

The TaxLetter®

Vol. 38, No. 1

Your Guide to Tax-Saving Strategies

January 2020

TAXSTRATEGY

New Year's Hunting

Funding your RRSP

Samantha Prasad LL.B.

Every January, I do the same thing: I vow to try to eat better and to go to the gym. And every February, I'm usually 0 for 2, sadly. But if there's one thing that I do commit to do, it's ensuring that I get my RRSP contributions in on time. If you have not yet had a chance to contribute towards your 2019 RRSP, keep in mind that you only have a small window left in order to do so. But if your bigger issue is not timing, but funding (especially since all of our bank accounts tend to be a bit low after the holidays), then it's important to think a little outside of the box to track down those funds.

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

Contributions in kind. If you own qualifying investments in a non-registered investment account, it's possible to transfer these to an RRSP and obtain a deduction based on their market value. Some candidates for such a contribution could include shares which trade on qualifying stock exchanges, Canada Savings Bonds, and so on. To use this strategy, you'll need to set up a self-directed RRSP (probably available from your broker on a low-fee basis), because these allow you to pick and choose your RRSP investments. Alternatively, it's possible to do a swap for an RRSP's cash or other assets of an equivalent value. In this case, though, a tax deduction will not be available.

Either way, though, there will be a "deemed sale" to you based on the current market value of the transferred invest-

ments. And depending on the value of the investments at the time of the transfer, you could have two tax issues to consider:

1. If the investment has gone up in value, there will be capital gains tax to pay. But, you may also have offsetting capital losses if you sell off other investments that have gone down in value. Even if you don't have any losers in your portfolio (which is a good problem), since the contribution itself will shelter at least double the capital gains tax, these contributions may not be a bad idea, especially if you would not otherwise have the resources to make a contribution.

2. On the other hand, if your investments have gone down in value since you originally acquired them, another set of tax rules known as "stop-loss rules" may deny the loss (this applies when you sell and you (which would include your RRSP), or an "affiliated person" (i.e. a spouse or minor child) reacquired the investment within 30 days. One potential alternative to avoid the stop-loss rules is to sell your shares on the market and have the RRSP reacquire the same investment. Be warned though: some CanRev Technical Interpretations suggest that the General Anti-Avoidance Rule might apply in these cases. Whether CanRev would succeed on this basis (especially in light of certain Supreme Court decisions on

GAAR), or even bother to make a federal case about your tax file to begin with, is another matter.

Retiring Allowances. A large severance payment may present a great opportunity for a catch-up contribution. Kicking the payment into your RRSP may shelter tax you would otherwise pay on the severance itself.

For longer-standing employees, there's another opportunity to enlarge your RRSP contributions as a result of a severance payment, as this type of payment usually qualifies as a so-called "retiring allowance" if you were on the job during 1995 or previously. The amount per year that you can contribute to your RRSP – this is over and above your normal RRSP limits – is \$2,000 for each year between 1989 and 1995 when you had the job. (For years of service prior to 1989, the extra RRSP contribution room can be hiked from \$2,000 to \$3,500, except for years where employer contributions to a pension or deferred profit-sharing plan have since "vested").

If your employer transfers the retiring allowance directly to an RRSP, withholding on the payment can be avoided. Otherwise, you must make the retiring allowance contribution by the normal RRSP deadline for the year in which the retiring allowance is received. By the way, you can't contribute a retiring allowance to a spousal RRSP.

Should I borrow to make an RRSP contribution? You've probably already seen bank advertisements relating to borrowing to contribute to your RRSP. For some of you out there, the idea of incurring more debt may leave you a little

queasy. But when you think it through, by making an RRSP contribution from your cash on hand instead of paying down the principal on your mortgage, you are, in effect, borrowing to contribute to your RRSP – i.e., by leaving the principal amount of your mortgage outstanding. So, leaving your mortgage outstanding and taking out an RRSP loan are pretty well one and the same strategy.

So, borrowing may make sense, if you think you can make a better return on your RRSP than the interest you pay, especially if you expect your tax bracket to drop when you retire (this includes borrowing to make a catch-up contribution). In figuring whether your tax bracket will drop after retirement, watch out for hidden taxes, such as Old Age Security and other items that are subject to "clawbacks" as income increases.

Although there is something to be said for borrowing to contribute, it does not mean that you should do it. Yet the advertisements put out by some banks would lead you to believe that it's a no-brainer. But much of the advertising focuses on your short-term position – leaving out the tail-end tax effects of the RRSP-loan gambit, thus conveniently omitting the biggest downside of the strategy. The bottom line is that, while this may not be a bad idea if you can pay down your loan in the not-too-distant future, longer-term loans may not make much financial sense unless you are confident you can earn more on your investments than your interest charge. As this pretty well rules out interest-bearing investments, it means you're leveraging yourself

up in the hope that your mutual fund and stock returns will defray your interest charges, and then some. But as we all know too readily, stock market investments have their risks – particularly if levered. By leveraging your RRSP nest egg on a long-term basis, you may be betting the farm.

Slash Your Source Deductions. One rather unlikely source of cash could be the source deductions withheld on your paycheque. Many people regularly get tax refunds because of deductions such as support payments, carrying charges on investments, and so on. While this may give you a good feeling when you file your tax return, the truth is that you are really lending the government money – your money – on a largely interest-free basis. In fact, by the time you get your refund, Can-Rev could have had the use of your money for up to a year and a half – money that could come in handy this time of year, to pay for holiday spending, winter vacations and the like.

If you're in this situation, you can actually request a reduced withholding from source from the CRA by simply filling out Form T1213, which can be found on the CRA website, and filing it with the Client Services Division of your local CRA Tax Services Office. If CRA approves your request, they will notify you in writing, which will take between four to eight weeks (note that the CRA will most likely not approve your request if you owe tax or have a tax return which is overdue for filing). Once you receive written notification from the CRA, present it to your employer, who should then reduce with-

holding accordingly. You usually have to file this request every year. However, if you have deductible support payments that are the same or greater for more than one year, you can make this request for two years.

Most tax offices are quite cooperative when it comes to this procedure. According to CanRev, there is no specific minimum amount below which they will not consider an application. (Occasionally, the personal exemptions on which your source deductions are partly based may change. If so, you should fill out form TD1 with the revised exemptions, and give

it to your employer, who will adjust your source deductions in accordance with the revised information – in this case, CanRev approval is not required).

One item that may get you a source-deduction slash is an early RRSP contribution for 2020. Contributing early in the year also means your earnings will compound on a tax-sheltered basis sooner rather than later.

One word of warning, though, if your refund is based on something you don't want the feds looking at, you may want to think twice before you apply for a source-deduction slash: It is possible that your application

could result in scrutiny of the items on which your claim is based. So if you are making aggressive claims, it may be best to leave well enough alone.

Inheritances - or perhaps an advance on an inheritance. Note: If you receive an advance on an inheritance as a gift rather than a loan, and you are married when this occurs, the advance should be documented so that the gift, and subsequent income earned on it, is not subject to a spousal claim in the event of marital breakdown (but please speak to your family law advisor to ensure the gift is properly structured). □