



CESTNICK

TAX MATTERS

Moving season can lead to confusion around moving expense deductions

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I recall the story a few years ago of Brigit, the cat in New Zealand who was, by all accounts, a kleptomaniac. Brigit would steal from the neighbours and bring the loot to her owner, Sarah Nathan, who learned quickly that her cat would only steal men's socks and underwear. Ms. Nathan ended up with a stash of over 30 pairs of boxers and over 100 socks.

If you were the guy living next door, you'd either go broke buying new underwear or you'd need to move to a new neighbourhood. Interestingly, if you did move to escape the cat, your moving costs wouldn't be deductible – well, not in Canada at least. Moving costs can be a tricky thing because it's not always clear when they're deductible. Given that we're now in peak moving season, let's look at the rules around moving expenses.

The Rules

Section 62 of our tax law provides a deduction for eligible moving expenses. The rules say that the reason for your move matters (escaping an underwear-stealing cat won't qualify). The reason for your move must be to enable you to carry on business or be employed at a new

work location, or to attend postsecondary school full-time. Also, your new residence has to be 40 kilometres closer to your new work or school location than your old residence.

Sorry, but you can't claim moving expenses paid by your employer, or if you've received a reimbursement (unless you include that reimbursement in your income). You can claim eligible expenses only up to the amount of income you earn in your new location, in the year you move. But any excess expenses can be carried forward and claimed in future years until they're fully deducted.

What types of expenses can you claim? Transportation and storage costs, travel expenses (including vehicle costs, meals and accommodation), temporary living expenses (for a maximum of 15 days for meals and temporary lodging), lease cancellation costs (but not rent) on your old home, incidental costs (changing your address on legal documents, replacing driving licenses and permits, and utility hook-ups and disconnections).

You can also claim costs to maintain your old home after you've moved out: up to \$5,000 in total for interest, property taxes, insurance premiums and utilities expenses while your old home was vacant after you moved and while you made reasonable efforts to sell the place. You can't claim these costs during a time when the old home was rented.

You might have incurred costs to sell your old home, and you can deduct these costs, including advertising, notary or legal fees, real estate commissions, and any mortgage penalty when the mortgage is paid off before maturity. As for costs to buy your new home, you can claim the legal or notary fees you paid on the purchase, as well as any taxes paid (other than GST/HST) for the transfer or registration of title to the new home.

Check out Form T1-M, Moving Expenses Deduction, and the instructions to that form for more information.

The Nuances

This all sounds pretty straightforward. But it's not always. There are grey areas in these rules. Here are some nuances to understand about moving expenses.

- Whether a move counts as an “eligible relocation” can be a grey area. For example, it's not clear whether your work location after the move must be a *new* work location or not. The courts have not interpreted the tax law consistently on this point. In some cases, the courts have held that, for moving expenses to be deductible, you have to start work at a different work location – that is, a “new” location (see *Moreland v. R*, 2010 D.T.C. 1338). In other cases, the courts have found that the term “new work location” does

not contain a requirement that the work location be new to you (see *Wunderlich v. R*, 2012 D.T.C. 1040). In this latter case, it would be acceptable, for example, to work at a location for several years, then choose to move at least 40 kilometres closer to work and claim a deduction for moving expenses.

- If you're a student, you can deduct moving expenses against income that you earn when you move home for the summer – so be sure to track your costs this year. But moving to school is a different story because you can only deduct moving costs against taxable scholarship, bursary, or fellowship income, or taxable prizes. Sorry, but you can't deduct moving expenses against income from a registered education savings plan (RESP).
- Your new residence can be outside of Canada as well – but only if you continue to be resident in Canada for tax purposes after the move (so that you're still paying tax in Canada after the relocation).

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