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Marmer Penner Inc. Newsletter

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Year-End Tax and *Guidelines* Income Planning

It is nearly the end of the year and on top of all of your normal deadlines come the added stress of certain financial deadlines. Here are some that may be of importance to you and your clients:

Individuals

1) Have your clients pay all arrears spousal and child support in order to gain the tax deduction. While spousal support is obviously tax deductible, the non-payment of child support where spousal support was paid to the same parent will lead to a grinding down of the deductible spousal support for that year;

2) Finalize written agreements or orders that cover periodic spousal support payments made in 2021 or 2022 in order to make these payments deductible for the payor;

3) Remind your clients to pay discretionary carrying charges in December and not January in order to reduce both taxable income and income for purposes of the *Child Support Guidelines (“Guidelines”)* for 2022. These payments include investment counsel fees, loan interest, bank charges and certain legal and accounting fees;

4) Trigger capital losses by selling investments with accrued losses on or before December 23rd, as most transactions after this date will not settle until 2023. This may save income tax and reduce *Guidelines* income. Conversely, if your client has realized capital losses in excess of capital gains in 2022 and pays support, it may be worthwhile to trigger some last-minute capital gains to avoid having an excess of capital losses in the year, which may go unused for *Guidelines* purposes, since the *Guidelines* do not specifically state that capital losses are deducted from Line 150 income to determine a payor's income. However, if both are realized in 2022, the *Guidelines* allow the capital losses to reduce the capital gains;

5) Avoid buying mutual funds which realized gains in 2022 (it might be hard to find one!), as they will allocate each investor a share of these gains realized in 2022 even if the investor acquired the units late in the year;

6) If your client was born in 1951, ensure that he/she converts any RRSP accounts into an annuity or an RRIF in order to avoid having the RRSP deregistered and fully included in 2022 income;

7) Here's an old tax trick for clients who turned 71 in 2022 but will continue to earn employment or business income. The *Income Tax Act* requires a taxpayer to wind-up an RRSP at the end of the year but it does not preclude the taxpayer from claiming an RRSP deduction in 2023. The septuagenarian can over-contribute to the RRSP on or about December 29, 2022, shortly before the RRSP is wound up. There will be a 1% penalty for doing so but this amount qualifies to be deducted in 2023. So, a $30,780 over-contribution will create a $308 penalty but also allow the contributor up to $16,477 in 2023 tax savings. Should your client wish to over-contribute for 2023 and 2024 in December 2022? That would lead to double the tax savings over the two years but the penalty will be an extra $4,000. Remember that RRSP tax savings are just temporary as you will start paying it back as soon as RRIF withdrawals commence so paying a $4,000 penalty might be pricey;

8) Charitable donations and medical expenses must be paid before year-end in order to receive a 2022 tax receipt;

9) If a client is planning a long winter trip, it may be prudent for them to buy travel health insurance before the end of the year in order to claim it as a medical expense for 2022;

10) If a client's health insurance covers family members' expenses and there is unused coverage remaining, try to pay for covered expenses in December rather than January;

11) In general, try to avoid TFSA withdrawals but, if your client has done so, the rules regarding recontribution may require him or her to wait until the following year. In addition to the 1% penalty on over-contribution to a TFSA, income attributed to deliberate over-contributions to a TFSA is subject to a 100% tax;

Business owners

12) If your client paid an unusually large amount of deductible support or professional fees in 2022, consideration should be given to increasing 2022 salary or dividends to ensure deductibility at the highest rate;

13) Clients should consider buying fixed assets if they own a business with a December 31 year-end, as the allowable depreciation is the same whether the asset was owned for one day or 365 days in 2022;

14) Readers may be aware that, if a shareholder receives a loan from his or her corporation, that loan needs to be included in income if not repaid within a prescribed period. Consider whether any such loan should be repaid by declaring a salary or dividends, which might impact the calculation of Guidelines income, as opposed to borrowing personally from a third party lender or family;

15) If such a shareholder loan was included in income in a previous year, any portion of that loan which is repaid entitles the shareholder to an offsetting deduction in the year of repayment. Accordingly, if such a repayment is being made soon, consideration must be given to which year is best for what might be a significant deduction;

Trustees and beneficiaries

16) 2022 was to be the first year that Canadian trusts will have to provide certain information pertaining to its beneficiaries, trustees, settlors and protectors on its income tax return. A protector is a person who is given special rights and powers under a will or a trust instrument to participate in the administration of an estate or a trust. Protectors generally ensure that trustees are administering the trust in accordance with the settlor's intentions. The use of protectors was brought about by onshore settlors of trusts who did not want to transfer complete control over their assets to unknown offshore trustees while still pointing to the offshore trustees as evidence that mind and management of the trust resides outside of Canada. The Department of Finance recently delayed the implementation of these proposed reporting rules to taxation years ending after December 30, 2023 (instead of after December 30, 2022), which gives trusts additional time to consider structural changes and weigh the benefits of the trust against the additional costs of compliance with the required disclosure. Trusts that fail to report required information may face penalties of up to 5% of the value of its property.

From all of us at Marmer Penner, we wish you, your family and friends a happy holiday season!

This newsletter is intended to highlight areas where professional assistance may be required. It is not intended to substitute for proper professional planning. 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***.