LEVY PILOTTE
COMPTABLES AGRÉÉS / CHARTERED ACCOUNTANTS
S.E.N.C.R.L. / LLP

DFK An Independent Member of DFK International

Newsletter

Winter 2008

WHAT'S NEW FOR 2007 PERSONAL INCOME TAX?

The personal tax season is almost here! In order to minimize your personal tax burden, you should be aware of a number of recent developments. Legislation passed recently includes:

- ***Income Splitting for Seniors*** - pension income eligible for the pension income amount (typically RRIFs, RPPs, and RRSP and DPSP annuities) may be eligible for splitting with your spouse for income tax purposes. If you and your spouse are in different tax brackets, there may be a very substantial benefit.
- ***RRSP Age Limit Changes*** - the age limit for contributing to a Registered Retirement Savings Plan has increased from age 69 to 71.
- ***Children's Fitness Credit*** – you may claim (to a maximum of $500 per child) registration fees paid in respect of children who were under the age of 16 at the beginning of the year. The fees paid must be in respect of "prescribed programs of physical activity," such as sporting activities.
- ***Child Tax Credit*** - you can now claim $2,000 for each of your children and your spouse's or common-law partner's children born in 1990 or later.
- ***Canada Employment Amount*** - this tax credit has increased from $250 to $1,000.
- ***Capital Gains Exemption amount*** – the exemption, with respect to capital gains on Qualified Small Business Corporation shares and Qualified Farm Property, has increased from $500,000 to $750,000 for dispositions occurring after March 18, 2007.
- ***Elementary and secondary school scholarships and bursaries*** will no longer be taxable.
- ***Donations*** – for donations of publicly listed securities made after March 18, 2007 to a private foundation, the capital gains inclusion rate will be zero.
- ***Public Transit amount*** – the cost of shorter duration passes is eligible if the pass entitles you to unlimited travel for an uninterrupted period of 5 days and you purchase enough of these passes to entitle you to unlimited travel for at least 20 days in any 28-day period.

Please keep in mind that the items noted above all have requirements that must be satisfied in order for the amounts to be claimed.

Please contact our firm for details, or include your information with respect to the above items when consulting our firm this year for the preparation of your personal income tax return.

Inside this issue:

"Opportunity is sometimes hard to recognize if you're only looking for a lucky break."
- Monta Crane
Humorist

Special points of interest:

- ***REMINDER: Ontario Corporate Instalments: Corporations with year ends in 2009, i.e., January 31, 2009, must pay <u>COMBINED</u> Ontario and federal instalments to the CRA starting February 2008.***
- ***RRSP purchase deadline is February 29, 2008***
- ***Personal tax instalments:***
  - ***March 15, 2008***
  - ***June 15, 2008***
  - ***September 15, 2008***
  - ***December 15, 2008***

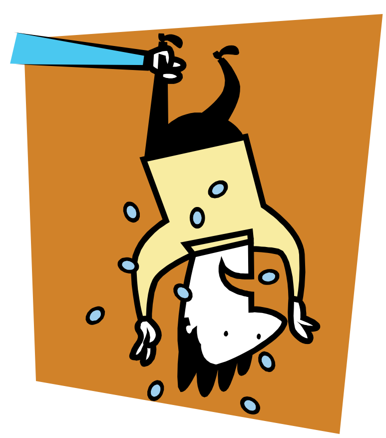
IT'S TAX TIME AGAIN!

As tax time approaches, many people are wondering how they can maximize their tax savings. The best way is to ensure that we have all of your relevant information on a timely basis.

The most common issues for the upcoming personal tax season include the following:

- Bring in your tax information as soon as you believe it is complete. This may involve waiting for T3s, T5s, and RRSP receipts. If you know that something is missing, please advise us at the time you provide us with your information.
- For any non-registered investments sold during 2007, ensure that you provide us with the cost of these investments. If you aren't sure about the cost of an investment, ask your investment advisor to provide it to you. Often, the Annual Trading Summary is a good source of this information.
- Pension splitting between spouses could be beneficial.
- Ask your pharmacist for a printout of all amounts paid for prescriptions in 2007.
- Ask your dentist or other medical practitioner for a printout of all 2007 activity. If you are a member of a group medical plan, please provide us with the statements you received back from your insurance company, as well as details of any premiums paid for the medical plan.
- Provide details of tax instalments paid in 2007 and in March 2008.
- For 2007, there is a new credit for all children born in 1990 or later. Please ensure that we are aware of all the names and dates of birth of your minor children.
- Provide any RRSP receipts for contributions made in January and February 2008, as these must be reported on your 2007 return, even if you do not intend to deduct these contributions in 2007.
- Bring in any receipts eligible for the new Children's Fitness Credit
- Answer the new question on the 2007 return relating to Elections Canada and your eligibility to vote, which asks if you are a Canadian citizen.
- Advise us if you have a safety deposit box.
- Provide your transit passes for any 2007 public transit costs.
- Ensure that your donation receipts do not include pledges.
- Make sure each of your children signs their tuition slip, if they are transferring a portion to you.

If you provide us with all of the above information, we will make sure that you pay as little tax as possible.



SALE OF YOUR OWNER-MANAGED BUSINESS

A lot of planning can be done with respect to a sale of business, far more than anyone could ever summarize in a short article such as this. However, if you are planning on selling your business (or even if you aren't), it pays to be informed of at least a few of the "highlights." Our firm will, of course, be able to give you further information and advice with respect to your sale.

The most attractive, and probably most well-known, tax advantage that you may be able to access with respect to your sale is the $750,000 (formerly $500,000) lifetime capital gains exemption ("CGE"). It allows you to shelter from taxation up to $750,000 in capital gains on the sale of qualifying shares (provided certain complex eligibility criteria are met). The eligibility criteria are technical in nature and therefore won't be discussed in detail here. Generally speaking, however, at every point in the past two years, your business needs to have been carried on largely in Canada, and the assets owned by your business need to be fairly "pure" business assets rather than investment assets.

What if your business is unincorporated and, accordingly, you have no shares to sell? It may still be possible to access the CGE, but some additional planning well in advance of the sale needs to be considered. Specifically, it may be possible to transfer your unincorporated business into an incorporated entity in advance of the sale date, in order for a share sale to occur.

Furthermore, did you know that the use of a family trust may help you to multiply access to the CGE? For example, if a family trust owns the qualifying common shares of the company to be sold, and five family members are the beneficiaries of that trust, it may be possible for all five family members to access their CGEs in respect of the same sale. Doing so would potentially allow $3.75 million in capital gains to be sheltered from taxation (i.e., 5 x $750,000). This is one aspect of planning that usually has to be done many years in advance.

If you currently own the shares of your corporation personally, and the value of those shares has grown from when you started the business, it may be difficult to transfer those shares to a trust without triggering a tax liability. As a result, a "reorganization of capital" needs to be performed in order for common shares to be issued to the trust (without generating a tax liability). However, only the growth in the value of the shares from the reorganization date to the sale date will be a capital gain to the trust and, accordingly, only the capital gain from the change in value from the reorganization date can be accessed by the trust's beneficiaries. For this reason, the reorganization should be done well in advance of the actual sale date, so that the growth in value of the shares from the reorganization date is as high as possible. The potential advantage will have to be weighed against the costs of setting up and maintaining the trust, as well as the current cost of the reorganization; but, for certain business owners, this could result in a substantial tax saving.

Some other key planning points to consider are:

1. ***Use of the capital gains reserve rules*** – if the sale proceeds are to be received over multiple years, the capital gains created on the sale can be brought into your income over multiple years as well (subject to a formula and a maximum of five years). This has the advantage of allowing you to fully utilize your lower tax brackets each year, and also reduces the upfront tax bill. Even if a gain is fully offset by the CGE, use of a capital gains reserve can help avoid or minimize Alternative Minimum Tax that would otherwise apply.
2. ***Capital Dividend Account*** ("CDA") – the CDA represents the non-taxable portion of capital gains earned within the corporation. Prior to the sale, it is desirable to pay out the entirety of this balance so that an amount equal to the CDA balance can be withdrawn tax-free prior to the sale. If this amount is not paid out, it will transfer to the new owners.

SALE OF YOUR OWNER-MANAGED BUSINESS (CONT'D)

3. ***General Rate Income Pool*** ("GRIP") – dividends paid from this balance attract lower personal taxes than "regular" dividends. Therefore, consider paying out all "GRIP" dividends before the sale.
4. ***Refundable Dividend Tax on Hand*** ("RDTOH") – where a RDTOH balance exists in your corporation, a $1 refund will be generated for every $3 in dividends paid. Accordingly, you should consider paying out dividends sufficient to eliminate this balance as well. Note that the same dividend can be used to reduce both your GRIP and RDTOH accounts simultaneously.
5. ***Purification*** – note also that the payout of these tax-preferred accounts (CDA, GRIP, RDTOH) may assist you in making sure the assets of your business are "pure" business assets and, thereby, help your business meet the CGE eligibility requirements.
6. ***Purchaser's perspective*** – our discussion has been in the context of a sale of shares since, as a vendor, you will generally prefer a share sale in order to access the CGE provisions. However, the purchaser may prefer a sale of assets rather than shares, for legal liability and other reasons. As a result, whether a sale is to be a share or asset sale is often a key bargaining point. Our firm will be able to help you calculate the difference in taxes payable between a share sale and an asset sale. In other words, if the purchaser is prepared to pay more for an asset sale than for a share sale, you may, as a vendor, become indifferent between the two choices.

These key planning points are some important (but cursory) considerations in respect of the sale of your business. Our firm will be able to provide you with advice more suited to your particular circumstances.

"**LEVY PILOTTE LLP** is an accounting firm that fully understands its clients' needs both professionally and personally.

Founded in the 1930s, it has accumulated an impressive amount of expertise through growth, as well as the contribution and knowledge of many talented chartered accountants from various business and cultural backgrounds.

LEVY PILOTTE LLP is present in over 260 offices in 80 countries through its affiliation with DFK International.

Building on its history of high standards, **LEVY PILOTTE LLP** remains a dynamic firm confidently looking towards the future. It prides itself on its commitment to professionalism, integrity and quality of services supplied in a youthful environment.

LEVY PILOTTE LLP has the knowledge and expertise to assist you in strategically planning your future. Our services include auditing and accounting, income tax services as well as personal and corporate financial planning.

It is all these strengths that have made **LEVY PILOTTE LLP** one of Québec's top 20 chartered accountant firms. "

LEVY PILOTTE
S.E.N.C.R.L./LLP

5250, Décarie, # 700
Montréal, Québec
Canada H3X 3Z6

(514) 487-1566
(514) 488-5145
lpilotte@levypilotte.com
www.levypilotte.com