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Marmer Penner Inc. Newsletter

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How to Undo an Undue Hardship

Many support payers have been heard to lament that they pay 46% of their pre-tax income in tax and another 50% in support leaving them virtually no take-home pay. In reality, someone who pays 50% of their salary as periodic spousal support is entitled to a significant income tax deduction and should not be paying the full amount of income tax that would otherwise be withheld from their salary.

Many taxpayers are unaware of subsection 153(1.1) of the *Income Tax Act*. This provision permits a taxpayer to apply to have the amount of the income tax withheld from an employer reduced where the taxpayer can establish that amounts required to be withheld under normal circumstances would cause undue hardship. The Canada Revenue Agency ("CRA") does not require any demonstration of an actual "hardship" beyond that fact that the taxpayer will be owed a refund after filing a return.

Accordingly, an employee who is required to make periodic payments of spousal support is entitled to have his employment source withholdings reduced in order to avoid the undue hardship of having to wait until the following April 30 to recover the tax savings from those periodic support payments.

In order to qualify for the reduced source withholding, an application for reduction of the withholdings is made to the local tax services office on Form T1213 (copy enclosed) and is considered on a case-by-case basis. CRA will also accept evidence of large RRSP contributions, childcare expenses, employment expenses, carrying charges and charitable donations as valid reasons for reduced source withholdings.

Once filed and accepted by CRA, the request to reduce income tax deductions at source remains in effect for the rest of the calendar year. A new request must be filed each year in order to continue the reduced source withholding.

This newsletter is intended to highlight areas where professional assistance may be required. It is not intended to substitute for proper professional planning. The professionals at Marmer Penner Inc. will be pleased to assist you with any matters that arise. Please feel free to visit our website at www.marmerpenner.com.