

Are You Paying Your Accountant To Work For The CRA?

Are you paying your accountant to work for the CRA? So it would seem, when you see the incredible efforts by some to have you pay more Income Tax than you should. This will be illustrated in the following story of a poor donor taxpayer, who on assuming his accountant knew it all, relied on him solely only to his chagrin.

I have seen stories like this so often I have lost count and it just makes me ill at the prices we pay accredited people who either should know their material or at least be able to make an effort to research it for validity first, prior to relying totally on CRA's Public Relations Campaign, which they should know, and which has time and again been proven to be incomplete, deceptive and misleading.

Accountant fear, incompetence, or just plain laziness, call it what you will, but taxpayers should be getting a lot more for the fees they pay rather than this misguided advice, which I've seen so much of, and that would have a taxpayer maximize the tax he pays rather than maximizing allowances and entitlements given to them in the Income Tax Act. Legal tax reduction is NOT tax evasion. You would think tax professionals would know the difference, instead of being guided by the CRA to do things in CRA's best interests.

In 2008, Jim, a local self-employed individual purchased a very legal and legitimate Registered Profitable Gifting Arrangement (RPGA). While not going in depth on the commercial transactions involved, Jim essentially bought \$6,000 of medicines on credit paying \$1500 in prepaid interest on a seven year loan. At the fourth year Jim could either continue interest payments and then pay off the loan for cash (not profitable) or return replacement pills which he would buy elsewhere and through arbitrage realize a profit. The \$6000 donation would give Jim a \$3000 tax refund.

The program met all the requirements for RPGA's under sections 237 and 248 of the Income Tax Act (ITA). On auditing CRA validated both the purchase of the drugs and their delivery to the charity involved and to the ultimate beneficiaries of the medicines. As required under the ITA and subject to severe penalties including imprisonment for non-compliance, Jim was issued a completed CRA filing form T5003 and donation receipts from the Charity to file with his 2008 tax return, which he gave to his accountant.

Upon receipt of these official CRA filing documents Jim's accountant, using CRA's Public Relations Campaign piece (Tax Alert) went into a harsh criticism of Jim for getting involved in the RPGA, calling it a scam (even though this has never been shown to be the case) and that he was not entitled to any of his donations except the \$1500 he paid (Jim's prepaid interest), which the accountant mistakenly listed as the donation and showed the promoter as the Charity and not the actual charity itself. The accountant made no effort to understand or research the program or claim and chose instead to belittle his client for the benefit of CRA.

Of course this would result in a reassessment (NOR) of the \$1500 as it was not the donation, missed all the criteria, and was improperly stated on the return. To make matters worse Jim went to his accountant to find out what to do with the reassessment and to no surprise the accountant told him to pay it rather than explaining he could do a notice of objection (NOO) again deriding him for getting involved in the "scam" in the first place. Unfortunately, it would be three years beyond the NOR before Jim would learn the truth and be unable to file a NOO thus forever losing his \$3000 refund, which was legally and legitimately earned.

Jim's mistake is that he never checked with the program or his agent, relying solely instead on the opinions of his accountant. At this point now Jim is out the \$1500 as well as the \$3000 he should have received as a refund. However worse than this Jim also missed the opportunity to access the replacement medicines and now faced having to pay back the full \$6000 loan. That's \$10,500 with no benefit for which he paid his accountant \$250 per hour for this incompetent advice that brought him into this mess.

Had the accountant done a little checking he would not have only learned about the details of how the program worked but how to file it properly, and may have seen through the CRA's Public Relations Campaign for what it is as a result. Not to mention having a happier client in the process. The story did have a silver lining though, in that before it was too late, Jim met me and was able to access his replacement pills to avoid the repayment of the \$6000 loan, although he still lost his refund and his profits. Also for \$2100 he did deliver \$6000 of medicines to save lives even though his accountant deprived him of his refund, and his resulting profit.

In another instance, and a different accountant, I had a client come to see me with a dramatic increase in his income resulting in a pending tax bill of \$46,000. Fortunately, he had a tremendous amount of RRSP room and the cash to fund it from savings and a credit line. Subsequently in putting together a tax plan (no RPGA) utilizing this carry forward we are able to realize \$22,000 of tax savings for him. His accountant charges him \$500 to do a simple tax return. In presenting this to his accountant to verify his 2014 RRSP room, the accountant tried scaring him out of doing this, by suggesting that CRA could try denying this as too excessive. Please... give me a break. This is what he's allowed to do on his Notice of Assessment. It would appear the accountant would prefer him to pay \$46,000 in tax rather than only \$24,000. One has to wonder who the accountant is really assisting.

People really need to be careful with the advice being given today on topics that many accountants are not familiar with, and don't deal with every day. My problem is that when in doubt they would prefer to err on the side of the CRA rather than their fee paying client. You just can't rely on this advice anymore as it would appear to be compromised in CRA's favor. You need to do your homework. While many accountants I am sure try to do the best they can for their clients it would appear CRA is influencing too many to the contrary. So ensure you get facts rather than just opinions. As you can see by the above stories opinions and assumptions can be fatal for the taxpayer and very beneficial for the CRA. This is why we now have Profitable Giving Canada (PGC) to regulate, educate, license and defend these fourth sector (for benefit sector) initiatives and this very real and legitimate sector.

Paul Lauzon