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TAXATION

When You Die

Good records are the foundation of tax reporting.

Well kept records contain the evidence required to minimize tax liability and support claims in case of an audit.

Your own records of employment, marriage, cohabitation, business loans and the like are equally important because your tax advisor, financial planner, lawyer or accountant may not have all the information needed to support claims against you. Advisors change, firms move, professionals retire or die and records are lost or destroyed. Thus in the final analysis it is up to you, the individual taxpayer, to ensure the completeness of your records.

Complete historical documentation is especially important at the death of a taxpayer when the executors are making the final tax calculations for the deceased.

Net Capital Losses at Death

Capital losses occur when an investment is sold for less than its original cost. Capital losses can normally be applied against capital gains to reduce the taxable amount of the gain. If, in the final reckoning, the taxpayer's lifetime capital losses exceed the lifetime capital gains, unused losses will remain that could otherwise have been applied to offset capital gains.



Additional superfluous losses may incur if, in the year of death, the taxpayer sustained significant capital losses either through sale prior to death or as a result of deemed disposition at the time of death. Since there is no time limit on the capital loss carry forward, a person could die with a substantial balance of capital losses on hand.

To address this situation, the CRA, through ITA 111(2), allows both net capital losses from prior years and allowable capital losses arising in the year of death to be applied against any type of income in the year of death, or the immediately preceding year.

There are, however, exceptions to the application of these provisions.

First, the use of capital losses to reduce other income is limited by previous deductions under the lifetime capital gains provision and capital gains. The deductible carry

over must be applied at the capital gain/loss inclusion rate in effect when the gain or loss was realized. Since capital gains inclusion amounts will undoubtedly change over the life of a taxpayer, the determination of capital gains or losses could be difficult if records have not been properly maintained. The result of the adjustments required is, in effect, that gross losses will offset gross gains no matter what the capital gains inclusion rate was in a particular year.

Second, if capital losses are realized by the estate from the disposal of capital property in the first year after the death of the taxpayer, the losses can be carried back and applied to any type of income earned in the final year. They cannot, however, be carried back to the year before the date of death.

The same rules apply to terminal losses incurred by the estate in its first taxation year.

Filing returns for the deceased is often delayed when historical data is incomplete or missing. Regardless of the reasons, the Income Tax Act still requires that the tax owing be remitted by April 30 of the year following the death of the taxpayer. Should the taxpayer pass on between November 1 and December 31, the due date for the payment of taxes is six months after the date of death. If the taxpayer was self-employed and did not have to file income tax returns until June 15, tax filing deadlines would remain the same. Interest and penalties can be added for late filing.

To ensure maximization of the deductions available from capital losses on your death you should:

- keep *all* tax returns, receipts and other documentation
- keep *all* documentation showing the trail of capital gains and capital losses throughout the years
- ensure that the hard copy tax return shows details of gains and losses each year. If the tax return refers to an external document, keep a copy in your files
- maintain "Gains or Loss" worksheets for any Income Trust.

Death Benefits

The employee death benefit is a tax break available to spouse(s) and surviving children but often overlooked by executors filing personal income taxes without professional advice.

Death benefit payments are advantageous to the employee because the amount received is treated as income only to the extent that it exceeds \$10,000.

Death benefits are paid to survivors at the employer's option after the death of the employee. Death benefits do not have to be paid to any one individual, may be paid in one lump sum or in payments straddling two consecutive calendar years, but the tax-free amount is

limited to a one-time total of \$10,000. This limit prevents employers who own more than one company from paying multiple death benefits to the same employee by putting him or her on the roster of more than one company. Death benefits would normally be recorded on a T4A or a T3 for the end of the calendar year.

Assuming the death benefit is spread among several individuals such as a surviving spouse or common law partner, the total collective tax deduction is \$10,000. Should the total payout exceed \$10,000 the exemption will be pro rated according to the amounts received by each beneficiary up to a total deduction of \$10,000 for all parties. Thus, if the death benefit is \$15,000, A receives \$10,000 and B receives \$5,000, A's pro rata portion of the \$10,000 total deduction is two thirds ($\$10,000/\$15,000$) of the \$10,000 or \$6,667 while B can apply one third or \$3,333. The remaining \$5,000 received in excess of the \$10,000 deductible amount would be taken into income proportionately: A would record two thirds of \$5,000 or \$3,333 and B would record one third or \$1,667.

It is possible for the death benefit to be paid to someone other than the spouse such as a child of the deceased. If this occurs, the rules for the allocation of the \$10,000 limit apply.

The payer of a death benefit need not be the employer. An amount received or receivable from a testamentary trust qualifies as the gross amount of a death benefit. To be eligible, the payment received by the trust on or after the death of the employee must be in recognition of the employee's service in an office or other employment. The death benefit received by the testamentary trust is deemed to have been received by the beneficiary if the trust pays it to the beneficiary or is required to pay it to the beneficiary.

The term death benefit refers to the amount or amounts received by any taxpayer in a taxation year upon or after the death of an employee or former employee in recognition of that employee's or former employee's service in an office or employment. It also covers payment in recognition of settlement of accumulated sick-leave credits to which the employee was entitled under the terms of the office or employment.

Understanding payments that do not qualify as death benefits is important since the corresponding deduction amount will not be allowed if payments are received as a result of:

- a payment received out of a superannuation or pension fund or plan
- salary deferral arrangement
- retirement compensation arrangement upon or after the death of an officer or employee

- accumulated vacation pay
- Canada or Quebec Pension Plan
- deferred employment income
- payment representing overtime earned before death.

Naturally a benefit from an employer will only qualify as a death benefit if it can be construed that the taxpayer was indeed an employee of the employer paying the

death benefit. Normally the fact that an employer issues a T4 would be sufficient proof that the deceased taxpayer was indeed an employee. A shareholder/manager who was an employee but received dividends rather than salary should, nevertheless, qualify as an employee for this purpose. ■

MANAGEMENT

Getting Ready for 2010

Planning with a short horizon has many advantages for the owner-manager over long-term strategic planning used by large corporations.

Incremental Management for Small Business

Incrementalism is a method of achieving goals by working through a series of *ad hoc* stages rather than using an overarching prescriptive plan. As each phase is achieved and completed, a plan is developed to get to the next stage. Even though the planning takes place bit by bit, the ultimate goal is always kept in sight.

Take for instance the goal of driving from Halifax to Vancouver. A structured plan would lay out in advance the entire route to be taken, the number of kilometers, the average daily distance to be driven, each day's destination, each night's accommodation, and so on. The entire trip would be planned and the job of the drive would be to stick to the plan; any variation would require a new plan.

An incremental approach on the other hand would simply identify the goal as Vancouver, a destination to be reached by driving west from Halifax. Each day a decision on how to advance the following day would have to be made based on the location that had been reached the previous night. Thus, although no complete itinerary was ever designed, the end result would be the same: arrival in Vancouver.



Larger corporations accept strategic planning as a given because their size demands it. Because capital investment requires long-term planning, a large enterprise cannot move forward by a series of short-term decisions. Because of this need for long-term planning, they put in place the financial and human resources to develop these plans. Because owner-managed businesses are preoccupied with day-to-day issues and lack these resources, they usually forego the formalized planning process. As a result they often forego the short-term planning process also.

To rise above this impasse, owner-managers should try an incremental approach to planning growth. Rather than following a rigid structure, a looser more general framework should set a year-end goal to be achieved by accomplishing 12 monthly goals.

Consider the following approach:

January

Establish your net worth by reviewing the assets and liabilities of your business. Prepare a rough cash-flow budget using monthly cash-flow estimates that take into consideration any monthly fluctuations arising from seasonal features of your business. A review of bank statements for the previous year will provide a rough picture of the monthly cash inflows and outflows. The balance sheet will indicate assets, liabilities and equity within the business, while the cash-flow budget will provide an idea of the ebb and flow of cash and when it will be necessary to conserve cash flow. This is an ideal time to set goals for the end of 2010.

February

Ensure that the payroll requirements for the Canada Revenue Agency have been met. For owner-managers it is a good time to consider additional funds for personal or family RRSP contributions or other investments. This review can also be a not-so-subtle reminder of the shortfall in personal contributions and perhaps a reminder that business and personal tax planning go hand in hand.

March

Now is the time to consider what is going to be done for the next nine months to realize the results envisioned in January. Will the business be able to meet the cash-flow expectations developed in the January projections as well as personal goals such as achieving RRSP contribution limits? Will there be enough cash to permit an increase in personal remuneration? It may also be a good time to schedule employee vacation time.

April

"April is the cruelest month" begins the first line of T. S. Eliot's signature poem, *The Waste Land*. It is the time to review the personal income tax returns for you and your family. A line-by-line review should show areas where you may be able to decrease your tax liability or the cash-flow requirements by increasing source deductions, making larger installment payments, increasing RRSP contributions or, if self-employed, income splitting with family members. This is a good time to set up a future meeting with your chartered accountant.

May

This is great time to meet with your chartered accountant to review tax returns in conjunction with business results to date. The meeting should review whether you are on target with your January projections. You still have ample time to change personal and business plans. It is also a good time to share your goals with your accountant and determine what, if any, changes are required.

June

By now you have a pretty good idea of how the year is unfolding, how much money is in the bank and what other expenses are in the foreseeable future. Review tax, business, and personal strategies discussed in May and prepare cash-flow analyses for each of the months July through December. Modify your plans as needed to achieve your goals.

July

Address revenues and expenditures plans for August through December. Increases in costs for supplies, staff, and other overhead together with changes in income and business results are identifiable in the trends showing up at this point. As well, owner-managers are getting a clearer picture of personal income and expenditure needs. The possibility of price increases or expense reductions should be evident by now.

August

The summer slowdown will be over at the end of the month so now is the time to reattach your business to some of the key stakeholders. Contact clients and suppliers to reaffirm your commitment to them for the coming months. Review staffing requirements, inventory levels, and training needs. Ensure that all government remittances are up to date. It is good time to rethink cash-flow projections and approach financial institutions if it appears that lines of credit or loans are going to be needed. Discuss business insurance with your agent to ensure adequate coverage. Taking care of these matters now will make business easier come September.

September

Hands-on management will be more important than ever as staff will be sluggish after a slower summer. Cash flow will have to be monitored on a daily basis as receivables will undoubtedly hit the 60-90 day range. Suppliers will need assurances they will be paid and the bank will be watching the line of credit.

October

Compare actual cash flow with the changed projections made in June. Fine tune cash expectations for the last three months and the end of the year. Review profits. Discussions with your chartered accountant should focus on the goals set for the year, the advantages of capital asset purchases, the need to pay bonuses to employees or bonus down profits to owners to reduce corporate taxes, and whether dividend distribution would be advisable.

November

Evaluate capital-asset requirements and order the assets for delivery by the end of the year. Employee evaluations should determine whether raises or bonuses are a consideration. Determine cash-flow needs for January and February of the next year because these are traditionally slow cash months for many businesses.

December

Because of the seasonal holidays December is a short work month. You will need to stay on top of your business to maintain work focus. Business administration is going to take up a lot of your time because:

- capital assets will be installed
- bonuses or raises will be determined
- books and records will have to be finalized for your accountant
- inventory and supplies will need to be counted

- receivables should be pursued
- preliminary profit and losses should be reviewed
- sales projections for the next two months should be reviewed to ensure adequate cash flow before final determination of bonuses or raises.

Review the goals set the previous January to determine whether goals have been met. Evaluate rather than criticize. Determine those goals that should be discarded and those that should be carried forward to the next year.

Planning in Stages Gives Flexibility

Owner-managers who set goals at the start of the year and manage their businesses by addressing issues as operations dictate will avoid the constraints of trying to adhere to a rigid system of structured planning. Dealing with issues in real time permits more operational flexibility, allows rapid change, and enables operations to be modified to meet both personal and corporate goals. ■

TECHNOLOGY

Notebooks for Everyone

The old adage, “You only get what you pay for” is certainly true when buying a notebook

Online or at your favourite retail store, brand-name notebooks have a large price range, typically starting at about \$500 and going up to \$3,000; premium and specialty laptops can cost even more.

Given the variety of choices, it is often difficult to know what to buy. Businesses may be reluctant to spend more than the lowest price; however, paying for quality is beneficial in the long run because the extra dollars spent will reward with faster processing, more memory, and greater reliability, durability and longevity.

A \$500 notebook may save you money at the outset but if it crashes six months after purchase, the cost of retrieving the information when the Geek Squad looks



at it, combined with the need to rebuild data that may not be recoverable, will eat into the savings faster than a raccoon at a fast-food garbage bin.

When selecting a new portable computer, consider the tasks you need to perform, how often you expect to take your computer with you, and your budget.

Get RAM

Whether you work with simple office applications or occasionally want to be a gamer, a sure way to improve performance is to go for the largest RAM available. Since two GB is entry level today, you should get at least four GB to make sure your hardware will be able to handle future software applications. And, while you're at it, get a more powerful 64-bit processor to handle future application and operating system needs.

Screen Size and Resolution

Screen size refers to the physical size of a computer display, measured diagonally in inches. Resolution measures how much information can be displayed on the screen, effectively by counting the number of pixels that form the image. Both are important considerations.

Numerous studies indicate that *size does matter* when it comes to screen “real estate” and productivity — to a point. In the world of mobile computing though, space is at a premium. A desktop replacement, that is, a laptop with a large display and desktop-like performance is certainly an option; however, the increased size and weight tends to make this form far less portable. Conversely, smaller notebooks are lighter and more portable at the expense of performance.

Graphics Card

Quite separate from screen size and resolution is the graphics card, the device inside the computer that produces the image. The sophistication of the graphics processor unit (GPU) itself and the amount of memory dedicated or allocated to it affect the quality and kinds of images the GPU can produce. A better GPU with more memory is ideally suited to graphics-intensive applications, large high-resolution external displays, and support for multiple displays.

Better Battery?

Battery life is a challenge for all notebooks. Many manufacturers advertise battery life in the three-to-five-hour range for a typical 15” notebook, although the way the manufacturer determines this may not match your typical usage. Also remember that battery life will decline over the life of the cell. Depending on the number of charge cycles, the battery will likely need to be replaced at least once over the life of the computer.

Some manufacturers include a lower-capacity battery by default and offer an upgrade to a longer-lasting battery pack with more cells. Some manufacturers offer models with a built-in battery that cannot be removed or upgraded. This means you cannot “swap out” battery packs if you are working for extended periods without access to an outlet; if the battery is nearing the end of its life you will need to take the complete computer in for servicing to have it replaced.

Stay Connected

The ability to connect to the Internet should be “a given” on any notebook. Wired Ethernet is no longer standard on all computers; if you need to plug in to your network, make sure Ethernet is included. In the wireless world, Wi-Fi is king; ensure the computer includes support for at least 802.11n. Manufacturers are also starting to include built-in wireless hardware that connects to the Internet via the cellular network rather than Wi-Fi. Cellular coverage is ubiquitous and can enable Internet access from literally almost anywhere; however, a monthly subscription with your mobile provider would be required.

While on the subject of connectivity, consider your needs for input and output ports. Many laptops include a sufficient number of USB ports, although some still include only two, or even one port. You can always expand your USB capacity with an external USB hub, but it's far more convenient to eliminate or reduce the need to carry one.

The VGA port has been a standard analogue display connector for more than 20 years; however, in recent years newer digital standards are replacing VGA. Many laptop computers now include a DVI port or DisplayPort connector instead of VGA; these standards are technically superior to the VGA interface, but many older and even current entry-level projectors and displays only support VGA. If you do offsite presentations, always carry an adapter with your computer to ensure compatibility.

An ExpressCard slot allows for future expandability, although not all models include one. Webcams, biometric fingerprint scanners and flash-card readers are now also popular inclusions on many laptop models and should be considered if you need these features.

Keyboard and Mouse

Laptop keyboards are often slightly smaller than you would find on a desktop, and usually do not include a discrete number pad. If your work depends on numeric data entry, separate portable *numpad* peripherals are available. A touchpad surface or pointing stick is usually provided for the “mouse” interface. Each has advantages and disadvantages and can take some time to get accustomed to. For work in the office or at home you can always connect a full-sized desktop keyboard and mouse if you prefer.

Hard Drives

A large storage capacity seems to be a big seller in notebooks; hard drives up to 500 GB are now available. Most business applications will never use all this capacity. Systems with less hard-drive storage are often less expensive. That said, consider the current and future needs of the business and purchase accordingly.

Solid-state drives, which operate in much the same way as a USB flash drive, are also starting to become more widely available, although still at a premium price. Unlike a traditional hard drive, a solid-state drive has no moving parts that can fail or cause data loss.

Notebooks are, unfortunately, often exposed to extremes of human carelessness. Thus businesses may wish to consider a hard drive that incorporates an accelerometer to detect sudden motion and disengage the hard drive to protect it in the event of a drop.

The "Ideal" Notebook

Purchasing notebooks for staff should not depend so much on the cost as on the ability of the notebook to integrate easily into the business environment. The ideal notebook should function whether the user is at home base or away. Once the "ideal" notebook has been found, management should consider purchasing the same make and model for all corporate users. Such a practice allows seamless notebook exchange, the ability to isolate user problems faster, and ensures similarity of hardware responses to software or hardware added to the notebook. ■

MONEYSAVER

Keeping Your Business Insurance Up to Date

Changes to your business could change your risk profile. Failure to inform your insurer of such changes could result in denial of coverage.



All too often small business owners renew their business insurance policies without giving much consideration to the adequacy of the coverage. Over time business risk changes with the growth of your business and the old policy may no longer provide the necessary coverage. Perhaps it is time to review your business policy and determine whether additional coverage is required.

Your insurance agent is the best person with whom to review your existing policy and determine the coverage your business should consider. After all, the agent only knows how your business has changed on the basis of the information you provide. A failure to communicate risk-related changes could cost you dearly if you have to make a claim. Yes, you may want to insure for unique risks associated with your type of business but most small business owners only need adequate coverage.

Typically your insurance representative should discuss the following:

Commercial Property Insurance

This type of insurance covers buildings, inventory, contents, and equipment against fire, windstorm, falling objects, or burglary. Customer or employee assets may also be covered depending on the wording of the policy.

If you operate a business from your home, it is unlikely your basic house and contents policy will be adequate. In fact a homeowner's policy can sometimes be voided by the operation of a business on the premises. If your business is home based, consider a commercial policy in addition to your homeowner's policy.

If your business leases premises, you need to know whether your business insurance policy meets the requirements of the lease agreement.

General Liability Insurance

This type of insurance generally insures against liability for injury:

- to persons while on your property
- to a third party caused by use of your product
- to persons or property through the acts of an employee on company business offsite (vicarious liability).

In many instances the cost of defending a claim may be covered even if a settlement is not required.

Business Interruption Insurance

A fire or other natural disaster can cause a business shutdown that results in lost customers, departing employees, and the reduction of cash flow. Business Interruption Insurance provides funds to offset the lost profits and additional expenses required to get back into production.

Crime Insurance

Losses from crime such as credit-card fraud, Internet scams, counterfeit money, employee theft as well as embezzlement and forgery are usually covered by this type of insurance.

Receivables Insurance

The collection of receivables generates the cash that keeps your business going. Receivables insurance is not expensive (usually a small fraction of one percent of sales) and protects you against non-payment if a customer:

- goes into bankruptcy
- closes
- changes owners
- has cash-flow problems
- is having difficulties because of a downturn in the economy
- is located overseas and unable to pay because of government intervention
- refuses to pay because of a protracted dispute.

Commercial Auto Insurance

Given the widespread use of automobiles in business, commercial auto insurance is essential to protect your business against the risk of bodily injury or property damage. The policy should include provision for funds to cover repairs or purchase a new vehicle in case

of damage or theft, and provide third-party liability should a company employee cause injury to property or person(s). If company vehicles cross an international border, special coverage may be required.

Critical Illness Insurance

If the owner-manager is incapacitated through a critical illness, this insurance provides a tax-free lump-sum benefit.

Partnership Insurance

Partnership agreements usually contain a mechanism that prevents dissolution of the partnership if a partner dies or becomes insolvent. Partnership insurance provides the funds to satisfy the heir or creditor, thus allowing the partnership to continue in business without interruption. Such insurance can also help offset any tax liabilities arising from death or insolvency.

Key Person Insurance

The loss of the contribution of a key employee through death or illness can be devastating to a company. If the business is a family business, key person insurance provides money to meet estate tax obligations without affecting the company. It also provides money to pay company creditors and to find and train a replacement.

Life Insurance

If you are a sole proprietor or a partner, your estate will be responsible for any debts incurred by the proprietorship and your portion of those incurred by the partnership. It is advantageous to have insurance sufficient to pay these obligations.

Coverage, Deductibles and Policy Limits

What is a significant loss to one organization may be a trivial loss to another. Therefore, choose your coverage, deductibles and policy limits carefully. Do not be penny wise and pound foolish.

Read the Fine Print

Most surprises to the insured come when the agent tells them the policy does not cover what is being claimed. Anything not included specifically in the policy or as a rider may not be insured. Read and review the policy with your representative. Although not comprehensive, the following are a few of the areas to check:

- Make sure all pages explaining riders or other sub sets of data are present within the contract. A completed contract is the only means you have of verifying your claim. Cross-reference the clauses in the main body of the policy to the subsets to ensure that they are correct and that you understand the subset explanations.
- Make sure the names and addresses of the insured and the insured premises are accurate.

- Check to ensure all areas to be insured are included.
- Determine continuity of pages to ensure that all pages are present.
- Double check that the limits and deductibles are correct.
- Ensure that the insurance company is properly identified by name.
- Check the date the policy comes into effect. Nothing could be more devastating than a major disaster occurring only to discover that your premises were not covered because the representative entered the wrong date.
- Note any compliance issues such as providing serial numbers of insured equipment, notification of new equipment purchases, monthly receivable or inventory listings, or police reports in the event of theft, embezzlement or break-ins.
- Understand any time frames required for filing claims.
- Understand any payment schedules and adhere to them. If payments are to be automatically withdrawn from the operating account, check that documentation specifies the payment process.

Avoid Disappointment

Make sure your insurance agent has explained how the policy meets your needs. In addition to knowing what it covers, make sure you understand what it does not cover. Ask any question that comes to mind, no matter how absurd it may seem since, unfortunately, the “if a then b” logic that seems to be common sense to you may not be the way the insurer looks at the risk. For instance equipment used offsite and carried in personal or company vehicles may not be covered if stolen. Laptops may not specifically be ensured against theft while transported or in the office (mysterious disappearance). And what about sewer backup, tornados, floods, falling trees, or damage created by vandalism?

You may have risks or hazards for which no insurance can be purchased such as war, acts of civil disobedience, or damage or injury created during the commission of an illegal act. There are, however, grey areas. For instance, does the policy cover the employee involved in an accident while intoxicated or driving at excessive speeds which results in a criminal charge?

Make sure you understand what is covered in your property policy. Have the representative explain the meaning of additional coverage provided without cost such as maximums for outdoor signs, fire department surcharges or property in transit. A careful review of additional “free” coverage may allow a business to reduce the coverage initially determined necessary.

Ask for an explanation of the deductibles for any riders on both the general property insured and special property policies. If riders cover offsite storage, laptops or other expensive portable equipment, for example, does the deductible apply per occurrence?

Determine the specific actions required in making a claim. For instance, do you need to contact police and submit a police report if equipment is stolen?

The relationship between insurer and insured is one of trust and requires both parties to act in good faith. Insurance contracts are based on the understanding that the insured has the information the insurer requires to draft the policy, calculate the premium and determine the claim value. It is assumed the information given is complete and accurate to the best of the insured’s knowledge. Intentionally providing information that is incorrect, misleading or excludes important facts can result in denial of coverage through rejected claims or cancellation of policies.

Understanding what insurance is needed to compensate for loss helps a business to minimize the cost of insurance while providing the assurance that all foreseen business risks are covered. ■

BUSINESS MATTERS deals with a number of complex issues in a concise manner; it is recommended that accounting, legal or other appropriate professional advice should be sought before acting upon any of the information contained therein.

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