VIDEO TAX NEWS

Monthly Tax Update Newsletter

July 2025 — ISSUE 527

WHAT'S INSIDE

1 Government Releases

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FINANCE RELEASES

1. **Late Breaking News**: **June 30, 2025** – The Department of Finance issued a News Release (Government confirms non-taxability of Canada Carbon Rebates for Small Businesses) announcing **draft legislation** that would make the **Canada carbon rebate for small businesses tax-free**, retroactive to the commencement of the program. Legislation will be introduced in Parliament in the Fall to implement these changes. The release noted that once the legislation receives Royal Assent, CRA will have the authority to process amended T2 corporation tax returns for those who have already included the rebate in their taxable income. Further guidance will be provided by CRA at that time.

2. **June 5, 2025** – Bill C-4, Making Life More Affordable for Canadians Act, was introduced in the House of Commons. This Bill would **reduce** the **lowest marginal tax rate from 15% to 14%** effective July 1, 2025, **enhance the first-time home buyers' GST rebate** (see VTN 527(8310) on new homes valued at up to $1.5 million for agreements entered into on or after May 27, 2025 and **repeal** the **consumer carbon tax** (see VTN 526(8216)).

On **June 2, 2025**, CRA updated their **T4127 Payroll Deductions Formulas** webpage to reflect the proposed **personal tax rate reduction** and indicated that **employers** and payroll providers are **expected to implement** this change on a **best effort basis** for the first pay of July. The **T4032 Payroll Deductions Tables** and **payroll deductions online calculator** have now been updated to reflect the proposal.

reduced source deductions commencing for July payroll

CRA RELEASES

1. **June 18, 2025** – CRA emailed stakeholders announcing the launch of a new **self-evaluation and learning tool** link (SELT) to help taxpayers and their representatives assess eligibility for **penalties and interest relief** due to **financial hardship**, **circumstances beyond the taxpayer's control**, **actions of CRA** or other reasons. The tool will assist users in doing the following:

   new online tool to help taxpayers and representatives access penalty and interest relief

   - determine if relief is **appropriate** for their situation;
   - understand the **application process** and steps;
   - identify **supporting documentation** to include; and
   - learn about **next steps** after submission.

   The tool is designed for requesting taxpayer relief and not for other waiver requests, such as the penalty taxes on excess contributions to registered plans (e.g. TFSA, RRSP, FHSA).

2. **June 17, 2025** – CRA emailed stakeholders advising that **most** individuals' **TFSA information** is **now available** in **My Account** as they have resolved the majority of the issues that previously made contribution limits and other details inaccessible. Some individuals' information may still be temporarily unavailable as a precaution while CRA continues to work to ensure accuracy of contribution room data online. A June 10, 2025 National Post article (**CRA resolves contribution room issue for 90% of TFSA holders**, Stewart Lewis) further discussed the issue.

   CRA online TFSA contribution information now largely available

   Editors' comment: The online information continues to be current only to December 31, 2024 due to the timing of required reporting by TFSA issuers.

3. **June 10, 2025** – An update on the Charities Directorate's What's New webpage stated that a **new online option** is now available to file a charity's T3010 information return using CRA-certified software. After completing the T3010 using the software, the charity or its representative can then **upload** and **transmit** the **T3010 electronically** using **CRA's My Business Account or Represent a Client**.

4. **June 3, 2025** – CRA released a Tax Tip (**New to Canada**? Apply for **benefit** and **credit payments** using our **new online form**) announcing a new tool that allows newcomers to apply for the **GST/HST credit**

online. CRA noted that the application process takes about 20 minutes. CRA also referred to their Newcomers to Canada and the CRA webpage.

See **Appendix A** for a listing of **resources prepared** by **Video Tax News** that are available on the Video Tax News portal and for recently released/updated **CRA publications and forms**.

OTHER RELEASES

1. **June 13, 2025** – Service Canada updated their **Canada Disability Benefit** webpage to announce that **applications** for this new benefit (see VTN 516(7801)) will **open** on June 20, 2025. Applications can be made through the **application portal**, by phone or in person at a Service Canada centre. The **first payments** will begin in **July 2025** for **applications** received and **approved by June 30, 2025**. Individuals whose applications are approved in July 2025 or later but are entitled to payments in earlier months will receive back payments.

applying for this new benefit

2. **June 6, 2025** – Intergovernmental Affairs issued a News Release (Government of Canada introduces **legislation** to build **One Canadian Economy**) announcing that Bill C-5, One Canadian Economy Act was **introduced**. This Bill would **remove federal barriers** to **internal trade** and labour mobility, and advance **nation-building projects**.

2 Canada's COVID-19 Response 527(2)

COVID-19 BENEFIT ELIGIBILITY ROUND-UP

As CRA continues their **post-payment reviews** related to the **Canada Emergency Response Benefit** (CERB), **Canada Recovery Benefit** (CRB), **Canada Recovery Caregiving Benefit** (CRCB) and related programs, the Federal Court also continues to consider applications for judicial review of the reasonableness of CRA's decisions to deny benefits.

Timing of expenses

cannot shift around expenses to meet $5,000 prior period earnings test

A May 30, 2025 **Federal Court** case (Rek vs. AGC, T-624-23) found that CRA's denial of **CRB** was **reasonable** on the basis that the taxpayer did **not** meet the **$5,000 prior period earnings test**. While the taxpayer claimed to have met the $5,000 test based on her self-employed earnings from October 2019 to October 2020, **CRA** stated that it **appeared** that the taxpayer was **shifting around expenses for the year** to ensure that the $5,000 test was met. The taxpayer was **unable** to sufficiently **explain** why there was **only $14,888** of expenses for the period from January 1 to October 11 (just over **9 months**), but **$23,823** of expenses for the period from October 12 to

December 31 (just under **3 months**).

Foreign employment income

various types of support for foreign employment

A May 13, 2025 **Federal Court** case (Debrouwere vs. AGC, T-2618-24) found that CRA's denial of **CRB** on the basis that the taxpayer did **not** meet the $5,000 **prior period earnings test** was **unreasonable**. The individual **reported income** of approximately **$35,000** as an English teacher in China, providing CRA with his Chinese work permit and a statement from the Chinese tax authorities displaying his employment income. The **only reason** given by CRA to deny the benefit was a **lack** of **pay stubs** or a **record of employment**. However, the Court noted that these **may not** be **relevant** with respect to employment in a **foreign country**. CRA's guidance does not specifically require a record of employment or pay slips but indicates that "**any other documentation** that will substantiate $5,000.00 in employment income" may be **acceptable**.

Financial support – work training

what the payments were for

A May 22, 2025 **Federal Court** case (Fournier vs. AGC, T-2501-24) found that CRA's denial of CERB and CRB was **reasonable** on the basis that the taxpayer did **not** meet the **$5,000 prior period earnings test**. While the taxpayer had **earnings** from box 28 (other income) on their **T4A**, the amounts represented **payments** from a Job Creation Partnership as **living or financial support** provided to **support the individual during their work experience** and not as **compensation for services**.

Employee/employer arrangement to reduce hours

arrangement to reduce hours for reasons unrelated to pandemic is fatal to claim

A May 21, 2025 French **Federal Court** case (Martin vs. AGC, T-1626-24) found that CRA's denial of **CERB** was **reasonable** on the basis that the taxpayer had **not** suffered a **reduction in his working hours related to COVID-19**. CRA noted that the reduction in hours was not related to the pandemic but instead was the result of an **arrangement** between the **taxpayer** and his **employer** to remain below the $1,000 earnings cap for CERB eligibility such that the individual could receive CERB payments.

Homeschooling children

choice to homeschool does not enable CRCB claim

A May 22, 2025 **Federal Court** case (Kourouclis vs. AGC, T-60-24) found that CRA's denial of **CRCB** was **reasonable**. To be **eligible** for the CRCB, the **child must** have contracted or might have **contracted COVID-19**, must have been in **isolation** for reasons related to COVID-19 on the advice of certain individuals or bodies (medical practitioner, nurse practitioner, person in authority, government or public health authority) **or** must have been, in the opinion of a medical practitioner or nurse practitioner, **at risk** of **serious health complications** if they had contracted COVID-19. **None** of these **applied** to the taxpayer's situation. Rather, it was solely the **taxpayer's choice** to **homeschool** her children during the early stages of the pandemic. While a **letter** from the taxpayer's **doctor** supported her choice to homeschool, it did **not meet** the threshold for **eligibility**.

Although the taxpayer submitted **documentation** about **school closures** in support of her eligibility, it was **irrelevant**, as the taxpayer had **chosen not** to register her children for school. Any school closures had no effect on the taxpayer's eligibility.

Language issues

must provide translated documents, if requested

A May 27, 2025 Federal Court case (Yu vs. AGC, T-233-24) found that CRA's denial of CERB and CRB was **reasonable**. The taxpayer argued that the process was **unfair** due to a **language barrier**. The Court noted that **CRA** was able to **communicate** with the taxpayer's **spouse** on the taxpayer's behalf, mitigating the language barrier. The Court also noted that the taxpayer provided **several documents**; however, many were in **Chinese** and had **no translation** even though CRA requested it. Finally, the Court noted that some **bank statements** to support the taxpayer's income were in the **husband's name** with **no explanation** as to the discrepancy.

3 Business/Property Income 527(3)

MANUFACTURING AND PROCESSING – GOODS FOR SALE?

equipment must produce a good intended to be sold

A May 30, 2025 French **Court of Quebec** case (Imprimeries Transcontinental Inc. vs. QRA, 2025 QCCQ 1926) reviewed **whether flyers** that the taxpayer produced were **intended for sale or** were **part** of **pre-media and distribution services** provided by the taxpayer. If the flyers were intended for **sale**, the **robotic equipment** purchased to automate the **production** of the **advertising flyers** would be eligible for a manufacturing and processing **investment tax credit** (Quebec Taxation Act Section 1029.8.36.166.40, which parallels the federal Income Tax Act (Subsection 127(11)).

Taxpayer wins

substance of the relationship, rather than the name of the contract

The Court found that, while contracts were sometimes labelled as service agreements or similar, the **substance of the agreements** reflected the **sale of a good**. The **contracts** included a **sale clause** specifying the **transfer of ownership**, as well as a **specific price** for the **flyers sold**. The taxpayer was **only responsible** for the **printing** and sale of the **flyers**, while the pre-media and distribution were handled by other entities in the corporate group.

While Revenu Québec (RQ) argued that the flyers were not sold as they were distributed to customers for free as part of a broader marketing service, the Court found that the **sale** to **retailers** was the **relevant test**, not whether the end user paid for the flyers.

CANADIAN EXPLORATION EXPENSES – TEMPORARY ACCESS ROAD

A 2024 **Advance Tax Ruling** (2024-1017941R3) confirmed that the costs to be incurred to construct a **temporary access road** would **qualify** as **Canadian exploration expenses** (Paragraph 66.1(6)(f)). The road would allow for **safer** and **faster** year-round **access** to the deposit for both **equipment** and **people** and for any supplies needed at the site. It might also be used by **contractors** to conduct surveys, including geophysical probing and environmental control sampling.

eligible exploration expense

CARBON CAPTURE – DEDICATED GEOLOGICAL STORAGE

To qualify for the **carbon capture, utilization and storage** (CCUS) **refundable tax credit**, the captured **carbon** must be used in an **eligible manner** or stored **in a "dedicated geological storage" formation** (Subsection 127.44(1)).

An October 31, 2024 French **Technical Interpretation** (2024-1038061E5, Boriana Christov) considered whether carbon captured in a CCUS project can qualify if stored in an **underground mineral formation** that is **not a traditional reservoir**.

CRA noted that the term dedicated geological storage is **not limited to underground reservoirs**. Instead, it includes **any geological formation** that meets **four criteria**:

- located in a designated **jurisdiction**;
- capable of **permanent storage**;
- **regulated** for carbon storage; and
- **not used** for enhanced **oil recovery**.

Importantly, the legislation does not restrict this to oil or gas reservoirs. Based on industry usage and technical definitions, CRA concluded that a **mineral rock formation** – such as a serpentinite deposit – **can qualify** as a geological formation.

these areas in which carbon can be stored

4 Capital Gains/Losses

527(4)

CAPITAL GAINS EXEMPTION (CGE) – ACTIVE BUSINESS ASSETS

A May 27, 2025 **Tax Court of Canada** case (Ehresman et al. vs. HMK, 2019-2794(IT)G) considered whether the taxpayer's shares were **qualified small business corporation shares** (QSBC shares) and therefore eligible for the **CGE** (Subsection 110.6(1)) upon disposition. One of the conditions is that at least **50% of the fair market value** (FMV) of the corporation's **assets** must be used principally in an active business throughout the **24 months preceding** the disposition. CRA asserted that this test was not met so the shares were **not eligible**.

To meet the required 50% threshold, **cash and investments** valued at approximately $710,000 must have been **used in an active business** in Canada. The taxpayer argued that $750,000 to $1,000,000 was **needed** for the eventual **decommissioning of four oil wells** and therefore the cash and similar property had been **used in an active business**. The other required conditions for claiming the CGE were all met.

Taxpayer loses

whether withdrawal would have a destabilizing effect

The Court noted that cash or similar property would be used in an active business where their **withdrawal** would **have a decidedly destabilizing effect** on the active business operations themselves. The Court concluded that this was not the case for the assets in question for the following reasons:

- the **financial statements** included **no decommissioning liabilities**, reserves or related note, despite the Court's expectation to see them disclosed (although not stated by the Court, the statements appeared to be the subject of a compilation);
- the taxpayers did **not submit expert evidence** quantifying the decommissioning risk, despite the Court expressing concern at a pre-trial conference;
- the **risk** of extraordinary decommissioning costs was **remote and speculative**;
- a **$100,000 decommissioning liability** was included by the accountant in a **list** used for **restructuring the business**;
- the **provincial** government had issued **decommissioning assessments** totalling only $52,000; and
- the taxpayer did **not tell CRA** about the potential future liability until **later in the process** when it was noted that it would affect the CGE.

whether there was support for the necessity and size of the reserve

The Court noted that there must be a **rational connection** between the **reasonably determined risk** and the **amount of the reserves**. The Court found that this bar was not met and that **only $52,000** (the provincial government assessment) of the corporation's assets qualified as **active business assets**, well below the $710,000 needed to cross the 50% threshold.

5 Purchase/Sale of a Business 527(5)

REVERSE EARNOUT

a careful review of sales documents

Under a **reverse earnout sales agreement**, the entire **price is set** and generally **payable** on **sale**. However, a **reduction in price** (and potential repayment) may occur based on **future events** such as failure to achieve specified targets. The entire original price is treated as the seller's **proceeds of disposition**. Any later repayment will reduce the price, generally becoming a **capital loss** when the amount becomes repayable. This **differs from an earnout**, where the initial **price** is **subject to increases** based on future events such as achievement of specific targets. For more information on earnouts and reverse earnouts, see VTN 495(6794).

An April 2, 2025 French **Technical Interpretation** (2019-0818321E5, Lafrenière, Jean) considered an **asset sale** that included what CRA considered to be a **reverse earnout** clause. A private corporation sold assets to a third-party buyer with the **sale price to be reduced** if **customer retention targets** were not met. The **sale price** was **$4 million** payable over time and subject to adjustments as follows:

- an increase based on **net asset values** at close, calculated to be $150,000 (payable within 90 days of closing);
- $300,000 payable one year after close, to be eliminated if **client retention targets** were not met at that time; and
- $200,000 payable one and a half years after close, to be eliminated if **client retention targets** were not met at that time.

As the client **retention targets** were only **partially met**, the price was **reduced by $450,000**.

the full amount would be the proceeds of disposition

CRA opined that the full sale price of $4,150,000, including the $500,000 potentially subject to repayment, would be **included** in the **proceeds of disposition** if it reflected fair market value (despite being subject to a reduction). This is consistent with the guidance in Interpretation Bulletin IT-462 (archived) - Payments based on production or use (Paragraph 9). Therefore, these later payments would **not** be included in **income** as received (Paragraph 12(1)(g)).

However, because the price was subject to a potential reduction, it would be indeterminable at the time of sale, resulting in a **capital gains reserve not** being **available** (Subparagraph 40(1)(a)(iii)).

a capital dividend could be declared using CDA calculated from full initial sale price

CRA accepted that the corporation could declare a **capital dividend** from its CDA, calculated using the **capital gain** based on the **full initial sale price**. In the event that the **retention targets** were ultimately **not met**, resulting in a **reduction to the price**, CRA stated that a **capital loss** would be **realized** equal to the price reduction ($500,000 - $50,000 = $450,000) in the year that the reduction had been established with certainty. This loss would **not retroactively affect** the previously calculated CDA and capital dividend declared. This would not change even if the capital loss was carried back to the year of sale.

6 Owner-Manager Remuneration 527(6)

DIRECTOR'S LIABILITY – EXCISE TAXES

Tax preparers and advisors typically only deal with the GST/HST component of the Excise Tax Act; however, that legislation also includes a **wide variety** of **excise taxes.** The separate Excise Act includes further such taxes. These various types include taxes on certain insurance premiums, air transportation, telecommunication programming services, telecommunication services, cosmetics, jewellery, radios, certain construction materials or equipment, gasoline and certain other fuels, alcohol, tobacco, cannabis and vaping products.

potential liability as a director can go beyond source deductions and GST/HST

A May 2, 2025 MLT Aikins article (**Director's liability in insolvency – Due diligence defence and RVOs**, Chris Nyberg) discussed **exposure** of **corporate directors** to **personal liability** for unremitted **excise taxes** (Excise Act Section 295, which also imposes liability for amounts payable under the Excise Act). The article noted that this is **similar to** liability for unremitted **source deductions** (Section 227.1) and **GST/HST** (Excise Tax Act Section 323). The article reviewed recent case law involving **insolvent** cannabis **corporations** and provided a **summary** of various issues including **deemed directors** and the requirements for a successful **due diligence defence**.

7 Corporate Reorganization 527(7)

EVIDENCE TO SUPPORT TAX-FREE INTERCORPORATE DIVIDENDS

A May 22, 2025 KPMG Tax News Flash (**Intercorporate Dividends — Get Audit-Ready**) noted that CRA has been **requesting information** on **intercorporate dividends**, including **safe income calculations**, **paid up capital** and **adjusted cost base schedules** along with the **purpose** of **each dividend** as part of CRA's **ongoing audit activities**.

Section 55 can **reclassify** an otherwise **tax-free intercorporate** dividend to a **capital gain** where **one** of the **purposes** of the payment or receipt of the **dividend** was to **significantly**:

- **reduce** the **capital gain** that would have been realized on the disposition of any share of the corporation;
- **reduce** the **fair market value** of **any share** of the corporation; or
- **increase** the **cost** of the **property** held by the dividend recipient.

process for documenting position for tax-free dividend

As such, the article suggested considering **documenting** the **purpose** of **each dividend** at the time it is declared. This can be done, for example, in the **relevant corporate resolution**, **board minutes** or an **internal memorandum**. Corporations should also assess whether implementing a **written policy on intragroup dividends** would be beneficial.

If the dividend falls within one of the above purposes, **corporations** may still rely on the **safe income exception**. Conceptually, safe income is the **portion** of **any gain** on the shares that can be **reasonably attributed** to the corporation's **taxable income** realized after 1971.

As such, the article suggested that, as a **best practice**, corporate groups should consider **preparing and maintaining annual safe income calculations**, **adjusted cost base** schedules and **paid-up capital schedules**.

8 Corporate Tax

527(8)

EXCESSIVE CAPITAL DIVIDEND ELECTION

When a private corporation pays a **capital dividend** that exceeds the CDA balance immediately before the dividend became payable, the corporation is subject to a **60% Part III tax** (Subsection 184(2)) on the excess. However, an **election** can be made to treat the excess as a **separate taxable dividend** instead (Subsection 184(3)).

this new prescribed form

On May 5, 2025, CRA **released a prescribed form** for this election: **T2184, Election to Treat an Excess Dividend as a Separate Dividend Under Subsection 184(3)**. The form can be submitted in **Represent a Client** or **My Business Account** as a special election (using the "submit a document" tool) or **mailed** to the Prince Edward Island Tax Centre.

new information required

The form requires information that was not previously requested. It requires **identifying the shareholders** whose addresses were known and their **share** of the **taxable dividend** resulting from the election. Also, the form includes a column to disclose the **portion of the taxable dividend** for which a late designation as an **eligible dividend** is being made. CRA will generally accept these late designations provided the conditions described in Paragraph 2.79 of Folio S3-F2-C2, Taxable Dividends from Corporations Resident in Canada, are met. In these cases, amended schedules 3, 53 or 54 and 55 for the corporation must be submitted.

CRA's request to use the **most recent version** of the forms remains on their filing a special election or return webpage; however, their earlier statement that older versions would be returned has been removed. CRA did **not specify** any **grace period** during which they would accept elections made in formats other than this new prescribed form.

DE FACTO CONTROL – PROMISSORY NOTES

vendor cannot have de facto control after the disposition

A February 18, 2025 **Technical Interpretation** (2024-1038891E5, Daryl Boychuk) considered whether the **vendor** in an intergenerational business transfer (IBT) would have **de facto control** of the subject corporation due to the receipt of a **promissory note** in the transaction. To benefit from the IBT rules when using the immediate option (see VTN 501(7036)), the vendor **cannot have de facto control** over the subject corporation or purchaser corporation **after** the **disposition** of shares (Paragraph 84.1(2.31)(c)).

CRA noted that control is determined on a **case-by-case** basis and should consider **whether the promissory note** provides the vendors **material influence** over the corporation's decision-making. Factors include the **proportion of financing represented by the note, repayment terms, guarantees** and the purchaser's **financial capacity** to meet obligations without vendor interference.

9 CRA

527(9)

ELECTRONIC PAYMENTS – CRA ENFORCEMENT

Effective **January 1, 2024**, certain remittances or **payments to the Receiver General** in amounts exceeding **$10,000** have been **required** to be made by “electronic payment” unless the payer or remitter “cannot reasonably remit or pay the amount in that manner” (see VTN 493(6720); Subsection 160.5(2) and Excise Tax Act Subsection 278(3)). A penalty of $100 can apply for each failure.

In June 2025, CPA Canada indicated on LinkedIn that they had received the following **statement** from **CRA** regarding this requirement:

CRA is not assessing penalties for payment by cheque

“The **CRA** has established an administrative approach to **not run enforcement measures** with the application of penalties related to electronic payments introduced under Bill C-47; ample advance notice will be provided when/if this approach changes. In the meantime, the CRA **will** continue to **educate taxpayers** on **electronic payment offerings** and encourage taxpayers to pay electronically wherever possible; regardless of the amount. **Payments** made **through a bank** or credit union **are** considered to be **made electronically** for this purpose **as well as** any payments made online via **online banking**, CRA’s **portal services** and/or services provided by **third-party service providers**.”

UNCASHED CHEQUES FROM CRA

A May 12, 2025 National Post article (**CRA looking for the owner of 160 cheques worth over $100K**. Could it be you?, Christopher Nardi) discussed **over ten million uncashed cheques** reflected on CRA’s records, worth approximately **$1.7 billion**. While the **vast majority** are **under $1,000**, the article indicated that **nearly 190,000** are **larger**, with **160 exceeding $100,000**. These cheques date back as far as 1998.

checking for uncashed cheques that clients may be entitled to

The article noted that government-issued cheques **never expire**, so they can be **re-issued** at the **taxpayer’s request**. The article noted that an **individual’s uncashed cheques** can be viewed **on My Account**.

Editors’ comment
The uncashed cheques from the CRA webpage details the process for requesting a replacement cheque. In our Tax Update and Personal Tax Update seminars, several practitioners have noted that they check for such cheques when preparing tax returns and have been able to advise clients of available funds from CRA.

VOLUNTARY DISCLOSURE – COMPLETENESS

A May 6, 2025 **Federal Court** case (Créations Guimel Inc. vs. MNR, T-2368-23) reviewed the taxpayer's application for **judicial review** of CRA's **refusal** to accept the taxpayer’s application under the **voluntary disclosure program** (VDP). The taxpayer’s VDP application covered the **2008 through 2017 taxation years** and related to its **2007 sale** of know-how to clients in **Europe**, the subsequent **investment of the proceeds** in a Luxembourg bank, and the **2016 purchase** of a **rental property** in France. Although the taxpayer **did not** include the **2007 taxation year** in its application, CRA **requested an amended T2 return** for that year reporting the sale that had generated the investment capital. When this was **not provided** after several requests, CRA **denied the VDP** application.

Taxpayer loses

voluntary disclosure can require years beyond CRA’s ability to waive penalties and interest

One of CRA’s **requirements** for acceptance under **VDP** is that the disclosure be **complete**. The Court agreed with CRA that the **2007 transaction** was **relevant** and was an **unreported taxable transaction**. There was **no evidence** that relevant **information** was **not available**. It was **not relevant** that the **2007 taxation year** was **outside** the ten-year **period** for which **CRA could waive** penalty and interest charges.

CRA had **afforded the full time** set out in its **VDP guidance** for the submission of this additional information and had even afforded **significant extensions** of that time. Despite **multiple requests** by CRA, the **2007 return** was **never provided**. CRA was **not required** to provide **written notice** of a **final deadline** for submission of the relevant documents given the **numerous extensions** previously provided over a **six-month period**. The Court also noted that, during that time, the taxpayer’s representative had made **regular commitments** to provide the return by specific dates, followed by providing **inconsistent reasons** for these delays to both CRA then and to the Court during the hearing. The taxpayer had been **properly notified** of the **information required** and the potential that CRA would **reject the VDP application** if it was **not received** in the timeframe communicated.

CRA’s **decision** to **deny** the **VDP application** for **all taxation years** was **reasonable**.

CRA NUDGE LETTERS AND ONLINE SALES

A May 26, 2025 Canadian Accountant article (How the CRA uses **'nudge letters'** with **online sellers** to increase uptake of Canada's **VDP**, David J. Rotfleisch) discussed CRA’s use of the nudge letters that are designed to prompt **taxpayers** to **proactively review and ensure compliance** with their tax affairs. Often these letters **target specific groups**, such as online sellers, crypto investors or even recipients of benefits, such as the Canada Emergency Response Benefit (CERB) or Canada Recovery Benefit (CRB).

Taxpayers may **voluntarily correct unreported income** or inaccurate tax filings under the **voluntary disclosures program** (VDP). However, to be **eligible** for relief (potentially waiver of interest and/or penalties), the application must be **voluntary**. The article noted that a simple **nudge letter**, in and of itself, **may not disqualify** a taxpayer from the VDP. However, if CRA initiates an audit or investigation, it is much more problematic.

disclosing non-compliance before CRA commences an enforcement action

As CRA is increasingly obtaining information from **online digital platforms** (see VTN 523(8105), 520(7919) and 489(6544)), the window to access the VDP may be shrinking.

Prevalence of individuals earning income from online sales
According to a Statistics Canada research paper (Defining and measuring the gig economy using survey data, Vincent Hardy) released on March 4, 2024, **over 927,000 people** (aged 15 to 69) worked for **income** through a **digital platform or app** within the **12 months** ending in December **2023**.

large number of people with online earnings

See VTN 524(8158) for results from a survey that found **30%** of **gig workers** did **not plan** to **fully report their income** on their 2024 tax returns.

CRA's administrative policy – voluntary disclosures program (VDP)
CRA discussed their interpretation of a "voluntary" disclosure for these purposes in IC00-1R6, Voluntary Disclosures Program. They noted that the application would **not** be **voluntary** if the taxpayer is **aware** of an **enforcement action**, if an enforcement action related to the subject matter has been **initiated** or if **CRA** has already **received information** regarding the taxpayer's (or related taxpayers') potential **non-compliance**. While an **enforcement action** may **include** direct **contact by** a **CRA** employee for any reason relating to non-compliance, CRA noted that **not all enforcement actions** would cause an application to be **denied**. For example, a letter from CRA inviting the taxpayer to use the VDP to correct their tax affairs would not be fatal to accessing the VDP.

reviewing CRA administrative policy to best position the VDP application

UNNAMED PERSONS REQUIREMENTS (UPR) – RECENT CASES

In recent years, CRA has made significant use of **third-party requirements for information** (RFIs) to identify and obtain information related to **non-compliant taxpayers**. UPRs are a form of RFI commonly issued to obtain data on **large numbers of taxpayers** in areas believed to have **significant noncompliance** with income tax and GST/HST obligations (Subsections 231.2(2) and (3) and Excise Tax Act Subsections 289(2) and (3)). Some **recent examples** include **Kent Building Supplies** (see VTN 497(6886)) and **Coinsquare** (see VTN 477(5918)). CRA has a **webpage** discussing their use of UPRs.

CRA is required to obtain **judicial authorization** to issue a UPR (Section 231.2 and Excise Tax Act Section 289). In 2023, the media reported on **Shopify** challenging two UPRs targeting that e-commerce business (see VTN 504(7235)). Two May 29, 2025 **Federal Court** cases (MNR vs. Shopify) **denied judicial authorization** of these UPRs as discussed below.

Federal Court must authorize a UPR

Canadian merchants

The first case (T-778-23) addressed a UPR requiring disclosure of **information** related to **Shopify merchant accounts** with a **Canadian address** for **six years** (to be the six years preceding the Court Order). The required information included **identification** (such as social insurance numbers, business numbers, addresses, telephone numbers and email addresses), **financial information** (such as banking details, payment processors used and the number and value of transactions for each year) and details of their **online presence** (such as store websites and IP addresses, Shopify store types and "know your customer" documentation).

The Court noted that CRA intended to use this as a **test case** to guide **future UPR applications**.

how the Court's comments may impact future applications

Three-step analysis

The Court set out a three-step **process** for evaluating a UPR application.

First, the Court must be satisfied that the **group** for whom information is required is **ascertainable**. This test has a **low threshold** but requires that the **third party** be able to **understand** exactly **what information** must be provided and the **specific taxpayers** whose information is required. The Court determined that the **group** was **not ascertainable** due to **inconsistencies in the terms** used by CRA to define the group. Specifically, while the term "merchant" was **sufficiently clear**, and would have satisfied the requirement, the **addition** of a **second term,** "Shopify owner," resulted in an **inconsistency** that would leave Shopify **unable to determine** whether the information was required only for "merchants" or also for **all entities associated** with the Shopify account, as the **two terms** were used **interchangeably**. This **inconsistency** would **not permit Shopify** to **clearly identify** the persons in respect of whom information would be required. The Court emphasized that, if CRA had only required information on "merchants," as defined in their draft UPR, this would have been an ascertainable group. It was **not relevant** that this might encompass **hundreds of thousands** of Shopify users.

the target group must be clearly and unambiguously defined, but could be very large

The Court also **rejected** CRA's **definition** of a merchant with a **Canadian address** as being **unworkable** because it was limited to merchants who gave a **Canadian address** when **registering the account**, which did not consider **possible address changes** over the account's existence. This was **inconsistent** with the requirement to provide information on **individuals and entities associated** with the account, which could potentially include **all accounts** with a **current Canadian address**. This **expanded the scope** of the UPR as it would include accounts that did not initially have a Canadian address.

The Court **declined to amend** CRA's draft UPR on the basis that CRA's **intent was unclear**, instead indicating that **CRA's recourse** was to **revise its UPR** and **seek authorization** for this **revised version**.

the possibility that a win in these matters may only be temporary

Second, the Court must be satisfied that the UPR is being made to **verify** the targeted persons' **compliance** with their tax duties or obligations. The Court first noted that the **same ambiguity** that rendered the group not ascertainable also **undermined** the ability to conclude that the **purpose** of the UPR met this requirement. While the **potential non-compliance** of **"merchants"** was clear, the **"Shopify owners"** included many entities that would **not** have any **tax obligations** related to the information to be disclosed under the draft UPR. As there was **no evidence** of any intent to use this information to **verify compliance** of this broader group, the **proposed UPR** failed to meet this requirement.

whether the information requested is all relevant to verifying tax compliance

Third, the Court has **residual discretion** to **deny or impose conditions on** the UPR, as it considers appropriate. The Court described this as a **deeply fact-specific** exercise requiring a review of **all relevant circumstances**. The Court discussed arguments regarding **privacy expectations**, noting that a **very low** expectation existed in respect of **business records** relevant to the **determination of tax liability**, but that it might cause the Court to impose restrictions to the UPR in some cases. The Court also noted that **feasibility** of compliance with the proposed requirement was **relevant**; however, a UPR would need to be either **impossible or unduly strenuous** to comply with. It could still require **significant effort** to provide the required information. The **costs** associated with **tax compliance** are a **basic public duty**. However, **disproportionate costs** must be taken into account.

significant costs may not prevent a UPR being authorized

The Court concluded that, if the first two requirements were met, it would be **appropriate to approve the UPR**, with the caveat that Shopify was **not required** to **provide information** it did **not possess**, such as data purged two years after an account was closed or data that Shopify did not collect from its customers.

Taxpayer wins
As the **target group** was **not ascertainable**, the **UPR** application was **dismissed**.

Australian merchants
The second case (T-777-23) addressed a UPR requiring disclosure of **information** related to all **Shopify merchant accounts** with customers with **Australian billing addresses** over a **twelve month period**. The required information included **identification** (such as the merchant store's trading name, legal name and contact information), its **Shopify URL** and **total sales to Australian customers**. This application was undertaken at the **request** of the **Australian tax authorities** under Canada's **Tax Treaty** with **Australia**.

Taxpayer wins

The UPR reflected an **ascertainable group** in that the **Shopify accounts** covered were **clearly defined**. However, the UPR was **not made to verify compliance** with any duty or obligation under **Canadian tax law**. The UPR provisions did **not permit** issuing a UPR for the purposes of **verifying compliance** with a **Treaty partner's** tax obligations. Therefore, the UPR **application** was **dismissed**.

UPRs must be for the purpose of verifying compliance with Canadian tax obligations

Editors' comment

Commencing for the 2024 year, digital platforms are required to provide considerable disclosure to CRA regarding transactions involving Canadians (see VTN 489(6544)), with the first filings due January 31, 2025. CRA has provided interest and penalty relief to July 31, 2025 (see VTN 523(8105)). It is uncertain whether this will change CRA's approach in seeking UPRs related to these platforms either for information beyond these disclosures or for information related to years prior to 2024.

10 Estate Planning 527(10)

TFSA EXCESS CONTRIBUTIONS – ASSESSMENT RECEIVED?

A May 21, 2025 **Federal Court** case (Naugle vs. AGC, T-2969-24) reviewed the taxpayer's application for judicial review of CRA's **denial of a waiver of interest** and **penalty taxes** on her **excess TFSA contributions** for the 2021 and 2022 taxation years (1%/month during which the excess contributions remained in the TFSA; Section 207.02). To qualify for relief, any excess contribution must be **withdrawn without delay** (Subsection 207.06(1)). CRA evaluated this by considering the delay between the date the notice of assessment was sent and the time of withdrawal.

The **Court granted the judicial review** on the basis that CRA could **not clearly demonstrate** that the **assessment** informing the taxpayer of the excess contribution was **properly delivered**. While one CRA record suggested it was sent electronically, another internal record indicated it was sent in paper form. The conflicting information raised doubts about whether proper notice had actually been given.

whether there was conflicting information from CRA about how the notice was sent

LAWYERS' TRUST ACCOUNTS – BARE TRUST

lawyers' trust accounts may be eligible for CRA relief

In a March 17, 2025 letter to the Assistant Commissioner of CRA, the **Canadian Bar Association** (CBA) presented its position on the legal and **tax status** of professional trust accounts maintained by legal professionals (e.g. lawyers and paralegals). The CBA opined that these accounts **are bare trusts** for income tax purposes provided there is no unconventional arrangement deviating from the legal characteristics of a bare trust. Therefore, these trusts should be **eligible** for **relief** from **2023** and **2024 T3** and **Schedule 15** filing **obligations** pursuant to CRA's October 29, 2024 announcement (see VTN 519(7885)).

WILL ISSUES

A May 21, 2025 Miller Thomson article (**Crafting the will to facilitate effective post-mortem estate planning**, Stephen Sweeney) discussed various **issues** in **wills** that may **impede** post-mortem planning, including the following:

these potential issues in wills

- **assets** held in ways that **restrict flexibility**;
- **restrictions** on the transfer of **private corporation shares**;
- absence of language or terms needed to **authorize post-mortem elections** or asset reallocations;
- where a child or spouse is the executor, whether they have the **required skills** and expertise given the complexity of the estate;
- absence of **direction** to **maintain graduated rate estate** status;
- absence of the **power for executors to carry on business** or exercise rights associated with private corporation share ownership;
- restrictions on **investment decisions**; and
- **mismatches** between **asset recipients and tax liabilities**.

The article also provided suggestions on how to future-proof an estate and improve a will.

REGISTERED EDUCATION SAVINGS PLAN (RESP) – WITHDRAWALS

A March 4, 2025 Advisor.ca article (**What you need to know about RESP decumulation**, Jonathan Got) provided a refresher on the **taxation of withdrawals** from RESPs.

whether withdrawing taxable portions earlier is more beneficial

RESP **contributions** can be withdrawn **tax-free** as **post-secondary education** withdrawals. Investment **growth** and government **grants** (e.g. Canada education savings grant, Canada learning bond) are withdrawn as **taxable educational assistance payments** (EAPs). As students often have low income, the basic personal amount erodes much of the tax. Even if the student is liable for tax, the income is often only subject to lower marginal tax rates. As such, it is usually best to **withdraw funds** as **EAPs** as **early** as possible.

these limits on EAP withdrawals

During the first **13 weeks** of full-time enrolment, EAP withdrawals are **limited to $8,000**. **After** that period, there is **no limit**; however, students must justify the need if annual EAPs exceed $28,881 (in 2025). Funds do not necessarily have to be used only for tuition. They can be **used for other education-related costs**, such as for laptops, phones and furniture. While not publicly confirmed by CRA, the article argued that **car expenses** could also count if the vehicle is titled in the student's name and used to travel to and from school and for school-related activities.

The article also noted that **family plans** can also be set up. These may be useful where **one child does not pursue** post-secondary education as the growth portion can be shared with the sibling that does.

the potential costs if the RESP is not used for EAPs

If RESP funds **remain after education ends** (or the child never enrolled), **grants** must be **returned** to the government and **growth** is **taxed** at the subscriber's (generally the parent or grandparent) **marginal tax rate plus a 20% additional tax** when withdrawn (Subsection 204.94(2)). To avoid the tax, growth (up to $50,000) can be rolled into the subscriber's RRSP (if they have sufficient contribution room and are not over the age of 71) or transferred to the child's registered disability savings plan (RDSP) if applicable. Although a child may not enroll in post-secondary education immediately after high school, they may enroll at a later date, so it may be beneficial to leave the account open. Regardless of the beneficiary's age, RESP accounts can remain open for 35 years. Withdrawals of the original RESP contributions remain non-taxable.

Editors' comment
The apportionment of EAPs between grants, bonds and accumulated income is subject to formulas set in regulations to the Canada Education Savings Act, limiting the ability to prioritize withdrawal of any grants or bonds.

For more information, see CRA's RESP webpage and Guide RC4092, Registered Educational Savings Plans.

11 Charities/NPOs 527(11)

FALSE DONATION SLIPS

A May 15, 2025 **Tax Court of Canada** case (Tshibungu vs. HMK, 2018-3844(IT)I) considered several tax matters, including the following:

- $104,870 in denied **cash donations** to alleged registered charities from 2003 through 2007 and associated **gross negligence penalties**;

- $16,150 in denied **employment expenses** from 2006 through 2007 and associated **gross negligence penalties**; and
- **gross negligence penalties** on a **rental loss** of $8,018 from 2005 that the taxpayer conceded was improperly claimed.

Taxpayer losses – charitable donations

CRA may contact the charity to verify donation

The Court found that the taxpayer's **alleged cash donations** to registered charities that were facilitated through two **unknown individual brokers denied common sense**. While the **brokers provided some receipts** to the taxpayer, the Court found that these receipts were **fake** and that **no donations** were ever made. The Court's conclusion was based on **inconsistencies** in the **receipts** and **testimonies** from the **registered charities**, which stated that they had not received any of the alleged donations. The Court **upheld gross negligence penalties**.

Taxpayer loses, mostly – employment expenses

T2200, in and of itself, is insufficient

The Court found that, while the taxpayer had a **completed T2200** from his **employer**, he did **not retain receipts** to support his alleged employment expenses and therefore **denied** the employment **expenses**. However, the Court did **not** uphold the **gross negligence penalties**, noting that, while it was a **close call**, the taxpayer did travel for work and, as such, the benefit of the doubt should be given to the taxpayer with respect to the gross negligence penalty.

Taxpayer loses, mostly – rental loss

As the Court found that the taxpayer's **rental loss** from 2005 was simply an **error**, **gross negligence penalties** were **not** justified.

12 International

527(12)

PROPOSED US TAX CHANGE – IMPACT ON CANADIAN INVESTORS

Late Breaking News: On June 26, 2025, US Republicans announced that they have agreed to withdraw the Section 899 proposal discussed below.

whether the proposal will pass as currently drafted

A June 5, 2025 Scotia Wealth Management article (**New U.S. income tax proposal on non-resident withholding taxes – what Canadian investors with U.S. securities need to know**) discussed proposed Section 899 in the One Big Beautiful Bill Act, which was passed by the **US** House of Representatives on May 22, 2025. The proposal is particularly relevant for **Canadian resident investors who are not US persons**. While the US Senate must still pass the Bill and may be amended, it has, in its current form, sparked significant discussion in Canada.

additional tax cost to some non-residents of the US investing in the US

This proposal would **increase** the **US non-resident withholding tax** on **US-source investment income earned by non-US persons** who are **residents** of **countries** that the US considers to be imposing **discriminatory taxes targeting US businesses**. While not noted in the article, Canada's **digital services tax** (DST), enacted in 2024 (see VTN 527(8315) and 505(7257)), would likely be considered a **discriminatory** measure. As such, the proposal would impact taxpayers in Canada who hold US investments.

treaty benefits may not be available

If enacted, the proposal would introduce an incremental **5% withholding tax increase each year** for **up to four years** (reaching a maximum total increase of 20%) on **US source payments**, such as **dividends** on US securities. It remains unclear **whether** this proposal would also **eliminate** any **treaty benefits**, in which case this would **add** to the **withholding rate** under the US Internal Revenue Code rather than the reduced rates under the Canada-US treaty. In the US, the last-in-time rule may apply if a statute conflicts with a treaty, in which case the more recent of the two prevails (see VTN 522(8094) for a case that considered this rule).

For individuals receiving **US-source dividend income**, the proposal potentially **increases** the **withholding tax** rate to **up to 50%** if applied on the existing 30% withholding tax rate under the US Internal Revenue Code or to up to 35% if applied to the 15% treaty rate. For **US-source interest income**, the withholding tax rate would increase from 0% **to 20%**.

eroding the return in these registered plans

The article further noted that individuals earning **US-source interest and dividend income** through **registered retirement plans**, such as **RRSPs, RRIFs and LIRAs**, could also be significantly impacted. If Section 899 overrides the Canada-US treaty that generally exempts US-source income from withholding tax earned in certain registered plans, the withholding tax could similarly increase from 0% to 20% on US-source interest income, and up to 50% on US-source dividend income. Other **registered accounts**, such as **TFSAs, FHSAs, RESPs,** and **RDSPs**, are not covered by the Treaty exemption and therefore may also be subject to the increased withholding tax of up to 50%.

The **increased withholding tax** would apply **without** providing access to a **foreign tax credit**, resulting in Canadian funds or their unitholders being unable to claim a credit for any portion of the US tax imposed above the 15% treaty rate (definition on non-business-income tax in Subsection 126(7) and Subsection 20(11)).

impact on CPP portfolio

A June 5, 2025 Financial Post article (The tax hit to Canadians from Trump's 'big beautiful' bill could be tremendous, Kim Moody) noted that this proposal could **impose withholding tax** on any US income received by the **Canada Pension Plan** and other normally tax-exempt pension funds.

CANADIAN SNOWBIRDS IN THE US

The **Canadian Snowbird Act**, which was introduced in the **US** House of Representatives on April 29, 2025, would authorize **qualifying Canadian citizens** to be **admitted** into the **US** as long-term non-immigrant visitors for **up to 240 days** during a 365-day period.

ability to stay in US for up to 240 days by certain Canadian snowbirds

A qualifying Canadian citizen is an individual who meets the following conditions:

- is **at least 50 years old**;
- **maintains** a **Canadian residence**;
- **owns** a US residence or has **rented** a **US accommodation** for the duration of their stay;
- is not inadmissible or deportable;
- will **not engage** in **employment** or labor for hire in the US **other than for** a **non-US-based person** or entity by whom the Canadian citizen was employed in Canada or for whom the Canadian citizen performed services in Canada; and
- will **not seek** certain forms of **assistance or benefits**.

The **spouse** of such an individual may be **admitted** under the same terms, except that the spouse would not be required to separately satisfy the requirement for owning or renting a residence in the US.

An individual admitted into the US under this bill would have **non-resident alien tax status**.

Editors' comment
While similar laws have been introduced in the past, they have not been enacted into law.

other implications of longer stays in the US

Several issues unrelated to US immigration law must also be considered by Canadians who stay in the US for extended periods of time. For example, an individual spending significant time in the US may be considered a **US tax resident** and be required to **report worldwide income** and file relevant disclosures unless an exception applies. Individuals physically **present in the US** for **fewer than 183 days** in the current year can **avoid US tax residency** if they have a closer connection to a second country (e.g. Canada). This requires filing **Form 8840** (Closer Connection Exception Statement for Aliens) with their US tax return or by June 15 of the following year if no US return is required. In addition, complexities may arise surrounding health care, including obtaining out-of-country health care and maintaining entitlement to provincial/territorial healthcare in Canada (rules may vary across the country).

Stays of 30 days or longer – executive order

requirement to register for stays of more than 30 days

On January 20, 2025, President Trump issued Executive Order 14159, Protecting the American People Against Invasion, which requires that (with limited exceptions) all aliens **14 years of age or older** who were not registered and fingerprinted (if required) when applying for a US visa and **who remain** in the **US** for **30 days or longer**, **must apply** for **registration** and **fingerprinting**. Similarly, parents and legal guardians of aliens below the age of 14 must ensure that those aliens are registered. All aliens over the age of 18 must carry and **keep in their personal possession evidence of registration** from the Department of Homeland Security **at all times**. This requirement is not limited to Canadian snowbirds. For further information, see the Alien Registration Requirement webpage.

EXCESSIVE INTEREST AND FINANCING EXPENSES LIMITATION (EIFEL)

Where a **Canadian corporation** or **trust** satisfies at least one of the following three tests, it would be an **excluded entity** and **not subject** to the **EIFEL** rules (see VTN 501(7060) and 496(6847)) that would otherwise limit the deductibility of interest and financing expenses:

- **Small CCPC exception** – **CCPCs** would be excluded where, together with any **associated corporations**, they have **less than $50 million of taxable capital** employed in Canada.
- **De minimis exception** – **Groups** of corporations and trusts whose **aggregate net interest and other financing expenses are $1 million or less** over all Canadian members of the group are excluded. These expenses are calculated net of revenues from similar sources.
- **Domestic exception** – Certain standalone Canadian-resident corporations and trusts and **groups** consisting exclusively of **Canadian-resident corporations and trusts** that carry on **substantially all** of their **activities in Canada** are excluded.

A May 2025 International Tax Highlights article (**Navigating** the **EIFEL** Regime: Potential **Missteps Everywhere**, Balaji (Bal) Katlai and Jin Wen) discussed the application of the EIFEL rules to a **corporate group** in which the **spouse** of the **group's owner** was the majority-interest **beneficiary** of a **trust holding US real estate** (a vacation property).

challenges when a trust holds US property

Assuming that neither of the first two exceptions applied, consideration should be given to the third exception to avoid the application of the EIFEL rules. To qualify for this exception, each entity in the group must carry on **all or substantially all of its activities in Canada**. Entities that are **affiliated** are included in the same eligible group. The **trust** holding US real estate is **affiliated** with the **corporate group**, as the group's owner is married to the majority-interest beneficiary of the trust. As such, to qualify for the exception, the **trust** must carry on **all or substantially all** of its **activities** in **Canada**. The article noted that it is **unclear** whether the **trust** would **meet this requirement**, even when it was assumed that the group member (in this case, the **trust**) is **not itself doing anything** to the US **property** and even if the maintenance work was outsourced. While not explicitly noted in the article, there is also the question of whether simply holding the property would be sufficient to bring the taxpayer into the EIFEL regime, requiring an analysis of the exceptions.

The article considered **various remedies**, including transferring the US property to a corporation (a tax-deferred rollover would not be available). Provided the value of the property did not exceed $5,000,000, relief could be sought under a de minimis threshold to the third exception (definition of excluded entity Subparagraph 18.2(1)(c)(ii)). Note that the de minimis threshold is only available in respect of assets held by a corporation and not by a trust. While not noted in the article, other tax implications of holding property in a corporation, such as personal use by the shareholders and differences in corporate versus trust or beneficiary taxation, would also need to be considered.

13 First Nations

527(13)

RETROACTIVE EMPLOYMENT INCOME

A February 7, 2025 **Technical Interpretation** (2024-1034651E5, Phyllis Chiu) discussed whether a status Indian would be eligible for **exemption from tax** (Paragraph 81(1)(a) of the Income Tax Act and Paragraph 87(1)(b) of the Indian Act) on **retroactive compensation** related to **several prior years** of employment. CRA indicated that the payment related to **past work** and would be **connected to a reserve** in the **same proportion** as the past work to which it related.

determining the retroactive compensation related to past work connected to a reserve

14 GST/HST

527(14)

FIRST-TIME HOME BUYERS' (FTHB) GST REBATE

On June 5, 2025, the government tabled Bill C-4, which included a proposal to provide **GST relief** on the purchase of **new homes valued at up to $1.5 million**. A Notice of Ways and Means Motion and backgrounder were released on May 27, 2025. Together with the existing GST/HST new housing rebate, eligible purchases would be entitled to a **100% GST rebate** on homes valued at **up to $1 million**. The rebate would be **phased out in a linear manner** for homes valued between **$1 million and $1.5 million**. For example, a $1.25 million home would get a 50% rebate on the lesser of $50,000 (i.e. the GST on $1 million) and the actual GST paid.

Eligible acquisitions

similar criteria and conditions as the regular new housing rebate

The FTHB GST rebate would be available on **purchases from a builder**, **owner-built homes** and on **shares of cooperative housing** corporations. It would be available on the **same types of housing** and contain **the same criteria** and conditions as the existing GST/HST **new housing rebate** (see RC4028, GST/HST New Housing Rebate), with some exceptions discussed below.

First-time home buyer

the property cannot be acquired as a residence for a relative

At least **one of** the **purchasers** must **be a first-time home buyer** who is not only **acquiring**/**building** the new home for **use as** their **primary place of residence** but also must be the **first to occupy** it as a place of residence. Unlike the more broadly available new housing rebate, acquisition for use as a residence by a relative would not make the purchaser eligible. To be a first-time home buyer, the taxpayer would need to meet the following conditions:

- be at least **18 years** of age;
- be either a Canadian **citizen** or a **permanent resident** of Canada; and
- **not** have **lived in a home**, whether inside or outside Canada, that they **owned** or that their spouse or common-law partner owned in the calendar year or in the **four preceding calendar years**.

Acquisition date

For those acquiring the home **from a builder**, the purchase agreement must have been entered into between **May 27, 2025 to December 31, 2030**, inclusive. For **owner-built homes**, **construction** must **begin no earlier than May 27, 2025**. In both cases, construction must begin before 2031 and be substantially completed before 2036.

Limitations

only one per spousal couple

A taxpayer would **not be permitted to claim** an FTHB GST rebate if they or their spouse or common-law partner had **previously claimed** an **FTHB GST rebate**. If the home was acquired pursuant to an **assignment sale**, the original purchase agreement cannot have been entered into before May 27, 2025. There is also an anti-avoidance measure that prevents the cancellation of an agreement before May 27, 2025 and a replacement agreement entered into on or after that date.

PURPOSE-BUILT RENTAL HOUSING (PBRH) REBATE

A **100% GST rental rebate** is available for certain rental housing projects that **begin construction** between **September 14, 2023 and December 31, 2030** inclusive, and **complete** construction **by December 31, 2035** (see VTN 506(7331) and GST/HST Notice 336). CRA generally considers construction to begin at the time that **excavation work begins**.

The new residential units need to **meet the requirements** for the original and more broadly available **new residential rental property rebate** (NRRP; Excise Tax Act Section 256.2) in addition to the criteria discussed below as the PBRH rebate is legislatively structured as an addition to the NRRP rebate.

The property constructed must be a **qualifying residential unit** that forms part of a **multiple unit residential complex** (MURC) or a qualifying residential unit that is **part of an addition** to an existing MURC. The **PBRH** rebate can also apply to the **conversion** of an existing **non-residential real property**, such as an office building, into a MURC. A MURC is a **residential complex** that contains more than one residential unit but does not include a condominium complex.

For units within a **newly acquired or self-supplied** MURC, the following conditions must be met:

the number and type of units

- the MURC must
    - include **four or more residential units** that contain their **own private** kitchen facility, bath and living area; or
    - contain at least **10 residential units**; and
- at least **90% of the residential units** that form part of the MURC must be designated for **long-term rental**.

Where the units are an **addition to an existing MURC**, the following conditions must be met:

additions to existing rental complexes can qualify

- the addition must
    - include **four or more residential units** that contain their **own private** kitchen facility, bath and living area; or
    - contain at least **10 residential units**; and
- at least **90% of the residential units** in the addition, and at least 90% of the residential units in the MURC and the **addition combined**, must be designated for long-term rental.

The PBRH rebate does **not apply to other properties**, such as individually owned condominium units, single-unit housing, duplexes, triplexes or housing co-ops. However, the more broadly available NRRP rebate may still be available on those properties. Also, substantial renovations of existing

MURCs are ineligible.

A **residential complex** generally means the **part of a building** in which **one or more residential units** are located (Excise Tax Act Subsection 123(1)). As such, a MURC may constitute just a part of a building and **not necessarily a building in its entirety**. In general, a **residential unit** is an enclosed place used, or intended to be used, as a **place of residence** or lodging. As such, it is possible that a residential unit could be a simple room without a private bath, kitchen or living area.

a portion of a building may be a MURC

Acquisition after September 13, 2023

A September 9, 2024 **Technical Interpretation** (247572, Karen Klassen) stated that the PBRH rebate was **not available** in respect of a 12-unit apartment building that was acquired while under construction. Although the **acquisition** occurred **after September 13, 2023**, **excavation** had **begun before** that date, meaning the project had **already commenced**.

when the construction began

Strata-titled townhomes

An August 13, 2024 **Technical Interpretation** (247663, Ron Litzenberger) considered whether **strata-titled townhomes** could qualify for the PBRH rebate given municipal requirements for stratification and the structural configuration of a particular residential development. The **taxpayer intended** to demolish an existing single-family dwelling and **construct two buildings**, each with four rental residential units. Although the entire development was to be used for long-term rental, the municipal bylaw required the properties to be strata-titled. It was not clear whether each unit in the redevelopment project or each building was required to be strata-titled.

CRA stated that, if **each unit was strata-titled** and registered, the development would be treated as a condominium complex, **disqualifying** it from the **PBRH rebate**. A condominium complex cannot be a MURC. It did not matter that there was an agreement that mandated long-term rental use “in perpetuity.” However, if the **entire building** (with four residential units) was **one legal parcel** (not stratified into four pieces), it could **potentially qualify** for the **PBRH rebate**.

the number of units on each title

Two duplexes

An August 14, 2024 **Technical Interpretation** (247708, Ron Litzenberger) considered whether **two duplexes on a single parcel of land** would qualify for the PBRH rebate.

CRA noted that **each duplex** would contain **two residential units**, and if **constructed as separate buildings**, **each** duplex would be a **residential complex**. Since neither residential complex contained four units (there would only be two in each), the buildings would **not be eligible** (Subsection 4(2) of the Real Property (GST/HST) Regulations and Excise Tax Act Paragraph 256.2(3.1)(a)).

If the two duplexes were **connected by a hallway**, CRA noted that the structure **may constitute a single building** and therefore a single MURC with the required four units. **However**, whether they form a single building was a **question of fact**, based on structural connectivity, the degree of functional integration (e.g. shared mechanical systems for heating, cooling, etc.), the degree of annexation and compliance with local by-laws.

whether the duplexes together constituted a building

Duplex vs. MURC

A September 3, 2024 **Technical Interpretation** (247914, Ron Litzenberger) considered whether a **four-unit residential building** was a **duplex** or a **MURC**. Duplexes on a **single title** cannot be MURCs because they are **deemed to be single unit** residential complexes (defined in Excise Tax Act Subsection 123(1)) and therefore **are not eligible** for the PBRH rebate.

While some two-unit buildings with side-by-side arrangements and a common wall may still be considered duplexes if on one legal title, the building in this case **contained four units** on one single title. Therefore, CRA considered the four units to **collectively constitute a single MURC** that was potentially eligible for the PBRH rebate.

whether multiple duplexes on the same title would be eligible

FRACTIONAL INTEREST

An October 22, 2024 **Technical Interpretation** (245470, Megan MacDonald) considered whether the **purchase** of a distinct **fractional ownership interest** in a **horse** by a **non-resident GST/HST registrant** was subject to GST/HST and whether input tax credits (ITCs) could be claimed.

CRA confirmed that the **fractional ownership interest** in a good that is a taxable supply (the horse) would also be **a taxable supply**. Further, CRA opined that the supply was **made available in Canada** as that was where **the horse was located**, regardless of whether the **buyer and seller** of the fractional interest were **in Canada** (Excise Tax Act Paragraph 142(1)(a)).

where the supply was made, not where the vendor/purchaser were resident

Although the seller was not a GST/HST registrant, GST/HST should be **collected** and **remitted by the Canadian manager** acting as an agent on the seller's behalf.

CRA also confirmed that the **buyer**, a non-resident GST/HST registrant, could **claim ITCs** on the GST/HST paid as the interest in the horse was acquired for use in a commercial breeding business.

CONTRACT EXTENSION

Payments made as a **consequence of the breach**, **modification** or **termination** of an agreement for a taxable supply (other than a zero-rated supply) are **deemed to have GST/HST included** in the payment (Excise Tax Act Subsection 182(1)). An April 29, 2025 **Tax Court of Canada** case (British Columbia Hydro and Power Authority vs. HMK, 2020-1909(GST)G) considered whether a payment made by the taxpayer was made as a consequence of the breach, modification or termination of an agreement. The determination would impact the GST/HST liability and the associated input tax credit.

In 2011, BC Hydro made an $8.5 million payment to another corporation under a restated electricity purchase agreement, which granted BC Hydro the **right to extend the contract** by 16 years. The taxpayer considered the payment to be a consequence of a modification and therefore subject to Subsection 182(1) while CRA considered it to be a separate new taxable supply.

whether the payment represented new property, or a modification of one

Taxpayer loses
The Court found that the **payment** was made **in exchange for a new right**, not as a consequence of modifying an existing agreement (which would be required for Subsection 182(1) to apply). Rather, the right to a term extension was found to be “property” and therefore a **taxable supply** in the **course of commercial activity** (Excise Tax Act Section 165). As such, no ITC could be claimed for GST/HST that the taxpayer argued was imputed in the $8.5 million payment.

MULTIPLE SUPPLIES

A May 6, 2025 **Tax Court of Canada** case (MedSleep Inc. vs. HMK, 2021-1465(GST)G) considered whether the taxpayer made **taxable supplies of administrative and other services** to sleep physicians or whether the taxpayer and physicians jointly supplied **exempt medical services to patients**. The taxpayer had retained a portion of the physicians’ professional fees billed to provincial health insurance plans.

how integrated the supplies were

Taxpayer wins
The Court concluded that the **services provided** by the **taxpayer and the sleep physicians** were **interdependent** and could **not stand alone** or be sensibly separated. The taxpayer’s contribution of clinic infrastructure, administration, technical support, equipment and patient interaction, combined with the physicians’ medical consultation and interpretation services to a compound single service. This integration formed a **single supply**, the predominant element of which was medical in nature and therefore **exempt** (Section 2 of Part II of Schedule V of the Excise Tax Act). The revenue-sharing agreements were legitimate **fee-sharing arrangements** rather than payment for services and were structured and

executed accordingly. As such, the taxpayer was not obligated to charge and collect tax from the physicians.

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DIGITAL SERVICES TAX (DST) – WIDE SCOPE

Late Breaking News: On June 29, 2025, a Department of Finance News Release (Canada rescinds digital services tax to advance broader trade negotiations with the United States) announced that the **digital services tax would be rescinded**.

DST imposes a 3% tax on certain **revenues** earned by **foreign and domestic large businesses** from engaging with **online users in Canada**. Only businesses with **total revenues** of at least **750 million Euro** and greater than **$20 million** of Canadian digital services revenue are subject to the tax. Both amounts are measured for a consolidated group and the limit on Canadian digital services revenues to require registration for DST is $10 million, lower than the $20 million required to be taxable. Although the tax can apply to revenues from 2022 onwards, the first DST returns were only due on June 30, 2025. Further details can be found on a series of **CRA webpages**. Although the large business pays the tax, it seems likely that many will **factor** it into the **price** of **online services** provided to Canadians.

DST is only payable by large businesses – will they pass it along to their users?

Online travel intermediaries
A December 5, 2024 **Technical Interpretation** (2024-1029901E5, Ann Kippen) discussed the application of **DST** to **online booking** of **air travel**. CRA indicated that **booking directly** on the **website** of the **specific airline** would **not attract DST**.

direct purchases on the supplier's website do not attract DST

An **intermediary marketplace** that facilitates bookings **between airlines and passengers** would be subject to **DST** if **any portion** of the **services provided** to the passenger would be **physically performed and received in Canada**. As such, any **flight** that **departs or arrives** at a **Canadian location** would result in **DST** being **applicable**. Only flights between locations outside Canada would be exempt from DST.

DST applies if any portion of the services are performed and received in Canada

Digital content providers
An April 24, 2025 **Technical Interpretation** (2024-1045691E5, Ann Kippen) discussed an **online retailer** ("OR") that made **digital content** supplied by **various suppliers** available to **customers** on those suppliers' behalf. The **OR** acted as their **agent**, receiving a **commission** from sales of their content. The **suppliers** and **customers** did **not interact** directly.

CRA opined that the OR was carrying on an **online marketplace** for **users**, being the customers and the suppliers. Although the **suppliers and customers** would not directly interact, CRA opined that their **indirect interaction** (e.g. the suppliers setting prices and providing content and the customers' ability to make specific purchasing decisions) was **sufficient** to meet the relevant definitions. As such, **DST** would be **applicable**.

an intermediary between customers and suppliers could be subject to DST

NEWFOUNDLAND AND LABRADOR REPEALS SOFT DRINK TAX

A May 30, 2025 Newfoundland and Labrador Finance News Release (Government of Newfoundland and Labrador Eliminates the Sugar Sweetened Beverage Tax) announced the elimination of this tax implemented September 1, 2022 (see VTN 484(6307)) effective **July 1, 2025**. The announcement indicated the tax was removed due to **cost of living** concerns and that the **programs it funded** would **continue**.

repeal of this health-related tax

ONTARIO BUDGET

On May 15, 2015, the **Ontario** government tabled its 2025 Budget. There were no proposed personal or corporate tax rate changes. Some of the proposals included the following:

- a refundable **fertility treatment tax credit** would be implemented in **2025**, providing a 25% credit on eligible expenses up to $20,000 (maximum $5,000 credit) in **addition to** the federal and provincial medical expense tax credit;
- the refundable **Ontario made manufacturing investment tax credit** for **CCPCs** would be **increased to 15%** from 10% for buildings, machinery and equipment used in manufacturing and processing for acquisitions becoming available for use from **May 15, 2025 to December 31, 2029**, with a maximum annual credit within an associated group of $3 million; and
- a **non-refundable** version of the **Ontario made manufacturing investment tax credit** would be made available to **non-CCPCs** for the same period, using the same 15% rate.

a new credit in addition to the medical expense tax credit

UPCOMING COURSES

Tax Update 2025

Join us for our 41st annual Tax Update seminar to get **up-to-date and relevant tax planning tips and traps** for owner-managed businesses. These sessions offer **14 hours** of practical tax information through in-person or virtual platforms. Also, for those who want extra flexibility, do not forget about our pre-recorded option!

Instructors Caitlin Butler CPA, CA and Joseph Devaney CPA, CA will be joined by a special instructor, Hugh Neilson FCPA, FCA, TEP or Kenneth Keung CPA, CA, CPA (CO, USA), CFP, TEP, LLB, MTax

Click here to see who is scheduled for your city or region. Limited spaces are available for in-person and virtual live offerings, so register early to secure your first choice.

Newbies to Ninjas: Corporate Tax

getting your new preparers into the corporate tax groove

Do you need to train summer staff or new starts this fall? The 11th Edition of Newbies to Ninjas: Corporate Tax is open for registration! This concise online 3-hour topic-by-topic course will have your newer tax preparers completing corporate tax returns like ninjas. Sessions run every two weeks. Click here for further details.

Ethics Courses

Every aspect of our profession brings ethical challenges. Strengthen your ethics framework - four new 1-hour ethics courses are now available! They include:

- Ethics in Action: Navigating the Sale of Tax Ideas and Plans
- Making Ethics Routine: The Power of Ongoing Conversations in Building Firm Integrity
- The Fine Line: Ethical Social Media Marketing and Content Creation for Professionals
- Demystifying AI for Accountants: Risks, Rewards and Ethics

these ethics courses bringing the theory into public practice

Each course offers practical insights to support sound professional judgment. They are available as a bundle with a 25% discount at here.

16 Appendix

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APPENDIX A

Additional Video Tax News Resources and Recently Released CRA Publications and Forms

Video Tax News Resources

- Video Tax News Members Portal and Newsfeed
- Video Tax News Members Portal – A How To Use The Portal Video Tutorial (6 mins)
- Summary of Recent Tax and Benefit Proposals
- Tax on Split Income (TOSI) – Quick Reference Chart
- Underused Housing Tax (UHT) – Quick Reference Chart
- Selected Temporary CCA Incentives – Quick Reference Chart
- Life in the Tax Lane – 10 Minute Monthly Podcast/Video
- Technical Interpretations

CRA Guides/Publications

- IC78-18R7 Registered Retirement Income Funds
- RC4018 Electronic Filers Manual for 2024 Income Tax and Benefit Returns
- RC4034 GST/HST Public Service Bodies' Rebate
- P148 Resolving your dispute: Objection rights under the Income Tax Act

CRA Forms/Statements/Returns

- GST498 GST/HST Rebate Application for Foreign Representatives, Diplomatic Missions, Consular Posts, International Organizations, or Visiting Forces Units
- T2055 Election in Respect of a Capital Gains Dividend Under Subsection 131(1)
- T3 Statement of Trust Income Allocations and Designations
- DST-T183 Authorization to Electronically File the Digital Services Tax Return
- RC193 Service Feedback
- T1097 Notice of Revocation of Waiver (Subsection 191(9) of the Excise Act, 2001)
- T2 Corporation Income Tax Return
- T1095 Waiver of the Limitation Period for Assessment (subsection 191(8) of the Excise Act, 2001)
- RC376 Taxpayer Relief Request - Statement of Income and Expenses and Assets and Liabilities for Individuals

- RC391 Application for a Canada Revenue Agency Non-Resident Representative Number (NRRN)
- T106 Information Return of Non-Arm's Length Transactions with Non-Residents (2025 and later tax years) T106 Summary Form
- CPT139 Canada Pension Plan/Employment Insurance - Authorizing or Cancelling a Representative
- RC4288 Request for Taxpayer Relief - Cancel or Waive Penalties and Interest
- RC381 Inter-Provincial Calculation for CPP and QPP Contributions and Overpayments

VIDEO TAX NEWS INC.
Phone: (877) 438 2057
Fax: (877) 437-4455
info@videotax.com
www.videotax.com