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Tools 2004

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International Conference Centre

Ryerson University
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(more details on page 3)

In This Issue

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the newsletter of Prentice Yates & Clark

What's Important about the new Privacy Law?

Most organizations handling personal information already do a pretty good job of ensuring that its confidential nature is respected. What the new privacy regime does is reinforce our existing practices, and establish some basic standards for how we meet our responsibilities.

FIRST, some background: the legal regime is federal legislation, which took effect January 1, 2004 in Ontario. There was an opportunity for the Ontario government to enact legislation which would have supplanted the federal one for most organizations, but it chose not to.

Privacy obligations, as legal responsibilities, are being imposed, ultimately, in response to initiatives taken by the European Community, which has insisted that its trade in personal information with other jurisdictions can only be with those which have enacted similar rules to its rules. That's why the federal government has enacted the *Personal Information Protection and Electronic Documents Act* (PIPEDA), and why its scope is restricted to "commercial transactions."

"Commercial Transactions"

Since PIPEDA's scope is restricted to commercial transactions, much of what non-profit and non-profit organizations do is not affected by the legal regime.

It is clear that the renting of accommodation is a commercial transaction – money changes hands, and in return for that, a service – accommodation – is provided.

But providing social services is not normally a commercial transaction – while money may be given, or applied to assist someone in need, there's no responding service or good provided for the money – in law, "consideration" - which would bring the transaction into the commercial realm.

If They Don't Apply, Why Bother?

However, that doesn't mean that non-profits can, or should ignore the new rules. The principles underlying the rules are sound, and are certainly worth implementing in your organization, whether you are required to or not.

For one thing, the mere existence of these rules, and their widespread application, means that everyone is increasingly attuned to the issue. If your organization is perceived as not being "up to speed," its reputation will suffer.

And, fundamentally, the rules engender trust, between your organization and those who provide it with their private, or personal, information. The better your compliance with the principles, the more trust you will earn. And your organization will be much more effective, as a result.

Applying the principles also has the potential to help your organization address some of its administrative procedures – record-keeping and retention often need more attention – this can be used as an opportunity to reconsider them.

The Ten Principles

They're mostly common sense.

And your efforts should match the type of personal information you're dealing with: the privacy of some personal information is critical – health information, for example. Some information may not lead to much damage – an address, for example. The effort to comply with the principles should match the harm that could result from disclosure.

Don't go overboard: privacy principles apply only to information about individuals, not organizations.

Here's a brief summary:

1. **Accountability**
   Appoint someone to be responsible for privacy issues. Ensure that person is knowledgeable – and interested – in the issue. Inform those whose personal information you hold that that person is the person to contact with concerns about privacy.
2. **Identifying purposes**
   When you collect personal information from someone, state clearly why you are collecting it. This is new – we are not used to explaining why we're collecting the information. Under these principles, the stated use is key – it governs how you use it, and whom you can give it to. State it to broadly, and it may not be effective. Too narrowly, and you may impede your organization's effectiveness.
3. **Consent**
   You can only use, or share, personal information if you have obtained consent to use it for that purpose. For high-level information – personal health information, for example – the consent must be explicit and clear. Less important personal information may need only an implied consent, and a negative option ("If you don't tell us not to use it, we will assume it's OK to use it") may be acceptable. Best to err on the side of explicit, written consent, and avoid the negative option entirely.

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Privacy Law (continued from cover**)**

Note that there's no "grandparenting". Personal information collected before PIPEDA came into effect is still subject to the consent requirement, even though you collected it without consent. Obviously, there'll have to be a transitional period in which you bring your organization onside.

4. **Limits on collection**

   Collect only the information you need for the purpose you have stated, and no more.

5. **Limits on using, sharing, and keeping information**

   You can use personal information only for the purpose that you stated when you collected it. You can keep the information only as long as you need it for this purpose. When you no longer need it for this purpose, you must destroy it.

   If your organization doesn't have a records destruction policy, now's the time to develop one.

6. **Accuracy**

   You should take reasonable care to ensure the information you collect is accurate.

7. **Safeguards**

   Keep personal information secure – only those with a need to know should have access.

8. **Openness**

   Provide your privacy policies, and the contact information of the person you've designated to address privacy issues for your organization. If a breach occurs, tell those affected what happened, and what you're doing to fix it and prevent future breaches.

9. **Individual access**

   Individuals should be able to verify the accuracy of – and correct – the information you have about them.

10. **Handling complaints**

    You should have a procedure in place to deal with complaints about how they collect and use personal information.

Enforcement

For the most part, this will be self-enforcing. As expectations rise, you'll have to meet them.

At this stage, don't worry much about legal consequences – the important thing is to learn what's expected of you, and start applying it.

Resources

The Federal Privacy Commissioner is responsible for the administration of PIPEDA. The website has lots of resources available: http://www.privcom.gc.ca/index_e.asp

For housing co-ops, the Co-op Housing Bookstore has recently published *Protecting Personal Information: A Housing Co-op's Guide to thePersonal Information Protection and Electronic Documents Act*. Order it online at http://www.coophousing.com/bookstore/index.html

Organizations that do fundraising will find the Canadian Centre for Philanthropy's website on privacy issues helpful: http://www.ccp.ca/display.asp?type=1&id=70

The publication *Privacy 101: A Guide to Privacy Legislation for Fundraising Professionals in Canada*, is available there for downloading. Δ

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BARRISTERS AND SOLICITORS

Maximizing Government Retirement Benefits

If you are retired or approaching retirement, like most Canadians you are likely thinking about how you can maximize your disposable income. In addition to your retirement savings and any private pension plans you may have, you may receive two sources of income from the Government of Canada - the Old Age Security (OAS) and the Canada Pension Plan (CPP).

UNDERSTANDING the applicable rules for the OAS and CPP/QPP benefits and the impact on your tax position for your coming or current retirement years can help you make the best planning decisions and maximize your tax savings.

Old Age Security

Financed from the Federal government general tax revenues, the OAS is a monthly benefit that is available to most Canadians 65 years of age or over. You must be a Canadian citizen or a legal resident of Canada to apply for this benefit.

Your employment history is not a factor in determining your eligibility but rather the amount of your pension relates to how long you have lived in Canada. If, after reaching the age of 18, you have lived in Canada for periods that total at least 40 years, you qualify for a full OAS pension. You may also qualify for a full pension if you were born before July 1, 1952 and meet certain residency requirements.

If you do not meet these requirements for the full OAS, you may qualify for a partial pension. The partial pension is earned at the rate of 1/40th of the full monthly pension for each year you have lived in Canada after your 18th birthday.

Currently, the maximum monthly OAS is $461.55. The amount is adjusted in January, April, July and October of each year when there are increases in the costs of living. Of course, the pension is subject to federal and provincial income tax. If your annual income is more than $57,879, the OAS is subject to a claw-back on an increasing scale. What this means is that pensioners with high incomes must repay part, or all, of their benefit through the tax system. At an annual income of $94,530 the OAS is completely recovered.

Depending on their financial circumstances, low-income pensioners may choose to:

- Receive the full OAS benefit each month, without having taxes withheld at source, or
- Have income tax withheld from the monthly OAS payment instead of having to make quarterly tax instalments on this amount.

Canada Pension Plan

With very few exceptions, anyone over the age of 18 who earns a salary must pay into the Canada Pension Plan (CPP) or Quebec Pension Plan (QPP). You and your employer each pay half of the contributions. If you are self-employed, you pay both portions.

Your CPP benefits on retirement are based on your earnings and contributions. While the CPP operates throughout most of Canada, the province of Quebec has its own similar program, the QPP. Both plans work together to ensure that all contributors are protected.

It is important to remember that CPP/QPP calculations include both how much and how long you have contributed. Generally, the more you contribute to the CPP/QPP during your working years, the higher the benefit will be because you will have built up pension credits.

The total span of time during your life when you may contribute is called your contributory period, which is used to calculate your entitlement to the amount of any pension benefit. If you have been contributing the maximum level, you will receive the maximum benefits. However, to maximize your pension benefits, some parts of your contributory period can be dropped out of the calculation. For example, 15% of your lowest earning years is not included in the calculation. If you receive a CPP disability pension, the time during which you receive this benefit is also not included.

Currently, the maximum monthly amount receivable by a taxpayer is $801.25. CPP is structured to replace about 25% of the earned income on which premiums are paid.

While CPP benefits are designed to be paid starting at age 65, if you are not working or have a low income, you can apply for a retirement pension as early as age 60. In this case, your retirement pension is reduced by 0.5% for each month you are under age 65.

Alternatively, if you are still working at age 65, you can elect to continue to contribute to the CPP until you are age 70, at which time you start receiving your pension. In this case, your benefits are increased by 0.5% for each month after age 65. Your chartered accountant can assist you in determining the best time to start taking your CPP benefits.

Also make sure that you review your earnings and contributions on your Statement of Contributions that is sent to you periodically. The statement shows, by year, the total amount of your CPP/QPP contributions and your "pensionable earnings" on which they are based. If you are over age 30, it also estimates what your pension or benefit would be if you were eligible now. This statement can be a valuable tool for understanding the retirement income you have available in combination with any other pension plans or retirement savings you may have.

If you want to receive an updated statement, contact the Human Resources Canada Centre or Revenue Quebec nearest you.

CPP Pension Sharing

If you and/or your spouse/common-law partner are already receiving CPP retirement benefits, you may apply to share your CPP pension benefits on the portion of the benefit earned during your time together. The Quebec Pension Plan also has a provision for pension sharing but with different eligibility requirements. For some couples, pension sharing may result in tax savings.

(continued on back cover)

PYC Briefs

Special note to John Yates & Ron Clark Personal Tax Clients

John and Ron will have a deservedly reduced role during tax time. The staff and partners of PYC will endeavour to ensure that all of your personal tax needs are met and that you continue to receive the professional service you have come to expect. Please feel free to contact us if you would like to make specific arrangements.

Congratulations to:

Hamid Faran who passed his uniform evaluation and is now accumulating work experience toward his chartered accountant designation.

Tools 2004

Tools is an annual one-day conference for senior staff and board members of non-profit organizations. It provides tools to assist you and your organization to meet your goals. The day will include twelve workshops of which you will be able to attend one in the morning and one in the afternoon. The registration fee will be held at last year's rate of $125! Watch for more information in the next issue of news@pyc.

Out of the Office

Co-operative Housing Federation of Canada Annual General Meeting & Conference

Several PYC partners will attend the CHF Canada conference and annual meeting in Quebec City. David Robertson will deliver the workshop Changing Canadian Financial Reporting Standards at the Staff Conference. J.J. Pauze, with Kim Weiman from CHF Canada (Ontario Region) will be presenting The Numbers Game, a workshop about reading and analyzing co-operatives' financial statements. CHF Canada is the national organization representing over 1,500 housing co-operatives across Canada.

GST Municipal Rebate

For instructions on how to claim the new 100% municipal GST rebate - see the PYC website at: **www.pyc.net**

Retirement Benefits (continued from page previous page**)**

To qualify for CPP pension sharing, you must both be at least 60 years of age, be together (not separated or divorced) and have applied, or already be receiving, a CPP retirement pension. If only one is a CPP contributor, you can share that one pension. The overall benefits paid do not increase or decrease with pension sharing.

Pension sharing is particularly beneficial if one spouse/common-law partner has never earned income and is therefore not eligible to receive CPP. If, for instance, the contributor received the maximum of $801 a month, he or she may be able to assign up to 50% of the CPP entitlement to his or her spouse/common-law partner. The assignment may prevent the taxpayer from moving into a higher tax bracket.

Pension sharing may also result in tax savings where one spouse/common-law partner has earned a higher income and therefore receives a higher CPP amount. The higher income earner can assign a portion of his or her CPP to the lower CPP recipient.

If your marriage or common-law relationship ends or either partner dies, the pension-sharing arrangement will end. It will also end if both of you request that it be cancelled.

While sharing your pension may mean possible tax savings, it could affect your tax position if you currently claim the spouse/common-law partner deduction. If you and your spouse/common-law partner are considering pension sharing, be sure to talk to your chartered accountant to determine if this is a viable strategy for reducing your income tax.

CPP Credit Splitting on Separation or Divorce

The Canada Pension Plan recognizes that in a legal marriage or common-law relationship, both of the spouses/common-law partners share in the building of their assets and entitlements, including their CPP pension credits. When a relationship ends, a couple can divide the CPP pension credits they have built up during the time they lived together. This division is called "credit splitting".

Generally, the credits of one person (the lower earner) are increased and the credits of the other (the higher earner) are reduced by the same amount. Credits can be split even if one spouse or common-law partner did not pay into the CPP.

If you and your spouse/common-law partner have been contributing to only the Quebec Pension Plan and neither of you have ever worked outside the province of Quebec, the above information is not applicable. Contact Revenue Quebec for the applicable information on QPP credit splitting.

Child Rearing Drop Out (CRDO) Provision

The CPP provides that time spent with no or low earnings while you are caring for a young child are excluded from the calculation of your pension. This ensures that reduced earnings during the first 7 years of your child's life will not result in lower pension benefits in the future. To apply for the CRDO provision, complete the special form when you apply for any CPP benefit. Either parent is eligible.

For more information about federal retirement benefits

Phone 1-800-277-9914
Website www.canadabenefits.gc.ca

Talk to Your Chartered Accountant

Be sure to consult with your chartered accountant before making decisions about your retirement planning. Your chartered accountant can help you plan for, and manage, your retirement income secure in the knowledge that you have addressed the tax liability issues to better provide for your future. Δ

We would like to welcome the following additions to our professional staff:

Jenelle Hollohan
John-Paul McDonald

You may have met them already or you will in the near future as they become an integrated part of our audit team.

March, 2004

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We hope that you find *info@pyc.net* a useful source of information. If you should ever have any specific questions or concerns regarding your own business or personal finances, please call us. We will gladly help in any way that we can. If you would like to contact us by e-mail, we can be reached at info@pyc.net.
Some of the articles appearing in this issue of *info@pyc.net* were prepared by the Canadian Institute of Chartered Accountants for the clients of its members.