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TAXATION

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Wills and Probate

TAXPAYERS TRADITIONALLY USE THEIR WILL AS A WAY TO CONTROL THE DISTRIBUTION OF THE ASSETS THAT THEY OWN AT THEIR DEATH. YOUR WILL EFFECTIVELY DOES TWO THINGS. IT APPOINTS SOMEONE (THE EXECUTOR OR ESTATE ADMINISTRATOR) TO TAKE CARE OF YOUR ASSETS AFTER YOUR DEATH AND TELLS THE EXECUTORS WHAT TO DO WITH THOSE ASSETS.

Probate is a process by which the executors are able to provide a third party with evidence that they have the authority to deal with assets of the deceased. In recent years, the provinces have realized the value of these testamentary successions and have increased probate fees. These range as high as 1.5% of the gross value of an estate in Ontario and 1.4% in British Columbia.

In addition to these fees, another drawback is that assets subject to probate become a matter of public record, which can be accessed by anyone for a small fee.

To avoid these fees and the disclosure of otherwise private information, taxpayers often use other methods to pass assets after their death. Of course, with any tax planning strategy, you need to get professional advice to ensure no unexpected tax consequences arise.

Joint ownership

Joint ownership is one method that is often used to reduce or avoid probate fees. Assets that are held in joint ownership pass directly to the joint owner on the death of an individual and are usually not dealt with in the Will. However, there is a disposition of the deceased's interest in these assets for income tax purposes at the time of transfer.

Family trust

Another means of reducing the impact of probate fees is to create an *inter vivos* trust. This type of trust is created during one's lifetime and the terms are specified in a trust deed. The

assets held in the trust do not form part of your estate, even though you may be a beneficiary. At death, the other beneficiaries of the trust become entitled to the assets. However, it is important to note that when you set up the trust and convey assets to it, there is generally a deemed disposition of those assets at fair market value. Thus you will have to pay tax on any accrued gains. When the assets are distributed by the trust to Canadian beneficiaries, the distribution is at the trust's tax cost with any taxes on that distribution being deferred.

Spousal trusts are treated differently. During your lifetime or on death, you can transfer assets on a tax-deferred basis to a spousal trust of which your spouse or common-law partner is entitled to all of the income and is the only person entitled to any of the capital during your spouse's or common-law partner's lifetime. No gain would be realized on the transfer of the assets to a spousal trust. All of the assets of the spousal trust are deemed disposed of on the death of the spouse or common-law partner resulting in the realization of any accrued gain at that time.

Proposed legislation

Recently proposed legislation extends the rollover treatment of a spousal trust to two new forms of trusts: the 'alter ego trust' and the 'joint partner trust'.

Alter ego trust

An alter ego trust is one that you establish for yourself. To create an alter ego trust:

- the individual transferring assets to the trust must be 65 years of age or older;
- income earned within the trust must be payable only to the individual transferring assets to the trust;
- the individual transferring assets to the trust is the only one who can receive the capital during the individual's lifetime; and
- the trust does not elect out of these rules.



The assets within the alter ego trust are transferred to the named beneficiaries after the death of the settlor (the creator of the trust). However, this is where the similarity with an inter vivos trust ends. With an inter vivos trust, assets transferred to a trust, other than one established for a spouse, are deemed to have been transferred at fair market value at the date of transfer, and therefore attract tax at the time of transfer. An alter ego trust permits the transfer of the assets at cost base, and thus, taxes do not apply at the time of transfer. When the settlor of the trust dies, the alter ego trust will then be taxed on the gains that have accrued. The alter-ego trust thus allows you to defer the tax liability until the time of death.

Joint partner trust for those 65 and older

The proposed joint partner trust is similar to both the spousal trust and the alter-ego trust. With a joint partner trust:

- ◆ again you must be at least 65 years old in order to establish a joint partner trust and receive the rollover treatment;
- ◆ both you and your spouse or common-law partner must be the beneficiaries of the trust who are entitled to receive all the income and the only ones who can receive capital during your lifetimes; and
- ◆ the trust can specify the beneficiaries to whom the assets are to be transferred at the time of your deaths.

Similar to an alter ego trust, the tax on the accrued gains on assets owned by a joint partner trust is deferred until the death of the last surviving spouse or common-law partner.

Get professional advice

As you need to consider many issues in your estate planning, you do need professional advice. Other issues could include a power of attorney, a pre-nuptial agreement, the impact of your estate planning on your business, family law considerations and other matters unique to your particular situation.

Having a clear understanding of your current financial situation, your long-term financial goals and the tax implications of your estate planning will help you make the best decisions for your future and that of your heirs.

MONEYSAVER

The Balancing Act

GOOD FISCAL MANAGEMENT REQUIRES OWNER/MANAGERS TO CONSTANTLY PERFORM A BALANCING ACT TO CONTROL COSTS AND AVOID UNNECESSARY EXPENSE AND PENALTIES WHILE MAXIMIZING THE BUSINESS' CASH FLOW.

Here are ten strategies that can help you juggle your cash flow more effectively and improve your bottom line.

- 1 Ensure that all staff remit payroll information on time to permit correct and timely preparation of payments. Each employee's payroll file should be periodically updated to reflect changes in matters such as the hourly rate or salary, vacation pay rate and deductions for dependants, pension plan, medical coverage and the like. Remit payroll withholdings and deductions on time to avoid penalties and interest;
- 2 Make sure everyone understands the rules of your provincial workers' compensation board for employees and contract workers. Distribute and post the guidelines that employees are to follow in the event of accident or injury. Remit premiums on time to avoid penalties and interest costs.
- 3 Pay corporate and personal tax instalments on time to avoid cash flow surprises at the end of a fiscal period. Monitor GST inputs.
- 4 Monitor the company's bank accounts carefully to reduce the risk of insufficient funds, the resultant NSF charges, and the time that would be required to satisfy the bank and appease employees or creditors if a cheque is NSF. Establish a line of credit to provide overdraft protection for late deposits, errors and lagging accounts receivable.
- 5 Ensure lease payments are made on time to avoid late charges or penalties. For new acquisitions, carefully analyze the costs of purchasing with borrowed funds versus the costs of leasing, including tax planning considerations. Review the excess mileage costs and buyout clauses in vehicle leases so you are not surprised with a large balance owing at the end of the lease's term.
- 6 Establish a cash flow management reporting system to

ensure that you are regularly updated on what cash is on hand, what cash is expected to arrive and what cash outflows must be sent to creditors on a weekly basis. Having an on-going knowledge of cash flow requirements will help you control interest costs on your operating line of credit.

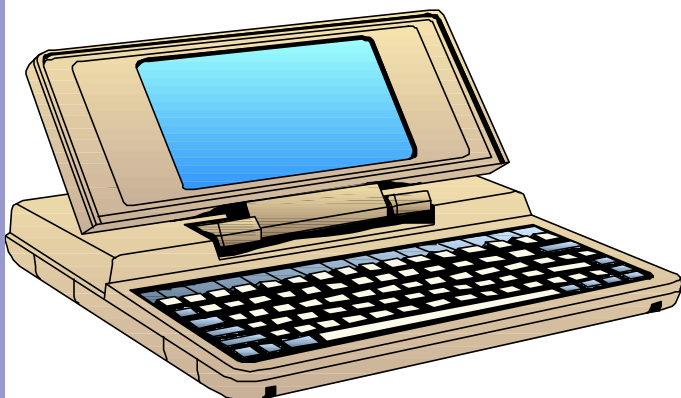
- 7 Invest excess corporate or business funds in short-term, interest-bearing instruments. Use the instrument as security for business loans to negotiate lower interest rates. Ask your financial officer to notify you whenever excess funds are available to encourage better use of capital.
- 8 Establish guidelines for reimbursing employees for business expenses for kilometres travelled as well as out of town accommodation, meals and other expenses for promotion and entertainment. Make it company policy that receipts are to be submitted with expense reports. Monitor all expense reports and question exceptions to the guidelines.
- 9 Scale back employees' expectations for company vehicles by setting cost-effective parameters for model and options. These should apply to company owned or leased vehicles as well as rentals when employees are on the road. Before purchasing or leasing a company vehicle, research repairs and maintenance costs and insurance premiums on the particular model. As discounts are often available for repeat business, negotiate fleet discounts from the local mechanic, insurer and gas bar.
- 10 Plan out of town trips to take best advantage of lower airfares, hotel rates and other discounts. Whenever possible, combine client meetings with conferences, courses, or other business-related functions at the same destination. When an employee plans a business trip, are the travel costs justified in view of the anticipated increased business from existing or new customers?

When times are good, take time to improve your cash flow management. If the business faces a cash crunch in the future, your strategies for controlling costs will help you survive a downturn.

TECHNOLOGY

Projecting Your Image

WHETHER YOU ARE A PRESENTER AT A SALES PRESENTATION, A CONFERENCE, A TRAINING SESSION OR TRADE SHOW, THE QUALITY OF YOUR VISUAL AIDS CAN EITHER ENHANCE OR DETRACT FROM YOUR MESSAGE.



If you have been using a laptop for your presentation's visuals, you may recall that not too long ago hotels and other suppliers often did not have data projectors readily available. Like others, you may have had to lug a projector around with you. Well the good news is that not only are data projectors now lighter and more portable but they are also becoming somewhat more affordable.

Responding to the increasing use of laptops for presentations, manufacturers have rapidly developed smaller, lighter, and higher resolution projectors to keep pace with advances in presentation software. These new projectors are far more portable than earlier models, with some weighing as little as 3 to 6 kilograms. The data projector is particularly well suited for sales and marketing as you can easily project images on an office wall - this is ideal if you're doing the presentation in a client's office where a screen would be burdensome. However, development of these projectors was costly, so prices start at \$3,000 and run as high as \$12,000.

If your company could benefit from one of these portable data projectors, here are some features you should consider before making a purchase decision.

Brightness and clarity

Whether you are presenting in a small or large room, images that are dull, blurred or mottled detract from your presentation and your audience's attention. The most commonly used display technology in data projectors is LCD (Liquid Crystal Display); however, also look at a new technology, DLP (Digital Light Processing), that may give you higher resolution.

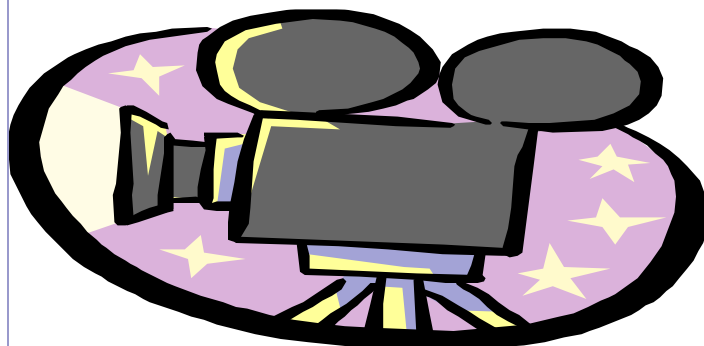
Also consider the projector's light output, which is measured in lumens. Standard projectors display 200 to 400 lumens. The new lamps start at 480 and run to 1500 lumens or more. The larger the lumens' rating is, the better the image. Some projectors are even capable of projecting outstanding images in classroom and conference settings when the lights need to be on.

Reliability

Another benefit is that the lamp in these new units lasts at least 1000 hours, compared to 50 hours on the older, standard projectors. While you should always have a spare bulb for a presentation, the lamp's longer life is encouraging for those who have been caught without one.

Resolution

Resolution for a projector is measured in the same way as monitor resolution, that is, by the number of pixels. The higher the number of pixels, the sharper the image. Because the image transferred to the projector comes from a laptop that has its own built in graphics card, the projector will only project images as well as the laptop can deliver. Conversely, if the graphics card in the laptop is extremely high end, but the projector is using a standard graphics card, the image may only be as good as its weakest link, in this case the projector.



The most commonly used graphics cards within projectors include:

- ◇ **VGA** - video graphics array with a pixel reading of 640 x 480 (used in lower cost projectors);
- ◇ **SVGA** - super video graphics array with a pixel reading of 800 x 600;
- ◇ **XGA** - extended graphics array with a pixel reading of 1,024 x 768;
- ◇ **SXGA** - super extended graphics array with a pixel reading of 1,280 x 1,024 (while costly, these provide excellent detail); and
- ◇ **UXGA** - ultra extended graphics array with a pixel reading of 1,600 x 1,200 (again costly, but essential if projecting enlarged details).

The higher end projectors have the ability to work with poorer

quality resolution from the source laptop as they can manipulate the output using intelligent compression technology to improve the projected image. However, the results can be unreliable and may not be worth the cost.

Multi media

Manufacturers are now developing data projectors that can handle input from DVD players and video cameras. Other enhancements to look for include sound, remote control for zooming on the visuals and controlling the audio and the ability to patch in more than one source.

A trial run

If your presentations need a boost, consider renting one of these projectors. This will allow you to assess which features are important for your type of presentations before you make a purchase decision.

TAXATION

Demutualization

IN THE HIGHLY COMPETITIVE INSURANCE INDUSTRY, MANY INSURANCE COMPANIES ARE SEEKING NEW WAYS TO ACCESS THE ADDITIONAL CAPITAL NEEDED TO ACHIEVE WORLDWIDE STATUS. OVER THE PAST YEAR, SOME OF THESE COMPANIES HAVE BEEN IN THE PROCESS OF DEMUTUALIZING THEIR COMPANIES TO BECOME PUBLIC COMPANIES.

For policyholders, the process of demutualization means they were offered either cash or shares for their unit holdings. If your insurance company demutualized and you received benefits, you need to consider the current and future tax implications of this investment.

Public insurance companies

Before demutualizing, these insurance companies were owned by the policyholders. When greater working capital was required, the companies were limited to obtaining funds from policyholders or the income generated from investing the policyholders' premiums. By demutualizing and creating a

public company with shareholders rather than unitholders, these insurance companies can now take advantage of their newly created public company status.

For insurance companies, the benefits of going public include:

- worldwide standing and recognition on recognized stock exchanges;
- access to capital markets to raise additional funds;
- the ability to merge with, or acquire, other insurance companies;
- an enhanced image to attract top management; and
- the ability to remunerate management with stock options.

Tax implications for unitholders

When an insurance company demutualizes, the unitholders are generally given the option of receiving cash or equivalent shares for their units. If you received either, you need to consider the impact on your personal income tax.

Cash for units

If you received cash, the amount received is considered a taxable dividend and is added to your income for the year. The taxes that will be paid on this amount will depend on your personal income tax rate. In most instances, the amount received will be taxed at a preferential dividend rate.

Stock for units

There are no immediate tax implications for those taxpayers that elected to take stock. Like other situations where investors purchase stock, the taxpayer will have the right to vote and the right to receive dividends when declared by the newly formed public company. As well, as a shareholder you can now buy and sell shares.

Dividends received

Dividends received on these shares are treated the same way as other dividend income. The insurance company will send you a T5 that indicates your dividend income.

Selling stock received

The cost base of the shares received is zero. If you sell the stock you receive, you will be taxed on the entire amount as a capital gain. For example, if you received 200 shares that were initially listed at \$25 a share (a total value of \$5,000) and

later decide to sell them when they reach \$30 a share, your proceeds will be \$6,000. Your net profit is \$1,000. As an investor, you may conclude that under the capital gains rules, you would be taxed on 2/3rds of this gain. But since the cost for those shares was zero, the tax will be calculated on 2/3rds of the entire gain, that is 2/3rds of \$6,000, less the brokerage fees. If the shares were sold prior to February 28, 2000, the taxable portion of the capital gain is 75%.

Purchasing additional shares

If you buy shares in addition to those you received upon demutualization, the average cost rules for determining gains and losses will apply in the same way as when you purchase and sell non-insurance company shares.

Offsetting the gain and resultant tax

Before you sell any shares you have received, discuss your tax situation with your chartered accountant to determine any planning that may reduce the tax on the sale of the shares. You should also discuss your investment strategy with your investment advisor.

Overall, look at your tax position today to determine whether, based on your current taxable position and your investment strategies, it would be better to hold the shares and sell them at a later date when the net result after taxes will be more advantageous.

“McQuiggles Giggles”

*What's the difference between men and government bonds?
Government bonds mature !!*

*Bank Ad: "Come in and see
Us if you are Loan-ly" !!*

*Nothing lasts forever --
not even your troubles !!*



*DAVID AND GOLIATH:
Prophet and Loss*

*When playing golf, nothing
counts like your opponent !!*

*You can't turn back the clock -
But you can wind it up again !!*