BBLLP Tax Tips

BBLLP Tax Tips is a quarterly publication designed to provide general information about significant tax news and updates. You can find all editions of this publication on our website located here.

Quick Tips

- Most **CPP retirement, disability, survivor and child benefits** can only be paid retroactively for up to **11 months** after applying. Make sure to apply on time to avoid losing access to benefits.
- The **Canada Disability Benefit Act**, which received Royal Assent on June 23, 2023, is intended to provide financial security to **working-age persons with disabilities**. Neither eligibility criteria nor benefit amounts have been announced; however, consultations are ongoing.
- A series of **investment tax credits** relating to **clean economies** were announced in the fall of 2022 and spring of 2023. The government is currently conducting a **consultation on the design** and implementation of these initiatives.

CPP Enhancements: Higher Contributions and Higher Benefits

In 2019, the government commenced a two-part enhancement to the Canada Pension Plan (CPP), with full implementation to be completed in 2025. Phase 1 occurred from 2019-2023; phase 2 will occur from 2024-2025. Overall, the changes will require larger contributions but also will provide larger benefits.

Pre-CPP enhancement

CPP contributions for employees and employers under the pre-enhancement CPP model (referred to as base contributions) were calculated as 4.95% of the employee's pensionable earnings to a maximum of the year's maximum pensionable earnings (YMPE; for 2023, $66,600), less the $3,500 basic exemption.

Phase 1

Referred to as the first enhanced CPP contributions, these are calculated as a percentage of the YMPE, less the $3,500 basic exemption, with the contribution rate for employees and employers gradually increasing from 4.95% in 2019 until it reached 5.95% in 2023.

Phase 2

Referred to as **second enhanced CPP contributions**, the contribution rate for employees and employers will be **4%** but will only be applied to earnings above YMPE up to the **yearly additional maximum pensionable earnings** (YAMPE) ceiling. For 2024, YAMPE will be set at a number 7% higher than YMPE, estimated at $72,400. For subsequent years, YAMPE will be 14% higher, estimated at $79,400 for 2025.

The rates discussed above apply separately to both the employer and employee. Where the individual is self-employed, they are responsible for both the employer and employee contributions.

The payout

The enhanced portion of CPP payouts will only be available to those who contributed since the enhancements were introduced in 2019. Employees that have fully participated under the enhanced contribution regime for sufficient years will receive maximum retirement benefits set at 33% of pensionable earnings, whereas benefits under the pre-enhancement regime would be 25%.

ACTION: Employers, employees and self-employed individuals should all be aware that the costs of the CPP will continue to increase as the changes are fully phased in. Individuals should be aware that their take-home pay may be reduced, and employers should budget for these higher costs.

First Home Savings Account (FHSA): A New Investment Tool

The **tax-free FHSA** was introduced in 2023 to help **first-time home buyers** save up to $40,000 for a home purchase.

Individuals eligible to open an FHSA must be at least **18 years of age** and **resident** in Canada. The individual must also have **not lived** in a **home** that **they** or their **spouse owned** jointly or otherwise at any time in the year or the **preceding four** calendar **years**.

Contributions to an FHSA are **deductible** (like an RRSP). **Income earned** in an FHSA and qualifying **withdrawals** from an FHSA

210 - 616 MAIN STREET
SASKATOON SK S7H 0J6
306-657-8999
info@bbllp.ca

made to **purchase** a first **home** are **non-taxable** (like a TFSA).

The **lifetime limit** on contributions is **$40,000**, subject to an **annual contribution limit** of **$8,000**, both of which apply at the **individual level**. Each spouse (or common-law partner) could invest $40,000 and withdraw the full value (including investment income and growth) tax-free to acquire their first home. Individuals can carry forward unused portions of their annual contribution limit up to a maximum of $8,000. Individuals can also **transfer funds from their RRSP to** an **FHSA tax-free**, subject to the $40,000 lifetime and $8,000 annual contribution limits.

The **maximum** participation **period** for an **FHSA** ends at the earliest of:

- **15 years** after opening an FHSA;
- the end of the year following the year of the **individual's 70th birthday**; and
- the **end of the year** following the year when the individual first makes a **qualifying withdrawal** from an FHSA.

Any funds remaining in the plan after the maximum participation period could be **transferred tax-free** into a **RRIF** or an **RRSP without eroding contribution room**. **Otherwise**, the funds will have to be **withdrawn** on a **taxable basis**.

Timing of opening an FHSA

A June 28, 2023 Advisor's Edge article (How to **properly plan** the **opening of an FHSA**, Charles-Antoine Gohier) discussed the **impact** of individuals **purchasing homes later in life** on **FHSA** planning.

The article quoted a study from 2020 that estimated that the **average age** to **buy a home** in Canada is **36**. If an individual opens an account at age 18, the plan must be closed no later than 15 years later, that is, when the individual is 33. If the individual contributes the annual maximum of $8,000 for the first five years to reach the maximum contribution of $40,000, assuming a 4.5% return, the **balance** of the **FHSA** would be **$74,221** at the end of 15 years. If not used for a home, the individual must either withdraw the balance on a taxable basis or roll the balance into their RRSP on a tax-free basis. While **rolling** the **FHSA into** the individual's **RRSP** does not erode their RRSP contribution room, **no tax-free withdrawal** would be possible for **subsequent use** of the **funds** to purchase a first home. Up to $35,000 could be withdrawn from the RRSP under the home buyers' plan, but this would be subject to repayment conditions. Where sufficient funds are available in the RRSP, the home buyers' plan can be used in conjunction with a tax-free FHSA withdrawal.

Home buyers' plan (HBP)

In a May 15, 2023 French **Technical Interpretation**, CRA was asked whether an individual could **withdraw** $8,000 under the **HBP** and **contribute the funds** to a **tax-free FHSA**, knowing they would purchase a qualifying home the following month.

CRA first noted that the **HBP** and **FHSA** can be used for the **same home purchase**. Provided that the relevant **requirements of both plans** were **complied with**, the taxpayer could **contribute** the **HBP** withdrawal as a **deductible FHSA** contribution, then take a **qualifying withdrawal** from the FHSA in respect of the **same home purchase**.

This would be an **alternative** to rolling funds from the RRSP to the FHSA. Using the HBP approach would provide an **immediate deduction** for the FHSA contribution (a rollover would generate no deduction) but would also **require** the **HBP** withdrawal to be **repaid** to the RRSP in future years to avoid tax. The legislation does **not** impose any **minimum period** that contributions must **remain in an FHSA** before being withdrawn to acquire a home.

Tax-free qualifying withdrawals

A May 23, 2023 Advisor's Edge article (What are the **FHSA qualifying withdrawal rules**?, Rudy Mezzetta) discussed the conditions for a qualifying withdrawal.

The taxpayer holding the FHSA must be a **resident of Canada** at the time of withdrawal and remain so until the qualifying home is acquired.

The taxpayer must also have a **written agreement** to buy or build a **qualifying home** before **October 1** of the **year following** the **first qualifying withdrawal**. Further, they must **occupy or intend to occupy** the qualifying home as a **principal place of residence** within one year after buying or building it. The article indicated that CRA had confirmed, in an email, that there is **no minimum** amount of **time** that the taxpayer must live in the qualifying home. The article also noted that if the acquisition of the home before October 1 of the following year was frustrated by unforeseen events, the taxpayer may have to provide evidence supporting their intent to occupy the property to avoid the withdrawal being subject to tax.

The individual must also be a **first-time home buyer**, defined as someone who has not owned or jointly owned their principal place of residence in the current year or any of the previous four years, to make a qualifying tax-free withdrawal. **Unlike** the requirements for **opening an FHSA**, home **ownership** by the individual's **spouse** or common-law partner is **not considered** in the definition of a **qualifying withdrawal**. The individual **may own** the **qualifying home** for up to **30 days prior** to the qualifying withdrawal and still

be a first-time home buyer.

ACTION: Consider whether opening up and contributing to an FHSA is an option for you or a family member.

Multigenerational Home Renovation Tax Credit: More Housing Support

The **multigenerational home renovation tax credit** is a **refundable tax credit** applicable to the costs of **constructing a secondary suite** for an eligible person (generally a relative either age 65 or over, or eligible for the disability tax credit) to live with a qualifying relation. The tax credit is available on up to **$50,000 of eligible expenditures** incurred after 2022 at a **rate of 15%**.

In a March 6, 2023 **Technical Interpretation**, CRA confirmed that the **eligible person** must ordinarily **inhabit**, or **be intended** to ordinarily inhabit, the **new dwelling unit** constructed, but **does not** have to reside with the **qualifying relation before** the renovations are undertaken.

In a second March 6, 2023 **Technical Interpretation**, CRA was asked whether the construction of a **separate, detached housing unit** on the **same parcel** of land as a **principal housing unit**, such as a carriage house or **laneway house**, would be eligible. CRA noted that a **qualifying renovation** must enable the qualifying individual to **reside in the dwelling** by establishing a **secondary unit within the dwelling**. CRA indicated that a **second detached housing unit** located on the **same parcel of land** as the primary dwelling unit would be considered to be located **within the dwelling** (that is, the dwelling would be considered to include the subjacent land) and **would qualify** for the credit.

CRA noted that **all other requirements** must be met, cautioning that this includes the second property being permitted under local law and regulations, as many municipalities do not permit detached secondary units.

ACTION: If building a secondary suite for a family member 65 years of age or older, or eligible for the disability tax credit, check whether you can claim this new credit.

Disability Tax Credit (DTC): Electronic Applications

The DTC is a **non-refundable tax credit** that provides tax relief for individuals (or those that support those individuals) who have a **severe and prolonged impairment** in **physical or mental functions**. To access the DTC, eligible individuals must apply for it by completing **Form T2201, Disability Tax Certificate**. Recently, CRA updated their services so that this application can be completed and submitted entirely **electronically**.

The patient can complete the non-medical portion (Part A) of Form T2201 **online** in **CRA's My Account** with data prepopulated from CRA's files. Doing so will generate a **reference number** that can be provided to the **medical practitioner** for entry when they complete the medical certification (Part B) within the existing digital application (https://apps.cra-arc.gc.ca/ebci/uisp/dtc/patient). The information is **automatically submitted to CRA** on **completion** of the medical certification (Part B), provided the medical practitioner has entered the reference number.

The reference number will **remain** on **My Account** until the medical certification (Part B) is completed. Representatives cannot currently complete the non-medical portion (Part A) through their Represent a Client account.

To use this **new option**, the patient (person applying for the DTC) must **register** for **CRA's My Account**.

Alternatively, the non-medical portion (Part A) can be completed over the phone, either by calling the personal tax general enquiries line (1-800-959-8281) or through a new automated voice system (1-800-463-4421). The automated voice system indicates that it is intended to be used only by the disabled individual.

ACTION: To speed up and simplify the process for applying for the disability tax credit, consider using the electronic method.

Paying Rent to Non-Residents: Withholdings Required

In a March 30, 2023 **Tax Court of Canada** case, the taxpayer was assessed for **failing to withhold taxes** on **rent paid** on Canadian real estate **to a non-resident**. **Penalties and interest** were also assessed.

The **information** known to the **taxpayer** was **limited** to an Italian telephone number on the lease document (with a Canadian number), the landlord's email address ending with ".it" rather than ".ca" or ".com" and some Italian writing at the bottom of an email. The **taxpayer argued** that he **did not know** that the **landlord** was a **non-resident**, and that a **due diligence defence** should apply.

Taxpayer loses

The Court first noted that a **non-resident** is subject to a **25% flat tax**

on **gross rent** received on Canadian property. The **Canadian resident** paying the rent is **required to withhold** and remit this tax and is **liable for it** if this is not done. Penalties and interest on this amount also apply.

The Court then noted that the **withholding requirement** exists **regardless** of whether or not the taxpayer **knows** that the **landlord is non-resident**. Further, there is **no due diligence defence** in respect of the **tax withholding**. As such, the **taxpayer** was **liable** for the tax not withheld.

The Court stated that a **due diligence defence** could apply to **penalties and interest**. However, the taxpayer provided **no evidence** of any efforts to **confirm the landlord's residency**. The **absence** of any **reason** to question the **landlord's residency** was **insufficient** – **due diligence** requires taking **positive steps** to ensure compliance.

ACTION: Ensure to take proactive steps to understand a landlord's residency status. Renters can be liable for unremitted withholdings even if they do not know the landlord's residency status.

The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a newsletter such as this, a further review should be done by a qualified professional.

No individual or organization involved in either the preparation or distribution of this letter accepts any contractual, tortious, or any other form of liability for its contents.

For any questions contact Buckberger Baerg & Partners at (306) 657-8999.