Starting Your Own Firm

Expecting unexpected easier said than done

By FARLEY COHEN

In the world of professional services, especially where it comes to accounting and law firms, amalgamations are the order of the day. But not always. There is always space for smaller, nimble boutique professional practices with deep specialties that can help accountants, lawyers and executives navigate through complex financial disputes.

Approximately 130,000 new businesses started up last year, according to Statistics Canada. While not all were accounting firms, each new business venture shares similar problems. In particular, starting your own firm can bring an assortment of professional anxieties that can arise no matter what level of experience the partners have prior to setting up their own shop.

Running a new enterprise is vastly different from working in a large firm or being part of a large company, and any change of this magnitude in one's professional life is sure to generate pressures. For example, consider some simple tasks that are taken for granted — who would anticipate that phone lines would not be in place when the doors open for business, restricting the founders to their cellphones? Or that an array of thorny IT issues would take three months to resolve?

When faced with stressful situations and feelings of anxiety, it is important to work with your team to overcome the problems. For example, partners can divide tasks based on areas of expertise and work together to help each other service clients. If matters are outside your areas of expertise, go to your consultants to get things done. It is important to be patient during these periods and to put in the required time and effort until things are straightened out.

Expecting the unexpected is part and parcel of any start-up, but there are some things to do to mitigate those professional stresses which invariably arise.

First, remember that it's always better to negotiate than litigate, especially where it concerns agreements with a previous employer. Of course, there are legal responsibilities to uphold when leaving a firm and starting a new partnership, and they must be honoured. It's not easy when you work closely with people — staff and clients alike — for years, only to then announce that you are starting a new venture. Not knowing how friends and colleagues may react can be a cause of considerable anxiety.

Going the extra mile in negotiations with the former firm will

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help ensure that no bridges are burned. Accountants know that standard employment agreements generally involve the non-solicitation of current clients and staff; this is normal for accounting firms. However, since accountants perform a service that is not only specialized and knowledge-based, but often intensely personal as well, it is difficult for someone else to move in and take over the assignments. As with any negotiation, there is always a compromise available to smooth out the transition.

Surrounding yourself with the best people sounds like a cliché,

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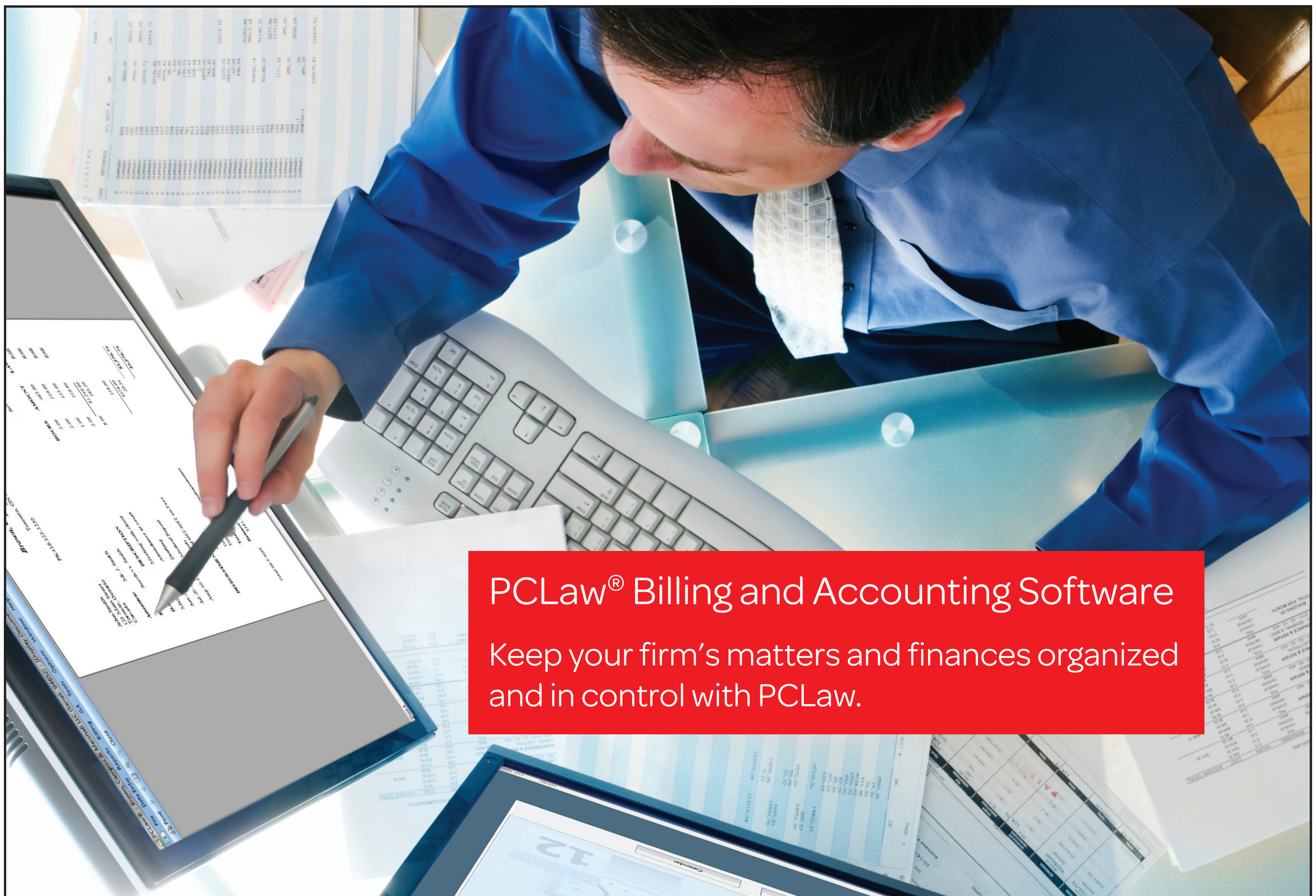

Feds get tax bite of gift certificates

PAYROLL CONNECTION

By Steven Van Alstine

A good payroll practice is to reconcile automobile benefits and process any final adjustments on the terminating employee's final pay.

Steven Van Alstine, Canadian Payroll Association

The questions below are from payroll professionals across Canada and discuss legal fee coverage for severance agreements, paying unused sick days, gift certificates as incentives for employees, Pensionable Insurable Earnings Review reports and requirements for a newly set up defined contribution plan.

Question: As part of a severance agreement, our organization has agreed to pay the legal fees of the terminated employee. Does the organization report these fees on a T4 slip and do we withhold taxes?

Answer: Legal fees paid by an individual to collect lost wages or a severance package are not taxable. Reporting the legal fees at year-end depends on who receives the payment for the legal fees.

If you paid legal fees directly to a lawyer or law firm, the fees are not reported at year-end.

If you paid the legal fees directly to terminated employees, they are reported on a T4A in the "Other information" area using Code 028. When the employees file their personal income tax return (T1), the fees will be offset by the amount those individual can claim as legal expenses incurred for their rights to a retiring allowance.

Question: Our organization has a policy of paying out unused sick credits upon retirement. How is this sick time treated if it is paid out to an employee who quits?

Answer: For tax purposes, a payment for unused sick leave credits may qualify as a retiring allowance if it is made in recognition of long service or in respect of loss of an office or employment.

In the case of a voluntary resignation, the payment would be treated as a bonus subject to regular source deductions using the bonus tax method. The employer must also report the value in Box 14 of the T4 slip.

Question: As part of our referral program, our organization gives gift certificates to employees who refer successful new employees to the company. Does the organization have to process the gift certificates through payroll and apply the statutory deductions, or can the organization simply process the payment through accounts payable and not withhold statutory deductions?

Answer: Gift certificates are always taxable at the federal level. The amount is subject to Canada Pension Plan contributions and income tax. (The amount is not subject to Employment Insurance premiums as long as the gift certificate cannot be easily converted to cash.) The employer must report the benefit in Box 14 and Code 40 of the T4 slip. For more information, please see the Canada Revenue Agency's *Employers' Guide – Taxable Benefits and Allowances* (T4130).

Although Revenu Québec allows employers to give employees gift certificates under its gifts and awards policy to recognize, for example, an employee's birthday or long-term service, a gift certificate given as part of a referral program would be considered as a taxable benefit subject to Quebec Pension Plan contributions and provincial income tax. (The amount is not subject to Quebec Parental Insurance Plan premiums as long as the gift certificate cannot be easily converted to cash.)

The employer must report the benefit in Boxes A and L of the RL-1. For more information, please see RQ's guide, *Taxable Benefits* (IN-253-V).

Question: Our organization received a Pensionable Insurable Earnings Review (PIER) for a Canada Pension Plan deficiency on taxable car benefits that were updated to an employee's T4 after termination. As this benefit can only be reconciled once the travel logs are received, would the organization not be exempt from paying the CPP deficiency, as there were no cash earnings at the time the benefit was reconciled?

Answer: An employer may continue taxable benefits while an employee is on an unpaid leave, such as maternity. As there are no earnings during the leave from which to deduct CPP, no contributions are required; however, taxable benefits are to be included in the employee's taxable income at the time the benefit is enjoyed.

In the situation described above, the employee had use of the company automobile while actively employed and receiving wages. The CPP should have been deducted and remitted at that time based on realistic logbook estimates. Failure to do so could and did result in a PIER, and it is the employer's responsibility to remit both the employee and employer portions of the missing CPP contributions.

The employer's only chance of recovery is to ask the former employee to refund his or her portion of the CPP within the allowable 12 months from the date the required contributions should have been deducted from their pay.

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Question: Our organization has a new defined contribution pension plan in place, and the organization is now setting up a retirement compensation arrangement (RCA) for our high-income earners who have reached their maximum under the defined contribution plan. Are the contributions under the supplemental plan reported in Boxes 20 and 52 of the T4?

Answer: Only employee contributions to a registered pension plan are reported in Box 20 on the T4. The Pension Adjustment (PA) in Box 52 also only refers to the registered pension plan.

Contributions under a Retirement Compensation Arrangement plan are reported on a T4A–RCA slip. For more information, please see the CRA's *Retirement Compensation Arrangements Guide* (T4041).

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Tasks continuously pop up as an employer

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but it is something many do and for good reason. If this is the chosen route, however, be prepared for surprises along the way. Some individuals whom you had expected to come on board may not be prepared to make such a bold move. Meanwhile, others whom you did not expect or even want, will be attracted to the new initiative.

Next, thoughtful preparation of what you want to do should be spelled out in a well-documented business plan that includes both best-case and worst-case scenarios. In essence, it's like treating yourself as your own client. Closely examining many possible options that could materialize will better prepare you for the evolution of the business, and your new banker will appreciate this too. It means painting a scenario where you have a full caseload and also painting one where you don't.

Another potential stress is how to continue with one's professional obligations to clients and partners when you also need time to explore the many ins and outs of starting a new practice. This is where engaging other professionals is useful. It most certainly will involve lawyers who specialize in leases, real estate and corporate structures — expect more and also longer meetings on this front than you anticipated — as well as IT experts who are familiar with the challenges in starting a professional practice firm from scratch.

Something else to consider is those countless administrative and human resources tasks you never had to think about before. As the employer, you must draw up employment letters, and address a wide host of staffing concerns, such as salary levels, bonuses and benefits. And after all the detail work is done, your clients, prospects and colleagues must know where to find you. This is where marketing and advertising come in. All of this will be new.

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Finally, it's important to maintain that same high level of image portrayal and quality client base in your new environment that you enjoyed before. This includes the location and type of office space desired, as well as the size and type of clients you plan to service.

It is a big leap, and maybe not in the right direction, if you no longer have well-appointed offices or no longer consult for large blue-chip corporations.

Managing the various stresses and anxieties that will arise when the firm is up and running is essential to success. Being able to recognize these feelings early will help head off serious repercussions later on. While not everyone will get it right the first time or every time, the key is to mitigate the issues so that more attention is being placed on the firm and running a business, instead of the problems taking up too much of your time.

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