

1968 - 2009



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2009 YEAR-END TAX REVIEW AND TIPS

As 2009 draws to a close, it is important to consider your overall financial situation to ensure you have contemplated year-end tax issues and strategies. We suggest that you review all of the following items to see if any of them apply to you or a family member.

New in 2009

Tax Free Savings Account (TFSA) – Canadian residents aged 18 and older are eligible to contribute up to \$5,000 to a TFSA every year. While there are no tax deductions for contributions, investment income in the account grows tax-free. Any amount can be withdrawn from a TFSA at any time, for any reason, tax free. Withdrawals will not affect income-tested benefits and credits. Any withdrawals made in the previous year will be added to the contribution room for the current year and unused contribution room can be carried forward indefinitely.

Home Renovation Tax Credit (HRTC) – The proposed Home Renovation Tax Credit is a non-refundable tax credit of up to \$1,350 based on eligible expenses to your house, condo or cottage. Eligibility is family based and can be split among family members. For expenses to be eligible they must be permanent in nature. Expenses for work performed or goods acquired after January 27th, 2009 until February 1st, 2010 will qualify. The credit will be calculated at 15% of expenses over \$1,000 but not more than \$10,000 [(\$10,000 - \$1,000 x 15%]. Quebec has a similar credit available.

Registered Retirement Savings Plans (RRSPs) and Registered Retirement Income Funds (RRIFs) – The last federal budget amended rules to these tax deferred plans in the event of the death of the plan holder. The new rules allow for any losses incurred between the plan holder's death and the final distribution, to be claimed on the deceased's final tax return.

Computer and Systems Software - The capital cost allowance (CCA) for computers and software was increased from 55% on a declining balance to 100% with no application of the half-year rule. This rule applies to purchases after January 27th, 2009 and before February 2011.

Proposed for 2010

Harmonized Sales Tax for Ontario and British Columbia (HST) – The 2009 provincial budgets for both Ontario and British Columbia proposed a Harmonized Sales Tax (HST) which (if enacted) will come into effect July 1st, 2010. When added to the current 5%, in Ontario the new HST will be 13% and in British Columbia, 12%. This new HST will apply to supplies of goods, real property and services currently subject to GST.

Proposed for 2011

Canada Pension Plan (CPP) – In May of 2009 changes to the CPP were announced which, if passed, will begin to take effect in 2011. These proposed changes are intended to modernize the plan and provide greater flexibility. The proposals include removing the 'Work Cessation Test', increasing the low earnings dropout percentage, increasing the early retirement reduction and increasing the adjustment for pensions taken after the age of 65.



RRSPs and Tax-Deferred Plans

- **Transferring assets into an RRSP** – any gain on these assets will be taxable to you in the year of transfer. However, any losses cannot be claimed – *so if you wish to utilize the losses, sell the assets first and transfer the cash.*
- **Home Buyers’ Plan** – if funds were withdrawn from an RRSP prior to 2008 under the Home Buyers’ Plan, a repayment equal to 1/15 of the amount withdrawn must be made by **March 1, 2010**. Failure to do so will result in the required repayment amount being included as income for 2009.

Maximum contribution limits for tax-deferred plans for 2009 and 2010 are as follows:

Year	Registered Retirement Savings Plan (RRSP) Limit	Defined Contribution Registered Pension Plan (RPP) Limit	Deferred Profit Sharing Plan (DPSP) Limit
2009	\$21,000	\$22,000	\$11,000
2010	\$22,000	Indexed	Indexed

- **Contribution Deadlines** – note that the final day to contribute to an **employer’s RPP** is **December 31st, 2009**. The final day for all regular 2009 **RRSP contributions** is **March 1st, 2010**. This is also the final day to contribute to a surviving spouse’s RRSP for a deduction on the deceased’s final tax return.
- **If you turn 71 in 2009**, you must convert your **RRSP/LIRA** to a RRIF/LIF/LRIF before **December 31st, 2009**. Note that the beneficiary designation for your RRSP/LIRA *does not* automatically transfer to your newly established RRIF/LIF/LRIF. If you want your spouse or someone else to be the specific beneficiary of your new account, this must be indicated on your application. If you have contribution room available, make your contribution prior to conversion. *Individuals turning 71 this year DO NOT have the extra 60 days after year-end to make a contribution to their own RRSP.*
- **If you have a spouse who is younger than you**, you can base the minimum annual withdrawals from your **RRIF/LIF/LRIF** on his/her age. Another benefit of a younger spouse is that you may contribute to his/her RRSP until the end of the year in which *he/she* turns 71, based on *your* RRSP limit.
- If you are required to take a minimum annual withdrawal from your RRIF/LIF/LRIF and you are concerned about selling assets that have depreciated, you can **make an ‘in kind’ transfer to your regular investment account**. The assets transferred will be taxable at their market value but you can then retain the investment in your regular account. If you are considering this, check with your financial institution to ensure they can accommodate your request.



Investments

- **Non-registered GICs** – if you have GICs maturing in late 2009, defer reinvesting the proceeds in a new GIC until January 2010. The interest on a GIC purchased in December 2009 will be taxable in 2010, while the interest on a GIC purchased in January 2010 will be taxable in 2011.
- **Non-registered mutual funds** – if you invest in a mutual fund (outside of your registered accounts) between now and **December 31st**, you may be in for a shock when you file your 2009 income tax return. Mutual funds must distribute all interest, dividends and realized capital gains to unit holders in the fiscal year in which they receive them. Many Canadian funds use the calendar year as their fiscal year. A year-end distribution results in you paying tax on the distribution allocated to you, although you have not enjoyed the income.
- **The deadline to contribute to an RESP** for 2009 is **December 31st, 2009**. *You DO NOT have 60 days after the end of the year to contribute as with an RRSP.* Also, if you want to receive the maximum **Canada Education Savings Grant** of \$500 you must contribute at least \$2,500. You may also contribute amounts for past years where you have unused contribution room and this generates additional grants.

Capital Gains and Losses

Generally the tax strategy discussed the most in the month of December is ‘tax loss/gain selling’. As the factors surrounding this issue are based on individual circumstances, please contact your E.E.S. consultant to determine how any tax benefits may apply to you.

- **The disposition of securities** is deemed to take place not on the day that the order is placed, but rather on the ‘settlement date’. For most securities, settlement occurs three days after placing a sell order. As such, to be considered on your 2009 tax return, Canadian transactions should be placed by **December 24th, 2009** and U.S. transactions should be made by **December 28th, 2009**.
- **Capital Gains and Losses** – 50% of your **capital gains** are included in your income. **Capital losses** can be carried back and claimed against any capital gains reported in the previous three years (2006, 2007 or 2008) or carried forward indefinitely. *However, your current year losses must first be used to offset your current year gains (if any).*
- **Fluctuations in the Canadian dollar** relative to the U.S. dollar may have also created foreign exchange issues in terms of capital gains or losses.
- **Employer stock options** are taxed as employment income, *not* capital gains; hence, capital losses cannot be applied to reduce the tax payable.



- **Deemed Disposition** – be aware that you may trigger a deemed disposition or acquisition of assets even though no transaction occurs. Examples include a marriage break-up, entering or leaving Canada, RRSP contributions ‘in kind’, and ‘change of use’ of assets.
- **Superficial loss rule** can negate the tax benefit of selling at a loss if you, your spouse or common-law partner, or another related entity acquires the same investment in the 30 days preceding or following the sale of the security on which you are claiming the loss. Note that an **RRSP** is considered to be a related entity.
- **Using the Superficial Loss to Advantage** – Assume you are holding a stock with a book loss and you do not have any gains against which you can use the loss. However, your spouse does. If you sell your stock on the open market and within 30 days your spouse acquires the same stock, you trigger the Superficial Loss Rule. You have forfeited the use of your loss as your sale price is assumed to be your (higher) cost base. The extension is that your spouse is deemed to acquire the stock at your (higher) cost. Your spouse then retains the stock for at least 30 days, sells and now has the loss in his/her hands.

Borrowing for Tax Purposes

- **Carrying Charges** – as a general rule, interest is deductible for tax purposes as long as the loan is used for the purpose of earning income from a business or property. This is often referred to as ‘**carrying charges**’. Several tax cases exist regarding the application of this rule. Quebec has rules in place which limit the amount of deductible interest charges to the investment income earned in the taxation year.
- **Spousal loans** – for such loans established between **October 1st, 2009** and **December 31st, 2009**, the CRA prescribed interest rate is 1%. The deadline for payment of loan interest, on all spousal loans, accrued in 2009, is **January 30th, 2010**.

Charitable Donations

- **Share Security and Option donation** – consider making a **charitable donation** of a security with an accrued capital gain instead of using cash. As a result of donating the security instead of cash, *none of the gain* will be included as taxable income instead of the standard 50% inclusion. A tax receipt will be issued for the entire fair market value of the donated security. This special tax treatment is also available for proceeds received through the exercise of employee stock options if the proceeds are donated within 30 days of acquisition directly by the exercising broker.
- **Donation of air miles or other loyalty program points** – companies often make it difficult to redeem air miles and loyalty program points, which results in an accumulation of miles and points with little or no value. Donating these miles or points to charity is a great way to redeem



them and make a difference at the same time. Depending on the organization, these donations may yield a tax receipt.

Employment-Related Issues

- **Stock options** give employees the right to purchase shares of their employer's company at a set price, known as the exercise price. The difference between the fair market value and this exercise price is taxed as employment income (*we emphasize - not capital gains*). Most employees can claim a deduction of 50% of the taxable benefit on qualified options, resulting in only 50% of the stock option benefit being taxed.
- **Defer taxation of stock option income** – employees may be able to defer the taxation on option income until the year the shares are actually sold. This deferral is subject to a limit of \$100,000 per year of vesting. **If you exercised any of your options in 2009 and continue to hold the stock on December 31st, you must notify your employer in writing by January 15th, 2010** in order to qualify for this deferral.
- **If you received a loan from your employer**, and you did not use the proceeds for the purpose of generating income; you can reduce the amount of the taxable benefit by making an interest payment before **January 30th, 2010**.
- **If you have a company car**, there is a taxable benefit attributable to your use of the vehicle that is reported on your T4 and Relevé 1. Keep a log of your personal and business-use kilometers for your company vehicle to ensure easy reconciliation for your tax return. You may qualify for a reduced *standby charge* and *operating cost benefit* based on usage.
- **Employees who use their own car for business purposes** can receive a tax-exempt allowance from their employer if the allowance is based on the kilometers driven for business purposes, as opposed to a lump-sum allowance. The limit is 52 cents for the first 5,000 kilometers and 46 cents thereafter.
- **If you have eligible employment expenses or work from home more than half of the time**, your employer may be required to provide a form T2200, *Declaration of Employment Conditions*. Be sure you obtain a T2200 if it is applicable.
- **If you have tax-deductible expenses** such as RRSP contributions, support payments, childcare expenses, investment carrying charges, rental losses, etc., application can be made to the CRA or Revenu Québec to reduce your tax deductions at source for 2010. If approved, your employer may reduce the tax withheld at source resulting in increased cash flow. The approval process generally takes six weeks.



Alternative Minimum Tax

- Certain tax-deductible items may expose you to **Alternative Minimum Tax (AMT)**. While this tax may be carried forward and applied in future years, it can be lost if you leave Canada and have no further taxable Canadian income. Residents of Quebec can lose the provincial AMT simply by leaving the province.

Income Tax Instalments

- The difference between your **federal tax payable** and your income tax withheld at source is greater than \$3,000 (\$1,800 if you are a resident of Quebec), you are generally asked to make **income tax instalment payments**. The reporting notices provided by the CRA can be confusing. If you expect that your liability will be more or less than previously calculated, you may want to adjust your final payment accordingly. While you do not want to overpay your tax, the CRA will charge you interest, and possibly penalties, if you underestimate the amount owing. The final federal income tax instalment for 2009 is due **December 15th, 2009**, to the Receiver General for Canada.
- If the difference between your **Quebec tax payable** and your Quebec tax withheld at source is greater than \$1,200, you are generally asked to make instalments. The final Quebec income tax instalment for 2009 is due **December 15th, 2009**, to le Ministère du Revenu.

Business Owners

- **For business owners** who employ family members, pay salaries by **December 31st, 2009** to ensure earned income for RRSP and CPP/QPP contributions.
- **Owner managers** with control over their income may want to ensure that they have enough employment income to maximize their **RRSP contributions**. In order to reach the maximum contribution level for 2010 (\$22,000), you must have \$122,223 of earned income in 2009.
- **If purchasing capital assets** (such as computers, furniture or equipment) in the near future, consider making the purchase(s) before the calendar year-end, or fiscal year-end for businesses, as applicable. This will allow for a depreciation claim on your 2009 return. Purchases of computers and software before February 2011 are eligible for the enhanced CCA deduction.
- If you took a **shareholder loan** from your corporation in 2008, repay it, if possible before the end of 2009. If not repaid, it will be taxable as income for 2008.



Quebec Differences

- The **stock option deduction** for Quebec provincial tax purposes is 25%, compared to 50% for federal tax purposes.
- For **investors in Quebec**, the amount of **deductible interest and carrying charges** is **limited** to the investment income, including capital gains, realized in the taxation year. Rental losses and active business losses are exempt from this limitation. These expenses can be carried back three years or carried forward indefinitely to apply against investment income and capital gains. Be aware that many tax shelter write-offs are included in the limitations and may not be deductible, depending on your circumstances.
- **Home Renovation Tax Credit** – for eligible home improvement expenditures incurred after January 27th, 2009 and before February 1st, 2010, Quebec has a provincial credit over and above the federal credit. The provincial credit is calculated at 20% of the qualifying expenses exceeding \$7,500.
- **Childcare expenses** paid for a child under the age of seven will increase in 2009 to \$9,000 from \$7,000. Families with incomes between \$84,040 and \$140,450 will benefit from the higher tax credit rates.

Special Situations

- **Various special credits** are available for students and seniors. Review and take full advantage of these various tax benefits.

U.S. Connection

- If you are a U.S. citizen or green card holder, you are obliged to file a tax return with the IRS. Several other information returns may also be required. Failure to provide the necessary filings can result in serious interest and penalties.
- If you are not a U.S. citizen or green card holder, but hold U.S. assets, you should contact your E.E.S. consultant to confirm all requisite filings are in order.

**Please contact your E.E.S. Consultant for further details
concerning any of these tax topics.**