WILKINSON

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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 federal government has proposed to **reduce** the **base CPP contribution rate** from 9.9% **to 9.5%**, effective January 1, 2027. This would reduce CPP contributions by about $133 for both the employee and employer where the employee earns $70,000.
- For 2026, the **limit** on the **deduction** for **non-taxable allowances** paid by an employer to an employee using a **personal vehicle** for business purposes will **increase** by one cent **to 73 cents per km** for the first 5,000 kms driven and to 67 cents for each additional km.
- The federal government has proposed to allow **100% immediate expensing** for **greenhouses**, retroactive to November 4, 2025.
- **US citizens** are required to **report** their **world-wide income** on US personal tax returns even if they do not live in the US. As of April 13, 2026, the fee to renounce US citizenship was reduced from $2,350 to $450.

Importance of Strong Internal Accounting: Gross Negligence Penalties

A January 6, 2026 **Tax Court of Canada** case reviewed assessments of **unreported revenues** of over $6.4 million over two taxation years, 2013 and 2014. These amounts were determined through **bank deposit analysis** by CRA. Over $1.7 million of the amount resulted from **failure to translate** revenues denominated in **foreign currency** to Canadian dollars. The court noted that **CRA's** use of **average foreign exchange rates** to calculate the difference was **reasonable**. CRA reassessed **outside the ordinary reassessment period** and imposed **gross negligence penalties**.

Taxpayer loses

The court noted that the **under-reported revenue** was a **misrepresentation**. The taxpayer's **owner and manager**, B, was **well-educated**, having obtained both a commerce degree and designation as a chartered accountant. B's **assumption** that his software **converted foreign currency** was **not sufficient** – the implications of the **weakening Canadian dollar** in the years in question should have been **apparent** to him.

The **choice** not to engage **additional accounting resources** despite knowing that both **he** and the **one employee** engaged in the **taxpayer's accounting** were **overwhelmed with work** indicated an **indifference** to **tax compliance**. This **justified reassessment** past the normal reassessment period. The **indifference** also led to the court's conclusion that B, and through him the taxpayer, was **grossly negligent** in the **tax filings** and the **penalty** was **upheld**.

ACTION: Ensure sufficient internal accounting and bookkeeping resources are in place. Inadequate accounting support can lead to errors, reassessments beyond the normal limitation period and gross negligence penalties.

Transfer of Assets to Shareholder's Child: Shareholder Benefit

A January 5, 2026 **Court of Quebec** case considered whether a corporation's **sale of a cottage** to the **shareholder's sons** resulted in a **denied capital loss** to the corporation and a **taxable shareholder benefit**.

In 2015, the corporation sold a cottage that it had **constructed for $1,248,821** to the shareholder's sons **for $700,000**. Following an audit, Revenu Québec (RQ) denied the corporation's capital loss of $406,934 on the basis that the cottage was **personal-use property**. RQ also assessed a **shareholder benefit** of $536,759, representing the difference between cost and sale price plus a minor adjustment. The case did not specify why the denied loss and the shareholder benefit were not the same.

In conducting its analysis, the court **referred extensively** to **Tax Court of Canada** cases, noting that the relevant **federal and provincial provisions** were **similar**, requiring the same type of analysis.

Corporation loses – capital loss

Losses realized on the disposition of **personal-use properties** are specifically **denied**. An asset **can be a personal-use** property **even if** it is **owned** by a **corporation**. Whether a property is a **personal-use property** depends on whether it is **held for personal use** by the **taxpayer** or **persons related** to the taxpayer (such as a shareholder).

The court emphasized that the actual, **predominant use** of the property was the determining factor, as opposed to merely the stated investment intention. The court noted that the **documentary evidence** suggested a **personal purpose**:

- utilities and cable bills were placed in the spouses' names;
- **insurance** coverage was changed from corporate to **personal names** (the property was **described as a secondary residence**);
- reports referred to the property as a **future residence** for the family; and
- there was very limited support that the property was being used for its stated investment purpose as a rental property.

The court concluded that the cottage was **used primarily** for the **personal enjoyment** of the shareholder and his family and thus was **personal-use property**. As such, the **capital loss** was **denied**.

Shareholder loses – shareholder benefit

The **corporation** fully financed and **constructed** the cottage, then **sold** it to related parties at a price significantly **below cost**. The court found that such a transaction would not have occurred between arm's-length parties and that RQ reasonably quantified the benefit as the difference between cost and sale price. As such, a taxable shareholder benefit was applicable.

In assessing the quantum of the benefit, the shareholder argued that construction deficiencies reduced the value of the property and relied on a **2015 appraisal** to support a fair market value (FMV) of **$700,000** at the time of transfer (in 2015). The court was not persuaded, noting that the valuation was prepared in **contemplation** of a **related-party transaction** and a **quick sale**. Further, the appraiser did not testify. The court then noted that the property was **listed earlier for $1,175,000** and was later sold by the sons in 2022 for $1,775,000, which further undermined the credibility of the low appraisal.

The court noted that the **FMV** of an asset is **not automatically used** when determining the value of a taxable benefit. Having **rejected** the reliability of the shareholder's FMV evidence, the court accepted RQ's calculation of the shareholder benefit as the difference between the construction cost (approximately $1.25 million) and the sale price.

The court also noted that, in a **previous audit**, the **cottage** was determined by RQ to be **used personally** and a **taxable benefit** was added to the shareholder's income for 2012 and 2013. The resulting additional assessments were upheld after objection. No gross negligence penalties were assessed. The reassessments were issued within the normal reassessment period.

ACTION: When transferring assets from a corporation to a shareholder or relative, ensure that the transfer is made at fair market value and that proper evidence supports this assertion.

Shareholder Benefits: Offset by Loan to Corporation?

A December 17, 2025 **Court of Quebec** case considered whether **shareholder benefits** arising from approximately **$1.6 million in personal expenses paid by** a **corporation** from 2014 to 2017 should be included in the **shareholder's income** or whether they could be **offset by loans** that he had made to the corporation. From 2015 to 2017, the taxpayer had made three loans to the corporation, totalling approximately $1.5 million.

Taxpayer loses

The expenses that the corporation paid on behalf of the shareholder included **travel, meals, entertainment, retail purchases** and **construction costs**. The court acknowledged that shareholder **benefits can** sometimes **be offset** against shareholder **loans**, but only where there is clear evidence that the **loan** account was **intended to reimburse** the corporation. However, the **court rejected** this possibility, finding that the taxpayer had **failed to prove** that there was a **real intention to repay** or set off the personal benefits in the year the benefits were received. This finding was supported by the **absence of objective evidence**, such as **journal entries** and **written documentation**. In addition, the taxpayer denied that the expenses were personal until several years after receipt, indicating that he had not intended to repay them at the relevant time. Rather, the court found that the loans were provided to fund operations and growth, **not to repay personal benefits**.

The court found that Revenu Québec could **reassess outside the normal reassessment period** for 2014 and 2016, concluding that the taxpayer made a **misrepresentation** attributable to carelessness or willful omission by **failing to report** substantial **shareholder benefits**.

The court also **upheld gross negligence penalties** totalling over $200,000. The court noted that the **repeated omission** of **accounting for personal expenses** paid by the corporation over several years appeared to be a system put in place by the sole shareholder and director **to avoid tax**. The court emphasized the **magnitude** of the omission (over 400% of the income reported), the taxpayer's **business experience**, the **absence** of **voluntary disclosure** and the fact that professional accounting support existed.

ACTION: Documenting and accounting for corporately paid personal shareholder expenses should be done on an ongoing basis.

Individuals Buying and Selling Houses: GST/HST

A February 2, 2026 **Tax Court of Canada** case considered whether spouses who **repeatedly built and sold houses** were builders and whether **GST was applicable**.

CRA had reassessed the taxpayers for GST of $22,875 for the March 2016 reporting period after they **completed building** and first **occupied a house** in British Columbia. The taxpayers had purchased seven houses and **sold five** (including building several houses on bare land) over an **11-year period** (2010 to 2021).

The taxpayers argued that they were **not builders** and therefore did **not have to remit GST** on the use or sale of the property. Alternatively, if they were considered builders, they argued that the house was built **primarily for their family's residence**, such that they qualified for the **personal-use exception**. This exception applies to individual taxpayers who are builders where the complex is **primarily used** as a **place of residence** by the taxpayer (or relative). The house cannot have been used primarily for any other purpose between substantial completion and primary use as the builder's residence. **If** the taxpayers were builders, and the exception did **not apply**, they would have had to **remit GST** on the **self-supply** of the property when they first began to use it.

Taxpayers lose – builder

Emphasizing the **frequency of similar transactions**, the relatively **short ownership** and **occupancy** period, and the appellants' **familiarity with building and selling** houses for profit, the court found that the taxpayers **were builders**. Although the taxpayers argued that they sold the house because the bedroom layout was unsuitable for their toddler, the court found the explanation unconvincing given their involvement in the construction.

Taxpayers lose – personal-use exception

The court then addressed the taxpayers' argument that they should benefit from the **personal-use exception**. The court found that the **taxpayers' primary use** of the house was as **inventory** to sell rather than for residential use. Their **occupancy lacked** the enduring quality associated with a **genuine family residence** and instead appeared incidental to a broader pattern of profitable development and sale. The court distinguished this situation from one in which resale was only a secondary intention and the taxpayer genuinely lived in the house. The **brief residential occupancy** did **not overcome** evidence that the house was primarily **held for resale**.

The court **upheld CRA's assessment** of GST on their appraised valuation of $915,000, based on comparable sales and professional appraisal methodology.

ACTION: Repeatedly buying or building, briefly occupying, and then selling homes for profit may result in individuals being classified as builders, causing GST/HST to apply even in some cases where the properties were personally occupied.

Adding Relatives to Legal Title of a Property: Beneficial Ownership

A recently released July 14, 2023 **Technical Interpretation** reviewed whether a taxpayer **remained** the **beneficial owner** of 100% of her **residence** after adding her two **daughters** to title for **nominal consideration**. Her daughters had **signed an acknowledgement** that the **intention** was **not to gift** the property to them, but rather that the property would **pass equally** to **all six** of the **taxpayer's children** on her death. The **taxpayer** paid **all costs** related to the property and **neither daughter lived in it**.

CRA noted that the **beneficial owner** would report **all gains** on the property and could **offset those gains** using the **principal residence exemption**. **All relevant factors** must be considered to determine **beneficial ownership**, including the following:

- the **rights** to:
  - **possession**;
  - collect **rent**;
  - **mortgage** the property;
  - **transfer title** to the property (by sale or by will);
- the **obligations** to:
  - **maintain** and **repair** the property; and
  - **pay property taxes** related to the property.

CRA noted that this was **not** an **exhaustive** list of relevant factors, and that **all relevant factors** must be considered to determine **beneficial ownership**. However, CRA opined that, **based on** the **facts provided**, the **taxpayer** was likely the **beneficial owner** throughout her lifetime, with **no disposition** when her **daughters** were **added to the title**.

ACTION: Adding an individual's name to the title of a property could result in a number of tax consequences. Prior to any such action, consult a professional for guidance to ensure the intention behind such actions are properly documented and the tax implications understood.

Canada Child Benefit (CCB): Shared Custody

In a February 2, 2026 **Tax Court of Canada** case, the taxpayer argued that she was a **shared-custody parent** entitled to **half** of the CCB. The court noted that there are **two approaches** under which parents can meet the **residency requirements** to be **shared-custody parents**, as follows:

i. the **child resides** with **each parent** at least **40% of the time**; or
ii. the **child resides** with the **parents** on an **approximately equal basis**.

The court noted that the **explanatory notes** to amendments implementing these approaches indicated that (ii) was **intended** to accommodate situations where the **40% test** is **generally met**, but the time **temporarily** falls **below 40%** for reasons such as illness or vacation.

Taxpayer loses

The court noted that the **test** is **not parenting time** (that is, measuring waking hours during which the child is in the care and custody of each of the two parents), but where the **child resides**. The court opined that **residing** requires the **presence** of both the **parent and** the **child** carrying on their **normal routines of life** in or from a **physical structure to which they return** on a regularly recurring basis. The taxpayer **resided with** the **child** on **some weekends** (generally three weekends per month). She also spent periods of **three to four hours** at a time with the child during the week in **malls, movie theatres, restaurants** or attending their **recreational activities**. The court noted that these periods did **not constitute residing**, but merely **visiting**. The child **did not reside with the taxpayer** for more than two days per week, well **below** the **40% threshold** required, so the taxpayer was **not** a **shared-custody parent**.

ACTION: Review living arrangements to determine if the time with the child constitutes residency, or only visits.

Labour Mobility Deduction: Temporary Relocation Expenses

The **labour mobility deduction** provides eligible **tradespeople** and **apprentices** working in the **construction industry** with a **deduction** for certain **temporary relocation expenses**. The temporary lodging must be at least a minimum distance closer to each temporary work location than the taxpayer's ordinary residence. It is proposed that, effective for **2026** and subsequent years, the minimum distance would be reduced to **120 km** from the current 150 km. It was also proposed that the **maximum deduction** would increase to **$10,000** from the current $4,000.

Expenditures are **not eligible** to the extent that the taxpayer is **entitled to** receive a **reimbursement**, an **allowance** or any other form of **assistance** in respect of the expense, unless included in the taxpayer's income.

An October 9, 2025 **Technical Interpretation** confirmed that **receiving an allowance** would **not** make a taxpayer's expenditure **completely ineligible** for the labour mobility deduction but rather would reduce the amount that could be claimed. Only the **portion** of expenses that exceed the **non-taxable** allowance received from an employer would be eligible.

ACTION: Construction tradespeople and apprentices working temporarily away from home should maintain detailed records of relocation expenses, reimbursements and allowances received to calculate and claim labour mobility deductions.