

“Big Firm Advice
with
Small Firm Fees...”





Estate Taxation

CANADIAN INSTITUTE OF FINANCIAL PLANNERS

MAY 31, 2017 – OTTAWA, ONTARIO

WHO IS TAXPARTNERS

- ❖ TAX PARTNERS IS AN ACCOUNTING FIRM PROVIDING PERSONALIZED SERVICES TO INDIVIDUALS AND OWNER MANAGED BUSINESSES IN AND AROUND THE AREA OF THE GTA AND ACROSS CANADA.
- ❖ OUR PRACTICE PROVIDES A WELL ROUNDED SELECTION OF SERVICES INCLUDING FINANCIAL STATEMENT, BOOKKEEPING, PERSONAL AND CORPORATE INCOME TAXES, TAX & ESTATE PLANNING, BUSINESS ADVISORY SERVICES AND MANAGEMENT CONSULTING ENGAGEMENTS. WE WORK CLOSELY WITH EACH CLIENT AND THEIR STAFF IN A HANDS-ON APPROACH THAT ALLOWS OUR CLIENTS TO FOCUS ON ACHIEVING THEIR BUSINESS AND PERSONAL GOALS.
- ❖ STATISTICAL INFORMATION:
 - ❖ 20 PERCENT OF OUR FIRM'S SERVICES ARE DEDICATED TO ESTATE TAXATION MATTERS. WE HAVE CONTRACTS WITH 15 FUNERAL HOMES IN THE GTA WHICH PROMOTES OUR FIRM'S SERVICES.

TAX PARTNERS' PHILOSOPHY

- ❖ UNDERSTAND EACH CLIENT'S UNIQUE GOALS
- ❖ PRACTICE, DIRECT, OPEN AND HONEST COMMUNICATION
- ❖ PROVIDE EFFECTIVE CORPORATE, ESTATE AND PERSONAL TAX PLANNING TO MINIMIZE AND/OR DEFER INCOME TAXES
- ❖ RESEARCH PRACTICAL AND CREATIVE STRATEGIES TO MAXIMIZE EACH CLIENT'S NET WORTH
- ❖ CREATE STRONG AND LONG-LASTING RELATIONSHIPS WITH OUR CLIENTS FOUNDED ON TRUST AND LOYALTY
- ❖ PROVIDE EXCEPTIONAL CUSTOMER SERVICE

- ❖ ITS OUR RESPONSIBILITY TO REMAIN CURRENT ON BUSINESS TRENDS, NEW BUSINESS DIRECTION AND CHANGES IN THE INCOME TAX AREA. DOING WHAT WE DO BEST ALLOWS OUR CLIENTS TO FOCUS ON WHAT THEY KNOW BEST.

ESTATE TAXATION

INTRODUCTION - AGENDA

- ❖ ESTATE ADMINISTRATION TAX (ONTARIO)
- ❖ ESTATE PLANNING TOOLS (PRIOR TO DEATH)
- ❖ DUTIES OF THE LEGAL REPRESENTATIVE
- ❖ TAX RETURNS REQUIRED TO BE FILED
 - ❖ PRIOR T1 RETURNS NOT FILED
 - ❖ T1 TERMINAL TAX RETURN OR DATE OF DEATH TAXES
 - ❖ T3 TRUST RETURN
- ❖ TAX CREDITS FOR YEAR OF DEATH
- ❖ PENALTIES AND INTEREST
- ❖ CLEARANCE CERTIFICATES (DOD AND FINAL)

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ESTATE TAXATION

ESTATE ADMINISTRATION TAX

❖ GOODBYE GRADUATED TAX RATES

- ❖ STARTING ON JANUARY 1, 2016, ESTATES WILL ONLY BENEFIT FROM GRADUATED TAX RATES FOR THE FIRST 36 MONTHS AFTER DEATH

❖ JANUARY 1, 2015, ONEROUS NEW ESTATE RULES TOOK EFFECT IN ONTARIO

- ❖ ONTARIO HAS THE HIGHEST ESTATE ADMINISTRATION TAX (EAT) IN THE COUNTRY. THE EAT WAS PREVIOUSLY CALLED A "PROBATE FEE", BUT IN THIS RARE INSTANCE OF HONESTY ONTARIO GOVERNMENT HAS CHANGED THE NAME TO REFLECT WHAT IT REALLY IS – AN ESTATE TAX.
- ❖ THE EAT RATE IS CURRENTLY \$5 PER THOUSAND FOR THE FIRST \$50,000 OF AN ESTATE AND \$15 FOR EACH \$1,000 AFTER THAT. EXAMPLE:
 - ❖ ESTATE VALUED AT \$240,000 WOULD PAY A \$3,100 IN EAT.
 - ❖ ESTATE VALUED AT \$1,000,000 WOULD PAY \$14,500. IN OTHER PROVINCES, THERE IS A FLAT RATE OF \$7 PER \$1,000 COMPARE TO ONTARIO'S \$15.
- ❖ FAILURE TO COMPLY WITH THESE NEW BURDENSOME RULES CAN RESULT IN FINES STARTING AT \$1,000 AND IMPRISONMENT FOR UP TO TWO YEARS OR BOTH.

ESTATE TAXATION

ESTATE PLANNING TOOLS (PRIOR TO DEATH)

- ❖ UNDERSTAND THE RELATIONSHIP OF DEATH AND TAXES
- ❖ LIVE RICH, DIE POOR
 - ❖ A PROPER ESTATE PLAN WILL PERMIT YOU TO LIVE THE LIFE YOU DESERVE, BUT ON DEATH YOU MAY FIND YOU DON'T LEGALLY OWN A LOT OF ASSETS – OR YOU ARE POOR ON PAPER – MEANING A LOW INCOME TAX EXPOSURE.
- ❖ PURCHASE LIFE INSURANCE
 - ❖ LIFE INSURANCE CAN BE A HANDY ESTATE PLANNING TOOL. LIFE INSURANCE ITSELF DOES NOT REDUCE YOUR EXPOSURE TO INCOME TAX ON DEATH – IT MEANS THAT YOU FUND A TAX LIABILITY ON DEATH
- ❖ HAVE A POWER OF ATTORNEY
- ❖ MAKE SURE YOUR WILL IS UP TO DATE
 - ❖ THIS IS THE LAST STEP IN YOUR ESTATE PLAN BECAUSE YOU NEED TO VISIT ALL THE OTHER STEPS FIRST. IN OTHER WORDS, YOUR WILL IS DONE AFTER YOU HAVE DECIDED ON THE OBJECTIVES OF YOUR ESTATE AND IMPLEMENT STRATEGIES TO MINIMIZE YOUR INCOME TAX EXPOSURES.

ESTATE TAXATION

ESTATE PLANNING TOOLS (PRIOR TO DEATH)

- ❖ **FILE ALL THE REQUIRED RETURNS FOR THE DECEASED ON A TIMELY BASIS**
 - ❖ MAY BE RESPONSIBLE FOR FILING UP TO FOUR (4) TAX RETURNS (DOD, T3, OPTIONAL RETURNS, EXCISE RETURNS) IN THE YEAR OF DEATH IN ADDITION TO ANY RETURNS NOT FILED FOR PREVIOUSLY YEARS.
- ❖ **PAY ALL TAX OWING**
- ❖ **ADVISE THE BENEFICIARIES WHETHER THE AMOUNT THEY RECEIVE FROM THE ESTATE IS TAXABLE**
- ❖ **REQUEST CLEARANCE CERTIFICATES**
- ❖ **NOTE:**
 - ❖ TO THE EXTENT THAT ASSETS HAVE BEEN DISTRIBUTED AND TAXES OWED AND THERE IS INSUFFICIENT ASSETS LEFT IN THE ESTATE, THE LEGAL REPRESENTATIVE IS PERSONALLY LIABLE FOR ANY SHORTFALL AND FOR ANY INTEREST AND PENALTIES INCURRED. BECAUSE OF THIS, ITS PRUDENT FOR THE LEGAL REPRESENTATIVE TO HOLD BACK A SUFFICIENT PORTION FOR THE ESTATE FUNDS UNTIL A FINAL CLEARANCE HAS BEEN RECEIVED FROM CRA.

ESTATE TAXATION

TAX RETURNS TO BE FILED

- ❖ UPON THE DEATH OF A PERSON, TWO TAXPAYERS ARE CREATED. FIRST, INCOME EARNED FROM JANUARY 1 OF THE YEAR OF DEATH TO THE DEATH OF THE DECEASED IS REPORTED ON THE TERMINAL TAX RETURN. SECOND, THE DATE AFTER DEATH IS THE FIRST DATE FOR THE NEW TAXPAYER, THE ESTATE. THE ESTATE IS TAXED IN ACCORDANCE WITH THE PRINCIPLES OF THE TAXATION OF TRUSTS.
- ❖ **LEGAL REPRESENTATIVE IS RESPONSIBLE FOR:**
 - ❖ FILING ALL PRIOR PERSONAL TAX RETURNS (T1) NOT FILED BY THE DECEASED
 - ❖ T1 TERMINAL TAX RETURN OR DATE OF DEATH – DUE DATE: APRIL 30TH
 - ❖ T3 TRUST TAX RETURN – DUE DATE: MARCH 31ST
 - ❖ ANY CORPORATE TAX RETURN OR GST/HST RETURNS IF THE DECEASED OWNS A CORPORATION
 - ❖ APPLYING FOR CLEARANCE CERTIFICATES

ESTATE TAXATION

TAX CREDITS / DEDUCTIONS (YOD)

❖ T1 TERMINAL TAX RETURN OR DATE OF DEATH

- ❖ DISABILITY TAX CREDITS
- ❖ MEDICAL EXPENSES
- ❖ CHARITABLE DONATIONS
- ❖ PENSION INCOME TAX CREDITS
- ❖ FOREIGN TAX CREDITS

❖ T3 TRUST INCOME TAX RETURN

- ❖ LEGAL FEES
- ❖ ACCOUNTING FEES
- ❖ EXECUTOR FEES
- ❖ FOREIGN TAX CREDITS

ESTATE TAXATION

PENALTIES AND INTEREST

❖ T1 TERMINAL TAX RETURN OR DATE OF DEATH (DOD) RETURN

- ❖ THE PENALTY FOR LATE FILING IS 5% OF THE UNPAID TAX AT THE DATE THE RETURN WAS DUE TO BE FILED, AND 5% FOR LATE PAYMENT.
- ❖ THE INTEREST IS COMPOUNDED DAILY FROM WHEN THE RETURN IS DUE UNTIL THE RETURN HAS BEEN RECEIVED BY THE CANADA REVENUE AGENCY (CRA). THE CURRENT PRESCRIBED INTEREST RATE IS 1%.

❖ T3 TRUST TAX RETURN

- ❖ THE PENALTY FOR FAILURE TO FILE A T3 RETURN ON THE DUE DATE IS \$25 A DAY FOR EACH DAY THE RETURN HAS BEEN FILED LATE TO A MAXIMUM OF \$2,500 WITH A \$100 MINIMUM PENALTY. A TRUST WHICH HAS FAILED TO FILE A T3 RETURN BY THE REQUIRED DATE IS ALSO LIABLE TO AN ADDITIONAL PENALTY OF 5% OF UNPAID TAX AT THE DATE, PLUS 1% FOR EACH ADDITIONAL FULL MONTH TO A MAXIMUM OF 12 MONTHS THAT THE RETURN WAS PAST DUE.
- ❖ THE INTEREST IS COMPOUNDED DAILY FROM WHEN THE RETURN IS DUE UNTIL THE RETURN HAS BEEN RECEIVED BY THE CRA. THE CURRENT PRESCRIBED INTEREST RATE IS 1%.

ESTATE TAXATION

CLEARANCE CERTIFICATES

THE INCOME TAX ACT MANDATES THAT A LEGAL REPRESENTATIVE MUST OBTAIN A CLEARANCE BEFORE DISTRIBUTING ANY PROPERTY UNDER HIS OR HER CONTROL IF HE OR SHE WISHES TO AVOID BEING PERSONALLY LIABLE FOR ANY UNPAID TAXES, INTEREST OR PENALTIES.


CLEARANCE CERTIFICATE THAT IS REQUIRED TO BE OBTAINED BY THE LEGAL REPRESENTATIVES ARE:

❖ DATE OF DEATH (DOD) CLEARANCE

- ❖ AFTER THE T1 TERMINAL TAX RETURN AND ALL THE PRIOR TAX RETURNS ARE CONFIRMED FILED, TAXES OWING ARE PAID AND NOTICE OF ASSESSMENT IS OBTAINED FROM THE CRA.

❖ FINAL CLEARANCE

- ❖ AFTER THE T3 RETURN IS FILED, TAXES OWING ARE PAID AND NOTICE OF ASSESSMENT IS OBTAINED FROM THE CRA.



QUESTIONS & ANSWERS