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NOTICE TO READER

The following commentary has been prepared by Parker Garber & Chesney, LLP based on information available to the public on the date of publishing.

Readers are cautioned that this commentary is informational only and that any issues specific to the reader's needs be addressed with the appropriate tax professional.

The reader is cautioned that this document is not meant to provide advice specific to the reader's particular situation and that advice cannot be given in such a manner.

CORPORATE TAX

ONTARIO CORPORATE TAX INSTALMENTS

It should be noted that, with the integration of the Ontario Corporations Tax Branch with the Canada Revenue Agency (CRA) effective for 2009, all corporate instalments for Ontario for fiscal years ending after December 31, 2008 should be remitted to CRA and not the Ministry of Finance.

TAX-FREE SAVINGS ACCOUNTS (TFSA)

In the 2008 Federal Budget, the government introduced the TFSA to come into operation beginning in 2009. The following is a summary of the key points of this new concept:

ELIGIBILITY

- Individuals age 18 or over;
- Must be a resident of Canada.

CONTRIBUTION LIMITS

- \$5,000 per year for 2009 (to be indexed for subsequent years);
- Unused contribution room can be carried forward indefinitely (same as RRSP);
- Amounts withdrawn in a year will be added to the contribution room for the following year;
- Excess contributions will be subject to a 1% per month penalty.

TAX TREATMENT

- Contributions will **not** be tax deductible;
- Income (interest and dividends) and capital gains earned in the account will not be taxable;
- Withdrawals will **not** be taxable;
- Income earned in the account will not effect the eligibility for Canada Child Tax Benefit, GST credit, Age credit, Old Age Security clawbacks, Guarantee Income Supplements and EI benefits.

QUALIFIED INVESTMENTS

- Publicly traded securities (not restricted to Canadian investments);
- Mutual funds;



- Government bonds and Treasury bills;
- Corporate bonds;
- GICs and term deposits;
- Shares in qualifying small business corporations (must be arm's length).

PLANNING

- Consider contributing to a TFSA if you have maximized your RRSP contributions;
- Taxpayers with no RRSP room, such as those age 71 and over or those with no employment income, may benefit from a TFSA;
- Consider filing a tax return to establish contribution room once a taxpayer turns 18 even if they have no income.

OTHER FACTS

- Interest on funds borrowed to invest in TFSA is **not** deductible;
- The account will be available to use as collateral;
- Attribution rules between spouses will not apply;
- Income earned after the death of the holder will be taxable unless the account holder names their spouse a successor account holder (beneficiary) or the assets are transferred to the survivor spouse's TFSA. This will not affect the contribution room of the surviving spouse;
- Account assets can be transferred between spouse's accounts upon a marriage breakdown. The transferor will not have a reinstatement of their contribution room. The transferee will have a reduction of their contribution room. It is assumed that this will not be subject to the penalty tax if the contribution is over the available limit;
- An account holder who becomes a non-resident will not be able to retain the account. Income and withdrawals will not be taxable. No contributions can be made and no contribution room will be attributed while the taxpayer remains a non-resident;
- Any financial institution eligible to issue RRSPs will be eligible to issue TFSAs;
- CRA will calculate the contribution room for all tax filers;
- Alberta, Manitoba, Ontario and Quebec are harmonizing their legislation for the TFSA.

REGISTERED DISABILITY SAVINGS PLANS (RDSP)

The 2007 Federal Budget introduced the RDSP. These plans are effective for 2008 but there has been little information from financial institutions to date as



they establish the plans based on rules passed last year. The following are some of the more salient points of the RDSP:

ELIGIBILITY

- Individuals eligible for the disability tax credit will be eligible as a beneficiary of an RDSP;
- The beneficiary must have a Social Insurance Number;
- The beneficiary, parents of the beneficiary or legal guardians of the beneficiary will be eligible to be the plan holder;
- There can only be one beneficiary for each plan;
- The beneficiary must be a resident of Canada at the time the plan is established and each time there is a contribution made to the plan;
- The plan holder does not have to be a resident of Canada;
- The plan holder can be changed during the life of the plan;
- The plan cannot be used as collateral for a loan.

CONTRIBUTION LIMITS

- No annual limit (see CDSG below);
- Life-time contribution limit of \$200,000;
- No restriction on who can contribute except the written consent of the plan holder;
- Contributions can be made until the end of the year the beneficiary turns 59.

CANADA DISABILITY SAVINGS GRANTS (CDSG)

- Grant is based on annual contributions and family income as follows:
 - Family income up to \$74,357 – 300% grant on 1st \$500 plus 200% on next \$1,000 to a maximum of \$3,500;
 - Family income over \$74,357 – 100% grant on 1st \$1,000 to a maximum of \$1,000;
- The income limit for 2008 (applicable to contributions in 2009) is \$75,769 and will be indexed annually;
- Grant available until the year the beneficiary turns 49;
- Family income for minor beneficiaries is income of parents or legal guardian. For beneficiaries age 19 or over it is their income and that of their spouse or common-law partner;
- If the beneficiary becomes ineligible or dies all CDSG received in the preceding 10 years and the income earned must be repaid to the government. The same holds true if there is a withdrawal from the plan but there is a provision for a waiver due to hardship.



CANADA DISABILITY SAVINGS BONDS (CDSB)

- In addition to the grants noted above, low income families will receive CDSBs from the federal government;
- The calculation will be based on an income test;
- Maximum annual bond is \$1,000;
- Maximum lifetime limit is \$20,000;
- Family income below \$20,883 will be eligible for the maximum bond. Income between \$20,883 and \$37,178 will result in a reduced contribution;
- The plan holder is not required to make contributions to be eligible for the CDSB;
- CDSB is available until the year the beneficiary turns 49;
- Family income for minor beneficiaries is income of parents or legal guardian. For beneficiaries age 19 or over it is their income and that of their spouse or common-law partner.
- If the beneficiary becomes ineligible or dies all CDSB received in the preceding 10 years and the income earned must be repaid to the government. The same holds true if there is a withdrawal from the plan but there is a provision for a waiver due to hardship.

TAXATION

- Contributions are **not** tax deductible;
- Withdrawn contributions will not be taxable;
- Investment income earned in the plan will be tax-free;
- CDSG, CDSB and investment income earned in the plan will be included in the beneficiary's income when withdrawn;
- Amounts withdrawn from the account will not effect the eligibility for Canada Child Tax Benefit, GST credit, Age credit, Old Age Security clawbacks, Guarantee Income Supplements and EI benefits.

DISTRIBUTIONS FROM RDSP

- Only the beneficiary or their legal representative will be able to receive distributions;
- Lifetime Disability Assistance Payments (LDAP) can start at age 27 but must commence no later than the end of the year the beneficiary turns age 60;
- LDAP is based on a formula but the beneficiary or legal representative has the power of encroachment;
- If the beneficiary ceases to be eligible or dies the funds, net of those repaid to the government, must be paid to the beneficiary or their estate and included in their income.



OTHER ISSUES

- RDSPs and LDAPs are intended to supplement income support for people with disabilities. Provincial income support plans are income-tested and may be affected by the RDSP. To date the only provinces to agree to adjust their income tests in one way or another are BC, Manitoba, Quebec and Newfoundland and Labrador;
- The 2008 Federal Budget introduced some fine-tuning to the regulations governing the RDSP and also introduced a 3-year review of the program. Some details of the plans are still subject to clarification which may explain the delay by financial institutions.

