

# SEAL & BEDARD

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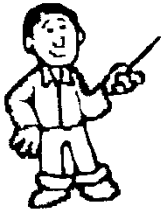
\*Denotes Professional Corporation

### YEAR-END TAX PLANNING

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Some **2011 year-end tax planning tips** include:

1. Certain **expenditures** made by **individuals** by **December 31, 2011** will be eligible for **2011 tax deductions** or **credits** including:



moving expenses, child care expenses, safety deposit box fees, charitable donations, political contributions, medical expenses, alimony, eligible employment expenses, union, professional, or like dues, carrying charges and interest expenses, certain public transit amounts, and children's fitness and arts amounts.

2. You have until **February 29, 2012** to make tax deductible Registered Retirement Savings Plan (**RRSP**) contributions for the 2011 year.

Consider contributing to a **spousal RRSP** to achieve income splitting in the future.

3. If you own a business, consider paying a **reasonable salary** to

family members for services rendered to the business.

4. An individual whose **2011 net income** exceeds **\$67,668** will lose all, or part, of their **old age security**.

Senior citizens will begin to lose their income tax **age credit** if net income exceeds **\$32,961**.

Contact your professional advisors for assistance in **managing** 2011 personal income.

5. Consider purchasing assets eligible for **capital cost allowance** before the year-end.

6. Consider selling capital properties with an **underlying capital loss** prior to the year-end if you had **taxable capital gains** in the **year**, or any of the **preceding three years**. This capital loss may be offset against the capital gains.

7. **Registered Education Savings Plan (RESP)**

A **Canada Education Savings Grant (CESG)** for RESP contributions will be permitted equal to 20% of annual contributions for children

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(maximum \$500 per child per year).

8. **Health and dental premiums for the self-employed**

**Individuals** will be allowed to **deduct** amounts payable for **Private Health Service Plan** coverage in computing **business income** provided they meet certain criteria.

9. A **refund** of **Employment Insurance** paid for non-arm's length employees **may** be available upon application to CRA.

10. Taxpayers that receive "**eligible**" dividends from private and public corporations may have a significantly lower tax rate on the dividends. **Notification** from the

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corporation to the shareholder is required.

11. Eligible **public transit passes** will be entitled to a tax credit.
12. A **tax credit** for children under 16, at the beginning of the year, enrolled in certain organized activities is available.
13. A **Registered Disability Savings Plan** may be established for a person who is eligible for the **Disability Tax Credit**. Non-deductible contributions to a **lifetime maximum of \$200,000** are permitted which are eligible for tax-deferred grants and bonds. Please contact your professional advisors for details.
14. If required income or Forms have **not been reported** in the past to the CRA, a **Voluntary Disclosure** to the CRA may be available to avoid penalties. Contact us for details.
15. **U.S. Citizens and green card holders** have U.S. filing obligations.

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## 2011 REMUNERATION

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Some general guidelines to follow in remunerating the owner of a Canadian-controlled corporation



private earning "active"

**business income**" include:

1. **Bonusing down** active business earnings in excess of the **annual business limit** may reduce the **overall tax**. However, leaving corporate **active business income** over this amount presents a **tax deferral**.

**Professional advice** is needed in this area.

2. **Notification** must be made to the shareholders when an **"eligible" dividend** is paid - usually in the form of a **letter dated** on the date of the **dividend declaration**. If all **shareholders** are **directors**, the **notification** may be made in the **Directors' Minutes**.

Please contact your **professional advisor** for advice before paying an **eligible** or **ineligible** dividend.

3. Elect to pay out tax-free **"capital dividend account"** dividends.
4. Consider paying dividends to obtain a refund of **"refundable dividend tax on hand"**.
5. Corporate earnings in excess of personal requirements could be left in the company to obtain a **tax deferral**. The effect on the **"Qualified Small Business Corporation"** status should be reviewed before selling the shares.
6. **Dividend income**, as opposed to salaries, will reduce an individual's **cumulative net investment loss** balance thereby

providing greater access to the **capital gain exemption**.

7. Excessive **personal income** affects receipts subject to **clawbacks**, such as **old age security**, the **age credit**, **child tax benefits**, and **GST credits**.
8. Salary payments require **source deductions** to be remitted to the Canada Revenue Agency on a timely basis.
9. Individuals that wish to contribute to the Canada Pension Plan or a Registered Retirement Savings Plan may require a **salary** to create **"earned income"**.
10. **Salaries** paid to family members must be **reasonable**.

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## EMPLOYMENT INCOME

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### CELLULAR ALLOWANCE

### PHONE



In a June 8, 2011 **Technical Interpretation**, CRA notes that CRA **Guide T4130** provides that where an employer **reimburses** an employee for the cost of a **cellular phone service plan** and the **primary use** is for business purposes, the reimbursement would generally **not be considered a taxable benefit** if:

- the Plan's cost is **reasonable**,
- the Plan is a **basic Plan** with a

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fixed cost, and

- the employee's **personal** use of the service does **not** result in charges that are **more than the basic Plan cost**.

However, CRA notes that a **taxable benefit** may arise where **additional charges** are incurred as a result of the employee's **personal use** of air time minutes or personal long distance calls.

Also, when a reimbursement by an employer relates to an **asset purchased and owned** by an employee, a taxable benefit may apply.

#### **AUTOMOBILE STANDBY CHARGE**

In a July 12, 2011 **Technical Interpretation**, CRA notes that an **automobile** ceases to be subject to the automobile standby charge **only when** the employee is **required by the employer to return** both the **automobile** and its **keys**. Therefore, where an employee **voluntarily surrenders** the keys during a period of **absence** from work, CRA feels that those days must be counted in the calculation. (For calculation see CRA Form RC18)

#### **PER DIEM ALLOWANCES**

An employer may pay reasonable **tax-free per diem allowances for board and lodging** to an employee while at a **special worksite** if the employee otherwise maintains a principal place of residence and is away for at **least 36 hours** and the **distance** was such that he/she could not reasonably return daily from the **special worksite** to the principal place of residence.

#### **BUSINESS TRAVEL/LOG**

In a November 3, 2010 **Tax Court of Canada** case, the taxpayer was a self-employed Remax residential real estate agent who received commissions of \$81,440 and \$79,552 in the 2005 and 2006 years.

The taxpayer did **not keep a log** of her business kilometres but she claimed that she had driven 31,185 kilometres and 23,693 kilometres in 2005 and 2006 for a business percentage of 95%.

**CRA reassessed** on the basis that **only 55%** of her kilometres were for business purposes.

The taxpayer appealed to the Tax Court of Canada and the Court noted:

1. That keeping a log book for automobile expenses is not specifically required by the ITA. However, by not doing so, she faces a **heavier burden** in proving that she used her motor vehicle almost exclusively for business purpose.
2. The Court understood that keeping a log book may be tedious and may not always be practical; however, it would be **useful** in determining the actual business use.
4. The Court noted that if she did not have time to report all her business driving, which they serious doubt, she could have reported her **personal driving**.

**CRA countered** with a proposal to **allow 75%** and the **Court agreed**.

**Editor's Comment**

See [www.cra.gc.ca/whtsnw/lgbk-eng.html](http://www.cra.gc.ca/whtsnw/lgbk-eng.html) for **CRA's comments** on "Documenting the Use of a Vehicle".

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### **BUSINESS/PROPERTY INCOME**

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#### **SCIENTIFIC RESEARCH AND EXPERIMENTAL**



#### **DEVELOPMENT (SR&ED)**

On June 25, 2011, CRA released "The **SR&ED Technical Review: A Guide for Claimants** -

**July 25, 2011**". CRA notes that this outlines **CRA's internal procedure manual**, called the **Claim Review Manual**.

The two main aspects of a **CRA Technical Review** are to determine if the definition of SR&ED has been met and to resolve any issues associated with eligibility.

The **Claim Review Manual** is used by all CRA Research and Technology Advisors (**RTAs**) when they conduct the **Technical Review** of the SR&ED claims.

CRA notes that all SR&ED claims are **risk assessed** upon filing. Based on the risk assessment, some claims are accepted as filed, some are selected for a desk review, while others may be selected for a more detailed technical and/or financial review.

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## PARTNERSHIP INFORMATION RETURNS - T5013

On September 17, 2010, CRA announced that, effective for fiscal periods ending after December 31, 2010, a Partnership that carries on a business in Canada must file a **T5013 Partnership Information Return** where **one** of the following conditions are met:

- **At the end** of the fiscal period the **revenues plus expenses** are greater than **\$2 million** or, the Partnership has more than **\$5 million in assets**
- at **any time** during the fiscal period the Partnership was either in a **tiered Partnership**, had a **Partner** that was a **Corporation** or a **Trust**, invested in **flow-through shares** of a principal business corporation that incurred Canadian resource expenses and renounced these expenses to the Partnership **or** had received a **Written Request from CRA** to file a T5013 Information Return.

The **due date** for filing the **T5013 Return** depends on the type of Partners.

If, throughout the fiscal period, all **Partners** are **individuals** (CRA considers a Trust to be an individual), the T5013 Form should be filed no later than **March 31** after the calendar year in which the fiscal period of the Partnership ended.

If **all Partners** are **corporations** throughout the fiscal period, the T5013 Return should be filed no later than **5 months** after the end of the **Partnership's fiscal period**.

If any of the members of the Partnership are a **combination of individuals** (including Trusts) and **corporations**, and if the Partnership is **not** a tax shelter, file the T5013 Form no later than the **earlier** of:

- **March 31** after the calendar year in which the fiscal period of the Partnership ended; or
- the day that is **5 months** after the end of the Partnership's fiscal period.

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## ESTATE PLANNING

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### CHARITIES

The 2011 Federal Budget proposed **many changes** to charities including:

1. Previously **Registered Canadian Amateur Athletic Associations (RCAAs)** were precluded from the rules that govern charities. The Budget ends that and compels **RCAAs** to comply with **regulatory requirements** including filing annual reports to the CRA. They will also have to follow specific rules for charities related to bookkeeping, tax receipts, and the value of the donated property. If they do not comply, they will face **sanctions**.
2. Previously **RCAAs** were only required to promote amateur athletics as a **"primary purpose"**. Therefore, they often engaged in other unrelated activities. Under the proposed changes, the promotion of **amateur athletics** must now be the **"exclusive purpose"** of

RCAAs.

### CHARITY TAX SCHEMES

It was noted in the **August 24, 2011 issue** of the **Globe & Mail** (page B8) that the CRA has reassessed more than **130,000** donors in charity tax schemes in the last year for more than **\$4.5 billion**. For example, it notes that the Burlington, Ontario based **Parklane Financial Group Ltd.** was promoting a charity tax scheme in which a donation receipt for \$10,000 would be provided for every \$2,500 of contribution.

In one example, Mr. D had made over \$75,000 in cash contributions which were totally disallowed and now owes the CRA \$180,000 in taxes and interest. Mr. D is involved in a potential **Class-Action Lawsuit** in the Ontario Superior Court against the Plan's promoters. CRA noted that it has **revoked** the charitable status of participating charities.

### CHANGES TO THE CANADA PENSION PLAN (CPP) FOR INDIVIDUALS WHO ARE AT LEAST 60 YEARS OF AGE BUT UNDER 70

In a **July 14, 2011 Release**, CRA discussed these **CPP changes** and notes that:

1. As of **January 1, 2012** the rules for contributing to the CPP will change.
2. **Individuals under 65 years of age** - starting on January 1, 2012, will **now have to contribute** to the CPP if you are **working**, even though you may be receiving CPP.

# Tax Tips & Traps

**Individuals at least 65 years of age but under 70** - starting on January 1, 2012, unless you **elect to stop** contributing to the CPP, you will now **have to contribute to the CPP** if you are working.

3. **To stop contributing to the CPP:**

- **Employee** - an employee who is **at least 65 years of age but under 70** and receiving a CPP or QPP retirement pension, can **elect to stop contributing to the CPP** by completing Form CPT30, giving a copy to all your employers, and sending the original to the CRA.
- **Self-Employed** - If you are **self-employed**, at least **65 years of age but under 70** and **receiving a CPP or QPP** retirement pension, you can **elect to stop contributing** to the CPP. To do so, complete the applicable section of Schedule 8, CPP Contributions on Self-Employment and Other Earnings for 2012 and file it with your income tax return for 2012.

Do not use Form CPT30.

The **Election** stays in effect until you turn **70 years of age** or until you **revoke the Election**.

4. **Individuals receiving both pensionable earnings and self-employed earnings** who are at least 65 years of age but under

70 and receiving a CPP or QPP pension can **elect to stop contributing** to the CPP by completing Form CPT30, giving a copy to all your employers, and sending the original to the CRA.

5. If you want to **start contributing to the CPP again**, you need to **revoke** your **Election** to stop contributing to the CPP. However, you cannot revoke an Election in the same calendar year that you elected to stop contributing to the CPP. For example, if you elected to stop contributing to the CPP in 2012, you cannot revoke this election before 2013.

Since you cannot revoke an Election until 2013, Service Canada will provide information about this at a later date.

To get details, search for “**changes to the Canada Pension Plan**” on the **CRA website**.

Other changes that come into effect in **2012** include a person aged 60 or older will not have to cease working to **qualify for early CPP**. Also, the reduction to benefits when a person collects CPP before age 65 and the increase in benefits for delaying the receipts past 65 will both be **increased** over the next several years.

#### **OLD AGE SECURITY (OAS) APPLICATION**

A taxpayer may apply to receive **OAS payments** at the age of **65**. Failure to apply means a taxpayer could lose OAS payments because the Government only has to pay

**retroactive payments** back to the 65th birthday for a **maximum of 11 months**, plus the month of application.

In a June 29, 2011 **Federal Court** case, the taxpayer argued that he was given incorrect information from Service Canada and, therefore, did not make an application for the OAS. Therefore, he was applying for retroactive payments past the **11 months**.

#### **Taxpayer Loses**

The Court found that the **information** provided by Service Canada was **not erroneous**. Therefore, the taxpayer was **limited** to a retroactive payment of **11 months**.

#### **ECOENERGY RETROFIT-HOMES PROGRAM**

The Federal Government renewed the **ecoENERGY Retrofit-Homes Program** in the 2011 Federal Budget. From June 6, 2011, until March 31, 2012, homeowners are eligible to receive **Grants** of up to **\$5,000** to make their homes **more energy efficient**.

There are two important changes to the Program. **First**, there is a **requirement** for participants to register directly with the Program **before booking** their evaluation. **Second**, homeowners will now be required to provide receipts to their energy advisor at the time of the post-retrofit evaluation to confirm eligibility for the Grant.

Google **ecoENERGY Retrofit-Homes** for more information.

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Only products purchased after June 6, 2011 and installed after a **pre-retrofit evaluation** are eligible for an ecoENERGY Grant. All energy retrofits and post-retrofit evaluations must be **completed by March 31, 2012**. The homeowner must also sign the **Grant application** by this date.

When you apply for ecoENERGY Retrofit-Homes, you may be eligible for complementary or matching funds from **Provincial, Territorial and Municipal Governments**, as well as from certain energy utilities and non-government organizations that use the EnerGuide Rating System. You should consult with these regional organizations directly to ensure you are meeting their respective guidelines and deadlines.

Google “**complementary regional programs with ecoENERGY Retrofit-Homes**”.

### RRSP PLANNING

An individual must **collapse the RRSP** by December 31 of the year in which they turn 71. Because of the current low interest rates, **most taxpayers** chose to purchase a Registered Retirement Income Fund (RRIF), rather than an annuity which would result in low interest rates throughout the person’s retirement years.

Usually, an arrangement is made with the financial institution to **directly transfer the RRSP** into a **RRIF** thereby avoiding the inclusion in income.

A **RRIF** requires that funds be withdrawn on an **annual basis** other than in the year the RRSP is

converted to the RRIF. An RRIF can be self-directed and may hold investments similar to those held by the RRSP. The minimum withdrawals range from **7.38% at age 71** to, say, 8.99% by 81 to 14.73% by 91, and 20% by 90 and older. These rates increase each year.

An individual may use either their **own age** or that of **their spouse** in determining the **minimum withdrawal** amounts. The **advantage** of using the age of a **younger spouse** will be to extend the period that the funds **remain in the RRIF** earning tax sheltered interest.

When a taxpayer **dies** owning an **RRIF**, there will be a **rollover** if a spouse is the “**successor annuitant**” and will continue to receive the monthly RRIF payments.

However, if the RRIF goes to the **Estate** and the spouse is the **beneficiary**, the spouse will receive the funds in the RRIF at the time of death; however, these may be **transferred tax-free** to the **spouse’s RRIF**. Also, the **RRIF** may be transferred to a **spouse’s RRSP** if the spouse is under the age of 72.

Where there is no spouse, and the beneficiary is a **dependent child or grandchild**, the funds may be **taxable** to the child; however, the child may purchase an **annuity** that must expire by **age 18**. If the child is dependent under a **mental or physical infirmity**, an annuity may be purchased that does not have to end by age 18.

Otherwise, the amounts in the **RRIF** are taxable in the **deceased’s Estate** on the final tax return.

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## WEB TIPS

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### GOVERNMENT SERVICES AND PROCEDURES AFTER BIRTH

<http://www.servicecanada.gc.ca/eng/lifeevents/baby.shtml>

This website offers a **helpful checklist and description of the items to consider** and **government services** that should be registered for



**after you welcome a new one to the family.** Topics

include:  
**parental leave/EI,**

registering the baby’s birth, **RESPs, Canada Child Tax Benefit, Universal Child Care Benefit,** and many more.

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## GST/HST

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### ALLOWANCES AND REIMBURSEMENTS

Where a Registrant pays an **allowance** to an employee or partner for supplies, the Registrant may be entitled to a GST/HST Input Tax Credit (ITC). For example, in a GST province, the Input Tax Credit (ITC) would be based on 5/105 of the amount paid. In HST provinces, the amount would be based on 12/112, 13/113 or 15/115, depending on the particular HST rate in that province.

A taxpayer may also claim ITCs for GST/HST on **reimbursements** paid to employees for expenses incurred

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in Canada either on the Actual Method or the Factor Method.

The Actual Method permits the claim based on the actual GST/HST. The Factor Method may be used if the GST/HST was charged on 90% or more of the total amount reimbursed for expenses. The main advantage is that the documentary requirements are lessened.

With respect to **reimbursements**, the Factor for GST only is 4/104, or 11/111 (British Columbia), or 14/114 (Nova Scotia), or 12/112 in Ontario, New Brunswick and Newfoundland.

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## DID YOU KNOW

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### UNIVERSAL CHILD CARE BENEFIT (UCCB)

A parent may deposit the **UCCB receipts** in a bank account for the **child** such that the **investment income** is the **child's**, not the parents', for income tax purposes.



The **UCCB** pays the parent **\$100 per month** for each child under the age of 6. Also, the **attribution** rules will **not apply** to investments made using the **Canada Child Tax Benefit** which is paid to certain low-income families depending on the family's income and the amount of the children, if the amounts are deposited in a bank account for the **child**.

The deposit should be made using the **child's Social Insurance Number**.

### BRITISH COLUMBIA (B.C.)

B.C. will reinstate the combined **12% PST and GST** tax system following the Referendum decision to extinguish the HST in B.C. The PST will be reinstated at **7%** with all permanent PST exemptions. The province may make some administrative improvements to streamline the PST.

The **transition period** is expected to take a minimum of **18 months** consistent with the report of the Independent Panel on the HST.

The preceding information is for educational purposes only. As it is impossible to include all situations, circumstances and exceptions in a newsletter such as this, a further review should be done by a qualified professional.

Although every reasonable effort has been made to ensure the accuracy of the information contained in this newsletter, no individual or organization involved in either the preparation or distribution of this letter accepts any contractual, tortious, or any other form of liability for its contents.

For any questions... give us a call.

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