What's New In Tax?

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Here is a summary of some recent income tax—and some non-income tax—changes.

Investors

- **Tax form T1135 "Foreign Income Verification Statement"**

This tax form is completed when investments in certain foreign assets exceed a tax cost $100,000 at any time in a year. The revised form T1135 will require the disclosure of much more information than in the past.

- **Dividends**

In 2014, the maximum federal income tax rate on "non-eligible" dividends (generally, dividends sourced from private Canadian corporations) will increase to 21.2% from the current 19.6%.

- **Tax free savings account (TFSA)**

The 2013 TFSA contribution limit is $5,500. This is up from the $5,000 contribution permitted for 2009 to 2012. The aggregate contribution limit is now $25,500 provided an individual was at least 18 in 2009.

- **Safety deposit box fees**

Fees paid by individuals, in 2014 and future years, will no longer be tax deductible.

- **Investment strategies**

Changes are being implemented to restrict or eliminate benefits associated with:

➨ leveraged insured annuities, 10/8 arrangements and synthetic dispositions.

➨ character conversion transactions (i.e., interest converted to capital gains).

Old Age Security

- An individual can defer receiving Old Age Security (OAS) to receive greater OAS in the future. The deferral can be made for up to five years from the time the individual becomes eligible to receive OAS. (This will be at 65 until the eligibility begins to shift to 67 in 2023.) In deferring, the future OAS payments will be increased up to 7.2% per year or 36% for a full five-year deferral. If an individual has been receiving OAS for less than six months they can have it cancelled it to take advantage of the deferral. However, they will need to repay all OAS received.
- The OAS clawback for 2013 begins at a net income of $70,954. Full clawback occurs at net income of $114,640.
- The phase-in of the automatic enrolment for OAS has begun.

Business

- **Lifetime capital gains exemption**

In 2014, sales of qualified small business corporation shares and qualified farm and fishing property will qualify for a capital gains exemption of $800,000 – an increase from $750,000. After 2014 the exemption will be indexed to inflation.

- **Capital cost allowance (CCA)**

The 50% CCA rate to depreciate machinery and equipment used in manufacturing and processing is extended to 2015. The "half-year" CCA rate rule will now apply to acquisitions of this machinery and equipment beginning in 2014.

- **Restricted farm loss rules**

The income tax rules have been tightened to permit a farm loss to only be fully deductible where other sources of income earned are secondary to farming. When other sources of income are not secondary, the maximum deduction under the restricted farm loss rules is now $17,500 (up from $8,750).

- **Loss trading**

Greater restrictions are being added to the tax rules to curtail the "sale" of tax losses and unused income tax deductions and credits of corporations.

- **Scientific research and experimental development (SR&ED)**

More detailed information is needed to be provided to CRA to take advantage of the tax incentives provided by the SR&ED program. The information will need to disclose information on third-party assistance including details on the billing arrangement.

- **Employment insurance (EI)**

  - ➨ The Hiring Credit for Small Business was extended to 2013. The credit provides employers with up to $1,000 where 2013 EI premiums increased over the 2012. The credit is available to employers that paid $15,000 or less in 2012 EI premiums.
  - ➨ EI premiums frozen to the end of 2016.

Other

- **Charitable donations**

The "first-time donor's super credit" is available to provide new donors with a 25% increased federal tax credit on up to $1,000 of donations. For donations on the first $200 the federal tax credit is increased to 40% (from the regular 15%) and 54% (from the regular 29%) on the next $800.

- **Adoption tax credit**

Costs incurred from the time the parent applies for the adoption now qualify for this tax credit. Previously, only the costs incurred after a child was matched with the parents qualified. The non-refundable tax is equal to 15% up to the 2013 maximum of $11,669.

- **Accidental death and dismemberment (AD&D) and critical illness (CI) premiums**

Employer paid AD&D and CI premiums became a taxable benefit in 2013.

- **GST/HST – Homemaker services**

The GST/HST exemption on government funded or subsidized homemaker services (cleaning, laundry, meal preparation and child care) has been extended to include bathing, feeding and assistance with dressing and taking medication.

Estate Planning -
The Taxation Of Estates And Testamentary Trusts

A testamentary trust can only be created on the death of an individual and the "set up" details are included in the individual's will. (An inter vivos trust – or a living trust - is created by an individual that is alive at the time.) A testamentary trust is often used to receive an inheritance from an estate rather than a surviving spouse and/or an adult child directly receiving the funds. In situations where there are a number of adult children a number of testamentary trusts may be set up on the individual's death. Where the trusts have invested the inherited funds the after-tax investment income in each trust can be paid to the ultimate beneficiary – the respective spouse or adult child - on a tax-free basis.

The benefit of the testamentary trust structure is that the trust can pay less income tax on the investment income earned on the inherited funds than if the ultimate beneficiary had received the inheritance directly and then invested the funds him- or herself. This is because a testamentary trust is treated as a separate taxpayer (separate from the ultimate beneficiary) that can take advantage of the graduated income tax brackets applied solely on the investment income earned on the inherited funds received from the estate. If the ultimate beneficiary needed to include the investment income in their personal income tax return it could be subject to tax at a higher tax bracket as it would be added to the ultimate beneficiary's other sources of income – salary, self-employment income, pension income, etc. – in determining the ultimate beneficiary's total taxable income. In summary, the use of a testamentary trust can allow for more "after tax" post death investment income to flow to the ultimate beneficiary of an estate.

The government has proposed that estates will continue to be able make use of the graduated income tax rates but only for a period of up to 36 months after the decadent's death. If an estate still exists after the 36 month period, meaning all its funds have yet to be distributed or are being kept for a specific purpose, the estate will be subject to tax at the top income tax rate. Where estate funds are passed to a testamentary trust – before or after the 36-month period – the trust will not be able to take advantage of the graduated income tax brackets so all of the trust's income will be taxed at the top income tax rate (as is an inter vivos trust.) This change will cause the income tax savings of a testamentary trust to be eliminated. The proposed changes to the taxation of estates and testamentary trusts, if enacted, are to be effective in 2016.

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