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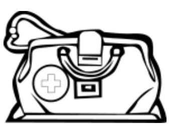
PERSONAL TAX

101(1)

MEDICAL EXPENSES

You may claim medical expenses for ***yourself***, your ***spouse*** or ***common-law partner***, and your or your spouse's or common-law partner's ***children*** who are ***not age 18*** before the end of the taxation year. Medical expenses may also be claimed for certain ***other dependents***.

MEDICAL EXPENSES - TRAVEL



In a September 5, 2012 ***Technical Interpretation***, CRA reviewed a situation where a husband and wife drove their ***infant child*** to a hospital in ***another city*** where the infant had surgery. Including the ***pre-admission*** at the hospital, the child was in the hospital for a ***number of days***. Following the surgical procedure, the parents stayed with the child in the city for an additional number of days for a ***post-surgery*** follow-up before returning directly home.

CRA notes that an individual may claim an amount paid for ***reasonable travel expenses*** (for example, accommodation, meals and parking) incurred in respect of ***the patient*** and, where the patient was certified by a medical practitioner to be incapable of travelling without the assistance of an attendant, in respect of ***one individual*** who accompanied the patient, in certain circumstances.

CRA notes that the above requirements may be met ***even if*** medical services are available nearer to the individual's locality if it is reasonable for the individual to have travelled to the place where the medical services were obtained.

FAMILY CAREGIVER TAX CREDIT

Effective ***January 1, 2012***, the new ***Family Caregiver Tax Credit***, a 15% non-refundable credit on ***$2,000***, will provide tax relief to caregivers of mentally or physically ***infirm*** dependent ***relatives***, including, for the first time, ***spouses***, ***common-law partners***, and ***minor children***.

EMPLOYMENT INCOME

EMPLOYEE EXPENSES

IN THIS ISSUE

Supplies

CRA notes that an employee can deduct the cost of ***supplies*** paid if the employee meets ***all*** of the following conditions:

- Under your contract of employment, you had to provide and pay for the supplies.
- You used the supplies directly in your work.
- Your employer has not repaid and will not repay you for these expenses.

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- You keep with your records a copy of Form T2200, Declaration of Conditions of Employment, which has been completed and signed by your employer.

Supplies are only materials used ***directly in your work***, and for no other purpose.

Supplies ***include items*** such as stationery, stamps, toner, ink cartridges, street maps, and directories. Supplies do **not** include items such as briefcases or calculators.

OWNER-MANAGER REMUNERATION

101(4)

INSURABLE EMPLOYMENT

The Employment Insurance Act (***EIA***) notes that insurable employment ***does not include*** the employment of a person that controls more than 40% of the voting shares of the corporation.

It also ***excludes*** employment if the employer and employee are ***not dealing with each other at arm's length***. However, if the employer is ***related*** to the employee, they are deemed to deal with each other at arm's length if the Minister of National Revenue is ***satisfied*** that, having regard to all the circumstances of the employment, including the ***remuneration*** paid, the ***terms and conditions***, the duration and the nature and ***importance of the work performed***, it is reasonable to conclude that they would have entered into a ***substantially similar contract of employment*** if they had been dealing with each other at arm's length.

Therefore, to avoid EI, the taxpayer must show that they do ***not*** have a substantially similar contract of employment as other arm's length employees.

Caution

If EI has been incorrectly paid for a family member and a refund is to be requested from the CRA, or a Ruling is to be asked for, this could be a ***lengthy process***.

ESTATE PLANNING

CANADA PENSION PLAN - POST-RETIREMENT BENEFIT (PRB) CALCULATOR

Service Canada has a ***Post-Retirement Benefit calculator*** which notes that:

1. The ***PRB*** is a new benefit for people who work and make CPP contributions while ***already receiving*** a CPP retirement pension. The Government of Canada has developed this calculator to help you better understand how contributions to the ***PRB*** will further contribute to your financial security after you retire.

2. A ***PRB*** is available the ***year following*** the year you make contributions. You will receive a new ***PRB*** for each year you make contributions. Each new ***PRB*** will be added to any previous ***PRBs***.

The calculator is available at ***http://srv111.services.gc.ca/PRB_01.aspx.***

INTERNATIONAL

101(7)

U.S. RENTAL PROPERTY

The following comments primarily relate to the ownership of **U.S. rental property** by **Canadians**. They may not apply to individuals such as U.S. citizens, U.S. residents, and Green Card holders.

U.S. Withholding and Filing Responsibilities

The IRS has posted an online article entitled "Foreign Persons Receiving Income from U.S. Real Property". According to this release, taxation depends on whether earnings are considered **investment income** having tax withheld at 30% of gross earnings, or "**effectively connected** with a U.S. trade or business" and taxed on a net income basis. A foreign owner can elect to have the income treated as "effectively connected" by submitting a properly completed **Form W-8ECI**.

With regards to the filing of income tax returns, a non-resident failing to submit a timely filed income tax return may **lose the ability to claim deductions** against the rental income.

State filing and tax payment may also be required.

Editors' Comment

It may be worthwhile to file tax returns even if a loss is experienced so as to **capture the losses for later**

use when net incomes become positive or when a **profit is realized** on the sale of the property.

CANADIAN SNOWBIRDS - TIME SPENT IN THE U.S.

If an individual spends **183 days** or more in the U.S. they will be considered to be a U.S. resident (subject to some very minor exceptions). As such, he/she will be subject to **U.S. taxation on worldwide income** and may need to file several other forms although some relief may be available if the individual is considered a Canadian resident under the Canada-U.S. Treaty.

If an individual spends less than 183 days in the U.S. in the year, but the total of their time as determined by the **following formula (substantial presence test) is 183 days or greater**, they would be considered U.S. residents.

The total of:

- All the days you were present in the current year, and
- 1/3 of the days you were present in the first year before the current year, and
- 1/6 of the days you were present in the second year before the current year.

If determined to be a resident under this scenario, the individual would be subject to the same considerations as discussed in the "presence of 183 days or more" scenario above.

If an individual is in the U.S. for less than 183 days but is considered a resident under the substantial presence test, they may complete Form 8840 - Closer Connection Exception Statement for Aliens to except themselves from residency.

Editors' Comment

Specific **U.S. advice** may be needed in these areas.

DID YOU KNOW

101(8)

CPP SHARING

Spouses or common-law partners who are both at least **60 years old** and who are **both receiving** the CPP retirement pension can **share** their **CPP retirement benefits**. If only one of you is a CPP contributor, you may **share** that **one pension**. This may have **tax advantages**.

The portion of the retirement pension that can be shared is based on the number of **months** you and your spouse or common-law partner **lived together** during your **joint contributor period**. Your joint contributor period is the time during which either one of you could have contributed to the CPP if you had sufficient earnings.

See the **HRSDC website** for more details on **CPP sharing**.

For any questions… give us a call.

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