

FOR YOUR CONSIDERATION In the 4th quarter of 2010

2010 PERSONAL INCOME TAX RETURN CHECKLIST

92(1)

Appendix A provides a **checklist** of information that will be needed to complete your **2010 Personal Income Tax Return**.



contributions, medical expenses, alimony, eligible employment expenses, union, professional, or like dues, carrying charges and interest expenses, certain public transit amounts, and children's fitness amounts.

2. You have until **March 1, 2011** to make tax deductible Registered Retirement Savings Plan (**RRSP**) contributions for the 2010 year.

Consider contributing to a **spousal RRSP** to achieve income splitting in the future.

3. If you own a business, consider paying a **reasonable salary** to family members for services rendered to the business.

4. An individual whose **2010 net income** exceeds **\$66,733** 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 **\$32,506**.

Contact your professional

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advisors for assistance in **managing** 2010 personal income.

5. Consider purchasing assets eligible for **capital cost allowance** before the year-end.

6. Consider selling capital properties with an **underlying capital loss** prior to the year-

YEAR-END TAX PLANNING

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Some **2010 year-end tax planning tips** include:

1. Certain **expenditures** made by **individuals** by **December 31, 2010** will be eligible for **2010 tax deductions** or **credits** including: moving expenses, child care expenses, safety deposit box fees, charitable donations, political



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end if you had **taxable capital gains** in the **year**, or any of the **preceding three years**. This capital loss may be offset against the capital gains.

7. **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 \$500 per child per year).

8. **Health and dental premiums for the self-employed**

Individuals will be allowed to **deduct** amounts payable for **Private Health Service Plan** coverage in computing **business income** provided they meet certain criteria.

9. A **refund of Employment Insurance** paid for non-arm's length employees **may** be available upon application to CRA.

10. Taxpayers that receive "**eligible**" dividends from private and public corporations may have a significantly lower tax rate on the dividends. **Notification** from the corporation to the shareholder is required.

11. Eligible **public transit passes** will be entitled to a tax credit.

12. A **tax credit** for children under

16 enrolled in certain organized activities is available.

13. A **Registered Disability Savings Plan** may be established for a person who is eligible for the **Disability Tax Credit**. Non-deductible contributions to a **lifetime maximum of \$200,000** are permitted which are eligible for tax-deferred grants and bonds. Please contact your professional advisors for details.

14. If required income or Forms have **not been reported** in the past to the CRA, a **Voluntary Disclosure** to the CRA may be available to avoid penalties. Contact us for details.

2010 REMUNERATION

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Some **general guidelines** to follow in **remunerating the owner** of a

Canadian-controlled private corporation earning "**active business income**" include:

1. **Bonusing down** active business earnings in excess of the **annual business limit** may reduce the **overall tax**. However, leaving corporate **active business income** over this amount presents a **tax deferral**.

Professional advice is needed in this area.

2. **Notification** must be made to

the shareholders when an "**eligible**" **dividend** is paid - usually in the form of a **letter dated** on the date of the **dividend declaration**. If all **shareholders** are **directors**, the **notification** may be made in the **Directors' Minutes**.

Please contact your **professional advisor** for advice before paying an **eligible** or **ineligible** dividend.

3. Elect to pay out tax-free "**capital dividend account**" dividends.

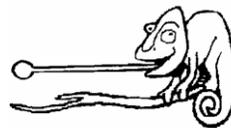
4. Consider paying dividends to obtain a refund of "**refundable dividend tax on hand**".

5. Corporate earnings in excess of personal 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.

6. **Dividend income**, as opposed to salaries, will reduce an individual's **cumulative net investment loss** balance thereby providing greater access to the **capital gain exemption**.

7. Excessive **personal income** affects receipts subject to **clawbacks**, such as **old age security**, the **age credit**, **child tax benefits**, and **GST credits**.

8. Salary payments require **source deductions** to be remitted to the



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Canada Revenue Agency on a timely basis.

- Individuals that wish to contribute to the Canada Pension Plan or a Registered Retirement Savings Plan may require a **salary** to create “**earned income**”.
- Salaries** paid to family members must be **reasonable**.

PERSONAL TAX RETURNS

92(4)

TUITION AND EDUCATION CREDITS - SCHOLARSHIP

CRA notes that the Income Tax Act expands the **scholarship exemption** so that most scholarships and bursaries received by students are **exempt** from income tax subject to certain criteria.



Also, **tuition, education** and **textbook tax credits** are available to students enrolled at a “designated educational institution” in a “qualifying educational program”.

MEDICAL EXPENSES - COSMETIC PROCEDURES

In a June 16, 2010 **Technical Interpretation**, CRA notes that the 2010 Budget **precludes** the **medical credits** for expenses incurred after **March 4, 2010** for purely **cosmetic purposes**, including any related

services and other expenses such as travel. Both surgical and non-surgical procedures for enhancing ones appearance will be **ineligible**. However, an expense will continue to **qualify** as a medical expense if it is required for **medical or reconstructive purposes**, such as surgery to address a deformity related to a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease.

Editor’s Comment

Also, **GST/HST** may **apply** to the **ineligible** cosmetic expenses.

MEDICAL EXPENSE - WEIGHT-LOSS CLINIC

In a June 25, 2010 **Technical Interpretation**, CRA notes that fees paid to a **weight-loss clinic** by an individual in respect of a **weight-loss program** for the treatment of obesity would qualify as a medical expense where the services are provided by a **medical practitioner** who is authorized to act as such in the province in which the services are rendered.

DISABILITY TAX CREDIT (DTC) - PRIOR YEARS

In a June 7, 2010 **Technical Interpretation**, CRA notes that there is no provision in the Income Tax Act that precludes an individual from requesting to have a prior year tax return reassessed for the DTC where the **certificate** was **signed in one year** certifying that the impairment started in an **earlier year**.

EMPLOYMENT INCOME

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EMPLOYEE VS. INDEPENDENT CONTRACTOR OR



In a June 22, 2010 **Tax Court** of Canada case, the Appellant

was found to be engaging the truck driver in insurable/pensionable **employment income**, not as an independent contractor.

The Court noted that **factors** which suggest that the trucker was an **employee** of the Appellant include:

- Tools/equipment** - The Appellant provided all the tools and equipment, **including the truck**.
- Chance of profit/risk of loss** - The trucker had **no expenses and no liability** exposing him to a risk of loss. There was no opportunity for him to increase his income.
- Control** - The trucker received **instructions** from the Appellant and reported to the Appellant on a daily basis for work assignments.

Also, in a June 30, 2010 **Tax Court** of Canada case, **CRA** took the position that the **43 incorporated** and **53 unincorporated truck drivers** were **employees** of the payer and subject to EI and CPP.

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The **Court** concluded that the **43 incorporated** truck drivers were **independent contractors** because the **intent** of the incorporated workers and the Appellant was that of being independent contractors.

However, based on the evidence presented, the Court found that the **remaining 53 workers** were **employees**.

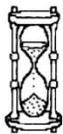
Also, in a May 4, 2010 **Tax Court** of Canada case, the **Court** found that a **professor** at the **University of British Columbia** was engaged as an **independent contractor** not an employee and noted that the professor honoured the **contract** which defined the **independent contractor status** by becoming a **GST Registrant**, invoicing his time with **GST** and bidding on new contracts as existing contracts expired.

BUSINESS/PROPERTY INCOME

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EMPLOYMENT INSURANCE ACT (EIA)

In a September 25, 2008 **Tax Court** of Canada case, the **Court** concluded that the relationship between Brother 1 and Sister 1, who each owned 30% of the Corporation, was such that the **salary paid** to them was **not subject to EI** under the EIA. (Individuals that control more than 40% of the voting shares are automatically exempt from EI.)



The EIA notes that insurable employment also does not include employment if the employer/employee are **not** dealing with each other at **arm's length**. However, this requires that the **terms and conditions** of their employment are **different** from those of other arm's length employees.

The Court noted that the **Brother and Sister** stated that they had a **great deal of autonomy** and freedom in carrying out their tasks. They both assumed their responsibilities, knowing very well that they did **not** need to obtain any **approval**. Decisions were made during **dinner**s at their **mother's home** or at other locations.

The Court concluded that the **familial aspect** of the business had a marked influence on its operation to the point that some important decisions were made based on the familial connection rather than on the economic reality of the business. The Brother and Sister also received a **salary** that was **different and not comparable** in terms of hours worked to other employees. They both received generous **bonuses** when the business was flourishing.

GENERAL PURPOSE ELECTRONIC DATA PROCESSING EQUIPMENT (GPEDPE)

GPEDPE (computers and ancillary equipment) are eligible for a **100% tax deduction** in the year if acquired after January 27, 2009 and **before February, 2011**.

Keep this **January 31, 2011**

deadline in mind.

OWNER-MANAGER REMUNERATION

92(7)

NATIONAL JOINT COUNCIL TRAVEL DIRECTIVES



Owner-managers are often looking for objective, **reasonable travel allowances** to pay themselves, and employees, so as to **reduce or avoid disputes** with **CRA**. The **kilometric rates** paid by the Government of Canada for **privately owned vehicles** driven on authorized government business and for private **non-commercial accommodation and meal allowances** and **incidental expenses** are at www.njc-cnm.gc.ca/directive/index.php?sid=97&lang=eng (or Google **National Joint Council Travel Directives**).

For example, the total for meals and incidentals is \$85.20 per day - only **75%** of this is paid from the **thirty-first** consecutive calendar day of travel status while at the **same location** when **corporate residences** and/or **apartment hotels** are **available**, or the traveler chooses to stay in **private accommodations**. The Territories have higher rates.

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ESTATE PLANNING

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DONATED ARTWORK

In a November 23, 2009 Tax Court of Canada case, CRA successfully reduced the donation tax



credit on artworks donated by the Appellants to a museum in 1999 and 2000 by successfully challenging the fair market value of the artworks.

CLEARANCE CERTIFICATES

In a June 16, 2010 Technical Interpretation, CRA notes that where a legal representative distributes the deceased person's assets without first obtaining a Clearance Certificate, the Income Tax Act, the Employment Insurance Act, and the Excise Tax Act permit the CRA to assess the representative personally for unpaid tax debts.

TRANSFERRING CAPITAL LOSSES BETWEEN SPOUSES

Typically, a loss must be claimed by the individual who owned the asset while it declined in value. However, CRA has confirmed that they accept transactions which transfer capital losses between spouses. This could be useful where one spouse owns appreciated assets, or has realized a capital gain, while the other has capital losses.

Careful planning is required to ensure all technical requirements are met. Please contact us for details.

In most cases that transfer must happen before the end of November if the loss is to be transferred in the current tax year.

WEB TIPS

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OFFICE OF ENERGY EFFICIENCY

This Natural Resources Canada

program provides a large number of services and information that helps individuals and corporations track and be knowledgeable about their resource usage. Divided primarily into two categories (Personal and Business), this website offers a host of useful calculators and knowledge sheets such as:



- Choosing a fuel-efficient vehicle,
- Fuel Consumption calculator,
- Computer energy ratings by model,
- ENERGY STAR, EnerGuide and R-2000,
- Grants and incentives, and
- Life Expectancies of appliances.

To view this website, go to:

<http://oee.nrcan.gc.ca>

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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APPENDIX A

2010 PERSONAL INCOME TAX RETURN CHECKLIST

INFORMATION REQUIRED INCLUDES:

1. All *information slips* such as T3, T4, T4A, T4A(OAS), T4A(P), T4E, T4PS, T4RIF, T4RSP, T5, T10, T2200, T2202, T101, T1163, T1164, TL11A, B, C and D; T5003, T5007, T5008, T5013, T5018 (Subcontractors), RC62 and corresponding provincial slips.
2. Details of *other income* for which no T slips have been received such as:
 - other employment income (including stock option plans and Election Form T1212),
 - business income,
 - partnership income,
 - rental income,
 - alimony, separation allowances, child maintenance,
 - pensions (certain pension income may now be *split* between spouses - see #35)
 - interest income earned but not yet received - example Canada Savings Bonds, Deferred Annuities, Term Deposits, Treasury Bills, Mutual Funds, Strip Bonds, Compound Interest Bonds
 - professional fees,
 - director fees,
 - scholarships, fellowships, bursaries.
3. Details of *other expenses* such as:
 - employment related expenses - Provide Form T2200 - Declaration of Conditions of Employment,
 - tools acquired by apprentice vehicle mechanics,
 - business and employment purchases like vehicles, supplies, etc.,
 - interest on money borrowed to purchase investments,
 - investment counsel fees,
 - moving expenses - including costs of maintaining a vacant former residence,
 - child care expenses,
 - alimony, separation allowances, child maintenance,
 - safety deposit box fees,
 - accounting fees,
 - pension plan contributions,
 - film and video production eligible for tax credit,
 - mining tax credit expenses,
 - business research and development,
 - adoption related expenses,

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- clergy residence deduction information, including Form T1223,
 - disability supports expenses (speech, sight, hearing, learning aids for impaired individuals and attendant care expenses),
 - tradeperson's tools acquired by an employee,
 - public transit passes acquired,
 - amounts paid for *programs* for children *under age 16* at any time during the year (*under 18* for children with *disabilities*).
4. Details of *other investments* such as:
- real estate or oil and gas investments - including financial statements,
 - labour-sponsored funds.
5. Details and *receipts* for:
- Registered Retirement Savings Plan (RRSP) contributions,
 - professional dues,
 - tuition fees for both **full-time** and **part-time** courses - including mandatory ancillary fees, and Forms T2202, TL11A, B, C and D where applicable,
 - charitable donations (including publicly traded securities),
 - medical expenses (including certain medical related modifications to new or existing home and travel expenses). Note that purely cosmetic procedures do not qualify after March 4, 2010.
 - political contributions.
6. Details of *capital gains and losses* realized in 2010.
7. Details of previous *capital gain exemptions* claimed, *business investment losses* and *cumulative net investment loss accounts*.
8. Name, address, date of birth, S.I.N., and province of *residence* on December 31, 2010.
9. *Marital/common-law status* and spouse/partner's income, S.I.N. and birth date.
10. List of *dependants/children* - including their incomes and birth dates.
11. If you or one of your dependants was in full time attendance at a *college or university*, details concerning name of institution, number of months in attendance, tuition fees, income of dependant, Form T2202.
12. Are you *disabled or are any of your dependants* disabled? Provide Form T2201 - disability tax credit certificate. This also includes extensive therapy such as kidney dialysis and certain cystic fibrosis therapy. Also, the *transfer rules* include relatives such as parents, grandparents, child, grandchild, brothers, sisters, aunts, uncles, nephews or nieces.
- Persons with *disabilities* also may receive tax relief for the cost of *disability supports* (eg. sign language services, talking textbooks, etc.) incurred for the purpose of *employment* or *education*.
- Also, see #33 for **Registered Disability Savings Plan** information.

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13. Details regarding residence in a prescribed area which qualifies for the *Isolated Area Deduction*.
14. Information regarding *child tax benefit* receipts.
15. Details regarding contributions and withdrawals from *Registered Education Savings Plans*.
16. Details regarding *RRSP - Home Buyers' Plan* withdrawals and repayments; *RRSP - Lifelong Learning Plan* repayment.
17. Receipts for 2010 income tax *installments* or, payments of tax.
18. Copy of 2009 personal tax *returns*, 2009 Assessment *Notices* and any correspondence from Canada Revenue Agency (CRA).
19. 2010 *Personalized Tax information* which CRA may have sent you.
20. Do you want your *tax refund or credit* deposited directly to your account in a financial institution? Yes/No.
To start direct deposit, or to change banking information, attach a void personalized cheque or your branch, institution and account number.
21. Details of *carry forwards* from previous years including losses, donations, forward averaging amounts, registered retirement savings plans.
22. Details of *foreign property* owned at **any time** in 2010 including cash, stocks, trusts, partnerships, real estate, tangible and intangible property, contingent interests, convertible property, etc..
23. Details of *income* from, or *distributions* to, *foreign entities* such as foreign affiliates and trusts.
24. Details of your *Pension Adjustment Reversal* if you ceased employment and were in a Registered Pension Plan or a Deferred Profit Sharing Plan. (T10 Slip)
25. If you provided *in-home care* for a *parent or grandparent* (including in-laws) 65 years of age or over, or an infirm *dependent relative*, a federal tax credit may be available.
Also, the caregiver may claim related *training costs* as a medical expense credit.
26. Interest paid on qualifying *student loans* is eligible for a tax credit.
27. *Retroactive lump-sum payments*
Individuals receiving qualifying retroactive *lump-sum payments* over \$3,000 may be allowed to use a special mechanism to compute the tax.

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28. Changes in *family circumstance* that could affect the *Goods and Services Tax Credit*, such as births, deaths, marriages, reaching the age of 19 years, and becoming or ceasing to be a resident in Canada.
29. *Children* of low or middle income parents may be entitled to a *Canada Learning Bond* of \$500 in the initial year and \$100 per year until age 15. Please ask us for details.
30. Do you have any *personal interest expense* - such as on a house mortgage or vehicle?
If so, it may be possible to take steps to convert this into deductible interest. Please ask us for details.
31. An *investment tax credit* is available to the employer in respect of each *eligible apprentice* employed in one of the 45 Red Seal Trades. Also, a *\$1,000 grant* is available for first and second year apprentices. A **completion** grant of \$2,000 may also be available to the apprentice.
32. Have you received the *Universal Child Care Benefit* of \$100 per month for each child under 6 years of age?
33. Commencing in 2008, any person eligible for the *disability tax credit*, or their parent or legal representative, may establish a **Registered Disability Savings Plan** which receives *government grants*. Please ask us for details.
See #12 for information on **disabilities**.
34. The age limit for *maturing* Registered Pension Plans, Registered Retirement Savings Plans, and Deferred Profit Sharing Plans is *71 years* of age.
35. Spouses may *jointly elect* to have up to 50% of *certain pension income* reported by the *other spouse*. Please ask us for details.
36. Individuals 18 years of age and older may deposit **up to \$5000** per year into a **Tax-Free Savings Account** commencing in 2009. Please ask us for details.
37. Are you a first-time **home buyer** in 2010?
A tax credit based on \$5,000 (@15% = \$750) is available for qualifying homes acquired after January 27, 2009.
38. If required income or Forms have **not been reported** in the past to the CRA, a **Voluntary Disclosure** to the CRA may be available to avoid penalties. Contact us for details.
39. Commencing July 2011, the law is changed to allow two eligible individuals who **share custody** after a **relationship breakdown** to share the Canada Child Tax Benefit, Universal Child Care Benefit, and the GST/HST Credit in respect of the child.

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