Year-end TAX PLANNER

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November 2017

Looking back at 2017 and forward to 2018

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Contents

Federal highlights

Disability Tax Credit – As of March 22, 2017, nurse practitioners have been added to the list of medical practitioners who can certify eligibility for the disability tax credit.

Medical Expense Tax Credit – Certain costs related to the use of reproductive technologies now qualify for the medical expense tax credit for 2017 and onwards.

New Canada Caregiver Credit – This credit replaces the existing caregiver credit, the infirm dependent credit and the family caregiver tax credit. The new Canada caregiver credit amount is $6,883 or $2,150 depending on your situation.

Tuition Tax Credit – Starting with the 2017 taxation year, tuition fees that pay for occupational skills courses at post-secondary educational institutions in Canada that are not considered post-secondary school level can be eligible for the tuition tax credit.

Public Transit Tax Credit – Effective July 1, 2017, the credit is no longer available.

Home Relocation Loans Deduction – Starting in 2018, the deduction available for eligible home relocation loans will no longer be available. Therefore, the full amount of the interest differential (from the prescribed rate to the actual rate) is taxable.

Mineral Exploration Tax Credit for flow-through share investors – There has been an extension of one year for the mineral exploration tax credit (i.e. up to March 31, 2018).

Voluntary Disclosure Program (VDP) – Starting January 1, 2018, the VDP criteria for acceptance will be tightened.

- **Income tax disclosures** – There will be two tracks: the General Program and the Limited Program.
    - Under the General Program, the taxpayer may disclose errors and non-compliance in circumstances involving reasonable errors, failures to file information returns or where there is no gross negligence or deliberate avoidance of tax. Taxpayers accepted into the General Program are eligible for penalty and partial interest relief and will not be referred to criminal prosecution. However, full interest relief is limited and will be available only in respect of the years preceding the three most recent years filed.
        - Under the Limited Program, there is relief for "major non-compliance," including, but not limited to, situations involving:
            - active efforts to avoid detection through the use of offshore vehicles or other means;
            - large dollar amounts;
            - multiple years of non-compliance;
            - a sophisticated taxpayer;
            - the disclosure is made after an official CRA statement regarding its intended focus of compliance or following CRA correspondence or campaigns; and
            - any other circumstance in which a high degree of taxpayer culpability contributed to the failure to comply.

        While an applicant may gain relief from gross negligence penalties or prosecution under the Limited Program, taxpayers remain liable for other penalties such as late-filing penalties and interest.
- ***GST/HST Disclosures*** – There will be three tracks – refer to the GST/HST section below.
- **No-name process** – The existing no-names disclosure process is eliminated. It is replaced with a no-name, informal, non-binding, general in nature, pre-disclosure discussion process. The new no-name process does not constitute acceptance into the VDP program and has no impact on CRA's ability to audit, penalize or refer a case for criminal prosecution.
- **Overall** – The VDP program no longer applies to cases where:
    - the disclosure relates to funds from proceeds of crime;
    - the subject of the disclosure is a corporation which has gross revenue in excess of $250 million in at least two of its last five taxation years; and
    - the disclosure is the result of a transfer pricing adjustment or penalty.

    Taxpayers are now required to include payment of the estimated taxes owing with the submission.

    In addition, where a taxpayer receives assistance from an advisor in respect of the subject matter of the VDP, the CRA states that the taxpayer should include the name of that advisor with the submission.

Provincial highlights

Small business rate and thresholds

Manitoba's budget increased the small business income tax threshold from $450,000 to $500,000 starting in 2017.

Saskatchewan's budget increased the small business income tax threshold to $600,000 on January 1, 2018. The general corporate rate is reduced from 12% to 11.5% on July 1, 2017, and to 11% on July 1, 2019. The M&P rate is reduced from 10% to 9.5% on July 1, 2017 and to 9% on July 1, 2019.

Nova Scotia's budget increased the small business income threshold from $350,000 to $500,000.

British Columbia's budget increased the M&P rate from 11% to 12% on January 1, 2018. The small business income tax rate is reduced from 2.5% to 2.0% on April 1, 2017.

New Brunswick's budget reduced the small business corporate income tax rate from 3.5 % to 3.0% on April 1, 2017.

Ontario's small business rate will be reduced to 3.5% from 4.5% effective January 1, 2018.

Personal income tax

The Ontario non-eligible dividend personal tax rate has increased as a result to the Federal and Ontario small business tax rate changes for 2018. The top marginal personal tax rate will be 46.8% as of January 1, 2018 and 47.4% as of January 1, 2019.

For 2018, British Columbia will have a new tax bracket for income in excess of $150,000 at a marginal rate of 16.8%.

For Saskatchewan, the personal income tax rate is reduced by 0.5% effective July 1, 2017 and by 0.5% effective July 1, 2019. From 2018 onwards, the indexation of the personal income tax system is suspended.

International highlights

Country-by-country reporting (CbCR) – CbCR is required in Canada for Multinational Enterprises (MNE) with a Canadian resident for fiscal years beginning on or after January 1, 2016. CbCR must be filed with the CRA no later than 12 months after the last day of the reporting fiscal year. Therefore, the first reporting deadline of December 31, 2017 (for the fiscal periods ended December 31, 2016) is quickly approaching. MNE groups with consolidated group revenue less than €750 million in the immediately preceding fiscal year are excluded from Canadian CbCR filing requirements. Canadian subsidiaries of MNE groups may not have to file CbCR in Canada if it is filed by the parent entity or a surrogate parent entity on behalf of the MNE group and certain conditions are met.

Entrepreneurs

Dividends or salaries – An owner-manager must determine the most tax effective salary-dividend mix that minimizes overall taxes for the corporation and all relevant individuals. The owner-manager must consider personal marginal tax rates, the impact of alternative minimum tax (AMT), the corporation's tax rate, RRSP contribution room ($144,500 of earned income in 2016 is required to maximize RRSP contribution in 2017), provincial health and/or payroll taxes, Canada Pension Plan (CPP) contributions and other personal deductions and credits which may be available:

- If personal cash requirements are low, consider retaining income in the corporation to obtain the tax deferral, as corporate rates are lower than personal rates.
- Be aware that distributing dividends that trigger a refund of refundable tax on hand does not necessarily provide a tax benefit to the shareholder if the shareholder is subject to personal dividend tax at a rate exceeding the corporate dividend refund rate of 38.33%.

Remuneration accruals – A bonus accrued at year-end needs to be paid within 179 days after the year-end. Applicable source deductions are to be remitted on a timely basis.

Shareholder loans – Ensure that you repay shareholder loans from your corporation no later than one tax year after the end of the tax year in which the amount was borrowed.

Personal services business – The federal corporate tax rate for personal services business is 33 %. Therefore, consideration should be given to whether it is beneficial to carry on business through this type of vehicle.

Tax liabilities – Final corporate tax liabilities need to be paid within two months after year-end and within three months for certain eligible Canadian Controlled Private Corporations (CCPCs).

Income to family members – Consider paying salaries to family members who work in the business. Keep in mind the salaries must be reasonable or the amounts may be challenged by the CRA. Salary payments as opposed to dividends also allow the recipient to have earned income for child-care expenses, CPP and RRSP purposes.

Depreciable assets – Consider purchasing equipment prior to the end of your fiscal year, in order to accelerate access to capital cost allowance (CCA). Be aware of the available for use rules. In addition, a special election can be used to treat leased fixed assets as purchases under a financing arrangement.

Business income reserve – When proceeds from the sale of goods or real property – classified as inventory – are not due until after the year-end, a reserve on sale profits may be claimed over a maximum of three years.

Capital gains reserve – A capital gains reserve may be claimed on the sale of capital properties, over a maximum of five years, if the proceeds of disposition are not due until after the year-end.

Taxable capital – Monitor the corporation's taxable capital for federal tax purposes. If in excess of certain limits, the corporation will begin to lose access to the small business deduction and the 35% refundable

ITC for SR&ED expenditures. Consider the following:

- Use excess cash to pay off some debts
- Declare dividends
- Defer planned dispositions that will result in income until after year-end
- Maximize federal and provincial refundable and non- refundable tax credits
- Trigger capital losses to recover capital gains tax paid in previous years

Qualified small business corporation (QSBC) share status

A sale of QSBC shares will be eligible for the lifetime capital gains exemption of up to $835,714 in 2017, with the limit indexed for future years. Among other criteria, to maintain the QSBC share status, a corporation needs to have substantially all of the assets of the business used in an active business carried on primarily in Canada. Excess cash and passive investment assets may jeopardize the QSBC share status. A cumulative net investment loss (CNIL) balance as well as a prior year claim of an allowable business investment loss (ABIL) may limit the individual taxpayer's ability to claim the capital gains exemption on a sale of QSBC shares. Receiving dividend and interest income instead of a salary will reduce the CNIL balance and in turn help to preserve access to the capital gains exemption.

Scientific research and experimental development (SR&ED)

- Claims for SR&ED expenditures and related incentives (i.e. investment tax credits) are due 18 months after the corporation's year-end. These claims cannot be filed late.
- Where a CCPC's taxable income, on an associated group basis, exceeds certain thresholds, the corporation may not be able to access the enhanced SR&ED investment tax credit (ITC) rate and the federal ITC will not be refundable. The ITC limitations will also be applicable in situations where a CCPC's taxable capital for federal purposes, on an associated group basis, exceeds certain limits. Consider paying a bonus, in order to reduce the current year's taxable income to access the higher ITC rate.

Over recent years, there were several changes to the SR&ED incentives program:

Capital assets – Capital expenditures incurred after January 1, 2014 are no longer included in the calculation of eligible expenditures or ITCs.

Proxy overhead amount – The proxy was reduced from 60% to 55% for 2014 and future years.

Investment tax credits – There is a basic and enhanced tax credit for SR&ED purposes. The basic credit is now 15% and the enhanced credit is 35% (only for CCPCs, up to a maximum of $3,000,000 of qualified SR&ED expenditures).

Provincial credits – In Manitoba, this credit is non-refundable at the rate of 15% on eligible expenditures made after April 11, 2017. It was non-refundable at the rate of 20% on qualified expenditures made before April 12, 2017 and after March 8, 2005.

The credit is refundable for eligible expenditures incurred after 2009 pursuant to a R&D contract with an eligible institute in Manitoba. After April 11, 2017, the refundable credit rate was reduced from 10% to 7.5%.

For eligible expenditures incurred after May 31, 2016 (prorated for straddled taxation years), the Ontario innovative tax credit (OITC) decreased from 10% to 8% and the Ontario R&D tax credit decreased from 4.5% to 3.5%. In addition, the OITC maximum credit was reduced from $300,000 to $240,000.

Since April 1, 2017, the eligible R&D expenditures of Saskatchewan CCPCs – except for tax exempt corporations – qualify for a 10% refundable R&D tax credit subject to an annual limit of $1 million in eligible expenditures and to a 10% non-refundable R&D tax credit for the portion of eligible expenditures in excess of the $1 million annual limit. For other corporations, the Saskatchewan R&D tax credit remains a non-refundable tax credit at the rate of 10% on eligible expenditures incurred after March 31, 2015.

GST/HST and QST

Recapture of input tax credits - At the inception of HST in Ontario (July 1, 2010), large businesses were required to recapture ITCs with respect to specified property and services. An agreement was reached with the province that a "phase-out" of RITCs would commence five years after its inception. On July 1, 2016 the recapture rate decreased from 75% to 50% and from 50% to 25% on July 1, 2017. The recapture will be phased out as of July 1, 2018.

Ride-sharing services – The 2017 federal budget proposes to amend the definition of a "taxi business" in the Excise Tax Act (ETA) effective July 1, 2017, to ensure that ride-sharing services (such as Uber) share the same GST/HST consequences as taxi services. The proposed amendments would require all Uber drivers to register for GST/HST purposes and to charge GST/HST on their fares.

Voluntary Disclosure Program changes – Significant changes to the Voluntary Disclosure Program have been proposed in 2017 to be effective January 1, 2018. Draft GST/HST Memorandum 16.5 introduces a major change to the application process. Disclosure will be processed under three tracks. Track 1 is for applications involving "wash transactions" and will provide for 100% penalty and interest relief. Track 2 is for applications disclosing non-compliance or errors (i.e., accounting errors) and will provide for 100% penalty and 50% interest relief. Track 3 is for applications disclosing major non-compliance (i.e., GST/HST charged or collected but not remitted) and will not receive any penalty or interest relief, except relief from the gross negligence penalty.

Investment limited partnership - The Department of Finance's September 8, 2017 release of draft GST/HST legislation introduced the newly defined investment limited partnership (ILP) and a series of legislative amendments that will apply to such partnerships. Under the proposed amendments, the supply of a management or administrative service by a general partner of an ILP to the partnership is subject to GST/HST. The legislative proposals are in effect as of September 8, 2017. Such investment limited partnerships are considered to be investment plans and therefore listed financial institutions for GST/HST purposes. Application of SLFI rules and compliance requirements may apply to investment limited partnerships effective January 1, 2019.

Corporate tax changes

Small business rate – The current rate of 10.5% is proposed to be reduced to 10% effective January 1, 2018 and to 9% effective January 1, 2019. The bill regarding this measure has yet to be drafted and therefore has yet to receive Royal Assent.

Factual control – There is a proposal to extend the meaning of de facto control. Keep this in mind when considering restructuring opportunities.

Billed-basis accounting – Draft legislation proposes to remove the election to exclude work-in-progress (WIP) from taxable income for certain professionals. The draft legislation also proposes to have a 5-year transitional plan to reduce the burden of the elimination. Once the draft proposals are approved, the changes will apply for taxation years beginning after March 22, 2017.

Multiplication of small business deduction – The 2016 budget proposed changes to address concerns about partnership and corporate structures that are used for purposes of multiplying access to the small business deduction (SBD). The new rules are effective for taxation years that began on or after March 22, 2016.

- For partnerships, specified partnership rules are extended and as such a single business limit applies with respect to the partnership's business.
- Under the old rules, in circumstances where a shareholder of a CCPC is a member of a partnership and the partnership paid the CCPC as an independent contractor under the terms of an agreement, the CCPC claimed a full small business deduction in respect of its active business income earned from fees received from the partnership. This was the case even though the shareholder of the CCPC was a member of the partnership and the CCPC was not a member. Under the new rules, the CCPC will be deemed to be a member of the partnership throughout the taxation year for the purposes of allocating the SBD.
- For corporations, new rules are introduced to restrict access to the small business deduction on any active business income earned from providing services or property to another private corporation where there is common ownership.
    - In essence, a CCPC's active business income from providing services or property (directly or indirectly) in its taxation year to a private corporation will be ineligible for the small business deduction where, at any time during the year, the CCPC, one of its shareholders or a person who does not deal at arm's length with such a shareholder has a direct or indirect interest in the private corporation. The ineligibility for the small business deduction will not apply to a CCPC if all or substantially all (90% or more) of its active business for the taxation year is earned from providing services to arm's length parties other than the private corporation.

Tax proposal changes for private corporations

1. **Income splitting**

   Taxpayers that are currently income splitting with family members will have until the end of December 31, 2017 to access the graduated rates on split income. Although revisions to the draft legislation have yet to be released, impacted individuals are encouraged to review their situation with their tax advisor to determine if payments should be increased before the end of the year, as the new income splitting rules (TOSI) take effect on January 1, 2018. Payments before the end of the year should only be made to individuals 18 years old or older to avoid paying tax at the highest marginal tax rate on such amounts. Beginning January 1, 2018 any payments made to a spouse or children, regardless of age, will be subject to tax on the highest marginal rate unless certain criteria are met with respect to their contributions to the business.

   The current guidance we have from the Department of Finance indicates that continued access to the graduated rates on income received by a related individual must be reasonable vis-à-vis the contribution the individual makes to the company be it financial or participatory. There is no formal guidance on determination of what may be considered a reasonable return on an individual's financial or participatory contribution to a business and taxpayers will be challenged to make this assessment given the various inputs that have to be considered in the determination. These measures will impact, among other parties, professional firms, their current trust and other tax structures.

1. **Passive Investments**

   On October 18, 2017, the Department of Finance announced that they are moving forward with measures to limit the deferral of the tax benefits of passive investments within a private corporation through additional tax on passive income in excess of an annual threshold. The Department of Finance has determined that an annual passive income threshold of $50,000 per year (based on $1,000,000 of passive investments and an assumed return of 5%) in a private corporation will provide sufficient savings for business purposes (funding for contingencies and future investments) and personal savings (funding for sick leave, parental leave and retirement).

   The Department of Finance has confirmed that the additional taxes will apply on a go-forward basis, thus ensuring future income from current passive investments will not be subject to the new passive investment regime. The Department of Finance stated that it is examining the key design aspects of the passive investment rules to consider circumstances in which the new rules should not apply. (This could include capital gains realized on the sale of shares of a corporation engaged in an active business and income from AgriInvest, a self-managed producer-government savings account.) Details of how these rules will operate along with draft legislation will be released with the 2018 Budget.

Eligible capital property rules – Effective January 1, 2017, the eligible capital property (ECP) regime has been eliminated and replaced with the new CCA class 14.1:

- Transitional rules allow for a CEC deduction of 7% of the pool of expenditures incurred before January 1, 2017.
- The first $3,000 of incorporation costs will be a fully deductible expenditure.
- Gains from the disposition of ECP on or after January 1, 2017 will be taxed at investment income tax rates, rather than active business income tax rates.

Personal tax matters

I am an employee, so what do I need to know?

Employment-related courses – Consider having your employer pay directly for job-related educational courses.

Gifts and awards – Subject to certain exceptions, non-cash gifts and non-cash awards with a total value of $500 or less annually may not be taxable to you personally. Ask your employer to consider this option.

Employee loans – Pay 2017 interest on or before January 30, 2018 to reduce your taxable benefit on employee loans.

Home office – Ensure you claim your entitlement to home office expenses if your employer will complete form T2200.

Public transit pass tax credit – Ensure you claim the cost of public transit, subject to certain criteria and retain passes or receipts to support claims. Note that the federal credit no longer applies as of July 1, 2017.

Corporate vehicle – Reduce your operating cost benefit and/or standby charge benefit if you have access to a company vehicle.

To reduce the operating cost benefit:

- Consider reimbursing your employer for some or all of the personal use portion of the actual operating costs by February 14, 2018; and
- Reduce your personal driving to less than 50% of the total driving, if possible.

To reduce or eliminate your standby charge benefit:

- Limit your access to the vehicle (i.e. not every day); and
- Avoid personal driving.

Employee stock options - public companies

- If you dispose of stock options for cash, discuss with your employer as to whether they can elect to forgo the tax deduction so you may claim it.
- Employers are now required to withhold and remit income tax relating to the taxable benefit realized when public company options are exercised.

I have investments, so what do I need to know?

Tax-Free Savings Account (TFSA)

- The eligible contribution amount for a TFSA is $5,500.
- Canadian residents age 18 or older may contribute to a TFSA. Contributions are not deductible but withdrawals and income earned are not taxed.
- Withdrawals should be done before year-end as amounts withdrawn are not added to your contribution room until the beginning of the following year after the withdrawal.
- Consider holding eligible investments that are subject to higher tax rates (i.e. interest and foreign dividends).

Pooled registered pension plan (PRPP) – Consider joining a PRPP if you do not have access to an employer-sponsored pension plan. PRPPs are a voluntary savings plan similar to a defined contribution RPP or RRSP.

RRSPs, RPPs and DPSPs – If you contributed less than the maximum allowable amount to your RRSP in a previous year, use the unused contribution room in addition to your normal contribution room for the 2017 tax year. If you decide not to contribute your entitlement for 2017, your ability to do so carries forward indefinitely. However, even if you do not need the deduction in 2017, you should still make the contribution if you have excess funds, so the funds can start to grow on a tax-deferred basis. You can claim the deduction in any future year.

Registered plans – contribution limits

	Registered retirement savings plan (RRSP)	Defined contribution registered pension plan (RPP)	Deferred profit sharing plan (DPSP)
Basis for deduction	18% of earned income in the previous year	18% of the pensionable earning for the year	
Dollar limits 2017	$26,010	$26,010	$13,115
Dollar limits 2018	$26,230	$26,230	$13,250

Other personal items

Donations of private corporation shares

- Donations to registered charities are treated as a deduction for corporations and a tax credit for individuals.
- Donations of public company shares are exempt from capital gains tax.

Combined federal and provincial tax credits for donations over $200 in 2017				
Province	**Combined federal/provincial credit**		**After-tax cost of $1,000 donation in 2017**	
	Regular rate (%)	**High rate (%)**	**Regular rate**	**High rate**
Alberta	50.0	54.0	500	460
British Columbia	43.7	47.7	563	523
Ontario	46.4	50.4	536	496
Manitoba	46.4	50.4	536	496
Newfoundland	47.3	51.3	527	487
New Brunswick	47.0	51.0	530	490
Nova Scotia	50.0	54.0	500	460
Quebec	48.2/50.0	51.6/53.3	518/500	484/467
P.E.I.	47.4	51.4	526	486
Saskatchewan	43.8	47.8	562	522

Gifts to foreign charities

Foreign charitable foundations can be registered as qualified donees if:

- They receive a gift from the government,
- They are involved in activities of disaster relief or urgent humanitarian aid, or
- They carry on activities in the national interest of Canada.

Investment holding company – Ontario residents with incomes exceeding $220,000 in 2017 who earn investment income from portfolio investments will be subject to Ontario's high-earner income tax. Consider holding these investments in a corporation to benefit from the lower corporate tax rate on investment income. As mentioned above, the Department of Finance will be announcing new passive investment income rules in the 2018 budget.

Interest deductibility – If you are incurring non-deductible interest and have cash or investments on hand, consider paying down non-deductible debt and then borrowing to replace those investments. However, be mindful of triggering gains if you liquidate investments.

Capital gains and losses – If you have capital gains this year or in 2016, 2015 or 2014, consider selling an asset with an accrued loss, which can then be offset first against capital gains from 2017 and then any excess against those prior years' gains to recover tax. Before triggering losses, consider the superficial loss rules (below). If you have little or no other income or have capital losses to use up, consider triggering capital gains before year-end by selling an investment that has appreciated in value and reinvesting the proceeds, even in the same investment.

If certain conditions are met, you can dispose shares of an eligible small business corporation and defer the recognition of capital gains by reinvesting the proceeds from the sale of those shares in another eligible small business corporation by April 30, 2018.

Superficial loss rules – The superficial loss rules prevent a taxpayer from claiming a capital loss on an asset the taxpayer clearly intended to continue to hold. If you are holding an asset with an accrued loss and wish to sell the asset to offset the loss against any capital gains realized and you purchase the identical asset within 30 days – either before or after selling the original asset – the superficial loss rules will apply to deny the capital loss, provided that the asset is held at the end of 30 days after the sale. The superficial loss would also apply if your spouse or a company controlled by you or your spouse buys the asset within the same time frame.

Eligible dividends

- Eligible dividends may trigger AMT; and
- Eligible dividends could be tax-free if paid to individuals in lower tax brackets or who have significant non-refundable tax credits, such as tuition and education amounts. (However, see TOSI proposals above.)

First-time donor's super credit – A first-time donor is entitled to claim an additional 25% credit on up to $1,000 of donations made after March 20, 2013. The credit can be claimed only once, after 2012 and before 2018.

What do families need to know?

Estate planning – Ensure your estate plan is meeting your current and future objectives. Also ensure that your will is up to date.

Income-splitting – Consider an income-splitting plan to lend funds to family members in lower tax brackets. A "reasonable" test for the payment of salaries to family members already exists, and the Department of Finance will be introducing a reasonable test for dividends. Details will be announced later this fall. The current prescribed rate is one per cent. Interest on intra-family loans must be paid on or before January 30, 2018, to avoid attribution of income.

Split income with minor – Commencing with the 2015 taxation year, the income attribution rules apply to "split income" that is paid or allocated to a minor from a trust or partnership, if:

1. The income is derived from a business or a rental property; and
2. A person related to the minor is actively engaged on a regular basis in the activities of the trust or partnership to earn income from any business or rental property or has a direct or indirect interest in the partnership.

Registered Education Savings Plan (RESP)

- Plan your contributions to ensure the RESP will receive the maximum lifetime Canada Education Savings Grant (CESG) of $7,200.
- Asset transfers between RESPs for siblings are now allowed, subject to certain criteria.

Registered Disability Savings Plan (RDSP) – If you have a child who qualifies for the Disability Tax Credit, you should:

- Set up an RDSP to qualify for the Canada disability savings bond (maximum lifetime of $20,000 per child).
- Contribute to an RDSP to qualify for the Canada disability savings grant (maximum lifetime of $70,000 per child).

Child care expenses – Available deductions for child care expenses will remain the same as in 2016. Boarding school and camp fees qualify for the child care deduction, though limits may apply. Ensure that child care expenses for 2017 are paid by December 31, 2017 and a receipt is obtained.

Tuition, education and textbook tax credits
Effective January 1, 2017, the federal education and textbook tax credits are eliminated. The tuition tax credit remains. Eligible fees for exams taken after 2010 may qualify for the tuition tax credit.

Unused and unclaimed tax credits – Consider transferring your education, tuition or textbook tax credits to your spouse, parent or grandparent, subject to limitations, if you are unable to utilize them. Unused education and textbook credit amounts carried forward from years prior to 2017 may be claimed in 2017 and subsequent taxation years.

Moving expenses – Your moving expenses may be deductible if you moved to attend school or moved from school to work or back home.

Lifetime Learning Plan (LLP) – You are allowed to make a tax-free withdrawal from your RRSP to finance full-time education – or part-time for students who meet one of the disability conditions – for yourself, your spouse or your common-law partner. You may withdraw up to $10,000 in a calendar year and up to $20,000 in total.

The golden years

Inter vivos trust – If you are 65 or older and live in a province with a high probate fee, consider establishing an inter vivos trust as part of your estate plan.

Testamentary trust – Starting in 2016, the graduated tax rate applicable to a testamentary trust created by an individual's death will be replaced with a flat top marginal rate, if the testamentary trust has been in existence for more than 36 months. The graduated tax rate will continue to apply for testamentary trusts created less than 36 months ago and trusts with beneficiaries who qualify for the Disability Tax Credit.

- Previously a testamentary trust computed its income tax liability using the graduated personal income tax rates. Multiple testamentary trusts could be established in a will to magnify this benefit.
- Only a "graduated rate estate" (a newly defined term) will now be entitled to use the graduated rates and includes:
  - An estate that is a testamentary trust, but only for the first 36 months after the death of the testator. Consequently, an ongoing estate, or testamentary trusts created pursuant to the will such as a spousal trust would only benefit from the graduated tax rates for its first 36 months; or
  - A testamentary trust for the benefit of a disabled individual who would be eligible for the federal Disability Tax Credit.
- All other trusts, whether inter vivos or testamentary, are subject to a flat rate equal to the top personal income tax rate (33% federally plus the applicable provincial tax rate).
- If a trust is not a graduated rate estate, it will be subject to the following provisions:
  - Will be required to make quarterly instalments and pay its balance due on March 31 of the following year.

- Must have a calendar year-end.
- Will not be entitled to the $40,000 AMT exemption.
- Will not make ITCs available to its beneficiaries.
- Will not be able to apply for a refund after the normal reassessment period of three years, rather than the 10-year period available for individuals and graduated rate estates pursuant to the Taxpayer Relief rules.
- May only file a Notice of Objection within 90 days of the Notice of Assessment, rather than one year after its filing date of 90 days after the end of the year.

RRSP – If you turned 71 in 2017, you must collapse your RRSP. You may:

- Defer taxes on all or a portion of the amount in your RRSP by transferring the funds to a registered retirement income fund (RRIF);
- Contribute to your RRSP only until December 31, 2017 if you have unused RRSP contribution room or earned income in the previous year;
- Contribute to your spouse's RRSP until the end of the year that your spouse reaches age 71 if you have unused RRSP contribution room or earned income in the previous year; and
- Make an additional 2017 contribution (facts depending) by the end of December 31, 2017.

Pension income – If you receive pension income, consider splitting it with your spouse or common-law partner, to a maximum of 50%. To maximize your pension credit, you will require at least $2,000 of pension income if you are age 65 or older.

Old Age Security (OAS) – Allocation of pension income from a spouse or receipt of dividends may trigger the OAS clawback. Consider measures to invest so as to earn capital gains, as only 50% of the gain is included in income for the purposes of calculating the OAS amount. Alternatively, explore additional options to manage your income (i.e. through a corporation), in order to avoid the OAS clawback.

Canada Pension Plan (CPP) – If you are 60 to 70 years of age and employed or self-employed, you must contribute to the CPP. However, if you are between the ages of 65 and 70, you can elect to stop these contributions. This election can be revoked the following year. Be aware that CPP benefits are reduced if you begin collecting prior to turning 65.

Individual pension plans – If you are over 71, you must make minimum withdrawals if you have a defined benefit RPP that was created primarily for you.

United States matters

US tax reforms

In late 2015, Congress passed the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), which extends a long list of expired tax provisions, including a wide range of tax matters that will impact both individuals and businesses. A number of key tax provisions that historically were extended on an annual basis were made permanent. Other provisions were extended.

The filing due date for the Report of Foreign Bank and Financial Accounts (FBAR) is April 15, 2018 under existing US tax laws. Similar to income tax returns, taxpayers may be permitted to extend FBARs up to six months. New due dates have been adjusted for corporate and other business tax returns as well.

Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), upon disposition of US real property interests (USRPI) by a foreign individual or entity, the purchaser must withhold 15% of the total sales price. The previous withholding rate of 10% is applicable to properties that are used as the primary residence of the transferee, provided that the value of the property is above US$300,000 and does not exceed US$1 million. There are exceptions to FIRPTA withholding.

The Foreign Account Tax Compliance Act (FATCA) is a US federal law that requires US persons, including individuals who live outside the US, to report their financial accounts held outside of the US. It also requires foreign financial institutions to report certain organizational and financial information to the Internal Revenue Service (IRS) regarding their US clients. Congress enacted FATCA to make it more difficult for US taxpayers to conceal assets held in offshore accounts and shell corporations. Non-compliance could attract 30% withholding taxes from all US-sourced payments.

Discussions in Congress regarding significant US tax reform for both individuals and corporations are currently underway. As of this writing, the US House of Representatives Committee on Ways and Means has released initial draft legislation, but none of the reforms have been passed into law.

Canadian RRSPs, RRIFs, RPP and DPSPs

The IRS allows US citizens and resident aliens who hold interests in Canadian RRSPs or RRIFs, and who meet certain conditions to automatically defer investment income earned in the plan until the funds are withdrawn. If you are a Canadian resident, consider transferring your US 401(k) or IRA plan on a tax-deferred basis to a Canadian RRSP.

Canadian TFSAs – Investment income earned in a TFSA may be taxable for US tax purposes in the year it is earned. Additional information returns may need to be filed with the IRS annually.

Canadian mutual funds – Annual information returns need to be filed with the IRS for US citizens, green card holders or US resident aliens who own Canadian mutual funds.

US estate tax – Canadians may be exposed to US estate tax if they hold US property (i.e. shares in US corporations, even if held in a Canadian brokerage account; US real estate, including vacation homes; interests in US partnerships, etc.). Under the draft legislation for tax reform released by US House of Representatives Committee on Ways and Means, the estate tax may be eliminated as of January 1, 2024.

US federal income tax return/treaty-based return – Determine whether you are conducting activities in the US that require you to file a US federal income tax return or US treaty-based return. If you have any US sourced income, you may have a US federal filing requirement.

State and local taxes (SALT) – The rules at the state and local level differ in many cases from the US federal level and state governments are not bound by the US-Canada Income Tax Treaty unless they specifically choose to be. If you are carrying on business in the US, ensure that you are onside, as each state and locality may have its own unique tax compliance requirement.

International matters

Loans from foreign subsidiaries – Be aware that there are tax complexities associated with loans from foreign affiliates to Canadian corporate shareholders and to certain non-arm's length persons.

Transfer pricing – If your corporation has transactions with a related non-resident corporation or partnership, ensure that the transfer pricing documentation meets the requirements imposed by the Canadian transfer pricing rules and those of the foreign jurisdiction. Non-compliance can result in significant penalties. Note that there are substantial changes in the winds here with recent pronouncements from the OECD.

Thin capitalization – The thin capitalization rules prevent non-resident shareholders who own the shares of a Canadian corporation that give the holder 25% or more of the votes or fair market value (i.e. "specified" non-resident shareholder) from financing the corporation directly or indirectly ("back-to-back loan") with high levels of debt. Currently, the thin capitalization rules limit the interest expense deduction of a Canadian corporation where the amount of the debt owing to certain non-residents exceeds a 1.5 to 1 debt-to-equity ratio. The interest expense that exceeds the debt-to-equity ratio limit is not deductible for Canadian income tax purposes and is also considered a dividend subject to withholding taxes.

Loan receivable due from a non-resident corporation – Where a non-resident controlled Canadian corporation makes loans to its foreign parent or related non-resident companies, the Canadian corporation could be subject to deemed dividend withholding tax in certain circumstances. The Canadian corporation can elect out of the deemed dividend withholding tax rules via a pertinent loan or indebtedness (PLOI) election depending on the situation. Instead, the Canadian corporation includes interest income on the loan at the prescribed rate. Loans made by, or to, certain partnerships may also be eligible for the election.

Payments to non-residents

- You may be required to withhold and remit 15% of certain payments made to non-residents in respect of fees, commissions or other services rendered in Canada.
- Be aware of the NR301, NR302 and NR303 forms that non-residents should file in support of reducing withholding tax rates on payments under a tax treaty.
- Understand your withholdings obligations on payments made to non-resident employees, even if you are a non-resident employer.

Regulation 102 – source deduction rules

- There is an administrative burden on non-resident employers who send employees to work in Canada.
- Required to withhold and remit to CRA taxes under Reg. 102 for Canadian-source income regardless of length of time working in Canada.
- Under our treaties, most of these workers would not have had to pay tax in Canada (when number of days or Canadian-source income is low).

Regulation 102 – new certification option

- As of January 1, 2016, non-resident employers may apply for a non-resident employer certification. A non-resident employer certification removes the requirement to withhold tax from the salary, wages and other remuneration that the employer pays to non-resident employees. Therefore, a certified non-resident employer will be able to pay an eligible employee who is exempt from paying tax in Canada under a tax treaty without withholding/remitting tax. Consequently, this can eliminate the need for non-resident employers/employees to request Reg. 102 waivers of tax withholding, where applicable. Non-resident employer certification will be valid for up to two calendar years. Below are the requirements and relevant registration information for both employers and employees that can take advantage of this relatively new certification process.

Employer:

1. The non-resident employer must be resident in a country with which Canada has a tax treaty at the time of payment and be certified by the Minister of National Revenue.

2. To apply for a certification, the employer needs to file RC473 – Application for Non-Resident Employer Certification. This application must be submitted at least 30 days (preferably 60 days) before the employee arrives in Canada.

Employees:

1. Resident in a country with which Canada has a tax treaty at the time of the payment;
2. Not liable to income tax under Part I of the Canadian Income Tax Act on the payment because of the tax treaty under which the employee is resident; and
3. Either working in Canada for less than 45 days in the calendar year that includes the time of the payment, or present in Canada for less than 90 days in any 12-month period that includes the time of the payment.

It is the responsibility of the non-resident employer to ensure the employee is eligible under the certification.

Key tax dates

December 15, 2017

- Final quarterly instalment of 2017 tax due for individuals.

December 27, 2017

- This is likely the final trading day for Canadian exchanges for those wishing to have trades settled for 2017.

December 31, 2017

Last opportunity to make a payment for the following items in order to utilize any applicable credit or deduction on your 2017 return:

- Charitable donations
- Payment of union dues and professional fees
- Investment counsel fees, interest and other investment expenses
- Alimony and maintenance payments
- Child care and child fitness expenses
- Interest
- Medical expenses
- Moving expenses of individuals
- Political contributions
- Deductible employee legal fees
- Tuition fees and interest on student loans
- Payments to employer to reduce standby charge
- RRSP contributions if you turn 71 during 2017

January 16, 2018

- US taxes: estimated tax payments due for individuals for 2017 fourth quarter

January 30, 2018

- Interest due on intra-family loans
- Non-deductible interest due on loans from your employer to reduce your taxable benefit

February 14, 2018

- Payment to your employer to reduce your taxable operating benefit from an employer-provided automobile

February 28, 2017

- Last day to file T4, T4A and T5 Summary and Supplementary forms

March 1, 2018

- Deductible contributions to your own RRSP or spousal RRSP (for 2017 deduction)
- RRSP Home Buyer's Plan repayment due (to avoid 2017 inclusion)

March 15, 2018

- First quarter (2017) personal tax instalment due

April 2, 2018 (March 31, 2018 is a weekend day)

- Last day to file income tax returns for inter vivos and testamentary trusts without penalty
- Last day to file NR4 summary and supplementary forms regarding amounts paid or credited to non-residents of Canada

April 16, 2018

- US individual tax return due if an extension was not obtained from the IRS
- If an extension to file the US individual tax return was obtained, any estimated tax liability is due

April 30, 2018

- Last day to file personal tax returns, except for self-employed individuals or spouses of self-employed individuals, in which case, the deadline is June 15, 2018. No matter your deadline, interest will be charged on any balance due after April 30
- Filing deadline for personal return may be later if individual or spouse died during the year. However, a terminal return is required

October 15, 2018

- US individual tax return due if an extension to the original was filed

Appendix I – 2017 top marginal personal income tax rates

Combined Federal and Provincial Personal Top Marginal Tax Rates for 2017

Province/territory	Salary and interest	Capital gains	Eligible dividends	Non-eligible dividends
Alberta	48.00%	24.00%	31.71%	41.29%
British Columbia	47.70%	23.85%	31.30%	40.95%
Manitoba	50.40%	25.20%	37.79%	45.74%
New Brunswick	53.30%	26.65%	33.51%	46.25%
Newfoundland	51.30%	25.65%	42.62%	43.62%
Northwest Territories	47.05%	23.53%	28.33%	35.72%
Nova Scotia	54.00%	27.00%	41.58%	46.97%
Nunavut	44.50%	22.25%	33.08%	36.35%
Ontario	53.53%	26.76%	39.34%	45.30%
P.E.I.	51.37%	25.69%	34.23%	43.87%
Quebec	53.31%	26.65%	39.83%	43.84%
Saskatchewan	47.75%	23.88%	30.33%	39.62%
Yukon	48.00%	24.00%	26.91%	40.67%

Appendix II – 2017 & 2018 corporate tax rates

Combined federal and provincial corporate tax rates for 2017/2018

Province/territory	Active income	Manufacturing income	Small business < $500,000 (CCPC)	Investment income (CCPC)
Alberta	27.00%	27.00%	12.50%	50.67%
British Columbia	26.00%/27.00%	26.00%/27.00%	13.00%/12.50%	49.67%
Manitoba	27.00%	27.00%	10.5%	50.67%
New Brunswick	29.00%	29.00%	14.00%/13.50%	52.67%
Newfoundland	30.00%	30.00%	13.50%	53.67%
Northwest Territories	26.50%	26.50%	14.50%	50.17%
Nova Scotia	31.00%	31.00%	13.50%	54.67%
Nunavut	27.00%	27.00%	14.50%	50.67%
Ontario	26.50%	25.00%	15.00%	50.17%
Prince Edward Island	31.00%	31.00%	15.00%	54.67%
Quebec	26.80%/26.70%	26.80%/26.70%	18.50%	50.47%
Saskatchewan	27.00%/26.5%	25.00%/24.50%	12.50%	50.42%
Yukon	30.00%/27.00%	17.50%	12.00%/13.00%	52.16%

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