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This publication is a high-level summary of the most recent tax developments applicable to business owners, investors and high net worth individuals. Enjoy!

Tax Tidbits

Some quick points to consider…

- The government announced that it is extending the temporary suspension of the federal fuel excise tax until January 31, 2027 and applying 50% of the regular excise tax rate from February 1 through March 31, 2027.
- Missing a tax slip does not excuse failing to report the income. Repeated failures to report $500 or more of income within a four-year period can result in a penalty. A recent case confirmed that simply waiting for CRA to identify the missing income can result in the penalty.
- Filing an income tax return late when expecting a refund can still be costly if also required to file a T1135 Foreign Income Verification Statement. Foreign-property reporting has its own deadline and penalties. A recent case upheld penalties of $2,500 plus interest for each taxpayer who filed their T1135 late.

The Productivity Mega Deduction: Immediate Capital Asset Write-off

The federal government has proposed a new "productivity mega deduction" that would allow for the immediate write-off of most depreciable property acquired on or after September 15, 2026, in contrast to claiming CCA over the life of the asset. For example, if a business purchases $100,000 of qualifying equipment, it could generally deduct the entire $100,000 in the year the equipment becomes available for use, rather than deducting the cost gradually. Unlike many recent CCA-related incentives, there would be no phaseout of this immediate expensing proposal. The total deduction for an asset would not change, it is simply the timing of the claim that is accelerated under this proposal.

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Eligible property would include depreciable capital property subject to the CCA rules acquired on or after September 15, 2026. The proposal is very broad and would apply to various depreciable business assets such as:

- machinery and equipment;
- computers and other technology;
- office furniture and equipment;
- tools and other business equipment; and
- a limited category of vehicles.

However, a few types of assets do not qualify (referred to as excluded property) for immediate expensing. Some notable exceptions are buildings (and additions to buildings), intangible assets (such as franchises, licences and goodwill) and certain vehicles (referred to as excluded vehicles). In general, to qualify, the vehicle must be both new and assembled in Canada.

Although not noted in the release, an April 17, 2025 AutoTrader.ca article (How Can You Tell if a Car is Made in Canada?) stated that a vehicle identification number (VIN) for a vehicle assembled in Canada will begin with the number 2.

Some transactions between related parties and purchases involving property that has previously been owned or used may not qualify.

Individuals and partnerships with individual partners would not be permitted to create or increase a loss from the property or business activity in which the assets are used, consistent with the previous temporary immediate expensing measure.

The above proposal has not yet been tabled or passed into law.

ACTION: Businesses planning significant equipment or other capital purchases may want to consider this new proposal as part of their investment decisions.

Using an Accountant: Helps in Court!

A July 31, 2026 Tax Court of Canada case reviewed CRA's denial of over $100,000 of expenses alleged to be incurred by a failed partnership of the two taxpayers. They had each deducted other expenses of $50,922 on their 2017 tax returns, resulting in non-capital losses applied to their 2018 through 2020 incomes. They argued that this reflected a terminal loss on the build-out expenses incurred in 2013 and 2014 in starting up the partnership's failed pizza shop business. CRA denied the claims on the basis that invoices had not been provided to support the claims. The taxpayer testified that the documentation had been destroyed by a flood in one of the taxpayer's premises.

Taxpayers win

The taxpayers' accountant produced a document she had prepared in or about late 2014 or 2015 that listed capital expenses incurred in 2013 and 2014 prior to the opening of their pizza shop business. The listing of the transactions under the heading leasehold improvements included the date of invoice, name of selling entity and debits and credits yielding balance paid, prepared from the original invoices that were returned to the taxpayers and subsequently lost in the flood.

The assets were not retained as they were seized with other assets by the partnership's landlord when the business was discontinued. One taxpayer, an independent construction contractor, provided numerous photos taken as the build-out proceeded, which assisted in confirming what work was done and when. Copies of several invoices and related documentation were also recovered from an old computer.

The court held that this evidence, **especially the accountant's** summary, was sufficient to establish that the costs were incurred. The appeals were allowed in full.

ACTION: Retain third-party accounting support to document and maintain records. This external assistance and organization can provide strong support if disputes arise in the future.

Employee or Independent Contractor: Medical Clinic Office Administrator

A July 22, 2026 Tax Court of Canada case considered whether an office assistant (an administrator) was an employee or independent contractor (IC) for multiple chiropractor professional corporations. CRA had determined that the worker was engaged in pensionable and insurable employment and assessed the payers with unremitted CPP and EI. The worker performed services under a verbal IC agreement and invoiced the payers separately for services provided to each.

Taxpayer wins – independent contractor

The court focused particularly on how mutual intention fits into the worker-status test, noting that the ultimate question is whether the worker is actually performing services as a person in business on their own account. Mutual intention does not replace that test. Rather, the court explained that intention provides the lens through which the parties' actual conduct is assessed, and that the terminology used by the parties cannot override the objective reality of their relationship.

The court further observed that the weight afforded to intention depends on the circumstances: an informed choice by parties who understand the consequences deserves more weight than a purported agreement involving a worker with limited understanding of employee versus IC status. In this case, both the worker and payers understood the distinction and deliberately chose IC status. Their conduct consistently reflected this intention, which included separate invoices, no source deductions, no T4s or record of employment and no employee benefits.

The court then examined the traditional objective factors through the lens of mutual intention to determine whether these factors contradicted the parties' chosen relationship. The worker received little supervision (she was an experienced administrator), had discretion over how to accomplish her tasks and enjoyed considerable scheduling flexibility, which supported IC status from a control perspective. The financial risk and opportunity for profit angle pointed toward employment because she had essentially no investment, expenses or financial exposure and could increase earnings mainly by working additional hours. The tools were provided by the payers (work premises, computer and telephones), but the court discounted this factor because patient confidentiality and data security reasonably required use of clinic equipment. The ability to subcontract angle was neutral. The worker did find replacements when needed; however, those replacements were remunerated directly by the payers and not through the worker.

Consequently, the objective factors were mixed and inconclusive; however, they were not inconsistent with the parties' mutual intention. As such, the court concluded that it was an IC relationship, as originally understood by the parties. The payer was not liable for unremitted CPP and EI.

ACTION: Ensure that both the payer and worker clearly understand the terms of engagement and the status of the working relationship prior to commencing work.

First Home Savings Account (FHSA): Closed Upon Home Acquisition?

An FHSA is a registered account designed to help first-time home buyers save for a home. Individuals can make tax-deductible contributions of up to $8,000 per year, to a $40,000 lifetime maximum. Qualifying withdrawals to acquire a first home are tax-free. If the funds are not ultimately used to acquire a qualifying home, they can generally be transferred tax-free to an RRSP or RRIF, or withdrawn on a taxable basis.

A May 14, 2026 French Technical Interpretation considered whether acquiring a qualifying home without taking a qualifying withdrawal would end the FHSA's maximum participation period, restrict subsequent contributions or affect transfers to an RRSP or RRIF.

Plan cancelation

CRA concluded that acquiring a qualifying home does not, by itself, **end the FHSA's maximum participation period**. That period ends at the end of the year following the year in which the first specified event occurs: the 14th anniversary of opening the taxpayer's first qualifying FHSA arrangement, attaining age 70 or making the taxpayer's first qualifying withdrawal. It is not triggered simply by acquiring a qualifying home. An acquisition of a home for these purposes need not be a purchase but could also include a gift or inheritance. As such, the taxpayer can retain the FHSA and, subject to the annual FHSA limit, continue making contributions during that period.

Future tax-free withdrawal

However, purchasing and occupying the home can affect the individual's ability to make a future qualifying withdrawal. If the individual later wishes to acquire another qualifying home and withdraw FHSA funds tax-free, they must satisfy the conditions in the definition of qualifying withdrawal at that time. This includes the applicable first-time home buyer requirement. Generally, during the portion of the calendar year before the withdrawal and throughout the preceding four calendar years, the individual must not have owned and occupied a home as their principal place of residence. Accordingly, if the individual continues to own and occupy the first home during the relevant look-back period, they will generally not satisfy this condition.

Transfer to RRSP/RRIF

Before the end of the maximum participation period, FHSA property that is not an excess FHSA amount can be transferred directly to the individual's RRSP or RRIF tax-free without using or otherwise affecting the individual's unused deduction room. Having acquired a qualifying home without making a qualifying withdrawal would not affect access to this transfer.

ACTION: Consider whether it is better to keep an FHSA open, or to close it by qualifying withdrawal, after an acquisition has occurred.

Change in Living Arrangement: Eligible Dependant Claims

The eligible dependant credit is generally available to unmarried, separated, divorced or widowed individuals who support an eligible dependant, such as a child, who lives with them in a home they maintain. The related annual tax savings range from approximately $2,500 to $4,500 and are dependent on province of residency and income levels.

An August 20, 2026 Tax Court of Canada case reviewed whether the taxpayer was entitled to the eligible dependant credit for his son. Generally, no claim can be made for a dependant if the taxpayer is required to pay child support. The taxpayer asserted that his spousal and child support obligation under an earlier interim consent order had been superseded by an oral agreement under which the parents lived separate and apart under the same roof with their child, contrary to the earlier order's assumption that their son resided primarily with his estranged spouse.

Taxpayer loses

The court expressed some doubt as to why an estranged spouse would surrender her right to receive support based solely on a verbal commitment. However, even if she had, this oral agreement would have no effect on the **taxpayer's legal** obligation to pay support as set out in the consent order. Absent variation by the issuing court, the requirement to pay support remained in effect. This ongoing requirement prevented a claim for his son as an eligible dependant.

ACTION: If changing the living arrangement from what was originally included in a separation agreement, update the written agreement and do not only rely on an oral arrangement.

Employment Expenses: Not Statute-Barred

A June 17, 2026 Tax Court of Canada case reviewed the deductibility of the taxpayer's employment expenses claimed against his employment commission income of $56,776 and $61,772 in 2017 and 2018. CRA also assessed the taxpayer outside the normal reassessment period for 2017. The taxpayer claimed a wide range of employment expenses including motor vehicle expenses, phone/cable/internet expenses, marketing consulting expenses and other supplies.

Taxpayer loses – employment expenses

The court **upheld CRA's denial** of all expenses, except for $7,000 that CRA conceded, even though the court noted that the taxpayer may have incurred a significant portion of the expenses.

Many expenses were denied on the basis that the taxpayer did not demonstrate that his employer required him to incur the costs. Motor vehicle expenses were denied as there was no evidence of expenses incurred. In addition, there was no evidence allocating the personal versus employment usage of the vehicle, even though there was an indication of some personal use. Similarly, no evidence was provided regarding home office expenses.

The court denied telephone, internet and cable expenses as the taxpayer did not establish employment use nor did the taxpayer provide an allocation between employment and personal use. The court **rejected the taxpayer's** estimate that 10% of the cellphone with unlimited data was personal. Marketing consulting expenses were denied as there was insufficient evidence to establish that the costs were incurred.

While there was some evidence that a laptop was purchased, the court found that the purchase was not required by the taxpayer's contract of employment. In addition, the court found that the laptop was not used for earning employment income and not consumed directly in the performance of employment duties. The court declined to decide on whether the laptop was acquired on account of capital.

Taxpayer loses – normal reassessment period

The court held that the taxpayer's incorrect deduction claims constituted a misrepresentation. The taxpayer also admitted that, as the return was provided to the taxpayer by his accountant just before the filing deadline, he did not have sufficient time to review it entirely and did not review it after filing. The court found that the taxpayer failed to exercise reasonable care, citing the following issues:

- the absence of any attempt to allocate personal use of his cars, cellphone and laptop;
- the absence of appropriate receipts for many expenses; and
- the absence of record-keeping regarding payments to his assistants for marketing consulting.

The court found that the taxpayer made misrepresentations attributable to a lack of reasonable care and thus the court allowed CRA to assess beyond the normal reassessment period.

ACTION: Ensure to make reasonable efforts to organize information and take reasonable and supportable positions when allocating and pro-rating expenditures.

Paying for Someone Else's Appeal: Deductible?

Going to court can be expensive. Sometimes the individual appealing a tax decision cannot afford the cost so it is covered by another family member. While costs are usually deductible, this is called into question when it is not the taxpayer themself paying.

In an August 13, 2026 Tax Court of Canada case, CRA had denied the taxpayer's deduction for the costs of an appeal to the Federal Court of Appeal (FCA) paid on behalf of her son-in-law. The taxpayer argued that the deduction for such costs does not specify that they must be incurred for an appeal by the taxpayer who paid the costs.

Taxpayer loses

The court acknowledged that a purely textual interpretation of the law indicated that the taxpayer should succeed as there was no required link between the taxpayer and the appeal for which costs were incurred. However, a contextual and purposive review identified several concerns with this textual result. The case law indicated that, in rare instances, a deduction could extend to a taxpayer's heirs, executors, successors or alter egos, but not to persons with no pecuniary interest in the appeal in question. The court opined that, if it was wrong in concluding that the deduction is not restricted to the actual taxpayer whose assessment is appealed, then it would conclude that there were no requirements of proximity to the case for which costs were paid. As such, the payer could not deduct the costs.

The court also noted that, as the **taxpayer's son**-in-law did not incur the costs, they would also be unable to claim any deduction.

ACTION: Only the taxpayer taking a tax appeal to court is entitled to deduct the costs of appeal, assuming they paid for it. Make sure the correct person pays these costs.

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.

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