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2018 year end tax tips

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Tax planning should be a year-round affair. But as year-end approaches, now is a particularly good time to review your personal finances and take advantage of any tax planning opportunities that may be available to you before the December 31 deadline. Incorporated business owners may particularly be interested in the discussion of steps to consider regarding changes to the taxation of private corporations. Some of these changes apply for 2018, and some will come into effect in 2019. As we enter the final weeks of 2018, here are some tax tips you may wish to consider for:

- *Investors*
- *Families with students*
- *Family members with disabilities*
- *Charitable donors*
- *Individuals with changes to tax rates; and*
- *Incorporated business owners.*

Investors

Tax-loss selling

Tax-loss selling involves selling investments with accrued losses at year end to offset capital gains realized elsewhere in your portfolio. Any net capital losses that cannot be used currently may either be carried back three years or carried forward indefinitely to offset net capital gains in other years.

In order for your loss to be immediately available for 2018 (or one of the prior three years), the settlement must take place in 2018. In late 2017, Canada adopted a shorter settlement period for equity and long-term debt market trades, to coincide with a change to a T+2 standard on American markets. This means that 2018 trades are settled in two business days. To complete settlement by December 31st, the trade date must be no later than December 27, 2018.

If you purchased securities in a foreign currency, the gain or loss may be larger or smaller than you anticipated once you take the foreign exchange component into account. For example, Jake bought 1,000 shares of a U.S. company in November 2012 when the price was US$10/share and the U.S. dollar was at par with the Canadian dollar. Today, the price of the shares has fallen to US$9 and Jake decides he wants to do some tax loss harvesting, to use the US$1,000 [(US$10 — US$9) X 1,000] accrued capital loss against gains he realized earlier this year.

Well, before knowing if this strategy will work, he'll need to convert the potential U.S. dollar proceeds back into Canadian dollars. At an exchange rate of $1 U.S. = $1.30 CDN, selling the U.S. shares for US$9,000 yields $11,700 CDN. So, what initially appeared to be an accrued capital loss of US$1,000 (US$10,000 — US$9,000) turns out to be a capital gain of $1,700 ($11,700 — $10,000) for Canadian tax purposes. If Jake had gone ahead and sold the U.S. stock, he would actually be doing the opposite of tax loss selling and accelerating his tax bill by crystallizing the accrued capital gain in 2018!

Superficial loss

If you plan to repurchase a security you sold at a loss, beware of the "superficial loss" rules that apply when you sell property for a loss and buy it back within 30 days before or after the sale date. The rules apply if property is repurchased within 30 days and is still held on the 30th day by you or an "affiliated person", including your spouse (or partner), a corporation controlled by you or your spouse (or partner), or a trust of which you or your spouse (or partner) are a majority beneficiary (such as your RRSP or TFSA). Under the rules, your capital loss will be denied and added to the adjusted cost base (tax cost) of the repurchased security. That means any benefit of the capital loss could only be obtained when the repurchased security is ultimately sold.

Transfers and swaps

While it may be tempting to transfer an investment with an accrued loss to your RRSP or TFSA to realize the loss without actually disposing of the investment, such a loss is specifically denied under our tax rules. There are also harsh penalties for "swapping" an investment from a non-registered account to a registered account for cash or other consideration.

To avoid these problems, consider selling the investment with the accrued loss and, if you have the contribution room, contributing the cash from the sale into your RRSP or TFSA. If you want, your RRSP or TFSA can then "buy back" the investment after the 30-day superficial loss period.

Make RRSP contributions

Although you have until March 1, 2019, to make RRSP contributions for the 2018 tax year, contributions made as early as possible will maximize tax-deferred growth. Your 2018 RRSP deduction is limited to 18% of income earned in 2017, to a maximum of $26,230, less any pension adjustment plus any previous unused RRSP contribution room and any pension adjustment reversal.

Delay RRSP withdrawals under the HBP or LLP

You can withdraw funds from an RRSP without tax under the Home Buyers' Plan (up to $25,000 for first-time home buyers) or the Lifelong Learning Plan (up to $20,000 for post-secondary education). With each plan, you must repay the funds in future annual instalments, based on the year in which funds were withdrawn. If you are contemplating withdrawing RRSP funds under one of these plans, you can delay repayment by one year if you withdraw funds early in 2019, rather than late in 2018.

Make TFSA contributions

The TFSA dollar limit for 2018 is $5,500 but there is no deadline for making a TFSA contribution. If you have been at least 18 years old and resident in Canada since 2009, you can contribute up to $57,500 in 2018 if you haven't previously contributed to a TFSA.

Take TFSA withdrawals

If you withdraw funds from a TFSA, an equivalent amount of TFSA contribution room will be reinstated in the following calendar year, assuming the withdrawal was not made to correct an over-contribution.

Be careful, however, because if you withdraw funds from a TFSA and then re-contribute in the same year without having the necessary contribution room, overcontribution penalties can result. If you wish to transfer funds or securities from one TFSA to another, you should do so by way of a direct transfer, rather than a withdrawal and recontribution, to avoid an overcontribution problem.

If you are planning a TFSA withdrawal in early 2019, consider withdrawing the funds by the 31st of December, 2018, so you would not have to wait until 2020 to re-contribute that amount.

Pay investment expenses

Certain expenses must be paid by year end to claim a tax deduction or credit in 2018. This includes investment-related expenses, such as interest paid on money borrowed for investing and investment counseling fees for non-RRSP / RRIF accounts.

Convert your RRSP to a RRIF by age 71

If you turned age 71 in 2018, you have until December 31 to make any final contributions to your RRSP before converting it into a RRIF or registered annuity.

It may be beneficial to make a one-time overcontribution to your RRSP in December before conversion if you have earned income in 2018 that will generate RRSP contribution room for 2019. While you will pay a penalty tax of 1% on the overcontribution (above the $2,000 permitted overcontribution limit) for December 2018, new RRSP room will open up on January 1, 2019 so the penalty tax will cease in January 2019. You can then choose to deduct the overcontributed amount on your 2019 (or a future year's) return.

This may not be necessary, however, if you have a younger spouse or partner, since you can still use your contribution room after 2018 to make contributions to a spousal RRSP until the end of the year your spouse or partner turns 71.

Use a prescribed rate loan to split investment income

If you are in a high tax bracket, it might be beneficial to have some investment income taxed in the hands of family members (such as your spouse, common-law partner or children) who are in a lower tax bracket; however, if you simply give funds to family members for investment, the income from the invested funds may be attributed back to you and taxed in your hands, at your high marginal tax rate.

To avoid attribution, you can lend funds to family members, provided the rate of interest on the loan is at least equal to the government's "prescribed rate," which is 2% until at least the end of 2018.[1] If you implement a loan before the end of the year, the 2% interest rate will be locked in and will remain in effect for the duration of the loan, regardless of whether the prescribed rate increases in the future. Note that interest for each calendar year must be paid annually by January 30th of the following year to avoid attribution of income for the year and all future years.

When a family member invests the loaned funds, the choice of investments will affect the tax that is paid by that family member. It may be worthwhile to consider investments that yield Canadian dividends, since a dividend tax credit can be claimed by individuals to reduce the tax that is payable. When the dividend tax credit is claimed along with the basic personal amount, a certain amount of dividends can be received entirely tax-free by family members who have no other income.

For example, an individual who has no other income and who claims the basic personal amount can receive about $51,800 of eligible dividends in 2018 without paying any tax, other than in the provinces of Manitoba, P.E.I., Quebec, Newfoundland and Labrador, and Nova Scotia

where the amount of eligible dividends that can be received is lower.

You should consult with tax and legal advisors to make arrangements to implement a prescribed rate loan. By putting a loan into place before the end of the year, you could benefit from income splitting throughout the upcoming year and for many years to come.

Families with students

Make RESP contributions

RESPs allow for tax-efficient savings for children's post-secondary education. The federal government provides a Canada Education Savings Grant (CESG) equal to 20% of the first $2,500 of annual RESP contributions per child or $500 annually. While unused CESG room is carried forward to the year the beneficiary turns 17, there are a couple of situations in which it may be beneficial to make an RESP contribution by December 31.

Each beneficiary who has unused CESG carry-forward room can receive up to $1,000 of CESGs annually, with a $7,200 lifetime limit, up to and including the year in which the beneficiary turns 17. If enhanced catch-up contributions of $5,000 (i.e. $2,500 x 2) are made for just over seven years, the maximum total CESGs of $7,200 will be obtained. If you have less than seven years before your child or grandchild turns 17 and haven't maximized RESP contributions, consider making a contribution by December 31.

Also, if your child or grandchild turned 15 this year and has never been a beneficiary of an RESP, no CESG can be claimed in future years unless at least $2,000 is contributed to an RESP by the end of the year. Consider making your contribution by December 31st to receive the current year's CESG and create CESG eligibility for 2019 and 2020.

Take RESP withdrawals for students

If your child (or grandchild) is an RESP beneficiary and attended a post-secondary educational institution in 2018, consider having Educational Assistance Payments (EAPs) made from the RESPs before the end of the year. Although the amount of the EAP will be included in the income of the student, if the student has sufficient personal tax credits, the EAP income will be effectively tax-free.

If your child (or grandchild) is an RESP beneficiary and stopped attending a post-secondary educational institution in 2018, EAPs can only be paid out for up to six months after the student has left the school. You may, therefore, wish to consider having final EAPs made from RESPs of which the student is a beneficiary.

Pay interest on student loans

You can claim a non-refundable tax credit in 2018 for the amount of interest paid by December 31 on student loans received under the Canada Student Loans Act, the Canada Student Financial Assistance Act, the Apprentice Loans Act or a similar provincial or territorial government law. Note that while only the student can claim the student loan interest credit, the interest on the loan itself can be paid either by the student or by someone related to the student, such as a parent.

Family members with disabilities

Make renovations for home accessibility

The non-refundable Home Accessibility Tax Credit (HATC) assists seniors and those eligible for the disability tax credit with certain home renovations.

The tax credit is equal to 15% of up to $10,000 of expenses per year towards renovations that permit these individuals to gain access to, or to be more mobile or functional within, their home, or reduce their risk of harm within their home or from entering their home.

The HATC will apply in respect of payments made by December 31st for work performed and / or goods acquired in 2018. A single expenditure may

qualify for both the HATC and the medical expense tax credit, and both may be claimed.

Contribute to an RDSP

RDSPs are tax-deferred savings plans open to Canadian residents eligible for the Disability Tax Credit, their parents and other eligible contributors. Up to $200,000 can be contributed to the plan until the beneficiary turns 59, with no annual contribution limits. While contributions are not tax deductible, all earnings and growth accrue on a tax-deferred basis.

Federal government assistance in the form of Canada Disability Savings Grants (CDSGs), which are based on contributions, and Canada Disability Savings Bonds (CDSBs) may be deposited directly into the plan up until the year the beneficiary turns 49. The government may contribute up to a maximum of $3,500 CDSG and $1,000 CDSB per year of eligibility, depending on the net income of the beneficiary's family. Eligible investors may wish to contribute to an RDSP before December 31 to get this year's assistance. Starting from 2008 (the year RDSPs first became available), there is a 10-year carryforward of CDSG and CSDB entitlements. For beneficiaries who have been DTC-eligible since 2008, some CDSG and CSDB entitlements may be lost after 2018.

RDSP holders with shortened life expectancy can withdraw up to $10,000 annually from their RDSPs without repaying grants and bonds. A special election must be filed with Canada Revenue Agency by December 31 to make a withdrawal in 2018.

Pay family medical expenses

A tax credit can be claimed when total medical expenses exceed the lower of 3% of your net income or $2,302 in 2018. You must pay your medical expenses by December 31.

It may be worthwhile to look for unclaimed expenses prior to 2018 as well. The medical expense tax credit (METC) may be claimed for eligible medical expenses that were paid during any 12-month period that ended within the calendar year (extended to 24 months when an individual died in the year.)

Charitable donors

Make charitable donations

Both the federal and provincial governments offer donations tax credits that, in combination, can result in tax savings of up to 54% of the value of your gift in 2018.

With total cash donations up to $200 in a year, the federal donation credit is 15% of the donation amount. For total donations exceeding $200 in a year, the federal donation credit jumps to 29% (33% to the extent taxable income exceeds $205,842) of the donation amount. Provincial donation credits are also available.

December 31 is the last day to make a donation and get a tax receipt for 2018. Keep in mind that many charities offer online, internet donations where an electronic tax receipt is generated and emailed to you instantly.

Make gifts in-kind

Gifting publicly-traded securities, including mutual funds, with accrued capital gains to a registered charity or a foundation not only entitles you to a tax receipt for the fair market value of the security being donated, it eliminates capital gains tax too.

Individuals with changes to tax rates

If you anticipate that your income tax rates will be substantially different in 2019, it may be worthwhile to shift income and expenses between 2018 and 2019, where feasible. For example, in 2019, the combined federal / provincial tax rate on non-eligible dividends will increase by 0.58 to 0.97 percentage points, depending on the province.

You may also expect that your tax rate could increase in 2019 if, for example, you plan to return to work, or expect to receive deferred compensation or exercise stock options.

If you expect your income tax rate will increase in 2019, you may wish to realize income in 2018 by taking steps such as selling investments with a capital gain, exercising stock options or taking bonuses, where feasible, in 2018 rather than 2019. It may also make sense to defer deductible expenses until 2019 where possible.

Conversely, you may anticipate that your tax rate could decrease in 2019, perhaps if you plan to retire or if you received a bonus in 2018 that may not reoccur. You may, therefore, wish to defer income by taking steps such as waiting to sell investments with a capital gain, exercise stock options, take bonuses or distribute dividends to owner-managers from a corporation, where feasible, in 2019 rather than 2018.

Incorporated business owners

Major changes to the taxation of private corporations were first introduced in 2017 and were passed into law in 2018.

Our report, The updated CCPC tax proposals,[2] provides a more in-depth review of the version of the proposals that ultimately became law, and sets out action steps that you may wish to consider in light of the new rules. Here is a summary of steps you may wish to take for your incorporated small business by December 31.

Income splitting

Background

Effective for 2018, the new rules expand pre-existing kiddie tax rules, which are also referred to as the "tax on split income" or the "TOSI" rules. The rules now apply to more types of income and also cover certain adults. The TOSI rules generally apply where an individual receives dividend or interest income from a corporation, or realizes a capital gain, and a related individual is either actively engaged in the business of the corporation or holds a significant amount of equity (with at least 10% of the value) in the corporation.

The TOSI rules provide various exceptions. For instance, if a shareholder is sufficiently involved in the business, the TOSI rules will not apply.

This test will automatically be met if the shareholder works an average of 20 hours per week in the business. Some other exceptions depend on the age of the shareholder. If a shareholder is over the age of 24, and owns at least 10% of both the votes and value of the corporation, then so long as the business meets certain conditions (such as not being a professional corporation), the TOSI rules may not apply. For 2018, you have until December 31, 2018 to satisfy the 10% share ownership requirement.

Another exception from the TOSI rules permits income splitting between shareholders and their spouses or common-law partners in retirement. When the shareholder who was involved in the business is at least 65 years old, then income received by that person's spouse or common-law partner generally won't be subject to TOSI.

These new rules will likely affect anyone who has done an estate freeze. The TOSI rules would subject dividends paid on most shares received on an estate freeze to tax at the highest rate. Gains realized on the disposition of these shares may, however, be exempt from the rules if the lifetime capital gains exemption could be used to shelter such gain.

Steps to take by December 31, 2018

If your private corporation has other shareholders, such as your spouse, partner or other adult relatives as shareholders, consider the possible impact of the TOSI rules before paying dividends to these individuals.

Review the share structure of any private corporations with legal and tax advisors.

If multiple shareholders own shares of the same class, corporate law might require you pay the same amount of dividends to all shareholders of the same class of shares. If you cannot pay dividends to one shareholder without causing another shareholder to be taxed at the highest tax rate on dividends received by them, you may consider a corporate reorganization so that the shareholders own shares of different classes. You might also consider changing the share structure to allow shareholders to qualify for the 10% share ownership exception that is discussed above.

Where 2018 dividend payments would be split income if paid to a shareholder under age 25, but would not be split income if the shareholder was at least 25 years of age, consider delaying the payments until the shareholder reaches 25 years of age.

Where a shareholder under age 25 works in a business, but does not satisfy the average of 20 hours per week test, make sure the shareholder is paid a reasonable salary, and is not compensated for work performed through dividend payments.

Consider the full effect of these proposed rules before finalizing any contemplated estate freeze transactions.

Passive investment income

Small business deduction

Background

The tax rate on business income earned in a corporation is generally much lower than the top personal marginal tax rate for an individual who earns business income; consequently, until income is withdrawn from a corporation as a dividend, there is a “tax deferral” in the form of personal taxes that are deferred until a dividend is paid. Where active business income earned in the corporation is eligible for the small business deduction (SBD), a lower corporate tax rate (the SBD Rate) applies. For this “SBD Income” the tax deferral ranges from 35.5% to 41% in 2018, depending on the province. For active business income that is not eligible for the SBD (ABI), the 2018 tax deferral ranges from 20.4% to 20.7%, depending on the province.

The amount of tax deferred in the corporation results in higher starting capital for investment, compared to an individual investor. So if the higher amount of after-tax business income is invested inside the corporation, a shareholder may end up with more after-tax income from the corporation (compared to investing personally) at the end of the investment period. The government considered this unfair and took steps to minimize the tax deferral.

The SBD Rate currently applies federally up to the SBD Limit, which is the first $500,000 of qualifying active business income of a CCPC. Starting in 2019, the SBD Limit will be reduced for CCPCs with over $50,000 of certain investment income — “adjusted aggregate investment income” (AAII) — in the previous year. The SBD Limit will be reduced by $5 for each $1 of AAII that exceeds $50,000 and will reach zero once $150,000 of AAII is earned in the previous year. Similar to the requirement that associated corporations share the SBD Limit, for purposes of calculating the AAII threshold, investment income of all associated corporations is combined.

This will decrease the tax deferral available on SBD Income earned after 2018 to the lower tax deferral that is available on ABI. Private corporations (including pure investment holding corporations with no active income) that do not have any income that qualifies for the SBD Rate will not be impacted by this measure.

Steps to take by December 31, 2018

As 2018 AAII will apply when calculating the 2019 SBD Limit, it is important that these rules be considered now.

Consider withdrawing sufficient salary from a private corporation by December 31, 2018 to

maximize contributions to RRSPs and TFSAs. RRSPs and TFSAs may offer benefits beyond those available with corporate investments, as outlined in our reports RRSPs: a smart choice for business owners[3] and TFSAs for business owners… a smart choice.[4] Receiving salary of at least $147,222 by December 31, 2018 will allow the maximum RRSP contribution of $26,500 in 2019. Reasonable salaries may also be paid to family members who work in the business to allow them to make contributions to RRSPs and TFSAs.

Consider a “buy and hold” strategy to defer capital gains if a corporation is approaching the $50,000 threshold in 2018.

Consider whether an Individual Pension Plan or corporately-owned exempt life insurance may be appropriate if AAII exceeds $50,000, as income earned within these plans will not be treated as AAII.[5]

More information on the new tax rules that may reduce the SBD limit for CCPCs with passive income is available in our report CCPC tax planning for passive income.[6]

Limiting access to refundable taxes

Background

Investment income, such as interest, taxable capital gains and foreign dividends, earned by CCPCs is taxed initially at a high rate, which is approximately equal to the top personal income tax rate. A portion of this high rate tax is then refunded when dividends are paid out to shareholders who then pay personal tax on the dividends. This refund is made through the refundable dividend tax on hand (“RDTOH”) account system.

In practice, any taxable dividends paid by a private corporation can trigger this refund, regardless of the source of that dividend. In other words, a dividend refund can be obtained irrespective of whether the dividend is coming from investment income or ABI (which is taxed at the general corporate rate and distributed as lower-taxed dividends.) This means that the shareholder may pay tax at a preferential tax rate on dividends, yet the corporation can still claim a refund of taxes paid on their investment income, which is intended to be taxed at higher tax rates to a shareholder.

To counter what the government perceived to be a possible tax advantage, effective 2019 CCPCs will generally not be able to obtain refunds of taxes paid on investment income while distributing dividends from income taxed at the general corporate rate.[7] This will be accomplished by establishing two new RDTOH accounts.

Steps to take by December 31, 2018

Speak to your tax advisor to determine whether it would be advantageous to pay any dividends prior to the end of 2018, before the new RDTOH rules are implemented.

Conclusion

These tips highlight various ways you can act now to benefit from tax savings when you file your 2018 personal tax return. But keep in mind that tax planning is a year round affair. Speak to your tax advisor well in advance of tax filing season if you want information on reducing your taxes.

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[1] Quarterly prescribed interest rates are available online at https://www.canada.ca/en/revenue-agency/services/tax/prescribed-interest-rates.html.

[2] The report "The updated CCPC tax proposals" is available online at https://www.cibc.com/content/dam/small_business/day_to_day_banking/advice_centre/pdfs/business_reports/private-corporation-tax-changes-en.pdf.

[3] The report "RRSPs: a smart choice for business owners" is available online at https://www.cibc.com/content/dam/small_business/advice_centre/business-reports/RRSPs-for-business-owners-en.pdf.

[4] The report "TFSAs for business owners… a smart choice" is available online at https://www.cibc.com/content/dam/small_business/day_to_day_banking/advice_centre/pdfs/personal_finances/tfsas-for-business-owners-en.pdf.

[5] A tax advisor should be consulted before investing in an Individual Pension Plan or corporate owned life insurance. It should also be considered whether this fits into your overall financial plan.

[6] The report "CCPC tax planning for passive income" is available online at https://www.cibc.com/content/dam/small_business/day_to_day_banking/advice_centre/pdfs/business_reports/ccpc-passive-income-en.pdf.

[7] A limited exception will apply to portfolio dividends.

Disclaimer:

As with all planning strategies, you should seek the advice of a qualified tax advisor.

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