

Minding YOUR BUSINESS



F A L L 2 0 0 9

From The Desk Of

Succession Planning

Owners frequently put off succession planning because there is no sense of urgency and there are other matters, perceived as more pressing, that arise in the day-to-day management of the business. People are also reluctant to face their mortality and consequently delay formulating succession and estate plans.

Majewski Shaler & Co. are often catalysts to get the process started. We focus on the questions of succession, such as:

- What would happen to the business if you died tomorrow?
- What would be the reaction of your key suppliers, customers and lenders?
- Would your executors and heirs be capable of "picking up the pieces" and running the business and preserving its value until a successor is found?
- Who would run the business if you suddenly became disabled because of an illness or an accident?

If steps are not taken to identify and groom a successor, it may become impossible to do so upon a subsequent unforeseen change of circumstances.

Business succession can be divided into two broad categories: first, immediate business succession, where the current owner reduces or disposes of his or her economic interest in the business in a single transaction or series of transactions; second, future transitional succession, usually in the context of estate planning.

Business owners should seek advice on business succession with an objective in mind. If that objective is to sell the business in the foreseeable future, the advisor will want to discuss the

continued on page 4

Employment Income

CRA Administrative Changes

On June 11, 2009, CRA introduced administrative policy changes for taxable employment benefits. This is a brief summary of some of the changes.

Overtime Meals and Allowances Provided to Employees

Commencing in 2009, CRA will consider no taxable benefit to arise if:

- the value of the meal or meal allowance is reasonable; a value of up to \$17 will generally be considered reasonable
- the employee works two or more hours of overtime right before or right after his/her scheduled hours of work, and
- the overtime is infrequent and occasional in nature. Less than three times a week will generally be considered infrequent or occasional. However, this condition may also be met where the meal or allowance is provided three or more times per week on an occasional basis to meet workload demands such as major repairs or periodic financial reporting.



If overtime occurs on a frequent basis or becomes the norm, CRA considers the overtime meal allowances to be taxable since they start taking on the characteristic of additional remuneration.

Municipality or Metropolitan Area

Commencing in 2009, CRA will accept that allowances paid for travel within a municipality or metropolitan area may be excluded from income if the allowance is paid primarily for the benefit of the employer. An allowance may be excluded from income when its principal objective is to ensure that the employee's duties are undertaken in a more efficient manner during the course of a work shift, and where allowances paid are not indicative of an alternative form of remuneration.

continued on page 2

"Opportunity favors a prepared mind" Anonymous

OUR COMMITMENT *To You.*

We recognize that while "accounting" is an integral part of your business, it is only a part of your business. Our approach to accounting doesn't miss the forest for the trees or the people for the numbers. Our dedicated professionals will provide you with the creative, proactive and timely solutions to assist you in responding to the daily challenges confronting your business.



CHARTERED ACCOUNTANTS

1730 West 2nd Avenue
Suite 206

Vancouver, B.C. V6J 1H6
(Between Burrard and Pine)
Tel: (604) 662-8786
Fax: (604) 662-8744
email: info@ms-co.com
www.ms-co.com

Daniel Majewski, B.Comm., CA, TEP

Partner

Barrie Shaler, B.Comm., CA

Partner

Sandra A. Rodrigues, CGA, TEP

Principal

Viki Ashman

Herb Lamey

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Employment Income

continued from page 1

Loyalty Programs

Commencing in 2009, CRA will no longer require loyalty points (e.g., frequent flyer points) that are controlled by the employee to be added as employment income by the employee as long as:

- the points are not converted to cash
- the plan or arrangement is not indicative of an alternate form of remuneration, or
- the plan or arrangement is not for tax avoidance purposes

Where an employer controls the points (e.g., a company credit card), the employer will continue to be required to report the fair market value of any benefits received by the employee on the employee's T4 Slips when the points are redeemed.

Non-Cash Gifts and Non-Cash Awards

The current rules are that up to two gifts and two awards costing \$500 or less respectively are non-taxable to the employee and deductible to the employer.

Commencing in 2010, the following changes are being made to CRA's gift and award policy:

- Non-cash gifts and non-cash awards to an arm's length employee, regardless of the number, will not be taxable to the extent that the total aggregate value of all non-cash gifts and awards to that employee is less than or equal to \$500 annually. The total value in excess of \$500 annually will be taxable.

- In addition to the above, a separate non-cash long-service/anniversary award may also qualify for non-taxable status to the extent its total value is \$500 or less. The value in excess of \$500 will be taxable. To qualify, the anniversary award cannot be for less than five years of services or for five years since the last long-service award had been provided to the employee. For the purpose of applying the \$500 thresholds, the annual gifts and awards threshold and the long-service/anniversary awards threshold are separate. In other words, a short fall in value under one policy cannot be used to offset an excess value of the other.
- The employer gift and award policy will not apply to non-arm's length employees (e.g., relative of the proprietor, shareholders of closely held corporations) or related persons of the non-arm's length employee.
- For clarification purposes, items of an immaterial or nominal value, such as coffee, tea, T-shirts with employer logos, mugs, plaques, trophies, etc. will not be considered a taxable benefit to employees. Also, performance-related awards (e.g., sales targets) or cash and near-cash awards (e.g., gift certificates) will continue to fall outside the administrative policy and will be required to be included in the taxable income of the employee.

See www.cra.gc.ca/tx/bsnss/tpcs/pyrll/bnfts/gfts/menu-eng.html for more information.

Introducing:

Majewski Shaler & Co. are pleased to announce that Herb Lamey and Viki Ashman have joined our team. Herb brings with him eight years of public practice experience as a staff accountant. Viki has had many years of experience in marketing and administration and is replacing Milynda Taylor.

We welcome both Herb and Viki and hope all our clients and associates will get the opportunity to meet them in the coming months.

Tax Tips & Traps

PERSONAL TAX

Medical Expense—Air Conditioner

In an April 27, 2009 External Technical Interpretation, CRA notes that a taxpayer may claim the cost of installing a central air conditioner as a medical expense providing certain tests are met.

In particular, the taxpayer needs a prescription from his/her doctor which indicates that he/she needs an air conditioner to help cope with an ailment which is both severe and chronic. Also, the medical expense claim for an air conditioner is limited to the lesser of \$1,000 and 50% of its cost.

Medical Expense—Out-of-Country

In a May 19, 2009 External Technical Interpretation, CRA notes that the cost of stem cell therapy which is not available in Canada will qualify as a medical expense. This includes payments to medical practitioners and hospitals and the transportation and travel expenses for the patient. Also, where an individual has been certified as being incapable of traveling alone, costs for an accompanying individual are included.

CRA did note that certain requirements must be met such as substantially equivalent medical services not being available in the individual's locality.

CRA also notes that even where medical services are available nearer to the individual's locality, if it is reasonable to travel to the place where the medical services were obtained, the reasonability requirement may be met.

Medical Expense—Tuition Fees

In an April 7, 2009 Tax Court of Canada case, the taxpayer claimed tuition fees paid to Foothills Academy of \$10,499 and \$21,525 as a medical expense.

The Court noted that the taxpayer must provide a certificate of an



appropriately qualified person (example, a doctor) certifying that:

- (i) the person has a mental or physical handicap; and
- (ii) the person requires equipment, facilities or personnel specially provided by that school for care, or care and training.

Taxpayer Wins - Partially

The Court disallowed the medical expense due to an inadequate certificate. CRA did say that if a proper certificate was provided they would reconsider the claim.

However, a portion could still be claimed (estimated to be 20%) as remuneration for tutoring services, that are supplementary to the primary education of the patient who has a learning disability or mental impairment as certified in writing by a medical practitioner.

BUSINESS/PROPERTY INCOME

Restructuring of Borrowings

In a March 31, 2009 External Technical Interpretation, CRA was asked to review a situation where the taxpayer has a mortgage on a personal property (interest expense is non-deductible) and proposes to sell investments (such as shares and bonds), use the proceeds to repay the personal mortgage, and then

secure a joint line of credit with the personal property as security in order to acquire investment assets to earn income.

CRA notes that a taxpayer may restructure borrowings and the ownership of assets so that the interest is deductible for tax purposes.

Caution: Professional assistance is needed in this area.

DEDUCTIBLE LIFE INSURANCE PREMIUMS

Premiums payable by a taxpayer under a life insurance policy used as collateral for a loan may be deductible in computing income from a business or property where certain conditions are met including:

- (i) the life insurance policy is assigned to a financial institution in the course of borrowing for business or property purposes;
- (ii) the assignment of the life insurance policy is required by the financial institution as collateral for the borrowing; and
- (iii) the interest payable in respect of the borrowing is otherwise deductible in computing the taxpayer's income for the year.

OWNER-MANAGER REMUNERATION

Individual Pension Plans (IPPs)

General Information

An Individual Pension Plan (IPP) is a defined benefit pension allowed under tax legislation. Once established, it eliminates most of the individual's RRSP deduction limit. Therefore, an IPP could be considered as a replacement retirement savings vehicle for an RRSP.

Comparison with RRSP

RRSPs work well for younger employees. Tax-free compound interest growth on RRSP contributions over their long pre-retirement asset accumulation period can provide an adequate

Succession Planning

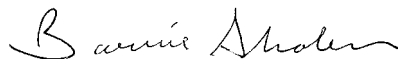
continued from page 1

methods by which this sale can be accomplished in order to meet commercial goals and, of course, to minimize taxes. An immediate sale may be contemplated for any number of reasons: to generate liquidity (i.e., cash proceeds) or to facilitate immediate retirement where no heir wishes to carry on the business in the future. Alternatively, it may just be a prudent business decision based on market conditions.

With future transitional succession, in contrast, the business owner may be contemplating the orderly (and tax-efficient) transfer of ownership to other shareholders or to the business owner's heirs. If planning for transitional succession of the business is the objective, dealing with the business is probably just one component of the individual's overall estate-planning objectives. Estate planning is a broad subject matter that deals with arranging a person's estate by taking into account the laws of wills, taxes, insurance, property and trusts. An estate generally refers to a person's assets and liabilities and is most often discussed in relation to an estate at the time of death. However, estate planning involves more than simply planning for death. It can also include retirement planning, introducing heirs into the business and minimizing taxes in order to preserve and build wealth.

Because of the difficulties in determining a successor, it is often not surprising that the owner will

not want to deal with the question of business succession during his or her lifetime. Instead, the broad terms of succession may be set forth in the owner's will to be administered by the executors. Unfortunately, this approach is extremely short-sighted. Who but the business owner is in the best position to deal with the issues of business succession? Surely not the executors. Planning during one's life provides the ability to secure positive reinforcement for decisions made and the ability to modify or change decisions as circumstances dictate. Furthermore, since an owner usually cannot predict the time of death or permanent disability, leaving succession to be dealt with at some unspecified time in the future may be risky and create unnecessary economic hardship. At the time of the owner's demise, banks may be pressing, suppliers may not be cooperating and management may be concerned about their uncertain future after the founder's departure. In such circumstances, many businesses fail or are hastily sold by executors at below-market prices. If proper succession planning had taken place earlier, the business may have instead stayed in the family and prospered.



Tax Tips & Traps

continued from page 3

pension. However, an RRSP does not work as well for employees close to retirement. For example, a \$21,000 RRSP contribution for a 60-year old employee does not buy much pension as the shorter pre-retirement period does not allow sufficient time for the magic of compound interest to work. At the older ages, an employee would require a defined benefit type of pension plan such as an IPP to provide

contributions that are in excess of the RRSP deduction limit.

IPP Contributions

IPP contributions are deductible by the employer against corporate income.

For 2009, an IPP member would require approximately \$122,000 of employment income to maximize IPP contributions. Sample 2009

Tax Tips

cont. from previous column

IPP contribution amounts for the different ages include: approximately \$23,000 for age 40; \$28,000 for age 50; \$33,000 for age 60 and \$36,000 for age 65.

IPP contributions are based on both income and age, and increase with age.

An IPP also allows the employer to make past service contributions on behalf of the member.

Ideal IPP Candidates & Time for Implementation

The ideal IPP candidates are shareholder employees or senior executives of profitable companies as well as incorporated professionals who are close to retirement.

The best time to implement an IPP is probably when the employer is having a hugely profitable year and is looking for tax deductions. The significant IPP past service contribution amount would be a good way to reduce corporate income to under the small business limit.

IPP Terminal Funding

IPPs are subject to many funding restrictions through actuarial assumptions. However, catch-up contributions can be done after pension commencement. This can be quite significant and can be tied in nicely with the shareholder's exit from the business.

INVESTMENT MANAGEMENT FEES

In an April 16, 2009 Federal Court of Appeal case, the Court found that the fees paid to certain investment managers were exempt from GST because they are financial services.

Editor's Comment

The investor who has paid GST on investment manager fees could consider making a GST rebate claim under the Excise Tax Act for the two preceding years, assuming that the Government does not retroactively change the law. This should be discussed with your investment manager.

Please contact Majewski Shaler & Co. for assistance.

continued in next column