



NAVIGATING CHANGES IN CAPITAL GAINS TAXATION

WEBINAR ON TAX PLANNING
CONSIDERATIONS BEFORE JUNE 25,
2024

HORIZON CHARTERED PROFESSIONAL ACCOUNTANTS

PRESENTERS AND PANELISTS

■ Presenters

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KEY TOPICS COVERED

1. What changed?
2. How do I determine if I need to do something before June 25, 2024?
3. What tax planning strategies are there to prepare for the changes?
4. Q&A session

PROPOSED CHANGES TO TAX LEGISLATION

- Capital gains tax – proposed increase to inclusion rate.
 - From 50% to 66.666% for corporations and individuals on gains in excess of \$250,000
 - Increase to Lifetime Capital Gains Exemption - \$1.25M
 - Limited reduced 33.33% capital gains inclusion rate for certain qualifying business sales up to \$2,000,000

IMPLEMENTATION PROCESS

- The budget has yet to go through the approval process
- The April 30 motion tabled for the budget excluded the capital gains changes
- Capital gains changes are expected in separate legislation
- We are not expecting to have legislation or clear guidelines prior to June 25, 2024

UNCERTAINTY - WILL THE RULES CHANGE AGAIN?

- Will a Conservative government reverse the change?
- Have the Liberals and the Finance Minister had enough pushback to consider making changes or backing off on the changes?
- If you are against the changes, consider
 - Writing to your MP
 - Asking your professional associations to take action
 - Sharing information and convincing other voters
- The trend has been higher taxes and increased complexity in our tax system

IMPLICATIONS OF THE CHANGES – INDIVIDUALS IN BC

- Individuals with capital gains greater than \$250,000
 - Increases tax rate by 8.92%
 - For example, \$350,000 capital gain.
 - First \$250,000 is taxed at 26.75% (assuming high marginal rate), \$66,875 of income tax
 - Next \$100,000 is taxed at 35.67% (assuming high marginal rate), \$35,670 of income tax
 - The taxpayer will pay \$8,920 more in tax after June 24, 2024 for every \$100,000 of gains over the \$250,000 threshold
- Non-recurring one-off capital gains
- Alternative Minimum Tax
 - recoverable tax that applies to put a floor on the minimum tax rate an individual pays.
 - The legislation has changed effective Jan 1, 2024 so this must be considered for those planning to crystalize (trigger) gains this year

IMPLICATIONS OF THE CHANGES – CORPORATIONS / TRUSTS IN BC

- Corporations/trusts with capital gains
 - Applies to all gains – there is NO \$250,000 limit
 - Increases tax rate by 8.44%
 - For example, \$100,000 capital gain.
 - \$100,000 is taxed at 33.78% - \$33,780 of income tax
 - The taxpayer will pay \$8,440 more in tax after June 24, 2024 for every \$100,000 of gain in a corporation or trust
- Trusts – depending on the type of trust can likely still distribute gains to individuals however capital gains taxed in the trust are subject to higher rate

DECISION TREE

- Decision Tree – subject to change based on actual legislation
- Helps determine if you should Crystallize.
- Crystallization will accelerate tax but preserve the 1/2 inclusion rate for historical accrued gains and step-up tax cost base to the fair market value on the crystallization date
- Focus on those that need to take action before June 25th

SOME ITEMS TO CONSIDER BEFORE CRYSTALLIZING

- Time Value of Money - Does the tax liability outweigh the earning potential of investing those funds instead?
- Cash and Professional fees – Can you cover the tax liability and/or is it worth it after fees?
- Alternative Minimum Tax ("AMT") - Would this apply?
- Deferral loss in corporation - by triggering a large capital gain does it affect your adjusted aggregate investment income enough to reduce the available small business deduction ("SBD")?
- Property transfer tax ("PTT") - does it apply to your transaction? If not, does it create a bare trust and Land Owner Transparency Registry (LOTR) filing requirements
- General Anti-Avoidance Rule ("GAAR") - does GAAR apply?

TIME VALUE OF MONEY

Expected impact to marginal tax rate in BC

9.00%

Growth rate

2%

3%

4%

5%

6%

7%

Expected break-even in years

15

10

8

6

5

4.5

Capital gain

1,000,000

Tax at 50% inclusion

267,000

Tax at 66% inclusion

357,000

Expected extra tax

90,000

Rate of return

5%

Year

1

2

3

4

5

6

Return on capital - \$267k

\$ 13,350 \$ 27,368 \$ 42,086 \$ 57,540 \$ 73,767 \$ 90,806

CRYSTALLIZATION OPTIONS - STRATEGY

- Should you crystallize or not is the big question – you don't actually need to sell your property
- How you crystallize an unrealized gain before June 25th will look different for many people – depends on your unique situation
- If property is sold to a company, and shares are issued as partial or whole consideration, you can elect under Section 85 of the income tax act to realize as much or little of the gain as you want (election gives you time to decide)
- Spouse can transfer to other spouse and elect into it being a capital gain (election due next April 30th)
- Actual sale is an option
- Securities can be sold and immediately repurchased, no 31 day wait for a gain
- Pick “winning” stocks to realize, pay out CDA then sell “losers” after to offset tax on gain – strategy for a corporation
- A stock transferred from your corporation to yourself personally or another corporation is a realized gain, but losses are restricted

WHAT HAPPENS AFTER JUNE 25?

- Long-term impact after June 25 – estate, departure and other deemed disposition taxes (less inheritance left behind)
- Ongoing planning and administration
 - Professional fees will likely increase as planning will be more involved (e.g. splitting individual \$250k 50% thresholds)
 - Legislation has been made more complex
- Incorporation may make less sense for some
- RRSP / TFSA / FHSA / IPP / RESP – registered accounts tax deferred
- Permanent life insurance – likely makes sense more often now
- Life insurance - do you have enough coverage?
- CDA will be harder to create in a company

OTHER CONSIDERATIONS

- We need to review actual legislation passed to know more
- Full \$250,000 available in 2024, even though it's a partial year from June 25th onwards
- We will need realized gain / loss reports in 2024 for both period 1 and period 2
- We expect losses incurred during the 2/3rd's era will be able to be carried back up to 3 years to recover taxes paid on capital gains during the 50% era, with a “adjustment factor”
- Taxation of employee stock options will follow suit, same treatment (2/3rd's in income)
- More Non-eligible Refundable Dividend tax to recover
- Surplus strip transactions no longer “profitable” – were subject to GAAR after January 1, 2024 anyways
- Consider evidencing that a trust's distribution of a capital gain occurred before June 25th 2024

OTHER CONSIDERATIONS (CONTINUED)

- Uncertainty for capital gains reserved being brought into income as proceeds are received
- Rebalancing portfolio's of marketable securities – stocks that are held for capital gains best held personally, whereas dividends, interest or other types of returns may be better in registered accounts or corporate – speak with your advisor
- No change proposed to principal residence exemption
- Spread out the realization of personal gains over time, use your \$250k limit each year
- Donate securities in a gain position (make sure you get registered charity receipt)
- Prescribed rate loan arrangements – still not attractive until prescribed interest rate is lower
- Expectation is no unrealized gains which arose prior to June 25th will be "grandfathered" under old rate

CHECKLIST OF ACTIONABLE SCENARIOS FOR NEW PROPOSED TAXABLE CAPITAL GAINS INCLUSION RATE(S)

Review the following situations. If you answer “Yes” to two or more questions below, please book a meeting to discuss with your advisor.

1. Do you personally own real estate (i.e. second home, vacation property), marketable securities (non-registered - not RRSP or TFSA) with a fair market value considerably higher than its original cost (not including your principal residence)?
2. Do you or a trust you control own shares of a private company (operating company and/or holding company) with a fair market value considerably higher than its original cost?
3. Does your operating company and/or holding company own real estate or marketable securities with a material unrealized gain (i.e. fair market value higher than cost)?
4. Do you have life insurance coverage within a company or personally which was set up to fund deemed disposition taxes on your death?
5. Do you control a trust approaching its 21st anniversary in the next three years?
6. Do you, or a company or trust you control, plan to sell real estate, private company shares or other assets in the next 3-5 years or sooner?
7. Do you have a significant amount invested in marketable securities in a holding company?
8. Do you plan to sell your private company shares in the next 3-5 years or sooner?

Q&A

■ Questions?