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SELECTED TAX ISSUES AND TRAPS ASSOCIATED WITH ESTATE FREEZES

— Michael Goldberg, Minden Gross LLP

This is the second instalment of a series of articles discussing issue and traps practitioners need to navigate to successfully implement and maintain an estate freeze. This article will focus on the personal attribution rules.

The Personal Attribution Rules

The personal attribution rules are primarily found in sections 74.1 and 74.2 of the *Income Tax Act* (the "Act"),[1] as well as in subsection 56(4.1). Although the "kiddie tax" rules in section 120.4 might be lumped in with these rules, the kiddie tax rules will be discussed in the next article of this series. The personal attribution rules are intended to stop a taxpayer from creating a tax benefit by shifting income or capital gains from the taxpayer to a lower-taxed:

- spouse;
- non-arm's length person who is under the age of 18, including a minor who is the niece or nephew of the individual; or
- in some cases, other non-arm's length parties to the individual.

This is a process that is often referred to as income and capital gains splitting, and it is often one of the primary benefits that is hoped to be achieved in connection with implementing many estate freezes.

The personal attribution rules apply where a taxpayer directly or indirectly transfers or loans property to persons in the list above, whether through the use of a trust or otherwise; and depending on the applicable personal attribution rule, the rules will cause all of the income and in some cases all of the losses and/or capital gains and capital losses earned in connection with the property to attribute back to the taxpayer.

Consequently, estate freezes need to be carefully designed to avoid these rules. The good news is that with careful planning it is generally possible to implement estate freezes without going offside of these rules.

Sections 74.1 and 74.2

Section 74.1 will cause all of the income and losses from lent or transferred property that would otherwise have been earned in connection with such property by the taxpayer's spouse or non-arm's length minors, including nieces and nephews, to attribute back to the taxpayer. The sister provision to section 74.1 is section 74.2, which will cause attribution back to the transferor of all capital gains and capital losses that would

otherwise have been earned by the taxpayer's spouse. Section 74.2 does not apply to minors.

There is no tax reduction or income-shifting purpose test required to engage sections 74.1 or 74.2 — the mere making of the loan or transfer to or for the benefit of a spouse in sections 74.1 and 74.2 and to or for the benefit of non-arm's length minors in section 74.1 will cause the relevant provisions to be applicable.

Subsection 56(4.1)

Subsection 56(4.1) is a less well-known personal attribution rule. When applicable, this provision will cause all of the income earned as a result of a loan made by a lender to non-arm's length persons to attribute back to the lender. However, subsection 56(4.1) will generally not apply if the loan is already subject to attribution under section 74.1, subsection 75(2),[2] or the kiddie tax. Subsection 56(4.1) does not cause capital gains or business income to attribute, and it also appears that it does not attribute any form of losses. And it applies only to loans, so transfers or gifts are not caught by this provision.

The most common application of subsection 56(4.1) is to adult children, but the rule can apply to other non-arm's length persons.

Unlike sections 74.1 and 74.2, subsection 56(4.1) contains a purpose test, and the rule only applies if "it can reasonably be considered that one of the main purposes for making the loan . . . was to reduce or avoid tax . . .".[3] As a result, no-interest loans that permit a taxpayer's adult children to acquire non–income producing properties — for example, a personal residence that is not used to generate income — will not be affected by these rules.[4]

Exceptions to the Personal Attribution Rules

Not all transfers or loans to or for the benefit of spouses, non-arm's length minors, or other non-arm's length persons are caught by these personal attribution rules. In particular, the personal attribution rules in sections 74.1 and 74.2 will not apply in any situation involving a transfer for fair market consideration.[5] However, when a sale is made by spouses, the spouses will need to elect out of the automatic rollover rules in subsection 73(1). If this provision is applicable, the property will be deemed to have been transferred on a tax-deferred basis, and the personal attribution rules will continue to apply.

If the fair market value consideration includes indebtedness,[6] or if instead of a transfer a "loan for value" is made,[7] none of the personal attribution rules discussed in this article will be applicable provided that:

(1) the indebtedness or loan bear interest at the lesser of the prescribed rate in place at the time that the indebtedness or loan is entered into and an arm's length interest rate at that time; and

(2) interest is paid on the indebtedness or loan no later than 30 days after the end of the particular year.

A failure to pay interest by the time limit in any particular year will cause this exception to cease to apply forever after.

Loans to finance active businesses are not caught by the personal attribution rules and do not need to meet the loan for value tests.

Although there are other exceptions to these personal attribution rules, the last exception that I'll comment on is that the personal attribution rules will cease to apply for any period or periods when the transferor is no longer resident in Canada or is deceased. In this regard, if a resident transferor who has previously become a non-resident subsequently becomes a resident of Canada again, it appears that the rules will again become applicable.

Notes:

[1] Unless otherwise noted, all statutory references are to the Act.

[2] This provision contains the trust reversionary rules, which will not directly be dealt with in this series of articles.

[3] See paragraph 56(4.1)(*b*).

[4] See Brian S. Nicols, "Income Splitting," 1997 Ontario Tax Conference (Toronto: Canadian Tax Foundation, 1997), 2:1-62 at 19 for an excellent review of the rules in subsection 56(4.1).

[5] See subsection 74.5(1). The fair market value consideration exception is not relevant to subsection 56(4.1), since subsection 56(4.1) only deals with loans.

[6] See paragraph 74.5(1)(*b*).

[7] See subsections 74.5(2) and 56(4.2).

BRITISH COLUMBIA BUDGET

The 2013 British Columbia Budget was tabled on February 19, 2013. The Budget proposed a new top personal income tax bracket to be implemented for the 2014 and 2015 tax years. The income threshold will be $150,000 in 2014 and taxable income exceeding $150,000 will be subject to a tax rate of 16.80%. This measure will expire on December 31, 2015. The increase of the general corporate income tax rate to 11% (from 10%) that was announced as a provisional measure in Budget 2012, effective April 1, 2014, is being accelerated to a new effective date of April 1, 2013.

NORTHWEST TERRITORIES BUDGET

The 2013-2014 Budget for the Northwest Territories was presented on February 7, 2013. The Budget contained no new taxes; however, effective April 1, 2013, property tax mill rates, liquor markups, and a number of fees are adjusted for inflation.

FINANCE COMMITTEE'S REPORT ON TAX INCENTIVES FOR CHARITABLE GIVING IN CANADA

On February 11, 2013, the House of Commons Standing Committee on Finance released a report entitled Tax Incentives for Charitable Giving in Canada. The purpose of the report was "to gather the views of individuals and organizations about existing and possible incentives, and to make recommendations that would encourage increased giving". The Committee held eight meetings and heard representations from 36 organizations and five individuals. The report is reproduced in Canadian Tax Reporter/Government and Agency Documents/Submissions, Consultations, and Committee Reports/Committee Reports.

The report contained some figures from Statistics Canada and the Department of Finance which set out that approximately one in five individual taxpayers (5.7 million people) reported making a charitable donation for the 2010 taxation year. The donation total for this group was $8.3 billion with the median donation being $260. The Canada Revenue Agency (the "CRA") noted that as of January 2012, there were 85,000 charities registered, 90% of these being classified as charitable organizations, with the balance being public or private foundations.

Section 118.1 of the *Income Tax Act* provides that an individual may claim a credit for charitable donations up to 75% of his or her income (100% in the year of death or the preceding year). Unclaimed donations may be carried forward and claimed in any of the five subsequent years. The credit amount is 15% of donations up to $200 and 29% on amounts above that. The CRA allows spouses to pool their donations so that one spouse may claim a greater amount at the 29% rate. The report notes that donations of "publicly listed securities, ecologically sensitive land and certified cultural property are exempt from capital gains tax; and that individual taxpayers may claim charitable donations of ecologically sensitive land and certified cultural property up to 100% of their annual income". Under section 110.1, donations by corporations can be claimed as deductions from income (up to 75% of the corporation's income) with the same annual limit and exemption from capital gains as noted for individuals on donations of publicly listed securities, ecologically sensitive land, and certified cultural property. The Department of Finance estimated that for 2011, the cost of the tax incentives for charitable donations for both individuals and corporations is $2.9 billion.

A number of witnesses appeared before the Committee and various issues were discussed including the tax credit thresholds and rates, donations of real property and shares of private corporations, bequests and estate planning, tax fairness, transparency and accountability of charities, and fundraising. In the end, the Committee came up with 12 recommendations. The first six recommendations relate to tax and are reproduced below. The other six recommendations include such things as the federal government continuing to monitor and provide the data for the trends in charitable giving, promoting to Canadians the tax incentives for donations in order to encourage giving, and reducing the administrative burden on charitable organizations while at the same time exploring ways to improve the accountability of charitable organizations. The last recommendation on improving accountability and transparency in the charitable sector suggested giving the CRA more ability to disclose serious non-compliance by charities, including disclosing the annual information returns of non-compliant organizations.

Tax Recommendations

The following six recommendations were the tax recommendations arising from the Committee's review.

> (1) Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of eliminating or lowering the capital gains tax on charitable donations of real or immovable property or the shares of private corporations to charities, provided that the proceeds of disposition are donated to a charity within a fixed period.
>
> (2) Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of adopting a stretch tax credit.
>
> (3) Subject to the government's stated intention to balance the budget in the medium term, that the federal government examine the feasibility and cost of extending the carry-forward period for claiming a charitable donation, including gifts of ecologically sensitive lands or gifts of certified cultural property.
>
> (4) Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore ways to increase charitable giving in the corporate sector — including through a review of the current donation contribution limit — and the cost of such potential initiatives.
>
> (5) Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of the promotion of bequests to charitable organizations and transfers of property to a charity as a result of a will.
>
> (6) That the federal government undertake a technical review of the *Income Tax Act* as it relates to charities, including the definitions of the terms "charity", "charitable donation", and "gift", to ensure greater simplicity and reduced administrative compliance costs for charities.

FOCUS ON CURRENT CASES

This is a regular monthly feature examining recent cases of special interest, coordinated by *John C. Yuan* and *Christopher L.T. Falk* of McCarthy Tétrault LLP. The contributors to this feature are from McCarthy Tétrault LLP, Montreal, Toronto, Calgary, and Vancouver.

Tax Court Does Not Have Jurisdiction To Determine Whether Tax Withheld by Employer

***Sutcliffe v. The Queen*, 2012 DTC 1281 (Tax Court of Canada — Informal Procedure)**

In *Sutcliffe*, the Tax Court, for lack of jurisdiction, quashed an appeal by the taxpayer in which the taxpayer sought a determination that he owed no tax on the basis that his employer, Express Metal Supply Ltd., had already withheld tax at source on his account.

The appeal concerned the 2010 tax year. (The taxpayer had withdrawn an additional claim in respect of the 2009 tax year.) From 2006 until October 2010, the taxpayer was an employee of Express Metal, which was wholly owned by the taxpayer's son, Angus Sutcliffe.

Throughout the taxpayer's employment, Express Metal refused to withhold and remit source deductions. Instead, leading up to 2010, Express Metal paid the taxpayer separately on account of tax. The taxpayer then remitted these amounts himself to the Receiver General. The taxpayer did not report the separate payments on account of tax as income from employment. In October 2010, Express Metal went out of business before it had paid the taxpayer on account of tax for 2010.

The Minister reassessed the taxpayer for tax owing for 2010. The taxpayer commenced an appeal to the Tax Court for a determination that tax had already been paid by way of a deduction at source by Express Metal.

The Tax Court (per Woods J) quashed the appeal for lack of jurisdiction.

In short reasons, the Court concluded that it was unable to decide the case on its merits because authority to determine whether source deductions have been made resides with the Federal Court and not with the Tax Court. The Court speculated that one reason for the jurisdictional confusion, both in this case and in similar cases in the past, is that a taxpayer's tax owing is often referred to in the Notice of Reassessment, but it does not actually form part of the reassessment. It is only the reassessment itself — the calculation of the tax — that may be appealed to the Tax Court.

On the question of jurisdiction, the Court relied on the Federal Court of Appeal's decision in *Boucher v. The Queen* (2004 DTC 6085), in which Sharlow JA stated: ". . . Parliament has not empowered the Tax Court to determine a dispute as to whether or not tax has been withheld at source from particular payments".

Moreover, the Court declined to comment on the relative merits of the case, which it decided would require an evaluation of the extensive evidence. The Court had heard this evidence based on the Crown's suggestion that doing so may disclose other issues not initially raised in the appeal but coming within the Tax Court's jurisdiction. After hearing the evidence, however, the Court concluded that no such other issues arose. In refusing to comment on the merits, the Court relied on the Federal Court of Appeal's decision in *Neuhaus v. The Queen* (2003 DTC 5469), in which Noël JA, faced with similar facts, concluded: ". . . the judge below rightly held that she did not have jurisdiction and it was therefore wrong for her to consider the dispute on its merits".

Finally, it is interesting to note the Court's rebuke in its reasons of what it viewed as the deficiency of the Crown's Reply. The Court noted that the Reply did not address the source deduction issue, despite the fact that this issue was the only issue raised in the taxpayer's Notice of Appeal. The Court stated that the failure of a Reply to address a taxpayer's argument, especially one that is clearly set out in the Notice of Appeal, can be significantly prejudicial to the taxpayer. In this particular case, the Court noted that it would have been highly desirable to avoid an unnecessary hearing, since the hearing exposed a bitter family dispute and required the taxpayer's daughter and representative to cross-examine her brother Angus, the owner of Express Metal. (Angus was subpoenaed.) The Court speculated that this uncomfortable situation, and perhaps the hearing in its entirety, could have been avoided had the Crown given the taxpayer clear notice of the jurisdiction problem in its Reply. Consequently, the Court decided that it was appropriate to award the taxpayer a modest amount of costs, fixed at $100.

The decision underscores the important statutory limits to the jurisdiction of the Tax Court and the importance of determining whether the Tax Court properly has jurisdiction in advance of commencing an appeal. As an ancillary matter, the decision provides a warning to the Crown as to the proper minimum contents of a Reply. It is possible, as in this case, that deficiencies in the Reply may support costs awards in the taxpayer's favour, even where the taxpayer can be considered to have been unsuccessful.

— *Mark Firman*

Ponzi Scheme Source of Income for Taxpayer who Profited from Others' Unfortunate Losses

***The Queen v. Johnson*, 2013 DTC 5004 (Federal Court of Appeal)**

A Ponzi scheme is a fraudulent scheme that involves the shuffling of cheques between various investors where new money coming in is used to pay "returns" to other investors. It was argued in the *Johnson* case that a Ponzi scheme could not form a source of income for the participant taxpayer since it was an inherently fraudulent scheme and, therefore, net receipts from the Ponzi scheme should not be subject to tax in the taxpayer's hands. Although in past cases fraud was found not to constitute any sort of business (deductions for losses suffered through a start to finish fraud were disallowed), the Crown was successful in its appeal to the Federal Court of Appeal to have the net receipts from the Ponzi scheme taxed to Ms. Johnson as a source of income from property.

Ms. Johnson was one of the few participants in the Ponzi scheme to have actually benefited from this fraudulent pyramid. She entered into numerous transactions with Mr. Andrew Lech from 1997 through 2003. First introduced through a friend who was also participating in this "investment opportunity", Ms. Johnson would write Mr. Lech a cheque and in exchange Mr. Lech would give Ms. Johnson a series of postdated cheques, the sum total of which was in excess of the amount of her original cheque. In general, the first few postdated cheques represented a return of the original amount invested with the final cheque representing the "profit" for the transaction. Mr. Lech represented to

Ms. Johnson that he was combining her money and other people's money with funds he held in a family trust with which he was trading options to generate profits. Mr. Lech stated that Ms. Johnson had no risk of loss and also that any tax on the funds was paid by the family trust. Therefore, the amounts received from the "investment" need not be included in her taxable income, nor any tax paid thereon. Ms. Johnson did not question any information she received from Mr. Lech, nor did she seek professional advice on the investment or tax consequences of the transactions that she entered into. Ms. Johnson only made general inquiries about whether large profits could be made from option trading and also solicited an opinion from a bookkeeper friend (who was also a participant in the scheme) that the payments in question were not required to be reported as income if the tax was paid by the trust. Although Ms. Johnson kept her own notes on the transactions, there were no official agreements in writing between her and Mr. Lech. Ms. Johnson had Mr. Lech sign two memos — one in respect of taxes being paid through the Lech family trust and the other to confirm that any postdated payments to Ms. Johnson would be honoured by Mr. Lech's estate in the event of his death. These memos formed the only documentation in respect of Ms. Johnson's transactions with Mr. Lech.

The transactions between Ms. Johnson and Mr. Lech continued until April 2003, at which time Mr. Lech's bank account was frozen and the Ponzi scheme collapsed. Mr. Lech's activities were investigated by the police who uncovered the full details of the Ponzi scheme. Ms. Johnson was among the 32 of 132 files reviewed by the Canada Revenue Agency (the "CRA") that had in fact profited from the dealings with Mr. Lech. Ms. Johnson received $614,000 in 2002 and $702,000 in 2003 in excess of the amounts that she paid to Mr. Lech. The issue on this appeal was whether the fraudulent Ponzi scheme could form a source of income for Ms. Johnson and whether, therefore, her profits from the scheme should be taxable in her hands. A secondary issue was whether the reassessments could be properly issued to Ms. Johnson given that her returns were reassessed outside of the normal reassessment period.

At the Tax Court of Canada (reported at 2012 DTC 1022), Justice Woods found that the amounts received from the Ponzi scheme were not income from a source because there was insufficient connection between the amounts given to Mr. Lech and the amounts received in return. In particular, there was never any return earned with the monies invested, nor was there a contract under which Mr. Lech intended to perform the agreed activities to generate the returns. Since there was no source of income, the amounts included in Ms. Johnson's income on reassessment were not taxable and her appeal was allowed. The Tax Court judge also evaluated the validity of the reassessments based on the timing issue. Woods J found that the misrepresentations contained in Ms. Johnson's 2002 income tax return did not rise to the level of neglect, carelessness, wilful default, or fraud because she had no reason to doubt the veracity of the statements made to her by Mr. Lech at the time she filed the return. However, by the time Ms. Johnson filed her 2003 return, she should have known that the statements made by Mr. Lech had been misleading and she should have informed her accountant or other professional advisers of the facts to determine the appropriate reporting of such amounts. As a consequence, the reassessment for the 2003 taxation year was properly issued, whereas the reassessment in respect of the 2002 taxation year was time-barred. The Federal Court of Appeal reviewed both the source of income issue and the validity of reassessment issue.

In respect of the source of income argument, the Federal Court of Appeal reviewed the concept of "profit" contained in section 9 of the *Income Tax Act* (the "Act") that states that "a taxpayer's income for a taxation year from a business or property is the taxpayer's profit from that business or property for the year". The question was whether the arrangement between Ms. Johnson and Mr. Lech was a business or property, the profit from which would be a source of income and therefore taxable in Ms. Johnson's hands. In contrast to the Tax Court decision, the Federal Court of Appeal found that regardless of whether the "contracts" between Ms. Johnson and Mr. Lech were performed in the way in which Ms. Johnson believed they were going to be performed, Ms. Johnson received what she bargained for under the contracts: a profit on her investment with Mr. Lech.

> A right under a contact is a chose in action, which is "property" according to the statutory definition quoted above. It follows that Ms. Johnson's profit from the contracts falls within the scope of paragraph 3(*a*) as income from a source.

The Federal Court of Appeal further reinforced the conclusion that the arrangements between Ms. Johnson and Mr. Lech amounted to property which constituted a source of income to Ms. Johnson by outlining the factors contained in *R. v. Cranswick* (82 DTC 6073 (FCA)). The factors in *Cranswick* help a court to determine whether a payment received by a taxpayer constitutes a windfall or a source of income to the taxpayer. In general, a receipt will not be a source of income if the following factors are present:

- The recipient had no enforceable claim to the payment;
- There was no organized effort on behalf of the recipient to receive the payment;
- The payment was not sought after or solicited by the recipient in any manner;
- The payment was not expected by the recipient, either specifically or customarily;
- The payment had no foreseeable element of recurrence;
- The payer was not a customary source of income to the recipient; and
- The payment was not in consideration or in recognition of property, services, or anything else provided or to be provided by the recipient; it was not earned by the recipient as a result of or pursuit of gain carried on by the recipient.

The Federal Court of Appeal acknowledged that Woods J of the Tax Court applied the factors set out in *Cranswick*; however, the Federal Court of Appeal found that the Tax Court's application of the *Cranswick* factors turned on a narrow construction of the agreement between Ms. Johnson and Mr. Lech. This narrow construction, which relied on the contract being performed in the way in which Ms. Johnson expected it to be performed, resulted in the determination that the contracts did not constitute a "source" of income for tax purposes. The Federal Court of Appeal found that, since the agreements between Ms. Johnson and Mr. Lech were never memorialized in writing, it was irrelevant whether the "returns" paid by Mr. Lech came from option trading or any other source. The Federal Court of Appeal characterized the agreement between Ms. Johnson and Mr. Lech as "no more than the existence of an agreement that Mr. Lech would repay any money she gave him, with a return, in instalments and in the amounts and on the dates indicated by the postdated cheques he gave her in exchange". Ms. Johnson's subjective belief that Mr. Lech was earning profits through option trading activities was not relevant to the determination of whether these contracts formed a source of income to Ms. Johnson. With this new characterization of the agreement between Ms. Johnson and Mr. Lech, the agreements formed a source of income to Ms. Johnson pursuant to the *Cranswick* factors in the years in question. In particular, since Ms. Johnson repeatedly entered into arrangements for the investment of funds with Mr. Lech, it became a customary source of income to her. Although the source of income was a Ponzi scheme, doomed to collapse eventually, the scheme could form a source of income since a taxpayer's income is calculated on an annual basis for income tax purposes. Ms. Johnson earned a profit from her contractual dealings with Mr. Lech and therefore was required to include those amounts in her income in the 2002 and 2003 taxation years.

On the secondary issue, the CRA relied on the power granted to the Minister pursuant to paragraph 152(4)(*a*) of the Act to reassess beyond the normal reassessment period. The omission of a source of income in a tax return generally constitutes a misrepresentation, but the question in this appeal was whether that misrepresentation was attributable to neglect, carelessness, wilful default, or any fraud by Ms. Johnson in the circumstances. At the Tax Court, Woods J found that, since Mr. Lech's bank accounts had been frozen by the time Ms. Johnson's 2003 income tax return was due, Ms. Johnson had reason to doubt the truthfulness of Mr. Lech's statements. Ms. Johnson should have sought proper professional advice on whether the 2003 payments should have been included in her income. The Federal Court of Appeal agreed with this conclusion but took issue with the conclusion that Ms. Johnson could rely on Mr. Lech's representations in filing her 2002 income tax return since she had no reason to doubt Mr. Lech's statements at the time. The Federal Court of Appeal reviewed the issue and determined that Ms. Johnson did not meet the standard of a wise and prudent person in accepting the statement of Mr. Lech that the amounts she received in 2002 were free of tax. The amounts she received were in excess of $600,000 in the 2002 taxation year. The Federal Court of Appeal found that a reasonable person in the circumstances would have sought independent advice with respect to the appropriate tax treatment of the amounts received. Therefore, the Federal Court of Appeal found that Ms. Johnson was careless in omitting to include the payments from Mr. Lech in her 2002 taxable income, and the reassessment with respect to her 2002 taxation year was properly issued.

Based on all of these factors, the Federal Court of Appeal reinstated the CRA's reassessments for Ms. Johnson's 2002 and 2003 taxation years, including an additional $614,000 in Ms. Johnson's 2002 taxable income and $702,000 in her 2003 taxable income.

The Federal Court of Appeal decision in this case reinforces the application of the *Cranswick* factors in determining whether a source of income exists for a particular taxpayer. The expansive definition of "property" in the Act allows for

significant leeway in the determination of what will form a source of income under the "property" classification. Even though Mr. Lech did not perform the oral agreement Ms. Johnson believed to be in place (i.e., options trading), Ms. Johnson did receive the "return" that she bargained for. This agreement constituted a property right "chose in action" in the circumstances. No doubt the magnitude of the amounts received by Ms. Johnson through her dealings with Mr. Lech was a factor in the judge's determination that the contracts formed a source of income to her. The returns on the "investment" scheme should have seemed "too good to be true". In circumstances where a taxpayer is participating in an arrangement that appears too good to be true, certain warning bells should be triggered in that taxpayer's mind. Blindly following a course of action despite an air of unreality should trigger a reflex to take a second look at what the various arrangements are designed to accomplish and whether expert advice should be sought in the circumstances. If Ms. Johnson had sought expert advice when reviewing her investment returns from Mr. Lech, she could have avoided a significant dispute with the tax authorities as well as possibly uncovering the Ponzi scheme being perpetrated on her and other "investors".

Ms. Johnson has sought leave to appeal to the Supreme Court of Canada.

— *Kara Levis*

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For CCH Canadian Limited

Susan Peart, C.A., LL.M.
(416) 224-2224, ext. 6434
email: Susan.Peart@wolterskluwer.com

Natasha Menon, Content Product Manager
Tax, Accounting and Financial Planning
(416) 224-2224, ext. 6360
email: Natasha.Menon@wolterskluwer.com

CCH Canadian Limited
300-90 Sheppard Avenue East
Toronto ON M2N 6X1
416 224 2248 · 1 800 268 4522 tel
416 224 2243 · 1 800 461 4131 fax
www.cch.ca

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