

## VIDEO TAX NEWS

# Monthly Tax Update Newsletter

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### Editorial Board:

Caitlin L. Butler CPA, CA

Joseph R. Devaney CPA, CA

Hugh C. Neilson FCPA, FCA, TEP

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## 1 Government Releases

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### FINANCE RELEASES

1. **February 19, 2025** – The Department of Finance announced the **prescribed interest rate** for the **second quarter of 2025** (April 1 – June 30, 2025). The rate remains **unchanged** at 4%, and applies to corporate refunds and the calculation of taxable benefits. The rates remain at 6% for personal refunds and **8% for arrears and instalment interest**.
2. **February 14, 2025** – The Department of Finance announced the commencement of **pre-budget consultations** for the 2025 Federal Budget. Canadians can provide input by completing an [online survey](#) or sending more **detailed submissions** by email or mail until March 10, 2025. No date was announced for the release of the Federal Budget.
3. **January 10, 2025** – The Department of Finance announced that the **rates** for the **farmers' carbon tax rebate** (Tax Credit Payment Rates to Return Fuel Charge Proceeds to Farmers for 2024-25 and 2025-26) will be **0.229%** for expenses incurred in **calendar 2024** and **0.250%** for expenses incurred in **calendar 2025** (see [VTN 485\(6355\)](#) for details of this rebate). The **same rate** will apply for farm activities in **all provinces** subject to the **federal carbon tax**. The rate for expenses incurred in **calendar 2023** was 0.186% for Ontario, Manitoba, Saskatchewan and

*providing your views on  
Budget 2025 priorities*



Alberta, and 0.140% for New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

## CRA RELEASES

1. **February 19, 2025** – CRA released a Tax Tip (**Update on the filing of information returns**) that set out common **problems and solutions** encountered in filing **information returns** for 2024 and that announced **penalty relief** for information returns for periods dependent on the **type of slips** being filed. See [VTN 523\(8124\)](#) for further details.
2. **February 18, 2025** – CRA released a Tax Tip (**Tax season starts on February 24!** Here's what you need to start filing). CRA noted that the **update** to their systems to **reflect** the **deferral** of **changes** to the **capital gains inclusion rate** remains in progress and **may not be completed** by the **opening** of **online filing**. They recommended **deferring filing returns impacted** by this situation until the updates are completed in the coming weeks to **avoid processing delays** and included a reminder of their previous announcement of **penalty and interest waiver** to **May 1, 2025** for impacted **trusts** and **June 2, 2025** for impacted **individuals** (see [VTN 522\(8082\)](#)). The tip also included numerous other reminders for taxpayers and tax preparers.
3. **February 18, 2025** – On the EFILE news and program updates webpage, CRA announced that **personal tax returns** for **deemed residents** (Section 250) will be **eligible for EFILE**. CRA cautioned that **some exclusions** apply and that **not all software** will support these return types.
4. **February 17, 2025** – On the EFILE news and program updates webpage, CRA provided a reminder that the **transition of business correspondence** to **online mail** will commence in **spring 2025** (see [VTN 520\(7931\)](#)). **No new information** was provided on the **online or paper processes** to avoid the transition and **continue to receive paper mail**.
5. **February 14, 2025** – On the EFILE news and program updates webpage, CRA provided an update on the **auto-fill my return** service for 2025. The **second CPP/QPP** boxes on the T4, Statement of Remuneration Paid and **new capital gains codes** on the **T4** Statement of Remuneration Paid, **T3** Statement of Trust Income Allocations and Designations and **T5** Statement of Investment Income **will be included**; however, boxes relevant to the **timing of capital dispositions** on the [T5008 Statement of Securities Transactions](#) (Box 15) and the [T5013 Statement of Partnership Income](#) (boxes 270 to 273) **will not**. CRA noted that they are maintaining the reporting of capital dispositions for the two periods to **ensure alignment** with **slips already published and issued**. As well, the **period** of disposition will be

*whether relief for late slips will result in delays in receiving personal tax information*

*your firm's strategy for addressing these likely delays*

*watching for further developments to ensure clients can maintain paper mail if desired*

*ensuring all relevant data is obtained for reporting capital dispositions*

**relevant** for gains eligible for the **capital gains exemption**.

In addition, **prior year FHSA amounts** will be **included**; however, the **uncashed cheques indicator** will be **removed**.

6. **February 13, 2025** – CRA released a Tax Tip (What you need to know for the **2025 tax-filing season**) summarizing **key dates** (the opening of online filing and the filing due dates), enhancements to **digital services** and the following **income tax changes**:

*reviewing these changes  
CRA considers most  
relevant for the upcoming  
personal tax season*

- amendments to the **alternative minimum tax** (see [VTN 514\(7667\)](#));
- **relief for individuals and trusts** reporting **capital gains** (see [VTN 522\(8082\)](#));
- **deferral of the first repayment deadline** for recent **home buyers' plan** withdrawals (see [VTN 513\(7637\)](#));
- reporting by **digital platform operators** (see [VTN 489\(6544\)](#)), noting that the **same information** should be received by the **taxpayer**;
- denial of expenses for **non-compliant short-term rental** activities (see [VTN 512\(7564\)](#)); and
- **doubling** of the volunteer **firefighters'** and **search and rescue** volunteers' amounts (see [VTN 513\(7613\)](#)).

7. **January 22, 2025** – CRA released a Tax Tip (Changes to rules for eligible **deductions from short-term rental income**) discussing these new restrictions (see [VTN 512\(7564\)](#)) that became effective January 1, 2024. CRA indicated that the **taxpayer's records** should include **documentation** confirming that the residential **property** was **located** in a **province or municipality** that **permitted** the **short-term rental** operation and that the rental was **in compliance** with all relevant **registration, licensing and permitting requirements**. The 2024 version of [Form T776, Statement of Real Estate Rentals](#) requires **disclosure** of the portion of **expenses** related to **short-term rentals**.

*new requirements linked  
to the short-term rental  
rules*

8. **December 23, 2024** – CRA updated its [reporting rules for digital platforms](#) webpage to announce **temporary penalty relief** for the late filing of information returns related to reportable sellers (Part XX information returns; see [VTN 489\(6544\)](#)). Although returns for 2024 **were due January 31, 2025**, penalties and interest will be waived **until July 31, 2025**. CRA has also released a [step-by-step guide](#) on the process for filing such returns.

*information reported by  
digital platforms may not  
be available before filing  
deadlines*

See **Appendix A** for a listing of **resources prepared by Video Tax News** that are available on the Video Tax News portal and for recently released/updated **CRA publications and forms**.

## OTHER RELEASES

1. **Late-Breaking News: February 19, 2025** – The US Financial Crimes Enforcement Network (FinCEN) updated its **beneficial ownership information** (BOI) reporting webpage to announce that a February 18, 2025 **US District Court** for the Eastern District of Texas (*Smith, et al. v. U.S. Department of the Treasury, et al.*, 6:24-cv-00336 (E.D. Tex.)) **stayed** the **injunction** that had halted the **enforcement** of the **BOI reporting requirements**. The webpage highlighted a February 18, 2025 **FinCEN Notice** that announced a general **extension** of the **filing deadline** to **March 21, 2025**. See [VTN 522\(8093\)](#) and [508\(7418\)](#) for further details of these requirements.

A **March 2, 2025** FinCEN Press Release (Treasury Department Announces **Suspension of Enforcement of Corporate Transparency Act Against U.S. Citizens and Domestic Reporting Companies**) announced that the **BOI requirements** would be **suspended** pending **rule changes** that would **narrow the scope** of these requirements to only **foreign reporting reporting companies**.

*US disclosure requirements for Canadian businesses suspended pending revision to target only non-US entities*

2. **February 14, 2025** – Employment and Social Development Canada issued a News Release (Helping **health care and social service professionals** focus on patients, not **student loan debt**) announcing the release of **draft regulations** to expand **student loan relief** from its current coverage of doctors and nurses to also include **early childhood educators, dentists, dental hygienists, pharmacists, midwives, teachers, social workers, personal support workers, physiotherapists and psychologists** working in **rural or remote** areas, as promised in Budget 2024 (see [VTN 513\(7617\)](#)).
3. **January 12, 2025** – Transport Canada announced that the program that offers acquisition **incentives of up to \$5,000** for zero-emission vehicles (iZEV) **closed** as of January 12, 2025 as funding has been exhausted. For more information, see Transport Canada's [FAQ](#).

*end of rebates for zero-emission vehicles*

## 2 Canada's COVID-19 Response

523(2)

### COVID-19 BENEFIT ELIGIBILITY ROUND-UP

As CRA continues their **post-payment reviews** related to the **Canada Emergency Response Benefit** (CERB), **Canada Recovery Benefit** (CRB) and related programs, the Federal Court also continues to **consider applications** for **judicial review** of the reasonableness of CRA's decisions to deny benefits.

### Owner-manager's work not reduced

A January 3, 2025 **Federal Court** case ([Tremblay vs. AGC, T-266-24](#)) addressed whether CRA's **denial of CERB and CRB** benefits to an **owner-manager** was reasonable. In respect of CERB, CRA concluded that the taxpayer did **not demonstrate** that he had **ceased working** for at least **14 consecutive days** as required to be eligible (Paragraph 6(1)(a) of the CERB Act) and that he instead had **continued to work** in the corporation that he controlled. In respect of CRB, CRA asserted that the taxpayer did **not provide evidence** that **dividends** were **received** in the relevant **pre-COVID-19** periods nor that these receipts were **reduced** by at least **50%** in the relevant **CRB periods** (Paragraph 3(1)(f) of the CRB Act). Simply **reporting dividends on T5 slips** did **not demonstrate** the income that was received, and his banking information did not reflect receipts consistent with the T5 slips. The Court held that these **conclusions** that the taxpayer did not meet all of the requirements for the benefits claimed **were reasonable**, so **judicial review** was **denied**.

*whether hours of work were reduced*

### Retiring allowance

In a January 9, 2025 **Federal Court** case ([Judt vs. AGC, T1165-23](#)), CRA had **denied CERB benefits** on the basis that the taxpayer did **not meet** the **\$5,000 prior period earnings** test. Specifically, CRA had determined that a **settlement** related to **loss of employment** was a **retiring allowance** and therefore was **not employment income**. The Court noted that while this may have been correct for **income tax** purposes, the CERB Act was **not income tax legislation**. The settlement clearly **replaced employment income** that the taxpayer **would have earned**. CRA failed to consider the **remedial purpose** of the CERB, and whether the **settlement** could be considered **employment income** under the CERB Act. CRA's **decision** was therefore **unreasonable** and was returned to CRA for reconsideration.

*classification of income for income tax purposes may not be determinative for CERB*

### No employment income reduction for expenses

A December 30, 2024 **Federal Court** case ([Shrestha vs. AGC, T-1978-24](#)) addressed whether CRA's **denial of a CERB application** due to **earning more than \$1,000** during the relevant period was reasonable. The taxpayer argued that her earnings should be **reduced by unreimbursed employment expenses**. CRA's position was that such **deductions** were **not permissible** for employed individuals under CERB eligibility rules. The Court found CRA's evaluation **reasonable** and dismissed the application.

*unreimbursed employment expenses did not reduce employment income for CERB purposes*

### Classification of income

A December 19, 2024 **Federal Court of Appeal** case ([Hu vs. AGC, A-368-23](#)) considered CRA's **denial of a CRB application** based on insufficient proof of **self-employment income** in the relevant prior period. The taxpayer operated a **personal shopping service** via WeChat. CRA cited an **inability to match her WeChat transaction records to verifiable income**. CRA also questioned whether income earned in the relevant period was truly eligible as it had been **reported as other income** rather than self-employment income. The Court found that CRA's decision to deny CRB was **reasonable** based on

*misclassification of income may have ripple effects*



the information that was presented to CRA.

#### Internal CRA guidelines unavailable to taxpayer

In a January 30, 2025 Federal Court case ([Matta vs. AGC, T-1289-24](#)), CRA had **denied CERB benefits** for two periods on the basis that the taxpayer **earned more than \$1,000** during each of the periods. The taxpayer **questioned** why **gross income** was used. CRA advised that this was in accordance with a **CRA policy document** that **could not be distributed** to the taxpayer. CRA **conceded** that **reliance on internal documents** that **could not be provided** to the taxpayer **violated procedural fairness**. **Judicial review** was **granted** in respect of those periods.

*CRA decisions cannot rely on internal documents that cannot be provided to the taxpayer*

## 3 Personal Tax

523(3)

### DISABILITY TAX CREDIT (DTC) – MARKEDLY RESTRICTED

A January 10, 2025 French **Tax Court of Canada** case ([Sauvage vs. HMK, 2022-1357\(IT\)](#)) considered whether the taxpayer's child (A) **qualified** for the **DTC** for the years 2007 to 2021. CRA denied the DTC on the basis that A's **autism spectrum disorder** (ASD) did **not sufficiently impact** the child's **basic activities of daily living** (Subsection 118.3(1)).

#### Taxpayer loses

The Court reviewed medical assessments and testimony from the taxpayer that described A's cognitive challenges, difficulties with daily living and need for continuous support. However, the **psychologist** who completed Form T2201 did **not certify** the child as being **"markedly restricted"** in performing basic activities of daily living. The Court noted that it cannot override the determination without a favourable medical certification and therefore **upheld CRA's denial**.

The Court also noted that legislative **amendments in 2022** broadened the definition of "mental functions necessary for everyday activities" (see [VTN 477\(5900\)](#)), which meant that the taxpayer could consider **reapplying** for the credit for **post-2022 years** if a favourable medical certification could be obtained.

*the changing landscape of the DTC rules and form*

#### Editor's comment

In the fall of 2021, CRA updated Form T2201 to no longer require medical practitioners to determine whether the taxpayer's condition resulted in a marked restriction of an activity of daily living (see [VTN 483\(6236\)](#)). Rather, the new form only requires descriptions of the issue and the effects on daily life, leaving CRA to determine whether there was a marked restriction.

## 4 Employment Income

523(4)

### WORKING FROM HOME CLAIMS

A February 3, 2025 Advisor.ca article ([Claims of home-office expenses increased 41% last tax season](#), Michelle Schriver) noted that **\$2.08 billion** in home-office expenses were claimed for 2023, up from \$1.47 billion for 2022. Approximately **\$863 million** in claims were made via the **temporary flat-rate method** in 2022. The article also suggested that workers have developed a greater affinity and comfort with claiming working from home deductions after their experience with claims for the COVID-19 years.

*significant home-office claims may come this year*

### EMPLOYMENT EXPENSES – CASH BASIS

A January 15, 2025 **Tax Court of Canada** case ([Rosen vs. HMK, 2022-604\(IT\)I](#)) considered whether a commission salesperson employee could **deduct employment expenses** paid in one taxation year (Paragraph 8(1)(f)) against commission income earned in the **subsequent year**. The variety of expenses that can be deducted under that provision (deductions against commission income) is much broader than what is permitted under other provisions allowing employment expenses; however, these deductions are limited to commissions received in the year.

The taxpayer **incurred \$59,514 in expenses** in late 2012 but had **no commission income** that year. Instead of claiming the deduction in 2012, he sought to **deduct the expenses in 2013** when he earned commission income. CRA disallowed the deduction for 2013 on the basis that employment expenses must be **deducted in the year they are paid**. The taxpayer argued that the French version of the Income Tax Act (Paragraph 8(1)(f)) used the term *dépensées*, which he interpreted as allowing expenses to be **deducted when “used up”** rather than when paid. While CRA disagreed, they **allowed \$22,132** of those expenses to be claimed in the 2012 year on the basis that they were expenses that were **allowed** under provisions applicable to **all employees**.

*commission expenses are only deductible to the extent of commission income*

#### Taxpayer loses

The **Court rejected** the taxpayer's argument, finding no meaningful difference between the English and French versions of the provision, and stated that **employment deductions** are computed on a **strictly cash basis**. As such, expenses must be **deducted against income in the year** they are paid and cannot be carried forward unless expressly permitted.

*employment expenses can only be deducted on the cash basis*

## 5 Business/Property Income

523(5)

### SOURCES OF INCOME – DOG BREEDING AND VACATION RENTALS

A December 20, 2024 **Tax Court of Canada** case ([Boles vs. HMK, 2015-215\(IT\)G](#)) reviewed the **denial of losses** from **two activities**, a **dog breeding business** and the **short-term rental** of properties in the Okanagan region of BC, that had been carried on by a married couple in the taxation years 2004 to 2010.

#### Dog activities

The Court undertook an extensive analysis of the taxpayers' activities **breeding champion dogs** to establish a reputation for their kennel and generate revenues from **stud fees and sales of puppies and semen**, resulting in **significant losses** from 1999 to 2018. The Court first discussed whether the venture had **elements of a hobby** or other personal pursuit, concluding that the taxpayers' lifelong **connection** to dogs suggested such elements.

Although the evidence demonstrated that the taxpayers **intended to earn income**, their dog-breeding activities were **not a source of income** as they were **not** conducted in a **commercially reasonable manner**. The Court cited the **following factors** as particularly relevant:

- **recurring large losses** over many years, with almost \$1 million of losses over the 20-year period, with less than \$50,000 in total revenues;
- use of **credit card financing** rather than securing less expensive commercial loans or lines of credit;
- **rudimentary budgeting** processes, lacking any plan to limit costs from various dog shows or on an overall basis;
- **loose management of expenses**, which were generally only summarized after the end of the year for income tax filings;
- **unsophisticated books and records** mingled with their law practices and rental operations;
- **restrictive marketing** that limited sales, which was **not comparable** to other **commercial breeders**; and
- the opinion of their own **expert witness** that activities generating such losses over a fifteen-year period **cannot be a business**.

*these factors in assessing whether an activity is a source of income*

The Court ruled that these **losses** were **properly disallowed**.

#### Rental activities

In 2001, the taxpayers **purchased a house** in a **recreational area** that they **rented on a short-term basis**. In 2005, they acquired the **adjacent house** to expand their **rental business**. The Court concluded that the taxpayers **intended to earn income** from the properties. In reviewing the



**commerciality** of the activity, the Court noted the **following factors**:

- **prior to purchasing** the properties, they had undertaken **research** that indicated that **short-term rental** would be more **profitable** than long-term rental and **obtained appraisals of market rents**;
- **limited rentals** from 2006 to 2010 were attributable to **unexpected factors** including a **decline** in the US dollar and **wildfires** in several of those years that **reduced demand** for short-term rentals;
- they discovered that **significant repairs** were required to the second property, and a **shortage of tradespeople** delayed the repairs, resulting in that property being **unavailable** for extended periods;
- one of the taxpayers had **prior experience with rental properties**;
- the taxpayers obtained **short-term rental insurance**, obtained **assistance** for property cleaning and on-site management of renter issues and maintained a **guest book** to obtain feedback and solicit repeat business;
- **mortgage financing** and the financing of the repair costs reflected **businesslike** operations;
- they **carefully budgeted** furnishing and decorating the properties, with an eye to **quality** and **risk mitigation** with extended warranties and the scotch-guarding of upholstery, practices different from those applied to their personal appliances and furniture;
- they **advertised the properties** and **monitored** the practices of **neighbouring rental properties**;
- they **revised their strategies** over time, including implementing guest book suggestions, expanding advertising to online platforms (e.g. Airbnb and VRBO) and taking advantage of **long-term rental** opportunities; and
- **subsequent years' results** showed **significant profits**.

*evidence of pre-purchase planning for rental operations*

*unexpected impediments to profitability*

*evidence of changes in strategies to reverse negative profit experience*

As the factors reflected **sufficient commerciality**, the **rental losses** were **allowed**.

#### **Statute-barred?**

CRA had reassessed several years **after** the **ordinary reassessment period** of three years from initial assessment. The Court noted that this was permitted only if the taxpayers had made a **misrepresentation** attributable to **carelessness, neglect**, willful default or fraud (Subparagraph 152(4)(a)(i)). Further, the Court noted that this is determined on an **issue-by-issue** basis and **not** on a **year-by-year** basis. Any reassessment can relate **only** to the **misrepresentation(s)** in question.

*the limits on what issues can be reassessed due to carelessness or neglect*

The Court concluded that the taxpayers had a **bona fide belief** that both the dog and rental activities were **sources of income**, a conclusion reached with the assistance of **professional tax preparers**. Their **difference of opinion with CRA** was either **not a misrepresentation** or was **not attributable to carelessness or neglect**. Where **deductibility** was a **question of judgement**, whether in determining whether a **source of income** existed or whether a **specific expense** was properly **deductible**, the returns **could not**

be reassessed. As a result, several years were largely **statute-barred**.

However, **some expenses** were **clearly not related** to the **income-earning activities**. The taxpayers' **practice of accounting for expenses** only after the **end of the year**, rather than **as** they were **incurred**, resulted in an **increased risk of error**. To the extent that **clearly personal expenses** had been claimed, this resulted from **carelessness or neglect**, and **these expenses** could therefore be **disallowed after the ordinary reassessment period**.

*delaying accounting for expenses may be careless or neglectful*

The Court identified **several expenses** that could therefore be **disallowed** in years that were **otherwise statute-barred**.

## AUTOMOBILE EXPENSES

CRA has expressed views on various issues related to automobile expense deductions in several recent **technical interpretations**.

### Definition of automobile – leased vehicle

In an October 10, 2024 French **Technical Interpretation** ([2024-1028891C6](#), Anne Dagenais), CRA opined that the determination of whether a **leased vehicle** met the definition of an **automobile** (see [VTN 442\(4097\)](#) for a discussion of this definition) would be made in the **year in which the lease contract was signed**, based on the vehicle's usage in that year. That determination would apply for the **full lease term** and would determine whether **limits** on the **deductibility** of the **lease payments** (Section 67.3) would apply.

*use in the year the lease commences*

### Option to acquire leased vehicle

An October 10, 2024 French **Technical Interpretation** ([2024-1028901C6](#), Jean-Francois Benoit) discussed the implications of **buying out a lease** and then **selling the vehicle** acquired. CRA discussed the issue in the context of the following **hypothetical facts**:

- over the term of the lease, the taxpayer **made lease payments totalling \$12,500**;
- at the **end of the lease**, the vehicle was **acquired** under a **purchase option for \$15,000**; and
- the vehicle was then **sold** for its fair market value of **\$20,000**.

CRA first noted that if a **portion** of the **lease payments** related to **acquiring the option**, those payments would form the **cost of the option** and be **added** to the **cost of the vehicle** (Section 49). They assumed that **no portion** of the **lease payments** related to acquiring the option.

### Vehicle used to earn income

Assuming the vehicle had been **used to earn income**, the taxpayer would have **deducted** the **lease payments**. The **\$15,000 purchase price** would be **added** to the appropriate **undepreciated capital cost** pool for CCA

*deemed capital cost on a lease buyout*

purposes. However, the **original cost** of the vehicle would be **deemed** to be the **lesser** of the **purchase price plus the lease payments** (\$27,500) and the **fair market value** of the vehicle when the **option** was **exercised**, so \$20,000 (Subsection 13(5.2)). The **excess** \$5,000 would be **deemed** to have been deducted as **CCA** in **prior years**. Assuming no other assets in the same CCA class, the sale would result in **recapture of \$5,000**.

#### *Vehicle used personally*

If the vehicle was used entirely for **personal use**, the lease payments would have been non-deductible and the **option buyout price** would become the **cost of the vehicle**. CRA indicated that the **sale** for \$20,000 would result in a **capital gain** of \$15,000. The **lease payments** would not increase the adjusted cost base of the vehicle.

*no increase to ACB for lease payments*

#### **Payment to terminate lease**

An October 10, 2024 French **Technical Interpretation** ([2024-1028911C6](#), Anne Dagenais) considered the **deductibility** of a payment to **terminate a lease** on a **vehicle** used in a **business**. CRA opined that it would be a **deductible lease cost**, assuming the **termination payment** was part of the **actual rental cost** of the vehicle under the lease contract (which could only be determined from a review of the legal terms of the contract). For the lease of a **passenger vehicle**, the termination payment would be included in lease payments for the year and **subject to the deductibility limits** for leased automobiles (Section 67.3).

*large lease termination payments may not be fully deductible*

#### **Recapture on a mixed-use automobile**

An October 10, 2024 French **Technical Interpretation** ([2024-1028921C6](#), Jean-Francois Benoit) discussed **recapture** on a **vehicle** used **partially for business** and **partially for personal use**. CRA noted that they accept **two methods** of accounting for CCA on a **mixed-use vehicle**. The **method selected** must be **used consistently**.

*this choice of CCA calculation methods*

The taxpayer could **calculate CCA** on the **full cost** of the vehicle each year and **claim the business portion** for that year. In this case, **recapture** would be calculated on the **full vehicle** UCC and proceeds, and multiplied by the percentage of **business use** in the **year of sale**.

CRA addressed an example where an automobile was acquired for \$50,000 in 2022, used 40% for business and designated as immediate expensing property, with the full \$34,000 Class 10.1 addition deducted. The taxpayer would therefore deduct \$13,600 in 2022. In 2023, business use increased to 60%, and the vehicle was sold for \$38,000. This would result in deemed proceeds of \$25,840 ( $\$38,000 \times \$34,000/\$50,000$ ; see [VTN 487\(6444\)](#)), and **recapture** of \$15,504 (60% of \$25,840), almost \$2,000 **more than the CCA** claim in 2022 **despite the decline in value**.

*the possible implications of changes in business use over the years*

However, the taxpayer is **technically required** to **allocate the capital cost** between **business and personal** use and claim **CCA** on only the **business portion** (Paragraphs 13(7)(c) and (d)).

### *Editors' comment*

Although CRA did not discuss the second, technically correct, method in detail, if the proportion of business and personal use changed from year to year, there would be a deemed disposition of a portion of the vehicle for fair market value (FMV) each year. For example, if business use increased from 40% to 60%, the taxpayer would be deemed to dispose of 20% used personally and acquire 20% used for business. This would result in reduced recapture in the example above.

## CRYPTO-ASSETS – CUSTODIAL STAKING

A January 17, 2025 **Technical Interpretation** ([2024-103182117](#), Joyce Fung) discussed the tax implications of **depositing and staking crypto-assets** on a **trading platform** compliant with **Canadian securities regulations**.

### **What is staking?**

CRA indicated that staking refers to the act of **validating transactions** in respect of a crypto-asset and **adding them** to a publicly distributed **ledger** on proof-of-stake blockchain protocols. Participants must **lock up** a certain amount of **crypto-assets** to be held at stake, as a form of **collateral**. If a validator's **behaviour is disruptive** to the blockchain protocol and its community, these crypto-assets may be **slashed** – that is, **destroyed or taken away** by the protocol.

*learning the terminology if advising participants in this sector*

The crypto-assets at stake are **locked up** through the use of **smart contracts**, some of which also **impose lock-up** periods **before** (referred to as bonding) **and after** (referred to as unbonding) the **staking period**. **No staking rewards** are earned during these periods and the staked **crypto-assets cannot be used**.

### **Income tax consequences of staking**

CRA described **standard terms of service** with **platforms** and noted that the **results could differ** if variations in these terms resulted in **different legal relationships**. CRA commented on **income tax results** including the following:

- based on CRA's understanding that, under Canadian securities regulations, the **platform** does **not acquire beneficial ownership** in any deposited or staked **crypto-assets**, there would be **no disposition** of these crypto-assets to the platform (see [VTN 510\(7482\)](#) for a discussion of situations where depositing crypto-assets with a platform could result in a disposition);
- it is **unlikely** that staking would be **personal in nature**, so any staking **rewards** would be **income** from business or property (with the differentiation between business and property income being based on all relevant facts and circumstances); and

*likely no disposition where the platform follows Canadian securities regulations*

- the value of **user rewards** would be **income when credited** to the taxpayer's account and could **not** be **deferred** to the time that they are **disposed of**.

*reviewing crypto-asset accounts for any staking rewards credited*

## 6 Capital Gains/Losses

523(6)

### RESIDENTIAL PROPERTY FLIPPING RULE – RELATED PARTY TRANSFERS

Effective January 1, 2023, all gains arising from the **disposition of residential property** (including rental property) **owned** by the taxpayer for **less than 365 days** are deemed to be **business income** unless a particular exception is met (Subsections 12(12) to (14); see [VTN 489\(6537\)](#)).

An October 10, 2024 French **Technical Interpretation** ([2024-1028361C6](#), Eric Paquin) and a December 3, 2024 **Technical Interpretation** ([2024-1037751C6](#), Rachel Jacques-Mignault) discussed various issues related to these deeming rules, including the following:

- where a **corporation** that owns **residential property** either **amalgamates** (Section 87) or **transfers** the property to a **parent corporation** in the course of **winding up** (Section 88), a **gain** on sale from a disposition **within 365 days** after either event would be **subject to these rules**;
- the **ownership period** would **commence on acquisition** from any party, even a **related party**, whether at **fair market value** or under a **rollover** pursuant to Section 85;
- where these rules **deem a gain** to be **business income**, the income would be **active business income** and may be eligible for the **small business deduction**; CRA also cautioned that, depending on the circumstances, they may apply **GAAR** if one of the main purposes was to obtain a tax benefit to which the taxpayer would not otherwise be entitled; and
- determining whether any specific property is a **dwelling**, a requirement to be subject to the property flipping rules, is a **question of fact**; CRA indicated that certain **specific questions** related to a **retirement home** and to a property with a full kitchen used to operate a business were **under review**.

*amalgamation or windup restarts the clock*

*related party transfers restart the clock*

*small business deduction may be available on income from flipped property*

Finally, CRA noted that, where the **property flipping** rules did **not apply**, the question of whether any specific **disposition** was on **income or capital account** was a **question of fact** requiring a review of all relevant facts and circumstances.



### Editors' comment

Although not specifically noted by CRA, many of the transfers that would restart the 365-day clock could take place at values less than fair market value for tax purposes, resulting in the possibility that many years of appreciation could be converted to income gains if a resale occurred soon after such a transaction. See [VTN 513\(7631\)](#) for a discussion of this issue where a beneficiary receives a residential property from an estate and then subsequently disposes of the property within 365 days of acquisition.

CRA's comments align with those set out in an April 2023 Tax for the Owner-Manager article (see [VTN 501\(7048\)](#)).

## ALLOWABLE BUSINESS INVESTMENT LOSS (ABIL)

A December 16, 2024 French **Court of Quebec** case ([171517 Canada inc. vs. QRA, 2024 QCCQ 7580](#)) reviewed the taxpayer's **ABIL** claim for \$6.86 million that resulted in a non-capital loss in 2011 that was applied from 2011 to 2014. The taxpayer alleged that it had **advanced \$6.86 million to two corporations** (including one in which it was a shareholder) from 2004 to 2010 to assist with their operations; however, those corporations **declared bankruptcy in 2011**.

A **BIL** is a **capital loss** from a **disposition** of **shares** in, or a **debt** owing to a taxpayer by, a **small business corporation** (SBC, defined in Subsection 248(1)) where the disposition is to an **arm's-length person** or a person to which a Subsection 50(1) election applies (Paragraph 39(1)(c)). A loss arising on a **non-arm's length intercorporate debt** is **not** eligible for **BIL** treatment (Subparagraph 39(1)(c)(iv)) but may still generate a **capital loss**. As a BIL is a form of capital loss, the ABIL is 50% of the BIL (Paragraph 38(c)).

*no ABIL on non-arm's length intercorporate debt*

### Taxpayer loses

The Court found that the taxpayer **failed to prove** the existence of **legitimate loans**, noting that the **bankruptcy** documents for the corporations did **not mention** the **taxpayer** as a **creditor**. There were also **no loan agreements**, **no formal repayment schedules** and **no defined terms** of the **alleged loans**. The **advances** to the corporations were **not documented as loans** and **cheques provided** to the corporations were only indications of **payments** and did **not prove** that **loans** were **provided**.

*evidence to substantiate bona fide loans*

The Court also found that, without the support of the taxpayer, the corporations would have ceased operations before they even began generating revenue, demonstrating an **economic dependence on the taxpayer**, referencing the Keybrand Foods Inc. vs. HMQ case ([2016-2904\(IT\)G](#); see [VTN 459\(4879\)](#)). As such, the Court found that the taxpayer had **de facto control** of the corporations. In addition, the **absence of formal documentation** surrounding the alleged **loans** was inconsistent with an arm's length relationship. The Court ruled that the taxpayer did **not act at arm's length** with the **borrowers**.

As the **alleged loans** were made to **corporations** with whom the taxpayer **did not act at arm's length**, **no ABILs were available**.

*whether economic dependence resulted in a non-arm's length relationship*

The Court also upheld **gross negligence penalties** and the assessment outside of the normal reassessment period, noting the **size of the amount** at issue and the **taxpayer's sophistication and his business experience**. In addition, the Court noted that the **key shareholder** knew that the **tax returns** were **false** and that the **lack of supporting documents** regarding the loans would make an audit impractical.

## INSOLVENCY OF CRYPTO-ASSET EXCHANGE

An October 30, 2024 **Technical Interpretation (2023-099654117)**, Charles Dumas) provided comments on **realizing losses** related to **crypto-assets** held on account of **capital** on the Mt. Gox (MG) platform (incorporated in Japan) that went insolvent in 2014. CRA provided specific comments related to the taxation of payments to be made to former users of MG in 2025 from the insolvency process.

*10-year insolvency processes*

CRA noted that, when determining the **tax consequences** resulting from intermediated **crypto-asset transactions**, **whether or when a taxable event** has taken place is **dependent** on the **nature** of the **property** held and the former user's **relationship** with the intermediary.

*recognizing losses on insolvency of third-party crypto-asset exchange*

Although the **exact legal relationship** that existed between MG and the former users was **unclear**, CRA stated that **former users** may have **difficulty establishing ownership** of the crypto-asset held through the platform (and any "forked" crypto-assets) under the prevailing Japanese law. Taxpayers would likely have a **contractual claim against MG** and, subsequently, its estate. It did not appear that the loss of MG's crypto-assets itself would trigger any disposition by MG's users at that time. Former users would have only realized a capital gain or loss (Paragraph 39(1)(a) or (b)) upon **disposition** of their **claim against MG**, the timing of which would depend on each former user's specific scenario.

*contractual relationship between intermediary and user*

More broadly, CRA stated that the **nature of the rights held** by a taxpayer against an intermediary and with respect to crypto-assets will be **relevant** in establishing **whether or when a loss** can be **claimed** for tax purposes. Where **payments are subsequently received** by a taxpayer with respect to a loss, either in the form of crypto-assets or fiat currency, the **nature of the payment** made will similarly be **relevant** in determining **whether or when** such payments should be **included in a taxpayer's income**.

CRA also commented on situations where a taxpayer, as the beneficial owner of crypto-assets held as capital through an intermediary (unlike the MG insolvency cases), experienced theft or loss of those assets and subsequently received compensation. In that case, the **involuntary disposition of property** rules (Subsection 44(2)) may be applicable to determine the timing of any resulting capital gain or loss to be included in

determining the taxpayer's income.

Proceeds are **deemed received** at the **earliest** of the following times in respect of involuntary dispositions:

*timing of capital gains/losses on involuntary dispositions*

- a. the day the taxpayer has **agreed** to an **amount** as **full compensation** to the taxpayer for the property lost, destroyed, taken or sold;
- b. where a **claim**, suit, appeal or other proceeding has been taken before one or more tribunals or courts of competent jurisdiction, the day on which the taxpayer's **compensation** for the property is **finally determined** by those tribunals or **courts**;
- c. where a **claim**, suit, appeal or other proceeding referred to in (b) has not been taken before a tribunal or court of competent jurisdiction **within two years of the loss**, destruction or taking of the property, the day that is two years following the day of the loss, destruction or taking;
- d. the time at which the taxpayer is **deemed by death** (Section 70) or **emigration** (Paragraph 128.1(4)(b)) to have **disposed** of the property; and
- e. where the taxpayer is a corporation other than a subsidiary corporation referred to in wind-up provisions (Subsection 88(1)), the time **immediately before** the **winding-up** of the corporation.

## 7 Purchase/Sale of a Business

523(7)

### DEEMED DIVIDENDS ON HYBRID SALE

The **Federal Court of Appeal** ([Foix vs. HMK, A-234-21](#); see [VTN 500\(7001\)](#)) recently found that a **hybrid sale** would result in a **deemed dividend** pursuant to Subsection 84(2) rather than a **capital gain** (see [VTN 482\(5\)](#)). A hybrid sale involves the **sale of shares** to allow capital gains treatment (and potential capital gains exemption use) as generally preferred by the vendor, in combination with an **asset sale** such that the purchaser acquires assets with stepped-up cost basis. **Leave to appeal** to the Supreme Court of Canada was **denied** on February 24, 2024.

*Supreme Court will not hear Foix case*

In an October 10, 2024 French **Technical Interpretation** ([2024-1027351C6](#), Marc Seguin) and a December 3, 2024 **Technical Interpretation** ([2024-1030561C6](#), Daryl Boychuk), CRA stated that comments from the Federal Court of Appeal are **broad in scope** and **not limited** to situations identical to those in the Foix case.

Subsection 84(2) applies on the distribution or appropriation of funds or property of a Canadian-resident corporation **in any manner whatever** to or for the benefit of its shareholders, on the discontinuance, winding-up or reorganization of the business of the corporation. CRA noted that the Federal Court of Appeal stated (paragraph 68) that the expression "in any manner

*potentially broad application of Subsection 84(2)*

whatever” is “**far-reaching**” and “anchored in history as they have always been part of this provision, and they faithfully **reflect** its **anti-avoidance purpose**.” The Court further stated (paragraph 69) that “in the presence of an **orchestrated attempt to extract surpluses without tax** or at a reduced rate, the intention of Parliament requires a reading of subsection 84(2) that balances the words that are used, as an **overly literal reading** would **defeat its anti-avoidance mission**”. The Court has adopted a broad interpretation of Subsection 84(2), noting that **any hybrid planning** could be subject to an analysis as to whether the **provision** may apply.

The Court also **warned against a formalistic and restrictive application** of Subsection 84(2) as provided in certain previous cases such as:

- Descarries – Subsection 84(2) did not apply to the pipeline restructuring but GAAR applied such that V-Day value was deemed to be a dividend (Descarries et al. vs. HMQ, see [VTN 397\(1605\)](#));
- McNichol – neither Subsection 84(2) nor GAAR applied ([McNichol vs. HMQ, 94-1577\(IT\)G](#)); and
- Robillard – post-mortem pipeline in which the business was wound up one day after share sale was found to result in a deemed dividend (Robillard (Estate) vs. HMQ, see [VTN 487\(6457\)](#)).

CRA stated that GAAR would not be applicable to situations identical to the hybrid asset and share sale-type transaction in Geransky vs. HMQ (see [VTN 366\(4529\)](#)).

*certain forms of hybrid sales still accepted by CRA*

## INTERGENERATIONAL BUSINESS TRANSFERS (IBTs) – VARIOUS ISSUES

The IBT rules permit an **exception** from **deemed dividends** when **parents transfer shares** of their corporation to a **corporation controlled by their children** (Subsections 84.1(2.3), (2.31) and (2.32); see [VTN 520\(7953\)](#)).

### Simultaneous IBTs of a single business

An October 10, 2024 French **Technical Interpretation** ([2024-1038231C6](#), Simon Lemieux) stated that **multiple dispositions occurring simultaneously** as part of the **same intergenerational transfer** at the **same disposition time** would **not preclude** access to the **IBT** rules. While the transferor must not have previously sought to apply the IBT rules in respect of shares that derived their value from the same active business (Paragraphs 84.1(2.31)(a) and (2.32)(a)), multiple simultaneous dispositions do not violate that provision.

*structuring simultaneous transactions if necessary*

### Various estate freeze issues

In an October 10, 2024 French **Technical Interpretation** ([2024-1028371C6](#), Simon Lemieux), CRA provided several comments on the application of the IBT rules in the context of a **previously executed estate freeze**. In the hypothetical situation examined, the **parents held voting preferred shares** (“control shares”) of the corporation **and non-voting preferred shares**

redeemable at the fair market value of the business at the time of the freeze ("freeze shares"). The **adult children** held **voting common shares** in the corporation.

#### *Rights of shares transferred*

CRA stated that there is **no statutory requirement** that shares sold by the parent be **voting or common shares**. As such, the sale of the parents' **freeze shares** would **not** automatically **exclude them** from accessing the IBT rules.

*sale of preferred shares may qualify*

#### *Control of the corporation*

However, if the **parents retained control** of the corporation **after the disposition** of the freeze shares (due to retaining the control shares), they would **not meet the conditions** for either a gradual or immediate **IBT** (Subparagraphs 84.1(2.31)(c)(i) and 84.1(2.32)(c)(i)). As an immediate IBT prohibits de facto control post-disposition and a gradual IBT prohibits de jure control post-disposition, retaining voting control would fall afoul of both of these conditions. In addition, the **parents' control shares** would **not be shares of a specified class** as the control shares carry voting rights. Therefore, retention of these shares could cause the requirements of Paragraphs 84.1(2.31)(d) and 84.1(2.32)(d) not to be met immediately after the disposition. Even if the control shares retained fell within these requirements, they would have to be disposed of entirely within 36 months of the disposition to meet the requirements of Paragraphs 84.1(2.31)(e) and 84.1(2.32)(e).

*parents retaining control is problematic*

#### *Management of corporation subsequent to disposition*

To qualify for an immediate or gradual IBT, the **parent** and their spouse or common-law partner must take **reasonable steps to transfer management** of each relevant **business** to the **child(ren)** and **permanently cease to manage** any of these **businesses** within **36 months** for an immediate transfer and within **60 months** for a gradual transfer, or within a greater period as is reasonable (Paragraphs 84.1(2.31)(g) and 84.1(2.32)(h)).

The **management or supervision** of the activities of a corporation involves a relatively **significant decision-making power** within the corporation. Generally, a **director manages** the activities of the corporation or supervises such management. Therefore, if the **parent remains a director** of the corporation after the disposition and **steps are not taken** to completely and **permanently cease such positions** within the prescribed time limits, the transfer would **not** meet the conditions for either form of **IBT**. CRA noted that their conclusion would be the **same** whether the parent was the **sole director or one of multiple directors** and whether or not the direction of the day-to-day activities was in the hands of the children. CRA also reiterated that a parent might still be involved in problematic management or supervision of the business after the transfer without being a director. While the determination is based on the specifics of each situation, CRA noted that generally, the more a parent is responsible for tasks with significant decision-making power, the more likely it would be that their responsibilities would

*parent continuing to be a director after transfer could be problematic*



constitute management and fall afoul of the requirements to have an IBT.

CRA also noted that **discretionary control** over the **disbursements of funds** of a corporation is a **significant function** that could constitute a task of **management or supervision** of the activities of the business. In this case, it would be up to the taxpayers to demonstrate that it was reasonable for the parent to retain such responsibilities beyond the time periods provided for.

*who controls the  
disbursement of funds*

#### *Extended payment terms*

For **gradual IBTs**, within **ten years** of the disposition, and at all times thereafter, the **fair market value** (FMV) of the **parent** and their spouse or common-law partners' ownership **interests in debt or equity** of the corporation sold, the purchaser corporation and **each relevant group entity** must be **reduced** to a **maximum percentage** of the FMV of their interests **prior to the disposition**, as follows:

- (i) where the Opco shares sold were shares of a **family farm or fishing corporation, 50%**; or
- (ii) where the Opco shares sold were **qualified small business corporation** shares, **30%** (Paragraph 84.1(2.32)(f)).

There is no similar requirement for immediate IBTs.

This condition would **not be met** where the children's corporation purchased all of the freeze shares held by the parent but **paid only 20%** of the proceeds **over the 10 years** following the sale date as the parent would **still hold 80% of the fair market value** of all of **their interest** held immediately before the disposition. This requirement is based on only the interest held by the parent immediately prior to the disposition, not the total value of the corporation.

*ensuring sufficient  
repayment IBT proceeds  
within the ten-year period*

**Late-Breaking News:** On February 26, 2025, CRA **released Form T2066 Election for Immediate and Gradual Intergenerational Business Transfer**, the **prescribed form** to **elect** that the **IBT rules apply**. The election requires the parties to indicate whether their IBT is immediate or gradual.

## 8 Owner-Manager Remuneration

523(8)

### SHAREHOLDER LOAN ACCOUNT ERROR

A December 19, 2024 **Tax Court of Canada** case ([Gabriel vs. HMK, 2016-467\(IT\)G](#)) considered whether certain amounts should be assessed as **shareholder benefits and/or loans** for the 2010 and 2011 taxation years. CRA reassessed the sole shareholder of a corporation on the basis that the corporation had **overstated its "due to shareholder"** account, resulting in

*diligently separating  
intercorporate loans from  
shareholder expenses*

shareholder benefits of \$157,247 in 2010 and \$51,824 in 2011. The taxpayer argued that the amounts recorded in the “due to shareholder” account **included sums owed** not only to him but also to **another corporation** (the second corporation) he controlled, which had paid many of the first corporation’s expenses.

### Taxpayer wins

The Court found that the first corporation’s **accounting records were unreliable**, as they **improperly combined amounts** owed to the taxpayer and his second corporation in a single account. As CRA’s assessment was based on inaccurate account balances, the **Court rejected CRA’s assessments**. Further, consistent with other court cases (see [VTN 500\(7002\)](#)), the Court also concluded that **mere bookkeeping entries do not** in themselves **create taxable benefits** and that no actual shareholder benefit had been conferred on the taxpayer.

## 9 Corporate Reorganization

523(9)

### SAFE INCOME – PREFERRED SHARES

Section 55 is an anti-avoidance provision that can **reclassify tax-free intercorporate dividends** into **capital gains**. **Several exceptions** will allow an intercorporate dividend to avoid capital gains treatment. Section 55 does not apply to the extent that there is **safe income** applicable to the shares on which the dividend is paid (Paragraph 55(2.1)(c)). Conceptually, safe income is the **portion of any gain** on the shares that can be reasonably **attributed** to the corporation’s **taxable income** realized after 1971.

On November 28, 2023, CRA presented a paper (**CRA Update On Subsection 55(2) And Safe Income - Where Are We Now?**, Marc Ton-That) at the 2023 Canadian Tax Foundation’s national conference setting out **new positions** on the determination of **safe income**. The presentation, slides and paper are [available online](#) at the Canadian Tax Foundation’s website. In that paper, CRA indicated that, where **preferred shares** are issued on a **tax-deferred rollover** (e.g. Subsection 85(1)) of property other than shares to a corporation, the **deferred gain** on the **property transferred** would **increase safe income** attributable to the **preferred shares** when the **property is disposed of**. This income would **not increase safe income** related to **other shares**, including common shares.

*allocation of safe income between different share classes*

A December 3, 2024 **Technical Interpretation** ([2024-1038181C6](#), Laurence Gagne) confirmed that this interpretation **only applies to preferred shares** issued as consideration for **assets other than shares**. It would **not apply** where preferred shares are issued as consideration for **shares of another class** of the **same corporation**. CRA’s longstanding policy that **safe income** of such shares is determined based on the **safe income attributable** to the

*CRA still considers safe income of freeze shares to be locked in at issuance*

shares for which the preferred shares were issued is unchanged. Subsequent **realization of gains** on assets by the corporation would **not increase** the **safe income** of these **preferred shares**.

An October 10, 2024 French **Technical Interpretation** (2024-1028881C6, Marc Seguin) confirmed that the **realized gain** on the **asset** for which the **preferred shares** had been **issued** would **not increase** the **safe income** of any **other class** of shares, except to the extent of **appreciation** after the transfer of the asset. This would apply even if the **preferred shares** had been **redeemed** prior to the disposition of the asset, whether or not Subsection 55(2) applied to any deemed dividend resulting from that redemption.

## SECTION 84.1 – MODIFIED ADJUSTED COST BASE

Section 84.1 can apply to convert a **capital gain into a dividend** when the following criteria are met (see [VTN 479\(6042\)](#)):

- a **non-corporate taxpayer** resident in Canada **sells shares** (“the shares”) that are capital property;
- the **purchaser** is a **corporation** with whom the seller does **not act at arm’s length** (for this purpose, any person who is a member of any group of less than six persons who control the corporation is deemed not to act at arm’s length, Paragraph 84.1(2)(b)); and
- the **corporation whose shares** are **sold** is **connected** (Section 186) to the **purchaser** immediately after the sale (the purchaser owns more than 10% of the votes and value, or the purchaser has control, under the modified definition in Subsection 186(2)).

*whether the parties are acting at arm’s length*

However, the seller can receive a **combination of paid-up capital** in shares of the purchaser corporation and **non-share consideration** equal to the greater of the paid-up capital of the shares transferred in and the **modified adjusted cost base** (MACB; Paragraph 84.1(2)(a.1)) of those shares. The MACB is **reduced** by any **gains** sheltered by the **capital gains exemption** (CGE) on a **previous disposition** of the shares by a **non-arm’s length person**.

*reviewing the history of the shares to document the modified adjusted cost base*

Practitioners commonly refer to MACB as arm’s length ACB or hard ACB.

In an October 10, 2024 French **Technical Interpretation** (2024-1028931C6, Simon Lemieux), CRA was asked at what **point in time** the **non-arm’s length** status of the **person** who had **claimed** the **CGE** was to be determined. CRA indicated that their longstanding position was that the **relationship** at the time of the **disposition** resulting in the **CGE claim** would determine whether MACB was reduced for the CGE claim.

*whether the parties acted at arm’s length when the CGE claim arose*

In the example provided, a taxpayer had acquired shares from his father-in-law, who had claimed the CGE. Subsequent to that acquisition, the taxpayer’s marriage had ended, so that he was no longer related to his

former father-in-law. As he was related, and therefore not acting at arm's length, at the time of the share sale resulting in the CGE claim, his MACB was reduced.

## 10 Corporate Tax

523(10)

### CONVERSION OF ERDTOH TO NERDTOH

An October 10, 2024 French **Technical Interpretation** ([2024-1027361C6](#), Nathalie Aubin) considered a hypothetical situation in which **eligible refundable dividend tax on hand** (ERDTOH) could be effectively **converted** into **non-eligible refundable dividend tax on hand** (NERDTOH) within a corporate group. This results from the fact that **Part IV tax payable** is determined based on the **recipient's proportion of the payer corporation's total dividends paid** and total dividend refund, while the **RDTOH pool** to which the Part IV tax is added **can vary** depending on the **proportion of both eligible and non-eligible dividends** received. The **potential conversion** of ERDTOH to NERDTOH arises when **different proportions of eligible and non-eligible dividends** are paid to different shareholders, including one or more **connected corporations**.

*risk of conversion of ERDTOH to NERDTOH in a corporate group*

The following **example** demonstrated the issue.

**Aco** had **two shareholders**, **Bco** and **Cco**. **Bco** owned all the common shares and **Cco** owned all the preferred shares. **Bco** and **Cco** were both **connected** to **Aco**. **Aco** had the following tax accounts: GRIP of \$100,000, ERDTOH of \$38,333 and NERDTOH of \$100,000.

**Aco** paid an **eligible dividend of \$100,000 to Bco**, resulting in a **dividend refund to Aco of \$38,333** from its **ERDTOH** (Subparagraph 129(1)(a)(i)). **Aco** redeemed the preferred shares held by **Cco**, generating a **deemed dividend of \$500,000**, for which **Aco** received a **dividend refund of \$100,000** from its **NERDTOH** (Subparagraph 129(1)(a)(ii)). As there was only \$100,000 in NERDTOH and no remaining ERDTOH after the dividend to **Bco**, the dividend refund on the share redemption was limited to \$100,000. In other words, eligible dividends recover ERDTOH first, and then any recovery of NERDTOH or ERDTOH from the payment of non-eligible dividends is determined subsequently (Subsection 129(1)).

As **Bco** and **Cco** were **connected corporations** of **Aco**, their Part IV tax was proportionate to their share of the total dividends paid by **Aco**, regardless of the type of dividend they each received or the type of RDTOH recovered by **Aco** (Paragraph 186(1)(b)). In other words, **Bco** and **Cco's Part IV** tax was computed based on the **proportion of dividends received** by each corporation multiplied by **Aco's total dividend refund** (\$138,333) for the year. The Part IV tax was computed as follows:

*the complexities of Part IV tax and RDTOH on dividends from connected corporations*

- **Bco**:  $\$100,000 / \$600,000 \times \$138,333 = \$23,055$ ; and
- **Cco**:  $\$500,000 / \$600,000 \times \$138,333 = \$115,278$ .

As the taxable dividend received by Bco caused Aco to receive a dividend refund from its ERDTH, the **Part IV tax** of \$23,055 was added to **Bco's ERDTH** (definition of ERDTH in Subparagraph 129(4)(a)(ii)). As the dividend received by Cco did not entitle Aco to a refund from its ERDTH account, the **Part IV tax** of \$115,278 was added to **Cco's NERDTH** (definition of NERDTH in Paragraph 129(4)(b)).

Because the eligible dividend alone recovered all of Aco's ERDTH, no portion of its ERDTH was recovered as a result of the non-eligible dividend received by Cco, and therefore no portion of Cco's Part IV tax could be added to its ERDTH. As a result, **\$15,278** (\$115,278 - \$100,000) was **converted from ERDTH to NERDTH** for the **corporate group**. The initial allocation between RDTH accounts (\$38,333 ERDTH and \$100,000 NERDTH) had been modified (\$23,055 ERDTH and \$115,278 NERDTH).

*careful dividend planning to maximize the benefit of eligible dividends and RDTH*

CRA confirmed that the above example demonstrates the correct application of the tax rules. They have noted that they brought the issue to the attention of the Department of Finance.

## 11 CRA

523(11)

### UNCERTAIN LEGISLATION

A February 12, 2025 CPA Canada article ([CPA Canada helps navigate tax uncertainty](#), John Oakey, CPA) discussed the general **principles** that appear to guide **CRA's** determination of whether to **administer unlegislated tax proposals**. The article also discussed CPA Canada's latest understanding of which proposals will be administered by CRA.

#### **CRA's position on administering unlegislated proposals – general principles**

A **Notice of Ways and Means Motion** (NWMM) must be tabled in the House of Commons if the federal government introduces a tax measure that **increases taxation**. A non-statutory rule in the House of Commons allows CRA to **begin** provisional **administration** (such as developing forms, schedules and compliance systems) of proposed measures **included** in an **NWMM** as if it were law. As such, CRA will generally administer legislation tabled as an NWMM unless the government indicates not to administer the proposal.

*Notice of Ways and Means Motion is required where taxation is increased*



CRA **can** also **administer** a proposal **without an NWMM** if all of the following conditions are met:

- there is **no incidence of taxation** (e.g. increase in taxation or broadening of the taxation base);
- **draft legislation is provided** by the Department of Finance; and
- the draft legislation is **final** and **not subject to consultation**.

*some changes can be administered without a Notice of Ways and Means Motion*

While CRA **cannot force** taxpayers to comply with proposed legislation that it administers, tax laws enacted with a retroactive effect may result in penalties and interest for taxpayers who do not file in accordance with a proposal.

#### *Editors' comment*

In a December 23, 2020 Technical Interpretation ([2020-0874621E5](#), Kimberley Wharram), CRA noted that where proposed legislation results in an increase in benefits to the taxpayer (for example, Canada child benefit), or where a significant rebate or refund is at stake, CRA's past practice has generally been to wait until the measure has been enacted (see [VTN 474\(5729\)](#)).

#### **Capital gains inclusion rate**

A January 31, 2025 Department of Finance release ([Government of Canada announces deferral in implementation of change to capital gains inclusion rate](#)) announced that the **effective date** for the proposed **capital gains inclusion rate** increase from 50% to 2/3 would be **deferred to January 1, 2026** (see [VTN 520\(7927\)](#)). On the same day, CRA [announced](#) that they would administer in accordance with the 50% rate.

The CPA Canada article also reported that CRA has confirmed that **consequential changes** to the proposed **increase to the capital gains inclusion rate** to 2/3 have **also** been **deferred** to January 1, 2026. Such consequential changes include proposals related to net capital losses, employee stock option deductions and allowable business investment losses.

*consequential changes are also deferred*

#### **Other measures to be administered**

The CPA Canada article indicated that CRA has stated that the following measures will be administered as there is proposed legislation that is in sufficiently final form:

- increasing the **lifetime capital gains exemption** to \$1,250,000 for dispositions as of June 25, 2024 (see [VTN 513\(7628\)](#));
- allowing **charitable donations** made from January 1, 2025 to February 28, 2025 to be claimed in the 2024 tax year (see [VTN 521\(7955\)](#)); and
- excluding individuals from the requirement to **withhold amounts** on certain **residential rental** payments to **non-residents** (see [VTN 517\(7840\)](#)).

*adjusting returns if these items do not eventually pass*

### Other measures CRA will not yet administer

The article noted that CRA had confirmed that the following would not be administered:

- **expanding the Canada carbon rebate rural supplement for individuals** (see [VTN 521\(7955\)](#)); although CRA had originally indicated that the expansion would be applicable to the April 15, 2025 payments and the 2024 T1 was updated to reflect the proposed changes, CRA has now indicated that payments would not be made without Royal Assent;
- **making the Canada carbon rebate for small businesses tax-free**, providing enhancements to smaller CCPCs and limiting the payments for larger eligible CCPCs (see [VTN 521\(7955\)](#); these proposals would not be administered as no legislation had been released);
- **2024 Fall Economic Statement measures** – As no draft legislation was released, proposals from this release, including the following, would not be administered:
  - amending the **scientific research & experimental development** (SR&ED) program (see [VTN 521\(7955\)](#));
  - expanding eligibility for the **rollover of eligible small business corporation shares** (see [VTN 521\(7955\)](#)); and
  - reinstating the **accelerated investment incentive** CCA initiatives (see [VTN 522\(8071\)](#));
- **remaining August 12, 2024 measures** – The remaining measures included in the draft legislation will not be administered as they were subject to consultation. They include the following:
  - amending the **AMT for investment counselling fees, resource expenses** and gains on donations of flow-through shares (see [VTN 517\(7819\)](#));
  - modifying the **trust reporting rules** (see [VTN 517\(7837\)](#); CRA previously announced the waiver of bare trust filings for 2024 (see [VTN 519\(7904\)](#)));
  - introducing **accelerated CCA** for **productivity-enhancing assets** and **purpose-built rental** housing (see [VTN 517\(7821\)](#));
  - expanding the list of expenses recognized under the **disability supports deduction** (see [VTN 513\(7619\)](#));
  - expanding the **TOSI exceptions** for certain property that is **inherited** or received as a settlement of rights on a **relationship breakdown** to include substituted property (see [VTN 517\(7827\)](#)); and
  - extending the **timeframe** for **realizing losses** to which **Subsection 164(6)** would apply to the first three taxation years of the graduated rate estate (GRE; see [VTN 517\(7839\)](#)).

*a potential delay in rural supplement payments*

*watching for these items to be reintroduced*

## Other measures

The CPA Canada article did not discuss whether CRA would administer the following measures:

- introducing the **working Canadians rebate** (see [VTN 520\(7918\)](#));
- allowing the **carbon rebate** to **CCPCs** that **file** tax returns for 2023 by **December 31, 2024** (the current deadline is July 15, 2024; see [VTN 518\(7852\)](#));
- expanding and modifying **various clean technology initiatives** (see [VTN 509\(7439\)](#)); and
- introducing the **Canadian entrepreneurs' incentive** (see [VTN 517\(7825\)](#)); the article noted that the Department of Finance confirmed the intent to introduce this measure effective for 2025.

## Editors' comment

If the government later indicates that a proposal administered by CRA will not be moving forward, taxpayers may have to **amend their returns**. Likewise, amendments may be necessary for items not administered that eventually pass with a retroactive effective date.

## INFORMATION RETURNS – GUIDANCE AND RELIEF

On February 19, 2025, CRA released a Tax Tip ([Update on the filing of information returns](#)) providing **guidance** and announcing **administrative relief** related to:

- **challenges** practitioners have experienced when filing **information returns**; and
- the **deferral** of the effective date for the increase to the **capital gains inclusion rate** to January 1, 2026.

### Information slip filing relief

CRA stated that they will **grant relief** in respect of **late-filing penalties** for information returns normally due on February 28, 2025 provided that they are **filed on or before March 7, 2025**.

*an extended slip filing season*

### Confirmation receipt

CRA noted that the “**Confirmation of Receipt**” email sent when a file has been received does **not** necessarily **indicate** that the file **was accepted**. CRA suggested that filers should **review the email to confirm** whether the return was actually accepted.

### Common slip rejection issues

CRA provided a **listing** and **discussion** of the **common reasons** that information **slips electronically** filed are **rejected**:

- missing mandatory tags in the XML;
- invalid account number;

- incorrect Transmitter Account Number provided on the T619 Electronic Transmittal Record;
- issues related to T4 Box 45 and T4A Box 015 (dental benefits); and
- issues related to the calculate button on the summary page in MyBA and RAC (T4) not working properly.

### Previously released slips

CRA will **not be revising** or altering the tax **slips** that were published in the fall of 2024, which **reference 2024 capital dispositions** in Period 1 (January 1 – June 24, 2024) and Period 2 (June 25 – December 31, 2024).

### Tax slip adjustments

**Information** to be **reported** on certain tax slips (primarily the T3, T4PS and T5008 (book value) slips) may **need to be recalculated** to ensure taxpayers receive accurate information. **Penalty relief** related to these **information returns**, except for T3 slips (see below), will be extended **to March 17, 2025**.

*T5008 slips may be provided later than normal this year*

### T3 slip relief

On January 31, 2025, CRA **announced** that they will grant **relief** in respect of **late-filing penalties** and **arrears interest until May 1, 2025** for impacted **T3 trust filers** (see [VTN 522\(8082\)](#)). The T3 **relief applies** to **both T3 returns and information slips**.

*T3 slips may arrive even later than normal this year*

Similar relief was also previously announced for impact T1 filers who filed by June 2, 2025.

### Penalty relief caution

CRA indicated that for a **return** filed **after** the end of the relief period, penalties and interest will apply **based** on the **original due date**, not the final date of the relief period.

*not delaying filing past the relief end date*

## SECURITY PRACTICES FOR ELECTRONIC FILERS

A January 27, 2025 addition to CRA's [Efile news and program updates](#) webpage provided a discussion of **security practices for electronic filers**, noting that CRA has noticed a **growing threat** of financial fraud and digital scams.

CRA reminded practitioners that efilers must **deal directly** with their clients and must **validate** their **identity**. In addition, efilers should respect that access to the EFILE Electronic Filing Service is limited **solely for the purpose of the electronic filing** of a return of income and any other use is prohibited (such as, document retrieval for income verification purposes).

*reviewing firm policies for identification verification*

CRA also provided a chart which contained suggestions on how **identity validation** could be conducted **in person**, **via telephone** and **online** (see Appendix B).

## VERIFY IT IS THE CRA CALLING

CRA has launched a [webpage](#) that assists taxpayers in ascertaining **whether the call** that they have received is **actually from CRA**. Taxpayers or representatives can go to the webpage and enter the 10-digit number that they were given to call back. The website will automatically **confirm its validity**. CRA also reminded taxpayers **not to rely** on the **number displayed** on their caller ID.

*bookmarking this webpage to confirm the legitimacy of CRA calls*

Only phone numbers listed on the CRA website can be found using this tool. It does **not** include individual CRA employees' direct work numbers.

## STILL A SPOUSE AFTER DEATH? – SECTION 160

Where a person who owes taxes **transfers property** to a current or future spouse (or common-law partner), a minor (under age 18) or a **non-arm's length person**, the recipient can become jointly and severally **liable** for the transferor's **tax debts** (Section 160). This liability is limited to the **excess** of the fair market **value** (FMV) of the property received over the **consideration provided** for the property.

A January 21, 2025 **Federal Court of Appeal** (FCA) case ([Enns vs. HMK, A-100-23](#)) considered whether a **surviving spouse** remains a "spouse" for the purposes of **Section 160 after the death** of their partner. Specifically, the Court examined whether the taxpayer, as the **designated beneficiary** of her **late husband's RRSP**, was liable for his unpaid tax debt.

Originally, the Tax Court of Canada followed a few decisions (see [VTN 504\(7239\)](#) and [417\(2584\)](#)), holding that Parliament intended that Section 160 apply on the basis that the taxpayer **remains the spouse after** their partner's **death**, making the taxpayer **liable** for the lesser of the deceased's unpaid tax debt or the fair market value of the RRSP received. However, the FCA noted that the Tax Court had also previously reached the opposite conclusion – that, because a marriage ends upon the death of one spouse, Section 160 did not apply to a similar RRSP transfer (see [VTN 383\(541\)](#)).

### Taxpayer wins

After conducting a textual, contextual and purposive analysis of the term "spouse," including the manner in which common-law partners are deemed to be spouses for income tax purposes, the FCA concluded that Parliament intended that the **legal dissolution** of a marriage when **one spouse dies** apply for all income tax purposes, both for legal marriages and common-law partnerships. As the **transfer of RRSP funds** occurred after the death of her spouse, the **taxpayer was not a spouse** of the deceased at that time. Further, she was **not deemed** to be **non-arm's length** as the **RRSP did not pass to her through the estate**. As a result, the **requirements for Section 160** to apply were **not met**.

*RRSP transfers to a surviving spouse outside the estate are not subject to Section 160*



Although not a determining factor, the Court noted the harsh tax consequences of applying Section 160 in this case, as the taxpayer would have had to withdraw funds from her retirement account, incurring additional tax liabilities.

## VOLUNTARY DISCLOSURE – GROSS NEGLIGENCE

A January 15, 2025 **Tax Court of Canada** case ([Pellegrin vs. HMK, 2018-686\(IT\)G](#)) considered whether **various amounts** should be **included in the taxpayer's** income as a **shareholder benefit** or included as a **shareholder loan** for the 2002 to 2009 taxation years. Having **not filed returns** for **several years**, the taxpayer attempted to get caught up by **submitting a voluntary disclosure application** that covered eight years for both him and his corporation. **CRA terminated** the voluntary disclosure process before it was accepted because two personal returns had been filed for 2009 with conflicting salaries. This **discrepancy undermined the credibility** of the disclosure, leading to its rejection. Consequently, CRA **proceeded with an audit**, which resulted in personal tax assessments that were the subject of this appeal.

*rejected voluntary disclosures can turn into audits*

### Taxpayer wins and loses

The **Court agreed** with **CRA's income inclusions** with the exception of a few transactions that it found to be non-taxable amounts. **However**, despite the rejection of the voluntary disclosure, the **Court found** that the taxpayer's **efforts to become compliant** weighed **against** a finding of **gross negligence**. The Court emphasized that gross negligence requires a "marked departure" from reasonable taxpayer behaviour, which was **not demonstrated** in this case. The fact that the taxpayer had taken **proactive steps** to file returns and provide CRA auditors with substantial documentation indicated that he was **not recklessly indifferent** to his tax obligations. In addition, the Court considered that the taxpayer had gone through a difficult period in his life following the death of his father in 2003, which contributed to his tax filing delays.

*an intent to voluntarily comply can help against gross negligence penalties*

## SEIZURE OF TAXPAYER PROPERTY

A January 7, 2025 **Federal Court** case ([Travis Allen Wilson vs. HMK, ITA-15623-19](#)) considered **whether** certain **property seized** by CRA **belonged to an individual taxpayer** or his corporation in the context of tax enforcement proceedings.

CRA had certified the taxpayer's **outstanding tax** debt and, under a court-issued writ, authorized the seizure of his personal assets. The taxpayer argued that **some of the seized goods** were owned by his corporation rather than him personally. The Court found that **seven** serial-numbered **items**, including vehicles and trailers, were **registered in the taxpayer's personal name** and some were purchased before his current company existed. His evidence, which included company cheques used for purchases

*ensuring legal registration is accurate*

and general claims about business use, was insufficient to establish corporate ownership.

As a result, the Court ruled that **CRA could proceed** with the seizure and sale of items.

## RECTIFICATION – PRE-PLANNED TIMING OF DIVIDEND

A December 2, 2024 **Ontario Superior Court of Justice** case ([Feeney vs. AGC, 2024 ONSC 6712](#)) considered whether to **grant rectification** of corporate directors' resolutions that **made dividends** payable **before** the corporations had a sufficient **capital dividend account (CDA)** balance. The applicants argued that the resolutions did not reflect their true intention to utilize the CDA (Subsection 83(2)). The Court **denied rectification**, finding that, while the applicants **intended to distribute** tax-free capital **dividends**, they had **always planned to pay the dividends in June 2016**, rather than deferring the payments until after the corporate year-end when there would have been sufficient CDA. As the resolutions correctly recorded the parties' intent at the time, there was **no error to rectify**, rather, just an incorrect assumption about tax law.

*whether the timing of the dividend was pre-planned*

### Editors' comment

The timing issue related to the taxpayer and their accountant not recognizing that the disposition of eligible capital property affected the CDA account at year-end rather than when the sale occurred. This issue is no longer relevant as the eligible capital property regime has been replaced with CCA class 14.1 (see VTN [452\(4564\)](#)).

## 12 Estate Planning

523(12)

## REVERSIONARY TRUST RULES – PAYMENT OF PROFESSIONAL FEES

A **reversionary trust** (Subsection 75(2)) exists where a **trust receives property** (directly or indirectly) from a person on the condition that the property:

- may **revert** back to the **person** from whom the property was received;
- may **pass** to **persons** to be **determined by the person** subsequent to the creation of the trust; or
- shall **not be disposed of during** the **person's existence** without that person's consent, or as directed by that person.

If a trust is a **reversionary trust at any point in time**, **all distributions** of trust property to beneficiaries other than the transferor (Subsection 107(2)) while the transferor is alive are **ineligible** for the usual **tax-deferred rollover**

(Subsection 107(4.1)). In addition, income or loss from the property transferred in (or property substituted for that property) will attribute back to the person from whom the property was received.

In an October 10, 2024 French **Technical Interpretation** ([2024-1028451C6](#), Isabelle Brulotte), CRA stated their general **view** that the fact that a **person pays** for the **fees** for the **creation of a trust** should **not, in itself, trigger** the **reversionary trust** rules, as these fees are incurred before the creation of the trust and do not result in an indirect contribution to the trust. CRA also noted that the **fees** incurred for the **creation of a trust** are **distinct from the professional fees** of a trust that would be **incurred after** its **creation**. In such a case, the **payment of these fees** by another person, such as a trustee or a beneficiary, could be **considered a contribution** or a **transfer** made **indirectly** to the trust by this other person and could, depending on the circumstances, result in the **application** of the **reversionary trust rules**.

*who is paying the ongoing professional fees?*

Finally, CRA stated that the reversionary trust rules could be **triggered** if the payment is related to the **reimbursement** of the **acquisition costs** of the property initially contributed by the settlor to the trust.

## 13 Charities/NPOs

523(13)

### NON-PROFIT ORGANIZATIONS – COMMUNITY BONDS AND PREFERRED SHARES

In a January 7, 2025 French **Technical Interpretation** ([2022-0945291E5](#), Simon Morin), CRA opined that a tax-exempt **non-profit organization** (NPO; Paragraph 149(1)(l)) could **pay interest** on community **bonds** to either **members or non-members without losing** its tax exemption. CRA noted that this would require that the **financing was legitimate**, was **not** a scheme **to distribute surplus funds** to its members and **favoured** the NPO's **exempt purposes**. The interest **rate** must be **reasonable**.

*documenting how the NPO met these requirements*

However, CRA reiterated its **longstanding position** that **payments** on **preferred shares** would be a **distribution of** the NPO's **profits** that would be **inconsistent** with the **requirement** that **no income** "was **payable** to, or was otherwise **available** for the personal benefit of, any **proprietor, member or shareholder**." The **ability** to make such payments would **prevent eligibility** for the **tax exemption even if no** such **payments** were **ever made**.

*ensuring the governing documents of the NPO do not permit such payments*

## 14 First Nations

523(14)

### EMPLOYMENT INCOME – WORKING FROM HOME

A November 28, 2024 French **Technical Interpretation** ([2024-1026331E5](#), Francois Fournier-Gendron) discussed whether a status Indian would be eligible for **exemption from tax** (Paragraph 81(1)(a) of the Income Tax Act and Paragraph 87(1)(b) of the Indian Act) when **working from home** on a **reserve**. The **employer's** offices were located **off-reserve**.

CRA opined that the employee's income could be exempt under Guideline 3 of the **Employment Income Guidelines** if they performed **over 50%** of their **employment duties** on a reserve, including **working from home on a reserve**. This test could be met working two days a week at the employer's offices off-reserve and three days a week from home.

*a hybrid work arrangement may permit access to the exemption*

CRA indicated that the employee must be **required to work from home**, either under their **employment contract** or a **formal hybrid work arrangement**. If they are only permitted to work from home, this would not be sufficient. CRA's comments in this regard were similar to those provided for access to employment expenses in a work-from-home arrangement (see [VTN 511\(7522\)](#)).

CRA also indicated that the **Guidelines** would **not apply** if it was **reasonable to consider** that one of the **main reasons** for the hybrid work arrangement was to **establish a connecting factor** in order to access the exemption. CRA did not indicate how they might determine whether this was one of the main reasons.

*documenting the reasons for the hybrid or remote working arrangement*

## 15 GST/HST

523(15)

### INPUT TAX CREDITS (ITC) – CHANGES TO DOCUMENTARY REQUIREMENTS

The January 2025 [Excise and GST/HST News – No.118](#) discussed changes that altered the **specific information required to support an ITC claim** (see Bill C-59, which received Royal Assent on June 20, 2024; see [VTN 477\(5891\)](#), [494\(6779\)](#) and [515\(7708\)](#)). The required **information** for a particular purchase **depends** on the **amount payable** before tax. The previous threshold for **purchases under \$30** has been increased to **\$100**, and the threshold of **\$150 or more** has been increased to **\$500 or more**, effective April 20, 2021. See Appendix C for an updated chart of the required information to claim an ITC.

*increased threshold limits for ITC claims*

## BRITISH COLUMBIA – REGISTERED CLINICAL COUNSELLORS (RCCs): EXEMPT FROM GST

As of June 20, 2024, certain **psychotherapists** and **counselling therapists** are exempt from GST/HST on their services (see [VTN 515\(7708\)](#) and [513\(7648\)](#)). Those providing psychotherapy or counselling therapy services may **no longer** need to **charge GST/HST** if they:

- are **licensed** with a **provincial body** responsible for the regulation of psychotherapy services (regulated only in Ontario) or counselling therapy services (regulated only in New Brunswick, Nova Scotia, and Prince Edward Island); or
- operate in a province with **no regulatory body** but have the **equivalent qualifications** required to meet the licensing requirements in a regulated province.

A January 29, 2025 [News Release](#) from the BC Association of Clinical Counsellors announced that they have received **confirmation** from **CRA** that **registered clinical counsellors** (RCCs) in BC are **exempt** from **collecting GST** on psychotherapy services.

*ensuring these providers update their billing systems*

## 16 Did You Know...

523(16)

## PERSONAL TAX FILING STATISTICS

The following are statistics that CRA has released about the current and recent personal tax filing seasons.

### SimpleFile

On January 30, 2025, CRA released a Tax Tip ([SimpleFile: Let us help you with your taxes](#)) indicating that **2 million people** (the same number as last year) would be **invited** to use SimpleFile to automatically file their tax and benefit returns for the 2024 year. Last year 51,555 individuals used this method. CRA noted that the process can be completed either by phone or digitally.

*2 million SimpleFile invitations to be sent out this year*

### Editors' comment

The [2024 Fall Economic Statement](#) included several proposals to implement automatic tax filing for individuals, including amending the Canada Revenue Agency Act to mandate the Minister of National Revenue to simplify and automate individual tax filing (see [VTN 522\(8085\)](#)).

### T1 filing

On **January 28, 2025**, CRA released [statistics](#) in respect of the 2024 individual income tax filing season (for 2023 returns), noting the following:



- **92.5%** of returns were **filed electronically** (59.8% by EFILE, 32.5% by NETFILE, 0.2% by SimpleFile), while 7.5% were filed by paper;
- **33,416,099** returns were **filed**;
- **19,071,578** returns had **refunds**, of which 79% were paid by direct deposit and 21% by cheque; and
- **8,124,869** returns had **balances owing** and **6,200,261** were **nil returns**.

The proportion of **returns efiled** over the past 5 years has remained fairly **consistent** (60% - 2023; 59% - 2022; 58% - 2021; 57% - 2020; 58% - 2019);

## UPCOMING COURSES – IT'S NOT TOO LATE!

### Personal Tax Update 2025

*it's not too late!*

Another personal income tax season is now upon us and so is the 43rd annual **Personal Tax Update**. **Pre-recorded** presentations will be offered from early March to April 2025 for viewing at your own pace. Join us for a 7-hour session aimed at the effective and efficient completion of 2024 returns and planning considerations for the coming year. Highlights include the **compliance and planning implications** of the proposed changes to the **capital gains inclusion rate** on tax returns prepared for 2024 and planning for future years, the new **alternative minimum tax** rules and the **denial** of **expenses** for **short-term rental** activities.

### Newbies to Ninja – Personal Tax, 2025 Edition

*getting all new preparers on the same page*

Help your **newer preparers** enhance their ability to **efficiently and accurately** prepare personal tax returns with the updated version of this **basic T1** general **preparation course**. In addition to **core topics** like employment, business, investment and rental income, this concise pre-recorded online 3-hour topic-by-topic course incorporates **changes** including evolving **CCA incentives**, the **denial of expenses** for non-compliant **short-term rental** activities and newly introduced or modified credits and deductions. Used in conjunction with your firm's presentation of administrative procedures, newer preparers will be preparing T1s and identifying **areas of concern** and **planning opportunities** like tax ninjas!

# 17 Appendix

523(17)

## APPENDIX A

### Additional Video Tax News Resources and Recently Released CRA Publications and Forms

#### Video Tax News Resources

- [Video Tax News Members Portal and Newsfeed](#)
- [Video Tax News Members Portal – A How To Use The Portal Video Tutorial](#) (6 mins)
- [Summary of Recent Tax and Benefit Proposals](#)
- [Tax on Split Income \(TOSI\) – Quick Reference Chart](#)
- [Underused Housing Tax \(UHT\) – Quick Reference Chart](#)
- [Selected Temporary CCA Incentives – Quick Reference Chart](#)
- [Life in the Tax Lane – 10 Minute Monthly Podcast/Video](#)
- [Technical Interpretations](#)

#### CRA Guides/Publications

- [S3-F2-C1](#) Capital Dividends
- [S4-F15-C1](#) Manufacturing and Processing
- [S1-F1-C1](#) Medical Expense Tax Credit
- [S3-F8-C1](#) Principal-business Corporations in the Resource Industries
- [S1-F3-C1](#) Child Care Expense Deduction
- [RC4018](#) Electronic Filers Manual for 2024 Income Tax and Benefit Returns
- [EDRATES](#) Excise Duty Rates
- [5013-G](#) Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada
- [T4058](#) Non-Residents and Income Tax
- [T4155](#) Old Age Security Return of Income (OASRI) Guide for Non-Residents
- [RC4064](#) Disability-Related Information – 2024
- [T7B-CORP](#) Corporation Instalment Guide - 2025
- [UHTN1](#) Introduction to the Underused Housing Tax
- [RC4466](#) Tax-Free Savings Account (TFSA), Guide for Individuals
- [FCN15](#) Temporary relief of the fuel charge – Light fuel oil for use exclusively in eligible heating activities

#### CRA Forms/Statements>Returns

- [T3S](#) Supplementary Unemployment Benefit Plan Income Tax Return
- [RC375](#) Notice of Objection (QST) for Selected Listed Financial Institutions

- [RC435](#) Rollover from a Registered Education Savings Plan to a Registered Disability Savings Plan
- [T1136](#) Old Age Security Return of Income (OASRI)
- [T2011](#) Registered Pension Plan Change of Information
- [T2014](#) Request for a Priority Review of a Registered Pension Plan
- [T1136-WS](#) Old Age Security Return of Income (OASRI) Worksheet
- [T737-RCASUM](#) Summary of Contributions Paid to a Custodian of a Retirement Compensation Arrangement (RCA)
- [TD1SK-WS](#) Worksheet for the 2025 Saskatchewan Personal Tax Credits Return
- Various Income Tax and Benefit Return (for all provinces and territories)
- [5013-D1](#) Federal Worksheet for Non-Residents and Deemed Residents of Canada
- [T3GR-WS](#) Worksheet for Part XI.1 Tax on Non-Qualified Property of an RRSP, RRIF, or RESP trust
- [INNS3](#) Instalment Remittance Voucher
- [T1098](#) Clean technology Investment Tax Credit
- [T2224](#) Transitional Election Under the Excessive Interest and Financing Expenses Limitation Rules
- [T2226](#) Election to Transfer Cumulative Unused Excess Capacity under Subsection 18.2(4)
- [T2228](#) Election on Specified Pre-regime Loss
- [T2229](#) Election to Forgo a Foreign Accrual Property Loss Under Clause 95(2)(f.11)(ii)(E)
- [T2225](#) Group Ratio Rules Election Under Subsection 18.21(2) and Fair Value Adjustments Election Under Subsection 18.21(4)
- [T3QDT](#) Joint Election for a Trust to be a Qualified Disability Trust
- [T3QDT-WS](#) Recovery Tax Worksheet
- [T776](#) Statement of Real Estate Rentals
- [T2125](#) Statement of Business or Professional Activities
- [T2043](#) Return of Fuel Charge Proceeds to Farmers Tax Credit
- [RC728-SCH-A](#) Schedule A, 2024 Excess FHSA Amounts
- [T1156](#) Part II.2 Tax on Repurchases of Equity
- [T2227](#) Excluded Interest Election Under Subsection 18.2(1)
- [T2SCH130](#) Excessive Interest and Financing Expenses Limitation (2023 and later tax years)
- [T2042](#) Statement of Farming Activities
- [T777](#) Statement of Employment Expenses
- [RC728](#) 2024 First Home Savings Account (FHSA) Return
- [T1061](#) Canadian Amateur Athlete Trust Group Information Return
- [T3ATH-IND](#) Amateur Athlete Trust Income Tax Return
- [T3D](#) T3D Income Tax Return for Deferred Profit Sharing Plan (DPSP) or Revoked DPSP
- [T3GR](#) Group Income Tax and Information Return for RRSP, RRIF, RESP, or RDSP Trusts
- [T3M](#) Environmental Trust Income Tax Return
- [T3P](#) Employees' Pension Plan Income Tax Return
- [T3PRP](#) T3 Pooled Registered Pension Plan Tax Return

- [T3RI](#) Registered Investment Income Tax Return
- [RC720](#) Transfer from your RRSP to your FHSA
- [AGR-1](#) Statement of Farm-Support Payments
- [AGR-1SUM](#) Return of Farm-Support Payment
- [NR73](#) Determination of Residency Status (leaving Canada)
- [T5013FIN](#) Partnership Financial Return
- [AGR-1-LEGAL](#) Statement of Farm-Support Payments - Legal Size
- [T2](#) Corporation Income Tax Return
- [T2000](#) Calculation of Tax on Agreements to Acquire Shares (subsection 207.1(5) of the Income Tax Act)
- [T4FHSA](#) First Home Savings Account Statement
- [RC322](#) AgriInvest Adjustment Request
- [T2048](#) Capital Gains Deduction for Qualifying Business Transfer
- [CPT16](#) Application to Exempt Self-Employed Earnings from the Canada Pension Plan for Religious Reasons
- [NR74](#) Determination of Residency Status (entering Canada)
- [GST523-1](#) Non-profit Organizations - Government Funding

## APPENDIX B

### CRA Identity Validation Suggestions

The following chart contains suggested methods by CRA (from the [Efile news and program updates](#) webpage) to validate the identity of clients.

| In person   | Telephone  | Online   |
|---|--|--|
| <ul style="list-style-type: none"> <li>- Authentic, valid, and current Government-issued photo identification</li> <li>- Appropriately complex confidentiality questions about information on file or account</li> <li>- Real-time credit file check to compare the information contained in the report with that provided by the client</li> </ul> | <ul style="list-style-type: none"> <li>- Confidentiality questions about information on file or account</li> <li>- Multi-factor authentication</li> <li>- Personal Identification Number system for clients</li> </ul> | <ul style="list-style-type: none"> <li>- Video call, if applicable, to validate authentic, valid, and current Government-issued photo identification</li> <li>- Document validation software</li> <li>- Multi-factor authentication</li> </ul> |



## APPENDIX C

### Input Tax Credit Information Requirements

The following is a [table provided by CRA](#) that outlines the information that a purchaser needs to support a claim for an input tax credit.

| Information required   | Total sale under \$100 (previously \$30) | Total sale of \$100 to \$499.99 (previously \$30 to \$149.99) | Total sale of \$500 or more (previously \$150) |
|--|--|---|--|
| Supplier's business or trading name, or its <b>intermediary's*</b> name  | yes                                      | yes   | yes  |
| The invoice date or, if <b>no</b> invoice is issued, the date on which the GST/HST is paid or payable  | yes                                      | yes   | yes  |
| The total amount paid or payable   | yes                                      | yes   | yes  |
| An indication of the total amount of the GST/HST charged or that the amount paid or payable for each taxable supply (other than a zero-rated supply) includes the GST/HST at the applicable rate | no                                       | yes   | yes  |
| An indication of the status of each supply where the invoice includes <b>both</b> taxable and exempt supplies  | no                                       | yes   | yes  |
| The supplier or intermediary's GST/HST registration number   | no                                       | yes   | yes  |
| The buyer's name or trading name or the name of the buyer's authorized agent or representative   | no                                       | no  | yes  |
| A brief description of the property or services  | no                                       | no  | yes  |
| The terms of payment   | no                                       | no  | yes  |

\* An **intermediary** is a registrant who, acting as a supplier's agent or under an agreement with the supplier, causes or facilitates the making of a supply by the supplier, or a billing agent that is deemed to have acted as the supplier's agent in making a supply.



**VIDEO TAX NEWS INC.**

**Phone: (877) 438 2057**

**Fax: (877) 437-4455**

[info@videotax.com](mailto:info@videotax.com)

[www.videotax.com](http://www.videotax.com)

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