GILMORE & COMPANY LLP
CHARTERED PROFESSIONAL ACCOUNTANTS

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This publication is a high-level summary of the most recent tax developments applicable to business owners, investors and high net worth individuals. Enjoy!

Tax Tidbits

Some quick points to consider…

- **CRA** will **receive** information from **online digital platforms** that facilitate the sale of goods and provisions of services, such as Airbnb, VRBO, Uber, etc., in respect of the 2025 calendar year, by January 31, 2026. Ensure that all income is properly reported.
- The **first-time home buyers' GST/HST rebate**, along with the existing GST/HST new housing rebate, would provide a **100% GST rebate** on homes valued at **up to $1 million**, with the rebate being **phased out** in a linear manner for homes valued between $1 million and **$1.5 million**. The rebate was originally proposed to **take effect** on May 27, 2025; however, the effective date has been moved to **March 20, 2025**, the date Prime Minister Mark Carney first announced the rebate.
- A **non-resident** making an **assignment sale** is subject to the same withholding and disclosure requirements as applicable to a direct sale of real property.
- CRA has cautioned against using **aggressive tax schemes** involving **complex insurance-based arrangements** (often using critical illness insurance and loans) that are designed to help taxpayers inappropriately avoid paying taxes. CRA cautioned that certain insurance products do not meet the standards of valid insurance policies and are solely used to support the tax scheme.

Trucking Sector: New Reporting Obligations

To address perceived **tax non-compliance** in the **trucking sector**, CRA announced that **penalties** will **now apply** when **businesses** in the trucking industry **fail to file T4A slips reporting fees for services** (Box 048) **exceeding $500 paid to CCPCs** (Canadian-controlled private corporations) in the trucking industry, commencing for the **2025 calendar year**.

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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**. 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**. The payer can request that their supplier confirm whether their corporation is a CCPC.

For the 2025 tax year, **payments** for fees for service must be **reported** in **Box 048** of the **T4A** slip by February 28, 2026. As this date falls on a Saturday, the T4A will be considered **on time** if CRA receives it or it is postmarked on or before Monday, **March 2, 2026**.

CRA also noted that T4As are still **required** to be filed for other situations; however, the **penalty moratorium** remains in effect for payments made or issued to businesses **outside the trucking industry**.

ACTION: If in the trucking industry, prepare now to comply with these filing obligations.

Cancellation of OAS Enrollment: Don't be Late!

OAS provides a **monthly income-sensitive payment** to eligible individuals aged 65 and older. 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 personal tax filings due to **high earnings**. In particular, OAS is **clawed back** at a rate of 15% of adjusted income received in that year, above an indexed threshold of **$93,454 for 2025** and **$95,323 for 2026**.

Individuals whose **income exceeds this threshold** may consider **deferring** the commencement of **OAS**. 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. If OAS is clawed back in its entirety, it **costs nothing** to delay but provides the benefit of **increased future payments**. Increased OAS payments also increase the income level at which all OAS is clawed back.

In a November 18, 2025 **Federal Court of Appeal** (FCA) case, an individual was **not permitted** to **cancel** their **OAS pension enrollment decision** when requested beyond the allowable period.

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 the 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 receiving OAS would have resulted in increased future payments.

Taxpayer loses

The FCA agreed with the Federal Court's determination that the **refusal was reasonable**. The **analysis** of deadlines for reconsideration and cancellation was **conceptually sound**.

ACTION: Consider whether your OAS payment may be clawed back due to high income before applying. If you have been automatically enrolled, promptly cancel your enrollment if desired.

Election to Stop Contributing to CPP: Processing Delays

An employee may **elect** to **stop contributing** to **CPP**, provided they are **at least 65 years** of age (but under 70), **receive a CPP** or QPP retirement pension and have **earnings** subject to **CPP** contributions.

A November 13, 2025 **Tax Court of Canada** case 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 corporation.

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 **CPT30 election** to cease paying **CPP premiums** after age 65 can only be made if a **CPP retirement pension** is **payable** to the employee. 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**.

Taxpayer wins

The Court stated that 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.

ACTION: If aged 65 and earning pensionable employment, consider whether an election should be made to opt out of contributions.

New Business Registration Number Process: Shift Online

Effective November 3, 2025, most **new CRA business number registrations**, including adding new program accounts to existing business numbers, **must** be done **online** through CRA's **Business Registration Online** (BRO) system. **Calls** to the CRA business enquiries phone line will be **directed** to the **BRO** webpage. CRA has noted the following **situations** where **online registration cannot** be used:

- **reactivating** a previously closed account;
- registering a Canadian business with **only non-resident owners**; and
- registering a **business owned by another business** (e.g. a partnership or corporation).

In these situations, registration must be done by **calling** the **business enquiries phone line** or by **paper filing**.

ACTION: If registering for a new CRA business number, ensure the proper process is followed.

Withholding Tax on Rent Paid to Non-Residents: Some Relief

Amounts **paid** to a **non-resident** as **rent** for the right to use property in Canada, including rent for the use of **residential real estate**, are **generally** subject to **withholding tax**. Such amounts must be remitted to CRA.

Recent legislative amendments would provide an **exception** from this **withholding requirement** in certain cases. The effective date of this change is **August 12, 2024**. CRA has indicated that they are administering this proposal, even though it has not yet been passed into law (as of January 1, 2026).

Individuals 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** in which **an individual resides** (whether or not that individual is the one paying the rent). This exception from withholdings also applies where the **rent paid** was for a **residence** of a **deceased individual,** the payment was made **within 36 months** of the individual's **death** and the rent was paid by a **graduated rate estate** (GRE).

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.

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.

ACTION: Review whether rent paid to a non-resident landlord would qualify for this exception from withholding tax.

Real Estate: Nominee or Owner?

In a November 7, 2025 French **Court of Quebec** case, 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, and, as such, the taxpayer did not need to report the income from the sale (her former husband would have had to report the income). 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 a second house valued at $300,000, which was later resold. 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

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** a **nominee**. Finally, there was **no written or other evidence of a nominee arrangement**.

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**.

ACTION: Ensure to properly report income and/or gains generated on assets for which you are the beneficial owner.

Payments for Right to Acquire a Home: Beneficial Ownership

In a recently released November 20, 2023 **Technical Interpretation**, 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).

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.

Beneficial ownership

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. 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.

ACTION: If a new or novel method of acquiring a home is being used, consider whether or not tax benefits, such as the principal residence exemption, would still be available.

Sale of Shares in Error: Careful!

In a September 23, 2025 French **Court of Quebec** case, an individual accidentally sold shares, triggering a $67,362 capital gain, while reviewing his stock portfolio on his phone while on **pain medicine** in the hospital. Realizing his error the next day, he **immediately repurchased** the **shares**.

The taxpayer **argued** that there was **no sale of shares** as he **accidentally pressed the button** to confirm the sale. He also argued that, as CRA determined that the capital gain rollover provisions on the disposition of eligible small business corporation shares and acquisition of replacement shares applied, Revenu Québec (RQ) should come to the same conclusion.

Taxpayer loses

The Court found that, **although unintentional**, the **taxpayer sold the shares** and therefore realized the capital gain.

The Court further found that RQ's denial of the rollover provision was correct. It was unclear why CRA allowed the deferral as it is only applicable on the disposition and acquisition of certain CCPC shares. A **decision by CRA is not binding on RQ**.

ACTION: Selling an asset, even if an accident, can trigger tax consequences.

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.

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