The TaxLetter®

Vol. 37, No. 2 Your Guide to Tax-Saving Strategies February 2019

TAXSTRATEGY

Tax Filings

Key Dates

Samantha Prasad LL.B.

The new year is only a month in, yet it is never too early to ensure your 2019 calendar is in good shape. By that, I mean ensuring you have noted the key dates for various filings for your 2018 tax year. That way, you won't be caught unaware when you realize a deadline is right around the corner.

RRSP deadlines

The first deadline to make note of is the last day on which you can contribute to your RRSP for the 2018 year. The RRSP deadline for 2018 contributions is March 1, 2019. If you are not sure what your contribution limit is for the 2018 year, take a look at last year's Notice of Assessment. This will give you the amount you can contribute. The maximum contribution for 2018 is equal to 18 per cent of your earned income from last year, up to a maximum of $26,230; however, if you did not max out your RRSP contributions in previous years, then your limit might be a lot higher than this, as you are able to carry forward any unused contribution room. If this is the case for you, and you find yourself in a higher tax bracket for 2018 than previous years, then contributing as much as possible prior to March 1, 2019 is a good idea, since the extra contributions could bring you back into a lower tax bracket for 2018.

Of course, the converse is also true. If 2018 is a lower-income tax year for you, and you anticipate earning more in 2019 and onwards, then you may want to defer the extra contribution until next year to make the most of the RRSP deduction.

Tax return deadlines

The general rule is that if you are employed as an employee, your tax return will be due April 30, 2019 for your 2018 tax year. But if you are self-employed, or even if you simply carry on a business in addition to being an employee, your tax return won't be due until June 15, 2019.

How the rules work

Notwithstanding the general April 30th deadline, if you carried on a business in the taxation year (subject to certain restrictions relating to the type of business carried on – see below), you are given until June 15th of the following year to file a return. This later deadline is also extended to your spouse (including a common-law spouse or partner). However, if your spouse, common-law spouse or partner is living separate and apart from you as at December 31st, 2018 by reason of a breakdown of the marriage and for a period of at least 90 days which includes December 31st, 2018, your spouse (common-law spouse or partner) does not get to enjoy the benefit of the extended June 15th deadline and must file by April 30th (which may not make you lose too much sleep, granted). Of course, if both you and your spouse carried on a business in the taxation year, you are each granted the June 15th deadline regardless of whether you are living together.

So why the extension? It relates to the fact that all indi-

Samantha Prasad, LL.B., is a tax partner with the Toronto-based law firm Minden Gross LLP, a member of Meritas Law Firms Worldwide, and a Contributing Editor of The TaxLetter, published by MPL Communications.
sprasad@mindengross.com

viduals carrying on business are required to have a December 31st year-end (or to pay tax as though they did). Corporations who have a year end of December 31, have until June 30 to file their tax return; so, it only seems fair that if you are carrying on a business as an individual, you should get similar (if not exactly the same) treatment.

Of course there are a couple of catches to be aware of. Even though you can file up to June 15th, the CRA is not that generous as to let you off the hook from paying your taxes until then. April 30th will still be your "balance due date", i.e. you have to actually cough up the money for any taxes owing on April 30th, otherwise you will be charged with interest on unpaid taxes – the current rate is 6%, compounded daily.

Even so, this deadline may be very helpful if you miss the April 30th filing deadline and you owe taxes: If you don't file your return on time (either by April 30th or June 15th if you qualify for the extended deadline), you will be subject to a penalty. The penalty is 5 per cent of the tax unpaid when the return should have been filed, plus 1 per cent of the tax outstanding at the time of the filing deadline, times the number of complete months (not exceeding twelve) between the actual filing deadline and when you actually filed the return. In short, the maximum penalty is 17 per cent of the tax unpaid. The penalty can be applied even if you file the return only two days late. This penalty is added to your assessment, and if you want to object, you have to actually file a notice of objection to the assessment. Note: If you have a habit of filing late, be aware that if you were charged this penalty for your previous three past tax returns, the penalties are doubled for the 2018 tax year (10 per cent of the tax owing plus 2 per cent for each month outstanding). Of course, if you are late filing due to circumstances beyond your control (i.e., you are hospitalized due to a serious illness) you can apply for leniency by making an application under the taxpayer relief provisions to have the penalties and interest reduced. The request should be made in writing and addressed to your Tax Services Office. Note: even if you cannot pay your full balance owing for taxes by April 30, by at least filing your tax return, you can avoid this late-filing penalty. So, don't hold on filing your tax return just because you are not able to pay the taxes owing for the year.

If you're finding yourself unable to file by April 30, it may be particularly important to determine whether you qualify for the June 15th extension. It applies if you are a "consultant" – i.e., rather than being an employee for tax purposes, you are classified as an "independent contractor". The June 15th deadline will also apply if you carry on business through a partnership – even if you are a limited partner. Since many investments are structured as limited partnerships, this seems to open up the possibility that investors in these vehicles might be able to file on June 15th. In fact, the rules seem to say that if you met the prerequisites at any time during the year, you're eligible for the extension. But if you invested in a tax shelter investment, you will not be eligible for the June 15th deadline. More specifically, if the expenditures made in the course of carrying on the business are primarily the cost or capital cost of tax shelter investments, or primarily tax shelter investments itself, you won't qualify for the extended deadline. For this purpose, tax shelter investments are certain limited partnership interests (basically where expected write-offs within four years of acquisition equal or exceed the cost of your investment, net of prescribed benefits), or are registered tax shelters as defined in the Income Tax Act (Canada).

The foregoing is a close reading of a lot of tax fine print. So, it may be prudent not to claim the extension unless you're in a jam. However, if you have been assessed late filing penalties, these arguments may come in handy.

And if your spouse, common-law spouse or partner does take advantage of filing by the June 15th deadline, you should be aware that this extension is not a family-wide benefit. If you have any children who file returns, those returns must still be filed by April 30th. The extension for your spouse (if you are carrying on business) is granted mainly to facilitate compliance with the child tax benefit provisions which requires filings by both spouses. Accordingly, the issue of whether you and your spouse are living together is determined under the child tax benefit rules. Happily, the extension applies regardless of whether your spouse actually receives the child tax benefit; for example, it applies even if you and your spouse have no children.

If you are not carrying on a business and cannot take advantage of the extended June 15th deadline, you're going to have to bite the bullet and file by April 30th. This can sometimes result in a rushed filing, and, occasionally, a mistake or two on your return. This error or omission can also result in either an increase or decrease to the tax payable to the government. However, the CRA prefers that you do not file an amended income tax return in these circumstances. Instead, you should write to the Tax Centre where you filed your return, with an explanation and any additional material such as T4 slips, T5 slips and receipts. It is likely that CanRev will also prefer that you include Form T1-ADJ to organize the presentation of your adjustment request in a convenient fashion. Correspondence with the CRA should include your Social Insurance Number or Identification Number. ❏