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Marmer Penner Inc. Newsletter

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2016 Federal Budget – Family Law Implications

Finance Minister Bill Morneau tabled the 2016 federal budget yesterday. There were no unexpected changes to personal or corporate income tax rates but there were measures announced that will impact the determination of a partner's and business owner's income, the net cost of Section 7 expenses, the Canada Child Tax Benefit and a loophole that previously allowed management fees as an income splitting tool.

Personal Income and Section 7 Expenses

The Liberals confirmed that the high rate of personal tax will be 4% more than in 2015 with the new bracket impacting those earning over $220,000.

Gone is the family tax cut or the income splitting credit for couples with children under age 18 for 2016 and subsequent years which notionally allowed the transfer of income from one spouse to another to reduce the couple's tax liability by up to $2,000.

Get ready to say goodbye to the children's fitness and arts credits. These provided a tax credit on up to $1,000 of qualified sports activities and up to $500 for qualified artistic and cultural activities for children under 16. For disabled children, the credits were increased by an additional $500 each. These types of expenses would likely have qualified as Section 7 expenses so the net shared cost used to be calculated on an after-tax basis. However, for 2016, the credit limits are halved and they are completely eliminated for 2017 and onward. These Section 7 expenses just got pricier.

While waving goodbye to credits that reduced Section 7 expenses, don't put your hand away yet. In the recent Ontario budget, Kathleen Wynne eliminated the tuition credit for those who will pay for their own tuition to help finance the province's plan to provide free tuition to students from lower income families. The federal Liberals promised not to touch the tuition tax credit and kept their word…sort of. Instead, they eliminated the education and textbook tax credits. These did not require receipts but gave the student or a supporting parent or grandparent a hefty credit based on the number of months the student was in full- or part-time post-secondary school attendance. Thanks, Justin/Kathleen. These Section 7 expenses just got pricier, too.

Small Business Measures

The Liberals did not increase income tax rates but cancelled the planned decreases to the rate charged to Canadian-controlled private corporations ("CCPC") carrying on active business in Canada. They did however throw a monkey-wrench into the tax plans of certain professionals which was a promise they had made earlier as part of their "Make the rich pay" platform.

You might have seen situations such as the following:

a) A lawyer is a partner of a law firm with, say, 50 partners;

b) The partnership bills the clients;

c) Each lawyer incorporates a professional law corporation which provides services to the partnership in addition to those provided by the partner. This allows the partner to be remunerated in two ways – partnership income reported as personal income and corporate income subject to the low small business rate.

Say goodbye to that format, readers. The budget proposes to change this such that, if a partner owns a CCPC that bills the partnership, all of the partners' corporations must now share one $500,000 small business limit. The structure might still be available for income splitting with family but the very significant tax deferral created by the low small business tax rate is virtually wiped out.

Similarly, where a CCPC provides service or property to a private corporation where the two corporations are not at arm's length, the income earned by the CCPC will be ineligible for the small business deduction. What does that mean? If a dentist, for example, incorporated a hygiene corporation owned by a family trust for his or her children in order to increase the small business limit available, that, too, is eliminated. Readers may be familiar that we had recommended using such a structure for years where the professional had children aged 18 and older in order to greatly reduce the after-tax cost of quasi-child support when paid indirectly as fees to the CCPC owned by the children or a trust on their behalf.

Both of these eliminated structures apply only to fiscal years commencing after the budget date but will be missed by the families who used them effectively.

Canada Child Benefits

As promised, gone is the Universal Child Care Benefit ("UCCB") and changes were made to the Canada Child Tax Benefit. The UCCB was paid to all parents and taxable such that high income parents kept much less than others. That is gone and replaced with an enhanced non-taxable Canada Child Benefit that pays parents up to $6,400 per child under age 6 and $5,400 per child aged 6 through 17. A Child Disability Benefit will pay an additional $2,730 per eligible child. All of these amounts will start to erode when family (or single parent) income exceeds $30,000. These very significant payments will likely continue to be paid to the parent who resides with the child and primarily fulfills the responsibility for the caring and upbringing of the child. Under the old Canada Child Tax Benefit, where the parents were separated and had shared equally the responsibilities, the parties could agree to rotate receipt of the benefits. Whichever way the payments are received, their significance must be considered when determining each household's net disposable income. We are sure DivorceMate is already amending its formulae.

This newsletter is not intended to substitute for proper professional planning. It is intended to highlight areas where professional assistance may be required or enough to discuss at the next hoedown. The professionals at Marmer Penner Inc. will be pleased to assist you with any matters that arise. Please feel free to visit our website at ***www.marmerpenner.com***.