

**WORKING FROM HOME IN THE TIME OF COVID-19**

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Given the large numbers of people, both employed and self-employed, who are currently working from home in order to comply with physical distancing guidelines, it is useful to review the rules surrounding the deduction of home office expenses, for purposes of the *Income Tax Act* (Canada) (herein the "**Act**"). While there are many similarities, there are some subtle differences in the restrictions that apply to employees earning employment income versus self-employed individuals earning income from carrying on a business at home.

**Employees**

Subsection 8(13) of the Act contains the principal restrictions which limit the deduction of home office expenses in computing income from employment. The "work space" in the individual's home must either: (i) be the place where the individual principally (meaning more than 50%) performs the duties of such employment, or (ii) be used exclusively during the period in question for the purposes of such employment and, furthermore, must be used on a "regular and continuous basis for meeting customers or other persons in the ordinary course of performing the duties of the office or employment".

As the requirement in (ii) above is far more restrictive, in most cases the applicable test will be met by paragraph (i) above as long as the employee is working at least 50% of the time from home.

In addition, subsection 8(13) limits the deduction to the amount of the individual's employment income for the year, so it is not possible to create a loss by claiming home office expenses, although it is possible to carry forward unclaimed expenses to the following year if they are otherwise limited by the amount of employment income in the year.

In order to claim the deduction, the employer must certify on Form T2200 that the employee is required to maintain the home office and will not be reimbursed for the expenses claimed. Those expenses may include a reasonable portion of rent and utility costs such as heating and electricity, but cannot include capital cost allowance, property taxes, insurance or mortgage interest. A special rule allows only commissioned salespeople to claim realty taxes and insurance on the home.

The allowable expenses must then be allocated based on the square footage of the work space as a proportion of the total finished square footage of the home, and further allocated as between the amount of time the workspace area is used for carrying out the employment, as compared to the total use (including personal time) of that space.

For example, if the workspace represents 20% of the total finished space in the



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home, and is used 50% of the time for employment purposes, then 10% of the allowable expenses can be deducted.

Employees are generally not allowed to deduct the capital cost of equipment they must supply themselves, such as home computers, telephones, copiers and scanners, but are allowed a deduction for the cost of supplies consumed directly in the performance of the duties of employment if they are required by their contract of employment to supply and pay for such supplies.

### Self-Employed Persons

The parallel provisions for self-employed persons earning income from carrying on a business are contained in subsection 18(12) of the Act. As is the case for employees, the work space must either be the "principal place of business", or is used exclusively in the business and is used on a regular and continuous basis for meeting clients or customers of the business. So long as a majority of the time spent carrying on the business is conducted from the work space in the home, such space may be used for other purposes not connected to the business. There is no prescribed form for certifying the use of the premises.

A deduction claimed for business expenses associated with a work space in the home cannot be used to generate a loss from carrying on the business but may be carried forward to the following year. The types of expenses that may be claimed include capital cost allowance, property taxes and insurance, and mortgage interest, in addition to the expenses that may be claimed by an employee (although a claim made for capital cost allowance will result in that portion of the property ceasing to qualify for the principal residence exemption).

Similar to a deduction claimed by an employee, a reasonable allocation must be made based on the area of the work space compared to the total area of the premises, and also based on the proportion of time that the work space is used for business purposes. Other business expenses that do not specifically relate to the work space, such as the cost of computers, phones, copiers, scanners and office supplies, are not subject to any proration provided they are ordinary business expenses.

If any specific questions arise with respect to the deduction of home office expenses, any member of our tax department would be pleased to assist you. Please contact any of the following:

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