you have owned the property for less than 365 days. Beginning with tax year 2023, Finance Canada implemented the "anti-flipping rule" which effectively taxes any gain on a sale of real property as business income (and fully taxable at 100% of the gain rather than at the 50% capital gain inclusion rate) if the property was held for less than 365 days. The rationale for these rules is that buying a home and then selling it within the first year appears to be for the purpose of profit rather than primary residence, regardless of whether this is factual. There are some exceptions to the anti-flipping rule, including death, insolvency, job loss, illness, and personal safety. Our clients need to be aware of this rule if they are buying and selling a property within a year. More information available on CRA's website.

Changes to the Alternative Minimum Tax (AMT) in 2024

AMT is not a new concept in Canadian income tax system; however many taxpayers are not aware of AMT as it does not generally impact their annual income tax obligation. Every year a calculation is performed behind the scenes to determine if the AMT is applicable. AMT applies when a taxpayer claims tax-preferred deductions or credits such as the lifetime capital gains exemption. Effective as of January 1, 2024, the rules for AMT will be changing and may affect more Canadians, particularly for those who have the following situation(s):

- Capital gains
- Lifetime Capital Gains Exemption
- Stock option deduction
- Donated publicly listed securities
- Large donations

For more information about the proposed changes to the AMT, please see this post on our website.

Increase to CRA's Interest Rates on Unpaid Taxes

As interest rates and inflation rates have increased over the past couple of years, so have the CRA's interest rates on unpaid or outstanding overdue taxes. The rate has climbed steadily from 5% in 2021 to 10% as of January 1, 2024. The last time CRA's interest rate was 10% was 2001. We always encourage our clients to file on time and pay their income tax instalments and amounts owing on time.

First Home Savings Account (FHSA)

Beginning with the 2023 taxation year, a new registered account called the FHSA will offer first-time Canadian resident home buyers the ability to save up to $40,000 tax-free. Like RRSPs, contributions to an FHSA will be tax deductible. Like TFSAs, income and gains inside an FHSA as well as withdrawals will also be tax-free. To open an FHSA, you must be a Canadian resident of at least 18 years of age, and be a first-time home buyer, which means you or your spouse did not own a qualifying home that you lived in as a principal place of residence at any time in the year the account is opened or the preceding four calendar years.

You can contribute up to $40,000 over your lifetime and up to $8,000 in any one year, including 2023. You may carry forward up to $8,000 of your unused annual contribution amount to use in a later year (subject to the $40,000 lifetime contribution limit). For example, if you open an FHSA in 2023 and contribute $5,000, you can contribute up to $11,000 in 2024. Carry-forward amounts do not start accumulating until after you open an FHSA. Like TFSAs and RRSPs, the CRA charges a tax of 1% per month on excess contributions to FHSAs, so it is important to confirm your annual contribution limit before making a contribution to an FHSA.

COVID-19 Simplified Home Office Deduction Expired

Between the years 2020 to 2022, CRA granted a temporary measure which allowed taxpayers to deduct home office expenses using a simplified method if they were required to work from home due to COVID-19. In 2023, you can no longer claim the simplified home office deduction if you worked from home. You may be able to claim the detailed method if the requirements are met and you have a signed form T2200 from your employer.

Increases to the TFSA and RRSP Contribution Limits

Canadian resident taxpayers saw their TFSA contribution limit increased by $6,500 effective January 1, 2023, and an additional $7,000 effective January 1, 2024.

The maximum RRSP annual dollar limit for the 2023 tax year is $30,780, however your RRSP deduction room will ultimately depend on a number of factors and should be reviewed prior to making a contribution.

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