

Personal Taxation Part B

An educational program for individuals and
families anticipating or now in retirement

Beyond the Basics

Comprehensive Strategies:
A longer-term perspective



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Introduction

Basic tax planning consists of maximizing deductions and tax credits in order to minimize an individual's tax liability in a particular tax year. At the next level of tax planning, the focus is not so much the individual as the family unit. As well, the time frame for the plan would generally encompass several years. In summary, advanced tax planning consists of organizing the affairs of the family unit with the objective of minimizing the collective tax burden over a time period of five years or more. To accomplish this objective, we must explore some of the more sophisticated tax planning concepts including tax shelters, income splitting, and the attribution rules. We must scrutinize each individual strategy to ensure that it contributes to the objective of tax planning (which is legal), and avoid strategies that would result in tax evasion (which is illegal).

This workshop will cover 5 principal areas:

- The regulatory environment.
- Tax planning as a family unit.
- Tax shelters.
- Income splitting and the attribution rules.
- Developing an effective tax minimization plan.

A longer-term perspective

The driver for advanced tax planning is not how much income tax we can save in a particular year. It's about what strategies are appropriate to minimize the tax burden of the entire family unit for the next five to ten years.

What are the elements of a comprehensive strategy?

There are five fundamental areas that should be addressed as part of an effective plan:

- Income profile of the family
- Ownership of investment and retirement assets
- Tax strategies currently in use
- What planning opportunities are available, now and into the future
- Going full-circle

Tax deductions, including tax shelters, are reviewed in detail with a specific discussion on Canada Revenue Agency's new General Anti-Avoidance Rule (GAAR), and what this can mean for the average individual.

This workshop will also cover the tax issues related to various investment strategies including borrowing for investment purposes, the CNIL rules and stock options. We will also include a short discussion on some of the special planning issues related to working abroad.

Over the past several years the income tax system has undergone enormous revision and change and continues to do so at a very rapid pace. New rules are continually being added and rules that applied several years ago no longer apply or have changed so much that they are hardly recognizable. Furthermore, we have no way of predicting what future changes to the rules might occur.

The details of the tax system fill volumes and require a certain level of sophistication to interpret them successfully. As time passes and your financial circumstances become more complex, you may feel the necessity to begin implementing more sophisticated tax planning strategies.

The purpose of this course is to provide you with information on advanced tax planning strategies that are aimed at minimizing your family's overall tax liability over time.

Before implementing any tax planning strategy, it is always important to seek professional advice.

First Sovereign Investment Management Inc.

- Financial education and counseling
- Objective, unbiased courses
- Network of alliances with qualified professionals

Learning Objectives

- To acquire a more in-depth knowledge of personal taxation
- To enhance awareness of various strategies aimed at minimizing family income tax over a number of years

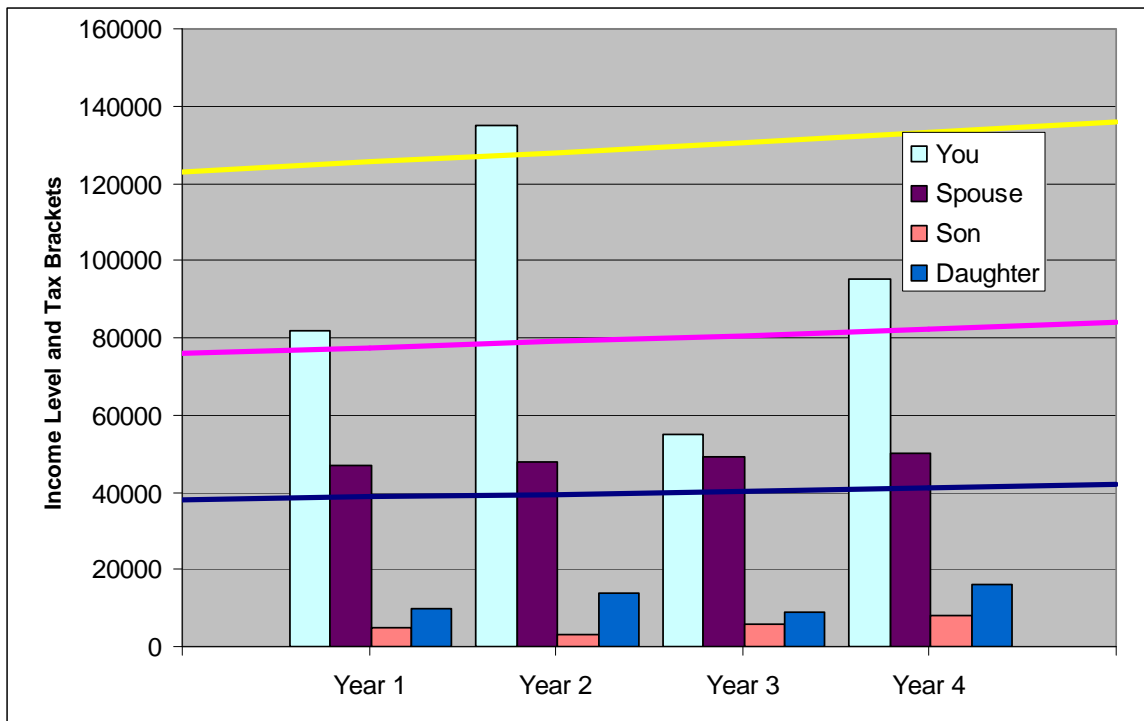
Agenda

- The regulatory environment
- Tax Minimization Strategies
- Tax Planning as a family unit
- Income Splitting & Attribution Rules
- Tax shelters
- Planning to work abroad
- Developing Comprehensive Tax Strategies

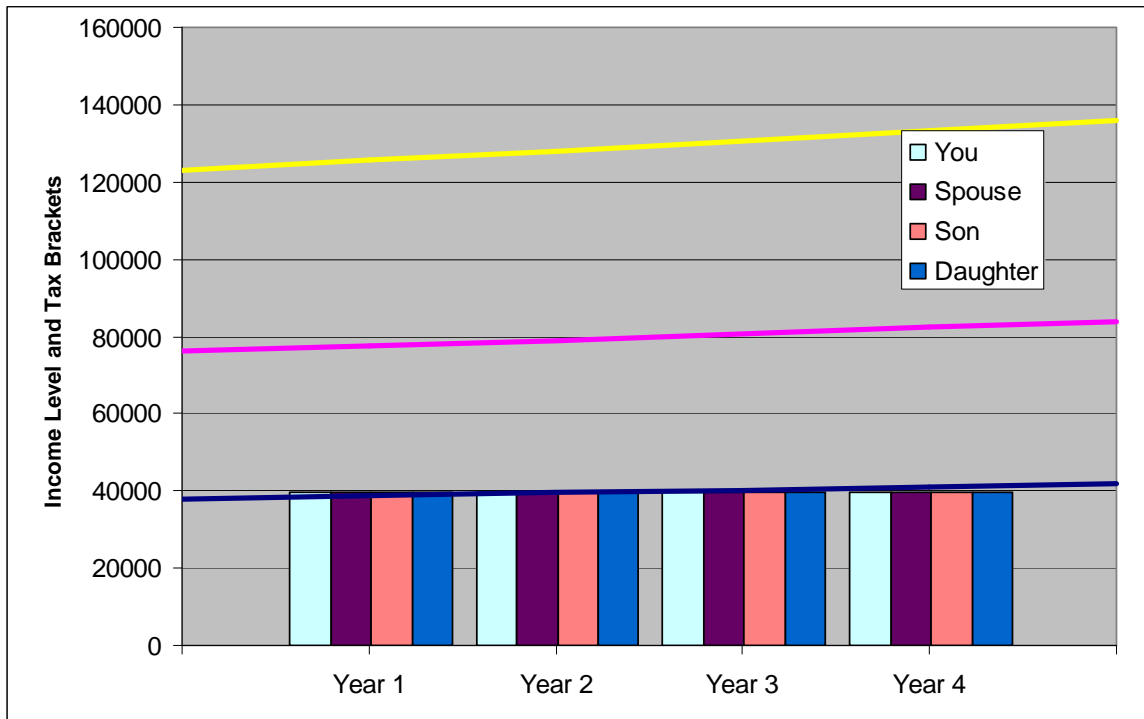
**What do you want to learn in today's session?
List 2 or 3 main points**

The Big Picture

Imagine you forecast your family incomes to look like the following graph



What if you could change things to look as follows



The Rules of the Game

- The Income Tax Act
- Canada Revenue Agency's role
- General Anti-Avoidance Rule (GAAR)

Personal income taxes were introduced in Canada in 1917 as a temporary measure to help fund the war effort (WW I). The Income Tax Act has seen many amendments and revisions since this time, and has evolved into arguably the most complex piece of Canadian legislation.

In addition to the federal Income Tax Act, each of the Provinces and Territories has also enacted its own separate legislation to tax personal income. The end result is a very complex set of rules and regulations that regulate the taxation of personal income in Canada.

Canada Revenue Agency's role is to administer and enforce the Income Tax Act. CRA does not make the tax laws. The Income Tax Act, and the Provincial equivalents, are enacted and amended by Parliament. CRA is responsible only for the assessment and collection of personal taxes. CRA does this on behalf of the Federal Government and all of the Provincial and Territorial Governments except Quebec. The Province of Quebec is the only jurisdiction to administer its own separate revenue assessment and collection system; however, most provinces have moved to, or are moving to a tax on income system. In previous years, provinces calculated their tax as a percentage of the federal income tax.

It is perfectly legal to engage in the activity of tax planning to minimize the amount of taxes you pay, as long as you as long as you keep your planning activities within the limits of the law. Tax avoidance is the activity of manipulating the tax system to obtain a tax benefit in a way in which the system was not intended. The Tax Act has a provision

called the General Anti-avoidance Rule (GAAR) to attempt to catch these types of activity.

Tax evasion is an entirely different matter. It is illegal. If you fail to report income or if you misstate facts so as to claim deductions or credits that you are not entitled to, you are guilty of evading tax. If you are caught, not only will you be required to pay the tax owing but you will also be subject to interest, penalties, fines, and a possible prison sentence.

The Basics

- Income
- Deductions
- Tax Credits

Total income can be derived from many sources, including: employment, operation of a business, investment interest, grossed-up dividends, taxable capital gains, pension, etc.

Taxable income is the amount of income on which there is tax owing. It is calculated by deducting from total income all allowable deductions.

Canada has a progressive tax system, meaning the more you earn, the higher the rate of tax you pay. The marginal tax rate is the rate of tax you pay on your next dollar of income. For planning purposes, we generally recognize four marginal rates of tax:

<u>MARGINAL TAX RATES*</u>	
46%	Above \$127,000
43%	\$77,000 - \$127,000
31%	\$41,000 – \$77,000
20%	Up to \$41,000

*Approx. rates and brackets for 2010. Tax brackets are indexed to inflation. These marginal tax rates apply to most sources of income including employment, business and pension income.

Certain types of investment income receive preferential tax treatment, and as a result we have different marginal tax rates that apply to different sources of investment income:

	<u>INTEREST INCOME</u>	<u>DIVIDEND INCOME</u>	<u>CAPITAL GAIN INCOME</u>
Above \$127,000	46%	27%	23.0%
\$77,000- \$127,000	43%	22%	21.5%
\$41,000 - \$77,000	31%	10%	15.5%
Up to 41,000	20%	-6%	10%

Tax Minimization

- Deduct
- Defer
- Distribute
- De-rate

Deductions

Deductions reduce the amount of taxable income and reduce taxes at your marginal tax rate. The deductions used by the majority of taxpayers are the Registered Pension Plan and Registered Retirement Savings Plan. Other common deductions include:

- Union/Professional dues
- Childcare expenses
- Moving expenses
- Alimony or Separation Allowance paid in the year of separation or the immediately prior year, based on agreements in place prior to May 1, 1997 or in all cases, spousal support paid
- Carrying charges, such as Safety Deposit Box fee or interest expense on loans to acquire non-registered investments
- Employment expenses, such as auto expenses or office in home
- Students - exemption on scholarship, fellowship or bursary income

The value of a deduction depends on your income bracket.

Credits

A tax credit reduces the actual amount of tax you pay as opposed to the amount of income on which you pay tax. The value of the credit is the same for all taxpayers regardless of their income level. Prior to 1988, most Canadians had the opportunity to reduce their taxes payable through a series of exemptions from income. These exemptions or deductions reduced the taxable income, saving tax at the marginal tax rates.

In 1988, many exemptions were replaced by tax credits. For example: the personal exemption was replaced by the personal amount. The conversion from exemptions or deductions to non-refundable tax credits provided tax relief in the lowest marginal tax bracket versus the higher marginal tax bracket for many taxpayers. Non-refundable tax credits reduce the amount of tax payable.

For individuals earning approximately \$41,000 or less per year, this does not have a material impact. However, individuals in the 43% and 46% marginal tax brackets were faced with an income tax increase of 23% and 26% respectively on the exemption amounts.

Tax Minimization

The name of the game is to try and minimize the amount of taxes you pay. The important thing is not how much money you make but how much money you keep. The problem for most people is that they do not understand the basic rules of the tax system. You need to be able to understand how the different types of income are taxed and then how you can reduce, delay, or even eliminate the amount of tax you must pay. Some income is considered tax-free, some receives tax-preferred treatment and some gets tax-deferred treatment. Generally speaking, the following five means can be used to effectively reduce taxes over the long-term:

- Tax-Free Income
- Tax Deductions
- Tax Credits
- Tax Deferral
- Income Splitting

Tax-Free Income

This kind of income is entirely excluded from your income and falls into one or more of the following categories:

- Gains on sale of principal residence
- Gifts and inheritances
- Insurance proceeds
- Lottery winnings

It is prudent to consult with your financial advisor to determine if any of the above apply to your personal circumstances, as there are a few exceptions.

Tax Deductions

- Rental and Business Losses
- Capital Cost Allowance
- Stock Options Deduction
- Carrying Charge-Interest Expenses
- Capital Gains Exemption
- Capital Losses
- Business Investment Losses

Tax Deductions

Another means of reducing your taxable income is to make expenditures that allow you to make a deduction from income or apply a credit to tax payable. There are numerous opportunities to do this but the trick is to know which deductions and credits are available and what you need to do to take advantage of them. A brief discussion of the more common sources of deductions and credits follows.

Rental & Business Losses

- Reasonable Expectation of Profit
- Operating Expenses
- Capital Cost Allowance

Rental & Business Losses

As long as your losses from either a rental property or a business meet the general tax law requirements for business deductions you are allowed to deduct eligible losses from other sources of income.

CRA requires that you have a reasonable expectation of profit in order for you to claim rental and business losses. The tax courts have ruled in the past that rental businesses and other small businesses may take several years to become profitable. It is wise for you to keep track of the reasons for your losses and the steps that you have taken to increase your revenues or decrease expenses in case your losses are ever challenged by CRA. As well you should keep complete records on the initial research you did on rental properties or business opportunities that you select to buy and the reasons that you think the venture will be a profitable investment.

Keep detailed documentation to support all your expenses related to your venture and make sure you claim all deductions and credits that you are entitled to when filing your personal tax return each year.

Capital Cost Allowance

Capital Cost Allowance or CCA is the deduction of the capital cost of equipment or a building over a time period which may be shorter than its estimated useful life. Generally, assets are depreciated for income tax purposes on a pool or grouped basis, which includes all assets of the same type. Income tax depreciation is based on historic cost, not replacement cost or other current value.

The effects of utilizing CCA in your tax planning strategy can have an impact over many years. For example, when you purchase a rental property, capital cost allowance deductions are predictable for many years. It is not required that you use your maximum CCA every year. You may choose to use all or just a portion, or none at all. However, keep in mind that CCA may not result in a rental loss.

Sample Case

John owns an investment property for which he paid \$1 million. At the time of purchase, the building was assessed to be worth \$400,000 and the land was worth \$600,000. After two years, total CCA charges were \$48,000. John sold the property at that point, for proceeds of \$1.2 million. The building was assessed at \$380,000, with the land worth the balance.

How much income does John recognize related to the sale?

How much capital gains does John recognize related to the sale?

What are the positive and negative impacts of using CCA?

Employee Stock Options Deduction

- 50% of the amount of the “benefit” is deductible

Stock Options and Share Deductions

Many companies have plans whereby the employee is granted the right (an option) to purchase shares of the corporation at a given price at some future point in time. You are deemed to have received a benefit from employment in relation to the grant, not when you are granted the option but when you exercise it. The amount of the benefit that is considered taxable is the difference between the price you pay, or option exercise price, and the market value of the shares at the time of exercise. The strategy is normally to exercise options at a time when the option price is considerably below the current market price of the shares and then immediately sell the shares for their current market value. If you elect to hold the shares, you may defer the taxable benefit up to \$100,000 annually until the year you sell the shares.

In order to obtain a partial offsetting deduction for this benefit, certain requirements must be met. The first is that the shares have to be regular common shares, not preferred shares. The second is that the exercise price is no less than the fair market value of the shares at the time the option was granted. Thirdly, the person receiving the grant must deal at arm’s length with the corporation. If all conditions are met you may claim a deduction from income equal to 50% of the taxable benefit. This tax treatment is similar to the 50% inclusion rate for capital gains.

Illustration of a “leveraged” investment:

Individual borrows \$30,000 to purchase a growing investment that will produce little or no current income.

Loan-to-Invest Amount	\$30,000	\$30,000	\$30,000
Interest Rate	7%	9%	12%
Annual Carrying Cost (interest)	2,100	2,700	3,600
Marginal Tax Rate	43%	43%	43%
Average Annual Return	10%	8%	6%
Investment Value in 10 Years (compounded)	\$77,812	\$64,768	\$40,317
Loan to repay in 10 Yrs	-\$30,000	-\$30,000	-\$30,000
Gross Tax on Gains	-\$10,280	-\$7,475	-\$2,218
Net Borrowing Cost in 10 Years	-\$21,000	-\$27,000	-\$36,000
Tax Deduction on Interest	+\$9,030	+\$11,610	+\$15,480
Net Benefit	+\$25,562	+\$11,903	-\$1,896

Assumption: Equity investment held for 10 years and taxed as a capital gain.

Capital Gains Exemption

- Shares of Canadian controlled private corporations
- Interest in a farm
- \$750,000 tax free capital gain
- CNIL rules continue to apply

Capital Gains Exemption

The lifetime exemption of \$100,000 for capital gains was eliminated as of February 23, 1994. However, individual taxpayers may still qualify for an exemption of up to \$750,000 for gains on the sale from farm property or shares of a small business or corporation.

To be considered a small business corporation for purposes of this exemption, the corporation must be a Canadian-controlled private corporation with all or substantially all of its assets used to carry on an active business in Canada or invested in shares of operating companies that qualify as small business corporations. You must have owned the shares for the two years prior to selling them to qualify for the exemption.

To qualify as farm property eligible for the exemption, it must be:

- A farmland and buildings
- Shares of a family farm corporation or an interest in a family farm partnership that was acquired before June 18, 1987 and used in the business of farming (either by you or a member of your family) in the year you sell it, or in any of the previous five years
- For acquisitions after June 17, 1987, you have to be engaged in the continuous business of farming

for at least two years and have earned most of your income from farming.

The rules are similar for capital gains realized on the sale of shares of a family farm corporation or an interest in a family farm partnership.

CNIL

- Cumulative investment losses
- Less: Cumulative investment incomes
- Cumulative **Net** Investment Losses

LOSSES – INCOME – CNIL

CNIL

If you have a cumulative net investment loss (CNIL) you may be restricted in your ability to claim the capital gains exemption. Your CNIL balance is determined in the following way:

Cumulative investment losses	LOSSES
Less: Cumulative investment incomes	<u>-INCOME</u>
Cumulative Net Investment Losses	CNIL

Investment income includes rental income or income from a property or business in which you are not actively involved, interest, taxable dividends, and the ineligible portion of a capital gain.

Investment expenses include investment carrying charges (including interest expense), rental losses from real property, business losses, and one half of resource deductions other than earned depletion from flow-through shares or a limited partnership.

There is no matching of particular expenses to particular investments. If your cumulative investment expenses are greater than your cumulative investment income, then you cannot claim an exemption on a gain on which you had no expenses to the extent of the excess expense amount over the investment income amount.

Exercise: Managing CNIL

James has a business that has become very successful and he is about to retire and sell it this year. The buyer will pay \$1.2 million for it. Esther, his wife, is also a 50% shareholder and works at York University. Their cost on the shares is nil since they built the business from scratch.

James and Esther also own a triplex investment property jointly. In the first year of owning the triplex, there were substantial maintenance expenses and the units were not fully occupied so now James and Esther each have a \$50,000 CNIL.

James and Esther are in the 46% tax bracket.

How much of the CNIL will they use up?

How much capital gains could they earn tax free?

How much of that will they use up?

Next year James plans to sell the triplex. Their capital gain will be \$200,000. How much tax will they pay?

If they could structure their affairs to use the CNIL against the triplex instead of against the business, how much would they come out ahead?

Capital Losses

- Deductible against capital gains only
- Provision to carry forward or carry back unused portion

Capital Losses

A capital loss occurs when the proceeds (less expenses) of a disposition of an investment are less than the adjusted cost base of the investment. Only fifty percent of the loss can be used to offset taxable capital gains. If you have no capital gains then you cannot use the loss against other income. It can be carried back and applied against capital gains in the previous three years where the capital gains exemption was not utilized in that year or can be carried forward indefinitely to be used against capital gains in any future years. This balance is known as net capital losses.

Business Investment Losses

- Stock or debt of Canadian controlled private corporations
- 50% of the loss is deductible

Business Investment Losses

A loss on shares of (or debt owing by) a small business corporation is classified as a business investment loss. Fifty percent of the loss can be applied against other income such as employment income or investment income.

The deductible portion is called an Allowable Business Investment Loss (ABIL). The loss claimed

must be offset by capital gains exemption claimed in prior years and you must realize an equal amount of capital gains in future years before you can use the capital gains exemption again.

ABIL that cannot be used are afforded the same treatment as business losses, in that they can be carried back and used to offset income in the previous three years but they can only be carried forward and used in any of the next ten years. After the tenth year, any unused balance is reclassified as an allowable capital loss.

Summary of Tracking Losses

	Investment Loss (CNIL)	Capital Loss	Business Loss (ABIL)
Source	Passive investmnt expense exceed investmt income	Investment sold below cost	Like Capital Loss but for a small business
Taxation	Loss deducted from income	Offset other capital gain	½ deducted against income
Carryover	Carry back 3 yrs, forward 20	Carry back 3/fwd indefinitely	Carry back 3/fwd 10, then becomes cap loss
Planning issue	Steals Small Bus./ Farm Exemption	Stall gains, recognize losses early	Steals Small Bus./ Farm Exemption

Exercise: classifying losses

	Investment Loss	Capital Loss	Business Investment Loss
John buys shares of Boeing for \$65 and later sells them for \$61	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam owns an investment property. This year's rent totaled \$13,000 but mortgage interest, taxes and other expenses totaled \$15,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Emily invested \$150,000 in her brother's business, which was a complete flop and she lost all her money	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
As a retiree, Emily has modest income and after 10 years was not able to deduct all of the above losses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Exploration and Development

- Oil, gas and mining companies

Exploration and Development

The federal government, through the tax system, offers special incentives for investors in the areas of mining, oil, and gas exploration and development. Investors in these projects are allowed to claim various write-offs for expenditures incurred by the company involved in the natural resources exploration and development programs. The amount and timing of the write-offs depends on the nature of the expenditure. Canadian exploration expenditures are allowed a 100% write-off in the first year. Canadian development expenses are allowed to be written off on a thirty percent declining balance basis. Canadian oil and gas property expenses and foreign exploration and development expenses are allowed to be written off on a ten percent declining balance basis.

These expenditures are transferred to the investors via flow-through share arrangements that allow the companies to pass the expenditures on to the shareholders who, in turn, claim them on their tax returns.

These types of investment vehicles can be quite complex, are generally high risk, and may or may not fit your personal circumstances.

Tax Credits

- Claim all applicable
- Transfer unused amounts
- Maximize between spouses

Tax Credits

As mentioned previously, tax credits are amounts that are direct reductions of the amounts of taxes payable. They are not used in the calculation of taxable income. A \$100 tax credit results in a reduction of taxes payable by \$100, regardless of what tax bracket the individual taxpayer is in.

There are two types of tax credits: refundable and non-refundable. Refundable credits are treated as having actually been paid by you just like source withholdings and installments. These credits, therefore, retain their full value as calculated. Non-refundable credits become worthless once you reach the point of paying no tax at all for the year.

Some non-refundable credits can be transferred to your spouse if you can't use them. If you have a choice as to who makes the claim, bear in mind that tax credits are worth slightly more to higher income earners because of the additional surtax that may apply to individuals with high income in some provinces. If your spouse is not paying a provincial surtax then it is often more beneficial for you to claim the nonrefundable tax credits that can be allocated between the two of you.

High Value Tax Credits

- Charitable donations
- Labour-sponsored investments
- Political Contributions

High Value Tax Credit

Charitable Donations

Charitable donations entitle you to two different levels of tax credit depending on the amount of the donation. The first \$200 of the total donations for the year entitles you to a 15% federal tax credit. This is actually worth approximately 20% - 25% once provincial tax is taken into account. Donations over and above the \$200 entitle you to a 29% federal tax credit which is worth about 40% when provincial tax is taken into consideration.

You can claim receipts that are made out in either your name or your spouse's name. The receipt must identify the organization's charitable registration number.

There is a maximum amount of charitable donations you can claim in any one year. This limit is set at 75% of your net income for the taxation year (100% in the year you die). Donation amounts in excess of this amount may be carried forward and claimed in any of the following five years.

If your donations do not total at least \$200 in any given year you can combine them for two or more years to put yourself over the \$200 threshold. As well, if you and your spouse donate separately, it is a good idea to combine them onto one spouse's return so that you are not subject to the low-rate \$200 credit amount twice.

The donation of publicly traded securities, shares from stock options or other assets can be more complicated to accomplish but may result in greater tax savings for you and your family. It could also potentially enhance the value of your gift to the recipient charitable organization. Professional advice should be obtained before making donations of gifts in kind.

Labour-sponsored Investments

In several provinces it is possible to participate in Labour-sponsored venture capital corporation (LSVCC) shares. Ontario is phasing out the LSVCC in 2011.

Political Contributions

Another high value tax credit can be obtained through making a political contribution to a federal political party and/or to candidates in federal election campaigns. This is for a federal credit only. Provinces also have their own credits for contributions to provincial parties and candidates.

The federal credit is the most generous at the lowest levels in order to encourage political contributions by as many individuals as possible. The federal non-refundable credit is 75% on the first \$400 of contribution; 50% on the next \$350; and 33.33% on the next \$525. There are no federal credits available for contributions beyond \$1,275. The federal and provincial credits for political contributions are not eligible for carry forward.

Distribute: Income Splitting

- Shift income from a high marginal tax rate to a lower marginal tax rate.
- Spouse, Children

Income Splitting

As a result of Tax Reform, many of the techniques that could be used to split income have been legislated against. The Income Tax Act severely restricts your ability to transfer assets to your spouse or to your children. In spite of this, there are still several techniques available to you.

Income Splitting with Your Spouse

- Attribution Rules
- Spousal RRSP
- Shift Ownership
- Loans
- Holding Company

Attribution Rules

Attribution is the assignment of the tax burden back to the individual who has shifted income to someone else. This normally results in:

1. Income being taxed at the higher rate of the individual who has shifted income.
2. Loss of investment earnings for the individual paying the tax bill

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Attribution Chart: Attribution Yes/No

	Resultant Type of Income	Gift	Sale at FMV	Loan at 0%	Loan at Market Rate
Spouse	Interest, Dividends, Rents	Yes <i>Note 1</i>	No	Yes <i>Note 1</i>	No <i>Note 2</i>
	Capital Gains	Yes	No	Yes	No <i>Note 2</i>
Minor Child	Interest, Dividends, Rents	Yes <i>Note 1</i>	No	Yes <i>Note 1</i>	No
	Capital Gains	No	No	No	No
Adult Child	Interest, Dividends, Rents	No	No	No <i>Note 3</i>	No <i>Note 3</i>
	Capital Gains	No	No	No <i>Note 3</i>	No

Note 1 - No attribution on second generation income

Note 2 - Interest payment must be made by Jan. 31 in the following year

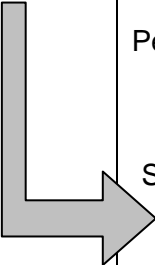
Note 3 - Attribution will apply if sole purpose is to split income and reduce tax

Spousal RRSP

Your total allowable RRSP contribution – or any part of your allowable contribution – may be contributed to a spousal RRSP. This does not, however, increase the total amount that you and your spouse may contribute to your RRSPs. Furthermore, you may only contribute to a Spousal RRSP to the extent that you have personal unused RRSP contribution room available. Any amounts contributed to a Spousal RRSP become the property of the spouse receiving the contribution.

2 Year Rule

Attribution applies to withdrawals from a Spousal RRSP. In order to avoid attribution, the spouse must wait **2 complete calendar years** - from the date of the last Spousal RRSP contribution - before making a withdrawal.

	<u>Contributor</u>	<u>Spouse</u>
Marginal Tax Rate	50%	25%
RRSP contribution limit	\$5,000	\$2,000
		
		<u>Personal RRSP</u> \$2,000
		<u>Spousal RRSP</u> \$5,000
Tax Deduction	\$5,000	\$2,000
Tax Savings	\$2,500	\$500

Shift Ownership of Investments

As discussed earlier, gifting assets between spouses is generally not effective because of the Attribution Rules. There are three options, however, that can be considered:

- 1. Gifting property that is not subject to attribution
- 2. Shifting assets for "consideration"
- 3. Having lower income spouse do all savings/investing from his/her own resources.

Income Splitting with Children

- RESP
- Own money
- Trusts
- Holding Company

Registered Education Savings Plan – RESP

Briefly, an RESP is a trust fund, established with either a scholarship organization or a broker, to which the investor makes capital contributions. Although these contributions are not tax deductible, the investment income earned on the contribution is not taxed until it is withdrawn from the plan. The life of a plan is 26 years and the maximum contribution per beneficiary is \$4,000 per year to a maximum of \$42,000 per beneficiary.

In the meantime, the investment income is allowed to compound tax free within the plan. When funds are withdrawn from the plan, the capital contributions may be returned to the investors free of tax and the accumulated investment income will be returned as taxable income to the beneficiary providing payments are used to defray scholastic costs for fulltime attendance at a designated post-secondary institution.

The Plan allows flexibility as to what portion of the Plan's earnings or growth are recognized as income taxable in the hands of the student. Multiple Beneficiary Plans are available; however, the named beneficiaries must be blood-related or adopted family members.

Past negative aspects of the RESP relating to the situation that results if the child does not go on to post-secondary education have been partially remedied for 1998 and later years. If none of the beneficiaries of the plan have become post-secondary students by age 21, and the plan has been in effect for at least 10 years, you or your spouse will be able to transfer up to \$50,000 of RESP income to your respective RRSP account if you have the contribution room. Any amount that is not contributed to an RRSP will be added to the

contributor's income for the year and will be subject to regular income tax *and* penalty tax of 20%. *If the plan is wound up in less than 10 years from the date of its inception, and if the beneficiary/beneficiaries is/are not attending a post-secondary institution, the contributor will forego the plan earnings. Plan earnings will, instead, be paid to an eligible Canadian postsecondary institution.*

Canada Education Savings Grant – CESG

In 1998 the government introduced the Canada Education Savings Grant (CESG). Essentially the program allows you to earn a direct grant to the RESP of 20% of the first \$2,500 of annual RESP contributions. The grant is worth up to \$400 per year for each year the beneficiary is under the age of 18 and is maximized at \$7,200 in total per beneficiary. There are other stipulations and restrictions, therefore it is recommended you seek professional advice before purchasing such a plan.

Measures from the 2004 Federal Budget

A child born after 2003 is eligible for a Learning Bond in each year the child's family is eligible to receive the National Child Benefit Supplement (NCBS). The amount is \$500 in the first year and \$100 thereafter for each year the family receives the NCBS, up to the age of 15. The bond is payable to a RESP set up for the child.

As of 2005, the CESG rate is 40% of the first \$500 contributed annually if the eligible family's net income does not exceed \$38,000; the rate is 30% if the income is between \$38,000 and \$76,000.

The maximum contribution period is 21 years and the maximum plan life is 25 years (or 25 and 30 years respectively if beneficiary is disabled).

RESP Summary

Subscriber (Contributor):

- Anyone may set up a plan for the benefit of someone else or for their own benefit

Single Beneficiary:

- Can be any person, whether related to the Subscriber or not
- Can be the Subscriber him or herself
- Unrestricted substitutions in beneficiary name are allowed
- Must have valid Social Insurance Number

Multiple Beneficiaries:

- Each beneficiary must be related to the Subscriber by blood or adoption
- Children, siblings, grandchildren, great-grandchildren
- Must have valid Social Insurance Number

Contributions:

- \$4,000 maximum per year/per beneficiary
- \$42,000 maximum lifetime per beneficiary
- Maximum time period is 21 years

Capital:

- May be withdrawn at any time
- Funds returned to Subscriber

Income:

- Accumulates tax-free within plan
- Maximum period is 26 years
- Taxable when withdrawn or on plan wind-up

Tax treatment of funds withdrawn from RESP

Scenario #1

Beneficiary *goes to school*:

- Original Contributions: Tax-free to Subscriber (CESG refundable)
- CESG: Taxable to Beneficiary
- Investment Earnings: Taxable to Beneficiary

Scenario #2

Beneficiary *does not go to school* and plan in existence 10 years/beneficiary over age 20:

- Original Contributions: Tax-free to Subscriber
- CESG: Refunded to Federal Government
- Investment Earnings: Taxable to Subscriber and 20% penalty tax. Penalty tax waived on amounts transferred to RRSP.

Scenario #3

Beneficiary *does not go to school* and plan in existence less than 10 years/beneficiary under age 21:

- Original Contributions: Tax-free to Subscriber
- CESG: Refunded to Federal Government
- Investment Earnings: Paid out to designated Canadian post-secondary institution

Separate Investment Accounts for Children

Child Tax Benefit

The benefit may be deposited to a bank account in the child's name, in trust, or deposited to the parent's/guardian's account and the funds used to purchase an investment for the child. As long as funds can be readily identified as the child's, any income arising from the investment belongs to the child and, where appropriate, is taxed in the child's hands. To ensure proper reporting of income, the parent/guardian should obtain a Social Insurance Number for the child and use it to set up an account in the child's name. This avoids the possibility of the income being attributed back to the parent/guardian when the parent's SIN number is used to set up the account.

Trust Accounts

Another option is to open a brokerage account or mutual fund account for each of your children, using the parent's/guardian's name in trust, for each account and gifting into the accounts from either a parent or grandparent. The gifts must be reasonable according to CRA rules.

A child under age 18 cannot open their own brokerage account. A formal trust could be established for each child, but this is restrictive and can be expensive because of legal fees and annual tax filing requirements.

CRA prefers a third party custodian i.e. someone other than the donor, in order to more clearly establish that the money has in fact been gifted. To set up the accounts, you will be required to provide your name and address as well as each child's name and address, plus individual cheques written in the name of each child for the amount you wish to initially deposit. This type of arrangement will ensure that each child has their own account, and ensures that capital gains are not taxable as the parent's or grandparent's as the

Lined writing area for notes or additional information.

Avoiding Attribution

- Spousal RRSP contributions
- watch the 2 year rule
- Lower income earner does "savings"
- Document any loan to spouse and charge interest
- Money gifted to minor children
- capital gains

Avoiding Attribution

Two Year Rule - Part II

Once funds deposited into a spousal RRSP are converted into an annuity or RRIF on retirement, there is no attribution of income back to the contributor (within limits). There will be attribution, though, if your spouse makes a withdrawal in a year prior to retirement in which you have made a spousal contribution, or in the prior two years.

Family Savings

The easiest way to increase your lower-income spouse's investment base is for the higher-income earner to pay all daily living expenses. Any earnings the lower-income spouse makes can then be saved in a separate bank account and invested in their own name for tax reporting purposes.

Loans to Spouse

According to the attribution rules, where property or funds are loaned and interest is charged at a minimum rate and paid by the spouse, the attribution rules do not apply. Interest cost on the loan is considered income to the lender and is deductible to the borrower.

CRA has prescribed rates that apply to loans for purposes of determining attribution. Interest paid on such a loan is considered income to the lender for tax purposes and is deductible to the borrower. Second generation income (interest on the interest income) is not attributed back to the lender. A significant amount of secondary income can be

built up over time, but it must be scrupulously documented. Your spouse can maintain two bank accounts. One for any income that may be attributed back to you, and one for all the secondary income from the original investment.

Minor Children

As mentioned above, you should invest gifts to minor children in capital gains type of investments. Earnings on these gifts will be taxed to your child, upon disposition, rather than you. Interest and dividend type investments will be attributed back to you for tax purposes.

Tax Shelters

- Structured investment programs that feature certain tax advantage
- Limited Partnerships
- Flow-through Shares
- Film Production
- Software Development
- Labour-sponsored Funds

Tax Shelters

Tax shelters are essentially tax-assisted investments. Investors are attracted to these high risk business undertakings because the government allows them to write-off a portion of the investment, offering them the opportunity to increase their after-tax profits through reduced taxes.

The high risk of these investments is due to the fact that they are generally illiquid. Most reputable financial advisors recommend that an investor should commit no more than 5%- 25% of their assets to tax shelter investments. Each shelter should be carefully evaluated on its investment merits first before considering the tax incentives. Tax shelters are not for all investors. The ideal client for tax shelters is the high-net-worth, high-income earner who can afford to have a portion of his or her portfolio in such a risky asset. The investor should also be debt free and have maximized their available RRSP contribution room.

A tax shelter is defined in the Income Tax Act to be any property for which a promoter represents that an investor may claim deductions or receive benefits (such as tax credits or revenue guarantees) which equal or exceed the amount invested within four years of its purchase.

A brief discussion of various tax shelters follows.

Start-up Business Limited Partnerships

Limited partnerships (LPs) are referred to as tax shelters, but they are really a way for a company to sell its tax losses. The investment is usually a high risk project where the startup cost is large and payback takes a long time. Because the start-up costs are usually large and profits can take a long time to materialize, the business expenses in startup are not useable by the company because they have little or no profit in the early years. The concept of the LP is for the company to raise money selling these losses to investors. In return, the investors are hoping to get a potential future gain from the project itself, plus the tax deductions that the project's promoter can't use now.

As a partner in the limited partnership, you share the profits of the business with the other partners, and report a percentage of the partnership's income (or loss) directly as your income on your annual tax return. This share of income or loss must be reported whether or not you have actually received any of the income. Because this investment is a "limited" partnership, you cannot be sued for the partnership's debts. You are only at risk of losing your original investment.

Limited partnerships are very complex. They often involve major financial commitments, with funding for the investment often provided through heavy leveraging. Before you buy into one you should obtain an independent review by an accountant or experienced financial planner.

Software Development

For many years one of the main incentives for investing in software development companies was that the entire cost of the investment could be deducted as capital cost allowance over two years. As of August 6, 1997 new CCA restrictions apply. The two-year CCA deduction for computer software used in a taxable business is to be limited to the related income from the venture.

Resource Exploration Flow-through Shares

Flow-through shares are special shares issued by a corporation involved in resource exploration. Under

the Income Tax Act, the corporation can forgo some of its resource expenses and pass the rights to these claims to the owners of the flow-through shares. The flowing-through of the deductions allows the shareholders to use write-offs which otherwise could not currently be used by the corporation, especially if the corporation has just started up and has little or no revenues.

The particular deductions you get will depend on the classification of the corporation's income and expenses. For tax purposes you will receive a statement and/or an information slip indicating your share of some or all of : Canadian exploration expenses; Canadian development expenses; Canadian oil and gas property expenses and resource allowance.

Canadian Film Production

Investments in Canadian-content productions are allowed to be written off on a 30% a year declining basis, with an additional allowance deducted from income not to exceed the amount not yet written off. Investment in the marketing of film and video is considered a business expense and therefore is 100% deductible when incurred.

There are several available structures, including investments in video productions, CD-ROMs, production services, film prints and television advertising. The write-offs vary depending on which of these areas the particular investment falls into. When investors are evaluating these types of shelters, a prime factor should be that investors have first priority to receive revenues until they have recouped their investment costs. After that point the investors may then receive a preferred rate of return and a share of the profits. The investor in these types of investment vehicles expects to make profits first and gain tax benefits second.

Advantages

- Immediate tax deductions/savings
- Last-minute club

Disadvantages

- Over-priced
- Underlying investment values often questionable
- Frequently subject to review by CRA
- Not liquid

Tax Shelter Evaluation Criteria

- Reasonable Expectation of Profit
- At-risk rule
- ROI

Reasonable Expectation of Profit

Where no real business activity is carried on or where there is no reasonable expectation of profit, all losses claimed by the investor will be disallowed by CRA.

At-risk Rule

CRA has taken steps to restrict the amount of write-offs an individual can claim for various tax shelter investments. Under the "at-risk" rules, the amount of business losses or tax credits that an investor can claim cannot be more than the amount of his at-risk investment in the partnership. The at-risk amount is calculated as the adjusted cost base of the partnership interest, plus the current year's income, less certain amounts owing by the investor to the partnership and less any guarantee or indemnity provided to protect the limited partner against the loss of his or her investment. As well, the at-risk amount is reduced by losses and investment tax credits allocated to the investor.

ROI

Tax shelters should not just be considered on the basis of tax benefits alone. The tax benefits should be a secondary requirement to the return on the investment. The investor needs to assure him or herself, through due diligence, that the potential profit to be gained from investing in the tax shelter is commensurate with the risk involved.

Sample Case - Revisited

Pat and Dawn have been married for the last 18 years. They have two children; Ben, age 13, and Betty, age 15. Pat is age 45, and has been employed with the same employer for the last 15 years. Dawn is age 44. Dawn has only recently returned to work full-time after having spent most of the last 15 years at home with the children.

The following summarizes their net worth:

ASSETS	<u>PAT</u>	<u>DAWN</u>
Registered		
RRSP	\$25,000	\$ 6,000
DPSP	\$35,000	
Non-registered		
Bank accounts	\$ 8,000	\$ 2,400
Canada Savings Bonds	\$20,000	
GIC's, Money Market	\$10,000	
Equity Investment	\$27,500	
House	\$185,000	
LIABILITIES		
Mortgage	\$50,000	

The following is a summary of their current tax situation:

	<u>PAT</u>	<u>DAWN</u>
Employment Income	\$100,000	\$30,000
Bonus	10,000	
Interest Income	950	95
Dividend Income	550	
Capital Gains	850	
RRSP Contributions	2,950	3,000
Charitable Donations	120	385
Political Contributions	250	

Individual activity

Review the case study and identify five tax planning strategies that should be considered.

1.

2.

3.

4.

5.

Working Abroad

- Residency test
- Potential for dual taxation
- Change of use of principal residence
- Investments and RRSP left in Canada

Residency Status

Your residency status depends on such things as the reason and length of your stay abroad, how often and for how long you make return visits to Canada, and the residential ties you may or may not have within Canada.

Residential ties include a home in Canada, a spouse and dependants who remain in Canada while you are living in another country, and personal property in Canada, such as a car or furniture. Other ties that may be relevant include ties to social clubs or organizations in Canada, a Canadian Driver's license, Canadian bank accounts or credit cards, and health insurance with a Canadian province or territory.

Canadians working or traveling abroad for extended periods of time are classified in one of three ways. Each classification has different consequences in terms of reporting income and paying taxes. For more complete and detailed information you should consult with CRA or a specialist in expatriate considerations. The three classifications of resident are:

Factual resident -

You have kept residential ties with Canada while living or traveling abroad. For tax purposes you are still considered to be a resident of Canada. Factual residents include family outside Canada, commuting daily or weekly to a job in the US, vacationing outside Canada for an extended period and under certain conditions, missionaries

Deemed resident -

You have not kept residential ties with Canada while living or traveling abroad for extended periods of time. Deemed residents include such people as: members of the armed forces, diplomatic service personnel, etc. For tax purposes you file your tax return like a resident of Canada except you have to pay a federal non-resident and deemed resident surtax and you cannot claim provincial or territorial tax credits.

Non-resident -

You have severed all residential ties with Canada and there is permanence to your stay abroad. You may be required to file a return to report certain income items of Canadian origin. **There are special rules that apply to non-residents and therefore it is strongly recommended that you seek professional advice if you fall into this classification.**

Dual Taxation

In order to avoid double taxation, Canada has tax treaties with many countries so that you can avoid having to pay tax in two countries for the same income. These tax treaties generally deal with the issue of how much tax each country can require for such things as salary and wages, pensions and interest income.

Change of use of Principal Residence

When becoming an expatriate, you may choose to retain your residence to rent out after you leave Canada. Unless you elect otherwise, you will be deemed to have disposed of the property at fair market value when you first rent the property out and again when you return to Canada and take up principal residence in the property. If you do plan to return to Canada eventually, it is usually worthwhile to make the election, because then you can defer the tax that would otherwise be payable on any capital gains that accrues during the period that the property is used as rental property. As well it may be possible to get an exemption on gains that accrue during a portion of the time you had rented the property out before returning to live in it as your personal residence.

Effective Tax Planning

- Comprehensive
- Time
- Commitment
- Written Plan
- Professional Advice

Developing a Comprehensive Strategy

- Income profile
- Cash flow constraints
- Investment Profile
- Risk Profile
- Time frame
- Number of family members to include
- Existing strategies

The Worst Mistakes

- Belonging to the Last-Minute Club
- Too much focus on the short term
- Planning in isolation
- Failure to gain complete understanding of your tax planning strategies
- Poor advice

What does my Action Plan need?

- Changing advisors?
- Figuring out the tax implications of my various plans and intentions?
- Rebalancing the equity versus bonds versus money market in my portfolio?
- Updating records on what gains and losses I have?
- Changing my RRSPs to reflect new foreign content rules?
- I need a game plan from start to finish?
- Getting my investments managed as a family unit tax efficiently?

Action Plan

ACTION	DETAILS	TARGET DATE

Strategic Wealth Management

Preparing for Retirement – A: Getting Started

“If you don’t know where you’re going, any road will take you there.”-George Harrison. Are you on path to achieve your goals? In this workshop we focus on putting a process in place to achieve your goals. We focus on cash management strategies and the wealth management process. Secure the foundation of your financial plan

Personal Investing – A: Core investing components applied

“Fads are the kiss of death. When the fad goes away, you go with it.”-Conway Twitty. Understanding core concepts will help you identify and protect yourself against investment fads and build a solid investment strategy. In this workshop we talk about investment components, types of risk and how to avoid them, and the factors that contribute to your successful investment strategy.

Personal Taxation – A: Introductory concepts in tax minimization

“Income tax has made more liars out of the American people than golf has.” –Will Rogers. Give yourself credit! Credits, that is... and deductions. This workshop looks at how our progressive tax system works and explores some of the core tax reduction strategies we should consider for LEGALLY minimizing our taxes.

Life Insurance & Estate Planning: Understanding the importance of security & structure

“Certainty? In this world nothing is certain but death and taxes.” –Benjamin Franklin. Dying. The material impact of death is not something we really want to think about, much less talk about. But, it’s something we need to know about. This workshop will look at the various components of a well-structured estate plan, including wills and will preparation, insurance (needs, amounts, types), Powers of Attorney and a brief introduction to trusts.

Personal Investing – B: Investment planning concepts & strategies

“More important than the will to win is the will to prepare.” -Charlie Munger. Take the next step in your investment education by participating in this workshop. The session will focus on strategic investment issues such as risk reduction through diversification, asset allocation and the tax implications of various investment choices. Look at the various investment styles and objectives of the funds available to you.

Questions and discussions are encouraged and are an integral part of this workshop.

Personal Taxation – B: Comprehensive strategies: A longer-term perspective

“Never make anything simple and efficient when a way can be found to make it complex and wonderful.” –Unknown. Now that you understand basic tax planning, you will appreciate the more advanced concepts and strategies discussed in this workshop. In this session, we will look at tax planning as a family unit, tax shelters, income splitting/ attribution, and developing an effective tax minimization plan. We aim to make simple what the government has made complex!

Preparing for Retirement – B: Focus on financial planning

“Retirement kills more people than hard work ever did.” –Malcolm S. Forbes. To enjoy your golden years, you should take as many stressors as possible off the table. Financial worry is a big category. You have retirement dreams ahead. It is time now to focus your financial planning activity. This workshop will take a detailed walk through the 6 steps of building a solid retirement financial plan. The session will cover financial objectives and needs in retirement, income sources, identification of problem areas and corrective measures, tax & investment issues. This workshop ties together all the concepts we have learned so far. Finally, you will create an action plan.

“Plans are only good intentions, unless they degenerate into hard work.” –Peter Drucker
Take action on what you’ve learned from these workshops

Resources

First Sovereign Investment Management Inc.
Phone: 416-489-4843
Toll-free: 877-389-4843
info2@firstsovereign.com
www.firstsovereign.com

Central Volunteer Agencies (Local) Publications

Toronto: (416) 961-6880
Calgary: (403) 265-5633
Ottawa: (613) 789-4876
Peel: (905) 568-2660

Elderhostel (Belleville, Ontario)
(613) 530-2222

Canadian Association of Retired Persons
27 Queen Street East, Ste. 1304
Toronto, ON M5C 2M6
1-800-363-9376

One Voice
1005 - 350 Sparks Street
Ottawa, ON K1R 7S8
(613) 238-7624
(613) 235-4397

Expression
National Advisory Council on Aging
Ottawa, ON K1A 0K9
(613) 957-1968
(613) 957-9938

**Canadian Executives Services Overseas
(CESCO)**
175 Bloor Street East
Toronto, Ontario
M4W 3R8
1-800-268-9052

Publications

Good Times
777 Bay Street, Ste 2700, Box 148
Toronto, ON M5G 2N1
1-800-465-8443

Sears Mature Outlook Newsletter
Contact local Sears store for information
United States

Modern Maturity

American Association of Retired Persons
3200 E Carson Street
Lakewood, CA 90712 U.S.A.

New Choices
Retirement Living Publishing Co. Inc.
28 W 23 Street
New York, NY 10010 U.S.A.

Web Sites - Specific

Focused subjects/issues

<http://www.investmentcounsel.org>
Information on different types of investment
professionals and how to choose one for
yourself

www.cfp-ca.org
Information on financial planning
professionals and services

www.ccra-adrc.gc.ca
Canada Customs and Revenue
Agency - Information and forms

www.sec.gov
Securities and Exchange Commission
(U.S.) - Mutual Funds cost calculator

www.retireweb.com
Overview of financial and other issues dealing
with retirement

Web Sites - General

News, Education, Calculators, Etc.
www.finpipe.com
www.imoney.com
www.quicken.ca/eng/index.html

