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TAX TALK

FOR HEALTH PROFESSIONALS

2017 Issue

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CLAIMING AUTOMOBILE EXPENSES
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WEBINAR
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In this issue

A Message from the Editor

Aaron Schechter, CPA, CA, TEP, *Aaron Schechter Professional Corporation*, Partner - Tax Group

By most people's accounts, 2016 was not a kind year. We lost several heroes, legends and cultural icons. We witnessed the ugliest presidential political campaign in US history and a shocking vote in the United Kingdom to leave the European Union. We saw the continued atrocities in Aleppo and a barrage of terrorist attacks in Burkina Faso, Brussels, Istanbul, Nice, and, most recently, in Berlin. All in all, 2016 may be a year best forgotten.

The year wasn't better for health professionals in Canada. In March 2016, the Federal Liberal government tabled its first budget which included a drastic tax change impacting the structure that many health professionals have been using to earn their income. This tax change may result in an overall increase to the taxes that many health professionals will be faced with starting in 2017. For those professionals practising in Quebec, 2016 is the last year before they will experience an increase in their professional corporation tax rate, unless they employ more than three employees.

In 2016, Ontario medical doctors continued to practise without an agreement with the Ministry of Health and Long Term Care. Negotiations were on-again/off-again in 2016, and while there was a tentative Physician Services Agreement, that agreement was resoundingly rejected by its membership in a summer vote. There may be a light at the end of this tunnel in 2017 as a new three-year plan was presented to the OMA in December.

Finally, the federal Liberal government met with the provincial and territorial health ministers in December in an effort to try and reach a deal concerning long term health transfers. The meeting was a failure, with the provinces claiming the federal government handed them an ultimatum with no room for negotiations. The single day meeting ended with the parties very far apart and the original federal government proposal was taken off the table. The end result is that the Canada Health Transfer spending increase will revert to 3 per cent a year as of April 1, 2017. The provinces were pushing for an increase of 5.2 per cent.

Let's forget 2016, and focus on making 2017 a great year! I am pleased to present you with the 2017 edition of the Tax Talk for Health Professionals newsletter. In this edition, Ryan Carins will explain the ins and outs of a Private Health Services Plan. The deductibility of automobile expenses for health professionals, including medical residents, will be explored by Jonathan Haig. Daniel Rosenberg will tackle the question of whether the right to practise in a Family Health Organization has any value that can be sold? Finally, we have provided some key tax deadlines that are quickly approaching.

As always, I wish you all a very happy, healthy and prosperous year and welcome any thoughts, comments or questions regarding any of the topics discussed in our newsletter.

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Aaron's expertise lies in strategic tax planning for owner-managed private companies. He also provides specialized services to health professionals, catering to their unique needs in financial and tax planning.

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Is a Private Health Services Plan Right for My Professional Corporation?

Ryan Cairns, BComm - Audit & Advisory Group

One of the most common and important benefits for employees working in any business is medical insurance and medical expense coverage. Unexpected ailments, injuries or health related services (dental, orthodontic, physiotherapy, massage therapy, etc.) can create significant financial burdens on individual employees if their employers do not offer sufficient medical and dental insurance plans. In addition, many employers struggle with the cost of providing extensive medical plans and they may pass the additional costs on to their employees indirectly through reduced wages or directly via employee optional coverage enhancements. Recognizing these issues, our tax laws permit certain tax-advantageous insurance arrangements and plans as a means of providing the benefit of extensive health coverage to employees, while at the same time, minimizing the costs to the employee and the business. These insurance arrangements and plans are commonly referred to as Private Health Services Plans (PHSPs).

What is a PHSP?

A PHSP is a vehicle by which a corporation can cover the medical expenses of its employees, and all blood-related members of their households, in a tax-efficient manner. If structured correctly, any expenses incurred by the corporation in relation to a PHSP are tax deductible, and the associated benefits received by the employees are tax-free.

How does a PHSP work?

A PHSP must contain the element of insurance – insurance through a third party or self-insurance. While there are different methods of administering PHSPs; the two most common are the "cost-plus" structure and the use of a Health and Welfare Trust.

"Cost-plus" Plans

"Cost-plus" plans are the most common and straightforward means of implementing a PHSP. Under the "cost-plus" structure, employees will initially pay for their medical bills, the employee will then make a claim with the insurance company contracted by the employer and be reimbursed. The employer promises to reimburse the insurer for the actual amount of all claims, plus an administration fee.

Health and Welfare Trust (HWT)

In contrast to the "cost-plus" plan structure, an HWT mandates that the employer makes fixed, regular (e.g., monthly, quarterly, etc.) contributions to a trust fund. Where the HWT is an insured plan, the employer contributions are used to pay for the necessary health insurance premiums. Where the HWT is a self-insured plan, the employer's contributions create a pool of funds from which employees can seek reimbursements from specific, eligible claims.

What are the benefits and risks associated with a PHSP from a tax perspective?

The tax benefits associated with a PHSP can be significant. The corporation is allowed to deduct its contributions to the plan and/or expense reimbursements to its employees from its taxable income, thereby reducing its taxes. The employee, on the other hand, receives the monetary benefit of having his or her medical expenses reimbursed, and receives this benefit tax-free. Therefore, tax savings are created for both the employee and the employer.

However, if the plan does not meet the Canada Revenue Agency's ("CRA") qualifications for a PHSP, the corporation will be denied the deduction of the related expenses, and the employee will be deemed to have received a taxable benefit to the extent of any expense reimbursements received during the year. It should be noted that payments and reimbursements to employees may be subject to Retail Sales Tax (8% in Ontario) and Insurance Premium Tax (2% in Ontario).

What are the restrictions on what qualifies as a PHSP?

When determining whether or not a corporation's health benefit plan qualifies for tax treatment as a PHSP, the CRA will consider several factors such as:

- The corporation should be obligated to cover the employees' eligible expenses under the plan, as dictated by their employment contract;
- There should be a pre-determined maximum benefit that employees or groups of employees are eligible to claim within a 12-month period;
- The HWT should not incur perpetual surpluses (temporary surpluses are permitted); and
- The HWT trustees (i.e. those who administer the HWT) should act independently of the employer.

While none are deemed essential qualifications of a PHSP on their own, if several of the considerations above are not met, the plan will unlikely qualify as a PHSP.

Can an individual who is both a shareholder and an employee of a professional corporation participate in a PHSP?

The underlying principal, as explained in "Technical Interpretation 2014-0521301E5" issued by the CRA, is that a PHSP qualifies for special tax treatment if it can be demonstrated that the plan is offered non-discriminatorily to all or a group of the corporation's employees. If it can be shown that shareholders are entitled to the same benefit as employees who are not shareholders, but who have similar roles and responsibilities within the corporation, then the tax benefits stemming from the use of a PHSP would be available.

What about in the case of a sole shareholder who is the sole employee of the professional corporation?

In the Technical Interpretation mentioned above, the CRA does allow for the qualification of a PHSP for an incorporated individual if it can be demonstrated "that employees, who are not shareholders, with similar duties and responsibilities to another corporation of a similar size receive similar benefits under a similar plan."

In practice, finding a sufficiently similar arrangement to use as a comparative becomes quite difficult. It is the CRA's position, as well as Canadian tax jurisprudence, that if the individual professional is the sole employee of the professional corporation, the individual would be receiving the PHSP benefits by virtue of being a shareholder, not as an employee. In that situation, any benefits received from the PHSP would be considered a taxable benefit to the professional.

I think a PHSP is right for my professional corporation – what's next?

To ensure that a PHSP mitigates the risk of a successful challenge from the CRA, the corporation's obligation to reimburse qualifying expenses to its employees, up to a predetermined maximum benefit, must be written into all of the corporation's employment agreements. In addition, a resolution should be passed by the corporation's board of directors outlining the details of the PHSP. Finally, if a HWT is to be used, a separate bank account should be opened in the name of the trust and a Trust Deed or Trust Agreement be drafted and put in place.

A PHSP is a tax effective means of funding the medical, dental and related health care expenses of your employees. It is also a great way to improve your professional corporation's employee compensation plan, which will help to attract and keep the best available talent.

RYAN CAIRNS, BComm

Ryan is a member of Crowe Soberman's Audit & Advisory Group. Ryan has three years of experience working in depth with a wide range of clients in industries including Healthcare and other Professional Services.

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Claiming Automobile Expenses

The ins and outs.

Jonathan Haig, CPA, CA, Manager - Audit & Advisory Group

Both self-employed and employed healthcare professionals, including medical residents, may be able to deduct automobile expenses in their personal or corporate income tax returns, but only if certain criteria are met and adequate supporting records are kept.

Basic criteria and calculation

The basic guideline is that automobile expenses can only be deducted to the extent that they relate to business use. The basic formula is:

$$\frac{\text{Total automobile expenses for the year} \times \text{Number of kilometres driven for business during the year}}{\text{Total number of kilometres driven during the year}}$$

Kilometres driven for business purposes

The Canada Revenue Agency ("CRA") has specific guidance regarding the number of kilometres driven for business purposes during the year. For example, travel to and from a taxpayer's home to his or her principal place of business (the main location where income is earned) would usually be excluded, as the CRA considers these kilometres to be personal. Only travel to other places of business should be included. For example, travel from the principal place of business to a different clinic or hospital, to a patient (e.g., house calls), to a meeting, or to a convention.

Principal place of business

In certain circumstances, a room or area in the taxpayer's home (house, condo or apartment) could be considered his or her principal place of business. In case law, the principal place of business has been defined as the place where secretarial, accounting, and communication functions are performed. For example, this could be where the mail is received, where patient appointments are arranged, where charting is undertaken and where accounting, bookkeeping and cash reconciling is performed.

Furthermore, a room or area in the taxpayer's home could still qualify as his or her principal place of business even if income-generating activities are performed at a different location (i.e. hospital, clinic or office), and the room or area is not used exclusively for business purposes. That being said, healthcare professionals have had difficulty in the past convincing the CRA that their home qualifies as their principal place of business, so consult with your tax professional regarding your specific situation.

Types of automobile expenses

Assuming the individual or corporate taxpayer is eligible to deduct automobile expenses, the types of expenses which may be claimed include: fuel, maintenance and repairs (e.g., car wash, service, brake replacement, etc.), insurance, licence and registration fees, interest paid on a loan used to buy the vehicle, and lease payments or capital cost allowance (i.e. tax depreciation). The capital cost allowance, interest paid, and lease payment amounts that can be claimed are restricted by specific tax provisions. Your tax professional should be consulted to determine the deductible amount. Also note that parking and speeding tickets as well as other fines and penalties are never deductible.

Supporting documentation

In the case of a CRA audit or review of vehicle expenses, and they are becoming much more frequent, the taxpayer needs to ensure that appropriate supporting documentation is kept, specifically receipts or invoices for all expenses claimed. Credit card statements are not considered sufficient evidence by the CRA. Furthermore, the kilometres driven for business purposes should be tracked in a logbook which specifies the date, the destination from and to, the business purpose of the visit, and the number of kilometres driven for each trip. Alternatively, a taxpayer can choose to keep a logbook for a year to establish a "base year". In subsequent years, only a three month logbook will be required to be kept so long as the usage is within 10% of the "base year". The total kilometres driven during the year can be determined by recording the odometer readings on January 1st and December 31st (or the start and end of your specific fiscal year).

Employees and Form T2200

In order for an employee, including medical residents and incorporated medical professionals, to claim motor vehicle expenses in his or her personal income tax return, his or her employer must complete and sign "Form T2200 - Declaration of Conditions of Employment". This form must specify that the employee is required to use a motor vehicle for travel as part of his or her employment. As an example, the Toronto Hospital's Postgraduate Payroll Association generally provides this form to its medical residents.

Automobile expenses may be deducted by healthcare professionals and should be considered to minimize taxes owing. However, taxpayers should ensure that they adhere to the CRA's definition of kilometres driven for business purposes and that sufficient supporting documentation is kept. We cannot stress enough that the CRA has made the claim for automobile expenses an area of audit and review focus. So if you decide to deduct these expenses, your claim must be reasonable and supportable.

JONATHAN HAIG, CPA, CA

Jonathan is a Manager in Crowe Soberman's Audit & Advisory Group. Jonathan is active in all aspects of the firm's audit and advisory practice and serves clients in various industries including Healthcare, Not-for-profit, Technology and Real Estate.

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Does Your Licence to Practise in a Family Health Organization Have Value?

Daniel Rosenberg CPA, CA - Audit & Advisory Group

The Ontario Ministry of Health and Long Term Care (MOHLTC) allows for several different models in which family physicians may practice. One of these practice models is the Family Health Organization (FHO) which is formed by a team of family physicians. Since its introduction in 2006, FHOs have been favoured by a significant number of family physicians as this model has many benefits to both the practicing physicians and their patients.

The MOHLTC no longer allows family physicians to form a new FHO unless it is in an under-serviced, remote area. In addition, physicians are currently not being allowed to join existing FHOs except when replacing physicians who are exiting. This has created a market for physicians to sell their position in an established FHO.

The premise behind the introduction of the FHO was that when compared to the more traditional Fee-for-Service (FFS) model, the FHO would allow physicians to provide more comprehensive care while still being compensated for their work and time. It was believed by some that the FFS model incentivised the quantity of patient visits and not necessarily the quality of care given. Since physicians under the FFS model are paid on a per-visit basis, the more patients the doctor would see, the more he or she could bill.

FHOs on the other hand have a blended capitation model. Capitation is based on a pre-defined basket of services provided to enrolled patients, with the compensation varying based on factors such as the age and sex of the patient. In addition, family physicians in a FHO can only bill fee-for-service on out-of-basket services, and they receive a ten percent shadow billing for in basket services provided. In addition to the monthly capitation payments received for all enrolled patients, family physicians are incentivized with bonuses and special payments for services such as preventative care, chronic disease management and home visits for enrolled patients.

These bonuses awarded to physicians in a FHO, align the family physician's desire to provide better care with his or her financial compensation from OHIP. For example, a patient with diabetes will be encouraged by his or her physician to schedule multiple visits per year to allow the physician to monitor his or her diabetes on a regular basis. Under the FHO model, patients not only receive better preventative medical care but also a much more accessible doctor. Physicians practicing in a FHO have after-hours obligations where they are required to provide a minimum of a three hour block of after-hours coverage, at least three to five times per week.

The FHO model encourages physicians to ensure that their patients are healthy, which in the long run was supposed to cost the MOHLTC less, but at the same time would not reduce the physician's compensation. Family physicians have recently shown a preference in practicing under the FHO model, and the MOHLTC decision to no longer allow family physicians to form a FHO has created a demand and market for positions in existing FHOs. The number of physicians leaving FHO practices is limited and therefore, many physicians have been able to sell their positions in a FHO along with their list of rostered patients.

Historically, family physicians have had difficulty selling their family practices as they have very little goodwill or intrinsic value. This is due to the fact that there has been a shortage of family physicians in Ontario and there have been no barriers to entry for new physicians.

The MOHLTC decision to curtail the formation of new FHOs and the strong demand among family physicians to practice within a FHO has in fact created goodwill and a value for an existing physician's position.

Determining the value of any medical practice is a difficult task, and this is especially true for FHOs. FHOs have a more complicated compensation method compared to other practices due to their blended capitation model. Consequently, monthly OHIP billings are not always a true reflection of a physician's yearly income as they may not include all awarded bonuses.

There is no definitive or well-accepted formula for determining the fair market value of a physician's position in an FHO. It has been our experience though that some physicians have been able to sell their position in a FHO for approximately three to six months' of their normalized OHIP billings; however, the value can vary depending on the specific situation.

When determining a fair market value, it should be kept in mind that there can be several complexities when determining a value. Consider that typically only one physician will be selling his or her position in the FHO at any one particular time. The relationships that have been formed and the existing contracts that have been agreed upon between physicians must all be taken into consideration. For example, the physicians practising in a FHO will likely have entered into a commitment regarding cost sharing. Therefore, when entering an existing FHO the purchasing physician will have to assume certain obligations, such as lease agreements and severance liabilities. These obligations could reduce the fair market value of the position of the exiting physician.

If you are considering selling or purchasing a position in a FHO or transferring your licence to practice in a FHO to your professional corporation, please speak to a member of the Crowe Soberman Valuations, Forensic Accounting and Litigation Support (V|F|L) group first.

DANIEL ROSENBERG, CPA, CA

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Top 12 Tax FAQs by Doctors, Dentists and Medical Residents

a Crowe Soberman Webinar

Host: Aaron Schechter, CPA, CA, TEP, *Aaron Schechter Professional Corporation*, Partner - Tax Group

On February 9th, Aaron Schechter hosted the Crowe Soberman Webinar entitled **The Top 12 Frequently Asked Tax Questions by Doctors, Dentists and Medical Residents.**

If any of the questions below resonate with you, and you missed the live webinar, it is available for viewing on demand at: https://webinars.on24.com/crowesoberman/Top10TaxFAQ_PRP

1. Should I buy or lease a car?
2. What expenses can I claim against my professional income?
3. Can I deduct automobile expenses?
4. Can I claim home office expenses?
5. Should I incorporate?
6. Can I deduct more expenses if I incorporate?
7. What are the administrative burdens that come with incorporation?
8. Should I take salary or dividends from my professional corporation?
9. Can I pay off my student debt off through my professional corporation?
10. Should I invest through my professional corporation or through my RRSP or TFSA?
11. Why should I transfer my life insurance to my professional corporation?
12. Why is it important to find a good accountant?

For tips and recommendations tailored to your specific situation, **connect with the experts in our Healthcare Group**. We can help minimize the impact of recent tax changes on your personal finances and harness new opportunities to build value for wealth enhancement.

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Important Tax Deadlines

February 28, 2017

- Filing due date for T4 Summaries and slips for salaries, bonuses, and retiring allowances paid in 2016.
- Filing due date for T5 Summaries and slips for interest and dividends paid by corporations to shareholders in 2016.

March 1, 2017

- Last day to make a 2016 RRSP contribution.

March 15, 2017

- Filing due date for Employer Health Tax (EHT) returns for employers with salary and bonuses paid of $450,000 or more in 2016.
- First quarterly installment due for 2017 personal income taxes (if applicable).

March 31, 2017

- Filing due date for T5013 Summaries and Slips for professional partnerships where the partnership's total revenues plus total expenses is $2,000,000 or greater, or where any of the partners are professional corporations.
- Filing due date for annual filers of HST returns for corporations with taxation years ending December 31, 2016.
- Final payment of corporate income taxes due for most corporations with a December 31, 2016 fiscal year end.

April 18, 2017

- 2016 US personal income returns and taxes due for US citizens and green card holders residing in Canada unless an extension is filed.

May 1, 2017

- 2016 Canadian personal income taxes due; personal income tax return filing due date for most Canadian taxpayers.

June 15, 2017

- Personal income tax return filing due date for Canadian taxpayers who report self-employment income.
- Second quarterly installment due for 2017 personal income taxes (if applicable).

June 30, 2017

- Filing due date for corporate income tax return for professional corporations with a December 31, 2016 fiscal year end.

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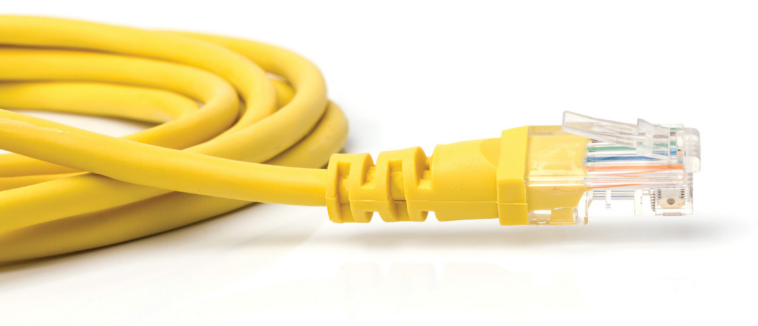

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