

## VIDEO TAX NEWS

# Monthly Tax Update Newsletter

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## 1 Government Releases

530(1)

### FINANCE RELEASES

1. **September 17, 2025** – The Department of Finance announced that the **2025 Federal Budget** will be tabled on **November 4, 2025**.

### CRA RELEASES

1. **Late-Breaking News: September 29, 2025** – CRA provided an **update** on the **impact** of the **Canada Post strike** that commenced on September 25, 2025, including the following **guidance** for taxpayers:
  - only cheques for the **Canada child benefit** (and any related provincial and territorial programs), the Alberta child and family benefit and the Newfoundland and Labrador disability benefit will be delivered on **October 17, 2025**;
  - taxpayers are still **responsible** for **meeting their tax obligations**, and are **encouraged** to file or remit **electronically**;
  - communications regarding **audits, objections, appeals, disputes or relief requests** will continue by **telephone** and **digital services** (e.g. online CRA accounts or the [Secure blue zone](#)), but CRA will limit written letters to exceptional circumstances; and
  - **penalty and interest relief** may be granted to those who cannot meet their tax obligations due to circumstances beyond their control.

*changing to direct deposit, if possible*

*communication will be mostly made electronically or via telephone*

CRA will continue to update their [Canada Post mail service disruption – Impact on CRA services](#) webpage with the latest information.

*checking this webpage for updated information*

On September 29, 2025, Service Canada updated their [Disruption of Canada Post services](#) webpage to state that during the Canada Post strike, **delays will occur** in respect of cheques mailed for **Canada disability benefits** and **employment insurance benefits**. They stated that **CPP and OAS cheques** will be **delivered** and may be delivered prior to the date on which they can be deposited. They also encouraged the submission of **online applications** for various **programs** and registering for **direct deposit**. They noted that **decision letters** and **other mail-outs** for many programs will be **affected** by the strike.

2. [September 16, 2025](#) – CRA emailed stakeholders seeking **feedback** on the future of **automatic personal tax filing** in Canada to **support lower-income individuals** in filing their taxes and obtaining benefit and credit payments. CRA is specifically seeking insights on **opportunities** and **considerations** in **expanding automatic tax filing** tools and services, as well as feedback on CRA's current efforts (such as the SimpleFile service). The [consultation](#) will accept feedback until **October 9, 2025**.

*how automatic tax filing may impact your clients and their families*

3. [September 9, 2025](#) – CRA emailed stakeholders to provide information about **amending tax returns online** for faster service. The correspondence noted that, when a request is submitted and “**status unavailable**” appears in the CRA account, it means that CRA is **taking longer than expected** to process the request but that it is **still being worked on**. CRA also noted that calling may not provide answers as the agents would see the same screen as what is available in the taxpayer's online account.

4. [August 13, 2025](#) – CRA released a 52-minute **webinar** (Completing your **T3010 online: A walkthrough for charities**) that walks through the **various sections, schedules and forms** of the T3010, as well as discusses **common filing errors**. The webinar also discusses CRA's My Business Account portal, including the ability to use CRA-certified software to complete and directly upload the T3010 return via My Business Account (see VTN [527\(8284\)](#)).

*basics of filing charity returns*

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. **August 18, 2025** – Agriculture and Agri-Food Canada released the **initial list of designated regions** where extreme weather conditions existed in 2024 for purposes of the **livestock tax deferral provision** (Subsection 80.3(4)). Locations in **British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Yukon and the Northwest Territories** were included in this initial list. Livestock producers in these regions may choose to defer a portion of their 2024 sale proceeds of breeding livestock until 2025. Costs of replacing the animals in 2025 may offset the deferred income. The release also noted that buffer zones have been added to capture impacted producers who are outside the prescribed regions' boundaries but may be experiencing similar conditions and thus can also access the deferral.

*reviewing these regions  
for your farm clients*

In addition, for the **2025 program year**, the **compensation rate** for **AgriStability** will be **increased** from 80% **to 90%** and the **maximum payment limit** will be **increased** from \$3 million **to \$6 million**.

## 2 Canada's COVID-19 Response

530(2)

### CEWS – PROVINCIAL INCOME ALLOCATION

In a July 4, 2025 French **Technical Interpretation** ([2025-105479117](#), Serena Tan), CRA opined that **Canada emergency wage subsidy (CEWS) payments** are **not included** in the calculation of **gross revenue** for determining **provincial income allocation** when a corporation has a permanent establishment in multiple provinces or territories. This position is based on CRA's longstanding view that **financial assistance** received from a government by a corporation in respect of **expenses** incurred or to be incurred is normally **excluded** from the calculation of a **corporation's gross revenue** for the purposes of determining **provincial income allocation** (Part IV of the Regulations). CRA further stated that CEWS payments would **not impact** the calculation of **salaries or wages** for purposes of that portion of the **provincial income allocation**.

*CEWS payments are not  
considered for provincial  
income allocation*

CRA also referenced [Folio S4-F3-C2, Provincial Income Allocation](#), for further commentary on the matter.

## CERS – VERBAL AGREEMENT

An August 8, 2025 **Tax Court of Canada** case ([Hutchings vs. HMK, 2024-1701\(IT\)I](#)) reviewed whether the taxpayer was **entitled** to a **Canada emergency rent subsidy** (CERS) of \$3,641. CRA denied CERS on the basis that the taxpayer, who operated a hair styling salon, did **not** have an **obligation** to pay **rent** and other expenses **under a written agreement**.

The **taxpayer argued** that a **verbal agreement** to pay rent, **supported by evidence of payment**, should be **sufficient** to qualify for CERS. She stated that the verbal agreement was as binding as a written agreement, and that such arrangements were **customary in small communities** like hers. For **over 40 years** of operating her business, she had **never** had a **written rental agreement**.

### Taxpayer loses

To be a **qualifying rent expense** (Subsection 125.6(1)), the commercial rent, property taxes and/or property insurance **must** have been **paid under a written agreement** in place as of October 9, 2020.

The Court stated that the **Act explicitly required** that the payment was made under a **written agreement** and that if Parliament had intended to extend CERS to expenses paid under a verbal agreement, it would not have expressly stated that the agreement must be in writing. As the **Court must apply the law enacted**, it upheld **CRA's denial**.

*agreement must be in writing*

The Court further stated that, while it felt nothing but sympathy for the taxpayer, the Tax Court of Canada is **not a court of equity** and it can **only apply the law** as enacted.

## 3 Personal Tax

530(3)

## MOVING EXPENSES – TRAVEL DISTANCE

An August 25, 2025 **Tax Court of Canada** case ([De Kruffy vs. HMK, 2022-2305\(IT\)G](#)) considered whether a taxpayer's **relocation expenses** in 2020 qualified as deductible moving expenses. The dispute focused on whether the **distance** between the old residence and the new work location was at least **40 kilometres** greater than the distance between the new residence and the new work location (definition of eligible relocation in Subsection 248(1)).

**CRA** calculated the difference as only **32.8 km** using an "eastern route" proposed by **Google Maps**. The taxpayer, also using Google Maps, submitted route data showing an average difference of **47.4 km** using a "western route" based on typical **weekday traffic patterns**.

### Taxpayer wins

The Court noted that, based on various other court cases, the measure and **test** should be evaluated based on the **shortest normal route**. The Court noted that technology like **Google Maps** is widely accepted and used, representing an updated method and the new norm to identify the shortest normal route. This was supported by the fact that both the taxpayer and CRA used Google Maps to determine the appropriate route.

*technology such as Google Maps can be used to determine the shortest normal route*

The Court then examined the **parameters** that CRA and the taxpayer used to obtain their respective Google Map results. It noted that the **CRA agent**, located in a **different time zone** than the taxpayer, had generated route estimates based on **traffic at approximately 7:45 pm**, rather than the taxpayer's **actual commuting time of 4:45 pm**. The taxpayer demonstrated that in four out of five weekdays, at 4:45 pm, **Google Maps** suggested the route resulting in a **47.4 km difference**. The Court noted that the updated utilization of computer algorithms, when properly deployed, renders consistent sets of data to determine whether a move is an eligible relocation or not.

The Court agreed with the taxpayer, concluding that the **average daily travel distance saved** by the move **exceeded 40 kilometres**, and therefore, the relocation qualified.

## PROVINCIAL RESIDENCY

A June 18, 2025 French **Court of Quebec** case ([Pommert vs. QRA, 2025 QCCQ 2592](#)) considered whether a taxpayer was **resident in Quebec** for the 2017, 2018 and 2019 tax years.

The **taxpayer** argued that he had been a **resident of Ontario since** moving from Quebec in 2015 and establishing his **principal residence** on a farm. He enrolled in **Ontario's health insurance plan**, obtained an Ontario **driver's licence** and established **social and economic ties**. He held four properties personally and several indirectly through two corporations in Quebec, arguing that the properties were **investments or vacation spots** and not residences. In 2016, he also received a letter confirming that he **was no longer covered** under the **Quebec health insurance plan** due to his departure. He spent 100 to 120 days/year in Quebec.

**Revenu Québec (RQ)** argued that the taxpayer maintained **significant ties in Quebec** during the period, notably through the possession of **several properties** (owned directly or indirectly), his use of a **Quebec financial institution**, the fact that **recreational vehicles** were left at his Quebec property and the fact that certain **credit card statements** were linked to an **address** of the taxpayer in **Quebec**.

### Taxpayer wins

The Court found that the taxpayer's **Quebec ties** were mostly **investment** or **leisure-related** and **not** indicative of **permanent residence**. His strong Ontario ties, including his **permanent home** on the farm, personal **belongings**, **healthcare**, **driver's licence** and **social life**, outweighed his Quebec connections. As such, the Court found that the taxpayer was **not** a **resident** of **Quebec** for the period.

*can have investments in a province without residency*

## 4 Business/Property Income

530(4)

### INDIRECT VERIFICATION OF INCOME (IVI) – RENTAL INCOME

**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.

In an August 14, 2025 French **Court of Quebec** case ([Grunfeld et al. vs. QRA, 2025 QCCQ 3664](#)), the taxpayers **owned**, jointly with each other (spouses) or individually, **nine properties**, including eight **rental buildings** with a total of 39 units. The taxpayers had always reported insignificant rental income or a rental loss. Revenu Québec (RQ) **estimated** the taxpayers' **unreported rental income** for the 2008 to 2011 years using IVI techniques. Their estimate was based on data from the **Canada Mortgage and Housing Corporation** (CMHC) on **average rents** for the relevant areas in combination with information from **Hydro-Québec** to determine **occupancy** of the units. RQ also **denied** the **deduction** of \$14,239 in **repairs** over a two-year period. RQ **assessed** the taxpayers with **gross negligence penalties**.

*utilities usage indicates occupancy*

### Taxpayer loses

The Court **upheld** RQ's assessed **unreported rental income**, **denied repair expenses** and **gross negligence penalties**.

The Court found that, as the taxpayer did **not** provide **sufficient accounting records**, leases or proof of rental income/expenses, the use of an **IVI** method was **acceptable**. In addition, the taxpayers did **not** provide any **evidence** or **testimony** to **invalidate RQ's assessment**.

The Court also noted that, as the taxpayer could **not establish** that she **paid** the **amounts** for repairs and was unable to prove that the **repairs** were actually **done**, the **denial** was **justified**. Further, the **invoices** were **issued** by a **corporation** known to RQ as a **supplier of false invoices**.



The Court summarized the **key criteria** to be considered in the application of **gross negligence penalties** as follows:

- the **amounts omitted**, the value of the **justifications provided** and the **circumstances** in which the omission occurred;
- the quality of the **accounting records** kept by the taxpayer;
- the **taxpayer's education**, knowledge and business experience;
- the fact that the taxpayer has **acknowledged** or voluntarily **declared the omissions**, or falsehoods, affecting the disputed declarations;
- the **nature** of the relationship between the taxpayer and the tax authorities previously; and
- the **credibility** of the taxpayer.

*these factors to determine whether there is gross negligence*

The Court found that the gross negligence penalties were **justified** due to the total lack of documentation to establish their income, failing to declare significant income and **wilful blindness** in retaining **incompetent professionals**.

## INTEREST ON FOREIGN TAXES

An August 13, 2025 **Tax Court of Canada** case ([Bank of Montreal vs. HMK, 2023-1128\(IT\)G](#)) examined **whether** the taxpayer could **deduct** over \$10 million in **interest paid** on **overdue foreign (US) income taxes** in 2004 and 2006. Interest arose due to a **lengthy audit** of the 1997 to 2001 taxation years in which **significant tax** was assessed. The taxpayer was a Canadian bank that conducted business through a branch in the US.

The taxpayer argued that an **analogy** must be made between the **interest on tax arrears** and **interest on tax refunds**; as the latter is taxable, the former should be deductible. It also argued that the **interest** could be disassociated from the underlying tax, but rather linked to a **business decision-making process**, that is, how much tax to pay upfront when the amount is uncertain.

### Taxpayer loses

The Court rejected the taxpayer's arguments on the basis that the **interest** incurred was **not incurred to earn income** (Paragraph 18(1)(a)). The **interest arose after** the **income** had already been **earned** and was triggered only because the taxpayer had earned that income. The Court also referenced several prior Court decisions, noting that "an expenditure which will not be incurred unless there is [income] is not an expenditure in order to earn [income]." The Court also stated that the **interest** was **linked** to an underlying **tax liability** that was **not deductible**. As such, the Court upheld CRA's denial of the interest deduction.

*no deduction for interest paid on taxes in arrears*

## COMMENCEMENT OF A BUSINESS

An August 2025 Canadian Tax Focus article ([The Business Commencement Test for Expense Deductibility: A Framework](#), Joseph Lo Presti) discussed several court decisions **denying** the **deduction of pre-operational expenses** incurred **before business commenced** (for example, see VTN [489\(6535\)](#)). The author suggested a **framework** to assess **whether** a taxpayer has **crossed the threshold** from preparatory activity **into actual business operations**. While the **courts do not apply** a formal **checklist** and evaluate all relevant **facts and circumstances**, the article highlighted the following **factors commonly** reviewed by the courts:

- **intention** to commence operations, which could be evidenced by creating a **legal or organizational structure** or preparing a **business plan**;
- **operational readiness** including **coordinating the essential components** of the business (e.g. financing, assets and labour) into a functional whole;
- **external engagement** including **negotiations** or contracts with **customers or suppliers** and securing **licenses, permits or insurance coverage**; and
- **financial commitment** such as **arranging financing**, making **personal financial investments** and otherwise engaging in **transactions involving commercial risk**.

*these factors to support the commencement of a business*

## 5 Capital Gains/Losses

530(5)

### BRITISH COLUMBIA HOME FLIPPING TAX

A September 12, 2025 **Technical Interpretation** ([2025-1051441E5](#), Troy Neave, CPA, CA) stated that the **British Columbia home flipping tax** (the BC tax; see VTN [521\(7987\)](#)), which may apply where a **residential property located in British Columbia** is disposed of within 730 days of acquisition, generates no income tax relief.

Where the gain is on **income account**, CRA opined that the tax is **not** incurred for the **purpose of gaining or producing income** (Paragraph 18(1)(a)). Since the BC tax applies only when there is "net taxable income" from a property sale, CRA stated that it arises as a **consequence of the sale** and is **not** incurred for the **purpose of** earning the income.

*not deductible against income*

Similarly, for dispositions on **capital account**, CRA opined that the BC tax is **not** a cost incurred for the **purpose of disposing** of the asset (Subparagraph 40(1)(a)(i)). CRA distinguished between outlays and expenses **incurred** for a disposition (which reduce the capital gain) and those **incurred** as a **consequence of** a disposition. As the BC tax arises after the sale and is based on profit, it is considered an outlay made as a

*not a reduction of capital gains*



consequence of the disposition, not for the purpose of disposing of the asset, and thus fails the purpose test.

## 6 Purchase/Sale of a Business

530(6)

### CAPITAL GAINS DEFERRAL ON INVESTMENTS

Individuals (not including trusts) can **defer taxation** on **capital gains** realized on the **qualifying disposition** of **eligible small business corporation** (ESBC) **shares** to the extent that proceeds from the disposition are used to acquire replacement ESBC shares within a certain time period (Section 44.1). The adjusted cost base of the replacement shares is reduced by the deferred amount, so the deferred gains would be taxable when the replacement shares are disposed of.

*gains on disposal and replacement of certain shares can be deferred*

Where the **investment** in replacement shares **equals or exceeds** the proceeds on the ESBC shares sold, the **full gain** can be **deferred**. A smaller investment in replacement shares would permit only a portion of the gains to be deferred. For example, if only 40% of the proceeds are invested in replacement shares, only 40% of the gain could be deferred.

On **August 15, 2025**, the Department of Finance issued **draft legislation** and **explanatory notes** that would expand access to these rollovers. This proposal, first announced in the 2024 Fall Economic Statement, would apply to dispositions on or after **January 1, 2025**.

#### Qualifying disposition

To be eligible for the deferral, a **qualifying disposition** (defined in Subsection 44.1(1)) must have occurred. This requires that the **disposed share** be the following:

- an **ESBC share** (at the disposition date; discussed below);
- a **common share** of an **active business corporation** (ABC; discussed below) throughout the period that the share was owned by the individual (the proposal would eliminate the requirement that it be a common share); and
- **owned** by the individual for **at least** the last **185 days** up to disposition.

The ABC must have carried on an **active business** in Canada for **at least 730 days** prior to the disposition (or the entire period the share was owned by the individual if owned for less time; Subsection 44.1(9)).

*when and how long the active business was carried on*

#### Active business corporation

An **ABC** (defined in Subsection 44.1(1)) is a **taxable corporation**, where all or substantially all of its assets, measured at their fair market value (FMV), are used **principally in an active business carried on primarily in Canada** by the corporation or a related ABC, or are shares or debt of a related ABC.

### Eligible small business corporation shares

To be an **ESBC share** (defined in Subsection 44.1(1)), the share must be a common **share** (the proposed amendment would eliminate this condition) **issued by a corporation to the individual**. This means that the **shares** must have been **issued directly by the corporation** to the taxpayer (treasury shares) and cannot have been acquired from another shareholder.

*the shares must be issued directly to the shareholder from the corporation*

The issuing corporation must meet the definition of an **ESBC at the time the share is issued**. This means that the corporation must be a CCPC, where all or substantially all assets, measured at their fair market value (FMV), are used principally in an active business in Canada by the corporation or a related ESBC, or are shares or debt of a related ESBC.

Also, the **carrying value** of the assets of the corporation and corporations related to it cannot exceed \$50 million (the proposed amendment would increase this to \$100 million) immediately before and after the share was issued. The carrying value (defined in Subsection 44.1(1)) is determined using generally accepted accounting principles (GAAP); however, assets that are shares or debt issued by a related corporation are deemed to be nil.

*the carrying value of the corporation's assets cannot be too high*

### Replacement share

The next step of the process is to ensure that the new shares meet the requirements of **replacement shares** (defined in Subsection 44.1(1)). Replacement shares must be the following:

- an **ESBC share**;
- **acquired in the year or within 120 days** after the end of the year (the proposal would extend this to the end of the year after the year of disposition); and
- **designated** by the individual in the individual's return of income for the year to be a replacement share in respect of the qualifying disposition.

*the timing of acquisition of the replacement share*

### Other conditions

**Neither** an **ESBC** nor an **ABC** can be any of the following (Subsection 44.1(10)):

- a **professional corporation**;
- a **specified financial institution**;
- a corporation the **principal business** of which is the **leasing, rental, development or sale**, or any combination of those activities, of **real or immovable property** owned by it; or
- a corporation more than **50% of the fair market value** of the property of which (net of debts incurred to acquire the property) is attributable to **real or immovable property**.

*shares in corporations conducting certain activities do not qualify*

For the purpose of determining whether the 185-day ownership test (and related tests) was met, **special rules extend the time frame** in which the shareholder **owned the shares** where they were received as a result of: the death of a spouse, common-law partner or parent; the settlement of a

relationship breakdown; or certain share exchanges (Subsections 44.1(4) to (7)).

For the purposes of determining which assets are used in an **active business**, there is a look-through rule for **capital recently raised** or **reinvested** within 36 months (Subsection 44.1(8)). This applies for both the ESBC and ABC definitions.

Finally, an **anti-avoidance** provision applies when transactions are entered into that would **increase** the amount of the **deferral beyond** what would have been experienced if the original shares were simply disposed of (Subsection 44.1(12)).

## EMPLOYEE OWNERSHIP TRUSTS (EOT) – PROPOSED UPDATES

An EOT is a form of **employee ownership** where a **trust holds shares** of a **corporation** for the **benefit** of the corporation's **employees**. EOTs can be used to **facilitate** the **acquisition by employees** of their employer's business without requiring them to pay directly to acquire the shares. The **trust arranges financing** of the purchase of shares, sometimes through a loan from the target corporation. The rules also provide the ability to exempt the first **\$10 million** of **capital gains from taxation** on certain **sales of a business to an EOT**. The exemption is available for dispositions that occur between **January 1, 2024 and December 31, 2026**.

This type of planning could be particularly helpful where, for example, a third-party buyer or transition to a family member or even a small group of key employees is not feasible or desired. EOTs or similar vehicles are available in jurisdictions like the US and UK.

On [August 15, 2025](#), the Department of Finance issued several packages of draft legislation for consultation. The **FES** (Fall Economic Statement) **2024 and other proposals** package included [draft legislation](#) and [explanatory notes](#) to propose further changes to the temporary **\$10 million exemption** for qualifying dispositions to **EOTs**, retroactive to as early as **January 1, 2024**, including the following provisions:

- **extending** this exemption to dispositions to **worker cooperative corporations** (first announced in Budget 2024);
- clarifying that the requirement of **active engagement** will be determined using the **20 hour per week** standard applicable to TOSI; and
- **limiting** the **deemed capital gain** to the purchaser to arise only on **disqualifying events** occurring **no more than ten years** after the disposition giving rise to the exemption, resolving the issue raised in the article referenced below.

*10-year timeframe for a disqualifying event*

See VTN [516\(7788\)](#) for a discussion of how, under the **existing legislation**, the **\$10 million exemption** is not truly a tax exemption but rather a **deferral** of the **gain** and a **transfer** of the eventual tax **liability** from the vendors to the **EOT**. The above proposals would mitigate this issue.

## 7 CRA

530(7)

### VOLUNTARY DISCLOSURES PROGRAM (VDP) CHANGES

On September 10, 2025, CRA released [Changes to the voluntary disclosures program](#) including [Information Circular IC00-1R7](#), [Voluntary Disclosures Program](#) for **income tax disclosures** and [GST/HST Memorandum 16-5-1](#), [Voluntary Disclosures Program](#) for disclosures related to **GST/HST**, excise taxes and duties (Excise Tax Act and Excise Act), the fuel charge (Greenhouse Gas Pollution Pricing Act Part I), the **luxury tax** (Select Luxury Items Tax Act), the **underused housing tax** (Underused Housing Tax Act), the **digital services tax** (Digital Services Tax Act), the taxes under the Global Minimum Tax Act, the charges under the Air Travellers Security Charge Act and the charges under the Softwood Lumber Products Export Charge Act, 2006. The revised VDP will apply to **disclosures** submitted **on or after October 1, 2025**. CRA provided a broad summary of the changes on the [webpage](#) announcing the new processes.

*becoming familiar with these new processes*

#### Types of disclosures

The new VDP **eliminates** the **general and limited programs**. Instead, applications will be considered either **prompted** or **unprompted**.

#### *Unprompted applications*

An application will generally be considered **unprompted** when there has been **no communication** (verbal or written) about an **identified compliance issue** related to the disclosure, or when the application follows an **education letter** or notice that offers **general guidance** and filing information related to a particular topic.

Unprompted applications will normally be **eligible** for **75% relief** of applicable **interest** and **100% relief** of **applicable penalties** (referred to by CRA as general relief).

*significant relief for unprompted applications*

#### *Prompted applications*

An application will generally be considered **prompted** when it follows verbal or written **communication** about an **identified compliance issue** related to the disclosure. Such communications could include **letters or notices** (excluding education letters) to the taxpayer with one or more of the following:

- identification of a **specific error or omission** found on the taxpayer's account; or
- a **deadline to correct** an error or omission, where there is an expectation for the taxpayer to file or comply.

An application made **after CRA** has **received information** from **third party sources** regarding the **potential involvement** of a specific taxpayer (or of a related taxpayer) in tax **non-compliance** would also generally be considered **prompted**.

Prompted applications will normally be **eligible** for **25% relief** of applicable **interest** and **up to 100% relief** of **applicable penalties** (referred to by CRA as partial relief)

*less certainty and less relief for prompted applications*

#### *Wash transactions*

**Wash transactions** within a VDP application will receive **100% relief** of both **penalties and interest** where the transaction falls within the parameters set out in [GST/HST Memorandum 16-3-1, Reduction of Penalty and Interest in Wash Transaction Situations](#), that allow for more limited relief outside the context of VDP.

*no penalties or interest on voluntary disclosure of wash transactions*

#### *All applications*

For both prompted and unprompted applications, **neither gross negligence penalties** nor **criminal prosecution** will be applied.

### **Requirement for VDP eligibility**

In order to be **eligible for relief**, an application must meet **all** of the **conditions** discussed below.

#### *Voluntary*

An application is **not voluntary** if an **audit or investigation** has been initiated against the **taxpayer or a related taxpayer** in respect of the information being disclosed. Audits or investigations are **not limited** to those conducted by the **CRA**, but can also be conducted by a **law enforcement** agency, **securities commission** or other federally or provincially regulated authority.

*once the matter is under investigation, it is too late for VDP*

#### *Past due*

For **income tax** disclosures, the application must **include** information that relates to a **tax year** that is **at least one year** past the **filing deadline**. For disclosures related to **GST/HST** or the various other taxes, duties and charges, the application must **include** information that relates to a **reporting period** that is **at least one period** past the **filing deadline**.

*how long the matter has been unreported*

#### *Interest or penalties*

The application must include an error or omission subject to **interest** charges, **penalties** or both. Prior to these changes, only applications to which penalties were applicable were eligible.

*VDP where only interest charges would apply*

### *Supporting documents included*

The taxpayer must provide **all relevant information** for **all required tax years** and **respond** comprehensively and promptly to **all CRA requests** for information. To apply, taxpayers must complete [Form RC199, Voluntary Disclosures Program \(VDP\) Application](#) and disclose **all known errors and omissions** in their tax obligations, including any **arm's length and non-arm's length transactions** or circumstances relating to the errors and omissions. CRA has indicated that a simplified Form RC199 will be released by October 1, 2025.

**Supporting documentation** (including returns, forms, statements and schedules) needed to correct the non-compliance for the **most recent six years** must be included with the application. However, if the **errors** or omissions **relate to assets or income** that are located **outside Canada**, this period is increased to the **most recent ten years**. Disclosures related to the matters included in the GST/HST memorandum require documentation for the **most recent four years**.

*greater disclosure requirement for international issues*

**Documentation** for **tax years beyond** these timeframes **may be requested** at CRA's discretion.

*no guarantee that older years will be ignored*

### *Payment*

Either **payment** or a **request for a payment arrangement** must be made for any **estimated tax** owing. There is **no guarantee** that CRA will allow a **payment arrangement**. These requests will be reviewed by **CRA collections** officials.

### **Situations ineligible for VDP**

Certain circumstances are **not eligible** for relief, including the following:

- the application relates to returns resulting in a **refund**, or with **no taxes or penalties owing**;
- the taxpayer is seeking relief on existing **penalties and/or interest** that have **already** been **assessed**;
- the application seeks to **make or alter an election** under an act administered by CRA;
- there is an **insolvency event** for the years involved in the disclosure;
- the application relates to matters covered under an **advance pricing arrangement** with CRA or any other tax administration within or outside Canada; or
- the **application depends** on an agreement being made at the discretion of the **Canadian competent authority** under a provision of a **tax treaty**.

*no VDP for late or amended elections*

### **Other issues**

The other parameters of voluntary disclosure are **largely unchanged**. The documents also address **pre-disclosure discussions**, communication of **CRA decisions**, access to a **second administrative review**, **judicial review** and **objection rights**.



Applicants are expected to **remain compliant** after being granted relief under the VDP. However, CRA **may consider** a **subsequent application** if the **circumstances** are **beyond the person's control** or the new application is related to a **different matter** than a previous application.

*a second VDP is still possible*

## MANDATORY DISCLOSURE RULES – UPDATED CRA GUIDANCE

Under the expanded **mandatory disclosure rules**, a transaction or series of transactions is a **reportable** transaction if it is an **avoidance** transaction and if **one hallmark** of aggressive tax planning (**contingent fee**, **contractual protection** or **confidential protection**) is present (definition of reportable transaction in Subsection 237.3(1); see VTN [508\(7402\)](#) and [504\(7234\)](#)).

CRA updated the [Mandatory disclosure rules – Guidance webpage](#) on August 20, 2025, adding interpretations, including those discussed below.

### Reporting transactions in a series

A filing in respect of a **reportable transaction** or a **notifiable transaction** that is **part of a series** will **meet the reporting obligation** if it is completed to the **best** of the filer's **knowledge** at the time of filing and **accurately describes each transaction** that is part of the series.

If **additional transactions**, parties, hallmarks or other facts or information **become known**, the taxpayer should **file** an **amended RC312 information return** checking the heading **Is this an amended return?** as **Yes** on the RC312 form.

*an amended filing if new facts are discovered*

### Clean economy investment tax credits

Fees incurred to **assist** taxpayers in determining **eligibility** for, or claiming, the clean economy investment tax credits (defined in Subsection 127.47(1)) would **not** result in a **reporting obligation**. Similarly, neither **confidential protection** nor **contractual protection** in respect of preparing these claims would result in a **reporting obligation**.

### Intergenerational business transfers

CRA's previous guidance indicated that the **contractual protection** hallmark would **not arise** solely from **insurance or indemnity** based on the **actions or inactions** of a person to achieve a tax result. In this update, CRA added the example of a **child** or the child's purchaser corporation **indemnifying** their **parents** for any **adverse tax consequences** resulting from the **failure** to achieve a **tax benefit** in an immediate intergenerational business transfer (see VTN [523\(8118\)](#)).

*indemnification for the vendors in an intergenerational business transfer is not a reportable transaction*

### Notifiable transactions

CRA provided additional **guidance** on some of the types of transactions that have been **designated** as **notifiable transactions** by the Minister. No new transactions have been designated since the initial five published on November 1, 2023 (see VTN [508\(7404\)](#)).

## REPORTABLE TRANSACTIONS – EMPLOYMENT SETTLEMENT

A June 7, 2024 **Technical Interpretation** ([2024-1006831E5](#), Pierre Girard) reviewed whether a **settlement agreement** in the context of an **employment termination** that contained an **indemnification clause** would be a **reportable transaction** (see VTN [508\(7402\)](#) and [504\(7234\)](#)) on the basis that **contractual protection** (Clause 237.3(1)(a)(i)(A)) had been provided.

CRA noted that it is **common** for **employment settlements** to include a clause under which the **employee** agrees to **indemnify the employer** against **tax-related claims** resulting from the settlement. Specifically, in the situation reviewed, the **indemnity clause** **protected** the **employer** against any claim in respect of the **failure to withhold source deductions** (income tax, CPP and EI) from **amounts classified** as **non-taxable damages**.

*these common  
indemnification clauses*

CRA first indicated that, generally, **contractual protection** entitles a person to **compensation** in the event of a **failure** of the transaction **to achieve a tax benefit**. They opined that an **indemnity clause** to **protect** the **employer** would generally **not** be a **contractual protection** hallmark.

*contractual protection  
would protect the person  
receiving the tax benefit*

CRA further noted that an **avoidance transaction** only exists if it is reasonably considered that **one of the main purposes** of the transaction (or series) is to obtain a **tax benefit** (for example, a reduction, avoidance or deferral of tax payable (Subsection 245(1))). CRA opined that the **main purpose** of a **settlement** is generally to **resolve a dispute**, and obtaining a **tax benefit** would not generally be a **main purpose**.

*the main purposes of the  
transaction or series of  
transactions*

CRA finally opined that there are **situations** where a **settlement** would be **reportable** and provided the example that **classifying** a payment as **non-taxable damages** in the **absence** of a legal or factual **basis** could constitute an **avoidance transaction**. In this situation, the **presence** of at least **one hallmark** would make the settlement a **reportable transaction** that **requires reporting**.

*documenting the basis for  
classifying damages as  
non-taxable*

See VTN [507\(7362\)](#) for an article on the concern that reporting obligations could arise in this context.

## INFORMATION REQUESTS

A May 28, 2025 **Technical Interpretation** ([2025-1052581C6](#), Vicky Liu) discussed a **new communiqué** intended to simplify, standardize and clearly outline a **consistent information gathering** policy for all **CRA audit programs**. This document appears to be [AD-25-04, Obtaining Information During Compliance Activities](#), which is dated May 26, 2025 and was published online on July 25, 2025. This document discussed **legislation** under which **CRA** may **obtain information** and the potential **consequences** for failure to comply with these information requests.

*CRA's tools for gathering  
information*

### Requests for information (“Requests”)

A Request (Section 231.1 and Excise Tax Act Section 288) was identified as the **primary power** CRA uses when seeking information from a taxpayer or any other person. These **broad provisions** empower CRA to do the following:

- **inspect**, audit or examine **records** of a **taxpayer or any other person** that may be relevant in determining tax obligations or benefit entitlement;
- **enter premises** where business is conducted, property is kept, anything is done in connection with any business or **books or records** are or should be kept; and
- **require a taxpayer or any other person to respond to** all proper **questions**, orally or in writing, in **any form specified** by CRA officials, including but not limited to electronic spreadsheets or organizational charts.

*these broad information-gathering powers*

**Other persons** that may reasonably have relevant information could include any of the following:

- **officers or directors** of a corporation;
- a **majority shareholder** of a corporation;
- a **trustee** of a trust;
- **partners** in a partnership;
- another corporation;
- the taxpayer’s **employees**;
- external **accountants or advisors**;
- **suppliers**; or
- **customers**.

*the scope of persons that CRA may request information from*

Requests should provide a **reasonable** amount of **time** to comply, consistent with communiqué [AD-20-01, Standard Timelines for Information Requests to Taxpayers for Audit Purposes](#).

### Requirements for information (“Requirements”)

CRA indicated the following **three** types of **information** or documents for which a Requirement (Section 231.2 and Excise Tax Act Section 289) should be issued:

- those held by a **financial institution**;
- those requested on **behalf of a foreign jurisdiction** through a tax information exchange agreement, a tax treaty or the Multilateral Convention on Mutual Administrative Assistance in Tax Matters; or
- those relating to **unnamed person(s)**, whose compliance is being verified (judicial authorization is required; Subsection 231.2(3) and Excise Tax Act Subsection 289(3); see VTN [512\(7583\)](#)).

*requirements for information would generally be limited to these types of information*

Other uses of Requirements may be considered on a case-by-case basis and require consultation with the relevant CRA program’s HQ.

### Requirements for foreign-based information

CRA also discussed requirements that can be **issued to Canadian residents or non-residents carrying on business** in Canada to provide **foreign-based information** or documents (Section 231.6 and Excise Tax Act Section 292). CRA is subject to more **rigorous procedures** to issue requirements of this nature.

### General guidance to CRA officials

The communiqué provided **general guidance** to CRA officials in respect of **all information-gathering activity**, including the following:

- **openness, transparency**, timely communication and **cooperation** by CRA officials, taxpayers and other persons will **facilitate the efficiency and effectiveness** of compliance activity to **reduce the compliance burden** whenever possible;
- CRA officials should consider the **purpose and scope** of the compliance activity and the **relevancy and reasonableness** of the documents and information being sought;
- the **scope** of compliance activity will **influence** the type and volume of **information required** and **may expand** beyond an original audit plan to include other compliance issues involving the taxpayer or other persons;
- CRA officials should **explain**, verbally or in writing, the compliance issue and **why** the **documentation and information** being sought **may be relevant** in determining the obligations and entitlements of a taxpayer;
- CRA officials should **exercise judgement** and should generally seek the **appropriate amount of information** necessary to validate or establish the obligations or entitlements of a taxpayer; and
- CRA officials must be prepared to **review the information** requested in a manner **commensurate with** the **complexity and tax risks**.

*the issues under CRA review may expand depending on their initial findings*

*requesting these explanations if they are not provided*

The technical interpretation indicated that “taxpayers and their **representatives** are **encouraged to discuss information requests** with CRA officials if they have any questions.”

## SECTION 160 – DIVIDENDS

Where a person who owes taxes transfers property to a current or future spouse (or common-law partner), a minor (under age 18) or a **non-arm's length person**, the recipient can become jointly and severally **liable** for the **transferor's tax** debts (Section 160). This liability is limited to the **excess** of the **fair market value** (FMV) of the property received **over the consideration** provided for the property. The Courts have held that a **dividend** to a shareholder constitutes a **transfer of assets** for **no consideration** (see VTN [516\(7795\)](#)).

A July 22, 2025 French **Tax Court of Canada** case ([Turcotte vs. HMK, 2019-2144\(IT\)G](#)) considered whether **dividends received** from a tax-indebted corporation constituted a transfer without consideration, subjecting the sole shareholder to the **corporation's tax liability**. The **accountant suggested** that it would be simpler and more advantageous to declare withdrawals made during the year as **dividends**. The taxpayer argued that the **dividends were** actually **remuneration** for **services rendered** and thus represented valid consideration. In particular, the taxpayer noted that, when determining whether **dividends** received are **reasonable** in the context of **tax on split income** (TOSI), factors beyond ownership entitlement are considered, including labour provided. The taxpayer also argued that dividends were considered **earned income** for the purpose of some COVID-19 **benefits like CERB**. The taxpayer noted that these developments occurred after the historical cases that held that Section 160 applied to dividends.

*dividends can trigger  
Section 160 liabilities*

### Taxpayer loses

The Court found that **neither** the **TOSI** rules nor the recognition of certain dividends for **COVID-19 relief** programs had any bearing on Section 160 assessments. The categorization of dividends for these unrelated purposes did **not alter past case law** that **linked dividends** only to **share ownership** and **not** to any **consideration provided** by the shareholder. The taxpayer was liable for the unpaid corporate taxes to the extent of dividends he had received.

*work done for the  
corporation provides no  
protection from Section  
160*

## JUDICIAL REVIEW AND TAXPAYER RELIEF

A June 24, 2025 Taxpage.com article ([When the CRA Says, "No": Exploring Judicial Review for Denied Taxpayer Relief from Penalties, Interest Payments on Tax Debt](#), David J. Rotfleisch) provided practical considerations, cautions and a basic explanation of taxpayer relief and the role of judicial review when relief is denied.

**Taxpayer relief** allows CRA to **waive or cancel penalties** and **interest**, accept **late** or amended **elections**, and **issue refunds** beyond the normal reassessment period. It **cannot forgive** the **principal amount** of tax owed. Relief is restricted to amounts arising within the last **ten calendar years**, which makes timely applications essential. To preserve eligibility, the article suggests that taxpayers can file a "protective" request even before all

*tax itself cannot be  
forgiven in this process –  
only interest and penalties*

supporting documents are ready.

In general, qualifying for relief depends on demonstrating **circumstances beyond the taxpayer's control**. CRA generally considers four broad categories:

- **extraordinary events** such as illness, disasters or family death;
- **CRA errors or delays** that caused unfair charges;
- **financial hardship** where interest payments would threaten basic needs or business survival; and
- **other unique situations** involving good-faith mistakes or unintended consequences.

A **CRA tool** is available to help taxpayers assess eligibility and understand the process.

A key limitation is that **CRA has absolute discretion** in granting or denying relief. Unlike standard tax assessments, there is no objection or tax court appeals process. Rather, taxpayers can request a **second-level administrative review** from CRA itself. If still denied, the taxpayer can apply for a **judicial review** through the Federal Court of Canada.

*relief is at CRA's discretion*

**Judicial review** is **not a re-hearing** of the case. Instead, it examines whether **CRA acted within its authority**, respected **procedural fairness** and reached a **reasonable decision**. The process does **not allow new evidence** and relies entirely on the information before CRA. Taxpayers must act quickly as an **application** should be submitted **within 30 days of CRA's decision**. However, extensions are possible if the taxpayer can show continuing intent, potential merit, lack of prejudice to the CRA and a reasonable excuse for delay (see VTN [513\(7636\)](#)).

A **judicial review** can be granted where CRA:

- acted without or **beyond its jurisdiction**;
- breached natural **justice or fairness**;
- made an **error in law**;
- made perverse or **unreasonable** factual findings;
- relied on **fraud or perjury**; or
- otherwise acted **contrary to law**.

The standard of review is usually **reasonableness**. This means CRA's decision must display a **logical** chain of reasoning, grounded in the law and evidence. Superficial or inconsistent reasoning may result in a successful judicial review application. If the Federal Court finds the decision unreasonable, the matter would generally be **sent back to a different CRA official** for reconsideration. In other words, the Court will not substitute its own view where a reasonable decision was made by CRA.

*CRA decisions can generally be challenged if unreasonable*



## SECURITY PRACTICES – CONFIRMING CLIENT IDENTITY

An August 20, 2025 post on the [EFILE news and program updates webpage](#) discussed **financial fraud** and **digital scams** and suggested steps to **confirm** the **identity** of EFILERS' clients. CRA noted that their [EFILE eligibility requirements](#) include both **validating the identity** of clients and **dealing directly** with clients.

*processes for verifying the identity of clients or prospective clients*

CRA suggested the following steps that could be taken to **validate** a client's **identity** (in person, by phone or online):

- review government-issued **photo identification**;
- ask **confidentiality questions** about **information** on the file or account;
- use of **multi-factor authentication**; or
- use of **personal identification numbers** for clients.

CRA also recommended several cyber-security steps to **protect information and online accounts** including specific recommendations for each of CRA accounts and EFILE accounts and to **secure networks**.

*reviewing your firm's cyber-security, including CRA's suggestions*

## CRA PHONE SERVICES – 100 DAY PLAN

A September 2, 2025 [letter posted](#) by the Minister of Finance and National Revenue on the **social media** platform X announced that **CRA** had been **directed** to implement a **100-day plan** to **strengthen services**, improve access and **reduce delays**. The letter suggested possible steps including the following:

- reallocating and adding **personnel**;
- piloting a new **call scheduling system**; and
- expanding **digital services**.

*watching for new initiatives over the rest of the year*

The **Office of the Taxpayer's Ombudsperson** issued a [statement](#) supporting initiatives to **improve services** and **reduce delays**.

# 8 Estate Planning

530(8)

## T3 TRUST FILING – QUICK REFERENCE CHART

Video Tax News has developed a [T3 Trust Filing – Quick Reference Chart](#) to help **practitioners** navigate the **complex rules** surrounding potential **T3 filing obligations**, effective for fiscal years ending on or after **December 31, 2025**. The chart is based on the [August 15, 2025](#) proposed [draft legislation](#) (see VTN [529\(8377\)](#)). The chart provides a **high-level framework** to assist in determining potential T3 filing obligations.

*this resource for assisting in determining required trust filings*

The rules are **complex, technical** and **highly fact-specific**; specific circumstances or nuances may lead to outcomes that deviate from the general rules presented here. As such, the chart should be treated as an **educational tool** and a starting point for analysis rather than a definitive answer. Any given situation may require **review** by a **tax expert and/or a trust law expert**.

## TFSA EXCESS CONTRIBUTIONS – DECLINE IN VALUE

A July 25, 2025 **Federal Court** case ([Worobec vs. AGC, T-2712-24](#)) found that **CRA's denial of penalty tax relief on excess TFSA contributions was reasonable**. Due to the **loss of value** in the taxpayer's TFSA, the taxpayer **could not withdraw** the full amount of his **excess contribution**. The taxpayer noted that **without relief** his only means of reducing the overcontribution was to **wait for annual TFSA limit increases**, currently set at \$7,000, which would require approximately **16 years** for the ongoing tax to be fully eliminated. CRA found, and the Court agreed, that this situation provided **no basis for relief**. The Courts have ruled similarly in several other cases (see VTN [518\(7864\)](#) and [495\(6808\)](#)).

*no basis for relief if withdrawal of overcontribution is impossible due to decline in value of account*

However, the **Court** stated that it **shared the taxpayer's concerns** that, in certain circumstances, **prolonged and ongoing liability to remedy overcontributions** appears to be **inconsistent** with the **legislator's intent**. The Court stated that the legislation, as is, operates as a **perpetual tax trap** for taxpayers who made a good-faith but mistaken overcontribution, and even when they **act to unwind it** to the best of their ability, they **cannot do so** because the value of their TFSA is insufficient.

## REGISTERED ACCOUNTS – BENEFICIARY DESIGNATIONS

A July 15, 2025 O'Sullivan Estate Lawyers LLP article ([Beneficiary Designations for Registered Accounts: Do You Really Want The Courts To Get Involved?](#), Namratha Sankar) discussed three **common errors** that individuals may make when attempting to designate a beneficiary of their registered accounts, requiring the court's involvement for a resolution. Designating a beneficiary ensures that **proceeds** are provided **to the beneficiary, avoiding** the assets passing through the **estate**. This **saves money and time** associated with the **probate** process.

*properly naming beneficiaries to avoid probate*

Some common errors that an individual may make include the following:

- **referring to an incorrect account in an individual's will** (e.g. the account referred to in the will was transferred to a new financial institution), requiring the estate trustee to **go to court** to determine the **validity** of the disposition and **rectify the will** to reference the correct account;

*updating designations as necessary*

- not making a **new designation** when an RRSP is converted to a **RRIF**; and
- scenarios where the **bank** could **not locate** the **deceased's beneficiary designation** (e.g. in one case, the bank could not locate the designation **changing** the beneficiary **from** an individual's **former spouse** to his **parents**, but when a copy of the designation was later found in the deceased's papers, the estate had to go to court for clarity).

*ensuring the bank has proper documentation*

## WOUND-UP TRUSTS – SCHEDULE 15

A May 16, 2024 **Technical Interpretation** ([2023-0986981E5](#), Aleksandra Bogdan) considered whether a **trust**, other than a graduated rate estate (GRE), that was **wound up** between January 1 and December 30, 2023, must **file Schedule 15** (additional beneficial ownership information) for the 2023 taxation year.

CRA stated that a **trust's taxation year**, where the trust is not a GRE, is always **deemed to end** on **December 31** (Paragraph 249(1)(c)), **even if** the trust is **wound up** earlier in the year. The winding up of the trust does not shorten its taxation year.

*requirement to file even if wound up during the year*

Therefore, any **non-GRE trust** that was wound up in 2023 would have a December 31, 2023 year-end and should consider filing obligations including Schedule 15.

## RRSP BENEFICIARIES OF A UNIT TRUST

In a March 19, 2024 **Technical Interpretation** ([2024-1003321E5](#), Pierre Girard), CRA stated that an **RRSP trust** that is the **beneficiary** of a **unit trust** is required to **provide** the unit trust with its own **tax identification number** such that the unit trust can comply with its T3 and Schedule 15 reporting obligations. In the case of an RRSP, the tax identification number is the **trust account number**. As such, if the RRSP trust does not have a trust account number, it **must acquire one** and provide it to the unit trust in which it was a beneficiary.

*obtaining and providing the trust account number*

This requirement comes as a result of the expanded trust reporting rules which were effective for tax years ending on or after December 31, 2023.

## 9 Charities/NPOs

530(9)

### TRUST FILINGS – DINING, RECREATION OR SPORTING FACILITIES

When a **non-profit organization** (NPO) provides **dining, recreational or sporting facilities** to their members, a **trust** is deemed to exist and is subject to tax on property income and certain capital gains (Subsection 149(5)). Such trusts are referred to below as 149(5) trusts.

An August 27, 2025 **Technical Interpretation** ([2025-105746](#), D. Dannehl) considered whether [Schedule 15, Beneficial Ownership Information of a Trust](#), must be filed in respect of these 149(5) trusts.

CRA stated that a 149(5) trust would be a trust created **without express intent**. A trust created without express intent is **only required to file a T3 return** for December 31, 2023 and later taxation years if one of the **historical requirements** is met, such as disposing of capital property or having tax payable (Subsection 150(1.1)).

If a T3 return is required, **Schedule 15** must also be **filed unless** the non-express trust is a **listed trust** (Paragraphs 150(1.2)(a)–(o)). An NPO (Paragraph 149(1)(l)) is one form of listed trust (Paragraph 150(1.2)(e)). CRA opined that 149(5) trusts are **not** themselves **NPOs**, therefore this **exception is not applicable**.

*whether Schedule 15 is required*

In respect of **settlers and beneficiaries**, CRA confirmed that the rules that deem there to be a trust (Subsection 149(5)) also **deem** certain parties to be **trustees**, but do **not deem parties to be settlers or beneficiaries**. Thus, for reporting purposes, Schedule 15 would include information solely in respect of the deemed trustees. CRA did not comment on whether information on persons that have the ability (through the terms of the trust or a related agreement) to exert influence over trustee decisions regarding the appointment of income or capital of the trust would be required.

# 10 International

530(10)

## SOURCE DEDUCTIONS – EMPLOYMENT OUTSIDE CANADA

A March 19, 2025 **Technical Interpretation** ([2024-1043781E5](#), Pierre Girard) confirmed that a **Canadian employer** is **not required** to withhold **source deductions** on remuneration paid to an **employee** that met **all** of the following criteria (Regulations Subsection 104(2)):

- was **non-resident** of Canada;
- was **not** carrying out **duties** of employment **in Canada**; and
- was **subject** to income **tax** in a **foreign country** (this criterion is not required if the employee was never a Canadian resident, or is employed in the sale of property or negotiation of contracts (Subparagraph 115(2)(e)(i)).

*these criteria for an employee working outside Canada*

CRA noted that a **T4 slip** would still be **required** (Regulations Subsection 200(1)), even if no source deductions were required.

By contrast, remuneration paid to a **resident of Canada** would still be **subject to source deductions** even if they work outside Canada and are subject to taxation on their remuneration in a foreign country (see VTN [529\(8387\)](#)).

*confirming the employee's residency*

## EXCESSIVE INTEREST AND FINANCING EXPENSES LIMITATION (EIFEL)

A June 30, 2025 **Technical Interpretation** ([2025-1056861E5](#), Catherine Zhang) discussed whether a certain structure constituted an excluded entity such that the structure would avoid the **excessive interest and financing expenses limitation** rules (Sections 18.2 and 18.21; see VTN [527\(8308\)](#)).

As it was assumed that neither the small CCPC exception nor the de minimis exception were available, CRA reviewed whether the **domestic exception** applied. This exception allows for certain standalone Canadian-resident corporations and trusts and **groups** consisting exclusively of **Canadian-resident corporations and trusts**, each of which carries on **all or substantially all** of its **activities in Canada**, to be **excluded entities**. Entities that are affiliated are included in the same eligible group.

In the situation considered, an **individual** (A) who wholly owned and controlled several Canadian corporations, all of which owned one or more real estate rental or development properties in Canada, **settled a trust** that purchased a **US cottage**. Subsequent to settlement, the individual contributed additional funds to cover **operating costs**. The sole beneficiaries of the trusts were A's spouse and their child. **A's spouse** was also the

*challenges when a trust holds US property*

**trustee** having discretionary powers. The trust's only **assets** were the US **cottage** and a US **bank account** for its upkeep. All key decisions were made by the trustee while in Canada. Due to the trustee's **discretionary powers**, she was a **majority-interest beneficiary**, and through her **spousal relationship** to A, she was **affiliated** with each **Canadian corporation**, which in turn made the **trust** an eligible group **entity** for the EIFEL rules.

CRA stated that the **location of activities** of an entity requires a **case-by-case determination**. Where the taxpayer's activities include holding **real estate**, relevant factors include the **location** of the property and where **related activities** occur, such as the **operation** and use of the property, its **maintenance** and upkeep and its **management, administration** and **financial management**.

CRA stated that it is **reasonable** to consider that the facts might indicate that **significant activities** related to the holding and operation of the **property** take place in the **US**. They also stated that, given that the **trust only** owns the **US cottage** and a **US bank account** for its upkeep, the **trust** would likely **not meet** the "**all or substantially all**" requirement, such that the trust would **not** be an **excluded entity**. As a consequence, **no entity** in the **entire group** would be an **excluded entity**.

*one entity failing this test can expose the entire group to the EIFEL rules*

CRA confirmed previously raised concerns discussed in VTN [527\(8308\)](#).

## CHANGES TO FOREIGN ACCRUAL PROPERTY INCOME (FAPI) REGIME

On [August 15, 2025](#), the Department of Finance issued several packages of draft legislation for consultation. The **FES (Fall Economic Statement) 2024 and other proposals** package included [draft legislation](#) and [explanatory notes](#) related to the **foreign accrual property income (FAPI)** rules for CCPCs designed to eliminate deferrals and enhance integration. These proposals were first announced in [Budget 2022](#) and would be **effective** for corporate **tax years commencing after April 7, 2022**.

*amendments will be required for CCPCs with FAPI as far back as 2022*

The foreign accrual property income rules can expose Canadian shareholders to **current taxation** of **accrued income** within a **foreign affiliate (FA)** rather than delaying taxation until dividends are distributed. FAPI is **reduced where** the **FA** has **paid taxes** to the **foreign country** on the income.

**Currently**, the **reduction** for **corporate taxpayers** is **four times the foreign tax** paid (offsetting all FAPI if the foreign tax is at least 25%). FAPI also gives rise to taxable surplus that, when received as a dividend from an FA, increases the general rate income pool (GRIP), permitting payment of eligible dividends. The reduction **for all other taxpayers**, including individuals, is **1.9 times the foreign tax** paid (requiring a foreign tax rate of at least 52.63% to eliminate FAPI). The intention is that the required foreign tax rate approximate the highest Canadian tax rate that would be payable on the

*foreign taxes paid will not reduce FAPI for CCPCs as significantly*



income.

The proposed amendments are intended to **eliminate tax deferrals** and **improve integration** where CCPCs report FAPI. Specifically, the following amendments were proposed:

- **CCPCs** (including substantive CCPCs) would use the **1.9 times foreign tax deduction**, rather than the four times deduction, to reduce FAPI;
- **dividends received** from FAs that are attributable to taxable surplus or hybrid surplus (generated by certain capital gains in the FA) will **no longer increase GRIP or safe income**; and
- **dividends received** from FAs that are attributable to **income sheltered from FAPI** due to foreign tax paid (using the new 1.9 times multiple) and the non-taxable half of hybrid surplus attributable to capital gains realized by the FA will be **added to the capital dividend account**, representing the fact that these amounts have **already been subject** to tax equivalent to the **highest personal tax rate** in Canada.

*potential tax-free dividends from CCPCs affected by these FAPI increases*

Some forms of **income** that would **not** be **subject to the RDTOH regime** if earned in Canada are **included in FAPI**. The proposed rules include an **elective relieving regime** that will permit CCPCs (including substantive CCPCs) to **retain** the existing **four times multiple** of foreign tax paid to reduce the deemed income under the FAPI rules. Such income would be referred to as **“foreign accrual business income” (FABI)**.

*whether this new election will be beneficial*

See VTN [493\(6733\)](#) for an example of this proposal **potentially doubling the immediate tax burden** on **Canadian private corporations** who have a **US corporation** earning **property income**. Although the August 15, 2025 proposals would add the FABI regime, the example remains applicable to property income that would be subject to the RDTOH regime if earned in Canada.

## FOREIGN AFFILIATE – FOREIGN TAX ALLOCATION

A May 28, 2025 **Technical Interpretation** ([2025-1063771C6](#), Ina Eroff) considered how to compute **foreign accrual tax (FAT; Subsection 95(1))** when a foreign affiliate (FA) earns **both active business income and foreign accrual property income (FAPI)**. The definition of FAT requires a **determination** of what **portion** of the **foreign tax paid** “may reasonably be regarded as **applicable** to” **FAPI** of the FA.

**CRA** stated that it generally considers it **reasonable** to **determine FAT applicable** to the amount of **FAPI** of the FA by **multiplying the total foreign tax paid by a fraction** representing the **net income from FAPI-generating activities over the total net income**, both computed under foreign tax law. That is, **CRA** stated that income from the FAPI source should be calculated by deducting all amounts directly related to that income. Then, income from non-FAPI sources should be calculated by deducting all items directly related

*prorating foreign taxes based on FAPI and non-FAPI sources*

to those income sources. Finally, any deductions not directly related to any source of income should be allocated pro-rata between FAPI and non-FAPI sources. **CRA provided** a specific **formulaic approach** to execute this concept in the interpretation.

CRA also noted that, should a taxpayer believe a different approach is reasonable, they can **request** that the **Rulings Directorate determine** whether CRA would also view the alternate approach as reasonable.

## 11 Web Tips

530(11)

### CRYPTO SCAMS

A series of YouTube **videos** on [crypto scams in Canada](#) has been developed by Candy M. Davis, CPA, a specialist in financial and tax issues related to cryptocurrency and digital assets. In these videos, she explains the **tactics scammers use**, how **fraud evolves over time** and the **steps individuals** should take if they are **targeted**.

*this resource for targets or victims of crypto scams*

## 12 First Nations

530(12)

### TREATY TAX EXEMPTION

An August 20, 2025 **Tax Court of Canada** case ([Laboucan vs. HMK, 2021-324\(IT\)](#)) reviewed a taxpayer's claim that he was **exempt from tax** on the basis that **Treaty 8** (a Treaty between the Crown and a number of Cree and Dene First Nations in northwestern areas of Canada) **exempted members** of those **First Nations** from taxation.

#### Taxpayer loses

The Court referred to two previous **Federal Court of Appeal** cases ([Tuccaro vs. HMQ](#), see VTN 397(1626) and [HMQ vs. Benoit et al., A-47-02](#)). The Benoit case held that **Treaty 8** provided **no tax exemption**. The subsequent Tuccaro case found that this was a **finding of fact** and, as such, was **not binding** on anyone who was not a party to that case. That taxpayer (Tuccaro) was, therefore, **entitled to proceed** with his arguments before the Tax Court of Canada that Treaty 8 exempts members of the signatory First Nations from taxation. However, he subsequently **withdrew his case**.

*finding of fact is not binding on other parties*

The Court determined that the **evidence** heard by the FCA in the Benoit case was **more detailed** than the evidence presented by this taxpayer and did **not justify** a different finding. The taxpayer had **not demonstrated** that there was a **tax exemption** established by Treaty 8. As such, he was **taxable** and the appeal was dismissed.

## 13 GST/HST

530(13)

### NEW HOUSING REBATE – INTENTION TO RESIDE

An August 6, 2025 **Tax Court of Canada** case ([Lisi et al. vs. HMK, 2023-2037\(GST\)](#)) considered whether two taxpayers (who were brothers) that each acquired their own **newly constructed home** in 2019 were eligible for the **GST/HST new housing rebate**. In particular, the Court examined whether the taxpayers had **intended** to use their properties as their **primary place of residence** when entering into the purchase agreement (Excise Tax Act Paragraph 254(2)(b)).

#### Taxpayers win

The Court found both **taxpayers credible** and **accepted** their **explanations**. The first taxpayer had moved into his home with his girlfriend and made substantial personal **customizations** to the property, such as the following:

- furnishing the home with **appliances specifically** for the spaces;
- repurposing the dining room as a **pool room**;
- converting the garage into a **home gym**, complete with equipment;
- installing a **custom walk-in closet** with **separate dressing** areas; and
- hanging portraits of his dog along the staircase.

*these customizations*

Although the property was **sold within 6 months** of moving in, the taxpayer had entered into a contract for **internet, TV, phone and home security**. The Court accepted the explanation that the **move away** was **prompted by relationship** stress due to the taxpayer and his girlfriend's young age, not an intention to flip the property. The fact that the couple **later reconciled** and were planning to move in together again further supported this.

*this relationship reason for moving out*

The **second taxpayer** had a clear intention to reside in the home but it was **frustrated** by severe **addiction issues** that emerged before the closing date. He was **hospitalized** and admitted into rehabilitation facilities shortly thereafter. Also, although the second taxpayer was **registered as a real estate broker**, the registration was only brief and he had acted only on **two past transactions** (both for his parents, and in ways not related to speculation). This did not suggest a profit motive.

Another key factor in the decision was the **lack of evidence** supporting CRA's arguments, which included speculative claims about **financial infeasibility** and a supposed **family pattern of profiting from real estate sales**. The Court noted that there was **no evidence** on the record (such as mortgage statements, budgets or income analyses) to support CRA's argument that the taxpayers **could not afford** the homes. Finally, the **profit motive** argument was also unsupported with the Court emphasizing that **post-purchase** events like **resale** do not negate a genuine intention to reside, especially when the resale was prompted by personal or health

*whether CRA has support for their assertions*

reasons.

#### *Editors' comment*

While not discussed in the case, such situations could also potentially trigger the income tax property flipping rules (see VTN [501\(7049\)](#) and [489\(6537\)](#)).

#### **Different facts – no rebate available**

An August 22, 2025 **Tax Court of Canada** case ([Bhalli vs. HMK, 2023-1308\(GST\)](#)) also considered eligibility for the new housing rebate. Despite having the **property available for more time** (approximately one year), listing the address on his **auto insurance**, having **home insurance** and signing up to **install internet**, there was very limited support that the taxpayer ever actually moved in. There were **no utility bills**, his child **did not change schools**, **none** of the family **corroborated** the story despite being in the courtroom and there **was no support** that he could **afford the mortgage** and living expenses. This cast doubt on whether the taxpayer ever truly intended to reside in the property. The Court found that the taxpayer was **not entitled to the rebate**.

*whether there was evidence of physical presence and use*

## 14 Did You Know...

530(14)

### VACANCY TAXES – ALBERTA

An August 11, 2025 Bishop & McKenzie article ([Town of Canmore's new Residential Property Tax Scheme Given the Go-Ahead by the Alberta Court of King's Bench](#), Kristen Farmer) discussed an April 29, 2025 **Alberta Court of King's Bench** case ([Ross vs. Canmore, 2025 ABKB 258](#)) that held that **municipalities in Alberta** have the power to set **subclasses of property** for the purpose of applying different property tax rates.

*Alberta municipalities can impose different property tax rates on properties occupied for only part of the year*

In the specific case, the town of Canmore created **separate subclasses** for properties **occupied full-time** and properties **occupied part-time**, with significantly higher property taxes for part-time residents of the town. The Court held that this was a **valid use** of the powers granted to municipalities under Alberta legislation.

### UPCOMING COURSES

#### **Tax Update 2025**

Join us for our 41st annual **Tax Update seminar** to get **up-to-date and relevant tax planning tips and traps** for owner-managed businesses. These sessions offer 14 hours of practical tax information through in-person or virtual platforms. Also, for those who prefer extra flexibility, do not forget about our pre-recorded option!

*this opportunity for an update of key developments over the past year*

Instructors Caitlin Butler CPA, CA and Joseph Devaney CPA, CA will be joined by a special instructor, Hugh Neilson FCPA, FCA, TEP or Kenneth Keung CPA, CA, CPA (CO, USA), CFP, TEP, LLB, MTax.

Click [here](#) to see who is scheduled for your city or region. Limited spaces are available for in-person and virtual live offerings, so register early to secure your first choice.

### Newbies to Ninjas: Corporate Tax

Do you need to train summer staff or new starts this fall? The **11th Edition of Newbies to Ninjas: Corporate Tax** is open for registration! This concise **online 3-hour topic-by-topic course** will have your newer tax preparers completing corporate tax returns like ninjas. Sessions run every two weeks. Click [here](#) for further details.

*getting your new preparers into the corporate tax groove*

### Ethics Courses

Every aspect of our profession brings **ethical challenges**. Strengthen your ethics framework – **four new 1-hour ethics courses** are now available! They include:

- [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](#)

*these ethics courses bringing the theory into public practice*

Each course offers practical insights to support sound professional judgment. They are available as a bundle with a 25% discount at [here](#).

### AI Tools in Tax

Ready to **explore using AI** in your tax practice but unsure where to start? Join us for a **practical 1-hour pre-recorded** course that discusses how AI is changing Canadian tax planning, research and advisory services. It highlights how AI is reshaping workflows and client engagement, while offering practical insights into areas where AI can deliver value. The course also outlines **key factors** to consider when **evaluating** and **implementing new technology** tools and provides a **high-level framework** to support informed, future-ready decisions. For further information, click [here](#).

*this resource for integrating AI into your tax practice*

# 15 Appendix

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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)
- [Status 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

- [16-5-1](#) Voluntary Disclosures Program
- [IC00-1R7](#) Voluntary Disclosures Program
- [27-1](#) Calculating the GST/HST on Tour Packages
- [27-2](#) Conventions
- [NOTICE342](#) Nova Scotia HST Rate Decrease – Questions and Answers on General Transitional Rules for Personal Property and Services
- [T4091](#) T5008 Guide - Return of Securities Transactions 2025

#### CRA Forms/Statements>Returns

- [RC97](#) Lifelong Learning Plan (LLP) - Cancellation
- [RC98](#) Election to transfer the Home Buyers' Plan (HBP) or Lifelong Learning Plan (LLP) balance at time of death
- [GST287](#) Election or Revocation of the Election by Public Service Bodies to Use the Special Quick Method of Accounting
- [RC96](#) Lifelong Learning Plan (LLP) Request to Withdraw Funds from an RRSP
- [T1198](#) Statement of Qualifying Retroactive Lump-Sum Payment
- [T2059](#) Election on Disposition of Property by a Taxpayer to a Canadian Partnership
- [T1213](#) Request to Reduce Tax Deductions at Source
- [T1213OAS](#) Request to Reduce Old Age Security Recovery Tax at Source
- [T2058](#) Election on Disposition of Property by a Partnership to a Taxable Canadian Corporation
- [T1204](#) Government Service Contract Payments
- [T1204SUM](#) Government Service Contract Payments - Summary



- **T1043** Deduction for Excess Registered Pension Plan Transfers You Withdrew from an RRSP, PRPP, SPP or RRIF
- **T2205** Amounts from a Spousal or Common-law Partner RRSP, RRIF or SPP to Include in Income
- **T3012A** Tax Deduction Waiver on the Refund of your Unused RRSP, PRPP, or SPP Contributions from your RRSP, PRPP or SPP
- **B402** Fuel Charge Return for Fuel Held in a Listed Province on Adjustment Day
- **B400** Fuel Charge Return - Registrant
- **T5013SCH8** Capital Cost Allowance (CCA) - Schedule 8
- **T746** Calculating Your Deduction for Refund of Unused RRSP, PRPP, and SPP Contributions
- **B401** Fuel Charge Return for Non-registrants
- **RC3133** Reportable Uncertain Tax Treatments Information Return (2023 and later tax years)
- **E638** Application for Exemption from Tax on Insurance Premiums Imposed Under Part I of the Excise Tax Act
- **E638A** Statement of Availability or Declination from Authorized Insurers – Tax on Insurance Premiums under Part I of the Excise Tax Act
- **N15** Excise Tax Application for Refund
- **N15-1** Excise Tax Act – Application for Refund Supplementary Information
- **XE8** Excise Tax Act – Application for Refund of Federal Excise Tax on Gasoline
- **R102-R** Regulation 102 Waiver Application
- **R105** Regulation 105 Waiver Application
- **RC512** Confidential Disclosure Form



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