

Marmer Penner Inc. Newsletter

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2007 Budget – Family Law Implications

Finance Minister Jim Flaherty tabled the 2007 federal budget yesterday and many of the changes impact family law practitioners.

Effective for 2007, a new \$2,000 child tax credit is being introduced. It applies to children under the age of 18. Unlike the Canada Child Tax Benefits (“CCTB”) and the Universal Child Care Benefit (“UCCB”), this is not paid to the parent(s) in the form of a monthly cheque. Instead, it is a non-refundable tax credit which reduces one parent’s federal income tax liability. The \$2,000 credit multiplied by the 15.5% lowest federal tax rate results in a \$310 tax reduction for each qualified child. Unlike the CCTB and the UCCB, this non-refundable tax credit benefits only a parent who otherwise would have had an income tax liability. A parent with no income other than child support has no income tax to pay. That parent may still qualify for the CCTB and the UCCB but will not benefit from this new measure. While the budget documents do not detail all the regulations regarding this new credit, presumably it will be claimable by the custodial parent in cases of marital breakdown.

The spousal tax credit has now been increased to the same level as the personal tax credit. This credit increase of \$1,350 results in additional federal income tax savings of \$209 per annum. Single parent households may claim the enhanced amount under the equivalent-to-spouse tax credit.

Both of the two measures described above will increase the net disposable income of a custodial parent so adjustments may be required

to 2007 support amounts. A single parent with three children under age 18, one of which is claimed as a spousal equivalent, will realize \$1,139 ($\$310 \times 3 + \209) in previously unforeseen 2007 tax savings which may permit the custodial parent to reduce tax installments or request a reduction in employee source withholding of about \$100 per month.

Speaking of installments, the previous threshold required taxpayers who owed more than \$2,000 at year end to pay installments. Now, that threshold has been increased to \$3,000. This may benefit a recipient of spousal support who earns \$30,000 per annum as an employee and another \$10,000 in spousal support. The incremental tax on the support of about \$2,700 previously obligated the recipient to pay four quarterly installments of about \$675. Now, the taxpayer can wait until the following April 30 to pay the entire \$2,700.

Section 7 expenses may get a boost as the maximum annual RESP contribution limit has been lifted and the lifetime contribution limit has been increased from \$42,000 to \$50,000. Furthermore, the incentive to contribute more has increased as the 20% federal grant has been raised from a maximum of \$400 per annum to \$500.

Just as the RESP allows parents to contribute to a vehicle where the investment growth is taxed as the child's income upon eventual withdrawal, a new Registered Disability Savings Plan ("RDSP") is now available for parents of disabled children who qualify for the disability tax credit. Contributions will be limited to a lifetime maximum of \$200,000. Similar to the RESP, the federal government will top it up with grants that vary based on the amount contributed and family income. In addition, Canada Disability Savings Bond payments of up to \$1,000 will be paid annually to RDSPs of lower income families regardless of contributions to the RDSP.

From a net family property standpoint, two measures may reduce contingent income taxes. The first involves the delay in winding up an RRSP. Instead of doing so by the end of the year that a taxpayer turns 69, the wind-up which usually involves the conversion to a RRIF may

now be delayed two more years to age 71. This may have a minor impact lessening the present value of the contingent disposition cost. Of greater significance but less often seen is the ability to utilize the lifetime capital gains exemption for shares of a qualified small business corporation or a qualified farm or fishing property. The \$500,000 exemption is increased to \$625,000 in 2007 and \$750,000 commencing in 2008. The future tax savings thereon can soon be as high as \$174,000 ($\$750,000 \times 46.4\% \text{ tax rate} \times 50\% \text{ capital gains inclusion rate}$).

These comments are not intended to be a complete analysis of the proposed legislation. They are intended to provide you with an indication of the proposed changes that may impact the practice of family law.

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.