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Canada – TaxMatters@EY

In this issue

Building a better working world means understanding your tax situation and how the ever-changing global tax landscape affects you. *TaxMatters@EY* is a monthly Canadian bulletin that summarizes recent tax news, case developments, publications and more. For more information, please contact your EY advisor.

Long-term eldercare – attendant care

Krista Fox and Lucie Champagne, Toronto

One of the most significant expenses of long-term eldercare is the cost of attendant care. Tax assistance, in the form of non-refundable tax credits, helps alleviate some of the burden for families, but the relief available depends on the level of care provided and whether the individual is eligible for the disability tax credit. Depending on the circumstances, there may be an opportunity to optimize the credits.

The following discussion explores the tax credits available in respect of attendant care for elderly individuals who live at home, in a nursing home, or in a long-term care facility.

Building a better working world

The basics – medical expense tax credit

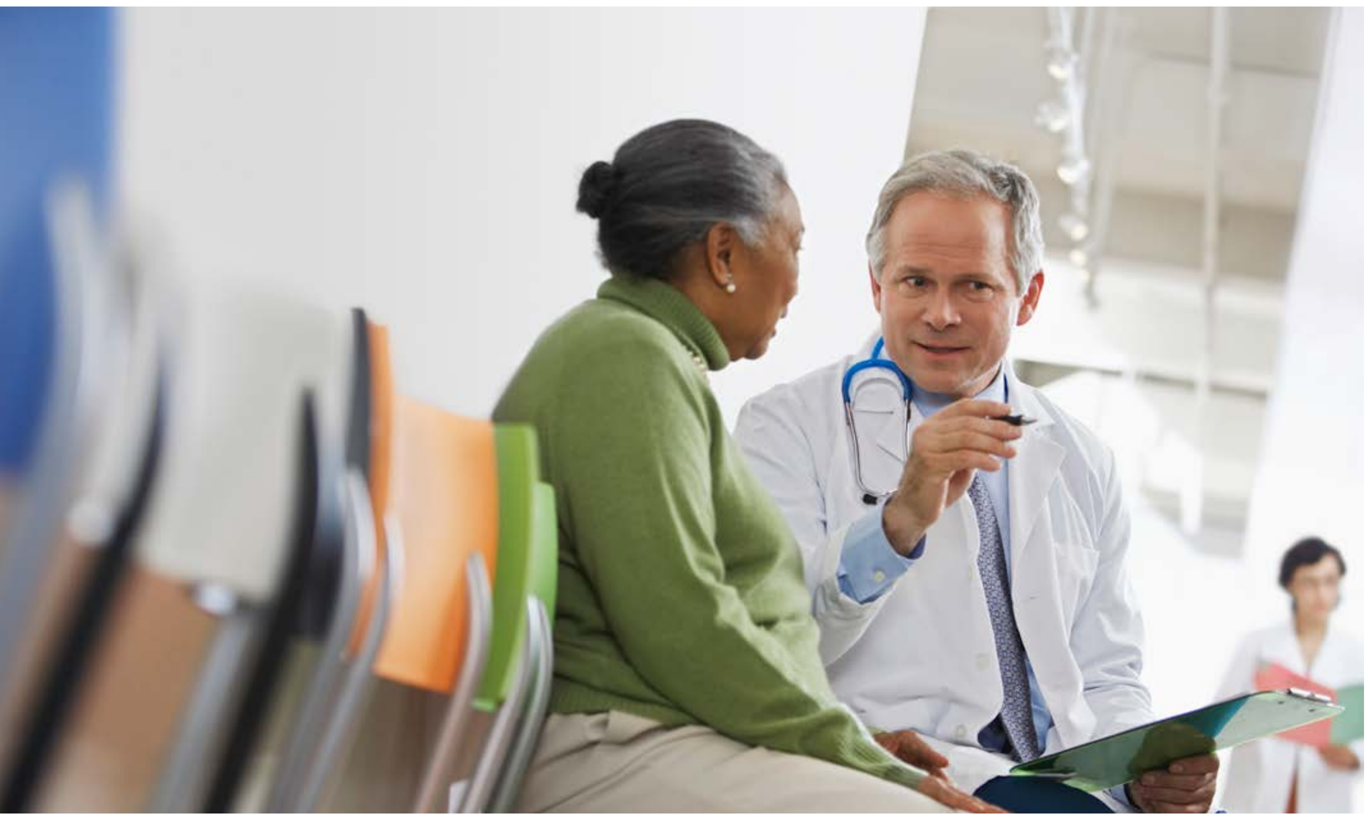
Eligible attendant care and nursing home or long-term care facility fees may generally be claimed as a qualifying medical expense eligible for the federal Medical Expense Tax Credit (METC). The federal METC is a non-refundable credit computed by applying the lowest marginal tax rate (currently 15%) to eligible medical expenses in the year in excess of the lesser of

- 3% of net income; and
- $2,237 (2016 amount).

The provinces and territories provide a comparable non-refundable credit.

An individual, or their spouse or common-law partner, may claim eligible attendant care expenses in respect of the couple. As such, it may be more beneficial for the lower-income spouse or partner to make the claim (due to the 3% net income threshold).

An individual may also claim attendant care expenses incurred for an adult dependent relative (e.g., adult dependent relatives such as a parent, grandparent, brother, sister, aunt or uncle), subject to certain limitations. There is no requirement that the individual requiring care live with the supporting relative or be claimed as a dependant for any other purpose; they must, however, be dependent on the claimant for financial support.



Attendant care expenses for a dependent relative other than a spouse or common-law partner is limited to the total of eligible amounts paid in excess of the lesser of 3% of the dependant's income and $2,237 (2016 amount).

More than one person may claim the METC in respect of the same person, but the total amount claimed by all supporting persons cannot exceed the total expenses paid by them.

The basics – disability tax credit

In general terms, the Disability Tax Credit (DTC) is available when an individual is certified by an appropriate medical practitioner as having a severe and prolonged mental or physical impairment (or a number of ailments) that markedly restricts the individual's ability to perform a basic activity of daily living.

To claim the credit, the individual (or a representative) must file Form T2201, *Disability Tax Credit Certificate*, which must be signed by a specified medical practitioner.

The federal DTC base amount for 2016 is $8,001, resulting in a non-refundable tax credit of $1,200. The provinces and territories provide a comparable credit; for 2016, the total tax benefit of the DTC ranges from approximately $1,500 to $2,600, depending on the province (or territory) of residence.

If the disabled individual does not require the full amount of the DTC to eliminate taxes payable, the unused portion may be transferred to supporting relatives.

Nursing home or long-term care facility fees

Although not defined for tax purposes, the Canada Revenue Agency (CRA) considers a nursing home to be a public facility offering 24-hour nursing care to patients. Generally, all regular fees paid for full-time care – including food, accommodation, nursing care, administration, maintenance, social programming, and activities – qualify as an eligible medical expense.

To claim these expenses, the individual receiving the care must either qualify for the DTC, or have medical certification that they are, and will continue to be dependent on others for their personal needs and care due to lack of normal mental capacity.

Additional personal expenses that are separately identifiable, such as hairdressing fees, are not allowable expenses.

An individual who resides in a nursing home may have supplementary personal attendants. The salaries paid to these attendants may be considered a qualifying medical expense (up to $10,000 annually, $20,000 in the year of death), along with the institution's fees.

A retirement home will generally not provide the care that is required to be classified as a nursing home, and thus the fees would not qualify as an eligible medical expense. To the extent that the attendant-care component of the fee can be set out separately in an invoice, that portion of the fee will qualify as an eligible medical expense (proof of payment must be provided). However, it may only be considered part-time care (and limited to $10,000 annually or $20,000 in the year of death), as discussed below.

A particular floor within a retirement home may qualify as a nursing home. For example, the home may provide independent or semi-independent accommodations but have certain floors dedicated to full-time care. Whether the specific floor qualifies as a nursing home will depend on the size of the facility's staff, the staff's qualifications and the equipment available to provide 24-hour nursing care to patients.

Full-time in-home attendant care

Eligible in-home attendant care expenses are not limited to assistance with basic living needs, such as dressing and bathing. Assistance with personal tasks such as cleaning, meal preparation, shopping, transportation and banking may also be claimed. Attendant care can also include providing companionship to an individual. However, costs for such services purchased individually or from a commercial provider (e.g. cleaning agency or transportation service) do not qualify.

To claim these expenses, the individual receiving care must either have an approved Form T2201, or certification from a medical practitioner that the individual is, and will likely continue to be dependent on others for their personal needs and care due to a mental or physical impairment, and needs a full-time attendant.

Full-time in-home attendant care expenses can be claimed for only one attendant in a given period, although an individual may have several attendants over a period of time. The attendant must be over 18 at the time the wages were paid and cannot be the spouse or common-law partner of the claimant. This means that an individual can pay one parent to care for the other parent, and possibly claim the amount paid as an eligible medical expense, as the amount is not paid to the claimant's spouse. The parent providing care would be required to include the amount in taxable income; thus this option may not be desirable if the individual is subject to a marginal income tax rate in excess of 15%.

A private attendant hired for in-home care is generally considered to be an employee. The payer should ensure that appropriate payroll deductions and remittances are made to the CRA. Although the source deductions and the employer portion of Canadian Pension Plan (CPP), Quebec Pension Plan (QPP) and Employment Insurance (EI) contributions qualify as attendant care costs, in the case of a live-in attendant, imputed salary (e.g. the cost of board and lodging) does not qualify, as it is not considered to be an amount paid.

Full-time care restriction on the DTC

If full-time attendant care or nursing home care expenses are claimed under the above-noted provisions of the METC, the DTC cannot be claimed by anyone in respect of the individual. Since these expenses generally far exceed the DTC base ($8,001 in 2016), it may be more advantageous to forego the DTC in favour of the METC.

Part-time attendant care

Where in-home care is not deducted, or perhaps not deductible under the above full-time provisions (for example in the case of a part-time attendant), an individual may be able to claim up to $10,000 annually ($20,000 in the year of death) for part-time attendant care provided in Canada. Again, the individual must be eligible for the DTC, but the DTC can be claimed along with the METC for these expenses instead of under one of the full-time care provisions. The combination of the METC claim and the DTC provides relief in respect of $18,001 of related costs.

Since eligible medical expenses may be claimed by supporting relatives and the $10,000 limit applies to each claimant, it may be beneficial to claim the costs under the part-time care provision to reap the benefit of the DTC as well.

Planning considerations

Because of the interaction between the DTC and the METC, and the ability for supporting relatives to claim certain expenses, it's important to consider and choose the most advantageous combination each year. In making this determination, other medical expenses paid during the year, as well as other non-refundable credits, must be considered to maximize the benefits available.

Interaction between the METC and the DTC

Example one

Lauren is 75-years old and she resides in a retirement home where she receives full-time attendant care. Lauren has an approved Form T2201 on file with the CRA.

In 2016, Lauren earned pension income of $45,000. The retirement home provided Lauren with a receipt indicating that she paid $21,000 of eligible attendant care expenses during the year.

Lauren has the following two options to consider when preparing her 2016 tax return:

1. Claim $10,000 of attendant care expenses (under the part-time care attendant provision) and the DTC; or
2. Claim the full amount of eligible attendant care expenses and no DTC.

Analysis

	Option 1	Option2
Disability amount	$8,001	-
Medical expenses*	8,650	19,650
Sub-total	**$16,651**	**$19,650**
Lowest marginal tax rate	15%	15%
Federal non-refundable tax credit	**$2,498**	**$2,948**

**Eligible medical expenses in excess of the lesser of (1) 3% of net income ($45,000 * 3% = $1,350); and (2) $2,237. Thus, eligible medical expenses total $8,650 and $19,650, respectively.*

Conclusion

Option two yields a higher federal non-refundable tax credit.

Example two

Assume the same facts as above, except that Lauren's eligible attendant care expenses total $14,000.

Analysis

	Option 1	Option2
Disability amount	8,001	-
Medical expenses*	8,650	12,650
Sub-total	**$16,651**	**12,650**
Lowest marginal tax rate	15%	15%
Federal non-refundable tax credit	**$2,498**	**1,898**

**Eligible medical expenses in excess of the lesser of (1) 3% of net income ($45,000 * 3% = $1,350); and (2) $2,237. Thus, eligible medical expenses total $8,650 and $12,650.*

Conclusion

Option one yields a higher federal non-refundable tax credit.

Other considerations

The conclusions reached could change if Lauren is financially dependent on her two daughters. In this case, Lauren could claim the DTC and each of her daughters could claim up to $10,000 of attendant care expenses paid to the retirement home. As such, up to $20,000 of attendant care expenses would be claimed for the METC (in excess of the threshold of 3% of Lauren's net income or $2,237) in addition to the DTC. If Lauren does not require the full amount of the DTC to eliminate taxes payable, the unused portion could be transferred to her daughters. ◆

Learn more

To learn more about medical expenses and other personal tax topics related to long-term eldercare, refer to our publication Managing Your Personal Taxes: a Canadian Perspective or contact your EY tax advisor.

Check out our helpful online tax calculators and rates

Lucie Champagne, Janna Krieger, Candra Anttila and Andrew Rosner, Toronto

If you have not recently used our personal tax calculators, we encourage you to do so.

Frequently referred to by financial planning columnists, our mobile-friendly 2016 personal tax calculator lets you compare the combined federal and provincial 2016 personal income tax bill in each province and territory. For the chosen income level, the tool also provides the average tax rate, the marginal tax rate and the marginal rates on capital gains, eligible dividends and ineligible dividends. The calculator, which reflects known rates as of 30 June 2016, is found on our website at ey.com/ca/taxcalculator.

A second calculator allows you to compare the 2015 combined federal and provincial personal income tax bill and marginal rates.

You'll also find our helpful 2016 and comparative 2015 personal income tax planning tools:

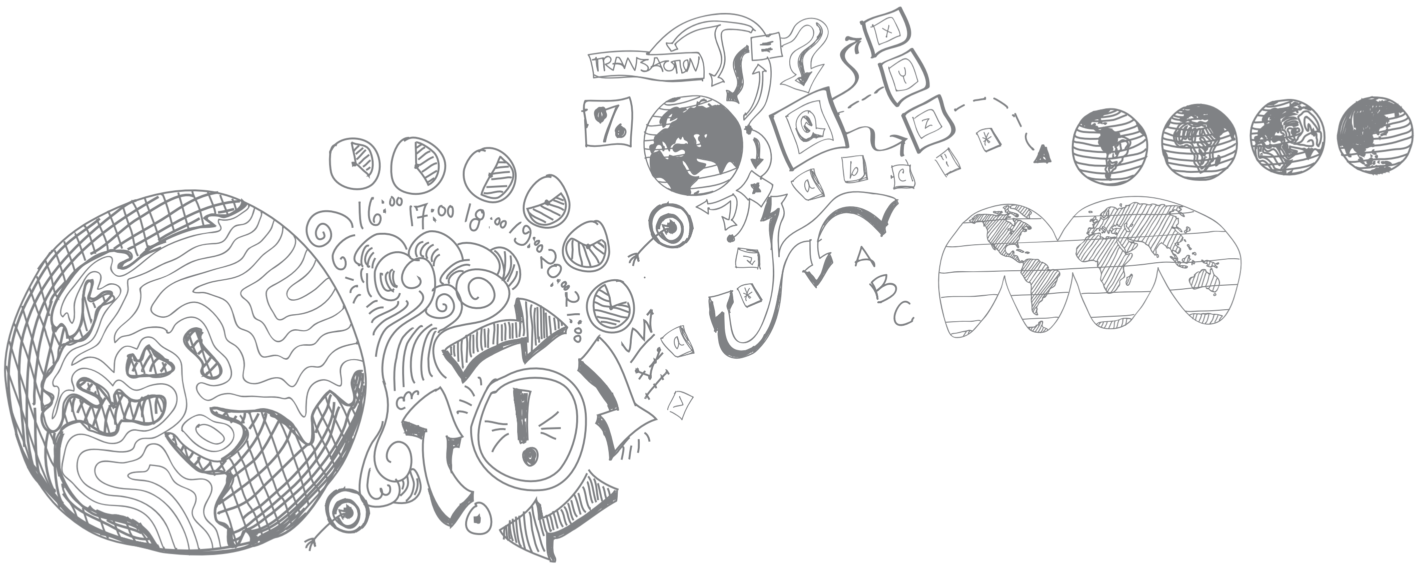
- An RRSP savings calculator showing the tax savings from your contribution
- Personal tax rates and credits, by province and territory, for all income levels

In addition, our site also offers you valuable 2016 and comparative 2015 corporate income tax planning tools:

- Combined federal-provincial corporate income tax rates for small-business rate income, manufacturing and processing income, and general rate income
- Provincial corporate income tax rates for small business rate income, manufacturing and processing income and general rate income
- Corporate income tax rates for investment income earned by Canadian-controlled private corporations and other corporations

You'll find these useful resources and several others – including our latest perspectives, thought leadership, Tax Alerts, up-to-date 2016 budget information, our monthly TaxMatters@EY and much more – at ey.com/ca/tax.

Worldwide Estate and Inheritance Tax Guide 2016



EY's Worldwide Estate and Inheritance Tax Guide summarizes the estate tax planning systems and describes wealth transfer planning considerations in 38 jurisdictions around the world, including Australia, Canada, China, France, Germany, Italy, the Netherlands, the UK and the US.

The guide is designed to enable internationally positioned individuals to quickly identify the estate and inheritance tax rules, practices and approaches in their country of residence. Knowing these various approaches can help you with your estate and inheritance tax planning, investment planning and tax compliance and reporting needs.

The guide provides at-a-glance information as well as details on the types of estate planning in each jurisdiction. It includes sections on the following:

- The types of tax and who is liable
- Tax rates
- Various exemptions and relief
- Payment dates and filing procedures
- Valuation issues
- Trusts and foundations
- Succession
- Matrimonial regimes
- Testamentary documents and intestacy rules
- Estate tax treaty partners

You can view the complete *2016 Worldwide Estate and Inheritance Tax Guide* here. ◆

Tax landscape shifts for middle market firms

Extract from EY's Think global, act global

Today, new technologies mean that a company can be multinational — even global — from day one of its formation.

The internet, cloud computing and other new technologies mean the business playing field has been leveled.

Consider:

Inbound companies can move quickly to enter markets where a local player has proven a workable business proposition.

Disruptive businesses move more rapidly than ever thought possible.

The trajectory from idea to operation to global corporation can be made in days or weeks, not years.

Like the world of business that it mirrors, the world of business tax is becoming unrecognizable from the one of just a few years past.

The landscape as we know it today — and the new vista that will emerge — is being shaped by a convergence of trends and forces that are impacting tax departments at a faster pace, higher volume and greater complexity than any company has experienced before. Tangible tax changes are now occurring month-by-month, week-by-week and often day-by-day: tax transparency is becoming the "new normal."

Information on the cross-border tax rulings granted to a company in one European Member State will be available for all other revenue authorities to examine and, if the European Parliament has its way, will need to be disclosed in the company's financial statements.

And business fears that potential new rules on what constitutes a permanent establishment (PE) may be used by some countries to justify an overly aggressive approach to finding (and then taxing) PEs.

These are just some of the new realities that companies must now deal with.

Not just multinationals

The impact of such change is not limited to the world's largest multinational companies.

Increasingly, middle market companies (which we have defined for this report as those with annual revenues below a threshold of US$3b) are under public, media, tax authority or even internal scrutiny.

The rising use of technology and data analytics means that governments and tax authorities can consistently lower the threshold where this increased scrutiny occurs.

Consider Schedule UTP (for the reporting of uncertain tax positions) in the United States, where the original asset threshold for filing dropped from US$100m in 2010 to US$50m in the 2012 tax year and to US$10m for 2014.

Alongside new transparency and disclosure requirements, reputation risk has also become a phenomenon that many thought would pass quickly, but instead continues to draw companies large and small into its sights.

All these factors put tax higher on the corporate agenda than it has ever been.

Outside national markets, some middle market companies also find themselves the focus of the Base Erosion and Profit Shifting (BEPS) project of the Organisation for Economic Co-operation and Development (OECD), where the minimum threshold for country-by-country reporting of financial data (which is to begin in 2017) has been set at €750m or the local currency equivalent.

Challenges mounting

Middle market companies are telling us that they are already facing significant pressures in how they manage their tax compliance and reporting responsibilities.

Eighty-nine percent of global respondents to our survey have experienced a revenue authority review or audit in the last three years; 76% have experienced growth in the overall number or aggressiveness of tax audits; and 64% report an increase in cross-border focus by tax authorities.

But not all stress points come from outside the enterprise: 73% say their organization has undergone some form of restructuring in the last three years, while 67% report conducting some form of finance transformation exercise.

And a lack of internal processes and controls was the leading perceived cause of tax risk among survey respondents.

In our report, we seek to highlight not only how middle market companies address their tax operations — and compliance and reporting needs in particular — but to identify the skills, competencies, processes and technologies they will need to meet future obligations.

Lessons learned

All multinational companies, however large they may be today, have experienced the process of learning and then mastering new tax challenges as they pass through the growth cycle from domestic company to small multinational to truly global company.

Throughout our report, we seek to isolate and describe the lessons they've learned through their journeys.

We suggest that middle market tax functions support a minimum of four of The EY Seven Drivers of Growth (people, behaviors and culture; digital, technology and analytics; operations; and risk) — and many also contribute to the funding and finance driver.

These seven drivers represent the key business challenges companies must address and master to accelerate their growth.

That the middle market tax function contributes so much to so many of these drivers is a testament to the growing importance of effective tax management.

A way forward

This is an incredible time to be running or working in a tax department — a time when tax has risen far up the agenda of corporate leaders, governments, media and the public.

It is a period of extraordinary technical change, and public and tax authority scrutiny, which must be effectively managed if the enterprise is to meet all obligations and manage its risk exposure.

Tax is a double-edged sword: get it (and keep it) right, and an effective tax function can provide not only support to the wider business but also a real advantage over and above competitors.

But get it wrong, and the pains — audits, disputes, penalties, inefficiencies, reputation risk — can be significant.

Having access to insights from those who have already trodden the same path can help in this period of evolution. ◆

Was a significant reduction of Canadian tax "one of the main reasons" for an off-shore hedge fund investment? The Tax Court says no, but it depends on the facts

Gerbro Holdings Company v. R. 2016 TCC 173
Michael Citrome, Toronto, and Daniel Sandler, Toronto

Section 94.1 of the Income Tax Act is an anti-avoidance provision that seeks to eliminate any advantage that Canadian residents may obtain by acquiring or holding "portfolio investments" via offshore entities rather than directly.

The judgment of the Tax Court of Canada (the "Court") in *Gerbro Holdings Company v.* R.[1], rendered by Lamarre A.C.J. on 22 July 2016, is only the second judgment[2] dealing with s. 94.1 since its introduction in 1984, the first since the proposal and subsequent abandonment of the Foreign Investment Entity (FIE) rules which had sought to modernize the section, and also the first where the taxpayer was successful.

An anti-avoidance provision

Section 94.1 is an anti-avoidance provision that applies when it may reasonably be concluded that one of the main reasons that a taxpayer owns an interest in a non-resident entity that holds portfolio investments is to significantly reduce the Canadian tax that would have been payable if such investments had been owned directly.

This motive test is tricky – passing it requires an objective, detailed and corroborated exploration of the taxpayer's personal motivations. However, as the taxpayer demonstrated in this case, the burden of proving that one's motivations differ from those alleged by the Minister is a burden that can be overcome.

Before discussing the motive test, it would be useful to provide some background on the taxpayer, and to consider if the taxpayer met a preliminary condition in the application of Section 94.1, namely the requirement that the taxpayer holds "portfolio investments" through an offshore entity.

Background

The taxpayer was a corporation whose sole shareholder was a spousal trust settled by the estate of a prominent Canadian businessman. His wife was the beneficiary of the trust during her lifetime, with the remaining capital and interest to be distributed to the couple's children upon her death. By the beginning of the years at issue, the spousal beneficiary had already reached the age of 88,[3] so a distribution was imminent and the liquidity of the assets was of great concern. The purpose of the corporation was to invest the capital and interest of the trust during the spousal beneficiary's lifetime. According to the judgment, the taxpayer "chose to use independent money managers to manage its investments since it did not have the resources in-house to actively manage its own portfolio."[4] It is this strategy of using outside money managers "to build a suitable portfolio"[5] that is at the heart of the matter.

1 2016 TCC 173.
2 Para. 87; see Walton v. The Queen, 1998 CanLII 556, (appeals dismissed); see also Barejo Holdings ULC v. The Queen, 2015 TCC 274, which was an order upon application under Rule 58 for the determination of a question of mixed fact and law that dealt with the application of s. 94.1.
3 She died in February 2012.
4 Para. 9.
5 Para. 16.

What is a portfolio investment?

Section 94.1 applies to an investment in a non-resident entity "that may reasonably be considered to derive its value, directly or indirectly, primarily from portfolio investments" of certain types.

At the relevant times, the taxpayer had investments in five off-shore hedge funds (the "Funds"). A threshold issue is whether the Funds derived their value from portfolio investments.

Because the term "portfolio investment" is not defined in the Act, the court followed the instructions given by the Supreme Court of Canada in *Canada Trustco Mortgage Co. v. Canada*[6] to determine its meaning by undertaking a "textual, contextual and purposive analysis" of the term.

Through this process, the Court determined that a portfolio investment is "an investment in which the investor (non-resident entity) is not able to exercise significant control or influence over the property invested in,"[7] as opposed to one where the investor wants to do more than just "passively benefit from an appreciation in value"[8] which would "entail active management of, or control over, the operations of the underlying investment."[9]

Based on this definition, the Court found the Funds held portfolio investments.[10]

"One of the main reasons"

With the first criterion met, the Court had to consider the taxpayer's motivations.

The motive test requires two points to be considered:

- Would the taxpayer have paid significantly more tax on the income, profits and gains earned on the portfolio investments in the year if the taxpayer had held the investments directly; and if so,
- Was this "one of the main reasons" that the taxpayer made and held its interest in the non-resident entity.

Significantly less tax is not mathematics

The threshold of the test appears to be mathematical: would the taxpayer's income tax liability have been significantly greater had the investments been held directly rather than through the non-resident entity?

In the circumstances, this was a difficult question to answer. Hedge funds are notoriously secretive about their holdings and investment strategy, since that is typically the source of their competitive advantage, and are generally unregulated, with no obligation to disclose.

The taxpayer contested the method used by the CRA auditor to calculate the Part I tax otherwise payable.[11]

However, the Court provided its own explanation of the correct test to apply, stating:[12]

> The correct comparison is the amount of foreign tax paid in either 2005 or 2006 on the profit, income and gains realized from the portfolio investments versus the amount of Canadian Part I tax that Gerbro would have paid in 2005 and 2006 if it had held the portfolio investments directly. A significant difference, in any given year, between these amounts is the type of benefit contemplated. The Motive Test does not require an exact calculation of the benefit as it is a test of intention. In light of the words "it may reasonably be concluded" preceding the description of the Motive Test in section 94.1, what is to be considered is whether it is objectively reasonable to conclude that such a benefit was contemplated.

In other words, the Minister is not required to calculate the tax differential in order to apply s. 94.1, but rather to allege that "it may reasonably be concluded" that the benefit of a "significant" tax differential was available to the taxpayer. Once that threshold step is met, "[t]he factual question is then quite simply whether it can reasonably be concluded that one of Gerbro's main reasons for investing or holding its interests in the Funds was to obtain the benefit in question."[13]

Principles of the motive test

The Court provided a summary[14] of the underlying legal principles that inform the application of the motive test. They can be briefly summarized as follows:

a. Even if a taxpayer does not disclose a reason for investing (such as tax-avoidance), a court can still infer that such a reason existed;

b. A taxpayer can have more than one main reason for making a particular investment;

c. Even if a taxpayer would have made an investment in the absence of a tax benefit, this does not mean that the Court must conclude that the tax benefit was not a "main reason" for making the investment;

d. Just because the investment resulted in tax savings, it is improper to automatically infer that obtaining such tax savings was a "main reason" for investing; and,

e. Choosing to invest in a non-resident entity when it was possible to invest in "another vehicle triggering a larger tax liability" (e.g. a Canadian-resident entity) does not necessarily mean that the resulting tax benefit was a "main reason".

6 [2005] 2 S.C.R. 601, at para. 10.
7 Para. 101.
8 Para. 100.
9 Para. 103.
10 Para. 118, classes consist of shares of the capital stock of one or more corporations, indebtedness or annuities, interests in one or more corporations, trusts, partnerships, organizations, funds or entities, commodities, real estate, Canadian or foreign resource properties, currency of a country other than Canada and any combination of or rights or options to acquire or dispose of same.
11 Para. 48 - 49.
12 Para. 137.
13 Para. 139.
14 Para. 157.

A reason, but not a main reason

Applying these principles, the Court determined that while tax deferral was an ancillary reason for the taxpayer to invest in the Funds, it was not one of the main reasons, and therefore s. 94.1 does not apply.[15] This distinction between main reasons and other reasons is critical to the application of s. 94.1.

As the Court explained, the Act's criteria for motive tests vary from section to section:[16]

> The Act is replete with specific anti-avoidance provisions, and the criteria for their application can be more or less difficult to satisfy depending on the wording used. Clearly a "one of the reasons" test is less difficult to meet than a "one of the main reasons" or a "one of the main purposes" test.

In making its determination, the Court examined the facts and found the following especially relevant:

a. The taxpayer undertook a rigorous investment selection process in order to support its specific goals of liquidity, capital preservation and maintaining the lifestyle and philanthropic activities of the trust's living beneficiary;[17]

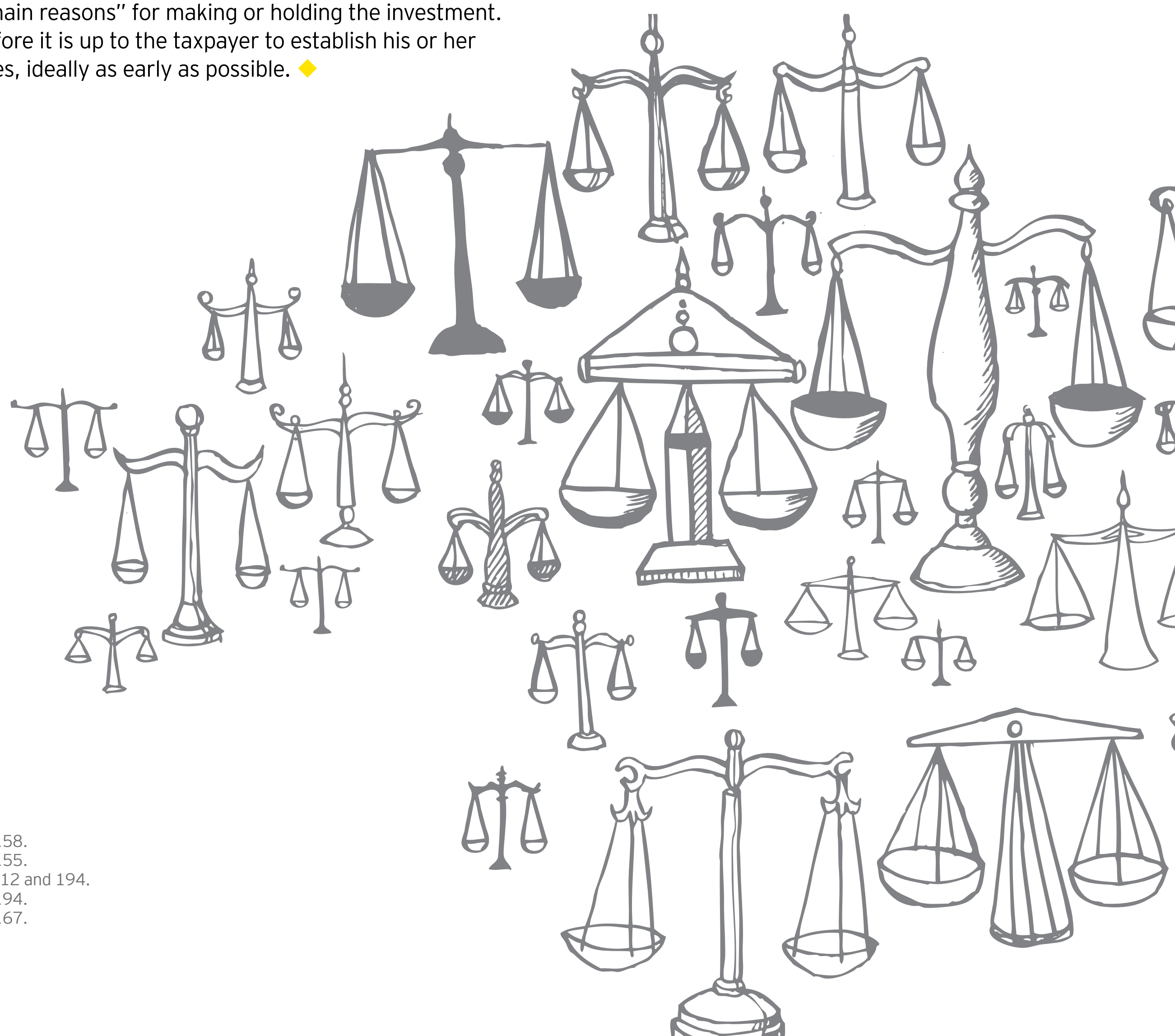
b. The testimony of the taxpayer's representative "was highly credible and in harmony with the preponderance of probabilities", "logical, and [without] fundamental internal or external contradictions," and "not contradicted by documentary evidence";[18] and,

c. Because the taxpayer "was facing a situation in which it might have to redeem its shares in the Funds at any time (in the event of the death of [the trust beneficiary])" the Court found it credible that the taxpayer's main reasons for investing in the Funds were to invest with trustworthy individuals, obtain good returns, reduce overall portfolio volatility, and maintain liquidity, and therefore tax deferral "took a back seat in Gerbro's investment decision and in its continuing decision to hold the investments in the Relevant Period".[19]

Lessons learned

The application of Section 94.1 is fact-based: any case will necessarily turn on the taxpayer's motivations, objectively analysed. For Canadians who wish to invest passively using off-shore vehicles that may result in a lower rate of taxation than they would pay in Canada, or a deferral of Canadian tax (or both), it would be highly advisable both to consider and document their motivations before making the investment.

This tax benefit does not have to be quantified to be significant: the Minister only has to allege that "it may reasonably be concluded" to exist and that it is amongst the "main reasons" for making or holding the investment. Therefore it is up to the taxpayer to establish his or her motives, ideally as early as possible.



15 Para. 158.
16 Para. 155.
17 Paras. 12 and 194.
18 Para. 194.
19 Para. 167.

Publications and articles

Tax Alerts – Canada

New mandatory certificate from Revenu Québec: personnel placement agencies and subcontractors– 2016 Issue No. 34

In its continuing efforts to curtail tax evasion and undeclared work, Revenu Québec has implemented additional compliance measures that became effective on 1 March 2016 under Bill 28, An Act mainly to implement certain provisions of the *Budget Speech of 4 June 2014 and return to a balanced budget in 2015-2016*, which received Royal assent on 21 April 2015. The current system of certification is partly modified by these measures, which above all extend the obligation to hold a certificate, particularly for the construction industry and personnel placement agencies operating in the province of Québec.

Revenu Québec strongly believes that a substantial amount of tax revenue is lost in these industries. To remedy this situation, under the new measures, subcontractors and personnel placement agencies are now required to obtain a certificate from Revenu Québec before entering into private contracts for construction work, personnel or temporary placement services. Non-compliance with this new obligation could result in penalties.

Prince Edward Island to raise HST by 1%: transitional rules – 2016 Issue No. 35

In his fiscal 2016-17 provincial budget, released on 19 April 2016, Prince Edward Island Finance Minister Allen Roach announced a 1% increase in the provincial component of the harmonized sales tax (HST) from 9% to 10%, effective 1 October 2016. The new combined HST in the province will be 15%.

The province recently released a new notice, "Transitional Rules for the Prince Edward Island HST Rate Increase," outlining transitional rules in respect of the rate change.

Finance releases draft legislation for 2016 budget and other previously announced measures– 2016 Issue No. 36

On 29 July 2016, the Department of Finance released for public comment a package of draft legislative proposals and explanatory notes relating to a number of measures announced in the 2016 federal budget, as well as certain previously announced measures from the 2015 federal budget.

Interested parties are invited to provide comments on the proposals by 27 September 2016.

Finance releases draft proposals on taxation of switch funds and linked notes– 2016 Issue No. 37

On 29 July 2016, the Department of Finance released the anticipated legislative proposals impacting the taxation of switch funds and linked notes relating to measures first announced in the 2016 federal budget.

Finance releases draft GST/HST amendments to pension plans and master trusts– 2016 Issue No. 38

On 22 July 2016, the Department of Finance released legislative and regulatory proposals relating to the goods and services tax/harmonized sales tax (GST/HST). Amendments relating to the GST/HST treatment of pension plans are particularly noteworthy. These amendments would revise the GST/HST rules applicable to pension plans to ensure they apply fairly and effectively to pension plans that use master trusts or master corporations (referred to collectively as master trusts).

Canada introduces country-by-country reporting legislation– 2016 Issue No. 39

On 29 July 2016, following on the Organisation for Economic Cooperation and Development's (OECD) Base Erosion and Profit Sharing (BEPS) initiative, the Canadian Department of Finance released draft legislative proposals that would implement certain measures from the 2016 budget, including those addressing country-by-country reporting. The draft proposals would apply to fiscal years of multinational enterprises (MNEs) that begin after 2015. The draft legislation follows the final recommendations issued by the OECD in October 2015.

Consultation on GST/HST for some limited partnerships and investment plans– 2016 Issue No. 40

On 22 July 2016, in addition to legislative and regulatory proposals relating to the goods and services tax/harmonized sales tax (GST/HST), the Department of Finance released a consultation paper listing proposals that relate to the GST/HST treatment of certain limited partnerships and investment plans. These proposals aim to "level the playing field" between investment entities structured as limited partnerships, and entities that are currently treated as investment plans for GST/HST purposes. The Department of Finance also proposes to (i) extend the imported taxable supply rules currently applicable to certain financial institutions to non-resident limited partnerships, and (ii) introduce a GST rebate for investment plans with non-resident investors.

The Department of Finance has invited industry stakeholders, and other interested parties, to submit comments about these proposals by 30 November 2016.

Publications and articles

Global taxation of intellectual property

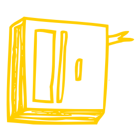
Multinational companies today can find themselves on a tightrope as they seek to manage their IP cost effectively in a hypercompetitive global market. And when it comes to the global taxation of income derived from IP, companies are buffeted by tailwinds, crosswinds and headwinds.

EY's Worldwide Estate and Inheritance Tax Guide 2016

EY's Worldwide Estate and Inheritance Tax Guide summarizes the estate tax planning systems and describes wealth transfer planning considerations in 38 jurisdictions around the world, including Australia, Canada, China, France, Germany, Italy, the Netherlands, the UK and the US .

Canadian capital confidence barometer

Despite the low Canadian dollar and other challenging economic conditions, Canadian companies say they're actively pursuing M&A opportunities in the near future. According to our latest survey, 61% of Canadian respondents plan to actively explore acquisitions in the next 12 months, compared to just 50% of global respondents.



Websites

EY Law LLP

Our national team of highly qualified lawyers and professionals offers comprehensive tax law services, business immigration services and business law services. Serving you across borders, our sector-focused, multidisciplinary approach means we offer integrated and comprehensive advice you can trust. Visit eylaw.ca.

Focus on private business

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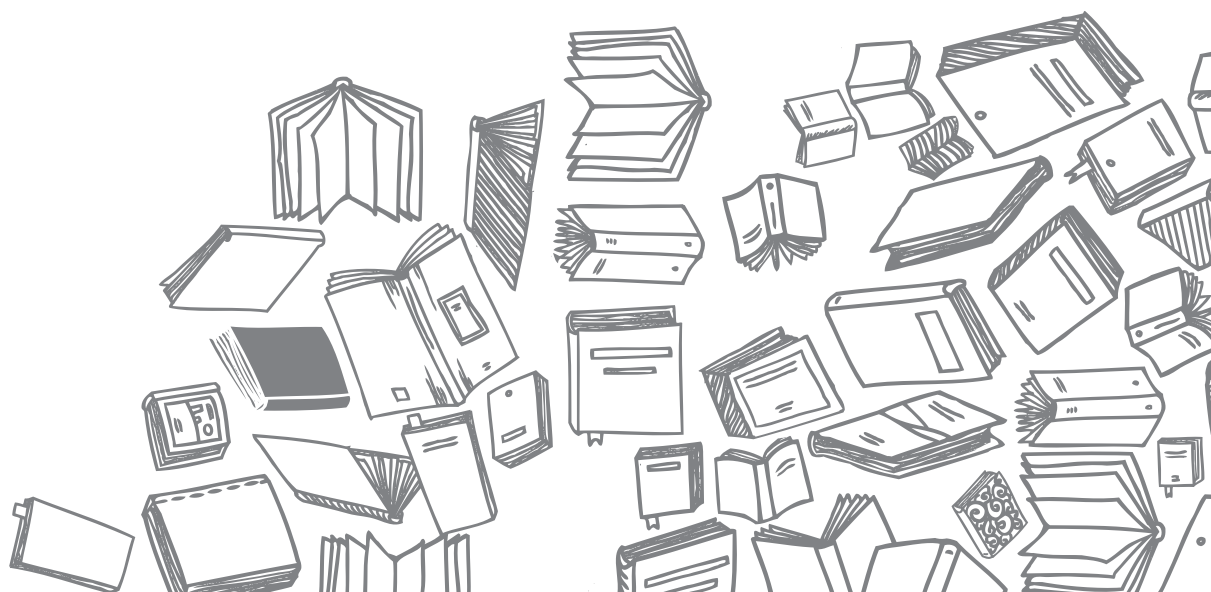
Online tax calculators and rates

Frequently referred to by financial planning columnists, our mobile friendly calculators on ey.com lets you compare the combined federal and provincial 2014 and 2015 personal tax bills in each province and territory. The site also includes an RRSP savings calculator and personal tax rates and credits for all income levels. Our corporate tax-planning tools include federal and provincial tax rates for small-business rate income, manufacturing and processing rate income, general rate income and investment income.

Tax insights for business leaders

Tax Insights provides deep insights on the most pressing tax and business issues. You can read it online and find additional content, multimedia features, tax publications and other EY Tax news from around the world.



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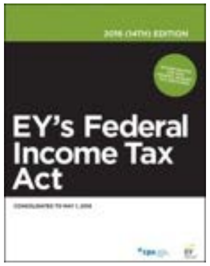


EY's Federal Income Tax Act, 2016 (14th) Edition

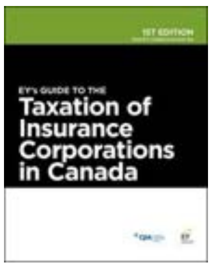
Editors: Alycia Calvert, Fraser Gall, Angelo Nikolakakis

Complete coverage of Canada's Income Tax Act and Regulations. Included with this edition: interactive online features. Purchase of a print book includes access to an online updated and searchable copy of the federal Income Tax Act. Also includes proposals from Bill C-15, Budget Implementation Act, 2016, No. 1.

EY's Guide to Canada's Foreign Affiliate Taxation Rules, 1st Edition

Editors: Fraser Gall, Phil Halvorson

An easy-to-use reference guide designed to assist Canadian tax professionals in understanding the main aspects of the Canadian taxation rules concerning investments in foreign affiliates.



EY's Guide to the Taxation of Insurance Corporations in Canada, 1st edition

An easy-to-use reference guide designed to assist Canadian tax professionals in understanding the main aspects of the Canadian federal and provincial corporate taxation of insurance corporations.

EY's Complete Guide to GST/HST, 2016 (24th) Edition

Editors:Jean-Hugues Chabot, Dalton Albrecht, Sania Ilahi, David Douglas Robertson

Canada's leading guide on GST/HST, including GST/HST commentary and legislation, as well as a GST-QST comparison. Written in plain language by a team of EY indirect tax professionals, the guide is consolidated to 15 July 2016 and updated to reflect the latest changes to legislation and CRA policy. Includes legislative and regulatory proposals released on 22 July 2016 and 29 July 2016, at the end of Volume 2: The Annotated Excise Tax Act.

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