

Communiqué on Post-Doctoral Fellowships

The tax treatment for payments made to post-doctoral fellows came to a head, somewhat, when the federal government addressed the matter in the March 2010 budget speech.

"Budget 2010 proposes to clarify that a post-secondary program that consists primarily of research will be eligible for the Education Tax Credit, and the scholarship exemption, only if it leads to a college or CEGEP diploma, or a bachelor, masters or doctoral degree (or an equivalent degree). Accordingly, post-doctoral fellowships will be taxable."

By way of background, in 2006 the limit on the amount of scholarship (or fellowship) income that could be received tax free was lifted. Since scholarships and fellowships were treated the same way, some PDFs claimed the scholarship exemption for all of their fellowship income; whereas, other PDFs did not.

To bring uniformity to the process, the federal government simply declared that fellowships paid to PDFs will be taxable, since the training and orientation programs provided to PDFs will not qualify as a course of studies that can be reported on a T2202A.

There is no indication that universities may have erred in reporting fellowship income on T4A slips, or in issuing T2202A forms if they felt it was warranted by their particular situation. However, CRA may simply disallow the scholarship income if it were claimed by the PDF when filing their personal tax return; the institution may not be made aware of this by the PDF. If you are aware of such cases, the Taxes Committee would appreciate being informed of these.

The Taxes Committee at CAUBO followed this situation as it developed, and we are of the opinion that effective for calendar 2010, any post-doctoral training program that consists primarily of research will not meet the definition of a qualifying educational program. Therefore, effective for calendar year 2010, the committee recommends that T2202A forms not be issued for post-doctoral training programs, and that this be communicated directly to the PDF scholars. Communication of this information to the PDFs will allow them to plan for tax liabilities that may arise when filing their personal tax returns.

.../2

The federal budget did not address the issue of whether a PDF is or is not a student (for tax purposes), nor did it address the classification of the payments to PDFs. In the past, CRA had issued letters stating¹ that they would rely on the institutions' classification of a PDF as either a student or not. However, now, CRA's position appears firm that PDFs are not students (notwithstanding an alternative conclusion by the Tax Court of Canada in 2005).

Another point that remains gray is the tax classification of the payment to PDFs. In a recent letter issued by the CRA, it appeared to be CRA's position that although payments to PDFs may be properly classified as fellowship income, it may be more likely that PDFs receive employment income or research grants. In light of this, institutions may want to review the tax classification for payments to PDFs. More details are included in the CAUBO Income Tax Guide.

¹ Letter #2007-0242801E5

Draft Update of the Tax Guide Section on Post-doctoral fellows (subject to review by E&Y)

Another issue raised by linking the scholarship exemption to eligibility for the education credit is that certain post-doctoral fellows may not qualify for the education tax credit. The scholarship exemption is available only to students enrolled in a qualifying program. A *qualifying program* is either a qualifying educational program or a specified educational program, as these terms are used for purposes of the education credit.

Finance Canada clarifies that for 2010 and subsequent taxation years, a qualifying education program will not include a program that consists primarily of research, unless the program leads to a diploma from a college or a Collège d'enseignement général et professionnel (CEGEP), or a bachelor, masters or doctoral degree (or an equivalent degree).ⁱ Accordingly, a T2202A cannot be issued for a post-doctoral training program and hence, post-doctoral fellows will not be eligible for the scholarship exemption.

The proposed legislative change does not address whether post-doctoral fellows are students (for purposes of the Income Tax Act). *In the past, CRA has relied on the institutions' classifications.*ⁱⁱ *However, in an April 28, 2010 letter, CRA states that post-doctoral fellows are not students, notwithstanding that in one tax court case, the judge ruled that the relationship between a post-doctoral fellow and the university was "...one of advanced student and professor, not one of employee and employer..."*ⁱⁱⁱ

For payments to post-doctoral fellows, it can be difficult to distinguish between a payment given as a fellowship and a payment given as a research grant or employment income. This issue was not addressed in the 2010 Federal budget. In certain cases, CRA has ruled awards to a post-doctoral fellow are better classified as a fellowship.^{iv} However, more recently, CRA has expressed the view that an academic PDF is more likely to receive employment income or research grants.

In the past, research grants were taxed more favourably than fellowships because an individual could deduct expenses against a research grant, and the scholarship exemption for fellowships was limited to \$3,000.

However, because the \$3,000 scholarship exemption limit no longer applies, it may now be more beneficial for a student to receive all funding in the form of a scholarship, fellowship, or bursary rather than as a research grant.

Because a student may potentially be biased towards classifying a payment as scholarship income, care must be taken to ensure that the facts of each case determine the classification of the payment. For further discussion on this topic, see **Research grants** and **Employment income**.

ⁱ Article 17 of the Notice of Ways and Means Motion to Amend the *Income Tax Act* and *Income Tax Regulations* to implement certain of the 2010 Federal budget proposals,

ⁱⁱ 2007-0242801E5

ⁱⁱⁱ Par. 39, *Bekhor v. M.N.R.* citation 2005TCC443

^{iv} CRA letter #2006-020415117 (E)