

# COMMENT

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## PRESCRIBED INTEREST RATES

Canada's prescribed interest rate has been 1 percent since April 1, 2009, except for two quarters in 2013.

The prescribed rate is used as the base to derive the CRA's actual interest applicable in the following scenarios:

- Prescribed rate plus 4 percent - interest rate charged on overdue income taxes, Canada Pension Plan contributions, and employment insurance premiums (currently 5 percent)
- Prescribed rate plus 3 percent - interest rate to be paid on non-corporate taxpayer overpayments (currently 4 percent). This means that individuals could overpay their installments and earn 4 percent on the excess.
- Prescribed rate plus 0 percent - interest rate to be paid on corporate taxpayer overpayments (currently 1 percent). This prevents corporations from earning a high rate of interest on tax overpayments.
- Prescribed rate plus 0 percent (currently 1 percent) - interest rate used to calculate taxable benefits for employees and shareholders from interest-free and low-interest loans.

A popular tax strategy utilizing the prescribed interest rate is income splitting with a lower income family member. Consider the scenario where Bonita, who is in the top marginal tax bracket, loans \$1,000,000 to her lower-income spouse Pat. The loan is fully documented and Pat pays the prescribed rate of interest, one percent, annually on the loan to Bonita. Pat invests the \$1,000,000, earning \$50,000 annually, which she declares on her income tax return along with a deduction for the annual interest expense paid to Bonita. In turn, Bonita claims the interest payment as income.

	Status Quo	Prescribed Rate Loan to Spouse
<b>Bonita</b>		
Capital invested	\$1,000,000	
Investment income earned	\$50,000	\$10,000
Estimated income tax liability - 50%	\$25,000	\$5,000
<b>Pat</b>		
Capital invested		\$1,000,000
Investment income net of interest expense		\$40,000
Estimated income tax liability - 20%		\$8,000
Family's total tax liability	\$25,000	\$13,000
Family's after-tax position	\$25,000	\$37,000

The prescribed interest rate loan strategy results in a tax savings of \$12,000 across the family unit when compared to a status quo investment strategy where Bonita invests the \$1,000,000 personally. This type of strategy is permissible and commonly used within families to optimize the family's overall after-tax income. It is, however, important there be a bona fide loan arrangement in place. This includes complete documentation and the actual payment of interest from the borrower to the lender within 30 days of the end of the year in order to avoid the application of the attribution rules.

## COMMENT

### CHARITABLE DONATIONS

Making a charitable donation seems simple – the transfer of property as a gift to a charity. However, under common law, the term ‘gift’ has a distinct meaning that requires it to be a voluntary transfer of property with no benefit or consideration to the donor.

In fact, there are three criteria that must be met in order to ascertain that a gift has been made for income tax purposes:

- there must be a voluntary transfer of property to a qualified donee;
- the property transferred must be owned by the donor; and,
- no benefit or consideration can flow to the donor.

An issue can arise when a charity conducts a fund-raising event where, in return for the donation, there is an accompanying activity, such as a dinner or golf game. Effectively, the donor has received some benefit or consideration in return for the donation. While the participation payment is in excess of the cost of the activity, a gift cannot be said to have been completed because the donor received something in exchange for the payment.

To acknowledge these types of fund raising activities, the Income Tax Act allows for a split receipt to be issued in order to recognize that a gift has been completed in respect of a portion of the payment made to the charity.

Specifically, a charity is permitted to issue a charitable receipt if the amount of the advantage or consideration given to the donor does not exceed 80 percent of the fair market value of the property transferred to the charity. If the value of the advantage retained by the donor cannot be ascertained, then the charity cannot issue a charitable receipt for any amount.

Consider the example of charitable fund-raising dinner for which guests are charged \$1,000 a plate. The value of the dinner in a comparable setting might be worth \$200, excluding any sales tax or gratuities. In this circumstance, the charity is permitted to issue a charitable receipt for \$800. The charity would complete a charitable gift receipt, reporting the \$1,000 received, the \$200 advantage granted to the donor and \$800 as the charitable gift.

In the case of charitable golf tournaments, the value of the golf game would reflect the typical green fees, cart rentals, course refreshments, and any meals provided. Value could be tailored to the individuals participating

in the tournament to reflect variances in value. For example, club members might receive a lower value advantage in respect of the greens fee, whereas the value of the advantage relating to the green fees for non-members might be higher.

If the advantage retained by the donor is nominal, the charity may issue a charitable receipt for the full amount of the gift and is not required to report the advantage. Nominal has been defined as the lesser of 10 percent of the gift and \$75, but does not apply to gift certificates or gift cards.

Consider the example of a donor who makes a \$1,000 gift and receives an invitation to a thank you lunch. The value of the lunch is \$50. Since the value of the lunch is less than the lesser of 10 percent of the gift and \$75, the charity may issue a receipt for the full \$1,000. If the consideration was an invitation to a recognition dinner that was valued at \$100, the consideration would exceed the nominal threshold and the charity would be required to recognize the consideration given to the donor. The charity, in this second example, would issue a charitable receipt reporting the \$1,000 gift, the \$100 consideration and \$900 charitable gift.

Winning a charitable auction may result in a charitable gift for a portion of the payment if the winning bid is in excess of the value of the property being auctioned and the advantage does not exceed 80 percent of the winning bid.

Consider the example of a donor who attends a charitable auction and wins the bidding with a \$1,000 bid for a print of a well-known artist valued at \$800. In this case, the value of the consideration is 80 percent of the gift, which means the charity cannot issue a charitable receipt. If, however, the bid had been \$1 higher or the value of the print \$1 less, then the consideration would have been less than 80 percent and the charity could recognize a portion of the \$1,000 as a charitable gift.

There is no prescribed form for a charity to complete in respect of reporting charitable gifts; instead, there is a certain amount of prescribed information that must be included on the charitable receipt.

Split receipting allows charities to recognize the charitable portion of gifts from donors when there is an element of consideration or benefit provided directly to the donor.

## THE CHANGING FACE OF CANADA'S LABOUR MARKET

Canada's labour market grew by 0.7 percent in 2016, a slight decline from the 0.8 percent rate of growth experienced in 2015, while the 2016 unemployment rate remained reasonably steady at 7 percent.

Individuals aged 55 and older represent the population segment with the greatest growth in employment with a 4.1 percent increase in 2016. The total employment rate in the age 55+ segment was 35.5 percent. As would be expected, employment amongst those ages 55 to 59 was the highest within the 55+ segment at 70.9 percent, followed by those ages 60 to 65 at 51 percent. Of interest is that one in every four individuals ages 65 to 69 were employed in 2016, and 7 percent of individuals over age 70 were employed this past year.

Looking back to 1990, the age 55+ segment represented 10 percent of Canada's total labour force. Since that time, this segment has continued an upward trend and has more than doubled. In 2016, this group made up 21 percent of the total labour force.

Employment amongst those ages 25 to 54, the core-age group, remained pretty much steady in 2016 with only a 0.2 percent increase when compared with the prior year. This means the core-age group

experienced an employment rate of 81.4 percent in 2016. Unemployment amongst this group was 6.0 percent.

Canada's youth segment, those ages 15 to 24, struggled the most with an employment rate of 55.4 percent in 2016 and the highest rate of unemployment at 13.1 percent. The youth segment represents 14.4 percent of the total labour force.

While 5.5 percent of all individuals employed worked multiple jobs, it was more common amongst youths where 7.2 percent of this group held multiple jobs.

Shifts in the face of Canada's labour force are resulting in a higher proportion of older individuals continuing to work beyond the traditional retirement age of 65. The younger generation of workers – those aged 15 to 24 – continue to experience high rates of unemployment combined with the need for multiple jobs to generate core income.

As life expectancy increases, individuals are relying on longer employment periods to accumulate sufficient resources on which they can rely throughout retirement. As such, it is likely employment amongst the 55+ segment will continue its upward trend. Canada's demographic profile suggests seniors will represent 23 percent of the total population by 2031.

## CANADA'S NEW CAREGIVER CREDIT

The 2017 federal budget proposes to consolidate the various caregiver credits available through the income tax system. Prior to this proposal, federal tax assistance was provided to caregivers through three non-refundable tax credits: the infirm dependent credit, the caregiver credit for in home care of a relative, and the family caregiver credit.

The proposal is to merge these three credits into one caregiver non-refundable tax credit. The new caregiver credit will provide a non-refundable federal tax credit for:

- (a) up to \$6,883 for the care of dependent relatives (i.e., parents, brothers and sisters, adult children and other specified relatives) with infirmities; and,
- (b) up to \$2,150 for the care of a dependent spouse, common-law partner or minor child with an infirmity.

The credit will be reduced on a dollar-for-dollar basis when the dependant's net income exceeds \$16,163 (2017 amount).

A few interesting elements about the new credit include the following:

- A dependent will not be required to live with the person claiming the caregiver credit but must be dependent on the caregiver for support by reason of infirmity.
- Two or more qualifying caregivers may share the credit in respect of a single infirmed dependent.

## COMMENT

The following depicts how the new caregiver credit is calculated:

<b>Infirm dependants who are the parents, grandparents, siblings, aunts, uncles, nieces, nephews, or, adult children of the individual</b>	
<i>Start with:</i> base amount of income (\$16,163) plus maximum amount (\$6,883)	\$23,046
<i>Less:</i> income of the infirm dependent	A
<i>Difference is caregiver amount to a maximum of \$6,883</i>	C
<b>Infirm dependant who is the spouse, common-law partner, an infirmed dependant where the eligible dependent credit is claimed, or, a minor child of the individual</b>	
<i>Start with:</i> base amount of income (\$11,636) plus maximum amount (\$2,150)	\$13,785
<i>Less:</i> income of the infirm dependent	A
<i>Difference is caregiver amount to a maximum of \$2,150</i>	B
<i>Top up amount</i>	
Credit for an infirm spouse, common-law partner, eligible dependent, minor child	B
\$6,883 – B	D
Top up amount (maximum amount \$6,883)	B + D

## EXAMPLES

Edward's infirm adult child, Vivian, earns \$18,000. Edward would be entitled to \$5,046 of the Canada caregiver amount, which means he will claim a federal tax credit of \$757 (15 percent x \$5,046).

Edith's infirm spouse Victor, earns \$18,000. Edith is entitled to the lower amount because Victor's \$18,000 of income is in excess of the \$13,785 threshold amount. Edith would be entitled to \$5,046 of the Canada caregiver amount. There would be no top up because Edith is not entitled to the lower amount. The outcome for Edith is the opportunity to claim a federal tax credit of \$757 (15 percent x \$5,046).

Pamela's infirm spouse Robert earns \$13,000. Pamela's entitlement is \$785 in respect of the lower amount because Robert's \$13,000 of income is lower than the \$13,785 threshold amount. Pamela would be entitled to \$6,883 (the maximum amount) of the Canada caregiver amount. There would be a top up of \$6,098 (\$6,883 less \$785) because the lower amount was less than the new Canada caregiver amount. Pamela's claim for a federal tax credit is \$1,032 (15 percent x \$6,883).

The government's intention is to simplify the process for caregivers and enhance the financial support available.

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