

### PERSONAL TAX

90(1)

#### APPRENTICESHIP GRANTS

##### Apprenticeship Incentive Grant (AIG)

The **AIG** is a **taxable grant** of **\$1,000 per year** up to a maximum of **\$2,000 per person**, available to registered **apprentices** once they have successfully completed their first or second year/level (or equivalent) of an Apprenticeship Program in one of the **Red Seal Trades**. There is a **deadline** to apply.



##### Apprenticeship Completion Grant (ACG)

The **ACG** is a **\$2,000 taxable grant** to encourage **apprentices** registered in designated **Red Seal Trades** to **complete** their Apprenticeship Program and receive their certification. Eligibility is **retroactive** to January 1, 2009.

The **ACG** is offered to apprentices who **complete** their training, become certified journeymen/journeywomen in a designated **Red Seal Trade** and who obtain either the **Red Seal Endorsement** or a provincial or territorial **Certificate** of

#### Qualification.

There is a **deadline** to apply.

#### Trades Included in the Red Seal Program

To date, there are **fifty trades** included in the **Red Seal Program** on a national basis. For a list of Red Seal Trades, Google "**Red Seal Trade**".

#### Editor's Comment

Your **province** may also offer Apprenticeship Grants.

#### MEDICAL EXPENSE - TUITION COSTS

In a January 20, 2010 **External Technical Interpretation**, CRA notes that where, due to a **physical or mental handicap**, a **student** who is **certified** to require specialized care, or care and training, at a school or institution, may claim a **medical expense tax credit** for the cost of such care, or such care and training.

#### MEDICAL EXPENSES

In a February 2, 2010 **Tax Court** of Canada case, the taxpayer had progressive **Multiple Sclerosis** and successfully deducted as a medical expense the amount paid to the **Huron Lodge** (a home for the aged) in Windsor, Ontario.

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#### NURSING HOME

The Income Tax Act provides a medical expense for **full-time care** in a **nursing home** if the patient has been certified by a **medical practitioner** to lack normal mental or physical capacity, and in the foreseeable future will continue to be dependent on others.

#### EMPLOYMENT INCOME

90(2)

#### OVERTIME MEAL ALLOWANCES

Starting **January 1, 2009** where an employer provides



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**overtime meals** or an **allowance** for overtime meals to its employees, the CRA will **not** assess a **taxable benefit** where:

- the amount of the overtime meal allowance, or the cost of the meal, is **reasonable**;
- the employee works **two or more hours** of overtime right before or right after his/her scheduled hours of work; and
- the overtime is **infrequent** and occasional in nature. (CRA generally considers **less than three times** a week, or more in special circumstances, as being **infrequent and occasional**.)

CRA will generally consider an amount **not exceeding \$17** as being **reasonable**.

### IN-SERVICE PROGRAM WHICH PROVIDES A LAPTOP COMPUTER

In a January 6, 2010 **External Technical Interpretation**, CRA notes that it has considered **several programs** where **employers** have **provided** their employees with **personal computers, printers, software** and/or **Internet access** for developing their employees' **computer and Internet skills**.

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### BUSINESS/PROPERTY INCOME

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### TRUCKS OR TRACTORS FOR HAULING FREIGHT

The Income Tax Act provides a **40%**

**Capital Cost Allowance rate** for a **truck or tractor** designed for **hauling freight** and that has a "gross vehicle weight rating" in excess of **11,788 kilograms**.

In a CRA **Technical Interpretation**, CRA notes that this may **apply** to a taxpayer that **hauls its own freight**.

Also, in an October 9, 2009 **Technical Interpretation**, CRA notes that **garbage trucks** used for the collection and hauling of residential and industrial waste would normally also qualify.

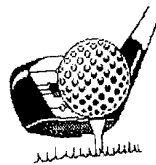
### EVENTS AT A GOLF CLUB

In a January 22, 2009 **Technical Interpretation**,

CRA notes that where a business holds a **day of golf** for **all employees** and the company pays for the **green fees, rental of golf equipment, and food provided** to the employees, the Income Tax Act does **not** allow a **deduction** in respect of any expenditure for the use of a **golf facility**.

However, with respect to the **meals**, CRA notes that a golf club facility does **not include** the **dining room, reception hall, conference room, lounges or a bar of a golf club** so the **deduction** of expenses incurred to buy **food and beverages** is not restricted by the golf facility rules.

Also, assuming that the food was offered to **all employees**, and it is **one of six special events** held in the year by the company, the Income Tax Act allows a **100% deduction**



for the food and beverages, as opposed to the **50%** which is normally allowed.

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### OWNER-MANAGER REMUNERATION

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### THE TWO-YEAR LIMIT

In a March 5, 2010 **Tax Court** of Canada case, CRA assessed Mr. M., as the "**de facto director**" of the corporation, for the **unpaid GST (plus interest and penalties)** owed by a company.

The taxpayer had **resigned** as a **director** on **January 15, 2004** and the **assessment** was **not issued** until **more than two years later, June 29, 2006**.

### Taxpayer Wins!



The Court noted that, even though the Excise Tax Act provides a **two-year statute of limitations**, a person who is **not a director** may be considered a "**de facto director**" if they hold himself/herself out as a director such that a third party relies upon that person's implicit authority as a director. In this case, the taxpayer was **not** a "**de facto director**" of the company.

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### 2010 FEDERAL BUDGET

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On **March 4, 2010** the Honourable

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**Jim Flaherty**, Minister of Finance, presented his **fifth Budget** to the House of Commons.

The **Government's fiscal positions** include deficits in the years 2009/2010 (\$53.8 billion), 2010/2011 (\$49.2 billion), 2011/2012 (\$27.6 billion), and 2012/2013 (\$17.5 billion).

Some proposals include:

## A. PERSONAL INCOME TAX

### 1. Medical Expense Tax Credit – Purely Cosmetic Procedures

Budget 2010 proposes that expenses incurred for purely cosmetic procedures



(including related services and other expenses such as travel) be **ineligible** to be claimed under the **Medical Expense Tax Credit**. This generally includes surgical and non-surgical procedures purely aimed at enhancing one's appearance such as liposuction, hair replacement procedures, botulinum toxin injections, and teeth whitening.

These expenses will also become subject to **GST/HST**.

This will apply to expenses incurred after **March 4, 2010**.

### 2. Charities: Disbursement Quota Reform

Budget 2010 proposes to reform the **disbursement** quota for fiscal years that end on or after **March 4, 2010**.

### 3. Employee Stock Options

Budget 2010 proposes to **prevent both the stock option deduction** to the employee and a **deduction** by the **employer** from being claimed for the same employment benefit.

Budget 2010 also proposes to **repeal** the stock option **tax deferral election** to employees of public corporations.

Budget 2010 also proposes to introduce a **special elective tax treatment** for taxpayers who elected under the current rules to **defer taxation of certain public share stock option benefits** until the disposition.

## B. OTHER TAX

### Online Notices

Budget 2010 proposes that the *Income Tax Act*, *Excise Tax Act*, *Excise Act, 2001*, *Air Travellers Security Charge Act*, *Canada Pension Plan* and *Employment Insurance Act* be amended to allow for the **electronic issuance** of those **notices** that can currently be sent by ordinary mail if **authorized by a taxpayer**.

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## ESTATE PLANNING

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### VOLUNTEERS

In a March 11, 2007 **External Technical Interpretation**, CRA notes that where an individual is a **volunteer without remuneration**, or at most minimal remuneration, **reimbursements** of automobile expenses, airline tickets, and

payment of allowances for meal expenses to attend meetings of the Board of Directors (including allowances to cover meals for their spouses) are **not** considered **income** for tax purposes.

## TURNING AGE 71 IN 2010

Taxpayers turning **age 71** in 2010 could consider making one year advance **contributions** to their **RRSP**. For example, by making the 2011 contribution in **December, 2010** (just before the RRSP is wound-up), this **over-contribution** may be deducted in January, 2011 if there is sufficient **contribution room** for 2011. This would be subject to a **1% penalty** for the month of December on the **excess contributions** over \$2,000. However this penalty is minor compared to the large tax deduction in 2011.



**Professional advice** is recommended.

## TAX-FREE SAVINGS ACCOUNT

On October 16, 2009, Finance **News Release 2009-099** provided technical amendments to the TFSA rules including a **100% tax** on the **income** under the "**advantage**" rules, in addition to the existing **1% per month penalty tax** on **over-contributions**.

## GIFT OF ECOLOGICAL PROPERTY

In an October 9, 2009 **Technical Interpretation**, CRA notes that

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when a taxpayer makes a **gift of land** which is **ecological property**, in addition to being able to claim a **donation tax credit** (in the case of an **individual**) or a **deduction** for gifts (in the case of a **corporation**), the **capital gain**, resulting from the disposition of the land is **cancelled**.

## STRUCTURED SETTLEMENT

In a 2009 **Advance Tax Ruling**, CRA Ruled that the payments under an annuity contract to the Plaintiff will **not be taxable** in the hands of the recipient as it meets the terms of a **structured settlement**.

In this case, an individual (Plaintiff) suffered **serious permanent injuries** at the time of **birth**. The **Plaintiff** commenced an **action** against the **Defendant**. Pursuant to an **out-of-Court settlement**, the **casualty insurer** of the Defendant assigned its rights and obligations to an **assignment company** who will purchase a **single premium annuity contract** with a life insurance company to provide **periodic payments** to be **received** under a **structured settlement arrangement**.

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## FARMING

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### FULL DEDUCTION FOR FARMING

In a September 25, 2009 **Tax Court** of Canada case, the taxpayer worked approximately **40 hours per week** as a **police officer**



in Ottawa and at least **40 hours per week** on his **farm**. CRA had **restricted** the **deduction** of the **\$25,379 2004 farm loss** against employment income to **\$8,750**.

The farm was a **family operation** and his spouse supervised the farm business when the taxpayer was at work as a police officer. The Court noted that the family has worked extremely hard on the farm operation.

### Taxpayer Wins!

The Court had **no problem** in concluding that the **farm losses** were **fully deductible** against the police officer **employment income** on the basis that the taxpayer's **chief source of income** was a **combination of farming** and his **employment** as a police officer.

## HORSE RACING OPERATIONS

In a December 17, 2009 **Tax Court** of Canada case, the Court allowed the taxpayer a **full deduction** for **horse race operation** losses.

The taxpayer's position was that the **horse operation**, in conjunction with his **law practice**, was his **chief source of income**.

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## EMPLOYEE VS. INDEPENDENT CONTRACTOR

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In a December 23, 2009 **Court of Appeal for Ontario** case, the **Court** found the **Agreement** between Elizabeth McKee and Reid's Heritage Homes (RHH) was one of **employment**, not independent contractor.

The Court then noted that it is an **implied term** in an **employment situation** that the employee is entitled to reasonable **notice of termination**.

In this case **Mrs. McKee** worked **exclusively** for RHH. She was also **under the control** of RHH as to where she was to sell, the promotion methods, what she was to sell, and how much it was to sell for. With respect to the **"tools"**, Mrs. McKee performed her sales functions in **model homes** provided by RHH and RHH supplied her **stationery and forms**. Also, Mrs. McKee was **financially dependent** on RHH and had **no expectation** that she might earn a profit as distinct from the fixed commissions. Also, the sales force of which Mrs. McKee was a member was a **crucial element** of RHH's business organization.

### Editor's Comment

It is **important** to have the **terms** of the engagement in **writing** and that the **relationship** meets the required tests if **independent contractor status** is to be obtained.

Also, another **downside** for the **payer** is that when a **recipient** is considered to be an **employee**, the payer may be subject to **penalties** for failing to withhold and remit **source**



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**deductions** for income tax, CPP, EI and Workers Compensation. The payer may also have liability if the worker was to have received **other benefits**.

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## GST/HST

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### PLACE OF SUPPLY RULES

On **February 25, 2010**, Finance Release **2010-014** introduced new **Place of Supply Rules** related to **where** the recipient of a service or an intangible property is located with respect to the **GST/HST** rules.



For example, **Ontario** (13%) and **British Columbia** (12%) are proposing to introduce HST on **July 1, 2010**.

### DIRECT SELLING INDUSTRY

On January 13, 2010, CRA introduced **GST/HST Info Sheet GI-052 - Direct Selling Industry** - The Network Sellers Method for Network Sellers and Sales Representatives. This **8-page Release** reflects proposals from the **January 27, 2009 Federal Budget** for any fiscal year of a Network Seller that **begins** on or after **January 1, 2010**.

### INPUT TAX CREDITS

In a January 28, 2010 **Tax Court** of Canada case, the **issue** was whether **Comtronic** was entitled to **Input Tax Credits** (ITCs) where the **GST**

**Registration Number** of the **supplier** shown on the invoice was **not** that of the **supplier** but was a validly issued number **belonging to someone** else as part of an **identity theft operation**.

### Taxpayer Loses

The Court noted that under the Excise Tax Act an **ITC cannot be claimed** unless the claimant has obtained prescribed information including the name of the supplier and the registration number **assigned to the supplier**.

### CREDIT CARD EXPENSES AND THE REGISTRANT'S USE OF FACTORS FOR CLAIMING INPUT TAX CREDITS

In an April 28, 2010 CRA **Release P-184**, CRA discussed the use of the **Factor Method**, instead of the **Exact Calculation Method**, to compute the eligible **Input Tax Credits** (ITCs) in relation to **credit card reimbursements** for expenses incurred by employees.

### ELECTRONIC FILING

On January 4, 2010, CRA proposed **mandatory electronic filing** requirements for certain GST/HST Registrants beginning July 1, 2010.

Under the measures, the following groups will be **required** to file their GST/HST Returns **electronically**:

- GST/HST Registrants with **greater than \$1.5 million** in annual taxable supplies

(except for charities);

- Registrants required to recapture **Input Tax Credits** for the provincial portion of the HST on certain inputs in **Ontario or British Columbia**; and
- builders affected by the transitional housing measures announced by **Ontario or British Columbia**.

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## WEB TIPS

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### THE PERFECT GIFT

[www.thinkgeek.com](http://www.thinkgeek.com)



If you are looking for that perfect gift for your **geeky friend or loved ones**, make sure to check out **thinkgeek.com**. This site offers **tons of knickknacks and gifts** from **duct tape wallets**, to **butterfly knife styled pens** to **mini shopping cart desktop organizers**.

Gift categories include: T-Shirts & Apparel, Geek Toys, Gadgets, Home & Office, Computer Stuff, Caffeine & Edibles, Electronics, Geek Kids & Books.

This site is great either for purchasing or inspiring your own **gift making**.

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