

The tax consequences of repaying employer-paid moving expenses (March 2011)

General tax rules allow individuals to deduct most costs associated with a move to a new residence where that move is undertaken to start a new job or attend school full-time, provided that the location of the new residence is at least 40 kilometres closer than the old one to the new place of employment or the school. In order to qualify for the deduction, of course, the moving costs must be paid for by the individual claiming them. Normally, moving costs which are eligible for the deduction are claimed in the year the move is made, but can only be claimed against income earned at the new location. Where the deductible moving costs exceed the amount of such income, any excess costs may be carried forward and deducted from income earned in the following year at the new location.

In many cases, however, where a taxpayer is moving to take up a new position, his or her new employer will cover the costs of making that move as part of the employment offer. Whether the employer pays the costs up front or reimburses the new employee for costs already incurred and paid, the result is the same from a tax perspective—any employer-paid moving costs cannot be deducted by the employee.

The CRA was recently asked to consider a situation in which an individual employee moved to take a new position and his costs of moving were paid by his new employer. A provision of the employment agreement, however, provided that he would be required to repay a pro-rated portion of those amounts to the employer should he leave his employment within a five-year period following the move. The individual did in fact resign his position within that five-year period and, as required by the employment agreement, repaid his now former employer for a portion of those moving costs. The question put to the CRA was whether, in the circumstances, the employee could now claim a deduction for the moving costs which he was required to repay.

There is no provision in the *Income Tax Act* to allow moving expenses to be carried back and claimed in a previous year. In the circumstances, the CRA's view was that the taxpayer could claim a deduction for the moving expenses in the year that the payment was made, but that such deduction was limited to the amount of employment income earned at the new work location in that year. In other words, where an employee repays an employer for otherwise eligible moving expenses in respect of a move that occurred in a previous year, a deduction may be claimed on the employee's tax return for such expenses in the year of payment, but only to the extent of employment or self-employment income earned at the new work location in that year. The expenses cannot, however, be carried back and claimed in any previous year.

The CRA's technical interpretation indicated, finally, that where more than three years (i.e., the normal reassessment period) had passed since the payment was made, the taxpayer should request an adjustment to his return for the year of payment using the CRA's taxpayer relief provisions. However, such requests are limited to ten calendar years preceding the year in which the request is made.