VIDEO TAX NEWS

Monthly Tax Update Newsletter

April 2025 — ISSUE 524

WHAT'S INSIDE

1 Government Releases

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FINANCE RELEASES

1. **March 7, 2025** – The Department of Finance issued a News Release (Fighting for Canadian workers and businesses) announcing the following measures to **support businesses** and **individuals** in light of the **tariffs** imposed on Canada by the United States administration:

additional programs to support businesses

   - launching the **Trade Impact Program** through Export Development Canada that will deploy **$5 billion over two years** to help exporters reach new markets for Canadian products and help companies navigate the economic challenges imposed by the tariffs;
   - making **$500 million** in favourably priced **loans** available through the Business Development Bank of Canada to **support impacted businesses** in **sectors** directly **targeted by tariffs**, as well as companies in their supply chains;
   - providing **$1 billion** in new financing through **Farm Credit Canada** to reduce financial barriers for the Canadian agriculture and food industry; and
   - **temporarily increasing access to** and **lengthening** the **maximum duration** of agreements in the **EI work-sharing program**. The program provides EI benefits to employees who agree with their employer to work reduced hours due to a decrease in business activity beyond their employer's control, allowing employers to retain experienced workers and avoid

a work-share program to retain skilled labour

layoffs, and helping workers maintain their employment and skills.

2. **March 7, 2025** – The Department of Finance issued a News Release (Government **strengthens** Canada's **anti-money laundering framework** with new regulatory amendments) announcing several measures to address threats of financial crimes. Such regulatory measures will implement the following:
   - a **requirement** to **report discrepancies** between **information** provided to **private institutions** and the **federal beneficial ownership registry** maintained by Corporations Canada to support the accuracy and integrity of the new registry;
   - enhancements to the **Canada Border Services Agency's** authorities in order to reinforce its ability to detect, deter and disrupt **trade-based financial crime**;
   - a new framework that will allow **private institutions** to **share information** related to money laundering, terrorist financing and sanctions evasion; and
   - anti-money laundering and anti-terrorist financing **obligations** for **factoring companies**, **cheque-cashing businesses** and **financing and leasing companies**.

more information sharing

3. **March 3, 2025** – The Department of Finance issued a News Release (Government extending support for mineral exploration in Canada) announcing a **proposal** to **extend** the **15% mineral exploration tax credit** for investors in flow-through shares to **March 31, 2027**. The currently legislated credit would expire March 31, 2025.

   Editors' comment: A March 11, 2025 McCarthy Tetrault article (Prorogation and the Mineral Exploration Tax Credit: A Warning, Mike Hegedus, Daniel A. Downie and Matthew Kraemer) provided commentary on some practical implications of the proposed extension that has not been enacted into law.

proposal to extend the mineral exploration tax credit

4. **February 21, 2025** – The Department of Finance released **draft legislation and explanatory notes** on the proposed **electric vehicle supply chain investment tax credit** (see VTN 513(7614)) for consultation.

CRA RELEASES

1. **Late-Breaking News**: March 28, 2025 – CRA released a note indicating that, in accordance with a March 21, 2025 news release issued by Prime Minister Mark Carney, they will:

   - **defer GST/HST remittances** and **corporate income tax payments** from **April 2 to June 30, 2025**;

- **waive interest** on GST/HST and T2 **instalment** and **arrears** payments that are required to be paid between April 2 and June 30, 2025; and
- provide **interest relief** on **existing** GST/HST and T2 **balances** between April 2 and June 30, 2025.

Interest will resume starting July 1, 2025. CRA also reminded that taxpayers **must continue to file** GST/HST returns and T2 returns by their due dates to remain compliant with filing requirements.

2. **March 19, 2025** – In an email to efilers, CRA stated that they will **no longer accept direct deposit updates or changes** submitted via **EFILE** as of **March 24, 2025**. Returns submitted with direct deposit information will be returned with an error message stating the direct deposit information must be deleted before the return can be resubmitted and accepted by CRA. Details were provided in a **March 21, 2025** Tax Tip (Direct deposit changes impacting EFILERS and taxpayers), including a statement that **changes by phone** will also **no longer** be **accepted**.

direct deposit information can no longer be updated by EFILE or by phone

3. **March 7, 2025** – On the EFILE news and program updates webpage, CRA stated that they are aware of a **new email phishing scam** targeting the **tax preparation community** where bad actors are prompting efilers to log into a **fake EFILE sign in** page to "activate" their account. CRA stated that they will never send a link asking efilers to provide financial or personal information, including the recipient's EFILE number and password.

tax preparers are being targeted by phishing scams

4. **March 7, 2025** – CRA issued a News Release (Strengthening **Compliance** in the **Trucking Industry**: CRA and Labour Program Sign **Information-Sharing Arrangement**) announcing an information-sharing arrangement to support **compliance** activities in the **trucking sector**. CRA noted that, in sharing data effectively, they are better able to foster a level playing field for all businesses. CRA also stated that this information-sharing arrangement is part of the overall compliance activity that **includes** other initiatives such as the **personal services business (PSB) pilot project** (see VTN 509(7444)).

information sharing in the trucking industry

5. **March 6, 2025** – CRA updated its **personal services business (PSB) pilot** webpage to report findings from the second phase of its **PSB project** (see VTN 509(7444)) that was **completed in June 2024**. Some of the findings included the following:

- **32%** of the participants were determined to be operating a **PSB**;
- **63%** of the **confirmed PSBs** incorporated because they felt they were **required to do so in order to find work**; **29%** indicated they were **told to incorporate** by their hiring company, of which 42% were incorrectly informed that they were eligible for the SBD

the substantial number of inappropriate SBD claims

or general rate reduction; and 60% were told they could claim various operating expenses on their T2 return;
- **84%** of the confirmed PSBs had **incorrectly claimed the SBD** and did not include the additional 5% tax on PSB income; and
- nearly **74%** of the participants worked in two sectors:
  - **transportation** and warehousing (22% of total participants; 61% of this group was found to be carrying on a PSB); and
  - **professional, scientific and technical services** (52% of total participants; 25% of this group were found to be carrying on a PSB).

risk of PSB for those carrying on business in the transportation and professional scientific and technical services sectors

6. **March 5, 2025** – The CRA Disability Advisory Committee (DAC) released its 2024 annual report providing 18 new recommendations regarding the way CRA administers and interprets tax measures for Canadians with disabilities. The recommendations focused on **improving information** and awareness, **refining eligibility criteria**, **simplifying** the **application** process, enhancing **access** to **disability tax credit-linked programs**, revising the **disability definition used** across government services, improving CRA accessibility and developing a **cross-ministerial data strategy**.

7. **March 3, 2025** – CRA updated the **Canada carbon rebate for small businesses** webpage to state that, under **current legislation**, the rebate is **taxable government assistance** and must be included in taxable income for the year in which the rebate was received. Although the government **proposed** that this rebate would be **tax-free** (see VTN 521(7955)), a **legislative amendment** is **required** to implement the proposal.

Canada carbon rebate for small businesses is taxable

8. **March 3, 2025** – On the EFILE news and program updates webpage, CRA stated that **efilers** can now **request changes** for **factual resident returns** starting with the **2024** tax year and for **returning residents** to Canada and **immigrants** starting with the **2023 tax year** in the EFILE software.

9. **February 27, 2025** – On the EFILE news and program updates webpage, CRA stated that due to the **relief** granted in respect of **late-filing penalties** for various information returns (see VTN 523(8124)), **certain tax slips** may **not** be **available** in My Account, Represent a Client or the **Auto-fill my return** service when requested.

   CRA also noted that efilers can track **transmission history** to determine accepted and rejected (with the associated error clues) T1s and T3s, as well as amended T1s submitted through ReFILE.

even greater risk of slips available online being incomplete

Editors' comment
CRA also previously noted that the "Confirmation of Receipt" email from CRA should be reviewed to confirm whether information returns have actually been accepted by CRA (see VTN 523(8124)). Expected slips that do not appear on Represent a Client may not have been originally accepted by CRA when filed.

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**: **March 21, 2025** – The **Prime Minister**, Mark Carney, announced the **cancellation** of the **proposed increase to the capital gains inclusion rate** (see VTN 520(7927)). The proposed increase to the **lifetime capital gains exemption** to $1,250,000 as of June 25, 2024 will continue as proposed (see VTN 513(7628)). No comment was made on the Canadian entrepreneurs' incentive (see VTN 517(7825)).

capital gains inclusion rate will not be increased

2. **Late-Breaking News**: **March 21, 2025** – The US Financial Crimes Enforcement Network (FinCEN) issued a Press Release (FinCEN Removes **Beneficial Ownership Reporting Requirements** for U.S. Companies and U.S. Persons, Sets **New Deadlines for Foreign Companies**) announcing the issuance of an **interim final rule** to **narrow the scope** of the **beneficial ownership information** (BOI) requirements to only **foreign reporting companies**. These companies are **required to file** BOI reports by **April 25, 2025**, 30 days after the March 26, 2025 publication date of the interim rule.

   See VTN 523(8106), 522(8093) and 508(7418) for further details of these requirements.

this imminent deadline for disclosure filings by Canadian businesses doing business in the US

3. **Late-Breaking News**: **March 20, 2025** – The **Prime Minister**, Mark Carney, announced that **GST** will be **eliminated** for **first-time homebuyers** on new homes at or under **$1 million**. On March 25, 2025, **Conservative Leader** Pierre Poilievre announced that his party would **eliminate GST** on all new homes **up to $1.3 million**.

4. **March 14, 2025** – The **Prime Minister**, Mark Carney, signed a prime ministerial **directive** instructing that the **fuel charge** (**federal carbon tax**) be **removed** as of **April 1, 2025**. On March 15, 2025, the Canada Gazette published **regulations** **reducing** the rate of the **tax to nil** in order to put this directive into effect. A March 14, 2025 CBC article reported this directive and Prime Minister Mark Carney's statement that the **April 2025 carbon rebate payments** to **individuals** would **proceed** as planned. This article also reported BC Premier David

Eby's announcement that his government would draft legislation to **scrap** the **BC provincial consumer carbon tax before April 1**.

Late-Breaking News: On March 21, 2025 a **backgrounder** was released that noted that the **2024-2025 small business carbon rebate** and the **return of fuel charge proceeds to farmers credit** would be the **final** payments and confirmed that the April 2025 rebate will be the final payment to individuals.

consumer carbon tax is eliminated – one more rebate payment will still be issued

5. **March 3, 2025** – Employment and Social Development Canada issued a Statement announcing that the final **Canada Disability Benefit** Regulations (see VTN 516(7801)) are complete and will come into force on May 15, 2025. The benefit is an **income-tested benefit** intended for **working-age** people that are approved for the **disability tax credit**. The **first payments** will be made in **July 2025**.

   For more information, including information on the benefit **application process**, see the general Canada disability benefit webpage. Additional **detailed information** can be found on the Summary of the Canada disability benefit regulations webpage. The Canada disability benefit: additional details and scenarios webpage addresses **common questions**.

identifying clients that may be eligible

6. **February 28, 2025** – An Employment and Social Development Canada release stated that the government is increasing the **federal minimum wage** to **$17.75/hour** on **April 1, 2025**.

increasing cost of labour

2 Canada's COVID-19 Response 524(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.

Source of income
A February 7, 2025 **Federal Court** case (Guillemette vs. AGC, T-1526-24) found that CRA's **denial** of CERB and CRB was **reasonable** on the basis that the taxpayer did **not meet the $5,000 prior period earnings test**. CRA argued that the taxpayer's earnings from **dog sitting** did **not** constitute a **source of income** and therefore did **not count** towards the $5,000 prior period test. CRA noted that there was **little**, if any, **profit** and loss in **past years**, **no evidence of training**, the **intended course of action** was at least initially to **help friends** rather than make a profit and the taxpayer did **not**

whether activities constituted a source of income

show a **capacity** to **make a profit** other than two receipts provided.

need to provide evidence of alleged unpaid wages

Insufficient evidence of unpaid wages
A February 14, 2025 **Federal Court** case (Naqvi vs. AGC, T-473-23) found that CRA's denial of CERB and CRB was reasonable as the taxpayer did not meet the **$5,000 prior period earnings test**. While the taxpayer argued that his income was supposed to have been higher due to **unpaid wages** from his employer, the taxpayer did **not provide sufficient documentation** to substantiate his claim. For example, the taxpayer did **not** provide any further **information** about his **alleged overtime work** in the prior period, including the **dates** for which he was not paid. The Court also stated that it **cannot provide relief** based on the taxpayer's **personal circumstances**. Rather, the Court stated that the more appropriate action would be to establish a **repayment plan** with CRA.

providing all relevant information to CRA

No new evidence in judicial review
A February 3, 2025 **Federal Court** case (Masood vs. CRA, T-609-23) found that CRA's **denial** of CERB was **reasonable**. When CRA **requested** that the taxpayer provide **additional evidence** to substantiate her claim, she **refused** and stated that she would **rather provide the evidence directly to the Court**. However, the Court reiterated that a judicial review determines whether CRA's decision was reasonable, based on the available information. As such, while the Court acknowledged that the new documents suggested that the taxpayer's income may well have been less than $1,000 for the period making her eligible for the benefit, the **Court** must only **review whether CRA's decision was reasonable based on the information** they had when they made the determination.

Editors' comment
For a discussion of the powers of, and constraints on, the Federal Court in a judicial review, see VTN 460(4928).

damages cannot be obtained through a judicial review

Damages for government errors
In a February 4, 2025 **Federal Court** case (Asfawu vs. AGC, T-1964-24), the taxpayer was **initially denied CRB**; however, **CRA reversed their position** and allowed the benefit. While there was no controversy on eligibility for CRB, the taxpayer **sought** to obtain a **payment** to **compensate for costs incurred** in dealing with CRA in connection with the dispute. The Court found that a **judicial review cannot** be used to **seek financial compensation** for government errors.

3 Personal Tax

MOVING EXPENSES – ELIGIBLE RELOCATION

A February 14, 2025 **Tax Court of Canada** case (Khani vs. HMK, 2024-667(IT)I) considered whether a taxpayer had made an eligible relocation and was therefore entitled to claim moving expenses of $66,868 for the **2021 taxation year** (Subsection 62(1)). An **eligible relocation** (defined in Subsection 248(1)) must **enable the taxpayer** to carry on a **business** or be **employed** at a new work location. The **distance** between the **old residence** and the **new work location** must be at least **40 km greater** than the distance between the new residence and the new work location. The distance element was not in dispute in this case as the distance between the two residences was slightly over 40 km.

The taxpayer, a **territory account manager**, transitioned to **working from home** in spring 2020 due to the COVID-19 pandemic. Although her employer never expressed dissatisfaction, the taxpayer argued that it was **challenging to do her work** due to **distractions** and a **lack of private space** (her sister's family lived in the basement). While it may have been possible to ask her sister's family to leave so that the basement could be used as a private work area, the taxpayer testified that she relied on the monthly rent and was concerned about asking her sister to move in the winter. As such, the taxpayer's family **moved** in February 2021 to a new house which had **more outdoor space** for her children to play and a **private area to work** (the basement). However, the Court noted that once the taxpayer moved, her sister's family was able to find suitable new accommodation on their own.

the primary purpose of the move

Taxpayer loses
The Court acknowledged that the law recognized **home offices** as **valid work locations** but emphasized that the **relocation must be primarily for employment purposes rather than personal reasons**. The Court found that the taxpayer's **employer never required or suggested** that she move, and her **work-from-home** status was **likely temporary**. Additionally, her previous residence had a basement that could have served as a private office, which undermined the argument that relocating was necessary for employment.

Ultimately, the Court concluded that her move was **primarily** for **personal reasons rather** than to enable **employment** and was therefore **not** an **eligible relocation**. As a result, her moving expense **claim was denied.**

MEDICAL EXPENSES – FERTILITY

The **definition** of **"patient"** was **broadened** in 2022 to make medical expenses of a **surrogate mother** or egg donor, when paid by a taxpayer or their spouse, **eligible** for the **medical expense tax credit** (METC). The case below occurred prior to this change.

A December 18, 2024 **Tax Court of Canada** case (McNeilly vs. HMK, 2017-2700(IT)G) considered whether a single man who incurred **expenses** related to **egg donation** and **gestational surrogacy in 2015** was entitled to claim the METC. The taxpayer argued that he should **qualify as a "patient"** (Paragraph 118.2(2)(a)) or, alternatively, that the exclusion of such expenses from the METC unjustifiably violated his equality rights under the Canadian **Charter of Rights and Freedoms**.

confirmation that surrogacy expenses were not eligible prior to legislative modifications

Taxpayer loses

Consistent with prior cases (see VTN 395(1505)), the Court found that the taxpayer was **not entitled** to the METC for medical services, procedures and medications provided to the egg donor or the gestational surrogate. To be eligible, the **recipient of the treatment** (the patient) must be the individual claiming the METC, their spouse, common-law partner or dependant. The credit was denied because the recipient of the treatment was **not one of these persons**. The Court also **rejected** the argument that an **intended parent** (the party intending to receive the child) is a **patient for METC purposes**. While costs of fertility treatments were specifically **added as eligible medical expenses** for **2016** and **surrogacy** elements were added for **2022**, **neither** of these changes had **retroactive** effect.

With respect to the Charter issue, the Court found that there was **no** direct or indirect **discrimination** as the taxpayer was **not treated differently** than any other taxpayer. The Court cited a previous decision (see VTN 406(1989)) that noted that the inability to make medical expense claims in these scenarios applied equally to "heterosexual couples, female gay couples or male gay couples."

DISABILITY SUPPORTS PROGRAM

An August 26, 2024 **Technical Interpretation** (2024-1016421E5, Randa El-Kadi) considered whether payments made under an **unspecified disability supports program** to persons with disabilities (PWDs) would be **included in** the recipient's **income**. The payments, which were administered by a department of community services, provided individualized funding to eligible PWDs **based** on a **medical diagnosis**, a functional assessment demonstrating the **need for support** in daily living activities and a **financial means/income test**.

The payments were designed to help PWDs cover **supports-related expenses** (such as hiring support workers, enhancing community participation and attending courses and workshops) and **basic expenses**

(such as transportation for medical appointments, medical supplies and non-prescription medications). Recipients were required to report on how the funds were spent and to either return unused amounts or roll them forward into the next fiscal period.

whether paid on the basis of a means, needs or income test basis

CRA opined that these payments were likely **social assistance** provided on the basis of a **means**, **needs** or **income test** (Paragraph 56(1)(u)). As a result, they must be **included in** the taxpayer's **income** but would be **offset by a matching deduction** (Paragraph 110(1)(f)). This income inclusion may affect income-tested benefits and tax credits.

CRA also analyzed whether the payments could be excluded under Paragraph 81(1)(h), which exempts certain social assistance payments related to caregiving. However, because the program did **not** involve a **caregiver providing support within a principal residence**, this exemption did not apply.

4 Employment Income 524(4)

FORGIVENESS OF LOAN FROM EMPLOYER

A February 3, 2025 **Tax Court of Canada** case (Matte vs. HMK, 2020-1071(IT)G) reviewed whether the taxpayer had received a $245,812 **benefit of employment** on settlement of **forgivable loans** received **from** his **employer**. The taxpayer was an investment advisor who had received **interest-free loans** under his **employment contract**. Provided he **remained employed** with that employer and met certain other conditions, the **loans** were **to be forgiven** with up to 1/10 forgiven each year.

reviewing the tax implications before settling legal claims

The **employer's business** was **sold** on two separate occasions, with the **new owners** assuming the taxpayer's **employment contract and forgivable loans**. The taxpayer **resigned**, triggering an **immediate repayment requirement** of the remaining $670,812 balance. After a **legal battle**, the parties settled on the basis that the **taxpayer** would **repay $425,000** of the loan balance, offset by his **employer paying** his **legal fees** and **damages** for his alleged **loss of reputation** totaling $75,000, for a **net payment** of $350,000 made by the taxpayer. The former employer issued a T4 slip for the $245,812 loan balance exceeding the repayment.

The taxpayer argued that the **loans** were really **advances of salary** that should have been **taxable on receipt** in years that were now **statute-barred**. Alternatively, the taxpayer argued that the **forgiven amount** should be **reduced** by other amounts **claimed** in the lawsuit but that had **not been included in the settlement** agreement.

Taxpayer loses
The Court reviewed the **legal documentation** and concluded that they were **loans** and **not disguised salary**. The Court also noted that **amounts forgiven** in **prior years** had been **reported as income**. The **loans** were clearly **advanced** by virtue of the taxpayer's **employment** at his **original employer**. Any **forgiven amount** was therefore **employment income** (Subsection 6(15)) at the **time of settlement**. The Court concluded that the settlement occurred when the lawsuit was settled overall.

The **settlement agreement clearly listed** all amounts that were either payable by or to the **employer** in respect of **all claims**. As a result, there was **no evidence** of other non-taxable damages that **offset** the **forgiven amount**. CRA's **assessment** was **upheld**.

the challenges in arguing outside the legal documentation

5 Business/Property Income 524(5)

SINGLE OR MULTIPLE BUSINESSES?

A February 10, 2025 French **Court of Quebec** case (Excavations Marchand et Fils inc. vs. QRA, 2025 QCCQ 378) reviewed **whether** the taxpayer's activity of **manufacturing concrete** was **separate from** its **construction business**. If there was only a **single construction business**, various business **assets** would **not** be used in **manufacturing activities** as **construction** is **excluded from manufacturing and processing**. If the assets were not used in manufacturing or processing, the taxpayer would **not** be entitled to claim an **investment tax credit** (Quebec Taxation Act Section 1029.8.36.166.43; a separate investment tax credit may also be available under the federal Income Tax Act (Subsection 127(11)) that similarly excludes construction activity from eligible manufacturing and processing activities).

Taxpayer wins
In concluding that the taxpayer carried on **two separate businesses** and was entitled to the investment tax credit, the Court noted the following:

factors to consider when determining whether there is one or more than one business

- the business **assets** in question were **used exclusively** for the **production of concrete** and not for the construction activities;
- the **concrete produced** was **sold almost entirely** to **third parties** and not used in the taxpayer's own construction activities;
- the **mobile concrete production** plant was **relocated** based on the specific project needs, reinforcing its status as a separate manufacturing operation;
- **employees** operating the **concrete plant** had specialized **skills different** from those working in the taxpayer's **construction** division, with employees from different divisions **rarely overlapping**; and

- the taxpayer maintained **separate accounting records** to track revenue and expenses for its construction business and its concrete sales.

Editors' comment
Determining whether an activity constitutes manufacturing and processing can be relevant for purposes beyond accessing investment tax credits. For example, assets used in eligible manufacturing and processing activities may access accelerated CCA claims (CCA class 53 and 43). Manufacturing and processing in this context also specifically excludes construction activities (Regulations 1104(9)).

In addition, determining whether multiple businesses are carried on can be important for several reasons. For example, it is relevant in evaluating exposure to the tax on split income (TOSI; Section 120.4) as each business could be a related business, and each business could meet or fail the excluded business exception requirements. See VTN 452(4567)) for a discussion of this issue, where CRA indicated that similar factors would be relevant in this determination.

INDIRECT VERIFICATION OF INCOME (IVI) – ROUND-UP

IVI tests and **assessing techniques** are used where CRA or Revenu Québec (RQ) believes that a taxpayer's **books and records are inadequate**, inaccurate, unreliable or non-existent or if an **audit** finding **indicates** that some **taxable revenue** has **not** been **properly recorded** in the books and records. IVI is an umbrella term covering **several types of audit work**, including net worth assessments, projections and unidentified bank deposit analysis assessments. Recent court cases involving these procedures are discussed below.

Tax returns did not match lifestyle
A December 6, 2024 **Court of Quebec** case (Kenfack vs. QRA, 2024 QCCQ 6943) examined whether RQ justifiably assessed an **increase to taxable income** for the 2010 and 2011 taxation years by $154,437 and $46,250 respectively, based on **cash flow method calculations**. The previously declared incomes were $36,900 and $108,244. The Court **upheld the assessments**, noting that they were warranted due to **significant discrepancies** between the taxpayer's **declared income** and his **evident lifestyle** and financial activities. Some **aspects considered** were the **number of and value of real properties** and **vehicles** acquired, **large deposits/withdrawals** and the expected **costs to maintain a family of six** (using data from Statistics Canada to estimate). The combination of these factors led the Court to conclude that the taxpayer's financial situation and lifestyle could not be reconciled with his declared income, **justifying** the **alternative cash flow method** to assess his taxable income.

the expected cost to maintain the taxpayer's family may be considered in a cash flow analysis

Not statute-barred, but not grossly negligent

carelessness or neglect is not equivalent to gross negligence

In a December 17, 2024 French **Court of Quebec** case (Walsh vs. QRA, 2024 QCCQ 7667), the taxpayer was assessed **outside of the normal reassessment period** as her declared income ranging from $21,452 to $27,421 over three years did not align with her ownership of three rental properties with a combined value of $1,155,708. She was also assessed with **gross negligence penalties**. While the Court upheld the income assessments outside the normal reassessment period as the taxpayer was careless, her actions did **not meet** the **threshold** for **gross negligence penalties**. The Court noted that the taxpayer should **not** have **blindly trusted her partner** to look after her tax affairs. While this was careless, it was **not grossly negligent**. Further, although the evidence was thin, the Court observed that the taxpayer's **mental health struggles** with **depression played a role** in failing to manage her tax affairs.

whether one's conduct could result in gross negligence penalties

The Court finally noted that her **failure to cooperate** in the audit cast her in a very **unfavourable light** and that if she had cooperated during the audit, **penalties** might not have been assessed.

TAX SHELTER – STATUTE-BARRED PERIOD

CRA has the **legislative authority** to **reassess beyond** the **normal reassessment period** as necessary to "give effect" to the rules limiting deductions in respect of **tax shelters and gifting arrangements** (Subsection 143.2(15)).

another provision that allows CRA to assess beyond the normal reassessment period

A June 18, 2024 French **Technical Interpretation** (2024-100655117, Yara Barrak) discussed this authority. In the specific example provided, a taxpayer realized a **business loss in 2019** from a **tax shelter** and **applied** that **loss** to their **2016 tax return**. Both years were past the normal reassessment period (Subsection 152(3.1)). CRA opined that they could **deny** the **loss** in **2019** as it **resulted** from the **abusive tax planning** involving the use of a tax shelter, as doing so would give effect to the rules applicable to tax shelters. In addition, CRA opined that the **loss carryback** to **2016** could also be denied because it was so **closely linked** to the 2019 disallowed loss from the **tax shelter**.

6 Purchase/Sale of a Business 524(6)

NON-CAPITAL LOSSES AFTER BUSINESS SALE

A December 16, 2024 French **Court of Quebec** case (Symco 2015 Inc. vs. QRA, 2024 QCCQ 8022) reviewed whether the taxpayer could **apply non-capital losses** totalling $847,009 that were generated from 2012 to 2014 to the taxpayer's 2017 and 2018 tax years. In 2012, the taxpayer filed a consumer proposal under the Bankruptcy and Insolvency Act, and in **2014** nearly all of the shares of the taxpayer were sold, triggering an **acquisition of control** (AOC) and therefore the loss deduction limitations related to a loss restriction event (LRE; Subsection 111(5)).

whether the business is carried on

Prior to the **share sale**, the taxpayer was in the business of **manufacturing decorative stone veneers**. After a halt in operations from 2014 to 2015, the corporation commenced the operation of **general contracting and restaurant renovations**. The taxpayer argued that it continued to operate the business that generated the losses in 2012 through 2014, and therefore, it was not precluded from using the non-capital losses.

For a corporation to **deduct** its **non-capital losses** that were generated before an LRE from income earned after the LRE, the corporation must **carry on the business that generated the losses** with a **reasonable expectation** of **profit** after the LRE throughout the year(s) in which the losses are deducted. If the business is carried on, the pre-LRE losses can only be deducted to the extent of income from that same business or any other business that derives its income from the sale, leasing, rental or development, as the case may be, of similar properties or from the rendering of similar services.

Taxpayer loses

The Court found that the **business** that **generated the losses** was **not** carried on **after the LRE** as there was a change from the business of manufacturing stones to the business of construction and renovation of restaurants. In determining that the loss business was not carried on after the LRE, the Court pointed to the following factors:

- **all assets** of the **loss business**, including the stone moulds, were **sold** prior to the LRE;
- **all employees** other than shareholders were **terminated** prior to the LRE;
- the **location** of the business operations **changed** after the LRE; and
- there was **no evidence**, such as a documented business plan, investment or contracts to support the argument that the taxpayer **intended** to **continue the stone manufacturing business** after the LRE.

importance of continued operations

The Court also observed that there was a **long period of inactivity** before the business began operations in 2015, noting the importance of continued operations and business stability in determining whether a corporation can deduct losses that were generated before an LRE from income earned after the LRE, consistent with a Supreme Court of Canada case (Deans Knight; see VTN 503(4529)).

As such, the Court found that the **taxpayer** was **prohibited** from **deducting** the **non-capital losses** realized prior to the LRE to **offset income subsequent** to the **LRE**.

ACQUISITION OF CONTROL (AOC) FOLLOWED BY MERGER

An October 10, 2024 French **Technical Interpretation** (2024-1028951C6, Laurence Gagne) reviewed whether **non-capital losses** could be deducted **after** an **AOC** that resulted in the applicability of the loss restriction event (LRE) rules (Subsection 111(5)) and a subsequent **amalgamation**. In the situation considered, Mco carried on a **management business** generating **non-capital losses**. Mco's sole client was its wholly-owned subsidiary, Opco. After Mco was acquired by an arm's length party, resulting in an AOC, Mco was amalgamated with Opco to form Amalco, which continued **Opco's manufacturing business**.

whether amalgamating corporations after the acquisition of control impacts the deductibility of non-capital losses

CRA stated that the determination of whether the **business** that generated the losses was **carried on** by Amalco would require a review of **all of the relevant facts**. However, based on the limited facts, CRA opined that the **management services business** carried on before the AOC **ceased to operate after the amalgamation**. This was based on the fact that Amalco's **management activities** would simply support its manufacturing business and **not** constitute a **separate business**.

ACQUISITION OF CONTROL – GROUP OF PERSONS

An October 10, 2024 French **Technical Interpretation** (2024-1028981C6, Laurence Gagne) considered whether there had been an **acquisition of control** in two situations where the **ownership** in a **closely-held private corporation** changed.

While CRA provided general comments, they noted that any **analysis** must examine the **specific facts** of each situation, including the following:

- the **type of corporation**;
- **who** previously **controlled** the **corporation**;
- the **number** or **percentage** of **shares** purchased;
- the **method** of **acquisition**;
- **common interests;** and
- **concerted actions**.

whether there is an acquisition of control is a question of fact

CRA also referenced Paragraph 7 of Interpretation Bulletin IT-302R3, Losses of a Corporation – The Effect that Acquisitions of Control, Amalgamations, and Windings-up have on Their Deductibility (Archived). In particular, CRA considered whether two or more shareholders would be considered a single group that controls the corporation and whether adding or eliminating shareholders from the group would constitute another group acquiring control.

a sufficient link must exist to establish that several persons collectively control a corporation

CRA noted that the **courts** have generally recognized that in order to conclude that **several persons collectively exercise control** of a corporation, it is necessary that there be a **sufficient link** between these persons, possibly through a voting rights agreement, an agreement to act in concert or business or family ties.

three or fewer shareholders are presumed to be acting in concert

Situation #1
Two unrelated 50% shareholders sold a portion of their shares to a new third party, resulting in all **three shareholders** having a **33% interest**. Where there are only **two or three unrelated shareholders** of a private corporation, CRA generally assumes that they **act together** to control the corporation, unless there is clear evidence to the contrary. In addition, where **voting rights** in a corporation are exercised equally by **two shareholders**, CRA generally considers that the corporation is **controlled** by the **group formed** by the **two shareholders**.

If the **two original shareholders stopped acting in concert** to control the corporation, CRA stated that the share **disposition** could result in an **acquisition of control** where the three shareholders act in concert as they would form a **new group** that controls it.

Situation #2
A corporation with **four unrelated shareholders**, each with a 25% interest, **redeemed** the shares of **one** of the **shareholders**. After the redemption, CRA's general presumption assumes that the **three shareholders act in concert** to control the corporation, resulting in an **acquisition of control** after the redemption, unless the facts demonstrate otherwise. For example, if it can be demonstrated that the **three remaining shareholders** who controlled the corporation after the redemption were the same individuals who **controlled the corporation prior** to the redemption, there would be no acquisition of control. CRA also stated that whether a **group of four or more** unrelated persons controls a corporation is a **question of fact**.

Editors' comment
The Income Tax Act does not define "control" for purposes of an acquisition of control. However, for some purposes, the concept of a group that exercises control is defined. For example, for the association rules (Section 256), a group that controls a corporation is defined as any two or more persons each of whom own shares of the corporation. A corporation controlled by one or more members of a particular group of persons is

considered to be controlled by that group of persons. This concept of a group applies to the association rules and not broadly in the other provisions in the Income Tax Act.

7 Owner-Manager Remuneration 524(7)

DE FACTO DIRECTOR

A November 29, 2024 French **Quebec Court of Appeal** case (Khan vs. QRA, 2024 QCCA 1654) considered whether the taxpayer was a **de facto director** liable for **unremitted QST** and **source deductions** for 2012 and 2013.

whether an individual continues to act as a director after resigning

Taxpayer loses
Although the taxpayer had formally **resigned as a director** in 2010, the taxpayer continued to **act as a director** and therefore the Court ruled he was a **de facto director** and **liable** for the corporation's debts (Chapter 24.0.1 of the Quebec Tax Administration Act, paralleling Excise Tax Act Subsection 323(1) and Income Tax Act Section 227.1). This determination was based on the fact that the taxpayer **remained involved in banking, contract negotiations, discussions with Revenu Québec** and **other** corporate **decisions** after he resigned.

NET WORTH ASSESSMENT (NWA) – SHAREHOLDER LOANS

reviewing the shareholder loan when CRA uses net worth assessments

A February 2025 Canadian Tax Focus article (**Contesting Shareholder Loan Aspects of Net Worth Assessments**, James Alvarez) discussed CRA's use of NWAs in the context of an **owner-managed business**. NWA is an **indirect verification of income** technique that **estimates income** for the year as the **change in** the individual's **net worth** over the year **plus** the individual's **personal expenditures**, with adjustments to account for special items such as non-taxable receipts. As **CRA** typically **presumes** that discrepancies result from **unreported corporate income** that was **misappropriated** by the shareholder, these amounts are **taxed to** both the **corporation** and the **individual**, resulting in **substantial tax costs**. The article noted that **errors** related to the **shareholder loan** (SHL) account can **inflate** the NWA significantly.

ensuring CRA reflected both sides of the transactions

SHL repayments
The article noted that a **repayment** by the corporation should **not** result in **personal income** as any **benefit** or asset acquired by the shareholder should be **offset** by the **reduction** in the value of their shareholder loan. As an example, the article noted that CRA might reflect an **increase** in a **personal financial account** without recognizing a **deposit from the**

corporation that **reduced** the **SHL**.

The article also advised ensuring there were no **bookkeeping errors**, as an **erroneous debit** may have been reflected as a personal expenditure by CRA. Avoiding an income inclusion for a **personal expenditure** erroneously **not charged** to the SHL may **also be possible** by making a correction, especially if the amount can be shown to be a **one-off error** or evidence that the taxpayer intended to charge the SHL (see the Federal Court of Appeal case Chopp vs. HMQ, A-87-95, for an example of such a situation).

SHL increases

the possibility of reversing erroneous credits to the shareholder loan

The article noted that **assets contributed** to the corporation should also have **no impact** on the **NWA**, as the individual has only **exchanged one asset for another** (the increased SHL). Ensuring that **amounts paid** on behalf of the **corporation** are **not reflected** as **personal expenditures** by CRA is also important. Even an erroneous or **inappropriate credit** to the SHL would **not increase** the individual's **net worth** or result in a shareholder benefit (see VTN 435(3751) for a court case in this regard). The proper treatment is to correct the SHL and reflect the reduced value in the assets used in the NWA calculations.

SHL credits for **non-monetary contributions** (e.g. use of the individual's residence or vehicle) also do **not reflect** unreported **revenue** of the corporation. Similarly, verifying that CRA appropriately treated any **non-taxable allowances** credited to the SHL – that is, that CRA did not add these credits to personal or corporate income – is important.

SHL overdrafts

the implications of a shareholder overdraft may still reduce the NWA tax cost

While an **overdraft** after any adjustments for errors in the SHL may result in an **income inclusion** (Subsection 15(2)) to the shareholder, this will **only impact personal income** and will also permit a **deduction** on future repayment (Paragraph 20(1)(j)). Where any adjustment only **reduces the SHL**, leaving a credit balance after the adjustment, there may be **no income tax consequences**. The exception would be an **erroneous credit** of **corporate revenue** to the SHL.

8 CRA

524(8)

TAXPAYER RELIEF – CAPITAL GAINS INCLUSION RATE

A February 27, 2025 CPA Canada article (Need to know: CRA announced penalty relief for taxpayers, Ryan Minor) summarized various **penalty and interest waivers** announced by CRA in respect of **issues** in filing **information returns** (see VTN 523(8124)) and the **uncertainties** resulting from the proposed **capital gains inclusion rate** changes (see VTN 523(8124) and 522(8082)).

The article noted that CPA Canada has requested that CRA provide **greater clarity** on the relief measures for "impacted T3 Trust filers" and "impacted T1 Individual filers," including the following:

no relief for family members

- whether a **spouse or common-law partner** of an **impacted individual** would also be considered **impacted** if they have no capital gains or losses of their own to report – CPA Canada later indicated on LinkedIn that CRA has advised that penalty relief for the spouse or common-law partner would not automatically apply, but could be applied for on a case-by-case basis, and would be reviewed based on the specific facts and circumstances;
- whether penalties on **related filings** for an impacted individual or trust, such as a **T1135**, were also **eligible** for the **penalty waiver**; and
- the status of **relief for corporations** (see VTN 520(7927)), which CRA has **removed from their website** – CRA has indicated that such relief is **no longer required**, as the **T2 forms** were never updated and can continue to be **used without amendment**; however, it was unclear whether this meant that **relief ended after January 31, 2025 or** whether it has been **rescinded entirely**.

this uncertainty in respect of relief for corporations

Editors' comment

Another area of uncertainty raised by numerous practitioners, including several in our Personal Tax Update 2025 sessions, is whether capital gains reported on an information slip, such as a T3, capital gains dividends on a T5 or capital gains realized through a partnership, or even stock option benefits reported on a T4, result in eligibility for relief. This seems especially relevant for T3 slips given that an impacted T3 filer could issue their T3 slips as late as May 1, 2025, subsequent to the personal tax due date for most taxpayers. In their initial relief announcement on January 31, 2025, CRA indicated that taxpayers reporting capital dispositions were the target of the relief. Even if gains reported on tax slips will result in eligibility for this relief, it is unclear whether that relief would extend to recipients of T3 slips issued by impacted T3 filers if no capital gains are allocated to the specific individual beneficiary.

Although some media reports (for example, the February 13, 2025 Globe and Mail article CRA gives taxpayers with 2024 capital gains an extra month to file their tax returns, Rudy Mezzetta) indicated that relief applied to taxpayers reporting a capital gain or loss in 2024, these statements are not attributed to a CRA source. That same article indicated that a CRA spokesperson said that the relief would extend to a graduated rate estate "where there is a disposition to be reported and the return has a fiscal period ending between Jan. 1, 2025, and Jan. 31, 2025".

As any relief from penalties or interest would be provided under the taxpayer relief provisions at CRA's discretion, there are no legislated criteria to determine who is an "impacted taxpayer" eligible for relief. Taxpayers assessed interest or penalties could apply individually for taxpayer relief.

GIG WORKERS

A March 5, 2025 H&R Block Canada article reported on a **survey** on **gig workers** that found the following:

- **30%** did **not plan** to **fully report** their income on their 2024 tax returns;
- **28%** did **not fully report** their income on their 2023 tax returns;
- **71%** were **more inclined** to report for 2024 when they learned about the **new rules** requiring gig **platforms** (among other digital platform operators) to **report their activities** to CRA (see VTN 523(8105), 520(7919) and 489(6544));
- **36%** were still **not inclined** to **report all** of their **gig income**; and
- only **about a third** were **aware** of these new **reporting requirements** prior to the survey.

the likelihood of CRA enforcement activity relating to the gig economy

The article also provided numerous statistics regarding the prevalence of gig work in Canada. Only about **10% of gig workers** reported that their **gig activity** was their **primary income source**, and about **23%** of Canadians reported taking on a **gig activity**.

LATE OBJECTIONS – ROUND-UP

A **notice of objection** is required to be filed within **90 days** of the **date of the applicable assessment** (Subsection 165(1) and Excise Tax Act Subsection 301(1.1)). The assessment is deemed to have been made on the date that it was sent (Subsection 244(15)). As such, many disputes focus on whether, in fact, the assessment was sent (either by mail or electronically; Subsection 244(14)) by CRA. Where this deadline is missed, a taxpayer can **apply for an extension** to file a notice of objection within **one year** of the original deadline to file it (Paragraph 166.2(5)(a) and Excise Tax Act Paragraph 303(7)(a)). Where **CRA refuses** to allow the extension, their decision can be **reviewed by the courts**.

Similar to the objection process, if the taxpayer is not satisfied with the result, a **notice of appeal** to the **Tax Court** must be filed within **90 days** of CRA's decision to confirm the assessment or issue a reassessment (Section 169 and Excise Tax Act Section 306) or an application for an **extension** can be made **within one year** of expiry of that period (Paragraph 167(5)(a) and Excise Tax Act Paragraph 305(5)(a)). Some recent court cases regarding late objections and appeals are discussed below.

CRA errors

A March 6, 2025 **Tax Court of Canada** case (Amarpal Singh Personal Real Estate Corporation, 2024-1537(IT)APP) reviewed an application for an **extension of time to object** to a reassessment of its **2019 corporate** tax return. The **taxpayer** had a **single client** which had issued a **T4A** in the amount of $53,258, which was **subsequently amended** to the amount of $55,074. CRA **mistakenly assessed** on the basis that **revenue** was the

total of **both T4A amounts**, $108,331. The taxpayer had **several discussions** with a CRA agent regarding their **proposal** to **reassess** and **believed** that the matter had been resolved.

the risks of online mail

However, he was **reassessed** based on the full $108,331 amount. The reassessment was **posted online** to his My Business Account on October 12, 2022. The 90-day **objection period expired** on January 10, 2023, and the **one-year** period to **request an extension expired** on January 10, 2024. The taxpayer filed a Notice of Objection on March 24, 2024. The taxpayer argued that he **never saw the reassessment**, he did **not authorize** delivery of his correspondence **online**, CRA **must** have **recorded the calls** discussing the double-counted T4A and CRA **clearly** made an **error** in **adding both T4A slip** amounts.

Taxpayer loses

The taxpayer's **testimony** on whether he had **elected to receive online mail** was **inconsistent**. The Court accepted **CRA evidence** that the **reassessment** was **viewed** four times, once within the objection period, twice more within the extension period and again shortly before he attempted to file the late objection. As a result, the Court accepted that the **reassessment was sent** on the date it was posted.

not making the mistake of letting the objection deadline expire

The Court ruled that, "[a]lthough the **Minister made a stupid mistake** in reassessing, there is **nothing** the **Court can do**" as there is no discretion to extend the ability to object past the statutory deadlines.

Editors' comment

The case facts predate CRA's legislated ability to unilaterally convert business accounts to online mail, which they plan to do in Spring 2025 (see VTN 520(7931)). Online mail is presumed received by a business when it is posted by CRA (Subsection 244(14.2)). At the time the assessments in this case were issued, this presumption applied only if the taxpayer had requested electronic, rather than paper, correspondence.

Although not discussed in the case, it seems likely that the initial assessment of the corporate taxpayer's 2019 return would have been issued more than three years before the taxpayer attempted to object to the reassessment, so the return would have been statute-barred.

hard objections deadline for new housing rebate

New housing rebate – no late objections

A January 23, 2025 **Tax Court of Canada** case (Lam vs. HMK, 2024-1365(GST)APP) found that the taxpayer who did **not file an objection within 90 days** of CRA sending a notice of assessment regarding a **denied new housing rebate** claim was **unable** to **object** to the denied rebate. The taxpayer was also **too late** in filing an **application for an extension of time** to file an objection as the taxpayer was beyond the **one-year period**. The Court stated that Parliament chose the 90-day and one-year periods clearly and unequivocally, and neither the Court nor Minister may grant an extension after these deadlines have expired.

GST/HST linked to income tax audits

settlement of an income tax dispute is not binding on the GST/HST results

A January 30, 2025 **Tax Court of Canada** case (Zampieri vs. HMK, 2024-463(GST)APP) **allowed** an **extension** to **appeal** GST/HST confirmations for **six quarterly periods** and **object** to assessments for **two quarterly periods**. The taxpayer had **filed amended returns** to align his GST/HST liability with the **results** of a **settlement** of an **income tax dispute** related to two taxation years in respect of the **same business**. He had **believed** that the **results** of his income tax objection **would** also **be applied** to his **GST/HST** filings; however, this was not done by CRA. CRA rejected the amended returns on the basis that they were not filed on time. While he did **not file** notices of objection within **90 days** of confirmation of his assessments, he **did file** within the **one-year extension period**.

The Court held that the taxpayer had **implicitly applied** for an **extension** when he filed **notices of objection** to the six periods, and he was **still within** the **time limit** to request an extension. Due to some discrepancies regarding the **address** to which assessments for the **remaining two quarterly periods** during those calendar years were **mailed**, the Court concluded that the **assessments** had **not been sent** to the taxpayer, so his **objections** for those **periods** were **valid**. The Court further ordered that these could be added to the appeal of the other six periods if the Minister confirms or varies those assessments.

RECTIFICATION – ADVISOR ERRORS

Series of capital dividends

A January 29, 2025 **Court of Appeal of Ontario** (ONCA) case (Pyxis Real Estate Equities Inc. vs. AGC, 2025 ONCA 65) reviewed a **rectification** related to an **excessive capital dividend**. The case involved a **chain of four corporations**, summarized as follows:

a. PRE, the taxpayer, was **wholly owned** by EEI;
b. EEI was **wholly owned** by Eco;
c. Eco was **wholly owned** by Holdco; and
d. Holdco's **preferred shares** were owned by an **individual**, J.

reviewing historical information before advising on capital dividend payments

J wanted to receive a **capital dividend** of **$1.4 million**. He **instructed** his **accountants** to obtain the **historical records** of the corporations from his **former accounting firm**. PRE had **over $45 million** in its **capital dividend account** (CDA). The accountants arranged for a **series of capital dividends** in the amount of **$1.4 million**, first from PRE to EEI, then from EEI to Eco, then from Eco to Holdco and finally to J. Due to **historical transactions**, Eco's CDA was only $1,076,107 **after receiving** the $1.4 million **capital dividend** from EEI. As a result, its $1.4 million **capital dividend** was **excessive**, resulting in **Part III tax** of **$194,336** (60% of the $323,893 excessive dividend).

The **Ontario Superior Court of Justice** (Pyxis Real Estate vs. AGC, 2024 ONSC 2039) noted that it appeared "that the current **accountants did not review** the **historical information** they were instructed to obtain." It **granted rectification** on the basis that PRE could **easily have paid** a sufficient dividend to **offset the shortfall** and achieved the **intended result** of distributing $1.4 million to J on a tax-free basis, such that the taxpayer would not be adversely affected because "an accountant made a careless error."

errors in tax planning are not grounds for rectification

The ONCA concluded that a **flaw** in the **tax planning** to achieve a **desired tax result** was **not grounds** for **rectification**. The **corporate resolutions** reflected the **planned series** of **capital dividends** in the amount of $1.4 million. ONCA **reversed** the previously granted **rectification** and awarded costs of $25,000 against the taxpayer.

the accounting implications of tax planning transactions

Corporate reorganization

A February 6, 2025 French **Quebec Court of Appeal** (QCA) case (QRA vs. Structures GB Ltd., 2025 QCCA 134) reviewed a **rectification granted** by the Superior Court of Quebec (see VTN 510(7495)) to **correct errors** that resulted in **unexpected Part IV tax** as certain corporations were **not connected** after the reorganization. As well, the reorganization had also resulted in **problematic financial ratios** due to the requirement that certain **preferred shares** be recorded as **liabilities** under Generally Accepted Accounting Principles (GAAP).

The **rectification** previously granted was **reversed** by QCA, on the basis that it provided a **new opportunity** to organize their affairs in a **more tax-advantageous manner** and **did not** correct an **error** in implementing the **previously agreed reorganization** six years after its implementation. This was **not grounds for rectification**.

REPRESENTATIVE AUTHORIZATION – INDIVIDUAL TAXPAYERS

planning for this change after the personal tax season

A March 6, 2025 addition to CRA's Efile news and program updates webpage announced an **upcoming change** to the process of **representative authorization** by **individual taxpayers** that will **commence** on **July 15, 2025**. At that time, the ability to send **authorization requests by EFILE** will **no longer** be **available**. All **authorization requests** will be **made** through **Represent a Client**.

The **three methods** of obtaining **online access** through Represent a client will remain as follows:

prior tax information will be required to be authorized by clients who are not registered for My Account

- the taxpayer can directly **add a representative** in **My Account**;
- the **taxpayer** can **confirm an authorization** request through their own **My Account**; or
- the **alternative process** where the **representative submits** information from a **previously assessed return** for the taxpayer,

obtains a **signature page** for the taxpayer's signature and **uploads** that **signed form** through Represent a Client.

CRA indicated that the **five-day processing period** for the **alternative process** has now been **eliminated** and that instant access will be provided once the relevant tax information and signature form have been provided.

CRA noted that the **authorization request must** be **submitted** by the **specific representative** or a person **associated** to that **representative's** business number or GroupID.

The process for being authorized for **business clients** is **not** being **changed**.

9 Estate Planning 524(9)

OMBUDSPERSON'S REPORT ON BARE TRUST RULES

On March 5, 2025, the **Office of the Taxpayers' Ombudsperson** released a report (**Unintended Consequences: Bare Trusts**) on CRA's administration of the new **T3 reporting requirements** for 2023 with respect to **bare trusts** and the **cancellation** of required T3 filings on the last business day before the deadline. The report noted that the main issue was that **CRA** was **tasked with administering** legislation that was **burdensome**. While CRA made efforts to limit the costs of compliance, it did **not minimize the time, effort and costs** that taxpayers incurred.

The report noted that **change was needed** to the reporting system for bare trusts – compliance should be as easy as possible, especially considering that Canada's tax system is based on self-assessment. The report also acknowledged that CRA's **ability to provide individual guidance was limited** as it could **not provide legal advice** to taxpayers on whether a bare trust exists; however, in some cases CRA did not provide clear and timely information.

change is needed to the way in which bare trust reporting is dealt with

The following is a summarized version of the **recommendations**:

1. CRA should conduct an **internal review** of how they **collaborate with stakeholders** when amendments to legislation have been enacted by Parliament. CRA should improve their consultation process to ensure they understand the **estimated number of Canadians** who could be impacted and, where possible, consider the perspectives of stakeholders on key strategic issues that affect them, their members or their clients.

understanding the estimated number of impacted taxpayers

2. CRA should conduct an **analysis** to determine if it would be **beneficial to introduce a unique form** for bare trusts to meet the new reporting requirements so they can easily submit the necessary information.

3. CRA should **review how they work with Finance Canada**, particularly when it appears that the administration of a legislative proposal could increase the costs of compliance for taxpayers.

better communication with Finance and stakeholders

4. CRA should **review how** they **communicate updates to Canadians**, specifically through tax tips and news releases when tax or benefits requirements change.

5. CRA should create an **adaptable guide** to help **streamline how they administer changes to tax legislation**. The guide should ensure changes to tax and benefit information are released in a timely manner and can be understood by the average taxpayer. Further, the guide should have an **action plan to address challenges**, if identified, followed by monitoring.

In a March 7, 2025 release, CRA agreed with, in whole or in principle, all recommendations. CRA further set a June 30, 2025 completion target on the second recommendation and a March 31, 2026 completion target on the first, third and fourth recommendations.

CRA will review the feasibility of further streamlining their guidance (fifth recommendation), by March 31, 2026.

RELIEF ON EXCESS TFSA CONTRIBUTIONS

In two related February 6, 2025 **Federal Court** cases (Galloro v. AGC, T-254-22 and T-322-23), the Court reviewed the taxpayer's application for **judicial review** of CRA's denial of a waiver of penalty taxes and interest on his **excess TFSA contributions** (1%/month during which the excess contributions remained in the TFSA; Section 207.02). The taxpayer argued that he **relied** on inaccurate TFSA contribution room information displayed in his **CRA My Account portal**.

Taxpayer loses

not just relying on what My Account says

CRA has discretion to provide relief if the excess contribution resulted from a **reasonable error** and was **promptly withdrawn** (Subsection 207.06(1)). CRA argued that the taxpayer was a **repeat over-contributor**, was responsible for tracking his own TFSA room and **should have been aware** that **My Account** data **might not be up to date**. The Court upheld this decision as reasonable, emphasizing **taxpayer responsibility** in a self-reporting tax system. In particular, the Court found that the **My Account disclaimer**, which warned that the displayed contribution room might not reflect all transactions, **was clear and sufficient** to place responsibility on the taxpayer.

DIGITAL WILL?

In a March 26, 2024 **Court of King's Bench for Saskatchewan** case (Haines vs. Estate of Suzanne Kuffner, 2024 SKKB 51), the Court considered whether a **digital message** sent by a dying testator could be recognized as a valid will in Saskatchewan.

some non-formal wills retain legal authority

The individual, who had no prior will, sent a **message from her iPad** titled **"My holographic will"** to two siblings **while in the hospital**, naming an **executor** and outlining **asset distribution**. Due to her **deteriorating health**, she was unable to speak or write manually. Although the message did **not meet formal** will execution **requirements**, the Court found that it **did embody** the testator's final and deliberate **testamentary intentions**. As such, the message was upheld as a legal will.

10 Relationship Breakdown 524(10)

CANADA CHILD BENEFIT (CCB) – SHARED-CUSTODY ARRANGEMENT

A February 14, 2025 **Tax Court of Canada** case (Wong vs. HMK, 2024-1860(IT)I) considered whether the taxpayer was a **shared-custody parent** of her son and therefore eligible for **only half of the CCB** or was the **principal caregiver** entitled to **full CCB**.

Taxpayer loses
In reviewing the **care and custody** arrangements, and the **disparities** between the **roles** of **each parent** highlighted by the taxpayer, the Court found the following:

- the **division of time** between the parents "**could not be more equal**;"
- the provision of **medical care** was **divided**; specifically, although the taxpayer attended to all dentist appointments, her former spouse tended to COVID-19 vaccinations;
- while the taxpayer **paid** for **more extra-curricular activities**, this was a reflection of **parenting style** as her former spouse favoured unregulated, unstructured play;
- there was **little evidence** of any **noticeable differences** in care and upbringing between the two parents; and
- her **agreement** with her **former spouse** that he **waived all government benefits** related to the child could **not override the legislation**.

the detail required to present cases on custody arrangements

parents cannot agree or contract out of the income tax rules

Based on the above, the taxpayer was a **shared-custody parent** entitled to only **half of the CCB**.

11 International

524(11)

DEEMED RESIDENT TO FACTUAL RESIDENT

deemed residents are deemed as such for the entire year

A November 18, 2024 **Technical Interpretation** (2024-1015501I7, Kanwal Graham) confirmed that if a taxpayer is **deemed** a **resident** due to **sojourning** in Canada for **at least 183 days** in the year and **later** becomes **factually resident** in Canada in the **same taxation year**, they are **not** considered a **resident** for only **part of the year**. This is because the provision that deems an individual to be a **resident** deems the individual to have been a **resident throughout the taxation year** (Subsection 250(1)).

CRA also stated that an individual who is **a deemed resident** but is not factually resident in Canada will **not** generally be **resident** in a particular province for **provincial tax purposes**.

Editors' comment
While the interpretation focused on a deemed resident due to sojourning for at least 183 days in the year, the same concept would apply to other deemed residents due to, for example, being a member of the Canadian Forces or an individual being an ambassador, minister officer or servant of Canada.

Where an individual that was not already a deemed resident becomes a factual resident part-way through the year, they are a resident for only the part of the year during which they were a factual resident.

12 GST/HST

524(12)

NEW HOUSING REBATE – INTENTION TO OCCUPY

A February 26, 2025 **Tax Court of Canada** case (Hemani vs. HMK, 2019-2027(GST)I) considered whether the taxpayer **intended** to occupy a **condominium** as his **primary place of residence** at the time he entered into the agreement to acquire the unit, thereby qualifying for the new housing rebate (Excise Tax Act Paragraph 254(2)(b)).

whether there was intention to reside as a primary place of residence

Taxpayer loses
The Court found that the taxpayer did **not have the required intention** when he signed an assignment agreement in June 2017 to acquire the condo from his father as he **listed the condo for sale within three months** of taking title and sold it for a profit just over six months later. Additionally, the Court found the taxpayer's explanation for the sale – financial hardship and loneliness – unconvincing. The taxpayer's **income was insufficient** to afford the condo from the outset; as such, financing was obtained from his father.

These conditions did not change after acquisition, undermining the taxpayer's claim of an unexpected financial burden. The Court also noted that the taxpayer **continued living** in the condo for **three months** after listing it for sale, casting **doubt** on his **claim** that he **sold due to loneliness**.

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ALBERTA – ELECTRIC VEHICLE TAX

$200 tax on registration of electric vehicles

A February 6, 2025 Alberta News Release (Electric vehicle tax begins) announced that the **$200 tax** will be **applied to registrations** (including renewals) effective **February 13, 2025**. The amount is based on estimated fuel taxes paid by drivers of internal combustion engine vehicles.

QUEBEC – CAPITAL GAINS INCLUSION RATE

Quebec will align any capital gains changes with those made federally

A February 5, 2025 Revenu Québec Tax News release announced that they would **harmonize amendments** to implement the proposed **changes** to the **capital gains inclusion rate** (see VTN 514(7705)) with the recently announced **federal deferral** to January 1, 2026 (see VTN 523(8123)). The release also stated that **Quebec amendments** will only be adopted **after federal measures** giving effect to these amendments have been passed and that they will be **applicable on the same dates** as federal measures.

ALBERTA BUDGET

On February 27, 2025, the **Alberta** government tabled its **2025 Budget**. There were **no proposed changes** to the **corporate tax rates**.

Some of the **proposals** included the following:

a new 8% personal tax bracket

- a **new personal tax bracket** of **8%** on the **first $60,000** of income would be introduced effective for 2025;
- a **new personal tax credit** would be introduced for individuals who claim **non-refundable tax credits** on **amounts exceeding $60,000** providing an **additional 2% credit** to ensure these individuals do not pay higher tax due to the reduction of the personal credit rate to 8%, the lowest personal tax bracket; and
- claims for the **Alberta climate leadership adjustment rebate** (eliminated in 2019) and **Alberta family employment tax credit** (eliminated in 2020) will not be available for applications after the end of 2025.

BRITISH COLUMBIA BUDGET

On March 4, 2025, the **British Columbia** government tabled its **2025 Budget**. There were **no proposed changes** to the **personal** or **corporate tax rates**.

Some of the **proposals** included the following:

- credits related to **film and animation** would be expanded, with a new credit for **major productions** effective January 1, 2025;
- the deadline for qualifying expenditures for the **clean building tax credit** would be **extended** by one year to **March 31, 2026**;
- the **BC family benefit** would continue for six months following the **death of a child**, harmonizing with changes to the Canada child benefit (see VTN 513(7613));
- the annual limit for the **small business venture capital tax credit** would be **increased** from $120,000 **to $300,000** for investments on or after March 4, 2025;
- the **training tax credit for apprentices** would be **extended for three years**, to the end of 2028;
- the **new mine allowance** would be **extended** five years to the **end of 2030**;
- the **exemption** from provincial sales tax for **used zero-emission vehicles** would end effective **May 1, 2025**, accelerated from the end of 2027;
- the **climate action tax credit** would be **unchanged** for the 2025 – 2026 benefit year; and
- the **speculation and vacancy tax** rates would be increased from 0.5% to **1%** for **Canadian citizens** and permanent residents who are not untaxed worldwide earners and from 2% to **3%** for other owners, effective for **2026**, and the related **non-refundable tax credit** for BC residents would be **increased** from $2,000 to **$4,000**.

various extended and enhanced credits

this increased tax on BC vacation properties

NORTHWEST TERRITORIES BUDGET

On February 6, 2025, the **Northwest Territories** government tabled its **2025 Budget**. There were **no proposed changes** to the **personal** or **corporate tax rates**.

no major tax changes

NOVA SCOTIA BUDGET

On February 18, 2025, the **Nova Scotia** government tabled its **2025 Budget**. There were **no proposed changes** to the **personal tax rates**.

Some of the **proposals** included the following:

- the **small business income tax rate** would be **reduced** from 2.5% **to 1.5%** effective April 1, 2025;
- the **small business limit** would be **increased to $700,000** from $500,000 effective April 1, 2025;
- the **income-based reductions** to the **basic personal**, **spousal** or common-law partner, **eligible dependent** and **age** amounts would be **eliminated** effective in 2025; and
- the **non-resident deed transfer tax** on the value of residential real property purchased by a non-resident of Nova Scotia would be **increased** from 5% **to 10%** effective April 1, 2025.

these enhancements to the small business deduction

NUNAVUT BUDGET

On February 6, 2025, the **Northwest Territories** government tabled its **2025 Budget**. There were **no proposed changes** to the **personal** or **corporate tax rates**.

no major tax changes

YUKON BUDGET

On March 6, 2025, the **Yukon** government tabled its **2025 Budget**. There were **no proposed changes** to the **personal** or **corporate tax rates**.

Some of the **proposals** included the following:

- a **refundable tax credit** of 40% of costs incurred for **fertility treatments and surrogacy services**, up to a maximum of $10,000, would be introduced effective for the 2025 taxation year;
- **alternative minimum tax** (AMT) would be calculated as **43.90%** of federal AMT, increased from 42.67%; and
- the **AMT rate of 42.67%** would **still be used** for **recovery** of minimum tax that originated in years prior to 2025.

this change to the AMT rate

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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

- T4015 T5 Guide - Return of Investment Income 2024
- T4013 T3 Trust Guide 2024
- T4002 Self-employed Business, Professional, Commission, Farming, and Fishing Income
- T4036 Rental Income
- T4037 Capital Gains 2024
- T5013-INST Statement of Partnership Income - Instructions for recipient
- RC4657 T3 Electronic Filers Manual
- P113 Gifts and Income Tax 2024
- T7B-CORP Corporation Instalment Guide – 2025
- S1-F2-C3 Scholarships, Research Grants and Other Education Assistance

CRA Forms/Statements/Returns

- RC729 Request for Waiver or Cancellation of Tax on your Excess FHSA Amount
- GST59 GST/HST Return for Imported Taxable Supplies, Qualifying Consideration, and Internal and External Charges
- RC4616 Election or Revocation of an Election for Closely Related Corporations and/or Canadian Partnerships to Treat Certain Taxable Supplies as Having Been Made for Nil Consideration for GST/HST Purposes

- RC727 Designate an Excess FHSA Amount as a Withdrawal from your FHSA or as a Transfer to your RRSP or RRIF
- RC7296 Election or Revocation of the Election for a Qualifying Group That Includes a Selected Listed Financial Institution to Treat Certain Taxable Supplies as Having Been Made for Nil Consideration for GST/HST Purposes, QST Purposes, or Both
- T777 Statement of Employment Expenses
- T4 Statement of Remuneration Paid (slip)
- RC722 Transfer from an FHSA to an FHSA, RRSP or RRIF After the Death of the Holder
- RC724 Joint Designation for a Deemed Transfer or Distribution from an FHSA after the Death of the Holder
- T920 Application to amend a registered pension plan
- RC240 Designation of an Exempt Contribution - Tax-Free Savings Account (TFSA)
- RC243 Tax-Free Savings Account (TFSA) Return
- RC243-SCH-A Schedule A - Excess TFSA Amounts
- RC243-SCH-B Schedule B - Non-Resident Contributions to a Tax-Free Savings Account (TFSA)
- RC343 Worksheet - TFSA contribution room
- RC364 Application to Register a Plan as a Pooled Registered Pension Plan
- T510 Application to register a pension plan
- RC725 Request to Make a Qualifying Withdrawal from your FHSA
- RC723 Transfer from an FHSA to another FHSA, RRSP or RRIF on Breakdown of Marriage or Common-law Partnership
- RC364-CA Application to Register a Pooled Pension Plan
- RC378 Access to Information and Personal Information Request Form
- T2SCH6 Summary of Dispositions of Capital Property
- T657 Calculation of Capital Gains Deduction for 2024
- T1236 Qualified Donees Worksheet / Amounts provided to other organizations
- T2203 Provincial and Territorial Taxes for Multiple Jurisdictions
- T24EOT Joint Election for Capital Gains Deduction in respect of a Qualifying Business Transfer to an Employee Ownership Trust
- T2066 Election for Immediate and Gradual Intergenerational Business Transfer
- T2048 Capital Gains Deduction for Qualifying Business Transfer
- RC365 Pooled Registered Pension Plan Amendment Information
- RC365-CA Pooled Registered Pension Plan Amendment Information
- RC368 Pooled Registered Pension Plan Annual Information Return
- RC368-CA Pooled Registered Pension Plan Annual Information Return
- T1055 Summary of Deemed Dispositions (2002 and later tax years)
- T184 Capital Gains Refund to a Mutual Fund Trust
- T2036 Provincial or Territorial Foreign Tax Credit
- T691 Alternative Minimum Tax
- T776 Statement of Real Estate Rentals

- RC7259 Business Consent for Certain Selected Listed Financial Institutions
- RC7259X Cancel Business Consent or Delegated Authority for Certain Selected Listed Financial Institutions
- T2125 Statement of Business or Professional Activities
- RC721 Transfer from your FHSA to your FHSA, RRSP or RRIF
- RC580 Additional Information for CPP Validation and Verification Programs – For employers
- T1079 Designation of a Property as a Principal Residence by a Personal Trust
- T1079WS Principal Residence Worksheet
- T1198 Statement of Qualifying Retroactive Lump-Sum Payment
- T1A Request for Loss Carryback
- T3RET T3 Trust Income Tax and Information Return
- T1156 Part II.2 Tax Return for Partnerships
- T936 Calculation of Cumulative Net Investment Loss (CNIL) to December 31, 2024
- T1212 Statement of Deferred Security Options Benefits
- T2017 Summary of Reserves on Dispositions of Capital Property
- T3A Request for Loss Carryback by a Trust

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