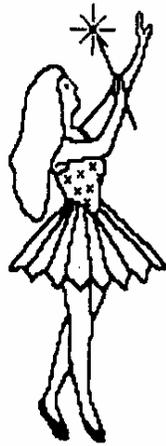


## YEAR-END TAX PLANNING

### 76(1)

Some *2006 year-end tax planning tips* include:

1. If the following *expenditures* are made by *individuals* by *December 31, 2006* they will be eligible for 2006 tax deductions: moving expenses, child care expenses, safety deposit box fees, charitable donations, political contributions, medical expenses, and alimony.
2. *2006 eligible Registered Retirement Savings Plan (RRSP) contribution* amounts are noted on the 2005 *personal income tax return assessment notices*. You have until *March 1, 2007* to make tax deductible RRSP contributions for the 2006 year.  
Consider contributing to a *spousal RRSP* to achieve income splitting in the future.
3. Persons turning *age 69 in 2006* must *mature* their RRSP into cash, an annuity or a Registered Retirement Income Fund by December 31, 2006.



4. If you own a business, consider paying a *reasonable salary* to family members for services rendered to the business.
5. An individual whose *2006 net income* exceeds \$62,144 will lose all, or part, of their *old age security*.  
Senior citizens will begin to lose their income tax *age credit* if net income exceeds \$30,270.  
Contact your professional advisors for assistance in *managing* 2006 personal income.
6. Consider purchasing assets eligible for *capital cost allowance* before the year-end. For example, *employees* may claim capital cost allowance on *automobiles* used in their employment.
7. If you had taxable capital gains in the *year*, or any of the *preceding three years*, consider selling capital properties with an *underlying capital loss* prior to the year-end. This capital loss may be offset against the capital gains.
8. *Registered Education Savings Plan (RESP)*  
A *Canada Education Savings Grant (CESG)* for RESP contributions will be permitted equal to 20% of annual contributions for children (maximum \$400

## IN THIS ISSUE

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- per child per year).
9. *Health and dental premiums for the self-employed*  
*Individuals* will be allowed to *deduct* amounts payable in respect of the year for *Private Health Service Plan* coverage in computing *business income* provided they meet certain criteria.
10. *Tax on Split Income*  
The Income Tax Act applies the *maximum marginal tax rate* to certain *passive* income of *individuals* under the *age of 18*. Therefore, consider *minimizing* this type of income

# Tax Tips & Traps

in 2006.

11. A *refund of Employment Insurance* paid for non-arm's length employees *may* be available upon application to CRA.
12. Taxpayers that receive "*eligible*" dividends from private and public corporations will have a significantly lower tax rate on the dividends.
13. *Eligible tools* acquired after May 2, 2006 in excess of \$1,000 will be entitled to a tax deduction to a maximum of \$500.
14. Eligible *public transit passes* acquired after July 1, 2006 will be entitled to a tax credit.

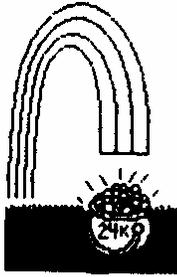
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## 2006 REMUNERATION

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### 76(2)

Some *general guidelines* to follow in *remunerating the owner* of a *Canadian-controlled private corporation* earning "*active business income*" include:



1. In general, *bonus down* active business earnings in excess of the *annual business limit*. However, leaving corporate *active business income* over this amount presents a *tax deferral*. The *disadvantage* of the additional tax on dividends has been significantly *reduced* with the new *lower tax rates* on "*eligible*" dividends.
2. Elect to pay out tax-free "*capital dividend account*" dividends.
3. Consider paying dividends to obtain a refund of "*refundable dividend tax on hand*".
4. Corporate earnings in excess of per-

sonal requirements could be left in the company to obtain a *tax deferral*. The effect on the "*Qualified Small Business Corporation*" status should be reviewed before selling the shares.

5. *Dividends*, as opposed to salaries, will reduce an individual's *cumulative net investment loss* balance thereby providing greater access to the *capital gain exemption*.
6. Excessive *personal income* affects receipts subject to *clawbacks*, such as *old age security*, the *age credit*, *child tax benefits*, and *GST credits*.
7. Salary payments require *source deductions* to be remitted to Canada Revenue Agency (CRA) on a timely basis.
8. Individuals that wish to contribute to the Canada Pension Plan or a Registered Retirement Savings Plan may require a salary to create "*earned income*".
9. Salaries paid to family members must be *reasonable*.
10. Some provinces have "*payroll taxes*" thereby increasing the costs of paying salaries versus dividends.

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## PERSONAL TAX RETURNS

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### 76(3)

#### PENSION TAX CREDIT

The *2006 Federal Budget* increased the Federal Tax Credit to *pension income of \$2,000* commencing *January 1, 2006*. With the Provincial Tax Credit this could be in the 25% range.

*Pensions that qualify* include:

1. An *annuity* from a *pension plan*,
2. For persons aged *65 or older*, annuity payments from an *RRSP*, a *RRIF*, or a *deferred profit-sharing plan*.

3. For persons aged *65 or older*, the taxable portion of *annuities* purchased from an *insurance company*.



However, a person *under age 65* would also get the pension credit if they were receiving *annuity payments* inherited from a *deceased spouse*.

#### AFTER-SCHOOL RECREATIONAL PROGRAM - CHILD CARE EXPENSE

In a September 8, 2006 *Tax Court* of Canada case, the taxpayer paid fees to a *gymnastics club* of \$984 for *after-school* classes and \$431 for *summer and spring break* gymnastics *camps* for her 12 year old daughter.

#### Taxpayer Wins!

The *essential question* is what is the *primary reason* for enrolling the child in the activity. In this case, the *primary reason* was to *provide child care* so that the taxpayer was able to perform duties of *employment*. Therefore, the *taxpayer's deduction* for child care expenses was *allowed*.

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## EMPLOYMENT INCOME

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### 76(4)

#### SPECIAL WORKSITE

In a July 17, 2006 *External Technical Interpretation*, CRA notes that where an employee is

assigned to a location other than the normal employment location for a *temporary period*, *payments* made by the employer in respect of the employee's *eligible reloca-*



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# Tax Tips & Traps

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tion and living expenses are deductible to the employer and *not taxable* to the employee.

The requirement that the *duties* be of a “temporary nature” will occur if the period is *less than two years*. However, CRA notes that there *are situations* where the employment period *extends beyond two years* which *will also be considered* of a “temporary” nature.

In a June 14, 2006 *External Technical Interpretation*, CRA notes that where a company which is taking on *temporary logging work* on a six-month renewable contract pays for the *board, meals and travel* of its *employees* to carry out the work, this will likely qualify as a *special worksite*. The value of *board, lodging and other benefits* related to it would be *tax-free to the employee*.

#### LEGAL EXPENSES

In an August 11, 2006 *External Technical Interpretation*, CRA notes that the Income Tax Act permits a *deduction* in computing income from *employment* for legal expenses paid in the year to collect, or to establish a right to, employment income.

Therefore, if the income received from a *disability claim* is taxable, legal expenses incurred would be *deductible*.

#### REIMBURSEMENT OF HEALTH PREMIUMS BY EMPLOYER

In a July 25, 2006 *External Technical Interpretation*, CRA notes that *medical and hospital insurance plans* covered by Blue Cross and various other medical insurers would be considered Private Health Service Plans (*PHSPs*). Therefore, the *reimbursement* of premiums for health and dental benefits by an employer for employees would be *excluded* from *employment income*.

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## BUSINESS/PROPERTY INCOME

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### 76(5)

#### PRIVATE HEALTH SERVICE PLAN (PHSP)

In a July 14, 2006 *Technical Interpretation*, CRA notes that when a *sole proprietor* implements a Cost-Plus Plan, it must provide coverage for *at least one employee* other than the sole proprietor. Otherwise, it is *not* in the nature of *insurance* as the proprietor has not undertaken to *indemnify* another person.

#### ASSOCIATION - DE FACTO CONTROL

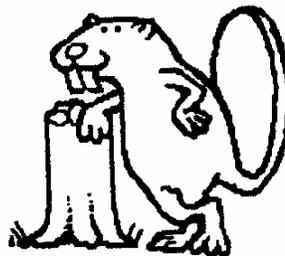
In a February 28, 2006 English translation of a French *Tax Court* of Canada case, the Court concluded that the *spouse* of the *sole shareholder* of *Company A* exercised *de facto control* over *Company A* thereby *associating Company A* with the *spouse's corporations* which had already been allocated the annual business limit. This resulted in *no small business deduction* for *Company A*.

The *Tax Court* felt that *Company A's* sole shareholder, *Mrs. S*, was *not involved* in the daily decisions of the Company. Also, *Company A* was *economically dependent* on Mr. S's Corporations.

#### LANDSCAPING

The Income Tax Act permits a *deduction* for amounts *paid* by a taxpayer for *landscaping*

grounds around the *building* or other structure *of the taxpayer* that is *used primarily* for the purpose of gaining or producing income from a *business*.



Therefore, *prepaid landscaping costs* may *be eligible* for a deduction even if the actual work has not been started. Alternatively, work that has been done, but not paid - just a *payable*, will *not be deductible* until it is paid.

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## ESTATE PLANNING

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### 76(6)

#### AIRPLANE TICKETS

In a June 2, 2006 *External Technical Interpretation*, CRA notes that where an individual redeems *reward points* to acquire an airplane ticket and then donates the *airplane ticket* to a Registered Canadian Charity, the individual will be considered to have *made a gift* for Income Tax Act purposes.

#### PRIVATE FOUNDATION

In a June 27, 2006 *Internal Technical Interpretation*, CRA note a *revocation* of *charitable status* could occur if the charity acquires a *limited partnership interest* because it is now considered to be carrying on a *business*.

#### FLOW-THROUGH SHARES

Taxpayers that donate *publicly listed securities* after *May 1, 2006* do *not* have to report the *capital gain* if the securities are donated to a *registered charity* - but not to a private foundation. As the *tax cost* of a *flow-through share* is usually *nominal or nil* because of the immediate write-off of deductions, the *donation* for a *tax credit* based on fair market value is *advantageous* because the otherwise *large capital gain* is *not taxable*.

#### REGISTERED EDUCATION SAVINGS PLAN (RESP)

A person may *contribute* up to *\$42,000* to an *RESP* in the *lifetime* of a beneficiary at a maximum of *\$4,000 per year*. Also, a

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# Tax Tips & Traps

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Canada Education Savings Grant (CESG) is available at \$400 per year at a rate of 20% per contribution to a **maximum of \$7,200** (18 years times \$400 per year). Therefore, a \$2,000 RESP contribution will net the maximum \$400 CESG for the year.

### RRSP SCAMS

In a December 9, 2005 *Tax Court* of Canada case, a lady who needed money to finance her return to school responded to a *newspaper advertisement* that proposed to allow her to *withdraw* her *RRSP tax-free* through an investment of \$48,200 in Company 3563545 which would be used to *guarantee a loan* back for a similar amount, *net of 36% in fees* (\$17,360). CRA included in her income the \$48,200 on the basis that this was a *non-qualified investment*.



### Taxpayer Loses

The Court found that these shares were *not "qualifying investments"* as the *transaction* was a *sham* since the perpetrators never genuinely intended for the taxpayer's RRSP to hold an investment.

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### MARRIAGE BREAKDOWN

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#### 76(7)

#### CHILD SUPPORT

In an August 24, 2006 *Tax Court* of Canada case, Mr. P *paid child support* under a 1993 Ontario Court Divorce Judgment of \$650 per month per child.

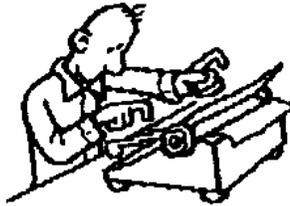
On August 31, 1998, the Appellant and former Spouse signed an Agreement varying the child support payable to \$500 per month in compliance with the May, 1997 *Child Support Guidelines*.

### Taxpayer Loses

The Court noted that this new agreement *changed the status* of the child support payments from deductible/taxable to *non-deductible/non-taxable*.

### DIVISION OF A PENSION

In an April 6, 2006 *External Technical Interpretation*, CRA notes that if there is a *division of pension benefits* on a *marriage breakdown*, the portion received by *each spouse* is the *income of that spouse even if the administrator issues one cheque* to the Plan member. The *intention* of the parties in the *Separation Agreement* is the key when determining the *income tax treatment*.



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### FARMING

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#### 76(8)

#### FARM LOSS CASE

In an August 21, 2006 *Federal Court of Appeal* case, CRA *restricted* the taxpayer's losses on farming activities to \$8,750.



### Taxpayer Wins!

The *Court* permitted a *full deduction* for the farm losses and noted that:

1. Mr. G had built up a *law practice* and a *farming business*. The *law practice* required a relatively *modest investment of capital* and has been profit-

able. The *farming business* required a *greater capital* investment but has resulted in operating losses.

2. Mr. G's day-to-day life involved *both the practice of law and farming* and the contacts he made in farming became valuable to his law practice. The "synergy" between the *farm and law practice* should have given more weight.

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### GST

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#### 76(9)

#### NON-PROFIT ORGANIZATIONS

20-page *Guide RC4081* discusses the GST/HST implications for *non-profit organizations* including Registering, exemptions, input tax credits, public service body rebates, simplified accounting, and real property issues.

#### GST/HST REFUNDS AND REBATES

The May 2, 2006 Federal Budget notes that *GST/HST refunds* will only be paid *if all returns* required under the Excise Tax Act, the Income Tax Act, and the Excise Act have been *filed*.

These changes commence *April 1, 2007*.

#### INPUT TAX CREDITS - REFUSED

In a March 17, 2006 *Tax Court* of Canada case, the taxpayer claimed *Input Tax Credits* on purchases for which the invoices *did not include* a valid GST Registration Number.



### Taxpayer Loses

The Court noted that a Registrant may *not claim* an *Input Tax Credit* unless

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# Tax Tips & Traps

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he/she has obtained *prescribed information* which includes the valid GST Registration Number of the supplier.

### Editor's Comment - GST/HST Web Registry

A person's GST/HST Registration status may be checked at [www.cra-arc.gc.ca/eservices/tax/business/gsthstre-gistry/menu-e.html](http://www.cra-arc.gc.ca/eservices/tax/business/gsthstre-gistry/menu-e.html).

After entering a GST/HST number, business name and date of transaction, the system will tell you whether the person was registered for GST/HST on that particular date. Keeping this *confirmation* for *receipt purposes* is a good idea.

### RESIDENTIAL RENTAL PROPERTY REBATE

In August, 2006, CRA introduced 18-page *Guide RC4231* which discusses the *GST/HST New Residential Rental Property Rebate* including Forms *GST524* and *525*.

### DENTISTS

Most *dental services* are "exempt" supplies. Therefore, purchases related thereto are *not eligible* for *Input Tax Credits*. However, *cosmetic dental services* (GST rate 6%) and sales and installation of *artificial teeth and orthodontic* appliances (zero-rated) are *eligible* for *Input Tax Credits* on purchases related thereto.

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### WEB TIPS

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#### 76(10)

#### POST-IT NOTES FOR YOUR DESKTOP

##### Post-it Software Notes Lite 3.1.1

If you find your office covered in *Post-It notes*, or simply are looking for a way to keep little bits of information organized and visible, consider downloading this *free* item. *Desktop Post-It Notes Lite 3.1.1*,

published by the *3M Corporation*, is a program that lets you post those little yellow notes that you know so well on your *computer desktop*. This tool is great for keeping track of *phone numbers, addresses, email addresses, websites, task lists* etc.

These little notes can *quickly* be *created, modified* and *moved* around. Also included in this feature is the ability to *set alarms* and create *hyperlinks*.

As the notes become no longer needed, they can easily be *trashed*.

To download this program, go to:

[www.download.com](http://www.download.com) and then search for "*Post-it Software Notes Lite 3.1.1*"

#### CHANGING THE TEXT SIZE ON YOUR SCREEN: (MOUSE WITH A WHEEL)

If you ever have *trouble reading documents, web pages, or emails* because the *size of the font is too small*, take note of this tip!



First, click once on the open document that you want to expand. Hold down the *CTRL key* and *then spin the wheel on your mouse*. One direction will increase the font size while the other direction will decrease it. You will also note that this will *work in various programs*. Try it out and see which programs are compatible.

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### DID YOU KNOW...

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#### 76(11)

#### CORRECTION

Re: *Tax Tips and Traps* Issue 75(6) (2006 Third Quarter) *LOANS FOR VALUE* - third paragraph.



The *CRA prescribed rate* until September 30, 2006 should be *4%* - not *9%*.

#### RRSP - CREDITOR PROOF

Currently, RRSPs are subject to creditor attacks with the *exception* of certain *life insurance RRSPs*. Also, *Registered Pension Plans* are *creditor proof*.

New Federal *Bill C-55* (Royal Assent - November 25, 2005) puts *RRSPs and RRIFs* on a *similar basis* as life insurance RRSPs and Registered Pension Plans. However, RRSP/RRIF *contributions* in the last *twelve months* will *not* be *exempt* from seizure.

Also, this exemption will only apply where an individual "*locks in*" the RRSPs. There will also be a *cap* on the *exempt RRSP* portion based on the bankrupt person's *age* and the maximum RRSP *contribution limit* in the year of bankruptcy.

#### The Problem

Bill C-55 has not yet been proclaimed.

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# Tax Tips & Traps

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The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a commentary such as this, a further review should be done. Every effort has been made to ensure the accuracy of the information contained in this commentary. However, because of the nature of the subject, no person or firm involved in the distribution or preparation of this commentary accepts any liability for its contents or use.

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# Tax Tips & Traps