

TEACHER EMPLOYMENT EXPENSES

Legislation governing taxation of employment expenses has been modified only slightly over the past fifteen years. With the exception of the employment tax credit announced for the 2006 tax year, the changes have not been significant. The issue continues to generate recommendations and resolutions from AGMs and provincial boards of CTF Member organizations.

CURRENT STATUS

Each year at tax time, CTF supplies Member organizations with information on the application of legislation respecting the tax treatment of employment and professional development expenses. The most recent is attached to this document (Appendix A). It addresses: use of vehicle; cost of supplies and office at home; tuition fees and educational status, and; convention expenses. The item should give you a good understanding of current provisions.

Federal tax policy permits any employee to deduct work-related expenses that are required as a **condition of employment**. Many teacher organizations are unwilling to formally acknowledge that such expenditures are required by virtue of employment as a teacher. In any event, for any deduction, teachers must complete and submit a special tax form (T2200) signed by the employer. However, many employers will not sign form T2200, because they don't believe the expenses are eligible in that their teachers are not "required" to make them.

A recent clarification from CCRA, states that the requirement does not have to be specifically spelled out as a condition or contract of employment, but can be an **implied** requirement. The clarification states: *"Generally, an employee can only claim the deduction for supplies if the terms of a written contract require the employee to provide and pay for the supplies. However... this requirement may have been met if it is understood by both the employer and the employee that the employee was to make such payments and that the payments were, in fact, necessary under the circumstances to fulfil the duties of the employment. Accordingly, whether a teacher is entitled to deduct the cost of supplies depends on whether there is an express or implied requirement for the teacher to provide and pay for the supplies and whether the employer has certified that the employee qualifies for the deduction. Such a determination is dependent on the particular facts of each situation."*

Some jurisdictions have negotiated a process and conditions under which the employer will sign the form. One example from the Ottawa-Carleton letter of intent uses language particularly sensitive to the concept of contractual requirement (See Appendix B). The difficulty is the scope of materials that are allowable as deductible expenses. For example, equipment and material not "consumed" during the school year (e.g. computers and software) is excluded.

Recently the PEI Teachers' Federation was successful in negotiating with its government a **provincial** tax credit calculated on allowable expenditures of up to \$500 in a given tax year. The criteria for the deduction are quite similar to that allowed under federal legislation.

CTF LOBBY ACTION

This issue has been an action item for many years. Appendix C provides a chronology of key initiatives since 1991. CTF activity includes letters, meetings, submissions in budget briefs and supporting a private members Bill.

Given our inability to lobby successfully for changes to the legislation, a CTF in-house committee, in 1999, suggested that we might be better served by using the fact that our public schools must continually rely upon funding augmentation of this nature, as part of a broader strategy to lobby for increased funding for education. The 1999 Pre-AGM Board meeting made the following resolution: *“THAT CTF develop a proposal that would address the issue of the financial burden on teachers within the context of inadequate educational funding and unfair taxation.”*

The exercise served to refocus our concerns on taxation issues and, for a short time, moved us away from areas we felt were unlikely to produce positive results. The project involved a national survey of teachers and resulted in a June 2001 publication in the form of an *Economic Services Bulletin* entitled *“The Economics of Teaching: Personal Financial Commitment, Salary Comparisons, Taxation Issues”*. The project was completed with the publication of the April 2002 *Economic Services Bulletin* entitled *“Elementary-Secondary Education Spending in Canada”*.

These research initiatives produced a wealth of information and may have been of assistance to Member organizations in framing arguments for increased funding to education in their respective jurisdictions. At the federal level, the tax issue concerns remain unresolved and despite our efforts to steer the issue in a different direction, we continue to get requests from our Members to lobby for legislative change.

This would seem to indicate that the connection to education funding does not resonate with teachers. Many would argue, in fact, that it has nothing to do with funding and that it has more to do with the characteristics of teachers and the nature of the profession. In other words, personal spending will always occur. Whether or not education systems are well funded, does not appear to have any bearing on the propensity of teachers to engage in such contributions. In Canada they currently amount to \$140M to \$180M in addition to approximately \$100M spent by teachers for professional development activity for which no tax recognition is given.

GOVERNMENT POSITION

Federal bureaucrats and politicians alike have never indicated an interest in providing “special” consideration for teacher employment expenses. Those who focus on the education funding element will make the argument that a tax benefit for expenditures on materials used in the classroom could be considered an **implied** agreement that it is acceptable to download legitimate school board (provincial) costs to teachers and the federal government.

Government’s position is best summed up in a 2003 letter from then Finance Minister, John Manley to MP Raymond Simard. Mr Manley states: *“...We expect school boards and other employers to provide their employees with the equipment they need to perform their duties and, therefore, employment expenses are not generally deductible for income tax purposes.*

*Tax reforms, however, set the basic personal amount at a level that included the **previously allowable employment tax deduction of up to \$500.00** in recognition of employment expenses. Granting additional tax relief to members of certain professions, such as teachers, for the cost of certain items would be unfair to members of other professions, who may also have to assume employment expenses and who would expect to receive similar treatment...Granting tax relief for all such items would be a major policy change and a very costly measure. Furthermore, efforts would have to be made to ensure that any tax relief given was applied only to items required for work and not for items purchased for personal use...such as PCs...*

EMPLOYMENT TAX CREDIT

John Manley's letter above makes reference to a "previously allowable employment tax deduction of up to \$500.00". This item disappeared in the mid to late 80's when the government of the day increased the amount of personal exemption. In 2006 the Harper government reintroduced the employment tax deduction as the "Canada Employment Credit". It is a non-refundable tax credit, and for 2007 is set at \$1000.00. Every person employed in Canada can use the tax credit. This new deduction will not affect any other employment expense deduction to which teachers were previously entitled.

This move is consistent with government's historic position that tax relief should apply to all and not to specific professions or groups. The new tax credit will have the effect of further weakening our arguments on behalf of teachers. Government believes it has now answered that request.

Most of the impetus for many of the resolutions and requests for action on this issue now comes from the desire to claim computers and related material as a tax deduction. We have, in previous budget briefs, made the case that recent developments, such as computerized reporting to parents, have increased the pressure on teachers to spend their own money on work-related items. In some jurisdictions, for example, teachers are instructed to prepare reports to parents using a special computer program. Teachers, quite rightly, expect that the definition of employment related expenses for deductions include elements of the technologies (software and hardware) that teachers need in order to perform their job as required.

FOLLOW-UP

We have recently received representation from two Member organizations and our Affiliate Member asking for continued action on this file. We felt, therefore, it was an appropriate time to provide an update and to solicit any additional input from Board members on strategy and approach. We will target a number of key individuals for meetings during the current sitting of Parliament in an effort to build support for the changes we are seeking as we move into budget consultations for 2008.

(APPENDIX A)

2005 Tax Treatment of Employment and Professional Expenses of Teachers

Applicable tax deductions for the 2005 tax year are unchanged from 2004. Therefore, the new education tax credit and tuition fees introduced in the 2004 tax year remain the same. The following provides information on these items as well as summaries about the use of a teacher's own vehicle, the cost of supplies, keeping an office at home and convention expenses. See the Canada Revenue Agency (CRA) website for further general information, guides, forms and interpretative bulletins: <http://www.cra-arc.gc.ca/menu-e.html> and <http://www.cra-arc.gc.ca/E/pub/tg/5000-g/5000-g-01-05e.html> for a summary of revised personal income tax measures introduced November 14, 2005, that are effective as of January 1, 2005.

1. Tuition Fees and Education Amount

Education Amount: Unchanged from 2004. Prior to 2003, you could **not** claim this amount if you received a salary or wages while studying in a program related to your job. Presently, you **can** claim this credit even if you received a salary or wages. This change applies to 2004 and later years *only*. An education amount credit may be claimed for each month you were in full-time attendance (program lasting at least 3 consecutive weeks and involving a minimum of 10 hours of course work per week) at a post-secondary institution (\$400/month) or in part-time studies (\$120/month) lasting at least 3 consecutive weeks and involving a minimum of 12 hours of instruction each month.

Tuition Fees: Unchanged from 2004. Tuition fees paid by you, in excess of a minimum of \$100, qualify for a 16% federal credit. To qualify, the fees must be paid to a Canadian post-secondary institution or to an institution certified by Human Resources and Skills Development Canada (HRSDC). Fees paid to universities outside Canada for full-time enrolment in degree programs also qualify. Religious private schools may treat a portion of private tuition fees as a *charitable donation* toward the school's religious instruction and may be submitted accordingly on a parent's individual income tax return.

2. Use of Your Own Vehicle

Unchanged from 2004. You may qualify to deduct certain automobile expenses if the following four criteria are met: (1) you are ordinarily required to work away from your employer's place of business or to work in several places; (2) you are required to pay your own travelling expenses; (3) you do not receive a tax-free allowance per kilometre and; (4) a T2200 tax form "Declaration of Conditions of Employment" has been completed by your employer.

Operating Costs: include fuel and oil; car washes and maintenance; repairs; insurance; licence and registration fees; eligible interest you paid on a loan used to buy the motor vehicle; and eligible leasing costs to the extent they relate to your employment. Driving between home and work is considered personal except where you travel from home to a business call at the start of the workday or return home from a business call at the close of your workday. Detailed records are necessary to separate employment-related use from personal use.

Capital Cost Allowance (depreciation): You are permitted to deduct capital cost allowance on the employment-related use of your car. Consult the CRA website and tax guide for details.

3. Cost of Supplies and Office at Home

If your contract of employment requires you to pay for any supplies used in your classroom or to maintain an office at your own expense, you may deduct some of the expenses involved (Tax Form T2200, "Declaration of Conditions of Employment", must be signed by your employer before filing).

Supplies: The *Income Tax Act* permits you to deduct the cost of certain supplies consumed directly in your teaching duties, provided your contract of employment requires you to supply and pay for these items. Unfortunately, supplies used by teachers are restricted to "stationery items (other than books) such as pens, pencils, paperclips, charts, etc., used by teachers". Equipment and material not consumed during the school year (e.g., computers and software) is specifically excluded. Teachers in Prince Edward Island can claim a provincial tax credit under somewhat broader criteria. Contact the Prince Edward Island Teachers' Federation for guidelines.

Office at Home: If your contract of employment requires you to maintain an office at your own expense, you are permitted to deduct certain expenses provided either: (1) the office is where you primarily perform your duties of employment; or (2) the office is used exclusively to earn income from employment, and it is used for meeting clients on a regular and continuous basis in the course of performing your duties of employment. Very few teachers or other employed persons qualify for this deduction.

4. Convention Expenses

As a result of a legal challenge initiated by two Alberta teachers in 2003, teachers are eligible to deduct the cost of going to a maximum of two conventions a year. The conventions have to: relate to your business or professional activity; and be held by a business or professional organization within the geographical limits of where the sponsor of the convention usually does business. This second limit may not apply if an organization from another country sponsors the convention and the convention relates to your business or professional activity.

CRA officials indicate that deductions will be permitted in situations essentially identical to those in the Alberta case. Specifically, the ATA bylaws require its members to attend the annual Convention, which then constitutes a job requirement. The teachers are paid for the days but not reimbursed for travelling expenses they incurred. Thus, the travelling expenses may be deducted pursuant to the *Income Tax Act*.

(APPENDIX B)

LETTER OF INTENT

BETWEEN

THE OTTAWA-CARLETON ELEMENTARY TEACHERS' FEDERATION

AND

THE OTTAWA-CARLETON DISTRICT SCHOOL BOARD

The parties hereto acknowledge and agree that:

- a) the Board plans and controls the teaching programmes, subject to Ministry of Education guidelines;
- b) the purchase of additional supplies will serve to enhance the teaching programmes; and
- c) in order to properly fulfill their teaching duties and deliver the best teaching programme, teachers will, in some circumstances, deem it necessary to purchase supplies, for which they are not reimbursed by the Board, and which are consumed directly in the performance of the teachers' duties;
- d) if a Principal is satisfied that consumable supplies have been purchased by an individual teacher in fulfillment of paragraph (c), the Principal will, on behalf of the Board (as Employer) sign Canada Revenue Agency Form T2200, Declaration of Conditions of Employment.

The parties further acknowledge and agree that the deductibility of any expenses for purposes of income tax falls outside the jurisdiction of the OCDSB and is a matter as between the individual teacher taxpayer and Canada Revenue Agency. The OCDSB does not assume any responsibility or liability for the deductibility of any expenses incurred in the course of a teacher's employment.

Dated this 21st day of February 2000

signed Director of Education

signed President, OCETF

signed Superintendent of Human
Resources and Business and
Learning Technologies

signed Chairperson, Collective
Bargaining Committee

(APPENDIX C)

CHRONOLOGY OF KEY INITIATIVES

RE: TAXATION OF EMPLOYMENT EXPENSES FOR TEACHERS SINCE 1991

1991 to 2006

- ◆ Letters from CTF Presidents to Ministers of Finance
- ◆ Letters from General Secretaries to Deputy Ministers and Assistant Deputy Ministers of Finance and Revenue Canada (Tax Policy)
- ◆ Letters from Economic Services Staff to Income Tax Ruling and Interpretation Directorate, Department of Finance and Revenue Canada
- ◆ Meetings with officials in office of Department of Finance
- ◆ Meetings with officials in Income Tax Rulings and Interpretation Directorate, Tax Policy, Revenue Canada
- ◆ Inclusion of issue in CTF's submissions to The House of Commons Standing Committee on Finance during federal budget consultations

1992

Private members Bill C-342 (introduced by Guy H. Arsenault, Liberal M.P. for Restigouche-Chaleur, NB)

1993

BC residents' petition (presented by Robert Skelly NDP M.P. for Comox-Alberni)

1998

Standing Committee on Finance recommends... "that the government provides targeted tax relief for all those who must bear large expenses as a condition of employment such as is the case with mechanics tools"

1999

CTF committee recommends link to education funding and teacher financial burden

2000

CTF conducts national survey of teachers

2001

CTF publishes "The Economics of Teaching: Personal Financial Commitment, Salary Comparisons, Taxation Issues"

2002

CTF publishes "Elementary-Secondary Education Spending in Canada"

2006

Government introduces Canada Employment Credit