Help may be on the way: Deduction of home office expenses for employees required to work from home

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Update - July 31, 2020 - Since BLG's submission to the Income Tax Rulings Directorate at the CRA in March 2020, we have had discussions with the CRA and the CRA verbally confirmed that it would respond to the request. Preliminary responses indicated that a favourable response from the CRA, supported by Finance, should be expected.

Revenu Québec has recognized the broader interpretation of “principally” created by the COVID pandemic and is allowing employees to deduct eligible home office expenses as long as the 50 per cent threshold is met for just some part of the year (full details here). BLG expects that many employees will meet this requirement at some point during the COVID pandemic.

With millions of employees being mandated to work from home during the COVID-19 pandemic and incur additional expenses, employers have been on the lookout for opportunities to offer financial relief to their employees.

Eligibility to Claim Home Office Expenses

Under the *Income Tax Act*, employees who are required to pay for employment expenses not reimbursed by their employer (including those for a home office) may be able to claim a deduction on their tax return for such expenses.

To be entitled to deduct home office expenses, the employee must be required by the contract of employment (written, verbal, or a combination of the two) to maintain a home office that meets one of the following criteria:

a. the home office is where the employee principally (more than 50 per cent of the time) performs his or her duties of employment; or
b. the home office is used exclusively to meet customers or other persons on a regular and continuous basis in the course of employment.

Many are now wondering if a home working arrangement might qualify for a deduction under the first test.

The legislation is unclear on the relevant time period applicable under the “principally performed” test. Historically, the Canada Revenue Agency (“CRA”) has accepted that the test looks at the entire taxation year. Given the current COVID-19 pandemic, we believe this determination time should be limited to the period whereby new conditions of employment have resulted in many employees being required to maintain a home office and incur related expenses.

Recognizing the uncertainty surrounding the “principally performed” test applicable under the COVID-19 pandemic, in March, BLG submitted a request to the Income Tax Rulings Directorate at the CRA to confirm that a broader interpretation of these conditions should be accepted with respect to the deductibility of home office expenses incurred during COVID-19. We have been advised that a response to our request should be forthcoming and has been prioritized by the CRA.

Employer Compliance – Form T2200

For a valid claim, employees must generally obtain from their employer a properly completed and signed CRA Form T2200, Declaration of Conditions of Employment (and its provincial equivalent).

BLG recognizes the administrative burden some employers may face in providing a signed Form T2200 to support each employee’s home office deduction. We have worked with employers in the past, using strategies which reduce the overall administrative burden of providing these forms, while ensuring they are correctly completed.

Takeaway

Under the current COVID-19 pandemic, we believe extenuating circumstances should lead federal and provincial tax authorities to broaden the historical interpretation of the “principally performed” requirement to claim home office deductions. In addition, there are a number of ways to reduce the administrative burden on employers and streamline the Form T2200 process, so this should not be a limiting factor. In summary, we believe employers should be in a position to facilitate the claiming of this benefit by employees for the 2020 taxation year.

By

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