VIDEO TAX NEWS

Monthly Tax Update Newsletter

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WHAT'S INSIDE

1 Government Releases

533(1)

CRA RELEASES

CRA continuing to enhance digital services

1. **December 11, 2025** – CRA issued a News Release (CRA responsiveness doubled as the **100-Day Service Improvement Plan reaches completion**) noting that, while the 100-day plan (see VTN 531(8445)) has concluded, CRA is continuing to improve their services as tax season approaches by continuing to **strengthen security measures**, **streamline processes** to reduce wait times and expand the use of **digital services**, including using **artificial intelligence** and **automation**. CRA also noted that they will continue to work with tax preparers and professional associations to address service needs.

2. **December 11, 2025** – CRA released a Tax Tip (Important changes to the **2025 income tax package**: What you need to know) noting that they will **no longer proactively mail** income **tax packages** to individuals. Beginning on **January 20, 2026**, individuals are expected to be able to order, view, download and print relevant packages online on CRA's forms and publications webpage.

3. **December 4, 2025** – A CRA News Release (CRA strengthens compliance in **trucking sector** by **lifting the moratorium on T4A penalties**) announced that **penalties** would **apply** where businesses in the **trucking industry fail** to file **T4A slips** reporting **fees for services** exceeding $500 paid to **CCPCs** commencing for the **2025 calendar year**, implementing the **Budget 2025** commitment in this regard (see VTN 532(8494)). CRA indicated that a business will be considered to be **operating** in the **trucking industry** if **more than 50%** of its primary source of **income** is from **trucking activities**. **Further guidance** was promised in the **coming weeks** to assist businesses in meeting their obligations to file these **T4A slips**.

   T4A slips required to report these fees for services in the trucking industry in early 2026

   Late-Breaking News: On **December 19, 2025**, CRA launched a **compliance requirements for the trucking industry** webpage providing **further details** of this requirement, including the following:

   - T4A slips are **only required** to be issued to **CCPCs** that are in the **trucking industry**;
   - a business with **multiple activities** whose **trucking activities** make up **less than half** of the primary income it earns **is not** considered to be operating in the **trucking industry**;
   - CRA provided **several examples** of both **applicable** and **non-applicable** local and long distance **trucking activities**;
   - the payer can **request** their **suppliers confirm** whether they are **CCPCs**;
   - **issuing T4As** for which the penalty moratorium remains in effect will **ensure penalties** are **avoided** in situations of uncertainty; and
   - T4As are still **required** for other situations; however, the **penalty moratorium** remains in effect for payments made or issued to businesses **outside the trucking industry**.

   the primary source of income for businesses with multiple revenue sources

   filing the T4A if in doubt

The webpage also discussed **personal services businesses** (see VTN 532(8494) and 509(7444)).

See VTN 533(8560) 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. **October 22, 2025** – The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) issued a News Release (**FINTRAC imposes** an administrative monetary **penalty** on Xeltox Enterprises Ltd.) announcing the imposition of **penalties** totalling almost **$177 million** for **non-compliance** with Part 1 of the **Proceeds of Crime (Money Laundering) and Terrorist Financing Act** and associated Regulations, including **failure to report** over 1,000 suspicious transactions in July 2024. See VTN 531(8464) and 526(8251) for discussions of penalties issued by FINTRAC to an accounting firm and a real estate brokerage firm, respectively.

risk of penalties related to FINTRAC obligations

2 Canada's COVID-19 Response 533(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 courts also continue to consider disputes regarding these benefits.

Correcting an accountant's error

the likelihood that CRA will be skeptical of amendments that result in the income test being met

A November 25, 2025 French **Federal Court** case (Ste-Marie vs. AGC, T-392-25) reviewed CRA's **denial** of **CRB** on the basis that the taxpayer did not meet the $5,000 prior period earnings test in 2019. CRB was **originally denied** on August 4, **2022**, although the taxpayer was unaware (she had received online mail and did not notice the communications) until she received a collection notice on October 30, 2023. The taxpayer's **accountant** who **prepared** her 2019 personal tax **return** had since **passed away**. In January 2024, the taxpayer's **new accountant** requested a second review. In November 2024, the new accountant explained to CRA that the previous accountant **overclaimed automobile expenses** reducing the taxpayer's net self-employed income to $4,516 and as such **requested** that **CRA suspend processing the file** so that he could **correct** the **2019 tax return** to properly report the taxpayer's income of $8,690. The agent did not receive sufficient information as expected; he expected the accountant to send the amended T2125 on the day of the call, while the accountant believed he had requested a delay to prepare the document. As such, the agent did not pause the file and **refused** the taxpayer's **claim**.

clear communication with reviewer

The Court found that **CRA's denial** was **unreasonable** as the **agent failed to respond** to the accountant's request to **suspend processing the file**. The agent did **not give** the taxpayer a fair **opportunity** to submit a **corrected return** and did **not explain why** the **evidence** submitted was **insufficient** (especially when the accountant clearly identified the reporting

error). The Court further concluded that this was not a **situation** where a taxpayer proposed an amendment for the sole purpose of qualifying for CRB, but rather to **correct an honest error** made in her 2019 tax return. The judicial review was granted.

Incomplete eligibility analysis by CRA

whether CRA reviewed all available means of eligibility

A November 25, 2025 **Federal Court** case (Lescher vs. AGC, T-1394-25) found that CRA's **denial** of CRB benefits was **unreasonable** as they did **not consider** whether the taxpayer met the **prior period earnings** test based on the **12 months prior to applying**. Although her 2019 and 2020 incomes ($1,734 and $3,459, respectively) were below the threshold, CRA did not assess eligibility based on the preceding 12 months. The judicial review was granted and referred to another agent for reconsideration.

Calculation of income – vacation pay

CRA's income calculation included vacation and holiday pay

A November 6, 2025 French **Federal Court** case (Fafard vs. AGC, T-670-25) found that CRA's **denial** of **CERB** was **reasonable** on the basis that the taxpayer **earned more** than **$1,000 during** the applicable **payment period** (Income Support Payment (Excluded Nominal Income) Regulations Section 1 of the CERB Act). CRA **included vacation pay** in the taxpayer's income for the period; without including vacation pay, their income would have been below $1,000. The Court stated that "earnings from employment" is **not defined nor** is a method of **calculation prescribed** in the CERB Act or Regulations. As such, the Court stated that Parliament's **intention** was to leave the **method of calculating** income for CERB to **those** who **administer** the **program**. As the taxpayer failed to convince the Court that CRA's interpretation was unreasonable and not among the acceptable possible outcomes, the judicial review was **dismissed**.

Repayment of overpaid benefits

must repay benefit directly rather than an indirect offset

In a November 13, 2025 **Federal Court** case (Patang vs. AGC, T-400-24), the taxpayer incorrectly **received both EI and CERB** for the **same period**, resulting in a **required repayment** of $3,000. Upon contacting **Service Canada**, the individual was allegedly told over the phone that she could **offset the CERB liability** by **not claiming EI later** for that same amount, which is what the **individual did**. Upon review by **CRA**, the taxpayer was **required to repay** the $3,000. The Court found **CRA's decision reasonable**; the CERB Act **requires repayment** of benefits by individuals **not entitled** to receive such **payments**, as was the case for the taxpayer. The **fact** that an **agent** told her **otherwise** was not helpful; the judicial review was dismissed.

CRB clawback

clawback is based on the year the payment was received

In a November 21, 2025 French **Federal Court** case (Desmarchais-Min vs. AGC, T-3175-24), an individual was required to repay $6,000 of **CRB** received due to **earning in excess of $38,000** for the calendar year in which she received CRB (Subsection 8(2) of the CRB Act). The taxpayer **applied** for CRB in **late 2020** and received her **payments** in **early 2021**; later in 2021

she **resumed employment** resulting in total taxable income for 2021 of **over $70,000**. Her objection and appeal to the Tax Court were unsuccessful. The taxpayer then sought a **remission** (Subsection 23(2) of the Financial Administration Act) of the required repayment of CRB. To receive remission, the appropriate Minister must first recommend it after which an order can be granted by the Governor in Council. CRA refused to recommend the taxpayer for remission, which was the decision for which judicial review was requested.

relief of debt under remission order is very rare

The Court noted that the granting of **remission** is **rare** and **highly discretionary**. The Court found that the **CRA's refusal** to recommend remission was **reasonable**; the **taxpayer** did **not convince** the Court of the **rare** and **extraordinary circumstances** that would warrant relief of the debt. The Court stated that the **taxpayer's good faith alone** and **her efforts** in a highly technical area were **not sufficient** to warrant relief. The Court further stated that it was unclear why this taxpayer should be treated differently from other taxpayers subject to the same regime. The judicial review was **dismissed**.

clawback of CRB is based on net income from all sources

Estate's liability for deceased's CRB

In an October 29, 2025 **Tax Court of Canada** case (Estate of The Late Wade Cutler vs. HMK, 2025-525(IT)I), an **individual** who **received** $18,600 in **CRB** in **2021 passed away later in the year holding** two unmatured **RRSPs** with no designated beneficiary and a combined value of $74,353. The full **fair market value** of the RRSPs was **deemed** to have been **received** by the taxpayer **immediately before his death** (Subsection 146(8.8)). CRA determined that this income brought the individual's 2021 net income above **$38,000**, **triggering a clawback** of CRB received (Subsection 8(2) of the CRB Act). CRA stated that income for this purpose is calculated under **Part I** of the Income Tax Act and **includes** the deemed **income** when an **annuitant** of an **RRSP passes away**. The taxpayer argued that the clawback should be based on income earned; as the income on death was not derived from employment or self-employment, it should be excluded from the clawback. The Court agreed with CRA and dismissed the appeal. The **estate** was required to **repay $18,600**.

3 Personal Tax

DISABILITY TAX CREDIT (DTC) – ADHD AND BOWEL FUNCTION

A November 5, 2025 **Tax Court of Canada** case (Norman vs. HMK, 2025-1247(IT)I) considered a taxpayer's eligibility for the **DTC** on the basis of **frequent bowel movements** (allegedly caused by gallbladder removal) and **impaired mental function** due to **attention deficit hyperactive disorder** (ADHD). At issue was whether a condition **markedly restricted** the taxpayer's ability to perform a **basic activity** of **daily living** all or substantially all of the time (Paragraph 118.2(1)(a.2)).

The taxpayer's doctor certified that both conditions caused her to take an **inordinate amount of time** to perform **basic activities of daily living**, specifically, eliminating and engaging in mental functions necessary for everyday life (Paragraph 118.4(1)(b)).

how long it took to eliminate

Bowel function
CRA considers inordinate to mean at least three times longer than someone of similar age without an impairment in eliminating (see Form T2201, Disability Tax Credit Certificate). The Court found that, even accepting the taxpayer's claim of four to eight daily bathroom visits, the **time spent**, roughly calculated as 1 hour per day (4.17% of the day), did **not** amount to an **inordinate amount**. There was **no evidence** that each visit was **unusually long**.

the difficulty in arguing lack of mental function while maintaining employment

ADHD
The Court noted that while the taxpayer described **challenges** with **mental functions**, she was **continuously employed** as an apprentice electrician throughout the relevant period. The Court emphasized that this role required **significant use** of the same **mental functions** the DTC provisions refer to, such as **attention**, **memory** and **problem-solving** (Paragraph 118.4(1)(c.1)). The fact that the taxpayer **maintained employment**, even with some time off due to illness, weighed heavily **against her claim** that she was **markedly restricted** all or substantially all of the time.

Ultimately, the Court found that the taxpayer did **not** meet the statutory threshold of being **markedly restricted** in a **basic activity of daily living** and dismissed the appeal.

Editors' comment
While not raised as an issue in this case, it is also possible to qualify for the DTC where the cumulative impact of significant restrictions in multiple activities (as opposed to being markedly restricted in a single activity on its own) was equivalent to being markedly restricted in one activity (Paragraph 118.3(1)(a.3)).

DISABILITY TAX CREDIT (DTC) – HEARING

A November 3, 2025 **Tax Court of Canada** case (Andrews vs. HMK, 2024-942(IT)I) considered whether the taxpayer's **ability to hear** so as to understand a familiar person in a **quiet setting** (while using assistive devices) was **markedly restricted** in 2023 to **qualify** for the **DTC** (Subparagraph 118.4(1)(c)(iv)).

ability to understand in quiet settings

The taxpayer had **congenital hearing loss** and used bilateral hearing aids. Her audiologist's report indicated that she missed approximately **27% of the average speech spectrum** even **with** optimized **hearing aids**, occasionally required repetition and context, but did **not** take an **inordinate amount of time** to understand familiar individuals in **quiet settings**.

Taxpayer loses

The Court found that, although there were broader challenges in noisy or virtual environments, those contexts were **not determinative** under the legislative test, which hinged on understanding a familiar person in quiet settings. The Court accepted the audiologist's conclusion that the taxpayer experienced **difficulty** but not to a degree amounting to a marked restriction; therefore, the Court **upheld CRA's denial** of the DTC.

MEDICAL EXPENSES – ROUND-UP

Medical expenses eligible for a **tax credit** are limited to those specified by law (Subsection 118.2(2)), many of which are detailed in Folio S1-F1-C1, Medical Expense Tax Credit. Eligibility of medical expenses related to the following was recently considered:

these eligible expenses

- **Navigation devices** for low vision for individuals with a **vision impairment** were proposed under Bill-15 to **be** eligible **medical devices**.
- **Behaviour analysts** in **Ontario** are **authorized medical practitioners** (Subsection 118.4(2)) as specific legislation governs their practice in Ontario (June 18, 2025, Technical Interpretation 2025-1065871E5, Tahirah Massop).

4 Employment Income 533(4)

ELECTION TO STOP CONTRIBUTING TO CPP

A November 13, 2025 **Tax Court of Canada** case (Golden View Management Group Inc. vs. MNR, 2025-250(CPP)) reviewed the **timing** of an employee's **election** to **cease contributing** to the CPP when he began **collecting retirement benefits** at **age 65**. The employee was the sole employee and shareholder of the taxpayer. The **key facts** were as follows:

- the **employee applied** for CPP effective the month he **turned 65**, July 2021;
- the employee filed **Form CPT30, Election to Stop Contributing to the Canada Pension Plan, or Revocation of a Prior Election**, on September 14, 2021;
- the employee's **application** was processed and he first **received benefits** on May 7, 2022, **retroactive** to **July 2021**; and
- **CRA assessed** the employer for **CPP premiums** for calendar **2022 and 2023**.

the merits of electing out of CPP benefits at age 65

The **CPT30 election** to cease paying **CPP premiums** after age 65 can only be made if a **CPP retirement pension** is **payable** to the employee (Subparagraph 12(1)(c)(i) of the CPP Act). CRA argued that the **election** was **void** on the basis that **retirement benefits** were **not payable** to the employee **until** the **application was processed** and he received his **first payment** in May 2022. As such, **CPP premiums** continued to be **required**.

CPP can be payable before the application is processed and payment is received

Taxpayer wins

The Court opined that the words **paid** and **payable** used in the **CPP legislation** were **not defined or consistent**. Adopting **CRA's interpretation** could lead to an **absurd result** that **slow processing** of applications could **prevent** employees from making the **election**. It was therefore **appropriate** to adopt the **broader interpretation** that the employee had a **CPP retirement benefit payable** to him **when** he **filed** the **election** due to the **CPP benefits** paid **retroactive** to a date **prior to** the **election**. The **employer** was therefore **not required** to **withhold CPP** for the years under appeal.

SHAREHOLDER LOANS – MARKET MAKER TRUSTS

A **loan** advanced **by** a **corporation to** a borrower who is a **shareholder** of the corporation or is related to a shareholder is **income to the borrower** (Subsection 15(2)) at the time the funds are advanced (with a deduction for future repayments; Paragraph 20(1)(j)), unless an **exception** is met. One such **exception** applies where **loans** are advanced to a **trust** and **all** of the following **conditions** are **met** (Subsection 15(2.5)):

a. the **lender** is a **private corporation**;
b. the **lender** is the **settlor** and **sole beneficiary** of the trust;
c. the **sole purpose** of the trust is to **facilitate** the **purchase and sale** of the **shares** of the **lender** or a **related corporation**, for their **fair market value**, **from or to** the **employees** of the **lender or** of the **related corporation**, **other than** employees who are **specified employees** (generally, non-arm's length employees or employees who own more than 10% of any class of the corporation or of a related corporation, alone or with other non-arm's length shareholders); and
d. at the time the loan was made, **bona fide arrangements** were made **for repayment** of the loan within a reasonable time.

this opportunity to create a market for shareholder-employees who hold a minority interest and act at arm's length to the employer corporation

In an October 10, 2025 **Technical Interpretation** (2025-1076451E5, Ryan McPherson), CRA reviewed this exception in the context of a **corporate group** where a **parent corporation** (Pco) wholly owned several **subsidiary corporations** (Opcos). Under an **employee share ownership plan**, **employees** of Pco and the Opcos could **acquire and sell** shares of **Pco**. CRA opined as follows:

- requirement (b) would be met if **any Opco or Pco** was the **settlor and sole beneficiary** of a trust described in requirement (c);
- the reference to a **related corporation** in requirement (c) could include **multiple related corporations**; and
- **employees** of **any or all** of the **related corporations** could be purchasers and sellers under requirement (c).

CRA accepts the use of a single trust for a related corporate group

5 Business/Property Income

533(5)

REAL ESTATE – NOMINEE OR OWNER?

In a November 7, 2025 French **Court of Quebec** case (Lambert vs. QRA, 2025 QCCQ 6556), the taxpayer was assessed with **business income** of $284,661 in 2015 related to the **sale** of a **house built on land she owned**.

The taxpayer **argued** that she acted as a **nominee** for her **former spouse**, who allegedly carried out the project. She stated that, to **reduce taxes as a couple**, the **land** and the **house** were put solely in **her name** as she had

little income at the time. While the taxpayer was with her former spouse at the time of the transaction, they separated shortly afterwards.

Revenu Québec (RQ) argued that the **taxpayer** was the project's **true owner and beneficiary**.

The house was **sold** for $545,000, financed with $245,000 in cash and another house valued at $300,000. The second house was then **resold** for $320,000 after incurring $100,000 in contractor expenses. The **divorce agreement** between the taxpayer and her former spouse provided that the **net proceeds** from the sale of the second house would be **split** 20.2% to the taxpayer and 79.8% to the former spouse.

Taxpayer loses

whether the taxpayer acted as an owner or nominee

The Court noted the taxpayer **knowingly** and **actively participated** in the project as an **owner**: the **land and property** were registered in the **taxpayer's name alone**, she **applied** for and obtained the **building permit**, she **contributed financially** to the project and she helped **choose material, colour and decor**. Further, during the taxpayer's **divorce**, she acted as the **sole owner** and **not nominee**. Finally, there was **no written or other evidence of a nominee arrangement**.

the tax implications of matrimonial property settlements

The Court found that the **tax planning** to minimize the couple's income tax was a **deliberate decision**; the taxpayer could not later deny ownership. The Court further found that the taxpayer and her former spouse's **divorce agreement** had **no effect** on the **tax treatment** of the **proceeds** of the property.

The Court stated that taxpayers should be **taxed for what they did**, **not** for what they **intended** to do. As such, it is not up to the Court nor RQ to apportion the taxable proceeds to the former spouse: it will be up to the taxpayer and her former spouse to take those steps.

The Court ruled that the **taxpayer** was the **true owner of the property** and therefore should have **reported the full gain on the disposition**.

SR&ED – GROSS NEGLIGENCE PENALTIES

A November 20, 2025 **Tax Court of Canada** case (Les Éléments Chauffants Tempora Inc. vs. HMK, 2021-1701(IT)G) reviewed **scientific research and experimental development** (SR&ED) claims for the 2006 through 2009 years. CRA also **assessed** the taxpayer **beyond the normal reassessment period** (Subparagraph 152(4)(a)(i)) and applied **gross negligence penalties** (Subsection 163(2)) for all years.

Taxpayer wins and loses – SR&ED

some projects may qualify, others may not, depending on the specifics

The Court found that, while the **2007 project** and **two 2008 projects qualified** as **SR&ED**, the **other projects** did **not** qualify because there was **insufficient evidence** of **technological uncertainty**, **technological**

advancement and use of the **scientific method**.

Taxpayer loses – normal reassessment period and gross negligence
The Court stated that **significant portions** of the **technical reports**, including attached **documentation** that was submitted with the taxpayer's **Form T661, Scientific Research and Experimental Development (SR&ED) Expenditures Claim**, were **plagiarized from other suppliers and manufacturers' websites**. This information was provided **without mentioning the source** of the **information**. The taxpayer also modified the documents to make them appear to be their own (for example, by adding the taxpayer's name or logo).

The Court also noted that two directors of the taxpayer showed a **lack of reasonable care** by admitting they had **never read Form T661 nor** the **CRA guide** on SR&ED (T4088, Scientific Research and Experimental Development (SR&ED) Expenditures Claim - Guide to Form T661), even though the taxpayer had been **claiming SR&ED expenditures since 2005**. The taxpayer's **conduct** fell **markedly below** what would be expected of a **reasonable person**.

possibility of loss of SR&ED claim and gross negligence penalties

For the above reasons, the Court found that the taxpayer made a **misrepresentation** attributable to **neglect in supplying information to CRA**, and that the extent of the plagiarism justified the assessment of **gross negligence penalties**.

See VTN 528(8326) and CRA's webpage, Gross Negligence Penalty on Overstated SR&ED Claims Policy, for commentary on gross negligence penalties related to SR&ED claims.

6 Capital Gains/Losses 533(6)

PAYMENTS FOR RIGHT TO ACQUIRE A HOME

In a recently released November 20, 2023 **Technical Interpretation** (2022-0937331E5, Sandro D'Angelo), CRA considered whether a resident participating in a **housing agreement** involving **regular payments** towards a **future option to buy** a property held **beneficial ownership** or a **leasehold interest** for purposes of the **principal residence exemption** (PRE; Section 54) and the **home buyers' plan** (HBP; Section 146.01).

The agreement allowed the taxpayer to **occupy the unit** and **make monthly payments**, some of which **increased their investment** (the "interest") in the property. The resident would eventually be able to purchase the property at fair market value and **apply** the **accumulated interest** as a **down payment**. The interpretation addressed whether a gain on repayment of this interest could be sheltered by the PRE and whether the resident was considered to

have acquired a “qualifying home” under the HBP.

Beneficial ownership

what rights and obligations the payor had over the property

CRA noted that beneficial ownership is a common law concept based on rights such as possession, control and the ability to transfer title as well as bearing obligations such as paying property taxes. While the taxpayer had **exclusive possession** and bore **some financial risk**, CRA found that the taxpayer **lacked** critical **elements of ownership**, such as control over mortgaging, the right to rent or make structural changes without approval and ultimate responsibility for property expenses. Thus, CRA concluded that the taxpayer did **not have beneficial ownership** and therefore did not “own” the property for purposes of the PRE.

Leasehold interest

Gains on dispositions of leasehold interests can be eligible for the PRE (definition of principal residence in Section 54). CRA acknowledged that a **lease likely existed** but clarified that the **amount paid** to the taxpayer upon termination of the agreement was **not to compensate for lease termination**, but rather was tied to the taxpayer’s accrued interest. As such, any **gain** on the **repayment** of this interest would **not be eligible** for the PRE as it would not be a disposition of a qualifying property.

Home buyers’ plan

no HBP until the property is actually acquired

CRA stated that a **qualifying home** must be either **legally or beneficially acquired**. Since the agreement did **not confer** either **legal or beneficial** ownership at inception, the taxpayer was not eligible for the HBP. However, if the taxpayer later exercised the purchase option and obtained ownership, HBP eligibility may be achieved at that point.

ADDITIONS TO ADJUSTED COST BASE

An October 23, 2025 **Court of Quebec** case (Wolofsky et al. vs. QRA, 2025 QCCQ 6337) considered whether **renovation** and **furnishing expenditures** could **reduce the capital gain** on a property sold during the COVID-19 pandemic in 2020.

whether there was documentary evidence

The two taxpayers sought to reduce their taxable capital gains, citing substantial renovation and furnishing costs. Although Revenu Québec (RQ) accepted some documented expenses (totalling approximately $26,000), they **denied** a $170,600 **estimate for reconstruction** (the taxpayer was a construction developer), $90,000 in expenditures for **furniture and interior finishes** and a few other minor items. The amounts were denied due to **lack of evidence** and **questions over the nature** and location of the expenditures. The taxpayers argued that the **COVID-19 pandemic prevented** them from **retrieving invoices** from the property (as they were restricted from returning to the property due to pandemic restrictions), although some photos were provided.

Taxpayers lose

COVID-19 does not remove the requirement to prove costs incurred

While sympathetic to the issue caused by COVID-19 restrictions, the Court held that the **taxpayers still failed** to present **sufficient evidence**. In particular, the Court stated that the "absence of supporting documentation as to the nature of work done, the cost of this work, the dates of completion, the providers of services and materials and the payment of costs cannot be replaced by other evidence, such as appraisals and photographs."

While the Court acknowledged that **renovations likely occurred** and that furniture and appliances sold with the property had some value, it ruled that the taxpayers did **not demonstrate** the amount of the **costs**. Further, the Court noted that there was **no evidence** regarding whether the expenditures were **improvements or betterments** to the property (i.e. capital expenditures that would increase the adjusted cost base) **or routine repairs** or maintenance (i.e. non-capital expenditures that would not change the adjusted cost base).

DISPOSITION OF RIGHT TO RECEIVE ASSETS

A September 10, 2025 French **Technical Interpretation** (2025-1070171E5, François Fournier-Gendron) considered the tax consequences of **settling a claim** to **receive bitcoins** from an insolvent, arm's-length, non-resident corporation more than a decade after acquiring the claim at a discounted price.

whether there was a disposition of a right

CRA confirmed that the taxpayer's **receipt** of 115.2602 bitcoins in 2024, in full settlement of the right to receive 740 bitcoins, **constituted a disposition** (Subsection 248(1)). CRA noted that, even if the right may not qualify as a debt or right to receive an amount, it is a property, and the surrender of that right in exchange for bitcoins is a disposition.

acquiring distressed claims can constitute a business

While the taxpayer asserted that the transactions were not part of a business, CRA's position was that **acquiring distressed claims** for the **purpose of eventual profit**, even if isolated or **speculative**, can **constitute** an **adventure in the nature of trade**, and therefore **a business** (definition of business in Subsection 248(1)). As such, the gain may be **fully taxable as business income** (and not on account of capital) if the transaction had a speculative, commercial character.

Finally, CRA opined that the **cost of the bitcoins received** upon settlement equaled their **fair market value** (FMV), which was $9.19 million.

QUALIFIED SMALL BUSINESS CORPORATION SHARE – CO-OWNED ASSETS

A November 21, 2025 French **Technical Interpretation** (2022-0925091E5, Lucie Allaire) considered whether a **co-ownership interest** in a **building** held by a corporation could be considered an **asset used principally** in an active business carried on primarily in Canada by the corporation or a related corporation, for the purposes of the definitions of **small business corporation** (SBC; defined in Subsection 248(1)) and **qualified small business corporation share** (QSBC share; defined in Subsection 110.6(1)).

In this scenario Holdco owned a 50% undivided interest in a commercial property and held 60% of Opco, a CCPC carrying on an active business in Canada. Opco leased and used 60% of the property in its active business.

a co-ownership interest constitutes an asset

CRA confirmed that a **co-ownership interest** in a property **constitutes an "asset"** for tax purposes, **even though** it does **not** represent ownership of a **physically divided portion**. As such, a co-owner's undivided interest may qualify as an asset of the corporation when determining whether there is an SBC and QSBC share.

the lease terms, usage and proportionate value

CRA noted that it is a **question of fact** whether the asset was **used principally** in an **active business**. A full factual analysis would be necessary, including consideration of **lease terms**, **property usage** and **proportionate value**.

7 Farming/Fishing 533(7)

T5013 FILING EXEMPTION

whether a return should be filed for statute-barred purposes

On November 27, 2025, CRA updated its website to note that for the **2025 fiscal year**, **farm partnerships** made up **entirely of individuals** other than trusts (i.e. taxpayers who file T1s) do **not** have to **file** a **T5013 partnership return**. This exemption does **not apply** to farm **partnerships** that include a **trust** or a **corporation**.

Editors' comment
Where a partnership return is not filed, the period during which CRA may reassess the partners never expires (Subsection 152(1.4)). This may motivate partners to file a return despite CRA waiving the requirement. CRA has indicated that such a return would not attract penalties for filing after the due date (see VTN 402(1718)).

8 Purchase/Sale of a Business 533(8)

BILL C-15 – PROPOSED AMENDMENTS – INVOLVEMENT IN BUSINESSES

Bill C-15, Budget 2025 Implementation Act, No. 1 (see VTN 532(8470)), included amendments to the intergenerational business transfer rules (the IBT rules; see VTN 520(7954)) and rules for sales to employee-owned trusts/worker cooperatives (the EOT rules; see VTN 530(8404)).

The **IBT rules** permit an **exception** from **deemed dividends** when parents transfer shares of their corporation to a corporation controlled by their children (Subsections 84.1(2.3), (2.31) and (2.32)). The **EOT rules** allow a vendor to qualify for the **$10 million capital gain exemption** on a sale to an **employee ownership trust** or worker cooperative corporation.

Active engagement in a business
Both the **IBT** and **EOT** rules require that one or more persons be **actively engaged** in a business.

this broadened definition of being actively engaged

To meet these requirements under the current legislation, the relevant person must have **met** the **20-hour per week** deeming provision under the **tax on split income** (TOSI; see VTN 448(4365)) rules. Bill C-15 proposed to **amend the definition** of being actively engaged in a business on a regular, continuous and substantial basis **to include**, rather than be defined as, the 20-hour per week test. As such, the relevant individual could be **actively engaged** in the **business** even if **working fewer hours per week**.

Transfer of management
The IBT rules require that the **parent** and their spouse or common-law partner take **reasonable steps** to **transfer management** of each relevant **business** to the **child(ren)** and **permanently cease** to **manage** any of these **businesses** within a defined period after the share transfer (Paragraphs 84.1(2.31)(g) and 84.1(2.32)(h)).

transition of management prior to sale is ok

Bill C-15 proposed to clarify that the **management transfer can occur prior** to the share transfer.

This amendment would be effective from January 1, 2024, retroactive to the commencement of the most recent version of the rules.

The explanatory notes also indicated that, if **other hallmarks** of a genuine IBT have **already been fulfilled prior** to the share transfer (such as a child who already controls the subject corporation prior to the disposition time), a **question** may arise **under GAAR** regarding whether the disposition of the subject shares to the purchaser corporation was undertaken for the purpose of transferring a business to the next generation or merely to facilitate the

payment of a corporate distribution in the form of a capital gain.

CORPORATE LIFE INSURANCE POLICY – VALUATION

In a September 18, 2025 **Technical Interpretation** (2025-1067931C6, Ryan McPherson), CRA considered the **fair market value** (FMV) of a **corporately held life insurance policy** for the following purposes:

- an **intergenerational business transfer** (IBT; Subsections 84.1(2.31) and (2.32); see VTN 520(7954)); and
- a **qualifying business transfer to** an **employee ownership trust** (EOT; Section 110.61; VTN 530(8404)).

valuation of life insurance policy for QSBC share purposes

Intergenerational business transfers
An **IBT requires** that, at the time of disposition, the shares either be **qualified small business corporation** (QSBC) **shares** or **qualified family farm or fishing corporation** shares (QFFC shares; Clauses 84.1(2.31)(b)(iii) and 84.1(2.32)(b)(iii)). With respect to these definitions (both in Subsection 110.6(1)), where a **shareholder** is **insured** under a **life insurance policy owned** by the **corporation** (or the insured owns shares of certain related corporations), the **FMV** of the life insurance **policy** at any time **before the death** of the insured is **deemed** to be equal to its **cash surrender value** (Subparagraph 110.6(15)(a)(i)). CRA opined that this deeming provision applies for IBT purposes, as the IBT rules require the disposition of QSBC or QFFC shares.

Employee ownership trusts
To access the **$10 million capital gain exemption** on a sale to an **EOT** or workers cooperative corporation, immediately before the disposition, all or substantially all of the **fair market value** of the **assets** of the subject corporation must be attributable to assets (other than an interest in a partnership) that are used **principally** in an **active business** carried on by the subject corporation or a corporation that is controlled and wholly owned by the subject corporation (Paragraph (a) of the definition of qualifying business transfer in Subsection 248(1)). This definition does **not** refer back to a **QSBC share nor** does it include any other **provision** on **valuing the life insurance policy**.

valuation of corporately-held life insurance differs for IBTs and EOTs

As such, CRA opined that the above-noted **deeming provision** would **not apply** to qualifying business transfers to an EOT. Further, as there is **no specific provision** that deems a corporate-owned life insurance policy to be valued in a specific manner for these purposes, the policy would be valued in accordance with **normal valuation practices**, taking into consideration all relevant facts and circumstances (see Paragraphs 40 and 41 of Information Circular 89-3, Policy Statement on Business Equity Valuations).

9 Corporate Reorganization 533(9)

SHARE CAPITAL

A June 30, 2025 Miller Thomson article (What's in a Share? Do you have the right share capital, Brendan G. Ho) discussed the **common types of share capital** and whether they are appropriate for reorganizations.

Authorized share capital represents the types of shares (and their respective characteristics) that a corporation can issue. Different types can only be issued if the corporation's articles are amended. The more common types of shares available, and their respective uses, include the following:

the rights to be provided to each shareholder

- **Common voting shares** – These shares grow in value, carry voting rights and are entitled to dividends. Multiple classes are required if different dividend amounts are to be declared to different shareholders.
- **Common non-voting shares** – These shares grow in value and are entitled to dividends, but do not carry the right to vote. They are used to share value without sharing control.
- **Skinny voting shares** – These shares only carry the right to vote but are not entitled to growth or dividends. They are used to maintain control.
- **Rollover preferred shares** – These shares generally carry a redemption value equal to the fair market value of the assets they were received in exchange for. They are generally both redeemable and retractable, and often include a price adjustment clause and restrictions on dividends.
- **Fixed value preferred shares** – These preferred shares have characteristics similar to those of rollover preferred shares described above; however, they have a fixed redemption value (e.g. $1). For example, if $150 in value was exchanged, 150 fixed value preferred shares would be received in exchange.

whether the needed type of share is authorized by the corporation's articles

The author noted that, in some cases, it can be too late to implement a certain type of reorganization if the right share capital did not exist on the desired effective date. As such, authorized share capital should be reviewed to ensure that flexibility for future planning is available.

10 Corporate Tax 533(10)

ACTIVE BUSINESS OR SPECIFIED INVESTMENT BUSINESS

A September 3, 2025 **Technical Interpretation** (2024-1007671E5, R. Jacques-Mignault) considered whether a taxpayer's **forestry activities**, including stumpage/log sales and carbon credit sales, constituted an **active business or** a **specified investment business** (SIB).

whether the principal purpose is to earn income from property

CRA emphasized that determining whether a corporation is **carrying on an active business** or an **SIB** is a question of fact and depends on whether the business' principal purpose is to earn income from property.

The analysis **hinges** on the **legal character** of the income, not necessarily the degree of operational activity involved. The interpretation focused on **income from two sources**: **stumpage sales** (payment for timber harvesting rights) and **carbon offset credits** (payments to defer timber harvests for environmental benefits).

the type and amount of services provided

CRA reiterated (see VTN 400(1563)) that **services** must be **sufficiently substantial** to shift income characterization from passive property income to active business income. CRA acknowledged that **forest management activities** may **suggest business income**, particularly if they involve structured activities like planning, thinning and silviculture. However, **it was unclear** whether the taxpayer's forest management efforts met this threshold or merely supported passive income sources.

CRA concluded that they could **not definitively classify** the business without more detailed facts.

11 CRA 533(11)

CRA SERVICE IMPROVEMENTS

Telephone services

A November 18, 2025 CRA backgrounder (**Contact centre accuracy and service representatives training**) discussed the results of CRA's **National Quality Monitoring Program** that reviews **more than 100,000 call recordings** (of the over 30 million calls received each year) and concluded that **service representatives** provided **accurate information 92%** of the time, and **quality, professional and efficient service** 96% of the time. This was noted as **consistent** with the findings of a recent Office of the **Auditor General** (OAG) **report** (see VTN 531(8431)) on **personal account calls**.

the risk of relying on CRA's call centre for technical tax assistance in specific fact scenarios

The backgrounder **acknowledged** the OAG report highlighting an **issue** with **general enquiries**. These account for approximately 20% of all calls received by CRA, and 50 of the OAG's 167 test calls. The OAG found only a **17% accuracy rate** for such calls. CRA noted that these calls are **inherently more challenging** because they cover a **wide range of topics** that often **depend on** broad **individual circumstances** and **evolving** program **rules**. CRA indicated that they are **actively working** towards **improvement** in these call centre interactions.

Delays impacting persons with disabilities

A December 3, 2025 **Office of the Taxpayers' Ombudsperson** news release (Taxpayers' Ombudsperson calls for improvements at the Canada Revenue Agency to address delays impacting persons with disabilities) addressed issues including the following:

- applications for the **disability tax credit** face a **processing time** of **15 weeks** (compared to a service standard of 8 weeks);
- once processed, the **related T1 adjustments** have a **processing time** of **50 weeks** (compared to a service standard of 20 weeks) as they are often classified as **complex adjustments** because they apply to **multiple years** and/or to **statute-barred years**;
- these are processed on a **first-in, first out** basis that, while seemingly fair, does **not prioritize vulnerable taxpayers** including those with disabilities; and
- these **service times** are **not communicated** to the affected taxpayers.

communicating these lengthy service times to clients filing to claim the disability tax credit

The release indicated that the Taxpayers' **Ombudsperson** has **requested** that **adjustments** related to the **disability tax credit** be **prioritized** outside the first-in, first-out standard.

further changes to come at CRA

A December 5, 2025 Advisor.ca article (**CRA leader pushes back against auditor general's findings on call centre accuracy**, Catherine Morrison) quoted **Secretary of State for the CRA Wayne Long** indicating that **processing time** for disability tax credits is now at **10.5 weeks** but **should be 8**. He also indicated that the **100-day plan** (see VTN 531(8445)) was a **"Band-Aid"** with **further work** to be done after the 100 days end on December 11, 2025, and that the government was working on a **three-to-five-year plan**.

RECTIFICATION – EXCESSIVE CAPITAL DIVIDEND

the significant cost of an excessive capital dividend

An October 29, 2025 **Court of King's Bench for Saskatchewan** case (Keystone Enterprises Real Estate Ltd. et al., 2025 SKKB 183) reviewed an application for **rectification** of an **excessive capital dividend** election. The taxpayer and its shareholders argued that the **amount** should be **rectified** to the **capital dividend account** balance at the time the capital dividend was paid, based on **clear evidence** that the **parties intended** to pay **only** the **amount** that could be received **tax-free**. The **accountant** testified that he

had **overlooked** a **capital dividend paid** to a former shareholder in a **preceding year**, resulting in an **excessive capital dividend** of **$537,001** attracting **Part III tax** of **60% of the excess** ($322,201), unless the excess dividend was elected to be a taxable dividend.

rectification cannot be used to correct errors in professional advice

Taxpayer loses
The Court held that the **dividend documented** was the amount the **taxpayers had decided to pay**, based on the **incorrect advice** of their **accountant**. **Rectification** is **not available** to correct an **erroneous calculation** resulting in a **decision** that leads to **adverse tax consequences**. It was **irrelevant** that the **taxpayers' intention** to only pay out the amount that could be received tax-free was **clearly demonstrated**.

confirming the capital dividend account balance with CRA

The Court also noted that the **taxpayer could** have **requested** that CRA **confirm** its **capital dividend account** balance, and that CRA had **no record** of any such **request** being **received**.

TAXPAYER RELIEF – NO LOSS TO THE CROWN

potential interest costs even when no tax is ultimately payable

A November 27, 2025 **Federal Court** case (Lufthansa Technik Aktiengesellschaft vs. AGC, T-1011-25) reviewed an application for **judicial review** of CRA's **denial** of **taxpayer relief** for **interest** of over $3.7 million. The taxpayer **imported goods** on which it was **required** to **self-assess GST/HST**; however, they **erroneously** filed on the basis that the **goods** were **exempt** from **GST/HST**. They argued that, as **any self-assessed GST/HST** could also be **claimed as an input tax credit**, the **interest from** the date of **self-assessment** to the date of claiming the **input tax credits** should be waived. In support of their argument, the taxpayer noted CRA's policies in respect of **wash transactions**, where there is similarly **no net tax payable** as a result of a GST/HST error. **CRA denied relief** on the basis that the taxpayer's situation **did not meet** any of the **criteria typically considered** as grounds for taxpayer relief, and that the transactions were **not wash transactions** as described in CRA's guidance.

whether the decision considered the taxpayer's arguments

Taxpayer wins
The Court held that the **decision-maker failed** to **address the taxpayer's reasons** for considering relief to be appropriate, being the fact that there was **never money due to the Crown** as a result of the error. This failure rendered the **decision unreasonable**. **Judicial review** was therefore **granted**, and the matter returned for **reconsideration** by a different decision-maker.

whether the review will deny relief based on this reasoning

The Court also noted that, although an **intelligible basis** for **denying relief** was **presented** at the **hearing**, this basis was **not reflected** in the **documentation of the decision** under review, **nor** was it **communicated to the taxpayer**. It was therefore not relevant to the application for judicial review.

REVOKED EFILE PRIVILEGES

A November 25, 2025 **Federal Court** case (Virgen vs. AGC, T-2474-24) addressed an application for **judicial review** of CRA's decision to **suspend** the applicant's **participation** in CRA's **EFILE system**. This decision followed an **earlier judicial review** granted to the applicant (see VTN 497(6884)). After reconsideration by another agent, CRA **confirmed the suspension** on the basis of the applicant's **continued electronic filing** of returns for **individuals excluded from the EFILE process**, despite prior warnings and the conditional approval of her new EFILE account.

EFILE participation is a privilege granted at CRA's discretion

Applicant loses

The Court noted that **EFILE participation** is a **discretionary administrative privilege** granted if a person **meets criteria specified in writing** by the Minister (Subsection 150.1(2)). The Court **acknowledged** that the suspension **harmed the taxpayer's livelihood, professional reputation and client base**. However, the loss of EFILE rights **did not prevent** her from preparing and submitting **paper returns** for her clients, many of whom were not eligible for EFILE. Although **loss of EFILE privileges** no doubt had a **serious effect** on her business, it did **not prevent** her from **continuing to practice**. Further, CRA's **duty of fairness** was found to "fall at the **lower end** of the spectrum."

CRA's decision was **intelligible, justified and responsive** in light of their published **EFILE suitability screening criteria**. It was therefore **reasonable**, and **judicial review** was **denied**.

See VTN 529(8372) for a further discussion of some of CRA's EFILE criteria.

INFORMAL PROCEDURE – PROPOSED INCREASES TO LIMITS

A November 11, 2025 letter to the Department of Justice from the **Joint Committee on Taxation** of the Canadian Bar Association and CPA Canada commented on **proposed amendments** communicated to the Canadian Bar Association that would **increase** the **monetary thresholds** for using the **Tax Court of Canada's informal procedure** (see VTN 529(8354)), as follows:

- increasing the maximum **income tax** per year under dispute to **$50,000 per year** from $25,000;
- increasing the maximum **losses for income tax purposes** per year under dispute to **$100,000 per year** from $50,000; and
- increasing the **maximum tax** per period for **GST/HST** disputes to **$100,000** from $50,000.

these maximum amounts for informal procedure appeals to Tax Court

The Joint Committee **expressed support** for these increases and suggested **regular reviews and adjustments** in the future.

CRA publications **RC4443-2, Appealing Income Tax Assessments to the Tax Court of Canada** and **RC4443-3, Appealing GST/HST Assessments to the Tax Court of Canada** provide further details of the current rules for the informal procedure.

ONLINE DELIVERY OF BUSINESS COMMUNICATIONS

In Question 1 of the **2025 Chartered Professional Accountants of Canada (CPAC) Provincial Questions for the CRA**, the **meaning** of the term **presumed** was considered in context of the **online delivery** of **business notices** or other CRA communication.

A notice or other communication **posted** in a taxpayer's secure **business online account** (i.e. My Business Account) is **presumed** to be **received** by the taxpayer on the **date it is posted**, **unless** the taxpayer has **requested to receive** notices or communications **by mail** (Subsection 244(14.2)). CRA recently transitioned many business taxpayers, including those that have accessed My Business Account or have authorized a representative through Represent a Client, to online-only communication (see VTN 526(8238)).

uncertainty about what circumstances facilitate a rebuttal of the presumption of receipt

CRA was asked to clarify whether a taxpayer who **accessed My Business Account only once** for the sole purpose of authorizing a representative and who did **not subsequently use** the platform to manage their tax affairs can **rebut the presumption of receipt** on the basis that they were not actually aware that future notices would be delivered electronically and, as a result, did not receive the notices. CRA was also asked whether a business that was transitioned **because a representative** had **online access** to their business account through Represent a Client, but where the business itself had never accessed My Business Account and had no practical awareness that correspondence would be delivered electronically, could rebut the presumption.

CRA did **not answer the specific questions** but provided general comments on the transition to online-only mail for businesses.

how deemed receipt differs from presumed receipt

Editors' comment
Tax correspondence sent by paper mail is **deemed received**, so taxpayers cannot argue that correspondence mailed by CRA to the address they provided was not received. By contrast, correspondence posted online is **presumed received**, and a presumption **can be rebutted**. **Many questions remain** about the circumstances that would be relevant to rebutting this presumption.

In respect of online-only communications for **non-business taxpayers** (Subsection 244(14.1)); communications are only **presumed** (not deemed) to be sent to, and received by, the individual on the **date** that an **email is sent** alerting the taxpayer of the post in CRA's portal.

12 Estate Planning 533(12)

CANCELLATION OF OAS ENROLLMENT

A November 18, 2025 **Federal Court of Appeal** (FCA) case (Abramowitz vs. AGC, A-371-24) considered a Federal Court (FC) decision in respect of an application for a judicial review of the Social Security Tribunal's (SST) **refusal to allow** a **late appeal** or **cancellation** of an **OAS pension enrollment** decision (for a similar case with a different result, see VTN 509(7456)).

cancelling enrollment quickly

The taxpayer had been **automatically enrolled** for OAS in 2020. He **neither objected** to the enrollment within the **90-day window** to object, **nor applied for cancellation** within the **allowed six months** from first payment, despite Service Canada informing him of those options. Nearly **two years later**, the taxpayer **sought to cancel** his enrollment, citing ongoing work, the COVID-19 pandemic and the delay in the Minister's response as reasons for delays in asking for the cancellation. He wanted to cancel his enrollment as his **earnings** from **ongoing work** were **eroding his benefit**; a delay in application would have resulted in increased future payments.

Taxpayer loses

The **FCA agreed** with the FC's determination that the SST Appeal Division's decision was **reasonable**. The FCA acknowledged that the SST General and SST Appeal Divisions incorrectly referenced CPP legislation instead of OAS legislation, but concluded these errors were not central to the outcome. The key provisions regarding deadlines for reconsideration and cancellation are mirrored between the OAS and CPP regimes so the **analysis was correctly conducted** from a conceptual basis.

RRIF MINIMUM WITHDRAWAL PROPOSAL – ABANDONED

this reduction to the withdrawal requirement will not proceed

A November 25, 2025 Advisor.ca article (It's official: RRIF proposal is off the table, Michelle Schriver) reported that the Liberals' election pledge to **reduce** the **mandatory minimum RRIF** withdrawal **by 25%** for one year **will not proceed** (see VTN 526(8250)). A Department of Finance official noted that the proposal was made in early 2025 when there was significant stock market volatility and perceived risks of negative returns. As markets have rebounded strongly, there is no longer a need for the provision.

BILL C-15 – AMENDMENTS TO TRUST FILING RULES

Bill C-15, Budget 2025 Implementation Act, No. 1 (see VTN 532(8470)), included proposals related to **trust reporting rules**, as well as the Budget 2025 **proposal** to **defer** the application of the **bare trust reporting** rules to start with **filings** for **years ended** on **December 31, 2026**. While most of the August 15, 2025 draft legislation was included without modification (see VTN 529(8377)), a few changes were introduced, as discussed below. The Video Tax News **T3 Trust Filing – Quick Reference Chart** has been updated for these proposals.

CRA guidance accepting the proposed amendments that will reduce filing requirements

On December 16, 2025, CRA added a "**What has changed**" webpage to their guidance on filing trust returns. They noted that, due to Bill C-15, they **do not** expect **bare trusts** to **file T3**, Trust Income Tax and Information Returns for taxation **years ended in 2025**. CRA also indicated that the **proposals** in respect of **listed trusts** could be relied on, exempting such trusts from filing Schedule 15 and, in some cases, T3 returns. CRA indicated that taxpayers may **voluntarily file** in accordance with current law and that they will **provide further direction** in the event that the **proposals are not enacted**.

Listed trusts

Bill C-15 proposed several changes to **broaden** the **listed trust criteria**.

changes to the three-month listed trust category

Temporary trusts

This category of listed trust encompasses trusts in **existence for less than three months** during the year. The proposal would remove the phrase "during the year," ensuring that trusts in existence for less than three months are **listed trusts** even if those **months** do not all fall within the same calendar year. Similarly, an older trust wound up less than three months into a new year, but having existed for more than three months in total, would not be a listed trust in its final year. This amendment would apply for taxation years that end on or after December 31, 2024.

Small family trusts with qualifying assets

This category of listed trust encompasses trusts with no assets other than qualifying assets not exceeding **$250,000 in value** at any time in the year. The proposal would expand the list of qualifying assets to include **deposits** in a **Canadian financial institution** (as defined in Subsection 270(1); includes Canadian wealth management firms and Canadian branches of authorized foreign banks) and certain **exempt policies** issued by **Canadian life insurers**. These life insurance policies would be valued using **cash surrender value** rather than fair market value for the purpose of determining whether the limit of $250,000 is surpassed. These amendments would apply for taxation years that end on or after December 31, 2025.

Graduated rate estates (GREs)
This category of listed trust encompasses GREs as well as estates that could have designated themselves as GREs if they filed a return. The proposal would add estates that **filed a T3 return** but **failed to** properly **make the GRE designation**. This amendment would apply for taxation years that end on or after December 31, 2024.

estates failing to make the proper designation may still be listed trusts

Bare trusts (deemed trusts)
Bill C-15 would provide a **new exclusion** from being a **deemed trust** (i.e. a bare trust subject to reporting requirements) for **registered securities dealers** and **trust companies** holding qualifying assets under bare trust arrangements for beneficial owners to whom T-slips are issued. This amendment would apply for taxation years that end on or after December 31, 2026.

Schedule 15 disclosure
Bill C-15 would provide that an **alter-ego trust** or joint spousal/common-law partner trust would **not need to disclose beneficiaries** whose entitlement will arise only upon the death of the life interest beneficiary(ies) or any other individual. This amendment would apply for taxation years that end on or after December 31, 2025.

Finally, Bill C-15 would also ensure that **beneficial ownership information** of a trust does **not** need to be provided in respect of **public guardians** and **court-appointed trustees**. This amendment would apply for taxation years that end on or after December 31, 2024.

a reduction in beneficial ownership information to be reported

BILL C-15 – POST-MORTEM TAX PLANNING

An election can be filed to deem losses realized in the **first year** of a **GRE** to have been realized in the year of death (Subsection 164(6)). **Bill C-15, Budget 2025 Implementation Act, No. 1** (see VTN 532(8470)), included a previously proposed amendment to allow this election to deem losses realized in any of the **first three taxation years** of the GRE to be **realized in the year of death** (see VTN 517(7839)). Bill C-15 would also implement a **prescribed form** to amend the deceased's final personal tax return in conjunction with the election. The proposals would be effective for individuals who die on or after August 12, 2024, and their GREs, as previously proposed.

prescribed form to be used for the election

TAX SCHEME – MISREPRESENTATION

An October 17, 2025 **Tax Court of Canada** case (Deoram vs. HMK, 2024-1700(IT)I) reviewed whether CRA could **assess** the taxpayer **beyond** the **normal reassessment period** in respect of his participation in a **tax scheme** (WayPoint). The taxpayer understood WayPoint to be a **timeshare vacation program**, whereby the taxpayer would receive **one week of free accommodations** annually and receive a **tax deduction** for most of the costs of that investment.

schemes that seem too good to be true

Broadly, the taxpayer bought a **membership** for $20,390, after which WayPoint allegedly paid him a patronage dividend; the net amount of $17,322 (after withholdings that were never remitted) was then used to purchase shares in WayPoint. The shares were then **contributed** to an **RSP** that WayPoint arranged. The taxpayer received an RSP contribution slip for $17,322, which he **deducted against his income**. While not discussed in the case, presumably the RSP was presented to the taxpayer as an RRSP, which would have allowed for a deduction. The Court ruling referred to RSPs throughout.

After participating, the taxpayer stated that he now believed that he was the **victim of fraud**.

CRA assessed the taxpayer outside the normal reassessment period to **deny the RSP deduction** on the basis that there was a **misrepresentation** due to carelessness, neglect or wilful default (Subparagraph 152(4)(a)(i)).

Taxpayer loses

The Court **agreed** with the **taxpayer** that, from the moment the taxpayer paid into the membership, **his funds were gone**: the membership, alleged patronage dividends, withholding taxes, shares and RSP contributions were **worthless**. The **Court found** that the taxpayer made a **misrepresentation** by **claiming** that he had **contributed shares** worth $17,332 to his RSP when, in fact, those shares had **no value**.

whether the misrepresentation was careless

The Court then found that the taxpayer was **more than careless**: he did **not read** the transaction **documents** that he **signed**, he had **little understanding** of the transactions that he entered into, he sought **no independent advice** and he did **not discuss** the program with his **accountant** either before entering into it or when filing his return. The taxpayer simply **provided** the **tax-filing instructions** he had received from the promoters without question. He did **not review** his **tax return** prior to filing it.

A **reasonable person** would have known that they had to **choose between** going on **vacation** and **saving for retirement**: they cannot do both with the same funds. As such, the Court **upheld** CRA's **assessment outside** the **normal reassessment period** to deny the RSP deduction.

The Court also stated that **whether** the taxpayer **filed Form T5004, Claim for Tax Shelter Loss or Deduction**, was **irrelevant** for determining whether there had been a **misrepresentation** for these purposes. CRA's ability to reassess beyond the normal reassessment period specifically refers to a **misrepresentation** made in **filing a return** or in **supplying any information** under the **Act** and says nothing about not filing a prescribed form. The Court further noted that **several provisions** in the Act (e.g. Form T1135 Foreign Income Verification Statement, Paragraph 152(4)(b.2), and RC312 Reportable Transaction and Notifiable Transaction Information Return, Paragraphs 153(4)(b.5) and (b.6)) provide for **extensions** to the **normal reassessment period** where a **prescribed form** has **not** been **filed**. If Parliament had intended that failing to file any prescribed form would be a misrepresentation, then there would be no need to include those paragraphs in the Act.

unless specifically provided for in the Act, failure to file a prescribed form is not, in and of itself, sufficient to allow a reassessment outside the normal reassessment period

The Court further noted that presumably Parliament did not think that it was necessary to specifically allow for CRA to assess beyond the normal reassessment period in respect of a taxpayer failing to file Form T5004 as CRA can reassess beyond the normal period when a promoter fails to file Form T5003, Statement of Tax Shelter Information. The Court stated that CRA had not proven that WayPoint did not file a T5003. See VTN 533(8554) for an article discussing assessments outside the normal reassessment period in respect of participation in a tax shelter if any person involved is liable for a promoter penalty.

The Court finally noted that it was **unclear** whether the taxpayer was **arguing** that he should receive a **credit** for the amount of **withholdings** ($3,058=$20,390-$17,332) that WayPoint did **not remit to CRA**. The Court stated that, even if that was the taxpayer's intention, the Court **lacked jurisdiction** to make such a ruling.

CRITICAL ILLNESS INSURANCE SCHEMES

On December 4, 2025, CRA released a Tax Tip (Warning: The CRA has identified aggressive tax schemes involving insurance products) in respect of **critical illness insurance schemes** that involve complex transactions, such as borrowing money and using it to pay for insurance.

watching out for these transactions

These plans are generally set up as follows:

i. a **shareholder borrows** money from a lender connected to the promoter;
ii. the **shareholder transfers** the borrowed funds to their corporation;
iii. the **corporation** uses the money to **buy a critical illness insurance policy** (often from an offshore provider);
iv. the corporation **records the loan** from the **shareholder as a liability** (allowing the shareholder to withdraw funds tax-free); and
v. the **security for the loan** in i. **cancels** the **shareholder's obligation** to

repay the loan.

CRA stated that the insurance products used often do not meet the standards of valid insurance policies. CRA noted that participants in these schemes can face **gross negligence penalties** and promoters can face third-party civil penalties.

13 Charities/NPOs 533(13)

CHARITABLE STATUS REVOCATION

A November 24, 2025 Canadian Accountant article (Concerns about **overseas work** cited as **status revoked** for two religious **charities**, Bethany Lindsay) discussed how two charities used their funds overseas for prohibited purposes, leading to revocation of their charitable registration.

proper support for grants to non-qualified donees

In one case, a CRA audit found that the **charity** purposefully **acted** as a **conduit** for **non-qualified donees** outside of Canada. **Non-qualified donees** may contribute to charitable activities but do **not** have **registered charity status with CRA**. While a Canadian charity may **grant** money **to non-qualified donees**, the Canadian charity must **prove** that the **money** is **used** for a **charitable purpose**. The CRA **audit** found that this was **not done**. The CRA audit also found that the organization **co-mingled its funds** with a **non-profit** that did not have charitable status and allowed the non-profit to make decisions about use of the funds. CRA also noted that another audit was conducted in 2019, with similar deficiencies found.

In the second case, the charity could **not demonstrate** that the money spent offshore was used for **charitable purposes**.

For **further information**, see CRA's Guide CG-032, Registered charities making grants to non-qualified donees.

TAX SHELTER – NORMAL REASSESSMENT PERIOD

whether the promoter was liable for, and did not pay, the penalty

A September 11, 2025 **Tax Court of Canada** case (Toews vs. HMK, 2024-239(IT)I) considered CRA's ability to reassess a $39,398 **charitable donation** claim outside of the **normal reassessment period**. The reassessment relied on a provision (Subsection 237.1(6.1)) that **denies donation claims** related to a **tax shelter**, even **outside the normal reassessment** period, if any person involved is **liable** for a **promoter penalty** (Subsection 237.1(7.4)) and the penalty remains unpaid. That penalty applies to a principal or agent that sells, issues or accepts consideration in respect of a tax shelter before getting a tax shelter identification number (Subsection 237.1(2)) from CRA. The promoters of the tax shelter had been assessed a penalty.

The Court noted that being assessed a penalty is not equivalent to being liable for one. The liability arises only when the legal criteria for the penalty are met. CRA's evidence did not demonstrate that any of the persons sold, issued or accepted consideration in respect of the tax shelter before a tax shelter number was issued. As such, CRA could **not deny** the charitable contribution **outside of the normal reassessment** period.

14 International 533(14)

WITHHOLDING ON RENT PAID TO NON-RESIDENTS

Bill C-15, Budget 2025 Implementation Act, No. 1. (see VTN 532(8470)), included a provision that would provide an **exception** from the **requirement to withhold** and remit tax in respect of **rental payments to non-residents** (Section 215). The proposal in Bill C-15 broadened the exception in the previous draft legislation (see VTN 517(7840)) to consider **deceased individuals**. The previously proposed effective date of **August 12, 2024** was not changed.

another reason to ensure GRE status is maintained

Individuals, including **graduated rate estates** (GREs), would **not** have to **withhold tax** in respect of an amount paid or credited to **non-resident persons** as **rent** for the **use** of a **residential property** (defined in Subsection 67.7(1)) in which **an individual resides** (whether or not that individual is the one paying the rent). For GREs, this exception would **apply** where the **rent paid** was for a **residence** of a **deceased individual** and the payment was made **within 36 months** of the individual's **death**. This exception would not apply to trusts that are not GREs.

not having to withhold on certain residential rental payments to non-residents

If the **exception applies**, the **non-resident person** would be required to **remit** and report (in prescribed form) the withholding, assuming that an agent of the non-resident was not already required to do so (Subsection 215(3)).

All rents paid on Canadian real estate to a non-resident that do not fit within the specific terms of these exceptions (e.g. paid by a trust that was not a GRE) would continue to require withholdings and reporting by the tenant.

COMFORT LETTERS – CERTIFICATE OF COMPLIANCE

A **non-resident vendor** is required to obtain a **certificate of compliance** by filing **Form T2062, Request by a Non-Resident of Canada for a Certificate of Compliance Related to the Disposition of Taxable Canadian Property**, no later than ten days after the sale of taxable Canadian property (TCP; Subsection 116(3)) but can choose to file in advance (Subsection 116(1)). The **purchaser** is **required to withhold** 25% of the proceeds for income tax **and remit** this to CRA (Subsection 116(3)) **within 30 days** of the **end of the month** in which the **sale takes place**. This

withholding can be reduced if CRA has processed a T2062 and issued a compliance certificate (Form T2068; Subsection 116(2)). Due to delays in processing T2062s, **CRA will** typically **issue** a **comfort letter** confirming that the **purchaser may** continue to **hold the withheld funds** without liability for interest or penalties **until CRA completes its review** of the certificate of compliance application.

In Question 16 of the **2025 Chartered Professional Accountants of Canada (CPAC) Provincial Questions for the CRA**, CRA discussed the **process** for obtaining a **comfort letter**.

requesting a comfort letter from CRA

Requesting a comfort letter
Comfort letters are issued **only on request** where the T2062 and request are filed **before** the **remittance** is **due**. These can be submitted together when **basic information** for the transaction (vendor, purchaser, proceeds, adjusted cost base, property description) are **known**. CRA indicated that these will **not** be **issued** until the **notification** of sale, including the vendor's **account number**, has been received. The **request** should be **clearly stated** in a **covering letter** with the T2062.

A **request** can **also** be made through the **general enquiries** telephone line, with the complete **property address** and the vendor's account number if one is available. CRA indicated that they make every **attempt** to **issue** these comfort letters within **three business days**. CRA did not indicate whether this issuance would also be delayed if the vendor did not have an account number (often an individual tax number is only required due to the disposition).

CRA indicated that, while automating the process has been considered, this requires further analysis.

remitting the expected reduced withholding with the initial filing

Timing concerns – retaining funds withheld
The **purchaser** is required to **retain the 25% withholding** until the **T2062** has been **processed**. CRA indicated that the **purchaser** can **not remit** payment to **fund** the **vendor's tax liability** directly. The **estimated withholding** required as reflected on the T2062 **should be remitted on filing**, as the certificate of compliance will not be issued until this is paid. CRA noted that it is common practice to **wait for CRA** to **request** this **payment** during the process, which can **delay** issuing the certificate by **several weeks**.

The purchaser can **remit the full 25%** of the **purchase price** at any time if they wish to meet their obligations prior to issuance of a certificate of compliance.

TEMPORARY NON-RESIDENTS

these deemed dispositions

A November 2025 Canadian Tax Focus article (**Disposition of Capital Property by Returning Residents: Relief and Exceptions**, Balaji Katlai and Jin Wen) discussed tax planning for an individual who **temporarily ceased Canadian residency** in respect of **deemed dispositions** of capital property other than taxable Canadian property. Such property is **deemed disposed of** at fair market value (FMV) immediately prior to **cessation of residency** (Paragraph 128.1(4)(b)) and **deemed acquired** at FMV immediately prior to **becoming a resident** (Paragraph 128.1(1)(b)).

this election for property retained throughout a period of non-residency

An individual **becoming a resident** of Canada **after** having **ceased** to be a **resident** after October 1, 1996 can **elect** to **reverse** the deemed **disposition** on **departure** in respect of **capital assets retained** throughout the period of **non-residency** (Subsection 128.1(6)). The **gains reversed** for the year of departure **reduce** the **adjusted cost base** (ACB) of the property on **returning to Canada**, effectively **deferring the deemed gain** until the asset is ultimately sold.

The article noted that this **election** is **restricted** where the property **declined in value** while the taxpayer was **non-resident**. The **reduction** to capital **gains** in the year of cessation of residency and **reduction to ACB** in the year the taxpayer returns is **limited** to the **lesser of** the following:

a. the capital **gain** realized due to the deemed disposition on **cessation of residency**; and
b. the **FMV** of the property on **becoming a resident** on the return to Canada.

This prevents the ACB of the property from being reduced below nil as a result of the election.

Editors' comment

See VTN 531(8461) for a discussion of the ability to post security and defer payment of taxes arising on gains realized due to deemed dispositions on cessation of residency. Where the election discussed above reverses the gains, these taxes would no longer be payable.

15 First Nations 533(15)

DISTRIBUTION OF SETTLEMENT FUNDS

An August 19, 2025 French **Technical Interpretation** (2025-1066571E5, François Fournier-Gendron) discussed the income tax implications of payment of funds in **settlement** of **land claims** to a **First Nation** and subsequent **distribution to members** of the First Nation. CRA opined as follows:

no tax to the First Nation or its members on settlement funds

- the First Nation would be **tax-exempt** as a municipal or **public body** performing a **function of government** (Paragraph 149(1)(c); see VTN 424(3117)), so **no tax** could be **payable**;
- a **direct distribution** of settlement funds to **members of the First Nation** would **not** originate from a **source of income** and would therefore be **non-taxable**;
- an **indirect distribution** of settlement funds through a **trust** created by the First Nation would similarly be **non-taxable**; and
- any **income** earned by such a trust **may be** subject to the **reversionary trust rules** (Subsection 75(2); see VTN 523(8131)) based on CRA's understanding that the **First Nation** would be **both** the **settlor** and a **beneficiary** of the trust.

all relevant connecting factors

CRA confirmed that a previous interpretation (see VTN 412(2358)) **remained valid**. Specifically, **payments** made **to members** of the First Nation who have **no** legally **enforceable claim** would **not be taxable** on payments the First Nation chooses to make to them. CRA confirmed that the **connecting factors** listed in that interpretation for determining whether **income** would be **situated on a reserve** and therefore **exempt from tax** if received by a status Indian (Paragraph 81(1)(a) and Subsection 87(1) of the Indian Act) **remained relevant** but did **not** constitute an **exhaustive** list of potentially relevant factors.

Editors' comment

While not discussed by CRA, if the trust described were reversionary due to the involvement of the First Nation, all income earned on the property contributed by the First Nation to the trust would be attributed to the First Nation and would not be taxable to the trust itself.

16 Did You Know... 533(16)

UPCOMING COURSES

Personal Tax Update 2026

Stay up to date this tax season with Video Tax News' **44th Annual Personal Tax Update**, an intense 7-hour T1 preparation course for Canadian accounting and tax professionals. Led by seasoned educators and tax specialists, **Joseph Devaney CPA, CA and Caitlin Butler CPA, CA**, this practical session covers key developments including tax credits, capital gains, owner-manager issues, CRA changes, and highlights from the **2025 federal and provincial budgets**.

Choose from **virtual live, in-person**, or **pre-recorded** formats running January to May 2026. Registration includes comprehensive course materials, a follow-up webinar, and access to session recordings, making it a trusted annual resource for practitioners across Canada.

equipping your team to be ready for action in T1 Season

Newbies to Ninja – Personal Tax, 2026 Edition

Help your **newer preparers** build confidence in their ability to **efficiently and accurately** prepare personal tax returns this tax season with **Newbies to Ninjas: Personal Tax 2026**, a three-hour pre-recorded course designed to strengthen foundational T1 preparation skills. This practical program walks preparers through key personal tax topics, CRA administrative practices, and the essential questions to ask for accurate, efficient returns.

Don't miss the early bird discount – register your team by **January 16, 2026**. Used in conjunction with your firm's presentation of administrative procedures, newer preparers will be preparing T1s and identifying areas of concern and planning opportunities like tax ninjas!

17 Appendix 533(17)

APPENDIX A

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

Video Tax News Resources

- Video Tax News Members Portal and Newsfeed
- Video Tax News Members Portal – A How To Use The Portal Video Tutorial (6 mins)
- 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

- RC4050 GST/HST Information for Selected Listed Financial Institutions
- T4127-JAN Payroll Deductions Formulas - 122nd Edition - Effective January 1, 2026

CRA Forms/Statements/Returns

- T10 Pension Adjustment Reversal (PAR) or Pension Adjustment Correction (PAC)
- T1006 Designating an RRSP, a PRPP or an SPP Withdrawal as a Qualifying Withdrawal
- T10SUM Summary of Pension Adjustment Reversals (PARs) or Pension Adjustment Corrections (PACs)
- T4ASUM Summary of Pension, Retirement, Annuity, and Other income
- TD1 2025 Personal Tax Credits Return and various provincial versions
- GST494 GST/HST Final Return for Selected Listed Financial Institutions
- RC7294 GST/HST and QST Final Return for Selected Listed Financial Institutions
- RC18 Calculating Automobile Benefits
- T137 Request for Destruction of Records
- T4PSSUM Employees Profit Sharing Plan Allocations and Payments
- RC1 Request for a Business Number and Certain Program Accounts
- RC381 Inter-Provincial Calculation for CPP and QPP Contributions and Overpayments
- RC7301 Request for a Business Number and Certain Program Accounts for Certain Selected Listed Financial Institutions

- T4A Statement of Pension, Retirement, Annuity, and Other Income
- TD1X Statement of Commission Income and Expenses for Payroll Tax Deductions
- TD3F Fisher's Election to Have Tax Deducted at Source
- T3 Statement of Trust Income Allocations and Designations
- T3SUM Summary of Trust Income Allocations and Designations
- T4RIFSUM T4RIF Summary
- T4RIF Statement of Income From a Registered Retirement Income Fund
- T4RSP Statement of RRSP Income
- T4RSPSUM T4RSP Summary
- T5018 Statement of Contract Payments
- T5018SUM Summary of Contract Payments
- T1030 Election To Claim A Capital Gains Reserve For Individuals (Other Than Trusts) When Calculating The Amount Of A Capital Gain Using The Replacement Property Rules

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