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Recent CRA Thinking on Topics of Interest

The Canada Revenue Agency (CRA) regularly releases its responses to queries from the general public on various tax matters. These responses give us insight into CRA's approach to the law, including the actual practices and policies of the government on the issues. Some recent queries and responses of interest to Canadian taxpayers are summarized below.

Professional Dues – Recognition of Professional Status

The Canada Revenue Agency ("CRA") was asked to comment on the meaning of the phrase "professional status recognized by statute" in s. 8(1)(i) of the Income Tax Act (the "Act") for the purpose of determining if an individual taxpayer may claim an income tax deduction for the professional dues paid to an association of professionals. More specifically, the CRA asked if the professional recognition referred to in s. 8(1)(i) of the Act would only include one recognized by a law or act passed by a legislative body, or if it could also include one acknowledged in a regulation supporting a statute or an organization's bylaw. The CRA appeared to indicate in Technical Interpretation No. 2014-0530691E5 that any professional status recognized only by a regulation or bylaw would not qualify for s. 8(1)(i) of the Act.

Employees who rent a home or apartment can deduct a proportion of the rent. In other words, no deduction can be made to cover the rental value of premises set aside and used as an office in your own home. That is, one cannot say "I could receive, or would have to pay, \$100 per month for this room of my house as office space, and therefore I can deduct that amount".

Relying on the *Montgomery et al. v. The Queen*, 99 DTC 5186 (FCA), decision and the definition of "statute" in Black's Law Dictionary and the definition of "bylaw" in the Dictionary of Canadian Law, the CRA confirmed that a professional status could be recognized "by statute" for the interpretation of s. 8(1)(i) of the Act, even if such status was only recognized in a regulation supporting an act. However, the CRA confirmed that a professional status would not be recognized "by statute" for the interpretation of s. 8(1)(i) of the Act if it was only acknowledged in an organizational bylaw.

Source: CRA Document 2019-080464117

Meal Allowances Paid to Ambulance Drivers

The Canada Revenue Agency ("CRA") confirmed that ambulance drivers receiving meal allowances

for the regular emergency transport of patients to medical centres located outside of the municipality where the establishment of their employer was located did not have to include the allowances in their income in accordance with s. 6(1)(b)(vii) of the *Income Tax Act*. Even if they were regularly required to make such transports, they were still considered to have an ordinary place of employment at the establishment of their employer where they were based, and were therefore eligible for the exemption. Note that a meal allowance is still required to be reasonable to be exempt, and the question of whether the above meal allowance is reasonable or not is one of fact. The CRA noted that a meal allowance would not be considered reasonable if the travel time for the trip was so short that a meal would not be required. Consider the following factors to determine whether the meal allowance is reasonable.

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1. average cost of plain meals in the area where the travel takes place;
2. availability of meals near the location where the employee works or is lodged; and
3. provision of meals to the employee at no cost.

If a meal allowance is unusually high, the employer should retain receipts or vouchers to demonstrate that it is still reasonable, even if unusually high.

Source: CRA Document 2019-0809831E5

Realization on TFSA as Security for Debt

The Canada Revenue Agency ("CRA") was asked to consider a situation where an individual pledged his interest in a tax-free savings account ("TFSA") as collateral for a debt under s. 146.2(4) of the *Income Tax Act* (the "Act"). When the creditor realized on the security, the issuer was required to make a payment from the plan to the creditor. More specifically, the CRA was asked to confirm that the payment from the TFSA qualified as a "distribution" (as this term is defined in s. 146.2(1) of the Act) and could therefore be added back to the individual's "unused TFSA contribution room" (as this term is defined in s. 207.01(1)) for the following year. The CRA confirmed that the term "distribution" included the above payment, and had to be added back to the individual's TFSA contribution room for the following year.

Source: CRA Document 2018-0774901E5

Deductibility of Small Tools Costing Less Than \$500

The Canada Revenue Agency ("CRA") was asked if small tools costing less than \$500 were deductible under s. 9(1) of the *Income Tax Act* from the business income of a self-employed individual. The CRA confirmed that the question of whether their cost would be deductible was one of fact but that this would normally be the case if the tools were used to earn business income. The cost of the tools could either be claimed as a current expense in the year it was incurred or booked in Class 12 of Schedule II of the *Income Tax Regulations* and claimed as a capital cost allowance at the rate of 100%.

Source: CRA Document 2018-0821671M4

Reduced Tuition, Scholarship, and Foreign Exchange

The situation considered by the Canada Revenue Agency ("CRA") involved a Canadian student enrolled at a foreign university and receiving a reduction of his tuition fees due to a scholarship. The CRA was asked to confirm the amount of tuition fees reportable by the foreign university on the Form TL11A to be prepared for the student. The CRA confirmed that the full pre-determined tuition fees that are established by the foreign university for the courses (before any reduction applied because of the scholarship) are reportable on the tuition certificate TL11A that will allow the student to claim the tuition tax credit on his Canadian income tax return. A reduction of the

student's tuition fees that would be related to an employment would not be viewed as a scholarship for the purpose of filling in Form TL11A. For more information on this subject, see CRA Guide RC190, *Information for educational institutions outside Canada*, and paragraphs 2.23 to 2.27 of Income Tax Folio S1-F2-C2, *Tuition tax credit*.

Source: CRA Document 2019-0802711E5

Automobile Allowance – Assistance Provided to Employees

The situation the Canada Revenue Agency ("CRA") was asked to consider involved employees who were provided with some assistance by their employer. The type of this assistance is unknown as it was stricken from the technical interpretation, but the assistance was provided for daily travel to and from regularly assigned work sites if no transportation was available to that work site. Even though assistance was provided for both regular commercial transportation fares and privately-owned vehicles, the assistance for the latter was much more common, and is the subject of this interpretation. The above assistance is not available if the employee must remain at the work location for an extended period beyond the daily commute.

More specifically, the CRA was asked whether the above assistance would be taxable to the employee. The CRA confirmed that the above assistance would be taxable to the employee using it since the assistance would be considered an allowance for personal travel, taxable under s. 6(1)(b) of the *Income Tax Act* (the "Act") as an allowance for personal and living expenses. The exception under s. 6(6)(b)(ii) of the Act, which is available to an employee receiving board and lodging at a remote work location, would not apply in this particular situation because the assistance was provided only for daily travel to a work site for which no accommodation assistance was provided.

Source: CRA Document 2019-080602117

Tuition Tax Credit – Fees Paid by Medical Students

The Canada Revenue Agency ("CRA") was asked whether the following amounts paid by medical students would be eligible for the tuition tax credit under s. 118.5(1) of the *Income Tax Act* (the "Act"):

1. Medical residency program matching fees.
2. Registration fees paid to use an application portal.
3. Basic Life Support certification fees.
4. Resume translation expenses.
5. Travel expenses for interviews for medical school and medical residency programs.
6. Personal attribute test fees.
7. Language test fees.
8. Medical residency application fees paid to the medical schools.

Regarding the first seven types of expenses listed above, the CRA confirmed that they would not qualify for a tuition tax credit because they were not paid to an educational institution as required by s. 118.5(1)(a) of the Act.

Regarding the application fees paid to the medical schools, the CRA confirmed that they would qualify for the tuition tax credit, but only if the students subsequently enroll in those schools.

For more information, see paragraph 2.34 of Income Tax Folio S1-F2-C2.

Source: CRA Document 2019-0801361E5

Scholarships – Recreational Bursaries to Music Students

The Canada Revenue Agency ("CRA") confirmed that amounts paid by a conservatory to students in general interest music lessons and classes would not be considered true scholarships or bursaries because they were not paid to enable students to pursue their education. The amounts will not be included in their income under s. 56(1)(n) of the *Income Tax Act* and will not be reported on a T4A form. They are paid from an endowment fund to students to take private or group music classes, and not for the pursuit of post-secondary or public education. They are considered recreational bursaries rather than true bursaries.

Source: CRA Document 2019-0802051E5