

Tax Tip

Week of January 31, 2011

Spousal Loans for RRSP Contributions

If an individual gifts funds to his or her spouse to make a RRSP contribution, it is CRA's position that a portion of the income from the RRSP when it is eventually withdrawn will be taxable to the spouse who made the gift. It is CRA's position that the funds eventually withdrawn from the RRSP are income from property and therefore the attribution rules would apply.

This is a very narrow interpretation of income from property. There is a compliance issue as it unclear how CRA would ever become aware of the facts behind the original gift to fund a spouse's RRSP. For example, the gift could have been made thirty or forty years before the funds are eventually withdrawn. This issue aside, we must assume that taxpayers always want to arrange their affairs so it will not be attacked by CRA.

In order to avoid the potential tax issue, both spouses should use their own funds to make RRSP contributions. This can normally be arranged by a slight change to the family budget. For example, the lower income spouse could divert one of the expenditures paid from her income to a RRSP contribution. The higher income spouse could then pay the expense that was normally paid by the spouse.