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# INSIDER

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A HIGH-LEVEL SUMMARY OF THE MOST RECENT TAX DEVELOPMENTS

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## Tax Tidbits

### Some quick points to consider...

- CRA will receive information from online digital platforms that facilitate the sale of goods and provisions of services, such as Airbnb, VRBO, Uber, etc., in respect of the 2025 calendar year, by January 31, 2026. Ensure that all income is properly reported.
- The first-time home buyers' GST/HST rebate, along with the existing GST/HST new housing rebate, would provide a 100% GST rebate on homes valued at up to \$1 million, with the rebate being phased out in a linear manner for homes valued between \$1 million and \$1.5 million. The rebate was originally proposed to take effect on May 27, 2025; however, the effective date has been moved to March 20, 2025, the date Prime Minister Mark Carney first announced the rebate.

- A non-resident making an assignment sale is subject to the same withholding and disclosure requirements as applicable to a direct sale of real property.
- CRA has cautioned against using aggressive tax schemes involving complex insurance-based arrangements (often using critical illness insurance and loans) that are designed to help taxpayers inappropriately avoid paying taxes. CRA cautioned that certain insurance products do not meet the standards of valid insurance policies and are solely used to support the tax scheme.

## Trucking Sector: New Reporting Obligations

To address perceived tax non-compliance in the trucking sector, CRA announced that penalties

# Tax Tips & Traps

will now apply when businesses in the trucking industry fail to file T4A slips reporting fees for services (Box 048) exceeding \$500 paid to CCPCs (Canadian-Controlled Private Corporations) in the trucking industry, commencing for the 2025 calendar year.

CRA indicated that a business will be considered to be operating in the trucking industry if more than 50% of its primary source of income is from trucking activities. A business with multiple activities whose trucking activities make up less than half of the primary income it earns is not considered to be operating in the trucking industry. The payer can request that their supplier confirm whether their corporation is a CCPC.

For the 2025 tax year, payments for fees for service must be reported in Box 048 of the T4A slip by February 28, 2026. As this date falls on a Saturday, the T4A will be considered on time if CRA receives it or it is postmarked on or before Monday, March 2, 2026.

CRA also noted that T4As are still required to be filed for other situations; however, the penalty moratorium remains in effect for payments made or issued to businesses outside the trucking industry.

*If in the trucking industry, prepare now to comply with these filing obligations.*

## Cancellation of OAS Enrollment: Don't be Late!

OAS provides a monthly income-sensitive payment to eligible individuals aged 65 and older. Individuals who normally receive OAS are occasionally surprised when some OAS is subject to a

special tax (commonly referred to as a "clawback") with their personal tax filings due to high earnings. In particular, OAS is clawed back at a rate of 15% of adjusted income received in that year, above an indexed threshold of \$93,454 for 2025 and \$95,323 for 2026.

Individuals whose income exceeds this threshold may consider deferring the commencement of OAS. Future OAS payment increases of .6% per month of delay (to a maximum of 36% for 5 years of deferral) are provided to compensate for the deferral. If OAS is clawed back in its entirety, it costs nothing to delay but provides the benefit of increased future payments. Increased OAS payments also increase the income level at which all OAS is clawed back.

In a November 18, 2025, Federal Court of Appeal (FCA) case, an individual was not permitted to cancel their OAS pension enrollment decision when requested beyond the allowable period.

The taxpayer had been automatically enrolled for OAS in 2020. He neither objected to the enrollment within the 90-day window to object, nor applied for cancellation within the allowed six months from the first payment, despite Service Canada informing him of those options. Nearly two years later, the taxpayer sought to cancel his enrollment, citing ongoing work, the COVID-19 pandemic, and the delay in the Minister's response as reasons for delays in asking for the cancellation. He wanted to cancel his enrollment as his earnings from ongoing work were eroding his benefit; a delay in receiving OAS would have resulted in increased future payments.

### Taxpayer loses

The FCA agreed with the Federal Court's determination that the refusal

was reasonable. The analysis of deadlines for reconsideration and cancellation was conceptually sound.

*Consider whether your OAS payment may be clawed back due to high income before applying. If you have been automatically enrolled, promptly cancel your enrollment if desired.*

## Election to Stop Contributing to CPP: Processing Delays

An employee may elect to stop contributing to CPP, provided they are at least 65 years of age (but under 70), receive a CPP or QPP retirement pension, and have earnings subject to CPP contributions.

A November 13, 2025, Tax Court of Canada case reviewed the timing of an employee's election to cease contributing to the CPP when he began collecting retirement benefits at age 65. The employee was the sole employee and shareholder of the corporation.

The key facts were as follows:

- the employee applied for CPP effective the month he turned 65, July 2021;
- the employee filed Form CPT30, Election to Stop Contributing to the Canada Pension Plan, or Revocation of a Prior Election, on September 14, 2021;
- the employee's application was processed and he first received benefits on May 7, 2022, retroactive to July 2021; and
- CRA assessed the employer for CPP premiums for calendar 2022 and 2023.

The CPT30 election to cease paying CPP premiums after age 65 can only be made if a CPP retirement pension is payable to the employee. CRA argued that the election was void on the basis that retirement benefits were not payable to the employee until the application was processed and he received his first payment in May 2022. As such, CPP premiums continued to be required.

### Taxpayer wins

The Court stated that adopting CRA's interpretation could lead to an absurd result that slow processing of applications could prevent employees from making the election. It was therefore appropriate to adopt the broader interpretation that the employee had a CPP retirement benefit payable to him when he filed the election due to the CPP benefits paid retroactive to a date prior to the election. The employer was therefore not required to withhold CPP for the years under appeal.

*If aged 65 and earning pensionable employment, consider whether an election should be made to opt out of contributions.*

## New Business Registration Number Process: Shift Online

Effective November 3, 2025, most new CRA business number registrations, including adding new program accounts to existing business numbers, must be done online through CRA's Business Registration Online (BRO) system. Calls to the CRA business enquiries phone line will be directed to the BRO webpage. CRA has noted the following situations where

online registration cannot be used:

- reactivating a previously closed account;
- registering a Canadian business with only non-resident owners; and
- registering a business owned by another business (e.g. a partnership or corporation).
- In these situations, registration must be done by calling the business enquiries phone line or by paper filing.

*If registering for a new CRA business number, ensure the proper process is followed.*

## Withholding Tax on Rent Paid to Non-Residents: Some Relief

Amounts paid to a non-resident as rent for the right to use property in Canada, including rent for the use of residential real estate, are generally subject to withholding tax. Such amounts must be remitted to CRA.

Recent legislative amendments would provide an exception from this withholding requirement in certain cases. The effective date of this change is August 12, 2024. CRA has indicated that they are administering this proposal, even though it has not yet been passed into law (as of January 1, 2026).

Individuals would not have to withhold tax in respect of an amount paid or credited to non-resident persons as rent for the use of a residential property in which an individual resides (whether or not that individual is the one paying the rent). This exception from withholdings also applies where the rent paid was for a residence of

a deceased individual, the payment was made within 36 months of the individual's death and the rent was paid by a Graduated Rate Estate (GRE).

If the exception applies, the non-resident person would be required to remit and report (in prescribed form) the withholding, assuming that an agent of the non-resident was not already required to do so.

All rents paid on Canadian real estate to a non-resident that do not fit within the specific terms of these exceptions (e.g. paid by a trust that was not a GRE) would continue to require withholdings and reporting by the tenant.

*Review whether rent paid to a non-resident landlord would qualify for this exception from withholding tax.*

## Real Estate: Nominee or Owner?

In a November 7, 2025, French Court of Quebec case, the taxpayer was assessed with business income of \$284,661 in 2015 related to the sale of a house built on land she owned.

The taxpayer argued that she acted as a nominee for her former spouse, who allegedly carried out the project, and, as such, the taxpayer did not need to report the income from the sale (her former husband would have had to report the income). She stated that, to reduce taxes as a couple, the land and the house were put solely in her name as she had little income at the time. While the taxpayer was with her former spouse at the time of the transaction, they separated shortly afterwards.

Revenu Québec (RQ) argued that the

taxpayer was the project's true owner and beneficiary.

The house was sold for \$545,000, financed with \$245,000 in cash and a second house valued at \$300,000, which was later resold. The divorce agreement between the taxpayer and her former spouse provided that the net proceeds from the sale of the second house would be split 20.2% to the taxpayer and 79.8% to the former spouse.

#### Taxpayer loses

The Court noted the taxpayer knowingly and actively participated in the project as an owner: the land and property were registered in the taxpayer's name alone, she applied for and obtained the building permit, she contributed financially to the project and she helped choose material, colour and decor. Further, during the taxpayer's divorce, she acted as the sole owner and not a nominee. Finally, there was no written or other evidence of a nominee arrangement.

The Court found that the tax planning to minimize the couple's income tax was a deliberate decision; the taxpayer could not later deny ownership. The Court further found that the taxpayer and her former spouse's divorce agreement had no effect on the tax treatment of the proceeds of the property.

The Court stated that taxpayers should be taxed for what they did, not for what they intended to do. As such, it is not up to the Court nor RQ to apportion the taxable proceeds to the former spouse: it will be up to the taxpayer and her former spouse to take those steps.

The Court ruled that the taxpayer was the true owner of the property and therefore should have reported the full gain on the disposition.

*Ensure to properly report income and/or gains generated on assets for which you are the beneficial owner.*

## Payments for Right to Acquire a Home: Beneficial Ownership

In a recently released November 20, 2023, Technical Interpretation, CRA considered whether a resident participating in a housing agreement involving regular payments towards a future option to buy a property held beneficial ownership or a leasehold interest for purposes of the Principal Residence Exemption (PRE).

The agreement allowed the taxpayer to occupy the unit and make monthly payments, some of which increased their investment (the "interest") in the property. The resident would eventually be able to purchase the property at fair market value and apply the accumulated interest as a down payment. The interpretation addressed whether a gain on repayment of this interest could be sheltered by the PRE.

#### Beneficial ownership

CRA noted that beneficial ownership is a common law concept based on rights such as possession, control, and the ability to transfer title, as well as bearing obligations, such as paying property taxes. While the taxpayer had exclusive possession and bore some financial risk, CRA found that the taxpayer lacked critical elements of ownership, such as control over mortgaging, the right to rent, or make structural changes without approval and ultimate responsibility for property expenses. Thus, CRA

concluded that the taxpayer did not have beneficial ownership and therefore did not "own" the property for purposes of the PRE.

#### Leasehold interest

Gains on dispositions of leasehold interests can be eligible for the PRE. CRA acknowledged that a lease likely existed but clarified that the amount paid to the taxpayer upon termination of the agreement was not to compensate for lease termination, but rather was tied to the taxpayer's accrued interest. As such, any gain on the repayment of this interest would not be eligible for the PRE, as it would not be a disposition of a qualifying property.

*If a new or novel method of acquiring a home is being used, consider whether or not tax benefits, such as the principal residence exemption, would still be available.*

## Sale of Shares in Error: Careful!

In a September 23, 2025, French Court of Quebec case, an individual accidentally sold shares, triggering a \$67,362 capital gain, while reviewing his stock portfolio on his phone while on pain medicine in the hospital. Realizing his error the next day, he immediately repurchased the shares.

The taxpayer argued that there was no sale of shares as he accidentally pressed the button to confirm the sale. He also argued that, as CRA determined that the capital gain rollover provisions on the disposition of eligible small business corporation shares and acquisition of replacement shares applied, Revenu Québec (RQ) should come to the same conclusion.

#### Taxpayer loses

The Court found that, although



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unintentional, the taxpayer sold the shares and therefore realized the capital gain.

The Court further found that RQ's denial of the rollover provision was correct. It was unclear why CRA allowed the deferral as it is only applicable on the disposition and acquisition of certain CCPC shares. A decision by CRA is not binding on RQ.

*Selling an asset, even if an accident, can trigger tax consequences.*

The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances, and exceptions in a newsletter such as this, a further review should be done by your qualified DJB professional.

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