

FAN Mail

Planning Opportunities



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We are often asked by accountants what we see as some of the main planning areas that they should be aware of. We therefore have decided to do a quarterly Newsletter summarizing five key planning opportunities per newsletter. Our hope is that in each newsletter, you will be able to extract one or two points that will help you add value to your clients.

Currently many of the opportunities we see revolve around historically low interest rates and depressed asset values.

1. Estate Freeze

A drop in asset values has created opportunities to freeze or refreeze at lower values. When performing an estate freeze, consideration should be given to the 21 year rule and the loss of testamentary trust treatment on the value accruing in the trust. When freezing, ensure that funding is in place to pay the frozen tax liability. If there is “trapped surplus” in the corporation, there might be an opportunity to use life

insurance to strip out corporate dollars tax-free. Freezing without the consideration of funding may negate some or all of the benefits of the freeze if there is a forced liquidation of property to pay the taxes in the estate.

2. Purchasing US Real Estate

Due to the large drop in US real estate prices and the recent strength of the Canadian dollar, many Canadians are considering the purchase of US recreational property. Before purchasing US real estate, US Estate Tax should be considered. Canadians will be subject to US real estate on US Situs property if their worldwide assets exceed 3.5 million for 2009 and 1 million after 2010 (the tax is repealed for 2010), the tax is based on fair market value and the rate is up to 55%, which is very punitive. There are various ways to address this. Currently, one of the most popular is the use of a trust structure to hold US property. Structuring should be considered before the purchase is done as structuring after the purchase may not be possible. Consideration should

also be given to local property taxes that in some jurisdictions are substantially higher for non-resident owners.

3. Investment Reallocation and the Tax Free Savings Account (TFSA)

The introduction of the TFSA has potential for various planning opportunities. Individuals who have seen large declines in certain speculative investments in their RRSPs and consider that there is the potential for large future gains may consider withdrawing these investments from their RRSPs and transferring into a TFSA. The benefit of this is to pay tax on withdrawal from the RRSP at a low value with the potential of large tax-free gains in the TFSA. Any withdrawal of the increased value from the TFSA will bump up the TFSA contribution room. We have seen various schemes where individuals contribute to their TFSA and are guaranteed a higher value in the future when they withdraw the amount from their TFSA. The idea being that the TFSA contribution room is

bumped up to a higher value when the investment is withdrawn. We would caution against these schemes, as our belief is that the Fair Market Value cannot be justified unless there is a market to purchase at the guaranteed higher price.

4. Mortgage Re-financing

With the decline in long term mortgage rates close to 3.5% for a 5 year fixed rate, there are opportunity to save interest costs by re-mortgaging at a lower rate. Let us look at an example: if someone has a 5% \$500,000 five year mortgage with four years

remaining with a 3 month interest penalty, the annual interest savings would be about \$7,500 per year (for four years) while the penalty would be \$6,250. The penalty on the mortgage pre-payment would be recouped in less than 1 year. Refinancing also extends the lock in period for an additional year.

5. Income Splitting through Spousal Loans

For the second quarter of 2009, the CRA prescribed rate of interest is 1%. This low prescribed rate creates income splitting opportunity between spouses where a loan is made to

the lower income spouses to invest in income generating investments, or to buy income generating investments from the higher income spouse. The prescribed rate that must be charged is determined at the time the loan is made and will not change even if prescribed rates increase. Note that interest must be paid annually by lower income spouse no later than 30 days after year end each year that the loan is in place.

Please feel free to give us a call at 604.331.2508 if you have any questions or would like to discuss any client planning situations.

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