Corporate Advertising and Promotion Expenses: CRA Increasing Reviews

Over the past few years, CRA has taken a **targeted approach** in reviewing amounts claimed under **specific lines** (based on the type of claim) of a **corporate tax return**. Various projects conducted included reviews of **professional fees**, **travel expenses** and the **purchase** of **certain vehicles.**

CRA has recently focused their efforts on **advertising and promotion expenses** claimed by corporations. As part of this most recent project, CRA is asking for the following:

- a **detailed list of the transactions** (or the general ledger entries) related to the **expenses**; and
- a **copy** of the **invoices** and **receipts** for the **ten largest transactions** included in the expenses.

While there are many reasons to obtain this type of information, CRA may be analyzing **whether** any amounts deducted were **personal**, **not wholly or partially deductible**, or should have been **capitalized**. For example, provided no exceptions are available, amounts paid for food, beverages or entertainment are only 50% deductible to the corporation. Also, green fees for golf and membership fees in a golf club are not deductible regardless of whether they are incurred for business purposes.

ACTION: Be aware that additional CRA activity in these areas could result in extra time and administrative costs.

Teachers and Early Childhood Educators: Expanded Access to Tax Credit

The **eligible educator school supply tax credit** is a refundable tax credit that allows **teachers and early childhood educators** to claim up to $1,000 for **amounts** expended (for which no allowance or reimbursement was provided) for **supplies** and some **durable goods** used to **teach** or facilitate students' **learning**. Individuals must have a **certificate** from their employer attesting to the eligibility of their expenses for the year.

Shift to online learning

In an October 19, 2021 **Technical Interpretation**, CRA stated that if a **shift** has been made **to** an **online classroom** due to **COVID-19**, supplies consumed could **still** be **eligible** for the educator school supply tax credit.

Enhancements to the credit

The government has proposed to **enhance** the eligible educator school supply tax credit to **25% of eligible supplies** from the existing 15% credit and **expand** the list of **durable goods** eligible for the credit, both effective for 2021 tax years. The **limit** of **$1,000** of eligible supplies remains **unchanged**.

The expanded list of **durable goods** includes all of the following (the first four items were previously allowed, while the other items have been added for 2021 and onwards):

- books;
- games and puzzles;
- containers (such as plastic boxes or banker boxes);
- educational support software;
- **calculators** (including graphing calculators);
- external **data storage** devices;
- **web cams**, microphones and headphones;
- multimedia **projectors**;
- **wireless pointer** devices;
- **electronic** educational **toys**;
- digital **timers**;
- **speakers**;
- **video streaming devices**;
- **printers**; and
- **laptop, desktop and tablet computers**, provided that none of these items are made available to the eligible educator by their employer for use outside of the classroom.

ACTION: Ensure to provide receipts for amounts expended by teachers and early childhood educators based on the expanded list of eligible expenses for the credit.

Canada Worker Lockdown Benefit (CWLB): Modified Support for Individuals

The CWLB provides a **$300 per week** benefit to **employees and self-employed persons** unable to work due to a **public health restriction** lasting at least **seven consecutive days**. It will apply **only to regions designated** by the federal government as eligible in the period. This would be in regions where provincial or territorial governments have introduced **capacity-limiting restrictions of 50% or more**. CRA posted a webpage listing designated regions. As of January 11, 2022, Saskatchewan was the only region with no eligibility. Quebec and Northwest territories had certain regions eligible, while all the remaining provinces and territories had all regions eligible for at least some periods.

To be eligible, the **applicant must** also meet the **following criteria**:

- **SIN** – have a valid social insurance number;
- **Age** – be at least 15 years of age on the first day of the week;
- **Residency** – be resident and present in Canada during the week;
- **Tax return filed** – have filed a 2020 income tax return;

- **Prior earnings** – have had, for 2020, or in the 12 months preceding the day on which they make the application, a total income of **at least $5,000** from employment, self-employment, parental benefits, Canada Emergency Response Benefits (CERB), Canada Recovery Benefits (CRB) or income prescribed by legislation. For 2022 claims, the additional option of using 2021 income will be available;
- **Current benefits** – no benefits are available for the same period with respect to EI, provincial parental benefits, the Canada recovery caregiving benefit or the Canada recovery sickness benefit; and
- **Loss of income** – the individual must either have:
  - **lost their employment** during the lockdown period and been unemployed during the week;
  - been **unable to perform** the **self-employment activities** they normally performed immediately before the lockdown period; or
  - their **average weekly income declined** by **at least 50%** compared to their total average weekly employment and self-employment income for 2020 or the 12 months preceding the application (for 2022 claims, the additional option of using average weekly income for 2021 will be available).

Applicants who have **voluntarily ceased to work**, unless the cessation was reasonable, or **failed to return to work** when possible and reasonable to do so, are **ineligible**. Similar to the Canada Recovery Benefit, individuals will be **ineligible** for benefits during **mandatory quarantine or self-isolation** following a return from **international travel**. Where the inability to work results from a **refusal** to comply with a requirement to be **vaccinated against COVID-19**, the individual will be **ineligible**.

Where an individual received CWLB in 2021, their **benefits** will be **reversed** if they **do not file** their **2021 income tax return** by December 31, 2022. Similarly, an individual receiving CWLB benefits in 2022 will **lose entitlement** if they **do not file** their **2021 and 2022 income tax returns** by December 31, 2023.

Applications for benefits must be filed by the later of February 16, 2022, or **60 days** from the **end** of the **claim week**.

> **ACTION:** If you are eligible, ensure to make a timely claim. Also, if eligible, ensure your 2020 personal tax return was filed, and your 2021 return is filed to avoid required repayments.

Old Age Security (OAS): Clawback Planning

Individuals who normally receive **OAS are occasionally surprised** when some OAS is subject to a special tax (commonly referred to as a “clawback”) with their T1 tax filings due to **high earnings**. In particular, OAS is clawed back at a rate of 15% of adjusted income (AI) received in that year over an indexed threshold amount.

The current and upcoming **threshold amounts** are $79,845 (2021) and $81,761 (2022). If receiving **maximum OAS in 2021** (assuming no changes for items like deferred application, being over age 75, etc.), the full amount will be clawed back if 2021 AI is **$129,757** or higher.

AI is **net income** before the deduction of any clawback with a few modifications, such as removal of Registered Disability Savings Plan (RDSP) income inclusions.

OAS payments starting in July are subject to withholdings based on AI of the prior calendar year. If it is known that AI for the current year will be **less than that of the prior year**, Form **T1213(OAS)** can be filed to request **reduced** withholdings.

Some planning considerations

Defer commencement of OAS receipt

Future OAS payment increases of **.6% per month** of delay (to a maximum of 36% for 5 years of deferral) are provided to compensate for the deferral of OAS pension payments. This flexibility may permit a person to **reduce** or **eliminate** the **OAS clawback** by deferring the receipt of OAS until the income of the person is below the AI clawback threshold. If OAS will be clawed back in its entirety, it **costs noting** to delay but provides the benefit of **increased future payments**. Increased OAS payments also increase the AI level at which all OAS is clawed back.

A further possibility for a high-income individual is to **retroactively apply** early in a year after reaching age 65 to receive up to **additional 11 months** of benefits in a single calendar year, hopefully **retaining some benefits** in that one year. For high-income seniors, application could be delayed resulting in the full 36% enhancement and 23 payments received in the year the individual reaches age 72.

Use resources that reduce AI

It is important to know **how certain sources of income affect AI** as any changes between the beginning clawback threshold and the amount at which OAS is completely eroded carry a **15% impact** on OAS entitlement. Note that 115% of **ineligible dividends** and 138% of **eligible dividends** are included in AI. On the other hand, only 50% of **capital gains** are included.

Watch out for deductions

Certain deductions such as **non-capital and net capital losses**, the **capital gains deduction**, and the **northern residence deduction** will not reduce clawback. As such, for example, while no tax may need to be paid on the sale of qualified small business shares or qualified farm property, OAS could still be significantly impacted. On the other hand, deductions for **pension splitting**, which are discretionary, do reduce AI.

From an overall perspective, it may even be beneficial to shift pension income to the higher-earning spouse if it reduces clawback for the lower earner, despite the increase in marginal tax rates.

Time income inclusions

If an individual's AI will unavoidably **already fully eliminate OAS**, consider whether additional amounts that have high impacts on **AI could be taken into income** in the current year, with the after-tax amounts to be used to fund needs in future years. Likewise, if far below the prescribed threshold, the same may be considered as additional amounts do not erode OAS until that threshold is reached. Of course, the advantages would have to be balanced against any differences in applicable marginal tax rates and other income-tested benefits.

Individuals should also consider whether funds needed for the year could be obtained from **sources that do not impact AI** at all, such as **capital dividends**, **capital withdrawals** from investments, **trust distributions of capital**, **TFSA withdrawals**, repayment of **shareholder loans** or obtaining **new loans**.

ACTION: Care should be taken to minimize the current year and future year clawbacks to Old Age Security payments.