Year End Tax Planning 2019-2020

Crowe BGK S.E.N.C.R.L.

YEAR END TAX PLANNING

November 2019

Fall is a key time to review various income tax and financial planning techniques that are available to individual and corporate taxpayers. Most tax planning transactions require analysis before being implemented so that they can be applied appropriately and consistently with the tax law. We encourage you to consult your Crowe BGK advisor before initiating any of the strategies outlined in this issue.

PLANNING FOR OWNER-MANAGERS

Salary/Dividend Planning

Many factors must be considered in determining the most beneficial method of remunerating the owner-manager of a closely-held corporation. As with other planning, each case must be examined separately and no one "rule of thumb" can apply to all situations.

Here are a few factors that should be taken into consideration:

- The tax rate of the corporation
- The marginal tax rate of the individual
- Exposure to Alternative Minimum Tax
- The ability to benefit from child care expenses and paternity/maternity benefits and RRSP and CPP/QPP contributions, which are all based on salary and not dividend income
- Wage levies applicable to salaries, such as the Ontario Employer Health Tax, Quebec's Health Services Fund and 1% Training Tax;
- Quebec restrictions on the deductibility of investment expenses by individuals where expenses exceed investment income;
- Whether eligible or tax-free dividends can be paid to shareholders;
- Receiving dividend income will result in a higher net income compared to receiving an equivalent salary, since dividend income is grossed up by 38% for eligible dividends or 15% for non-eligible dividends. This can have an impact on certain credits and benefits of an individual (e.g. old age security benefits); and
- Receiving salary income (max $151,278 for 2019) will result in a higher RRSP contribution room in 2020.

Remuneration that is accrued and expensed (e.g. bonuses) by a corporation must be paid to the employee within 180 days of the corporation's year-end.

Please contact your Crowe BGK advisor if you have any questions regarding these planning measures.

Income Splitting

Prescribed Rate Loans

Investment income earned by an individual who invested money borrowed at low or no interest from a related person will be attributed back to the lender. Subject to a purpose test, this rule does not apply where the loan is to a related person other than a spouse or minor child. Nor will it apply where the loan is to a spouse or minor child if interest is charged at the prescribed rate in effect at the time the loan is made (the prescribed rate for the fourth quarter of 2019 is 2%). When utilizing this exception, interest must be paid no later than 30 days after the end of the year to avoid attribution of income.

For instance, the high-income spouse could lend investment funds to the low-income spouse at the current 2% rate and receive (and pay tax on) the interest income each year, for as long as the loan remains outstanding. The low-income spouse would pay tax on the income generated by the funds and deduct the interest paid to the high-income spouse.

The prescribed rate generally follows the direction of the policy interest rate established by the Bank of Canada. As such, it may be prudent to effect such an arrangement before a potential rate increase to secure the current 2% rate.

Since the attribution rules are complex, caution is advised when contemplating a transfer of property or a loan to a spouse or a minor child (including transfers indirectly through a corporation or a trust).

Tax on Split Income ("TOSI")

As of 2018, the "kiddie tax" which subjected minors receiving certain types of income from private corporations, partnerships or trusts to tax at the highest marginal rate has been broadened to apply to all Canadian resident taxpayers.

These new income splitting rules are very complex. Prior to distributing any amounts (other than salary) from a private corporation, partnership or trust we recommend you consult with your Crowe BGK advisor.

Other Basic Planning Ideas

- Depositing Canada Child Benefit (CCB) and Quebec Child Assistance payments (CAP) directly into accounts opened in the children's names;
- Using the income of the spouse with the higher income to pay the family's household expenses so that the spouse with the lower income can accelerate the growth of his or her capital; or
- Paying reasonable salaries to your spouse and/or children.

Reduction of the Small Business Deduction (SBD) Limit

For taxation years beginning on or after January 1, 2019, the SBD limit of up to $500,000 is reduced when the prior year investment income of an associated group of corporations is more than $50,000. For each dollar of prior year investment income over $50,000, the SBD limit is reduced by $5. Prior year investment income of $150,000 or more will eliminate the SBD for the associated group for the particular year. This phase out of the SBD limit is not applicable for Ontario corporate income tax purposes.

Planning options may be available to mitigate the reduction or elimination of the SBD in your corporate group. If your company earns investment income, please consult your Crowe BGK advisor.

PLANNING FOR EMPLOYEES

Personal Use of Employer's Vehicle

The personal use of an automobile supplied by an employer is a taxable benefit for the employee. Commuting from home to work is considered a personal use for the employee, while travelling between the employee's home and a place other than the employer's place of business (a client, for example) is not. A detailed logbook must generally be kept to support the personal/business use allocation. Canada Revenue Agency (CRA) and Revenu Québec have "simplified" rules for logbooks; contact your Crowe BGK advisor to see if these rules can benefit you.

Changes to Employee Stock Options Rules

As of January 1, 2020, an annual $200,000 limit will be applied with respect to the stock option deduction on certain employee stock options, namely shares received from corporations other than Canadian-Controlled Private Corporations ("CCPCs") and from non-CCPCs that are start-ups, emerging or scale-up companies. What constitutes a start-up, emerging or scale-up company has not yet been determined. If you are in possession of employee stock options and wish to know whether this measure could be applicable in your situation please contact your Crowe BGK advisor.

PLANNING FOR HOME PURCHASE

Home Buyer's Plan ("HBP")

The HBP allows qualifying home buyers to withdraw amounts from their RRSPs to purchase or build a qualifying home. The HBP withdrawal limit has been increased to $35,000 from $25,000. As a result, a couple can withdraw $70,000 from their RRSPs to purchase a home.

The HBP withdrawal must be repaid over a 15-year period starting the second year after the year the funds were initially withdrawn.

This increase in the HBP withdrawal limit applies to the 2019 and subsequent calendar years in respect of withdrawals made after March 19, 2019.

Home Buyers Credit

The home buyers' credit is a $5,000 non-refundable tax credit available to an individual or their spouse or common-law partner if one of them acquired a home during the year. In order to qualify for the credit, the individual or his or her spouse or common-law partner must actually own the home and the individual cannot have lived in another home owned by him or her, or his or her spouse or common-law partner during the four preceding years.

The Quebec First-Time Home Buyers' Tax Credit is a non-refundable tax credit with a maximum amount of $750. This credit may be split between spouses (or common law partners) or between two individuals buying a qualifying home on a joint basis. However, the combined amount claimed cannot exceed $750. In order to qualify for the credit, the individual or his or her spouse or common-law partner must actually own the home and the individual cannot have lived in another home owned by him or her, or his or her spouse or common-law partner, during the four preceding years.

PLANNING FOR INVESTORS

Capital Gains and Losses

Capital losses realized in 2019 (net of any capital gains realized) can be carried back up to three years and carried forward indefinitely to offset future capital gains. It may be worthwhile to conduct an investment portfolio analysis in order to dispose of assets with unrealized losses prior to the end of the calendar year for individuals and taxation year for corporations.

Capital losses will not be recognized at the time of disposition where, during the period that begins 30 days before and ends 30 days after the disposition of the investment, the taxpayer or a person affiliated with the taxpayer acquires an identical property (a "superficial loss"). For an individual transferor, this denied loss will be added to the adjusted cost base of the property acquired by the affiliated person. This rule may be used advantageously to transfer a capital loss to an affiliated person.

Corporations should consider paying a dividend from the capital dividend account (essentially the tax-free portion of net capital gains) prior to the realization of capital losses.

Deductibility of Interest and Investment Expenses

Individuals who have debts should generally make it a priority to repay those with non-deductible interest. In general, interest on loans contracted for personal purposes will not be deductible; however, interest on loans contracted to earn income will be. The courts have confirmed that a taxpayer can sell an income-producing asset to repay a debt with non-deductible interest and then contract a new debt for the purpose of repurchasing the same asset or a different income-producing asset.

In Quebec, investment expenses incurred in the year by individuals are deductible up to the amount of investment income for that year. The excess amount may be carried back to the three preceding years or carried forward indefinitely. There exists no similar restriction for corporations.

Donations

Charitable donations are generally limited to 75% of net income (no limit for Québec). Unclaimed amounts can be carried forward for 5 years.

It is generally advantageous to donate publicly traded securities rather than cash to a registered charity. The amount of the donation receipt will be equivalent to the fair market value of the securities at the time of the donation. However, any increase in value of the securities above the donor's original cost will not be subject to capital gains taxation. For corporations, 100% of the gain is credited to the capital dividend account.

Strategies concerning donations of marketable securities can be complex. Potential donors should consult their Crowe BGK advisor.

Political Contributions

If you've made a personal contribution to a recognized federal party, you are eligible to receive a federal tax credit. The maximum amount of the credit is $650 for 2019.If you've made a personal contribution to a recognized provincial party and you reside in that province at the end of the year, you may be eligible to receive a provincial tax credit. The maximum amount of the credit is $1,384 for Ontario. In Quebec, only contributions made to municipal political parties are eligible and the maximum credit is $155 in 2019.

RETIREMENT PLANNING

Registered Retirement Savings Plan (RRSP)

The maximum amount individuals are allowed to contribute to an RRSP for 2019 is the lesser of 18% of their earned income for 2018 (essentially employment income net of any expenses, business income and rental income) and $26,500, plus unused RRSP contribution room from previous years. RRSP contribution room available for 2019 is reported on an individual's 2018 Federal Notice of Assessment. Membership in a Registered Pension Plan (RPP) or a Deferred Profit-Sharing Plan (DPSP) may reduce the amount of eligible RRSP contributions.

All or part of an RRSP contribution may be paid to a spousal plan without affecting the contribution room available to the spouse. This tax planning strategy effectively allows income splitting between spouses. Individuals may contribute to their own RRSPs up to and including the year in which they turn 71. If additional contribution room is generated subsequently, RRSP contributions may be made to a spousal plan up to the end of the year in which the spouse turns 71.

For individuals who anticipate their income being taxed in a higher tax bracket in a subsequent year, it may be worthwhile to delay the RRSP deduction to that subsequent year.

The amount of RRSP over-contributions must not exceed the RRSP contribution limit by more than $2,000 at any time; otherwise a penalty will be imposed on the excess amount.

RRSP contributions should, where possible, be made early in the year to benefit from the longer period that income is earned on a tax-sheltered basis within the RRSP.

Interest paid on a loan contracted to contribute to an RRSP is not tax deductible. RRSP management fees are also not deductible.

If you turn 71 this year you are required to collapse your RRSPs no later than December 31, 2019. To avoid having to pay a tax on the value of the RRSP, you may purchase an annuity or transfer the RRSP to a Registered Retirement Income Fund (RRIF) no later than December 31, 2019. Assuming a spousal plan contribution is not available, you may contribute your 2020 available RRSP deduction in December 2019 (before winding-up your RRSP) and pay a maximum penalty of $252.30 [1% of $25,230($27,230-$2,000)].

Tax-Free Savings Account (TFSA)

A TFSA allows investment income, including capital gains, to accumulate on a tax-free basis, rather than only defer taxation as is the case with an RRSP. Canadian residents aged 18 or older are able to contribute $6,000 in 2019 to a TFSA. Unused contribution room is carried forward to a subsequent year; the cumulative contribution limit in 2019 is $63,500.

Individual Pension Plan (IPP)

An IPP is an option for owners of incorporated businesses who wish to enhance the amount of their retirement savings. Contributions are made by reference to the owner's salary and the pension benefit desired. This can significantly exceed RRSP contribution limits, including a potentially large past-service contribution (and deduction) by the corporate employer. Minimum annual withdrawals are required once a plan member reaches age 72, similar to the rules for RRIFs.

Government Pensions

Individuals who have turned or are about to turn 65 should file their OAS and CPP/QPP retirement applications. Old age spousal or widow(er)'s allowances may also be available. **Reduced** CPP/QPP retirement benefits may be available to persons between ages 60 to 65. **Enhanced** CPP/QPP benefits and OAS pensions are available if the application is delayed until after age 65 (up to age 70). Contact your Crowe BGK advisor for more details.

Taxpayers must repay their OAS at the rate of 15% of 2019 net income in excess of $77,580. The entire OAS amount must be repaid if a taxpayer has net income in excess of $126,058.

PLANNING FOR HIGHER EDUCATION

Registered Education Savings Plan (RESP)

A RESP can assist individual contributors achieve tax-free growth on the funds they will use to pay for the post-secondary education of designated beneficiaries, usually their children or grandchildren. The lifetime contribution limit that may be contributed to all RESPs of a beneficiary is $50,000, with no annual limit. No deduction is available for contributions made to an RESP.

A RESP is also entitled to government assistance. The federal government awards the Canada Education Savings Grant (CESG). The current annual maximum CESG per beneficiary is $500 (i.e., 20% of the first $2,500 of contributions paid annually). Each child is entitled to a cumulative limit of $7,200. A family that did not contribute to its child's RESP for a year or more can receive a grant of not more than $1,000 as a CESG in a year (i.e., on a maximum contribution of $5,000).

Quebec also provides assistance in the form of the Québec Education Savings Incentive (QESI), under which it grants an annual maximum of 10% of RESP contributions up to $2,500. Therefore, the maximum amount of the annual incentive is $250.

The beneficiaries of an RESP will not be taxed on the withdrawal of the contributions but will be taxed on the withdrawal of accumulated income, including government assistance, which they will receive in the form of Educational Assistance Payments (EAP). Initial contributions may either be paid to the beneficiary or returned to the subscriber.

INTERNATIONAL PLANNING

Form T1135 Foreign Income Verification Statement

Taxpayers who hold foreign property with a total cost greater than $100,000 are required to provide detailed information regarding each specified foreign property owned during the taxation year. Such information includes:

- the name of the foreign institution or other entity holding funds outside of Canad
- the country to which the property relates, and
- the foreign income generated from the property.

Streamlined information reporting is available to taxpayers where throughout the year the total cost of specified foreign property was less than $250,000.

Significant penalties may apply to a taxpayer that fails to report or inaccurately reports the information respecting any specified foreign property.

US Citizens in Canada

A US citizen resident in Canada must file Canadian and US income tax returns, reporting worldwide income. We recommend that these tax returns be prepared by a US tax advisor due to the complex interplay of foreign tax credits.

US citizens who may not be in compliance with US filing requirements should be aware that the IRS has an amnesty program for Americans living in Canada and abroad. The IRS may waive significant penalties for certain "low compliance risk" taxpayers who opt to be compliant. The changes went into effect on September 1st, 2012 and allow many US citizens residing overseas to regularize their tax reporting obligations. On June 18th, 2014, the IRS made further changes to allow more US citizens residing overseas to become compliant. It is important to note that there have been recent panel discussions raising concerns that this amnesty program might come to an end sooner rather than later.

Non-US Individuals with a US Tax Filing Requirement

As a result of the Tax Cuts and Jobs Act of 2017, many changes were made to reduce income taxes for individual US tax filers. One adverse change, however, was the elimination of the ~$4,000 personal exemption for tax years beginning in 2018. The elimination of this exemption will result in more non-US individuals required to pay tax. Some examples of US source income include rental income, certain investment income and income from flow-through investments. Accordingly, taxpayers who once earned US source income less than USD $4,000 and were not required to pay US tax in prior years could be subject to US tax in 2018 and future years.

Snowbirds

Canadians who stay in the United States for more than 122 days (~4 months) every year run the risk of being considered a US resident for US tax purposes. If you are caught under the specific rule, but have spent less than 183 days in the United States in the current year, the "Closer Connection Exemption" may apply. The exemption is claimed by filing IRS form 8840 on a timely basis, generally by June 15 of the following year.

Crowe BGK has a US tax division team that can assist with US tax reporting and other US tax matters.

Personal Income Tax Instalments

Individuals who are required to make quarterly instalments should review the amounts paid, to avoid or reduce the non-deductible interest charged on late or deficient instalments. Canada Revenue Agency and Revenu Québec will continue to notify individuals of the amount of their quarterly installment requirements. Payments made in accordance with these notifications will always avoid interest charges.

DATES TO REMEMBER – December 2019 to April 2020

**Deadlines falling on holidays or Sundays may be extended to the next business day.*

December 16, 2019	Fourth personal income tax instalment for 2019 is due.
December 27, 2019	Anticipated final day of trading on Canadian stock exchanges for the transaction to be recognized in 2019.
January 10, 2020	Deadline for Quebec employees to provide their employer with their 2019 automobile logbook.
January 30, 2020	Final day for paying interest on employee loans for 2019 in order to avoid a taxable benefit.
January 30, 2020	Final day for paying interest for 2019 on loans to a spouse or minor child in order to avoid income attribution.
February 14, 2020	Final day for an employee to reimburse 2019 automobile costs paid by an employer to reduce the taxable benefit.

February 28, 2020	Deadline for distributing 2019 remuneration slips to employees (T4/RL-1) and independent sales representatives (T4A/RL-1), slips for payments of dividends and interest (T5/RL-3), and for filing the related summaries.
February 28, 2020	Deadline to submit your 2019 RL-31 slip to Revenu Québec and to distribute the slip to your tenants.
February 29, 2020	Deadline for 2019 RRSP contributions.
March 16, 2020	First personal income tax instalment for 2020 is due.
March 30, 2020	Deadline for filing T3 returns for trusts with a December 31, 2019 year-end. T3/RL-16 slips must be sent to beneficiaries no later than 90 days after the end of the trust's tax year.
April 30, 2020	Deadline to submit T1 returns for individuals (other than individuals who have business income and their spouses)

TO OBTAIN CURRENT DEDUCTIONS AND TAX CREDITS, THE FOLLOWING EXPENDITURES MUST BE PAID BY DECEMBER 31, 2019

- Investment counsel fees
- Certain legal and accounting fees
- Charitable donations
- Political contributions
- Tuition fees
- Deductible support payments
- Childcare expenses
- Professional membership fees and union dues
- Eligible medical expenses
- Deductible moving expenses
- Expenses associated with an objection or appeal related to a tax assessment
- Deductible interest expenses, includinginterest on student loans

The matters described herein, as well as other techniques used in tax planning, should be subject to ongoing review and analysis. Some decisions may more appropriately be implemented earlier, rather than later, in the year.

Did You Know...?

This and other issues of Current Developments are available in the Crowe BGK Publications section at CroweBGK.com.