VIDEO TAX NEWS

Monthly Tax Update Newsletter

June 2025 — ISSUE 526

WHAT'S INSIDE

1 Government Releases

526(1)

FINANCE RELEASES

1. **Late-Breaking News: May 27, 2025** – The Minister of Finance tabled a **Notice of Ways and Means Motion** including legislation to implement the following items:

    - the promised **reduction** to the **lowest marginal tax rate** detailed below;
    - the **first-time home buyers' GST rebate** that will **enhance** the **existing rebate** on **new homes** to **eliminate GST** on homes valued at **$1 million or less**, with the **maximum $50,000** rebate **phased out** for homes valued at **$1 million to $1.5 million** for **agreements** entered into **on or after May 27, 2025**; and
    - the **repeal** of the **consumer carbon tax** in **four phases**, first **repealing** the **charging provisions** effective April 1, 2025 (see VTN 524(8143)); second **repealing** the **rebate provisions** effective October 1, 2025; third repealing the **registration provisions** effective **November 1, 2025** allowing registrants to **file rebate claims until October 31, 2025** and finally repealing the remaining provisions (including definitions, interpretation, administrative and procedural rules) effective April 1, 2035 to allow time for CRA reviews and verifications, reassessments and dispute resolution.

filing all relevant rebate claims by October 31, 2025

Backgrounders for all three proposals were also released.

2. **May 14, 2025** – The Department of Finance issued a News Release (**Government of Canada delivering middle class tax cut**) confirming that the Liberal campaign promise to reduce the **lowest marginal tax rate** from 15% to **14%** would be a **priority** to **legislate** and would be **effective July 1, 2025**. The release noted that this will be implemented as a **14.5% rate for 2025**, and that the **rate for personal tax credits** will continue to be **equal to** the lowest personal tax rate, meaning that the **tax benefit of** these **credits** will also be reduced.

   promised reduction to the lowest personal tax rate confirmed

   The release also indicated that CRA will **update source deduction tables** to reflect a **14% rate** from **July 1 to December 31, 2025**. On May 16, 2025, CRA released T2147-JUL Payroll Deductions Formulas - 121st Edition - Effective July 1, 2025. The **proposed reduction** was **not included** in the formulas; however, the guide indicated that an updated version of this publication and the payroll tables will be issued when a Notice of Ways and Means Motion including the proposal is tabled in Parliament.

3. **April 9, 2025** – The Department of Finance announced the prescribed interest rate for the third quarter of 2025 (July 1 – September 30, 2025). The rate will **decrease by 1%** to **3%** for **corporate refunds** and the calculation of **taxable benefits**. The rates will decrease to **5%** for **personal refunds** and **7%** for **arrears and instalment interest**.

   1% reduction to prescribed rate in July

CRA RELEASES

1. **May 12, 2025** – CRA updated their webpages for each of the **My Account**, **My Business Account** and **Represent a Client** portals, noting the following:

   - the webpages are no longer titled “What’s new,” but each page includes a “What‘s new” subheading;
   - a **link** to the **change my return** service for electronic adjustment requests has been added to the tax returns section of the My Account overview page;
   - **GST/HST accounts** can **no longer** be **closed** through My Business Account within **two years** of activation;
   - **business numbers** can now be **added** from the **My Business Account** profile page, or from the welcome page for individuals adding their first business on file;
   - businesses wishing to **maintain paper mail** can **opt out of online mail** through **My Business Account** (see VTN 526(8238) for more details on the transition to online mail, effective June 16, 2025 for most businesses);

- applications for **T3 Trust** account numbers can **no longer** be made through **submit documents** in **My Trust Account** but can be submitted as part of the **T1 online registration** process; and
- **audit documents** can now be submitted through **My Trust Account** using the **solicited document flow**.

these changes to online services for trusts

2. **May 12, 2025** – CRA updated the **terms and conditions** for use of the online portals to modify the **responsibility and liability** of organizations using **Represent a Client** for all actions taken by their **employees**. This has been updated to add that the word **"employees" includes individuals** whose names have **not** been **deleted** or eliminated **as employees associated with the organization** as third-party representatives **upon termination** of their employment. Similar wording has been added for **group representatives**.

including removal of Represent a Client access as part of staff departure processes

3. **May 6, 2025** – On the EFILE news and program updates webpage, CRA noted that **the annual post-assessment review** of personal tax returns has **started**. It also noted that CRA is **continuing** with the **federal foreign tax credit claims pilot project** for the **2025 tax season**; if practitioners require additional time to respond, an extension request can be made through the contact information found on the letter. **Representatives** will **receive** processing review **letters** if the representative has been **authorized** by the practitioner's client and the **return indicates** that the **letters** should be **sent to** the **representative**.

citing this release where additional time is needed to respond to reviews of foreign tax credit claims

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. **April 25, 2025** – Agriculture and Agri-Food Canada announced an **extension** of the **AgriStability enrolment deadline** for the **2025 program year** from April 30, 2025 to **July 31, 2025**.

extended deadline to enroll in AgriStability

2 Canada's COVID-19 Response 526(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.

Sickness benefits

An April 7, 2025 **Federal Court** case (Lydford vs. CRA, T-1257-24) found that CRA's denial of CERB on the basis that the taxpayer did not meet the $5,000 prior period test was **not reasonable** as the **decision-maker** had **failed to grapple** with the **central arguments** made by the taxpayer.

whether CRA addressed the taxpayer's arguments

CRA had **not addressed** the taxpayer's argument that **EI sickness benefits** that she had received following open-heart surgery in early 2019 should be **included in prior earnings** because they **replaced employment income**. The Court **did not opine** on whether such amounts **should be included**, but the **failure** of CRA to **consider the issue** and **communicate their conclusion** rendered the decision **unreasonable**.

Method of communication

A March 7, 2025 **Federal Court** case (Baidar vs. AGC, T-905-23) 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. The primary issue was whether it was **procedurally unfair** for CRA to issue a decision without further communication when the taxpayer did **not respond to numerous call attempts**.

CRA can choose the communication method

The Court found that CRA's attempts to contact the taxpayer by phone and voicemail **met the required standards** of procedural fairness. Despite the taxpayer's assertion that she **preferred written communication**, CRA had **no statutory obligation to honour this preference**. The taxpayer never returned CRA's calls, even after voicemails were left during both the initial and second-level reviews. The Court emphasized that procedural fairness does not require written communication where reasonable efforts have been made.

Stopped working due to COVID-19

A March 31, 2025 French **Federal Court** case (Mailloux vs. HMK, T-594-24) found that CRA's denial of **CRB** to a **self-employed** taxpayer (a freelance video editor who received payments in cryptocurrency) was reasonable on the basis that he did not stop working due to COVID-19 and did not search for work.

whether the inactivity during the pandemic matched the inactivity prior to it

The Court found that CRA had reasonably concluded that the taxpayer's **inactivity** during the pandemic **resembled** his **prior years** of inconsistent income and sporadic freelance work. With **no existing contracts cancelled** or disrupted due to COVID-19, CRA's inference that the **pandemic** was **not the root cause** of his income loss was justified. Also, given **vague descriptions of job-seeking** and inconsistent statements about recontacting past clients, the Court found it reasonable for CRA to conclude that he did not meet the requirement that an active job search was conducted.

Costs awards

A May 5, 2025 **Federal Court** case (Matta vs. AGC, T-1289-24) reviewed **claims for costs** by both the taxpayer and CRA. The Court had previously **allowed judicial review** in respect of **two periods** as **CRA** had **conceded** a **lack of procedural fairness** (see VTN 523(8107)), but **refused** to depart from the **general rule** that the Court **not substitute its judgement for CRA's** and rule on whether the requirements for CERB were met. The Court had further concluded that **CRA's decision** in respect of **two other periods** was **reasonable**.

Although the **taxpayer** was **successful**, their success was **limited** to **issues CRA had conceded** and had **previously offered to settle** on a basis **at least as successful** as the **Court's ruling**. As such, **CRA** was **entitled to costs**, which the Court set at $1,000.

the risk of a costs award, especially if a settlement offer is rejected

3 Personal Tax

526(3)

FIRST-TIME HOME BUYERS' CREDIT – PRIOR HOME OWNERSHIP TEST

To be eligible for the first-time home buyers' credit, **neither** the **individual nor** their **spouse** can have **owned** (during the period of marriage for a home owned by a spouse), jointly or otherwise, a **home** that the **individual occupied** during the **period** beginning at the start of the **fourth calendar year preceding** the acquisition and ending the day before the acquisition (Subparagraphs 118.05(1)(a)(ii) and (iii)).

In a December 31, 2024 French **Technical Interpretation** (2021-0885741E5, Marie-Chantal Lamarche), CRA opined that an individual who **occupies** the home as their **principal place of residence** during the **year** in which the new home is **acquired** or **any** of the **four preceding calendar years** would **not** be **eligible** for the credit. This would be the case **whether** the **home** was located **within or outside Canada**.

whether the home is outside of Canada is irrelevant

CRA also referenced Income Tax Technical News No. 31R2 (Archived), which stated the following: "An individual's **'principal place of residence'** is the place where the individual **regularly**, normally or customarily **lives**. In our view, the place where the individual **normally sleeps** is a **significant** factor in making this determination. Other significant factors include the **location** of the individual's **belongings**, where the individual **receives his or her mail**, and where the individual's **immediate family**, including the individual's spouse or common-law partner and children, **reside**."

In addition, CRA stated that if the **individual** does **not** have a **spouse or common-law partner** at the **time of acquisition** of the property, the spousal ownership limitation (Subparagraph 118.05(1)(a)(iii)) is not applicable.

Editors' comment
While an individual must intend to inhabit the new home as their principal place of residence within one year of acquisition to qualify for the credit, the prior home ownership test only refers to the individual "occupying" a home. CRA's more specific interpretation of "occupy" indicates that an individual would fail this prior home ownership test only if they occupied the home as their principal residence. As such, based on CRA administrative policy, it appears that an individual that occupies a home but not as their principal place of residence would not be prevented from accessing the tax credit.

spousal limitation only applies if individual has a spouse at the time of acquisition

MEDICAL EXPENSES – EXERCISE POOL

A March 24, 2025 **Tax Court of Canada** case (Grant vs. HMK, 2024-375(IT)I) found that the cost of an **exercise pool used** by an **individual** with Duchenne **muscular dystrophy** was **not** an **eligible** medical expense. Although reasonable **renovation costs** to a home may qualify if they enable access or functionality for a patient who lacks normal physical development or has a **severe and prolonged mobility impairment**, they are **not eligible if** the expense would **normally** be **incurred** by **persons** without such impairments (Subparagraph 118.2(2)(l.2)(ii)). The pool's **nature** and its **availability** through a **standard retail outlet** accessible to the general public indicated it was an **expense typically** incurred by **individuals without impairments** and, therefore, was **not** an **eligible** medical expense. The Court also noted that pools are not included in the list of eligible **devices** or **equipment** (Regulations Section 5700). Additionally, while a **nurse practitioner recommended swimming**, it was **not** formally **prescribed**.

exercise pool not eligible, even if it helps individuals with their impairment

4 Employment Income

526(4)

TEMPORARY WORK LOCATION

The value of **board and lodging** benefits received by an employee in respect of expenses at a **special work site** are **not taxable** (Subsection 6(6)) where the duties at the location were of a **temporary nature** and certain other conditions were met (see VTN 500(6996)). A recently released January 4, 2022 French **Technical Interpretation** (2016-0644861E5, Isabelle Landry) provided **general guidance** on determining whether the condition in respect of **duties of a temporary nature** (Subparagraph 6(6)(a)(i)) would be met.

Referring to its guidance in Interpretation Bulletin IT-91R4 (Archived) Employment at Special Work Sites or Remote Work Locations, CRA stated that continuous employment that is expected **not to exceed two years** is generally considered **temporary**; however, it is ultimately a question of fact.

For example, even employment exceeding two years may be considered temporary if it has a **defined end date without extension**. **Key factors** for determining the temporary nature of work include the following:

these key factors

- the **type of work** (e.g. repair work or phase-specific trade work);
- the total **expected duration** of the project or a specific project phase; and
- the duration agreed upon in the **employment contract**.

These factors would be considered at the **start of employment**.

a work site is a specific workplace, not a geographic area

CRA emphasized that the determination of temporary work should be **based on the facts** of each case, including the **location** and the **nature of the work**. They also stated that a work site is a **specific workplace** and not a general geographic area, such as a city. As such, the above factors should be examined in respect of a particular work location and not necessarily a geographic area.

EMPLOYEE VS. INDEPENDENT CONTRACTOR – OWNER-MANAGER

An April 24, 2025 French **Quebec Court of Appeal** case (Gross et al. vs. QRA, 2025 QCCA 492) considered the **classification** of a worker's income as **self-employment** or **employment** for the 2010 tax year. The worker, a CPA, was the **sole shareholder** and director of a corporation (9co) that provided services **to a professional accounting** and financial services firm. The taxpayers argued that the worker was a self-employed consultant and not an employee of 9co. However, Revenu Québec (RQ) reassessed the worker and 9co, concluding that the worker was in fact an **employee of 9co** such that **source deductions were required**. The worker was also **denied business deductions**.

how the payments were determined

Taxpayers lose

The Court noted that, despite there being **no written agreement** between the worker and 9co, 9co's written contract with the accounting firm imposed **de facto exclusivity and control** over the worker. It also noted that the worker issued a **single invoice** to 9co for the **same amount each year**, regardless of the actual volume of work. Both of these elements suggested an employment relationship between the taxpayers. Further, the **Court rejected** the argument that a corporation could **not exert a sufficient degree of control** over its sole shareholder and director to result in an employment relationship.

As such, the Court found that the worker was engaged in an **employment capacity.**

EMPLOYMENT INSURANCE – INCORRECT GUIDANCE

In general, **full-time students** are presumed unavailable for work and thus **ineligible for regular EI** benefits (Paragraph 18(1)(a) of the EI Act). However, **if** the claimant is **referred to a training program** by a designated authority, they are deemed to be available for work and **may receive EI** benefits (Section 25 of the EI Act).

In an April 24, 2025 French **Federal Court** case (Pelletier vs. AGC, T-1313-24), the Court reviewed the taxpayer's application for judicial review of the EI Commission's decision to **deny the taxpayer's request** to **write off** a $21,540 **EI overpayment**, arising from her failure to complete an application with a designated training referral authority (DTRA) at the same time as her EI application.

why the error occurred

The taxpayer's application with the DTRA was **never received** due to a communication error. An agent from the DTRA had given her an **incorrect application email address**. Nonetheless, the Commission approved her EI claim and started issuing payments. Over a year later, during a routine eligibility review, the missing referral was discovered, prompting the Commission to assess an **overpayment of EI**.

whether the commission appropriately considered the reason for the error

Taxpayer wins
The Court ruled that the Commission's **refusal** to grant a write-off was **unreasonable**, as it **failed** to **address** the taxpayer's argument that the **error was due** to the DTRA**'s misinformation** and that she acted in good faith. In this case, the Commission's brief reasoning—that the taxpayer made an error—was inadequate, especially given the Tribunal's findings that she had been honest and that the misleading information came from a third party. The Court **granted the judicial review** and remitted the matter back for redetermination.

5 Business/Property Income 526(5)

TAX TREATMENT OF TARIFFS

An April 2, 2025 BLG article (**Taxes and tariffs: Can you deduct the duty?**, Siwei Chen) discussed the **income tax** implications of **tariffs** paid by **Canadian businesses**. The article suggested the following possibilities:

the goods to which the tariff related

- a **deduction** could be available where the cost of the **goods imported** would also be **deductible** (e.g. as part of costs of goods sold or office supplies);
- the **cost** of a **capital asset** could be **increased** by tariffs paid in order to acquire the asset (potentially increasing available CCA and/or reducing future capital gains on sale of the asset); or

- the amount may be a **non-deductible capital outlay** generating no tax benefit where neither of the above possibilities apply.

The article noted that a **specific deduction** (Paragraph 20(1)(vv)) for countervailing or anti-dumping duties would **not be applicable**.

RENTAL LOSSES – RELATED TENANTS

An April 15, 2025 **Tax Court of Canada** case (Salehe vs. HMK, 2024-1407(IT)I) reviewed the denial of **rental losses** on the basis that there was **no source of income**. **Legal fees** exceeding $112,000 over two years related to the property were **also disallowed**.

The taxpayer **acquired** the **property** in **1996** and **rented** it **to** their **parents** for $900 per month under a **five-year lease**, **renewed for one year** in 2001. That rate **continued without a written lease** until **2016**, when the taxpayer's father passed away and the mother **began** living there **rent-free until** entering long-term care in **2020**.

A **family conflict** followed, with **siblings alleging** the **property** was **held in trust** for the mother, resulting in the **legal fees** disallowed by CRA. It **remained vacant** during the dispute. In **2022**, a **Court ordered** it **sold**, with proceeds set aside for the mother. It was sold in 2023.

Taxpayer loses – rental losses
In concluding that the **taxpayer's intention** when the **property** was **acquired** was **not** to **earn income**, the Court noted the following:

whether a profit could realistically be generated

- **rent** was **not increased** over a **twenty-year period**, following which **no rent** was charged for the next **four years**;
- the **rent** was only sufficient to **cover mortgage payments and realty tax**, such that **no profit** would likely result;
- although the taxpayer argued that his **intention** to find **new tenants** was **frustrated** by the **legal action**, supporting his ongoing income-earning purpose, the **settlement** of the **legal action** indicated that the property was **always held in trust** for the taxpayer's parents, so any **rent** from new tenants would have been for his **mother's benefit**; and
- the **lack of challenge** to rental **losses** of **prior years** was **irrelevant** to CRA's ability to deny losses in later years.

As there was **no intention** to earn income, there was **no source of income** so the rental **losses** were **not deductible**.

the numerous broad provisions that can result in amounts generating no income tax benefit

Taxpayer loses – legal fees
The Court noted that the **lack** of a **source of income** was sufficient to support **denial** of any **deduction** for the **legal fees**, as they were **not incurred** for the **purpose** of **earning income** (Paragraph 18(1)(a)). Further, the costs of **defending** the taxpayer's **ownership** would **not relate** to operation of a business but would be a non-deductible cost incurred **on**

account of capital (Paragraph 18(1)(b)). In addition, legal **costs** related to a **family dispute** were similar to costs of **estate litigation** and were therefore non-deductible **personal or living expenses** (Paragraph 18(1)(h)). For all of these reasons, the **legal costs** were **non-deductible**.

INTERCORPORATE INTEREST

A February 27, 2025 French **Quebec Court of Appeal** case (Brookfield Renewable Power Inc. et al. vs. QRA, 2025 QCCA 234) considered whether **interest expenses** incurred in **intercorporate financing transactions** were reasonable and deductible (Section 160 of the Quebec Taxation Act; similar provisions apply in the federal Income Tax Act, Paragraph 20(1)(c)) for the 2009 and 2010 taxation years. The taxpayers had implemented a **loss consolidation strategy** whereby **funds were borrowed** from a related **entity in a loss position**. The **interest deducted** on these loans was **reduced** from 14% **to 8.75%** after Revenu Québec (RQ) found that the 14% rate was unreasonable.

interest rates on loans received by related parties from third parties may be relevant indicators of a reasonable interest rate

Taxpayers lose
The taxpayers' **expert supported the 14% rate by only** considering comparable **arm's-length loans** as if the 14% loans were **isolated transactions**. Conversely, the RQ expert report **considered loans** that the **lender** (a related corporation) had **obtained from arm's-length parties** at about the same time and under similar terms. The **Court rejected** the taxpayers' approach as it **ignored** the context of the **loss consolidation** arrangement and the absence of real **credit risk**. Rather, it **agreed with RQ's analysis** and the lower **Court's finding** which noted that if the lender could borrow unsecured funds on the open market at low rates, it was **hard to justify** charging nearly **twice that rate to related parties**, especially in a loss consolidation strategy that bore little to no real credit risk.

SR&ED – SCIENTIFIC METHOD

An April 28, 2025 **Tax Court of Canada** case (Vortex Energy Services Ltd. vs. HMK, 2019-894(IT)G) reviewed whether certain **expenditures** qualified as **scientific research and experimental development** (SR&ED). The taxpayer asserted that its efforts to **combine** a **direct-fired heating system** for use in fracking activities with **mobile capability** were **unprecedented**, resulting in potential **technological advancement**. The Court reviewed the **five questions** utilized in past cases (see VTN 488(6488)). The **central issues** were whether there were **technological uncertainties** and whether the taxpayer used the **scientific method** in its efforts to resolve any such uncertainties.

the use of appropriate technical professionals in supporting SR&ED activities

Taxpayer loses – technological uncertainties
Although it was clear that the **taxpayer** faced **uncertainty** in that **they** did **not know** how to **resolve** various **technical difficulties**, they provided **no expert evidence** demonstrating the existence of **technological**

uncertainties that **could not** be **resolved** by **routine engineering**. The Court noted that **no testimony** was provided by a **professional engineer**, nor did it appear that the taxpayer engaged such services in its alleged SR&ED activities. The **lack** of such testimony left the Court with **no way of knowing** whether the work could result in a **technological advancement**.

Taxpayer loses – scientific method
It was **not sufficient** to present a **single broad objective** of designing "a working direct-fired heating system with mobile capacity." Rather, the **scientific method** requires a series of **specific hypotheses** that can be **tested** by experiments, with the **results** leading to **new hypotheses** advancing the resolution of the relevant technological uncertainties in a **systemic investigation**. The taxpayer's approach was **simple trial and error**. A **systemic investigation** required **analysis** of **why** a particular **option did not work**, not merely **moving on** to a **new option**.

The lack of **detailed documentation** to demonstrate the **formulation of hypotheses**, the **testing of each hypothesis** and the **modification** of **hypotheses** in light of the **results of such testing** resulted in **no evidence** of the **application** of the **scientific method**.

the need for detailed documentation including the results and analysis of failed tests

As a result, the Court concluded that the taxpayer's **activities fell short** of the **requirements** of **SR&ED**.

6 Capital Gains/Losses 526(6)

CAPITAL GAINS EXEMPTION (CGE) – 2024 ASSESSMENT ERRORS

Although the **proposed** increase to the capital gains inclusion rate was abandoned, the related **enhancement** to the **CGE** (Section 110.6) was maintained (see VTN 524(8143)). The **lifetime CGE limit** was historically indexed for inflation and would offset gross gains of $1,016,836 for 2024. However, the government **proposed** to **increase** the limit **to $1,250,000** for gains realized on or after **June 25, 2024**. CRA **administered** that proposal for **2024 tax returns** (see VTN 523(8123)).

Many practitioners have reported **reduced CGE claims** allowed on **assessment** of tax returns for 2024 for **dispositions** subject to either the **existing or proposed limit**. These assessments appear to reflect a **reduction** in the **lifetime limit** of **$266,836**, the amount by which the limit has been increased for inflation since it was raised to $750,000 effective March 19, 2007.

checking assessments of clients who claimed the CGE

CRA had **not commented** on the issue by May 22, 2025. **CPA Canada** has indicated that they are **communicating with CRA** regarding the **correction**

of these errors. Practitioners have reported **inconsistent guidance** from CRA regarding the best manner to correct these errors. Some **approaches** to addressing the issue, as suggested by various practitioners, include the following:

whether immediate action is warranted

- filing a **T1 Adjustment Request** to reinstate the correct amounts;
- filing a **notice of objection** in respect of the reduced claim; or
- **waiting** for further **guidance** from **CRA**, hopefully including a process by which the errors will be corrected automatically.

The **normal deadline** for a notice of objection is 90 days after assessment; however, the deadline cannot be earlier than **April 30, 2026** for assessments of **2024 personal income tax returns**. Some practitioners have noted that **CRA** can take **collections action** commencing **90 days after assessment** unless a notice of objection has been filed.

Late-Breaking News: On May 23, 2025, CPA Canada reported on social media that **CRA** was **aware of the issue** and would be **taking corrective action** with **no action required** by affected taxpayers. CRA also indicated that the issue had been resolved and should not have affected returns filed after April 21, 2025; however, numerous practitioners have reported errors in assessments issued subsequent to that date. Communications between CPA Canada and CRA are ongoing. No formal announcement had been made by CRA by May 31, 2025.

CAPITAL GAINS EXEMPTION (CGE) – TRUSTS AND 24-MONTH HOLDING PERIOD

A March 28, 2025 French **Technical Interpretation** (2016-0662951E5, Jean-François Benoit) reviewed **whether** a **trust** that **disposed** of shares it held for **less than 24 months after acquisition** could access the CGE on the basis that the shares were **qualified small business corporation** (QSBC) **shares**. The sole shareholder of the corporation transferred the shares he had held for two years to the trust, of which his **two children** were the **beneficiaries**.

the capital gains exemption may be available even where the disposition occurs within 24 months of acquisition

To qualify as QSBC shares, the **shares** must **not** have been **owned at any time** during the **24 months** immediately before the disposition **by anyone other** than the **individual** or a person or partnership **related to the individual** (definition of QSBC share in Paragraph 110.6(1)(b)). As such, it must be determined whether the trust was related to the individual from whom it acquired the shares.

whether all beneficiaries were related to the transferor

For the purposes of the CGE, a **personal trust** is **deemed** to be **related to** the **person from whom the trust acquired the shares** where, at the time the trust disposed of the shares, **all** the **beneficiaries** of the trust were **related** to **that person** (Subparagraph 110.6(14)(c)(ii)). As the beneficiaries of the trust were the two children of the individual from whom the trust

acquired the shares, the trust was deemed to be related to the individual transferor. Therefore, the 24-month test was met.

See VTN 482(6216) for further discussion.

REAL ESTATE – CAPITAL VS. INCOME

A February 28, 2025 French **Court of Quebec** case (Sura et al. vs. QRA, 2025 QCCQ 1127) reviewed **whether** the disposition of **12 condo units** was on account of **income or capital**. The taxpayers acquired two **multi-unit rental buildings** in the 1980s and then **divided** the **titles** into 82 **separate units** in **2005 and 2006. 12** of the units were **sold** between **2010** and **2013**.

Revenu Québec (RQ) argued that, in **2005**/**2006**, the properties **converted** from being capital to inventory (i.e. held for resale on income account). Based on existing CRA administrative policy (see IT-218R (Archived) - Profit, Capital Gains and Losses from the Sale of Real Estate, Including Farmland and Inherited Land and Conversion of Real Estate from Capital Property to Inventory and Vice Versa), RQ argued that the taxpayers should have computed and **reported** the following in the **years of sale** (2010 to 2013):

- **capital gains** based on the **increase in value** of the properties between their **acquisition** in the early 1980s and the date of **conversion** in 2005/2006; and
- **business income** earned between the date of **conversion** of the asset (2005/2006) and its **disposal** (from 2010 to 2013).

the division of gains on the property between capital gains and income gains based on value at conversion

In other words, if the property was converted from capital to inventory, the **gain** on the sale of property should have been **apportioned between income and capital gains** based on the **value** when the **nature** of the **property changed**, all of which would be **reported** in the **year** the property is **disposed** of. The action of **conversion** does **not** constitute a **disposition** in itself. See VTN 477(5905) for further discussion.

The **taxpayers argued** that the properties were held on account of capital for the full period of ownership: they were not converted to inventory in 2005/2006. As such, the **gains** should be fully **capital**. They argued that they had held and **rented** the **two buildings for decades** and the fact that they **chose** to **sell** the **properties in units**, **rather than in bulk**, should **not impact** the **characterization** of **proceeds** as income or capital.

Taxpayers win
The Court noted several factors that led to its ruling that the properties **continued** to be **capital** in nature **after** the **division** and did **not become inventory**.

Intention
The taxpayers' intention to **generate long-term rental income** when they acquired the properties remained **unchanged after** the **division**. Even after

consistent intention to earn rental income

the division, the properties **continued** to be **rented** to the **same tenants** for several years. The Court also found that there was **no secondary intention** to sell the properties at a profit.

taking steps to optimize investment proceeds alone does not trigger business income

Risk and commercial nature of the project
The taxpayers' main **motivation** for the **division** was their desire to maximize the **return on their long-term investment**, while expending the **least possible effort** and expense. The Court emphasized that merely trying to **maximize** the **sale price** did **not constitute** a **commercial venture**. One taxpayer testified that the **renovations** on the division were **not major**; **most work** was done to bring the **25-year-old buildings up to code**, with other renovations being **more cosmetic** than structural. The taxpayers did not divide the properties to change them from generating rental income to be resold at a profit. The division did **not constitute** a project involving a risk or a **business of a commercial nature**.

Nature of taxpayers' businesses
Most of the taxpayers did **not** have **significant experience** in the **real estate sector**.

not a speculative investment

Geographical location of buildings
Nothing about the **location** of the buildings suggested **real estate speculation**.

25 years of holding the properties

Period the taxpayers held the properties
The taxpayers **acquired** the **properties** in **1981**, holding them for about **25 years** at the time of division; these were **not** transactions involving **quick resales**.

Factors that motivated the sale
The division and subsequent **sales** of the properties occurred in the context of the owners **planning** to achieve the **best possible price** on the disposition of their **long-term investment**. The decision to liquidate their investment was motivated by their **retirement** and **advanced age**.

Additional comments
The Court stated that, as it determined that the **properties** retained their status as **capital** property despite the division in 2005/2006, it did **not** have to consider the **merits** of the **tax principles** RQ used to establish the **notices of assessment**. RQ argued that comments from the Federal Court of Appeal case (CAE Inc. vs. HMQ, A-299-11) were obiter and not applicable to this case. A recent Court of Quebec case (see VTN 477(5905)) also declined to follow the FCA comments in the CAE decision. The CAE case indicated that the capital gain (and any recapture) should have been included in the taxpayers' income when the property was converted from capital to inventory.

7 Owner-Manager Remuneration 526(7)

TRANSFER OF PROPERTY TO SHAREHOLDER

In a May 1, 2025 French **Federal Court of Appeal** (FCA) case (Beaulieu vs. HMK, A-94-24), the Court considered whether a benefit was conferred on the **transfer** of **real property** from a corporation **to** its **shareholder**.

In 2013, a corporation **owned** equally (50/50) by the taxpayer and her spouse **transferred a building** worth $430,000 to them. CRA reassessed the taxpayer to include a **taxable benefit** (Subsection 15(1)) for her portion of the building's value ($215,000).

documenting the transfer of liabilities

Taxpayer loses
Although the taxpayer argued that she had provided **consideration** by **assuming three mortgages on the building**, the Tax Court of Canada (TCC) found that she had **not** assumed the obligations **personally**. The taxpayer also argued that the **benefit** should be **negated** because she **resold the building** to the corporation for $1 in 2017. The FCA noted that **no provision** in the ITA **retroactively nullifies a taxable benefit** due to a subsequent transaction. The FCA upheld the TCC decision.

TOSI – EXCLUDED SHARES – POWER OF ATTORNEY

The **tax on split income** (TOSI) rules can subject various income sources to personal tax at the **highest marginal rate**. See the **Quick Reference Chart** for the basics of TOSI.

A March 12, 2025 **Technical Interpretation** (2025-1053231E5, Patrick Prescott) considered whether **giving power of attorney** (POA) over **shares** would eliminate the dividend recipient's ability to **use the excluded share exception** from TOSI. The scenario involved an adult child (over age 24) who received 10% of the votes and value of shares of a private corporation from a family trust and then **granted his father POA** over those shares.

giving power of attorney does not impede access to excluded share exception

CRA confirmed that a **POA** does **not transfer legal** or **beneficial ownership**. It only designates an agent to act on the principal's behalf. Despite the father's authority to exercise rights over the shares, the adult child **remained the legal and beneficial owner**. As such, the adult **child** would **continue to meet** the **requirement** that the individual **own at least 10%** of the votes and value of the corporation's shares (Paragraph 120.4(1)(b)).

8 Corporate Reorganization 526(8)

BUMP DESIGNATION – CONTINUITY OF ASSETS

In a March 4, 2025 French **Technical Interpretation** (2024-1009691E5, Francois Mathieu), CRA considered whether a **designation** permitting the taxpayer to **bump up**, or increase, the **cost of an asset** (Paragraph 88(1)(d)) in a vertical amalgamation (Subsection 87(11)) could be made in the following **hypothetical situation**:

- on January 1, **Parentco acquires 100% of Subco** for $75,000;
- at that time, **Subco** owns shares of a **mutual fund corporation** with a **fair market value** (FMV) of $75,000 and an **adjusted cost base** (ACB) of $25,000, and has no other assets or liabilities;
- on February 1, the **mutual fund corporation** shares are **converted** to **mutual fund trust** units as part of a qualifying exchange (Section 132.2), occurring on a rollover basis;
- on March 1, **Parentco** and **Subco** merge in a **vertical amalgamation** (Subsection 87(11)); and
- Subco had **no transactions** from January 1 to March 1, and on March 1 it owns the **mutual fund trust units** with the **same** $75,000 **FMV** and $25,000 **ACB**.

potential tax issues where investments reorganize

CRA was asked whether a **designation** could be made to **bump** the **ACB** of the mutual fund trust units **to $75,000**. Such a designation **would have been available** on the shares of the mutual fund corporation if the qualifying exchange had not taken place. As **only assets** owned by Subco when Parentco **acquired control** of Subco can be designated, **no bump** would be available. CRA noted that there was **no deeming provision** in either the bump rules or the qualifying exchange rules that would allow the **new trust units** to be treated as a **continuation** of the **old shares**.

not delaying mergers if the subsidiary holds assets eligible for the bump

BUSINESS SPLITS AND BUTTERFLIES

Owners of a corporation may decide to part ways and continue their businesses separately. Such corporate divisions may be done on a **tax-deferred basis** when structured appropriately. This is easier where the shareholders are **related** as **fewer limitations** apply (Paragraph 55(3)(a)). For this purpose, **siblings** are **deemed not** to be **related** (Subparagraph 55(5)(e)(i)), **except** where the dividend was paid or received in a series of transactions by a **qualified small business corporation or family farm or fishing corporation** (defined in Subsection 110.6(1)).

When the shareholders are not related, the complexity level is significantly increased, requiring a proportionate division of each type of property between the shareholders. CRA considers there to be three types of property

for this purpose: **cash/near-cash, investments and business properties** (Paragraph 55(3)(b)). These **divisive reorganizations** are commonly known as **"butterflies."** See VTN 494(6757) and 387(336) for further discussions of butterfly structures.

Due to the **complex rules** surrounding these reorganizations, they are **common subjects** of **Advance Tax Rulings** from CRA. These documents can form a useful framework for planning and provide some insights into CRA's interpretation of these provisions.

more complicated reorganizations required for divorced shareholders

Divorced shareholders
As it is more complicated to conduct a business split between parties that are not related, in the event of a relationship breakdown it is important to address the **division of corporate assets prior to the divorce** itself. By ensuring that the parties are still legally married (and therefore still related) when the business is split, the corporate division will be subject to fewer limitations.

A 2024 French **Advance Tax Ruling** (2023-0998291R3) provided an **example** of how a more **complex** reorganization was required for a corporation owned by two individuals who had **already divorced**. The proposed transactions split the **net assets** of a privately held real estate corporation equally between two new corporations, each owned by one of the ex-spouses.

this example of a corporate division

Corporation owned by siblings
A 2024 **Advance Tax Ruling** (2024-1037241R3) addressed the proposed **division** of a corporation carrying on a **specified investment business** (including rental real estate) owned by **two siblings** and **two family trusts**, one for each sibling's family. The corporation had issued **various classes of shares** with different rights to the shareholders. **Similar classes** were proposed to be created for the **new corporations** that would receive the corporate assets. The proposed transactions would **divide** the **net assets** between the **new corporations**.

Single wing butterfly
A 2024 **Advance Tax Ruling** (2024-1011741R3) addressed the proposed **division** of the assets of a **corporation** (Opco) between its two **arm's length shareholders**, both corporations (the Holdcos). The division would be implemented by first **transferring assets and liabilities** from **Opco** to a new **subsidiary** (Subco). The **Subco shares** would be **transferred** to **one Holdco** and that Holdco's **shares of Opco** repurchased. **Subco** would then be **wound up** transferring its assets to the Holdco.

planning to divide tax pools in a corporate division

Prior to the transactions, **Opco** would **increase the paid-up capital** of its **common shares** to result in a **deemed dividend** sufficient to **recover all RDTOH** in Opco, effectively **dividing Opco's RDTOH** between the two corporate shareholders.

SECTION 55 – SIBLINGS

Owners of a corporation may decide to part ways and continue their businesses separately. Such corporate divisions may be done on a **tax-deferred basis** when structured appropriately. This is easier where the shareholders are **related** as **fewer limitations** apply (Paragraph 55(3)(a)). For this purpose, **siblings** are **deemed not** to be **related**, **except** where the dividend was paid or received in a series of transactions by a **qualified small business corporation (QSBC) or family farm or fishing corporation** (defined in Subsection 110.6(1); Subparagraph 55(5)(e)(i)). When the shareholders are not related, the complexity level is significantly increased, requiring a proportionate division of each type of property between the shareholders (commonly referred to as a butterfly transaction).

The **exception** from the **provision** that deems siblings **not** to be **related** was introduced in a private members' bill. As private members' bills typically do **not involve** the **Department of Finance nor** undergo robust **consultation**, it is unsurprising that technical concerns have arisen.

On April 14, 2025, the **Joint Committee on Taxation** of the Canadian Bar Association and CPA Canada (JC) issued a submission outlining concerns related to **siblings** accessing the **related party exemption** on a **corporate division**.

Timing of determination

whether ongoing purification strategies may impact the sibling provision

There is **uncertainty** as to the **time** at which a **share** of a corporation on which a dividend is paid must **meet** the above condition as a share of a **QSBC** or a **family farm or fishing corporation**. For example, a corporation may engage in a **purification** strategy to qualify as a small business corporation, which is required for QSBC share status, and therefore may **not meet** the **conditions** at **all times during** the relevant **series of transactions**.

Shares not held personally

careful relying on sibling provision when shares are no longer held personally

To meet the definition of a share of QSBC or family farm or fishing corporation, the **share must** be **held** by an **individual**. However, there may be scenarios where the relevant **share** is **not held by** an **individual**, **precluding access** to the sibling provision. For example, consider two siblings who carried out an **estate/holdco freeze previously**. The individuals have now **redeemed all** their **personally held freeze shares** in the active corporation, **leaving** the **holdcos owning all** the **shares** of the active corporation. The sibling provision would **not** be **available** as the shares were not held by an individual. It appears that the **provision** would **continue** to be **available** if **even one share** were **retained** by each **individual**.

9 Corporate Tax 526(9)

DISSOLVED CORPORATION – VALID NOTICE OF ASSESSMENT?

A March 17, 2025 French **Court of Quebec** case (3308367 Canada Inc. vs. QRA, 2025 QCCQ 1330) reviewed **whether** a **notice of assessment** (NoA) was **valid** even though it was **issued after** the taxpayer was **dissolved**. The taxpayer was incorporated under the **Canada Business Corporation Act** (CBCA) but dissolved on March 31, **2009**. On **February 16, 2011**, an **NoA** was sent in respect of the March 31, 2007 tax year. On **February 21, 2011**, the taxpayer was **revived** at the request of Revenu Québec (RQ).

dissolution does not protect the corporation from its tax debt

Taxpayer loses
Under the **CBCA**, a corporation can be subject to an **administrative proceeding within two years** of the **dissolution as if** the corporation had **not** been **dissolved** (CBCA Paragraph 226(2)(b)). The Court ruled that not only was the **NoA issued within** the **two-year period** following the dissolution, but the taxpayer was **also revived within** this two-year **period**. The Court ruled that such actions had the effect of **reviving** the **corporation retroactively** to the date of **dissolution**.

The Court also referenced a previous decision (see VTN 504(7239)) that confirmed that an **assessment** may be **issued within two years of dissolution**, **without** even **having** to **revive** the **corporation**. The Court also stated that the Tax Court seems to **accept** that CRA may **issue** an **assessment after the two-year period**, **provided** that the **Minister** then **revives the corporation**.

The Court further stated that a **tax debt** does **not arise from** the act of **assessment** as such, and even less from the transmission of an NoA. A **tax debt arises** from the **income** that a **corporation receives** during a given tax year and from the **tax provisions applicable**. Directors and shareholders of a corporation at the time of its dissolution cannot ignore this fundamental rule. They must act accordingly, and, for example, provide for a reserve or provision.

10 CRA

ONLINE MAIL FOR BUSINESS

most business clients will have correspondence methods automatically changed to online mail by CRA

On May 12, 2025, CRA updated its **online mail for business** webpage to provide details on the conversion of communication methods for businesses to online mail (see VTN 525(8188)). Phase 1 commenced on May 12, 2025. **New business** and program account registrations will receive most of their business correspondence in My Business Account. Phase 2, scheduled to commence June 16, 2025, will **change the default correspondence method** for **existing businesses** that are already registered for My Business Account and those who have given online access to a **representative to view** and/or modify information via **Represent a Client**. Business correspondence will be presumed received on the date that it is posted to My Business Account (Subsection 244(14.2)).

To receive **notifications** that mail has been posted online, the taxpayer must provide an **email address** and **register** that address for **notifications** related to **each applicable program**. **Regardless** of whether the business registers for notifications or even **provides an email address**, the business will **still get transitioned** to online mail. The presumption of **receipt applies regardless** of whether the taxpayer receives **notifications**.

creating a firm-wide policy and guidance on this change

Opting out

Businesses **can opt out** of receiving online mail by **submitting Form RC681 Request to Activate Paper Mail for my Business**. However, CRA noted that **online mail** may still be received **until CRA processes** the request. Communications posted online are presumed to be received on the day of posting. This applies to all posts made up until the 30th day after a request to transition to paper mail has been made. As such, taxpayers will need to **monitor** their online CRA account **during** the **transition period**. Businesses not already signed up for My Business Account will need to do so to avoid losing access to important CRA correspondence.

Alternatively, businesses can opt out by **changing their settings** in the **Profile** section of **My Business Account**.

firm processes to ensure clients are reminded of the regular requirement to maintain paper mail

Requests can **only** be made by an individual **with signing authority** such as an owner, director or legal representative. The information must be reflected in CRA's records. It is important to ensure that **mailing addresses** are **kept current** as **undeliverable mail** will result in a **change back to online** mail. In addition, businesses will need to make a **new request** to activate paper mail **every two years**.

If paper mail is selected for existing business program accounts and a **new account** is registered, a **new request for paper mail** will be required for that account.

Exceptions
Charities will continue to **receive correspondence by paper** mail unless the online option is selected.

Non-resident businesses that do **not have an owner or director** that is a **Canadian resident** or do not have access to My Business Account through a representative will **not be transitioned** to online mail. If, however, the representative or the owner has access to the CRA portal, the default delivery method will change to online mail. **Non-resident directors** and officers that do not have social insurance numbers should **inform CRA** when registering a business or account number so that communication will be received by **paper mail**.

Represent a Client
The CRA webpage focuses on business owners accessing information using My Business Account and does not discuss what authorized representatives can access on Represent a Client. **Tax preparers cannot** see or **alter mailing preferences** for their clients on Represent a Client; however, they **can see** the **names of the owner**(s) and whether the client has set up **email notifications**. Representatives can add email addresses for notifications. Reviewing this information during the file completion process may help ensure clients do not miss important CRA communications.

SECTION 160 AND DIRECTOR LIABILITY

Where a person **receives assets** from a **non-arm's length person** who **owes taxes**, 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. The Courts have held that a **dividend** to a shareholder constitutes a **transfer of assets** for **no consideration** (see VTN 516(7795)).

An April 24, 2025 **Tax Court of Canada** case (McCague vs. HMK, 2021-2256(IT)G) considered whether two 50% shareholders acted in concert and were therefore not acting at arm's length with the corporation such that a Section 160 assessment due to **dividends received** while the corporation had **outstanding tax debts** should be upheld. Also, the Court considered whether a **failure to remit source deductions** would result in **director liability** (Section 227.1).

whether the shareholders acted in concert

The taxpayer, a **50% shareholder** and director of the corporation, **received a $215,000 dividend** in 2010 when the corporation had $76,000 in unpaid corporate taxes. The Court emphasized that where two **shareholders act in concert** with a common intent to extract profits from a corporation while tax debts remain, the shareholders would not be acting at arm's length with the corporation and thus would be **subject to Section 160**.

Taxpayer loses – Section 160
While **50/50 shareholders do not** automatically have a non-arm's length relationship with the corporation, the Court concluded that, in this case, the **taxpayer** and his **co-shareholder acted in concert to control** the corporation. Therefore, they did **not act at arm's length** with the corporation.

The Court's conclusion was based on several key factors. The **decision to issue a dividend** was made **jointly** during a meeting with their **shared accountant**, with the taxpayer actively reviewing the financial statements and **participating in the approval** process. In addition, the individuals were **equal shareholders** and directors, each with a **distinct role** – one handling operations and the other administration – but both possessed **mutual veto power**. The Court found that this balance of power amounted to **joint de facto control**. Also, the dividend in question was **not prompted by business necessity** but was instead a personal withdrawal of profits when a tax liability was owed. While both shareholders were motivated by personal financial goals, the Court dismissed the notion that differing uses of the funds, such as RRSP contributions versus vacations, signified separate interests.

Taxpayer loses – director liability for source deductions
A **director** can be held **liable** for a corporation's **unremitted source deductions** if they were **not duly diligent** in preventing the failure from occurring. This liability exists regardless of whether the director acts at arm's length with the corporation.

The corporation filed T4s showing deductions; however, those **amounts were never remitted**. The Court held that, although the taxpayer delegated administrative control to his long-time associate, he **failed to supervise or monitor** compliance. Therefore, the Court held the taxpayer liable for the unremitted source deductions.

whether an appropriate level of supervision was conducted

STATUTE-BARRED ASSESSMENTS

An April 17, 2025 **Tax Court of Canada** case (994552 N.W.T. Ltd. vs. HMK, 2020-1626(IT)G) considered whether CRA could **reassess beyond the normal reassessment period** for the 2014 and 2015 taxation years based on alleged misrepresentations related to **omitted capital gains** and **improperly claimed CCA** and recapture (Subparagraph 152(4)(a)(i)). Gross negligence penalties were also assessed (Subsection 163(2)).

Taxpayer loses – statute-barred
A **$6.1 million taxable capital gain** for 2015 was omitted due to what the taxpayer called an **"inexplicable glitch"** in the **external accountant's** preparation process. Although the capital gain had been **correctly included** in earlier **draft financial** statements, it was ultimately omitted from the final T2 **without** anyone having **reviewed** the return before filing.

errors by external accountants

In respect of **CCA and recapture** for 2014 and 2015, the taxpayer argued that **CRA's failure** to provide **finalized UCC balances**, which was promised during previous audits, left them unable to claim accurate amounts. However, the Court noted that the taxpayer **decided to file** the T2s **without incorporating** the finalized UCC balances **or** even **reviewing the returns**. The Court found that the circumstances surrounding **both issues amounted to neglect**, noting that the taxpayer's use of financial statements and Form T183 as proxies for the T2 review was insufficient.

reviewing T183s as proxies for the T2 is insufficient

Taxpayer wins – gross negligence penalties
The Court found that while the conduct may have been **negligent**, it did **not rise to gross negligence**, which would require a high degree of disregard for tax obligations. Longstanding practices, reliance on both internal and external accountants and a lack of egregious indifference led the Court to conclude that there was **no mal intent** or **wilful blindness**. The gross negligence penalties were cancelled.

RE-OBJECTING

A May 2025 Canadian Tax Focus article (**Re-Objecting After a Varied Reassessment**, Robert Celac) discussed outcomes and potential taxpayer responses to the **CRA appeals process**. It noted that CRA can **confirm** the original assessment or **reassess** to either **vary** or **fully vacate** the original assessment. In all cases, the taxpayer can immediately file an **appeal to the Tax Court**. However, the article noted that in the case of a varied assessment the taxpayer **can re-object with CRA**. The author noted that this may be beneficial in various scenarios, such as the following:

- **additional adjustments unrelated** to the first assessment are desired;
- **tax attributes** would be used to **mitigate the impact** of the varied assessment;
- CRA made a **quick reassessment without giving an opportunity** to the taxpayer to provide all information; or
- where **new issues** or an **assessment on an alternative** basis is included in the varied assessment.

these reasons for re-objecting

Of course, re-objecting may not be the best option if the likelihood of a more positive result from a second review (most likely by the same appeals officer) does not justify prolonging the administrative CRA process.

Confirming objection status
To confirm the status of an objection filed with CRA, taxpayers and their representatives can call the CRA objection enquiries phone line at 1-800-959-5513. The **status of objections** that are filed electronically in **CRA's online portals** after February 2022 is provided in the Progress Tracker. General processing times are included on CRA's processing times and complexity levels webpage.

REPORTABLE UNCERTAIN TAX TREATMENTS

Large corporate taxpayers whose **audited financial statements** are prepared in accordance with **IFRS** are required to report situations where there is **uncertainty** over whether the **tax treatment** will be accepted as being in accordance with tax law (Section 237.5; see VTN 504(7234)). These situations are called **reportable uncertain tax treatments** (RUTTs).

multiple years of disclosures

A March 20, 2025 **Technical Interpretation** (2024-1042821E5, Serena Tan) stated that when **similar RUTTs** recur across multiple tax years, **each year's treatment must be reported separately** on **Form RC3133**. CRA also emphasized that **whether uncertainty** is **"reflected"** in the relevant financial statements is a **question of fact** but that they encourage a broad interpretation consistent with the regime's anti-avoidance objectives. The classification of a RUTT as **temporary or non-temporary** should **align** with the **accounting principles** used in the financial statements (e.g. IFRS).

11 Estate Planning 526(11)

TFSA EXCESS CONTRIBUTIONS – ELECTRONIC CORRESPONDENCE

An April 29, 2025 French **Federal Court** case (Wang vs. AGC, T-1198-24) reviewed the taxpayer's application for **judicial review** of CRA's **denial** of a waiver of **interest and penalty taxes** on her excess TFSA contributions for the 2021 and 2022 taxation years (1%/month during which the excess contributions remained in the TFSA; Section 207.02).

On **July 26, 2022**, CRA issued a notice of **assessment** outlining the **excess** contributions, which was delivered to the taxpayer's **online CRA account**. The taxpayer, unaware of this communication, discovered the excess contribution in **February 2023**, when she **logged in** to her My Account to apply for employment insurance sickness benefits. She **withdrew the excess within days**.

ensuring to link online account with a regularly monitored email account

The taxpayer argued that she had **forgotten** that she had **changed** her **communication preferences** from paper to **electronic** and, given her **lack of technological expertise**, she had **not linked** her **email address** with her online CRA account to receive the notifications.

individual must withdraw excess amount within 30 days for CRA to even consider relief

CRA denied the relief, asserting that the **excess must** be **withdrawn "without delay"** for discretionary relief to be considered. Without delay has been defined administratively by CRA as a period of **30 days following** the time that the individual is **informed** of the **excess contribution** (see VTN 503(7136)). CRA asserted that this was the **date** that the **assessment** was **posted electronically** (July 26, 2022). As the amount was withdrawn **more**

than 6 months after this time (February 2023), CRA's position was that the amount was **not** withdrawn **without delay**.

Taxpayer loses
The Court found **CRA's denial reasonable**, emphasizing that taxpayers who opt for **electronic communication** and **neglect** to **check** their **account regularly cannot complain** that they are unaware of CRA communications. In addition, CRA is not required to demonstrate that a taxpayer received mail; **CRA** must **only demonstrate** that the **mail was posted**.

While not referenced in the Court decision, once a **notice** or other communication is posted by the Minister in the **individual's secure electronic account**, it is considered to be **made available**. After the notice is made available, it is **presumed** to be **sent** when a **notification** is **sent by CRA** to the individual (Subsection 244(14.1)).

Editors' comment
The provisions related to **electronic correspondence** with **businesses** (including GST/HST, payroll and corporate tax accounts) **differ significantly** from the rules for individuals. **Most businesses** will begin receiving **electronic communication by default in June 2025**. See VTN 526(8238) for details of these provisions.

TAX DEBTS OF DECEASED INDIVIDUAL

tax liability from transfer of property several years prior to death can become the liability of the estate

A March 28, 2025 **Ontario Superior Court of Justice** case (Dyjack vs. Shaw, 2025 ONSC 1937) found that an individual's **unpaid US gift tax** (see VTN 452(4577)) from more than 10 years before her death was her **personal liability** and therefore **became** a **debt** of the **estate upon her death**. The Court also accepted that the **IRS** could **pursue** the estate **trustees personally if** the **gift tax remained unpaid**, reinforcing that the estate had a **real liability**. As such, the **Court ordered** that the total **US gift tax** and associated penalties and expenses paid by one of the executors personally be reimbursed by the estate.

PIPELINE ROUND-UP

A **pipeline plan** is commonly undertaken where there has been a **deemed disposition** of shares resulting in an **increased adjusted cost base** (ACB). The pipeline converts the increased ACB **into a shareholder loan**. The intent is to ensure that the tax on the capital gain is the only level of tax by **avoiding the need to pay dividends** later to extract corporate equity. While this type of planning typically arises from deemed dispositions on the death of a taxpayer, it may also occur in other scenarios, such as on the deemed disposition of shares held by a trust on its 21st anniversary.

the possibility of an advance ruling to reduce risk of CRA challenge

Due to the **complex rules** surrounding these reorganizations, **pipelines** are common subjects of **Advance Tax Rulings** from CRA. Rulings from CRA can form a useful framework for planning and provide some insights into CRA's interpretation of these provisions. CRA is typically asked to rule that the proposed transaction would not result in a deemed dividend (Section 84.1 and Subsection 84(2); see VTN 479(6042) and VTN 482(6203), respectively) and that the general anti-avoidance rule (GAAR; Section 245) would not apply. In the scenarios described below, CRA ruled that these anti-avoidance provisions would not apply.

a pipeline following the death of the lifetime beneficiary of a spousal trust

- In a 2023 Advance Tax Ruling (2023-0989821R3), CRA considered a pipeline in which a capital gain was recognized upon **death** of the **lifetime beneficiary** of a **spousal trust**. The plan involved a **cash distribution** to the **spousal trust** to fund its **tax liability** followed by **further distributions** over the course of **a year**, during which the corporate **investment business** would continue.

double pipeline for deceased couple

- In a 2024 Advance Tax Ruling (2023-0998721R3), CRA considered **two post-mortem pipeline transactions** that would result from the **death of two spouses** in **quick succession**. Each owned a portion of Opco. Each estate would **transfer** its **Opco** shares to **separate Newcos**, one for a promissory note and the other for high paid-up capital preferred shares (P/S). More than one year after the share transfers, Opco and the two Newcos would amalgamate. The promissory note would be repaid and the P/S redeemed at a quarterly rate that would not exceed 25% of the original principal or redemption amount.

- A May 2025 Canadian Tax Focus article (**Post Mortem Pipeline Update: CRA Allows Payments in First Year To Fund Taxes**, Susan Lin and Cody Kessler) discussed several rulings in which **CRA** would allow **payments within the first year** of the **post-mortem pipeline** to be paid to the estate **to fund** the deceased's and estate's **tax liability**, even in cases where the estate may have had access to other funds, such as through a loss carryback plan. For example, the article references Advance Tax Ruling (2023-0993651R3; see VTN 518(7867)) in which Newco would repay a portion of the pipeline note within the first year that it was issued, with the proceeds being used by the estate to pay the deceased's tax liability. The article also referenced Advance Tax Ruling (2020-0874851R3; see VTN 481(6167)), where Newco would reduce the stated capital of its shares and make the corresponding tax payment to the estate to cover the tax bill.

  Historically, many rulings included the assumption that the corporation would continue for at least a year before the progressive distribution of assets commences.

12 Charities/NPOs 526(12)

CHARITY VS. NON-PROFIT ORGANIZATION (NPO)

A January 31, 2025 **Technical Interpretation** (2024-1024421E5, Karri Lea Estabrooks) discussed the **definitions** of **charities** and **NPOs** and the relevant **filing requirements** for each type of organization.

NPO
NPOs are **exempt from tax** (Paragraph 149(1)(l)). An NPO must be operated **exclusively** for **purposes other than** to earn **profit**. Further, it **cannot distribute** any of its **income** to a member (or make its income available for the personal benefit of a member; an exception applies where the member is an association whose primary purpose and function is the promotion of amateur athletics in Canada). Finally, a **charity** is **excluded** from the tax exemption for an **NPO**.

NPOs required to file once are required to file forever

NPOs meeting the requirements for this tax exemption are **required** to file an **information return** (T1044, Non-Profit Organization (NPO) Information Return) if the NPO has received certain **investment income** in excess of **$10,000** in a fiscal period or if its **total assets** (book value in accordance with Generally Accepted Accounting Principles (GAAP)) **exceed $200,000** at the end of the immediately preceding fiscal period (Subsection 149(12)). An **NPO** is **required** to file **returns** for **all subsequent periods** after the first required filing. The information return must be filed within **6 months** of the NPO's **year-end**.

filing for registration if the entity is a charity

Registered charity
CRA noted that a **registered charity** (defined in Subsection 248(1)) must **apply for and receive registration**, and must meet the definition of **one of the following** (all defined in Subsection 149.1(1)):

- charitable organization;
- private foundation; or
- public foundation.

A **registered charity** is **exempt** from tax (Paragraph 149(1)(f)) and must file an **information return** and a **public information return** (T3010 Registered Charity Information Return; Subsection 149.1(14)) within **six months** of its year-end.

no tax exemption for unregistered charities regardless of non-profit purposes

Unregistered charity
CRA noted that a **charity** (that is, an organization that meets one of the above three definitions) that is **not registered** would **not** be **tax-exempt** as either a charity (as it is not registered) or an NPO (as charities are excluded from that exemption). While **neither** of the **above-noted filings** would be required, an **income tax return** would likely be required (the specific return

depending on the nature of the organization, such as a trust or corporation) and any **income** would be **taxable**.

Further information on the differences between a registered charity and non-profit organization is available on a CRA **webpage**.

13 Relationship Breakdown 526(13)

PAYMENTS FROM FORMER SPOUSE'S RETIREMENT PLAN

A January 8, 2025 **Technical Interpretation** (2024-1032871I7, Simon Morin) discussed a **distribution** from a **retirement compensation arrangement** (RCA). The RCA funds related to the **employment** of an individual, the **taxpayer**, but were **paid** to the taxpayer's **former spouse** pursuant to a **court order or agreement**.

income from an RCA cannot be transferred between spouses in a relationship breakdown

Income inclusion
CRA reiterated previous commentary (see VTN 520(7942)) that an **amount** distributed from an **RCA** is included in the **income** of the person whose **employment** they **relate to** (Paragraph 56(1)(x)) and **not** in the income of **any other person** who **receives** the distribution (Subparagraph 56(1)(z)(ii)). As a result, the **RCA distribution** would be included in the **taxpayer's income** and **not** the income of the **former spouse** who **received** the payment.

Source deductions
The **RCA custodian** would be required to **withhold and remit** source deductions for income tax **from** the **RCA distribution** and issue a T4A-RCA form disclosing the income and tax withheld. CRA opined that the **tax withheld** would be to the credit of the **recipient**, so the **former spouse**, and the T4A-RCA form was required to be issued to that individual.

this tax misalignment where RCA funds are redirected in a relationship breakdown

CRA acknowledged the **misalignment** of the income being **taxable** to the **taxpayer**, but the **tax withholdings** being **recoverable** by the **former spouse**, and **not available** to offset the **taxes payable** by the **taxpayer** on the income. CRA **contrasted** this with the rules for a **pension payment** that would be **taxable to** the **recipient**, so the former spouse, under similar circumstances (Paragraph 56(1)(a)). However, CRA considered this the **correct result** under the legislation.

14 GST/HST

ONLINE INFLUENCERS – RECEIPT OF NON-CASH PERKS

A May 2025 Canadian Tax Focus article (**Brand Deals, Social Media Influencers, and GST/HST**, Dragann Mallette and Paige Donnelly) discussed the **GST/HST implications** of **online influencers** using their digital marketing space (Facebook, Instagram, TikTok, etc.) to **promote brands** and products through various deals and sponsorship. **Influencers** will often be provided with **non-cash perks from the brands**.

tax implications extend beyond income tax to also include GST/HST consequences

The **recipient** of a **taxable supply** made in Canada must **pay** the applicable **GST/HST** based on the value of the supply (Subsections 165(1) and (2)). The definitions of a supply and taxable supply are very **broad**, encompassing the **provision of property or a service in any manner**, including **sale**, transfer, **barter**, exchange, licence, rental, lease, **gift** or disposition made in the course of **commercial activity** (Subsection 123(1)).

Where online influencers receive non-cash perks, there are **taxable supplies** going in **both directions**: the influencer is supplying the brand with marketing services and the brand is supplying the influencer with non-cash perks (e.g. non-cash gifts, such as clothes, sporting tickets, hotel stays, etc.). As such, the **consideration** for the **marketing services** should **include** both the **cash compensation** and the fair market **value** of any additional **non-cash perks received**. If registered for GST/HST, the influencer must charge, collect and remit GST/HST on the total consideration. Similarly, the **brand** is also making a **taxable supply** of the **additional perks** to the influencer, and therefore, if registered for GST/HST, it must also **charge**, collect and remit **GST/HST** on the value of such perks.

The provision that **deems** the value of **consideration** for **barter** transactions to be **nil** does **not apply** in these cases, as the deeming provision only applies to inventory that is property of the same “class or kind” and tangible personal property and intangible personal property are not part of the same class (Subsection 153(3)).

reviewing the agreement to minimize cashflow issues

Both **parties** would presumably **claim back GST/HST paid as an input tax credit (ITC)**, provided that they are eligible to claim ITCs. As such, the article advised that the parties should consider including in the **agreement** that the fair market **value** of the **non-cash perks** supplied by the brand are **consideration** for the **advertising services**. Also, to alleviate the cash flow issues of GST/HST going both ways, the parties may consider including **specific provisions** in their agreement (e.g. payment offsets). Such provisions would not change the requirement that each party report the full GST/HST as being collected and paid.

Editors' comment
While not discussed, the receipt of non-cash compensation would also count towards the influencer's taxable supplies that may result in the influencer exceeding the small supplier threshold for GST/HST purposes (Excise Tax Act Subsection 148(1)).

ZERO-RATED SUPPLIES – CONTACT LENSES ORDERED ONLINE

Eyeglasses or contact lenses are **zero-rated supplies** (Excise Tax Act Schedule VI Part II Section 9) when they either are or are intended to be supplied under the authority of a **prescription** or an assessment record produced by a person entitled to prescribe under the laws of the province in which they practice. The written prescription or assessment record must be in the consumer's name for the treatment or correction of a defect in the consumer's vision.

In Excise and GST/HST News – No. 119 (April 2025), CRA provided their updated **administrative position** related to determining whether the provision of **eyeglasses or contact lenses** is **zero-rated**. CRA's administrative policy came in response to a Federal Court of Appeal case (see VTN 495(6816)) that found that the supply of **contact lenses from online purchases** was not zero-rated as there was insufficient information collected by the vendor to validate the presence of a prescription or assessment record.

firm policy to ensure proper records are retained

CRA stated that the **simplest way** for a supplier to **demonstrate** that a **supply** of contact lenses or eyeglasses was made to a consumer pursuant to a **valid prescription** or **assessment** record would be to **retain** a **copy** of those **documents**. **Alternatively**, a supplier may obtain and retain the following details to demonstrate that a **valid prescription or assessment record existed** at the **time** the **supply** was **made**:

- the **issue date** of the prescription or assessment record;
- the **name** of the **eye care professional** who issued the prescription or assessment record to the consumer; and
- the **details** of the **prescription or assessment record** (such as the sphere, cylinder, axis, base curve, or pupillary distance values and any additional lens recommendations) provided by the eye care professional and included on the document.

15 Did You Know... 526(15)

LIBERAL ELECTION PLATFORM

On April 28, 2025, the **federal election** resulted in a **Liberal minority** government. The list below outlines **proposals** from the Liberal Party platform that Canadian **tax practitioners** with clients that are **individuals or small/medium businesses** may find of interest. Many of these proposals are **general** in nature and lack significant detail. Some of the items were announced by the previous government.

On May 18, 2025, Prime Minister Mark Carney stated that the government will not table a **Budget** in the spring but would do so in the **fall**. Several of the proposals below were mentioned in a May 21, 2025 **mandate letter** from the Prime Minister and in the May 27, 2025 **Speech from the Throne**. The status of these items will be updated on the VTN Recent Tax Proposals document as the government moves forward with them.

uncertainty as to when or whether these campaign promises will be legislated

Business/property items included:

- reintroducing the **multi-unit rental building** (MURB) **tax incentive** for home builders (first introduced in the 1970s)
- **broadening** the **critical mineral exploration tax credit** by expanding qualifying minerals to include critical minerals necessary for defence, semiconductors, energy and other clean technologies;
- **expanding eligible activities** under **Canadian exploration expenses** to include the costs of technical studies, such as engineering, economic and feasibility studies for critical minerals projects;
- **modifying the clean technology manufacturing investment tax credit** to include critical mineral mine development expenses for brownfield sites while expanding the list of priority critical minerals;
- **extending** the **carbon capture, utilization and storage (CCUS) investment tax credit** to 2035;
- **reinstating the CCA accelerated investment incentive** including **immediate expensing** for manufacturing or processing machinery and equipment, clean energy generation, energy conservation equipment and zero-emission vehicles (see VTN 522(8071));
- **increasing** the **claimable amount** under the **scientific research and experimental development** tax incentive program (SR&ED) for Canadian companies to $6 million (from $3 million);
- establishing a **Canadian patent box** which, according to the costing submission made to the Parliamentary Budget Officer, would carry a **tax rate that is half** of the current federal corporate income tax rate on income derived from certain types of intellectual property, effective July 1, 2025;

another home building incentive

this potentially doubled SR&ED claim limit

- **expanding** the **flow-through share regime to** include certain **startups**, allowing investors to deduct eligible R&D expenses directly;
- **reducing/removing interprovincial trade barriers** and achieving mutual **recognition** of **credentials**; and
- introducing a **20% artificial intelligence (AI) deployment tax credit** for small and medium-sized businesses in respect of qualifying **AI adoption** projects, if the taxpayer can demonstrate that the AI expenditure increases jobs.

a new AI adoption credit

CRA items included:

- introducing **automatic tax filing**, starting with low-income households and seniors;
- leveraging technology to better **identify and prosecute** instances of **tax evasion**, **fix loopholes** and **strengthen enforcement**; and
- collecting an additional **$3.75 billion** from **increasing penalties** and **fines** over a three-year period (see the Liberal Fiscal and Costing Plan).

Capital gains/losses items included:

- **cancelling** the proposed **increase to the capital gains inclusion rate**, thereby retaining the 50% inclusion rate (see VTN 524(8143)).

Corporate tax items included:

a review of the corporate tax system

- conducting a **review of the corporate tax system** based on the principles of fairness, transparency, simplicity, sustainability and competitiveness.

Employment items included:

- expanding the **labour mobility tax deduction** (see VTN 489(6533)) to cover tradespeople who **travel more than 120 km** from their home to a job site (currently 150 km) as well as significantly **increasing** the **per-year tax deduction** limit (no amounts were provided);
- supporting **workers affected by US tariffs** by implementing various EI measures (see VTN 525(8179)); and
- enhancing the **EI** system to better reflect the **modern workforce with flexible** support.

Estate planning items included:

these modifications for seniors

- **reducing** the **minimum amount** that must be withdrawn from a **registered retirement income fund** (RRIF) by 25% for **one year**; and
- **increasing** the **guaranteed income supplement** (GIS) by 5%.

GST/HST items included:

- reducing GST costs for **first-time homebuyers** by **eliminating the GST on homes** up to $1 million and reducing it on homes between $1 million and $1.5 million.

Personal items included:

- **reducing** the **marginal tax rate** on the **lowest tax bracket** by 1% (see VTN 526(8216);
- reviewing and reforming the **process** to apply for the **disability tax credit** (DTC);
- introducing an **apprenticeship grant** of up to $8,000 for registered apprentices (it would convert to an interest-free loan if the program was not completed) in addition to the current $20,000 interest-free loan provided to apprentices; and
- introducing a **refundable health care workers hero tax credit** for personal support workers valued at up to $1,100 a year.

FINANCIAL TRANSACTIONS AND REPORTS

reviewing record keeping and reporting obligations with staff

Accountants, among other professionals, have **record keeping and reporting requirements** under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated regulations. For more information, see the record keeping requirements for accountants webpage.

In a December 10, 2024 **Federal Court** case (Norwich Real Estate Services Inc. vs. FINTRAC, T-2021-23), a real estate brokerage was subject to an **administrative monetary penalty** of $156,750 for **failing to timely report suspicious transactions**. Penalties can range up to $500,000 per violation, with the specific amounts varying based on the severity and frequency of violations. The brokerage did not dispute its failure to submit reports, explaining that it had **mistakenly believed no reports were necessary** due to **concurrent enforcement** action by other government agencies. The calculation of the penalty was at issue.

The Court found the government's calculation of the **penalty unreasonable** because it failed to consider relevant mitigating factors (e.g. there was good compliance history and no indication of harm caused by the delay) and did not adequately explain how the amount was proportionate to the brokerage's actual non-compliance. The penalty assessment was sent back for **reconsideration**.

ALBERTA – ORGAN AND TISSUE DONATION

adding this element to client T1 checklists

A May 5, 2025 **News Release** (Check the box, save a life) announced that Alberta's **2025 T1 tax form** would have a **check box** allowing Albertans to **receive information** about **organ and tissue donation**. The release noted that this initiative follows the lead of British Columbia and Ontario. Ontario has reported a 32% increase in registrations since adding the check box.

PRINCE EDWARD ISLAND BUDGET

On April 10, 2025, the **Prince Edward Island** government tabled its 2025 Budget. Some of the proposals included the following:

lower corporate taxes

- **reducing** the general **corporate income tax rate** from 16% **to 15%** as of July 1, 2025;
- **increasing** the **small business deduction threshold** from $500,000 **to $600,000** as of July 1, 2025; and
- slightly **increasing** the basic personal amount, the spouse or common-law partner and eligible dependant amount, the low-income tax reduction threshold and the tax brackets.

ETHICS COURSES

Strengthen your **ethics framework** - four new **1-hour ethics courses** are now available! They include:

these new ethics courses

- Ethics in Action: Navigating the Sale of Tax Ideas and Plans
- Making Ethics Routine: The Power of Ongoing Conversations in Building Firm Integrity
- The Fine Line: Ethical Social Media Marketing and Content Creation for Professionals
- Demystifying AI for Accountants: Risks, Rewards and Ethics

Each course offers practical insights to support sound professional judgment. They are available as a bundle with a 25% discount at www.videotax.com.

16 Appendix 526(16)

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

- S1-F4-C2 Basic Personal and Dependant Tax Credits (for 2017 and subsequent tax years)
- 7-5 Electronic Filing and Payment
- GI-011 Water Haulers
- T4002 Self-employed Business, Professional, Commission, Farming, and Fishing Income
- RC4157 Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary
- RC4231 GST/HST New Residential Rental Property Rebate
- T5013-INST Statement of Partnership Income - Instructions for recipient

CRA Forms/Statements/Returns

- T657 Calculation of Capital Gains Deduction for 2024
- RC1 Request for a Business Number and Certain Program Accounts
- RC7301 Request for a Business Number and Certain Program Accounts for Certain Selected Listed Financial Institutions
- RC681 Request to Activate Paper Mail for my Business
- GST489 Return for Self-Assessment of the Provincial Part of Harmonized Sales Tax (HST)
- RC7249 Return for Self-assessment by a Selected Listed Financial Institution of the Provincial Part of the HST and the QST
- RC626 Offshore Tax Informant Program (OTIP) Submission Form

- T2184 Election to Treat an Excess Dividend as a Separate Dividend Under Subsection 184(3)
- GST524 GST/HST New Residential Rental Property Rebate Application
- GST525 Supplement to the New Residential Rental Property Rebate Application - Co-op and Multiple Units
- CPT100 Appeal of a Ruling Under the Canada Pension Plan and/or Employment Insurance Act
- CPT101 Appeal of an Assessment Under the Canada Pension Plan and/or Employment Insurance Act
- NR73 Determination of Residency Status (leaving Canada)
- PD27 10% Temporary Wage Subsidy Self-identification Form for Employers
- RC312 Reportable Transaction and Notifiable Transaction Information Return (2023 and later tax years)

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