Tax Tidbits – July 2014

Tax returns for non-profit organizations?

Non-profit organizations ("NPOs") are often run by volunteers that may not be aware that although these entities are exempt from paying tax, they may still have filing requirements with the Canada Revenue Agency ("CRA").

Form T1044 *Non-Profit Organization Information Return* must be filed each year where the NPO:

- Received taxable dividends, interest, rental income, or royalties totaling more than $10,000 in the year;
- Owned assets valued at more than $200,000 at the end of the year; or
- Had ever previously been required to file the form.

Many NPOs with this level of income or assets choose to qualify as charities and are subject to different filing requirements.

Somewhat unexpectedly, many strata corporations are required to file this form in addition to filing T2 *Corporate Income Tax Returns* each year.

The penalty for not filing Form T1044 is $25 per day to a maximum of $2,500. The CRA's administrative policy is not to apply the penalty on the first occurrence of a late-filing. However, it is unclear whether the penalty will be waived where multiple years are late-filed at the same time. An NPO with several years of missed filings should consider filing under the Voluntary Disclosure Program.

Please contact **Wendy Seet** of the Manning Elliott Tax Team for assistance with NPO tax reporting requirements.

Interest deductibility – differences in Canada and the US

As the business world globalizes, it is important to be aware that jurisdictions may have different rules for taxation and deductibility of expenses. For example, Canada and the US use different rules in determining whether interest paid is deductible for tax purposes.

In Canada, interest paid is generally deductible for tax purposes where the amounts borrowed were used for the purposes of earning income from a business or property or acquiring property to do so.

The CRA has indicated that the borrowed funds must be directly and currently traceable to an income-earning use. Therefore, the deduction of interest could be denied where the borrower disposes of all business assets and can no longer trace the funds to an income-earning use. The deduction of interest could also be denied where the borrowed funds are used to purchase shares of a corporation that has never and will never pay dividends as there is no reasonable expectation of profit.

In the US, interest deductibility is determined based on whether the funds are characterized as debt or equity. The case law looks at the intent to create a debtor-creditor relationship and the debtor's ability to repay the debt. Where the debtor is found to be over-leveraged at the time of the loan or the terms of the loan are not commercially reasonable, the loan may be characterized as equity and any payments made may not be treated as deductible interest.

Please contact **Sheryne Mecklai** of the Manning Elliott Tax Team with any questions.

And More…

- **Filing corporate elections electronically**
  Corporate taxpayers can now electronically file elections that require filing in a prescribed manner or using a prescribed form. Elections can be stated in sentence form and are included with the notes to the financial statements on the General Index of Financial Information[1] and e-filed as part of the T2 *Corporate Income Tax Return*.

- **More changes for Form T1135 *Foreign Income Verification Statement***
  The CRA has announced further changes to the T1135 reporting form for 2014 and subsequent taxation years. Most notably, the detailed reporting exemption previously available for investments for which a T3 or T5 was issued has been eliminated. Also, specified foreign property held with a Canadian-registered securities dealer can now be reported in aggregate on a country-by-country basis.

  The reporting requirements for Form T1135 seem to be evolving continuously. For the most current instructions, please be sure to visit the CRA's website at: http://www.cra-arc.gc.ca/E/pbg/tf/t1135/README.html

- **Tax-free savings accounts ("TFSAs")**
  Don't forget to contribute to your TFSA! Since 2009, Canadian residents have been able to contribute to these accounts without being taxed on the resulting income. The total contribution room for a qualified person that has never contributed before is now up to $31,000.

  Tip: Consider contributing qualified assets that are currently held outside of your registered accounts (eg RRSPs and RRIFs), keeping in mind that the transfer will result in a deemed disposition with possible taxable capital gains or losses.

[1] T2 Taxprep jumpcode: NOTES