

Business Advisory Letter

Editorial Information Privacy

Isn't it just a little disturbing to think of how much of your personal information is sitting out there in cyber space? Social insurance number, financial records, health records, credit card numbers, internet sites visited, travel history, buying habits, driving record, shoe size. Even more disturbing is, that up until this year, we had no enforceable law to govern the collection, use and disclosure of that personal information. Ever wonder why all those credit card companies want you to use their cards? Why you are constantly invited to free skiing vacations? Why your mail includes letters from weight loss clinics? They know who you are.

On January 1, 2004 the protection of individual information moved a large step forward as Canada enacted the Personal Information Protection and Electronic Documents Act (PIPEDA). This legislation has been in affect for government institutions and federally incorporated companies since 2001. Of interest to our clients is that it is now applicable to all private sector commercial enterprises. That is correct; *all private sector commercial enterprises*.

While you may not think your business possesses any revealing personal information, you might want to give this a little more consideration. Do you take credit or debit cards? Do you have employees? Do you have customer names and addresses? Do you email your customers? Do you have customer phone numbers? All of this is personal information used in the course of a commercial activity, and all of it is subject to PIPEDA.

Compliance with PIPEDA can be fairly involved, depending on the size and type of business you operate. You will require a designated individual who will be your business's Privacy Officer. This individual must be trained as he or she will be accountable for the organization's compliance with PIPEDA. After you have determined precisely what personal information you do collect, use and disclose you must develop written privacy policies along with procedures to ensure

your business is adhering to those policies. You will need consent from your customers, employees and other individuals for the collection, use and disclosure of personal information. While some use of personal data is implied by the nature of the service, it will always be best to obtain informed and express consent.

The Privacy Commissioner of Canada is charged with overseeing this legislation. While the PCC has no authority to fine or lay criminal charges it may refer third party complaints to Federal Court along with a recommendation for monetary damages. The PCC also has the ability to make public those organizations in violation of the Act. While this may, at first glance, seem to be toothless, the damage to a business's reputation can be devastating. Would you deal with a business that does not protect your personal information?

Protection of personal information is very important to your customers, and ours. Although PIPEDA has only now legislated information protection, it has always been a critical part of our business practices at VMSW. We are required by the Institute of Chartered Accountants of Ontario to guard our client's personal information, and our own business values reinforce that requirement. Garry Honcoop is our designated Privacy Officer. We are in the process of developing our written privacy policies as the Act requires. We will provide these policies to our clients in due course.

People Management Group, the human resources consultants within our Integrated Business Professionals alliance, has been conducting workshops on the Human Resources implications of PIPEDA for a number of our clients. We would be pleased to refer you to PMG if you wish to participate in future PIPEDA workshops. ♦

Brent VanParys

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A Growing Team

Growth in our business means our team of people also must grow. We are very pleased to welcome these new team members:

Nicole Puchala, Gigi Burgess and Cameron Griffin join the firm as Client Accountants.

Jain Le will spend the next 8 months with us in his co-operative education term from University of Waterloo. Jain is currently enrolled in his fourth year of the Honours Math/Chartered Accountancy and is working towards his Chartered Accountants Designation.

Craig Cunningham is on a 4 month co-operative education term from Brock University. Craig is currently enrolled in second year of the Honours Bachelor of Accounting and is working towards his Chartered Accountant Designation.

Kathleen Potruff joins the Woodstock office to support our Client Reception team.

Amelia Dobson joins the Ingersoll office as a Client Service Coordinator.



Taxation Late Payroll Remittances

Prior to changes announced this past June, the penalty structure for employers who submitted their payroll remittances a few days late were quite onerous.

As an employer, you are responsible for deducting and remitting Canada Pension Plan (CPP), Employment Insurance (EI) premiums and income tax from amounts you pay to your employees along with your share of these withholdings to the Receiver General. In Quebec, employers must remit provincial deductions and contributions to the Quebec Pension Plan (QPP) to the Minister of Revenue of Quebec.

For the most part, employers voluntarily pay their payroll remittances on schedule. However, if they were just a few days late, the previous flat penalty rate of 10% was viewed to be overly punitive.

Penalties Now Graduated

As of June 2003, the Canada Customs and Revenue Agency (CCRA) administratively replaced the flat penalty rate with a system of graduated penalty rates for late remittances. In response to ongoing discussions with employers and associations such as the Canadian Payroll Association, the CCRA revised the penalty structure to

Sharpening The Skills

Education and skill development is a constant at VMSW. Our profession and its body of knowledge are constantly changing.

To keep current on the latest taxation issues a number of our people attended a recent Income Tax Update seminar sponsored by the Certified General Accountants Association of Ontario.

Those on our team who work with our agricultural clients attended a Farm Business and Tax Workshop conducted by the Ontario Ministry of Agriculture, Food and Rural Affairs.

Mark Warnick and Jean Shippey will be honing their tax planning skills at a workshop put on by Tom Delaney, a renowned tax planning specialist.

Brent VanParys completed the Family Council Facilitation course sponsored by the Canadian Association of Family Enterprises and the Canadian Institute of Chartered Accountants. ♦

focus on good performance while deterring employers who chronically remit late.

The current penalties for remitting late are:

- ✓ 3% for remittances that are late 3 days or less
- ✓ 5% for remittances that are 4 or 5 days late
- ✓ 7% for remittances that are 6 or 7 days late, and
- ✓ 0% for remittances that are 8 or more days late.

Failure to Remit or Pay

However, the penalties for failing to deduct or withhold have not changed. An employer who fails to remit or pay as and when required may be subject to a penalty of 10%. A 20% penalty applies where the failure to remit is made knowingly or under circumstances amounting to gross negligence.

Director's Liability

If a for-profit or not-for-profit corporation fails to deduct, withhold, remit or pay amounts held in trust for the Receiver General (CPP, EI, income tax and GST/HST), the CCRA may also hold the directors of the company at the time of the failure personally liable to pay the amount due, including penalties and interest.

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December is a good time to reflect on the company's operating costs for the past year.

Although your company year-end may not coincide with the calendar year-end, comparing your financial results to date with budget estimates at this time of the year can help you determine if business expenses are in line as well as highlight areas that need attention. Doing this review now may help you find incentives for making cost-saving changes for the new year.

Communications

While communications are the backbone of business, the costs can creep higher and higher as technology provides more and more options. Perhaps it is time to take a serious look at the actual services and time used for your Internet, cell phone, and landline communications. Is usage greater than anticipated when you signed up? Is the business paying for blocks of time that are not being used? If you purchase blocks of time, would it be more cost-effective to pay-as-you-go? Alternatively, would blocks of time be a better deal? If your cell phone usage seems high, have you considered pagers? If your costs for any of these communications have increased, is there a package deal that would better meet the needs of your business?



Taxation Keeping Track of Vehicle Expenses

If you use your own or a company vehicle for business or employment purposes, it is important to keep careful track of the related expenses that you may claim for income tax purposes.

Last winter, the 2003 Budget introduced new rules relating to automobile benefits. As a result, many individuals who are provided with a vehicle by their employer may benefit if more than 50% of the usage is business-related and they travel less than 20,000 kilometres in a year for personal purposes. However, to benefit from this change, the CCRA will require documentation of personal versus business use of automobiles. One of the best ways to keep complete and proper records is through the use of an automobile log that you can keep in the glove compartment of your car.

A recent court case underscores how using an automobile log can minimize your potential tax liability and help you avoid unnecessary assessments. Because the taxpayer could not provide any demonstrable evidence relating to his actual usage of the company-owned vehicle, the CCRA assessor made an estimate based upon assumptions that resulted in a very unfavourable assessment to the taxpayer.

While the taxpayer was ultimately successful in overturning this assessment, the judge commented:

Interest

Look at the company's interest costs. When these costs are appropriately allocated in your financial reporting system, you can determine the sources and make adjustments. If, for example, most of the interest expense comes from carrying balances on credit cards, are the cards being used to finance operations? Consider using a line of credit, which can be obtained at a lower interest rate, and pay the credit card balances in full each month.

Vehicles

Review the owned or leased company vehicles. Are there vehicle leases to be renewed? Should you buy-out the lease, renegotiate, or change leasing companies? If the company uses luxury cars, would more economical models serve just as well? Are some leased vehicles no longer needed? This review can help you revisit your vehicles usage. Reducing the fleet or stepping down a model or two will also reduce your car insurance premiums.

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“It is unfortunate that [the taxpayer] did not keep a log recording his personal use of the truck in the years under appeal, as that would have negated the need for this litigation.”

The Automobile Log

When you use your employer's car, you will need a record of the kilometres driven for business purposes. If you use your car for business, you will also need a record of your expenses. You should keep an automobile log in which you record:

- ✓ the total kilometres that you drove
- ✓ records of any business trips, including date, destination, purpose and total kilometres
- ✓ the odometer reading of your car at the beginning and end of every tax year. If you change vehicles during the year, be sure to record the odometer readings at that point as well, and
- ✓ receipts for fuel, lubricants, car washes, motor oil and other car-related expenses, which are deductible in proportion to the use of the car for business purposes.

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Announcement

Government Announces Restrictions on Charitable Donation Tax Shelter

John Manley, Deputy Prime Minister and Minister of Finance, recently released draft amendments to the Income Tax Act limiting the tax benefits of charitable donations made under tax shelter and other arrangements.

The proposed amendments today respond to concerns that various promoters are marketing charitable gifting schemes to the public in which property acquired by a taxpayer is donated to a charity at a value represented to be in excess of the taxpayer's acquisition cost. These "buy-low, donate-high" arrangements provide taxpayers with a tax benefit greater than their actual cost of the donated property. These proposed amendments will not apply to gifts of publicly traded securities, certified cultural property, ecological gifts, or real property situated in Canada.

As of 6:00 p.m. EST on December 5, 2003, the value of a gift of property for charitable donation purposes will be limited to a donor's cost of the property, where it is donated within three years of acquisition by the donor or is otherwise acquired through a gifting arrangement or in contemplation of donation.

The Minister also released draft amendments relating to limited-recourse debt and "split-receipting." These measures implement proposals introduced in Budget 2003 that address charitable donation arrangements that were promoted in recent years involving the use of limited-recourse debt. The draft amendments also incorporate changes put forward in December 2002 relating to the right to receive a benefit in respect of the donation. ♦

Personal Income Tax - Marginal Rates in Ontario 2004

<u>Taxable Income</u>	From \$0 to \$8,012	From \$8,012 to \$35,000	From \$35,000 to \$58,768	From \$58,768 to \$66,752	From \$66,752 to \$70,000	From \$70,000 to \$113,804	Above \$113,804
<u>Federal Taxes</u>							
Basic Federal Individual Surtax (1)		16.00%	22.00%	22.00%	22.00% 0.00%	26.00% 0.00%	29.00% 0.00%
	\$0 to \$8,044	\$8,044 to \$33,375	\$33,375 to \$58,768	\$58,768 to \$66,752	\$66,752 to \$69,238	\$69,238 to \$113,804	\$113,804
<u>Provincial Taxes</u>							
Basic Provincial		6.05%	9.15%	9.15%	11.16%	11.16%	11.16%
Fair Share (1) 20%				1.83%	2.23%	2.23%	2.23%
Fair Share (2) 36%						4.02%	4.02%
Marginal Rates	No tax	22.05%	31.15%	32.98%	35.39%	43.41%	46.41%

Sample Calculation

Taxable Income	<u>\$115,000</u>
	Tax
From 0 to \$8,012	\$0.00
From \$8,012 to \$35,000	5,950.85
From \$35,000 to \$58,768	7,403.73
From \$58,768 to \$66,752	2,633.12
From \$ 66,752 to \$70,000	1,149.47
From \$70,000 to \$113,804	19,015.32
\$113,804 and above	<u>555.06</u>
Total tax	<u>\$36,707.56</u>

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