TAXTALK

2022 YEAR-END TAX PLANNING

As the end of 2022 approaches, this TaxTalk is a reminder to evaluate your finances and contemplate ways to improve your tax position. Personal tax planning is important to the management of your financial affairs and should be considered throughout the year - not just late in the year. However, we issue this TaxTalk towards the end of every year to help remind you on the potential tax planning opportunities that exist.

This TaxTalk will assist you to take advantage of planning opportunities available before the end of this year to ensure you are dealing with these changes in a tax effective manner.

Below, we have included a checklist of year-end tax issues to help you make the most of your potential tax savings opportunities as 2022 draws to an end. The checklist is broken down into sections that look at some key deadlines, your investments, your retirement and estate planning, and some employee planning matters. Keep these in mind to save taxes in 2022.

A. IMPORTANT DATES AND DEADLINES

Many deductions and credits are available only if payments are made by December 31, 2022 or early in 2023.

Important dates are summarized below:

Before December 15, 2022

- Do you make quarterly tax instalments? Make your final payment to the CRA on or before December 15 to avoid late interest charges.

December 28, 2022

- Final trading day for Canadian exchanges for those wishing to have trades settled in 2022.
- If you have capital gains this year and you're holding securities with unrealized capital losses - consider selling those securities to realize losses and offset the capital gains.

December 31, 2022

Last opportunity to make a payment for the following items in order to utilize any applicable credit or deduction on your 2022 return:

- Investment counsel fees.
- Carrying charges on investments.
- Interest expenses.
- Professional membership and union dues.
- Charitable donations.
- Political contributions.
- Medical expenses.
- Moving expenses.
- Alimony and support payments.
- Child care expenses.
- Certain legal, tax and accounting fees.
- Tuition fees and interest on student loans.
- Payments to employer to reduce standby charge.
- Contributions to Registered Education Savings Plans to qualify for 2022 Canada Education Savings Grant.
- Contributions to Registered Retirement Savings Plans (RRSP) for those reaching 71 years of age in 2022.

January 30, 2023

- Interest owing on loans from family members (including loans to trusts) so that the income attribution rules will not apply for 2022 and subsequent years.
- Interest owing by an employee to his or her employer, in order to reduce the interest benefit on a low-interest or interest-free loan for 2022.

February 14, 2023

- An employee can reduce or avoid an operating cost benefit related to an employer provided automobile, if he or she reimburses the employer for personal-use operating costs.

February 28, 2023

- Last day to file T4, T4A, T5 Summary and Supplemental forms.

March 1, 2023

- Deductible contributions to an individual's RRSP or a spousal RRSP (for 2022).
- Repayments of RRSP Home Buyers Plan and Lifelong Learning Plan (for 2022).

March 15, 2023

- First quarterly personal income tax instalment due for 2023.
- Employer Health Tax Annual Return (EHT).
- Employer Health Tax allocation agreement to be filed by associated companies.

May 1, 2023

- Balance outstanding on 2022 personal taxes payable.
- Personal T1 return to be filed (however, returns for *self-employed persons* are due on June 15, 2023, but any tax owing is still due May 1, 2023).

B. HIGHLIGHTS OF PERSONAL TAX IN 2022

There have been no changes to the federal and Ontario personal tax rates. The following table summarizes the marginal tax rates (on regular income, i.e., salary, interest, etc.) that apply to the income tax brackets for 2022:

Taxable Income *(See Note)*	**Combined Federal and Ontario Rate (%)**
$ 14,398 to $ 46,226	20.05
$ 46,227 to $ 50,197	24.15
$ 50,198 to $ 81,413	29.65
$ 81,412 to $ 92,454	31.48
$ 92,455 to $ 95,909	33.89
$ 95,907 to $ 100,392	37.91
$ 100,393 to $ 150,000	43.41
$150,001 to $ 155,625	44.97
$155,626 to $ 220,000	48.35
$220,001 to $ 221,708	49.91
Over $221,708	53.53

Note: These are the federal and Ontario tax brackets.

C. NEW TAX MEASURES

Tax-Free First Home Savings Account (FHSA)

The 2022 Federal Budget prosed the introduction of the Tax-Free First Home Savings Account (FHSA). This new registered plan would give prospective first-time home buyers the ability to save $40,000 on a tax-free basis.

Like an RRSP, contributions would be tax-deductible, and withdrawals to purchase a first home - including from investment income - would be non-taxable, similar to a TFSA.

The tax-deductible contribution is limited to $8,000 per year up to a lifetime contribution maximum of $40,000.

The plan must be closed after 15 years and funds, if not used for a first home, can be transferred to RRSP or RRIF account on tax-free basis. However, any funds transferred to an RRSP or RRIF will ultimately be taxed when withdrawn.

To open a FHSA account, you must be:

- a Canadian resident,
- at least 18 years old, and
- a first time home buyer, which means you or your spouse do not owned a home in which you lived at any time during the year or at any time in the preceding four calendar years before the FHSA was opened.

Legislation for the new FHSA has been introduced in the House of Commons but the new tax measures have not passed. The government expects that Canadians will be able to open and start contributing to an FHSA at some point in 2023.

For additional information refer to our more detailed TaxTalk on Tax-Free First Home Savings Account (FHSA).

Residential Property Flipping Rule

The 2022 Federal Budget introduced a rule that all gains arising from dispositions of residential property (including a rental property) that was owned for less than 12 months would be treated as business income. As such, the Principal Residence Exemption will not be available, and the entire gain is taxable as 100% business income.

Exceptions to the definition exist for a number of life events, including the death of the individual or a related party, an addition to a household, breakdown of a relationship, a threat to personal safety, serious illness or disability, work relocation or termination, insolvency or destruction or expropriation of the home.

Be mindful that taxpayers who hold properties longer than 12 months could still find themselves subject to a CRA audit based on the current rules, which disallow capital gain treatment if the intention was to flip a home.

The proposed legislation is not quite law yet but is expected to apply in respect of residential properties sold on or after January 1, 2023.

For additional information refer to our more detailed TaxTalk on Residential Property Flipping Rule.

Underused Housing Tax (UHT)

On June 9, 2022 the Underused Housing Tax (UHT) came into law.

The UHT is an annual 1% tax on the value of non-resident, non-Canadian owned residential real estate that is considered vacant or unused.

This UHT applies at the rate of 1% to the residential property's taxable value. It is modelled to some extent on the speculation and vacancy tax imposed by British Columbia for 2018 and later calendar years.

Beginning in 2022, the UHT applies on a calendar year basis to a person who is the owner of residential property in Canada on December 31 of the year, if the owner is not considered an "excluded owner" or not eligible to claim an exemption in respect of their interest in the property.

Canadian citizens and permanent residents are considered "excluded owners", as well as, companies listed on a public Canadian stock exchange; registered Canadian charities; Canadian cooperative housing corporations; hospital authorities; municipalities; public colleges; school authorities and universities; and Indigenous governing bodies.

An owner that is not an excluded owner is required to pay the tax, unless the owner qualifies for one of the exemptions in the calendar year. The numerous exemptions available are detailed further in our TaxTalk on new Underused Housing Tax (UHT).

D. OWNER-MANAGER COMPENSATION

With the introduction of the income splitting and passive income rules a few years ago, it is important to re-evaluate how money is being taken out of the corporation by an owner-manager. While some of the traditional income splitting planning has been eliminated, there are still opportunities available.

Reach out to your MG contact to review your overall structure to identify any compensation, estate or income splitting planning that can be undertaken to reduce your tax bill.

E. INVESTMENTS

Tax Free Savings Account (TFSA) Contributions

Canadian residents age 18 and over are eligible to open a TFSA. Income (interest, dividends, capital gains, etc.) earned in a TFSA is ***not taxable*** as it is earned, nor is it taxable when withdrawn from the account.

Contributions to a TFSA are ***not tax deductible***. For 2022, the maximum contribution is $6,000 plus any outstanding contribution room carried forward. If no contribution has been made to a TFSA, the 2022 contribution limit will be $75,500. You are able to contact CRA by phone or online to confirm your contribution room. Contribution limits are not affected by income (although annual tax returns must be filed with CRA in order to generate contribution room) and any unused TFSA contribution room may be carried forward indefinitely.

You can withdraw funds at any time and for any purpose without incurring any tax liability. The funds withdrawn will not affect your eligibility for income tested benefits such as Old Age Supplement, Canada Child Tax Benefit or Guaranteed Income Supplement. If you need to withdraw funds from your TFSA, consider withdrawing funds in 2022 rather than deferring to early 2023 because withdrawals from a TFSA are not added back to your TFSA contribution limit until the beginning of the year following the year you made the withdrawal.

It should be noted that the attribution rules do not apply to funds you gift to your spouse to invest in a TFSA, which makes the TFSA ideal to split income with a lower-earning spouse, common-law partner or adult child.

Interest on money borrowed and fees incurred to invest in the TFSA are not tax-deductible. Capital losses realized within the TFSA can be applied to capital gains within the TFSA but cannot be applied against capital gains realized outside the TFSA. Unlike an RRSP, the TFSA may be used as loan collateral.

Crystalizing Capital Losses

When you are deciding which investments to sell, you should consider the following tax planning points:

- Sell investments with accrued losses before the end of 2022 to offset your taxable capital gains realized in 2022 or any of the three preceding years.

If you realize a capital loss in 2022, there are special rules that will deny your loss to the extent you, or a person who is affiliated with you, purchases the same investment within 30 days before or after the sale. The denied loss is added to the cost of the investment acquired by you or the affiliated person, and reduces the gain or increases the loss on a subsequent disposition of the investment. This rule effectively defers the recognition of the loss until the investment is sold to a non-affiliated person.

F. RETIREMENT AND ESTATE PLANNING

Maximizing RRSP Contributions

Three factors limit the amount you can contribute to an RRSP.

- A dollar limit ($29,210 for 2022 and $30,780 for 2023);
- 18% of your 2022 (i.e. the previous year) earned income; and
- Your pension adjustment (which represents the value of pension contributions made by you and your employer in the year).

CRA includes a "2022 RRSP Deduction Limit Statement" as part of the 2021 Notice of Assessment. This statement indicates the maximum amount deductible on the 2022 tax return and any RRSP contributions made in prior years that you have not claimed a tax deduction for. You should verify these amounts prior to making any RRSP contributions.

Please feel free to contact us if you require assistance in confirming your RRSP contribution limit.

Spousal RRSP Contributions

You can contribute all or part of your RRSP deduction limit to a "spousal" RRSP in which your spouse[1] is the annuitant. Your ability to contribute to a spousal RRSP is limited by your own RRSP deduction limit, not by your spouse's RRSP deduction limit or RRSP contributions. Advantages of a spousal RRSP include income splitting and, where your spouse is younger than you, a longer tax-deferral period for income earned in the RRSP.

Generally, RRSP withdrawals from a spousal RRSP are taxed in the hands of the recipient spouse. However, if your spouse withdraws funds from a spousal plan in the same calendar year as your contribution or in the two subsequent calendar years following your contribution to a spousal plan, the withdrawal will be taxed in your hands.

Finally, if you can no longer contribute to your own RRSP based on age, you can still contribute to a spousal RRSP for which you will receive a deduction, provided you have a deduction limit and your spouse is 71 or younger at the end of the year.

Timing of RRSP Contributions

RRSP contributions you make by February 28, 2023 may be deducted on your 2022 tax return, subject to your 2022 RRSP deduction limit. Any unused RRSP contributions can be carried forward indefinitely to age 71 and deducted when you have additional RRSP deduction limit, however, undeducted RRSP contributions in excess of $2,000 may be subject to a penalty. If you expect a spike in your 2023 income, it may be more beneficial to carry the RRSP contributions to 2023 instead of claiming on your 2022 tax return.

The maximum age for holding an RRSP is 71. If you turn 71 in 2022, your RRSP contribution for 2022 should be made before you convert your RRSP to a RRIF which is no later than December 31, 2022. However, as a result of 2022 earned income, you will generate additional RRSP contribution room on January 1, 2023 but you will not be able to contribute in 2023 if you turned 71 in 2022.

Old Age Security (OAS) Claw back

If your net income in 2022 is over $79,845 then you will have to repay 15% of the excess over this amount, to a maximum of the total amount of OAS received. The OAS claw back is calculated solely on your net income and is not affected by your spouse's income.

Individual Pension Plan (IPP)

An Individual Pension Plan (IPP) is an employer-sponsored defined benefit pension plan to provide enhanced retirement benefits and important tax advantages. An IPP offers several key benefits, including:

- Making a one time lump sum contribution for past years of employment;
- May provide higher contributions than permitted by RRSPs;
- IPP investments grow on a tax-deferred basis;
- IPP contributions are tax-deductible to your corporation as a plan sponsor;
- Employer contributions are not considered a taxable benefit for the employee;
- Fees to set up and administer the IPP are tax deductible by the employer;

[1] *"Spouse" includes a spouse by marriage or a common-law partner.*

- Potential tax deferral via transfer to younger generation.

An IPP could be ideal if you are:

- an incorporated self-employed business owner or professional;
- between the ages of 40 and 71 with annual T4 income greater than $100,000;
- an employer looking to enhance retirement benefits for a key employee; and
- maximizing your RRSP contributions every year.

Personal Pension Plan (PPP)

The Personal Pension Plan (PPP) is similar to the IPP and offers many of the same benefits.

A PPP differs from an IPP since it allows a plan member to switch between a defined benefit plan, a defined contribution plan and an additional voluntary contribution sub account. A PPP also allows for a Corporate Trustee which can shield the individual trustees from taking on legal liability and potential risks of non-compliance.

The fees associated with a PPP may be higher than an IPP due to the additional flexibility that allows the plan members to switch between a defined benefit plan and a defined contribution plan and also provides additional fiduciary oversight.

Planning for Taxes on Death

A person is deemed to dispose of all capital property at fair market value immediately before death for income tax purposes. As the income from that property will generally be taxed as part of the deceased's estate, the taxes will ultimately affect the size of the estate that is passed on to the beneficiaries. You may wish to look at ways to pass property outside of the estate to reduce the value of your estate for probate fee/tax purposes.

If you own property jointly with another person, such as your spouse or common-law partner, that property will pass outside of your estate to the other owner. It is common for spouses to own property jointly.

Insurance and RRSP proceeds go to the beneficiary designated in the policy at the time of death so they too will pass outside of your estate unless you make the estate your beneficiary. If your RRSP proceeds go to a person other than your spouse or common-law partner, those proceeds may be taxable.

Estate planning can be complex and evolve over time. There are various estate planning strategies your MG advisor can assist with.

G. EMPLOYEES

1. Employee Benefits

Taxable Benefits for Employer-Provided Vehicles

Where your employer provides an automobile for personal or employment use, you will be taxed on the following:

a) The **standby charge** is a notional benefit based on the cost of the automobile, or lease payments, for providing the automobile to you, the employee.

   The standby charge is 2% per month[2] (whole or partial) of the original cost of the vehicle. Where your employer leases an automobile for employee use, the standby charge is 2/3 of the lease payments.

   The standby charge is reduced if both:

   (i) your total personal use of the automobile, in a calendar year, is less than 20,004 kilometres, **and**

   (ii) your personal use is less than 50% of total use.

   It is important to note that the stand by charge is calculated on the original purchase price or lease payment and not the depreciated value. When the value is less than the original cost, it may be prudent for you to purchase the vehicle from your employer and your employer can reimburse you for your employment use of the vehicle as discussed below[3].

b) The **operating cost benefit** relates to your personal use of your employer's automobile.

   If your annual employment-related use exceeds 50% of total use, the operating cost benefit can be calculated as one-half of the standby charge, less reimbursements made by you to your employer. You must notify your employer in writing by December 31, 2022 if you wish to have the operating cost benefit calculated as one-half of the stand-by charge.

[2] *For employees principally employed in selling or leasing automobiles, the stand-by charge is decreased.*

[3] *Alternatively, the standby charge would be reduced if your employer sells the car and repurchases it at current value.*

If your employment-related use is less than 50%, or you choose not to have the operating cost benefit calculated as one-half of the standby charge, the operating cost benefit is calculated at 29 cents per kilometre of personal use.

You can reduce or eliminate the operating cost benefit if you reimburse your employer for personal-use operating costs. The reimbursement must be made by February 14, 2023.

You should review your personal use of your employer-provided automobile before December 31 to determine how close you are to the 50% threshold. It may help to reduce personal use between now and year-end to reduce the stand-by charge or operating cost benefits.

In addition to your taxable benefits, an employer-provided automobile creates a HST liability for your employer. The HST liability is 13/113 of the standby charge plus 9% of the operating-cost benefit. Your employer is required to compute and self-assess HST on the benefits.

Employee-Owned Vehicles

As indicated above, an allowance received by you for an employee-owned or leased vehicle can be received tax-free if the allowance is computed based solely on employment related kilometres and not more than 61 cents for the first 5,000 kilometres and 55 cents for any additional kilometres.

In addition to paying the prescribed rates, you should keep a logbook for the employment related kilometres. Each entry in the logbook should include the starting point, the destination, the total kilometres travelled, and the purpose of the travel. Also note that kilometres travelled between your home and your office is not considered business travel.

An allowance received for employment-related use of your (owned or leased) automobile, which is not based on a per kilometre rate, is not considered reasonable and must be included in your income. If an allowance is included in your income, then you may deduct the portion of your automobile expenses that relates to employment use[4] to reduce or eliminate the impact of the income inclusion.

Employee Loans

The taxable benefit that arises in 2022 from a low-interest loan by your employer to you is reduced by interest paid by you to the company by January 31, 2023. You can claim an interest deduction to offset the taxable benefit for the imputed interest benefits, to the extent you used the funds to earn income from a business or property.

2. Employee Deductions

Employment Expenses

Certain expenses incurred by you to earn employment income are deductible against that employment income. It is important to retain receipts and document the expenses in your records, noting date, purpose and HST paid in order to substantiate the deductions. Employees are not entitled to claim capital cost allowance (CCA - depreciation for tax purposes), with the exception of CCA with respect to an automobile, airplane or musical instrument used to perform their employment duties. More types of expenses are eligible for deduction if you earn commission income from your employment.

If you are a non-commission employee, you are restricted to deducting employment-related items, such as travel costs, automobile expenses, supplies, office rent, and salary paid to an assistant.

If you are a commission employee and certain conditions are met, you are not restricted to the expenses noted above for non-commissioned employees. You are entitled to deduct a greater variety of expenses to the extent they are incurred to earn commission income. Cellular phones, computers and fax machines should be leased in order to obtain tax deductions for the lease expenses since CCA on these capital expenditures is not deductible. For any year, the amount of expenses deductible is limited to the amount of commission income earned.

Office in Home Eligibility (traditional rules)

Under normal circumstances, if you are required by your employer to maintain a home office, you may be able to deduct some expenses related to the office space[5]. For home office expenses to be deductible, you must either:

- perform more than 50% of your employment duties at home; or

[4] *To deduct automobile expenses on your tax return, you must receive a duly-completed form T2200 - Declaration of Conditions of Employment from your employer.*

[5] *Home office expenses that are deductible for employees include a prorated portion of rent, utilities, repairs, and cleaning materials. CCA, insurance, property taxes, and mortgage interest are **not** deductible. However, if you earn commission income you may also deduct a prorated amount of insurance and property taxes.*

- use the area exclusively in respect of earning income from your office or employment and use it on a regular and continuous basis for meeting customers, clients, patients, etc.

To deduct office in home and other employment expenses from income, form *T2200 - Declaration of Conditions of Employment* must be completed and signed by your employer and retained by you with your records.

Office in Home Eligibility (temporary rules)

The Government has extended the use of the temporary home office expense rules to 2022 and you can claim up to a maximum of $500 under temporary flat-rate method for employees with modest expenses similar to 2021 tax year.

Employees who worked from home more than 50% of the time over a period of at least four consecutive weeks in 2022 will be eligible to claim the home office expenses deduction for 2022. Also, CRA's home office eligibility guidance (see above) indicated that employees need to be principally working from home - meaning more than half the time - for the year.

The advantages of the temporary method rather than the traditional method are that no detailed Form T2200 is required and that the calculations are much simpler.

The disadvantages of the temporary method rather than the traditional method are that employment expenses are limited to the home office expenses and the amount of deductible expenses are generally much less.

Flat-Rate Method

The temporary flat-rate method will allow eligible employees to claim a deduction of $2 for each day they worked from home in 2022, up to a maximum of $500.

Under this method, employees will not have to get Form T2200 or Form T2200S completed and signed by their employer. The new method also eliminates the need for employees to determine their expenses and keep receipts to calculate their claim. However, it's important to note that employees who use the temporary flat-rate method can't claim any other employment expenses such as meals and entertainment or motor vehicle expenses.

Detailed Method

Under the detailed method, eligible employees who work from home in 2022, can claim the amount paid for eligible expenses, supported by documents.

For employees choosing to file under this method, the CRA continues to allow the simplified versions of the T220S, Declaration of Conditions of Employment for Working at Home Due to Covid-19 and Form T777S, Statement of Employment Expenses for Working at Home Due to Covid-19.

We Can Help

Your MG advisor can help you review your personal or business tax situation and help you decide which steps you can take before the year-end to help you with the taxes you will pay for 2022.

A memorandum of this nature cannot be all-encompassing and is not intended to replace professional advice. Its purpose is to highlight tax planning possibilities and identify areas of possible concern. Anyone wishing to discuss the contents or to make any comments or suggestions about this TaxTalk is invited to contact one of our offices.

Offices:

First Canadian Place
100 King Street West, Suite 5700
Toronto, Ontario M5X 1C7
Phone: 416-362-0515

1900 Minnesota Court, Suite 116
Mississauga, Ontario L5N 3C9
Phone: 905-451-4788
Fax: 905-451-3299

TaxTalk is prepared by our Tax Group (taxtalk@mgca.com). Please visit our web site at www.mgca.com.

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