MOMENTUS LLP
CHARTERED PROFESSIONAL ACCOUNTANTS

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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.

**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.

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