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In this edition of the Canadian Tax Planners Newsletter, we shall review the following topics:

- tax advantages and disadvantages for workers who do not have employee status
- tax planning for students
- due dates for personal tax returns
- Ontario tax harmonization
- purchasing a U.S. vacation property
- remission orders
- winnings from amateur sports

Compensation Plans for Non-Traditional Workers

In the previous edition of the Canadian Tax Planners Newsletter, we reviewed the tax ramifications of hiring employees vs. non traditional staff, such as contract workers and agents. Significant tax issues can arise when the employer misclassifies an employee as self-employed (contract or agent) and is subsequently reassessed by CRA. In many cases the employer's "mistake" is caught when the individual's work term has expired and they attempt to claim employment insurance. Periods of self-employment do not qualify for EI benefits.

For many employers, individuals that do not meet CRA's definition of an employee are often considered to be "second tier" workers. The term "second tier" refers to workers who may receive less salary, fewer health and retirement benefits and seldom have a long term future with the employer. When an employer uses non-traditional workers and can successfully classify them as self-employed, there are certain tax benefits that may accrue to such individuals. Employers should ensure these "non-employees" are aware of the potential tax benefits, as it may offset a number of the financial disadvantages of not being classified as an employee. The following list outlines a number of the tax advantages and potential disadvantages of workers who are legitimately classified as self-employed:

- driving to the client's location is considered business use of a vehicle and the self-employed worker is allowed a tax deduction for automobile expenses. If the individual was classified as an employee, driving to and from work is considered personal

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- a deduction can be claimed for the use of an office in the home. In certain circumstances, employees can also deduct expenses related to home office, but there are two restrictions that do not apply to the self-employed. For an employee to qualify for the office in the home deduction, it must be the employee's principal place of business or used on a regular and continuous basis for meeting clients, customers or patients. The difficulty with meeting the first condition is the meaning of the word "principal." It is the position of the tax department that principal means 50%. Thus, at least 50% of the employee's work must be performed in the home, rather than at a location owned by the employer. In addition, the employer must sign CRA form T2200 which confirms the 50% rule has been met and working at home is required by the employee's contract of employment
- not only is it easier for the self-employed to qualify for a deduction for a home office, as compared to an employee, but they are allowed additional deductions. Employees can only deduct utilities, repairs, maintenance and cleaning supplies. If the property is rented, a portion of the rent can be claimed. If the employee is a sales rep who earns commissions, a deduction can be claimed for property taxes and insurance. A self-employed individual could claim all of the deductions available to employees, plus mortgage interest and capital cost allowance
- a tax deduction can be claimed for meals, entertainment and promotion expenses
- a deduction can be claimed for premiums paid for supplemental health care coverage. If the self-employed individual has no employees, the maximum deductible premium is \$1,500 for the self-employed individual, plus an additional \$1,500 for a spouse and \$500 per child

Possible Disadvantages

- self-employed individuals may have to register under the GST legislation if sales exceed \$30,000 per year
- employers must match the Canada Pension Plan premiums deducted from the individual's pay. The self-employed must pay the total cost of the Canada Pension Plan which is currently \$4,098. This is double the cost of an employee

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