



CESTNICK

TAX MATTERS

Working from home during this pandemic could provide tax savings

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Here I am, working from home – like many of you. I’ve never had so many video conference calls in a week – but they’re going well. I try to look good – from the waist up. As a general rule, working from home means pants are optional (well, dress pants anyway).

In addition to fashion benefits, working from home can bring tax benefits. Given that more Canadians than ever are working from home because of the COVID-19 pandemic, it raises the question: What tax savings can you gain through this time? Let me share the rules, and my perspective on this.

THE RULES

There are special tax rules that apply to folks who work from home. The rules are slightly different depending on whether you’re an employee or self-employed. Today, I want to talk about employees. Our tax law says that employees can claim a deduction for

certain home office expenses, but only where you meet at least one of the following two conditions: 1) your home is your principal place of work (meaning you’re required to spend more than half your time working from home); or 2) you use a particular room (or rooms) exclusively for earning employment income and you meet customers or others there on a regular and continuous basis for work.

For most employees, meeting condition No. 2 above might be tough. But, condition No. 1 – where your home is your principal place of work – will be a familiar experience these days for many Canadians given the COVID-19 pandemic.

Now, here’s the question: Is it sufficient that an employee be required to work from home, more than half the time, during just part of the year? Say, March and April? That is, could your home be your principal place of work for two

months out of 12 – and therefore allow you to claim home office expenses incurred in that two-month period? Our tax law isn't entirely clear.

My view, which is consistent with the view of many reputable tax professionals, is that you should be able to claim home office expenses if, during some period of this year, your employer requires you to work from home more than half the time during that period. This is fair, logical, and seems to be consistent with the intention of our tax law.

What's required here is that your employer be willing to sign Form T2200, and to certify in question No. 10 of the form that you were required to work from home more than half the time during a specific period in the year. The onus would be on you, the employee, to make sure you prorate your expenses so that you're only deducting expenses that relate to that period of time. You would claim your expenses on Form T777.

To be sure, any employer who signs T2200 forms for their employees this year, given the requirement to work from home during this pandemic, would have a good argument to do so – and the Canada Revenue Agency is not likely to challenge this. Nevertheless, the CRA should clarify for taxpayers whether or not their administrative position is that an employee whose principal place of work is their home, for part of the year, is able to claim home office expenses related specifically to that period of time.

THE NUANCES

Your home is required to be the place where you “principally” perform your

job duties. The taxman has said that “principally” does not mean you must use that space in your home exclusively for work. Your kids can also use the space to complete homework, for example. But you'll need to prorate your expenses based on space (the percentage of your home used for work) and time (the percentage of time you used the space for work).

- The taxman has said that the requirement to meet customers or others in your home for work does not include meetings by video or teleconferencing. There's nothing in our tax law that speaks to this; this is simply the CRA's administrative position, which is clearly outdated and needs revision. I have a tough time believing that a judge, if a taxpayer were to challenge this in court, would side with the CRA on the matter today – COVID-19 or not. Let's hope the CRA makes an announcement very soon that the department will view meetings by video or phone as acceptable.

- Although I have a preference to see something in writing from an employer that demonstrates the requirement for staff to work from home, it has been established that this isn't actually necessary. All that's required is for the employer to sign Form T2200 and check the appropriate box on question 10 of that form.

- Your deduction for home office expenses will be limited to your employment income “for the year” in paragraph 8(13)(b) of our tax law. So, it seems that our tax law contemplates that you'd be working from home for the entire year. (Although paragraph 8(13)(a) also uses the wording “during the period,” which implies you might be

working from home for some period, but not the entire year – clear as mud?) I wouldn't get greedy here. You'd be wise to limit your deductions to the amount of employment income for the period during which you work at home. Any excess expenses over the amount of your employment income can be carried forward to claim in a future year if you still meet one of the two conditions in that future year.

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