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IN THIS ISSUE

TAXATION ISSUES

Trusts Face Potential Tax Changes

In June 2013, the Department of Finance released detailed proposals in response to the Government's announcement in the 2013 Federal Budget regarding eliminating the tax benefits available to testamentary trusts.

Generally, there are two types of trusts referred to as "testamentary trusts" and "inter-vivos trusts". Testamentary trusts arise on the death of an individual and are created in a will, while inter-vivos trusts are trusts created during an individual's lifetime. Common types of testamentary trusts are often referred to as "Estates" and "Spousal Trusts".

Inter-vivos trusts pay income tax at the highest combined rates, while historically testamentary trusts have had the benefit of paying tax at the same graduated tax rates as individuals. This benefit can provide substantial tax savings for the trust's beneficiaries.

The proposals released by the Department of Finance seek to eliminate this tax benefit and tax testamentary trusts at the highest rates, similar to inter-vivos trusts. These proposals would apply to new and existing arrangements beginning in 2016. An exception would be provided to estates, allowing them access to the graduated tax rates for the first 36 months of their administration.

Other proposals include requiring testamentary trusts to use a December 31 taxation year end (testamentary trusts currently are allowed to select any day as its taxation year end) and requiring testamentary trusts to make quarterly income tax installment payments (currently testamentary trusts can choose to pay its tax 90 days after the end of its taxation year end). Other, more complex, tax changes are also being proposed that could impact a trust depending on its circumstances.

In recent years it has become common for wills to establish separate trusts for a spouse and children. In some cases, trusts were established soley to gain access to graduated income tax rates, while in other cases the trusts are established in the will primarily for non-tax reasons. For example, consider a trust established under a will for a person that is not capable of handling his or her own property. Upon death, the assets would be transferred to the trust and administered under the terms set out in the will based on the wishes of the deceased and the individual would not have access to the assets.

Under the proposed rules, income accumulating within this trust would be subject to tax at the top marginal rate, whereas if the individual were to receive the bequest directly, the income would be subject to individual graduated tax rates potentially resulting in less taxes payable.

These proposals could impact you if:

- ❑ you have a will that provides for establishing a trust upon death
- ❑ you are or will be a beneficiary of a testamentary trust
- ❑ you will be a trustee for a testamentary trust, or
- ❑ you will be the executor of an estate

We will be monitoring the status of these proposals and will be providing updates as they are released. In the meantime, if you think these proposals will have an impact on you, we recommend you contact us to review your will and estate planning to ensure your plans will still accomplish your goals.

Exemptions for Employer Health Tax (EHT)

The Ontario Provincial Government released its budget for 2013 on May 2, 2013. An announcement was made about a new exemption for EHT.

Currently, the first $400,000 of Ontario payroll is exempt from EHT. Where employers are associated, the $400,000 exemption is shared between them. The Budget proposes two changes to this exemption.

The exemption is to be raised to $450,000 of Ontario payroll, effective January 1, 2014. It will be inflation-adjusted every five years. It is projected to rise to $500,000 in 2019. The exemption will continue to be shared by groups of associated employers.

Beginning January 1, 2014, the exemption will be eliminated for private-sector employers, or associated groups of employers, with Ontario payroll in excess of $5,000,000. Registered charities will be exempt from this measure.

Voluntary Deferral of the Old Age Security Pension

In its 2012 budget, the Federal Government introduced changes to the Old Age Security (OAS) program that may affect your retirement planning; however, these changes can be beneficial with proper planning.

The Government of Canada website, as noted below, indicates "Effective July 1, 2013, you can choose to delay receiving your OAS pension for up to 5 years. For every month you delay receipt of your OAS pension, you will receive an increased monthly pension of 0.6% per month up to a maximum of 36% at age 70.

It is important to note that if you delay your OAS pension you will not be eligible to receive the Guaranteed Income Supplement (GIS) and your spouse or common-law partner will not be eligible to receive the GIS until your OAS pension begins."

Several factors will help determine whether it makes sense to defer receipt of your OAS pension. They include:

- personal income level each year
- whether you are working at age 65
- your life expectancy
- anticipated future income and access to other benefits (HST credits, age credit)

Who should apply at Age 65?
Individuals with large RRSPs will be required to begin withdrawing a portion at age 72. This income, may trigger OAS clawback. By collecting at age 65, this individual may receive the OAS benefit for seven years.
Additionally, lower-income individuals who require the GIS should apply for the OAS at 65. In order to receive the GIS, taxpayers must be collecting OAS.

Please contact your accountant if you need more information, or visit Service Canada's website at:
http://www.servicecanada.gc.ca/eng/isp/oas/changes/voluntary_deferral.shtml

BUSINESS MATTERS

Sins of Omission

Owner-managers are a special breed. They have tenacity, optimism and a strong belief in their own ability to succeed. Success, however, is the result of making the right decisions day after day. It should, therefore, not be surprising that not paying attention to basic activities can often create problems. The following list may help owner-managers avoid some common problems.

1. Not reviewing basic financial data

Many owner-managers do not get the maximum value from the basic financial data produced by their accounting records. The focus is usually just on accounts receivable, accounts payable and payroll. The financial data gathered from your general ledger and monthly financials provides insight into patterns in cash flow, sales revenue, payroll costs, job costing and the like on a day-to-day basis. Tracking this data on a regular basis will reveal the small beginnings of unhealthy trends before they become big problems.

As accountants we often indicate "what you can measure you can manage". Owner-managers are busy people and often do not have the time or desire to prepare their own records. Consider working with your accountant to develop important KPI's (key performance indicators) to help you manage your business. If getting your books done on a regular basis is a concern then outsource your bookkeeping so that monthly internal reports can be prepared for your review. Responding to problems identified during a review of annual financial statements with your accountant can be too late to deal with problems.

2. Not paying taxes on time

When cash flow is tight there is a tendency to redirect funds collected for remittance to various tax authorities. Failure to remit payroll withholding taxes, HST/GST/PST, or income taxes can result in penalties by regulators. Management should review the weekly bank balance in the general ledger as well as the aggregate of amounts of tax due for remittance.

3. Not reviewing accounts receivable

The ability to survive depends on cash flow. Normal business practice used to be to pay invoices in 30 days; now, 60-to-90 days is often the norm. But 90-day collection creates a number of financial concerns. First, HST/GST may have to be remitted even though the funds have not been collected. Second, you are financing your accounts receivable for longer. Third, if credit is tight and suppliers are not willing to grant you additional credit, the lack of cash will affect inventory levels, production and sales.

4. Failure to control draws

Taxes are not withheld when sole proprietors make withdrawals from the business. As a result, the sole proprietor may be surprised at the end of the calendar year when a hefty personal income tax payment plus CPP contribution may be required. A sole proprietor or partner is taxed on their earnings. Taking excess draws during the year without leaving cash for future tax payments could create working-capital difficulties for the business.

In many instances, corporate owner-managers take draws instead of a regular wage (in which the usual deductions are withheld and remitted to the Canada Revenue Agency (CRA)). Salary or wage-based compensation provides the owner assurances that personal tax liability will be covered, (assuming this is the only source of taxable income) as well as providing a guideline for determining the RRSP contribution level in the year following.

5. Taking on too much debt

Cash flow requirements should be analyzed before taking on debt to enlarge the premises, purchase additional vehicles, or expand into new territory. Financial data should be mined to compare historical monthly cash flows with projected receipts and disbursements. This exercise also permits management to determine whether the projected debt and repayment structure is supported by historical norms.

6. Not understanding financial statements

Without understanding financial statements you cannot really understand how your business is doing. Financial statements, whether created by monthly bookkeeping or provided by your chartered accountant at the end of the year, are indicators of the well-being of your company. A monthly summary of financial data in financial statement format will show a true picture of assets, liabilities, owners' equity and profit and loss for the period. When compared with previous years or the previous month, such data can alert you to problems or opportunities.

7. Failure to invest in the future

When times are good owner-managers tend to withdraw more money for themselves. However, paying yourself should be balanced against the impact withdrawals have on working capital and the company's future. Before taking rewards, management should do some projections based on market trends, client base, capital asset requirements, the cost of financing, operational and payroll costs, potential for growth, changes in demographics, and changes in technology.

8. Failure to understand your market

Your product may be excellent, your service exemplary and your price right, but, when your product becomes stodgy, your company may be headed for a fall. Attend trade meetings, read trade magazines and talk to your clients and suppliers to find out what is new in your market. Hiring a marketing consultant to review your business and where it should be going may be a good investment.

9. Not preparing cash flow and profit forecast

Forecasting cash flows and profits forces owner-managers to think about future available funds, revenues, expenses and capital spending. These forecasts may bring up issues of working capital needs, potential long-term debt requirements or even issues concerning staffing or the need for larger floor space.

10. Not involving specialists

The problems that may be created when decisions are made outside your area of expertise can be far more expensive than the cost of hiring consultants. Because they look at so many businesses, consultants often have knowledge beyond that of even the most talented owner-manager. Consultants are not hired to change your mind, but they can make you aware of your options and can provide valuable assistance when your business needs guidance into the future.

HUMAN RESOURCES (HR) MATTERS

HR Services and Training

Leadership Training
Leadership Strategies is designed to give you or your employees the tools to lead and supervise effectively. It covers time management, conflict resolution and communication for results, motivating, coaching and team building. Our next training session is scheduled as follows:

- Mornings (8:30AM to 12:30PM) on Tuesday September 24 and Wednesdays October 2, 9, 16 and 26, 2013
- Your investment: $945 per participant

This is the 9th time we have run these workshops. This series is nearly sold out so contact Lindsay as soon as possible to avoid disappointment.

We will also be running this popular series again next year on March 18, 25, April 1, 8 and 15, 2014. Contact Lindsay now to reserve your spot.

Farm Health & Safety and HR Client Conference
Mark your calendars for the morning of Thursday December 5, 2013 for this complimentary event to be held at the Ward & Uptigrove conference room.

New HR Service: Coaching
Do you have an employee who is struggling? Don't have the time to get them back on track? Ward & Uptigrove now offers a coaching service which can help. We partner with your key employee to identify and develop competencies (experience, knowledge, skills and capabilities) to enable the person to achieve defined goals. Coaching is not mentoring (experienced resource), training (learning a skill), managing (getting stuff done), consulting (subject matter expert) or counseling (past).

Update on Complying with the Accessibility for Ontarians with Disabilities Act (AODA)

Ontario has five accessibility standards in place under the AODA:

- Customer Service
- Employment
- Information and Communications
- Transportation
- Built Environment (Design of Public Spaces)

Effective **January 1, 2012** the **Customer Service Standard** came into effect for all Ontario businesses and organizations with one or more employees. You were required to create an accessibility plan and to train your staff. If you have 20 or more employees you were also required to file an accessibility report by **December 31, 2012**. If you have not yet met these requirements under the Customer Service Standard please contact us for support.
Compliance requirements under the remaining four standards will be phased in for private and non-profit businesses and organizations with under 50 employees between 2016 and 2018.

Saving WSIB Premiums

Have you looked at your WSIB premium remittances lately? Are they correct? Are you overpaying? We have had significant success lately helping our clients reduce their WSIB premiums. Here are some of the common mistakes we have encountered:

- wrong rate group. Premium rates vary considerably by rate group
- not maximizing the executive officer exemption
- not recognizing separate business activities and setting up separate lower premium rate groups
- not maximizing the excess earnings deduction
- confusion re contractor arrangements for WSIB

Benefits of an Employment Contract

If you are a small employer you may be thinking you don't need formal employment contracts; a verbal discussion and understanding with the employee is enough. Although a verbal contract is considered legally binding, it leaves many points open to interpretation. Here are a few reasons why you should have a contract for all of your employees:

- Contracts outline all of the terms of the employment relationship in writing. Contentious issues can be dealt with in a constructive manner at the beginning of the agreement. If there is a dispute, the contract should be able to address it.
- Expectations are defined clearly, including hours of work, vacation entitlement, reporting relationships, etc. Job descriptions and an HR policy can be included as part of an employment contract. When expectations are defined this will reduce the risk for misunderstandings.
- Employment contracts reduce uncertainty. In case of a dispute or messy termination a well-drafted written contract will provide a clear record to courts on the terms and conditions of employment.

The terms of an employment agreement can cover many agreements between you and your employee. From the employee start date to the termination clause, you will be reducing your risks by implementing employment contracts. For further information on employment contacts or questions on how to draft an employment contract, feel free to contact any of our HR professionals.

Completing the Record Of Employment (ROE)

The ROE is the most important document that Service Canada uses to manage Employment Insurance. A ROE determines if a person qualifies for EI benefits, the benefit rate, and the duration of the claim. ROEs must be issued for all employees with Insurable Earnings.

There are different requirements for completing a Paper ROE vs. using ROE Web.

A paper ROE must be issued within five calendar days from the interruption of earnings; or within five calendar days from the date when the employer becomes aware of the interruption.

If completing your ROEs through ROE Web the employer has up to five calendar days after the end of the pay period when the interruption of earnings begins to issue an electronic ROE. If you have a monthly payroll you must submit the earlier of five days after the pay period; or up to 15 days after the first day of the interruption of earnings.

If you are unsure if you had an interruption of earnings contact one of our HR professionals. There are also exceptions to the five-day rule for part time, on call and casual workers, where there is a change in ownership or where there is a mass layoff. Also, there are exceptions for specific occupations including real estate agents, employees paid mainly by commissions and employees without standard work schedules.

ROE Web is a convenient, secure way to submit your ROEs. It allows for easy data entry as well as the ability to extract from your payroll software. There is no need for paper ROEs and draft and completed ROEs can be stored and referred to.

Why Employee Surveys May Be Useful

Employees come to understand some areas of your business as well as or even better than you do. You must rely on their expertise and their engagement in your business to perform high quality work.

We often find that employee surveys can help you identify simple (and cost effective) ways to improve your business; how staff perceive leadership and decision making; barriers to being effective; and how engaged your people are. Using surveys to measure and improve employee engagement will benefit your business.

How to conduct an employee survey:

Ask the right questions. You can find excellent questions by searching online or contacting W&U for suggestions. Most of the questions should be a single-answer question, but always include a small number of open-ended questions, which allow your staff to elaborate on issues.

Collect feedback efficiently. There are many free online surveys that allow you to collect data anonymously, quickly and with minimal effort. If your staff do not have ready access to a computer or the internet, consider a hard-copy questionnaire.

Allow staff to be anonymous. If they can't be anonymous, then they may not be candid. If you have a small number of staff, consider having an outside third party tabulate and summarize their responses in order to ensure they remain anonymous.

Analyze the feedback. Do some statistical analysis of the single-answer questions and consider the number of positive and the number of negative responses. Getting a 100% positive or favourable response rate is a lofty and possibly unattainable goal. Review any long answer questions closely to identify constructive ideas for improvement. Consider having the feedback reviewed by an objective third party to help you identify key, big-picture issues.

Take it all with a grain of salt. Be prepared to hear the negatives and what may seem to be petty complaints. It's important to seek out symptoms and evidence of bigger problems and to watch for constructive feedback.

Stay positive. Remind yourself and your staff of the positives as you go through this process. Don't dwell on the negatives. This is sometimes easier said than done.

Communicate. Let your staff know what you're doing as a result of getting feedback. Be careful of confidentiality. Ensure your staff know their feedback is being taken seriously and is appreciated.

Take action. If you do not plan to actually implement any changes as a result of feedback, then you shouldn't conduct an employee survey.

Staff quickly become disengaged when they are asked for feedback and then do not see any visible changes.

Check regularly. Your first employee survey will help you develop a baseline measurement of employee engagement. Consider reissuing the employee survey periodically to compare to the baseline.

If you have any questions on the above contact a member of our HR team.

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Office News, Comings and Goings

44 Years….

Ward & Uptigrove said goodbye to its longest serving employee this past August. After 44 years working in our business group, Doug Porter laid down his pencil and officially welcomed retirement. A staff reception was held in his honour in our conference room in August. Doug's many years of experience and his pleasant nature will be missed around the office.

New Staff

Our practice has experienced growth as a result we are welcoming new faces over the coming months.

Our farm department will be joined by Jill VanderWier of Listowel and Chris Ferris of Arthur. Jill brings with her an owner-manager perspective while Chris brings several years of experience working at in in-depth level on farm programs.

In our business department we are happy to welcome Jennifer MacDonald of Blyth, Monica Hertel of Brussels and Don Annett of Listowel. Their efforts as they learn and grow with our firm will be greatly appreciated.

We are also adding a new member to our tax department. Kat Dreyer will be assisting the tax group with preparation of trust returns and general compliance work.

Finally, Melanie Berfelz of Listowel will be joining our internal administration group, assisting with filing and various other administrative duties.