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Asking better year-end tax planning questions

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Have you ever found yourself looking for tax savings while completing your tax return in April? If so, you've probably realized that at that point, there's not much you can do to reduce your balance owing or increase your refund balance. By the time you prepare your tax return, you're looking back and simply reporting on the year that has ended. You can achieve real tax savings when you're proactive.

But don't worry. As we approach the end of the year, there's still some time left for forward-looking planning. You can approach year-end planning by asking yourself questions, going through a checklist, considering a framework or using all three methods.

TaxMatters@EY is a monthly Canadian bulletin that summarizes recent tax news, case developments, publications and more. For more information, please contact your EY advisor.

Taking time out of your busy December to think about these questions can help you find better answers that may save you money on your 2018 tax bill and beyond:

Are there any income-splitting techniques available to you?

Can you reduce your family's overall tax burden by taking advantage of differences in your family members' marginal income tax brackets using:

- ▶ **Income-splitting loans?** You can loan funds to a family member at the prescribed interest rate of 2% (for 2018 loans created after 31 March 2018¹). The family member can invest the money and the investment income will not be "attributed" to you (i.e., treated as being your income for tax purposes), as long as the interest for each calendar year is paid no later than 30 January 30 of the following year.
- ▶ **Reasonable salaries to family members?** If you have a business, consider employing your spouse or partner and/or your children to take advantage of income-splitting opportunities. Their salaries must be reasonable for the work they perform.² This planning may be more important this year than in the past, because other income splitting opportunities involving your business may be limited in 2018 and later years (see below re: income-splitting private corporation business earnings).
- ▶ **Spousal RRSPs?** In addition to splitting income in retirement years, these may be used to split income before retirement. The higher-income spouse or partner can get the benefit of making contributions to a spousal plan at a high tax rate and, after a three-year non-contribution period, the lower- or no-income spouse can withdraw funds and pay little or no tax.

Have you paid your 2018 tax-deductible or tax-creditable expenses yet?

- ▶ **Tax-deductible expenses** - A variety of expenses, including interest and child-care costs, can only be claimed as deductions in a tax return if the amounts are paid by the end of the calendar year.
- ▶ **Expenditures that give rise to tax credits** - Charitable donations, political contributions, medical expenses and tuition fees must be paid in the year in order to be creditable.
- ▶ **Do you have any unused education or textbook tax credits from prior years?** - These federal credits were eliminated effective 1 January 2017. However, any unused education and textbook tax credit amounts carried forward from years prior to 2017 remain available to be claimed in 2017 and subsequent years. Note that some provinces/territories still provide these credits.
- ▶ **Is a deduction or credit worth more to you this year or next year?** If you can control the timing of deductions or credits, consider any expected changes in your income level and tax bracket or marginal tax rate.

Have you considered the impact of any changes to personal tax rules that are effective for the year or in 2019³?

- ▶ **Do you income-split private corporation business earnings with adult family members?** New rules may limit income splitting opportunities with certain adult family members⁴ through the use of private corporations in 2018 and later years. For example: a business is operated through a private corporation, and an adult family member in a low income tax bracket subscribes for shares in the corporation. A portion of the business's earnings is distributed to the family member by paying dividends. The new rules apply the highest marginal personal income tax rate (the tax on split income) to the dividend income received unless the family member meets one of the legislated exceptions to the application of this tax. For example, if the adult family member is actively engaged in the business on a regular basis by working an average of at least 20 hours per week during the year (or in any five previous but not necessarily consecutive years), the tax on split income may not apply. Consult with your tax advisor.

For more information about these new rules, see [EY's Tax Alert 2017 Issue No. 52, Finance releases revised income splitting measures](#).

¹ Loans made during the first quarter of 2018 are subject to a prescribed rate of 1%.

² For example, salaries comparable to what arm's-length employees would be paid in a similar capacity.

³ There are other changes taking effect which may impact personal taxes that are not listed here, as they are of limited application. Consult with your tax advisor for details.

⁴ There were already rules in place which limited income splitting opportunities with children under the age of 18 prior to 2018.

- ▶ **Do you hold passive investments in your private corporation?** New rules effective for taxation years beginning after 2018 may limit a Canadian-controlled private corporation's (CCPC's) access to the small business deduction and, accordingly, the small business tax rate⁵ in a taxation year to the extent that it holds passive investments that generate more than \$50,000 of income⁶ in the preceding year. Consult your tax advisor for possible strategies to mitigate the adverse impact of these rules. For example, if you are considering realizing accrued gains in the company's investment portfolio before its 2018 taxation year end and the company is likely to cross the \$50,000 income threshold by doing so, consider deferring the gains to the following year so that the 2019 taxation year is not impacted by the new rules. You may also consider the pros and cons of holding a portion or all of the portfolio personally instead of within the company.

For more information about these new rules, see [TaxMatters@EY, May 2018, "Federal budget simplifies passive investment income proposals."](#)

- ▶ **Do you receive non-eligible dividend income?**

Dividends received from private corporations and paid out of income taxed at the small business tax rate are generally non-eligible dividends. The tax rate applicable to non-eligible dividend income will be increasing for dividends received on or after 1 January 2019. If you have discretion over the amount of dividends received, consider receiving more non-eligible dividends prior to the end of the year, but weigh the savings of the lower non-eligible dividend tax rate against the tax deferral available by retaining income within the corporation.

Have you maximized your tax-sheltered investments by contributing to a TFSA or an RRSP?

- ▶ **Tax-free savings account (TFSA)** - Make your contribution for 2018 and catch up on prior non-contributory years. You won't get a deduction for the contribution, but you will benefit from tax-free earnings on invested funds. Also, to maximize tax-free earnings, consider making your 2019 contribution in January.

- ▶ **TFSA withdrawals and re-contributions** - TFSA withdrawals are tax free and any funds withdrawn in the year are added to your contribution room in the following year. But if you have made the maximum amount of TFSA contributions each year⁷ and withdraw an amount in the year, re-contributions made in the same year may result in an overcontribution, which would be subject to a penalty tax. So if you have no available contribution room and are planning to withdraw an amount from your TFSA, consider doing so before the end of 2018, so that it's possible to re-contribute in 2019 without affecting your 2019 contribution limit.



⁵ The small business deduction applies to the first \$500,000 of active business income earned by a CCPC in the taxation year. This limit must be shared with a CCPC's associated companies. The provinces and territories also have their own small business tax rates, with most jurisdictions also applying a \$500,000 active business income limit. The federal small business rate is 10% in 2018, which will decrease to 9% in 2019. The federal general corporate rate is 15%.

⁶ Examples include dividend income on a stock portfolio, interest income on the holding of debt instruments and taxable capital gains realized on the disposition of assets that are not used by the corporation to earn active business income in Canada.

⁷ The maximum contribution limit was \$5,500 in each of 2016, 2017 and 2018, \$10,000 in 2015, \$5,500 in each of 2013 and 2014, and \$5,000 for each of 2009 to 2013. The CRA has indicated that the maximum contribution limit will be \$6,000 in 2019.

► **Registered retirement savings plan (RRSP) -**

The earlier you contribute, the more time your investments have to grow. So consider making your 2019 contribution in January 2019 to maximize the tax-deferred growth. If your income is low in 2018, but you expect to be in a higher bracket in 2019 or beyond, consider contributing to your RRSP as early as possible but holding off on taking the deduction until a future year when you will be in a higher tax bracket.

Are you considering making an RRSP withdrawal under the Home Buyers' Plan?

- If you're a first-time home buyer,⁸ the Home Buyers' Plan (HBP) allows you to withdraw up to \$25,000 from your RRSP to finance the purchase of a home. No tax is withheld on RRSP withdrawals made under this plan. If you withdraw funds from your RRSP under the HBP, you must acquire a home by 1 October of the year following the year of withdrawal, and you must repay the withdrawn funds to your RRSP over a period of up to 15 years, starting in the second calendar year after withdrawal. Therefore, if possible, consider waiting until after the end of the year before making a withdrawal under the HBP to extend both the home purchase and repayment deadlines by one year.

Have you maximized your education savings by contributing to an RESP for your child or grandchild?

- **Contributions** - Make registered education savings plan (RESP) contributions for your child or grandchild before the end of the year. With a contribution of \$2,500 per child under age 18, the federal government will contribute a grant (CESG) of \$500 annually (maximum \$7,200 per beneficiary).
- **Non-contributory years** - If you have prior non-contributory years, the annual grant can be as much as \$1,000 (in respect of a \$5,000 contribution).

Is there a way for you to reduce or eliminate your non-deductible interest?

- Interest on funds borrowed for personal purposes is not deductible. Where possible, consider using available cash to repay personal debt before repaying loans for investment or business purposes on which interest may be deductible.

Have you reviewed your investment portfolio?

- **Do you have any accrued losses to use against realized gains?** While taxes should not drive your investment decisions, it may make sense to sell loss securities to reduce capital gains realized earlier in the year. If the losses realized exceed gains realized earlier in the year, they can be carried back and claimed against net gains in the preceding three years and you should receive the related tax refund. Note that the last stock trading date for settlement of a securities trade in 2018 is Thursday, 27 December 2018 for securities listed on both Canadian and US stock exchanges. Just remember to be careful of the superficial loss rules, which may deny losses on certain related-party transactions. For more on the superficial loss rules, refer to [TaxMatters@EY, October 2015, "Making the most of investment losses."](#)

- **Do you have any realized losses carried forward?** If you have capital loss carryforwards from prior years, you might consider cashing in on some of the winners in your portfolio. As noted above, be aware of the 27 December 2018 deadline for selling securities listed on a Canadian or US stock exchange to ensure that the trade is settled in 2018. Or consider transferring qualified securities with accrued gains to your TFSA or RRSP (up to your contribution limit). The resulting capital gain will be sheltered by available capital losses, and you will benefit from tax-free (TFSA) or tax-deferred (RRSP)

future earnings on these securities. Alternatively, you could also consider donating publicly traded securities (e.g., stocks, bonds, Canadian mutual fund units or shares) with accrued gains to a charitable organization or foundation. If you do, the resulting capital gain will not be subject to tax and you will also receive a donation receipt equal to the fair market value of the donated securities.

Can you improve the cash flow impact of your income taxes?

- **Are you eligible to request reduced source deductions?** If you regularly receive tax refunds because of deductible RRSP contributions, child-care costs or spousal support payments, consider requesting CRA authorization to allow your employer to reduce the tax withheld from your salary (Form T1213). Although it won't help for your 2018 taxes, in 2019 you'll receive the tax benefit of those deductions all year instead of waiting until after your 2019 tax return is filed.
- **Are you required to make a 15 December instalment payment?** If you expect your 2018 final tax liability to be significantly lower than your 2017 liability (for example, due to lower income from a particular source, losses realized in 2018 or additional deductions available in 2018) you may have already paid enough in instalments. You are not required to follow the CRA's suggested schedule, and are entitled to base your instalments on your expected 2018 liability. However, if you underestimate your 2018 balance and your instalments end up being insufficient or the first two payments were low, you will be faced with interest and possibly a penalty.

⁸ You are considered a first-time home buyer if neither you nor your spouse or partner owned a home and lived in it as your principal residence in any of the five calendar years beginning before the time of withdrawal.

Have you thought about estate planning?

► **Have you reviewed your will recently?** You should review and update your will periodically to ensure that it reflects changes in your family status and financial situation, as well as changes in the law.

► **Have you considered your life insurance needs?**

Life insurance is an important tool to provide for the payment of various debts (including taxes) that may be payable as a result of your death, as well as to provide your dependants with money to replace your earnings. Review your coverage to ensure that it remains appropriate for your financial situation.

► **Have you considered an estate freeze to minimize tax on death and/or probate fees?**

An estate freeze is the primary tool used to reduce tax on death and involves the transfer of the future growth of a business, investments or other assets to family members. Consider the impact of new rules for the taxation of testamentary trusts and charitable planned giving, and the impact of the revised tax on split income rules (see above - Do you income-split private corporation business earnings with adult family members?) on income-splitting strategies using estate freezes. For example, an estate freeze is set up where parents transfer the future growth in value of a business to the next generation. Dividends paid in 2018 or later years to an adult child may be subject to the highest marginal personal income tax rate under these rules unless the individual meets one of the legislated exceptions to the application of this tax. For details, see EY's *Tax Alert 2017 Issue No. 52, Finance releases revised income splitting measures*.

► **Have you considered a succession plan for your business?** A succession plan involves devising a strategy to ensure that the benefit of your business assets passes to the right people at the right time.

These questions may seem familiar, but as tax rules become more complex, it becomes more important to think of the bigger tax picture continuously throughout the year, as well as from year to year as your personal circumstances change. Start a conversation with your tax advisor to find better answers.

Year-end tax to-do list

Before 31 December 2018:

- Make 2018 TFSA contribution.
- Make 2018 RESP contribution.
- Final RRSP contribution deadline for taxpayers who are 71 years old.
- Pay tax-deductible or tax-creditable expenses.
- Advise employer in writing if eligible for reduced automobile benefit.
- Request CRA authorization to decrease tax withheld from salary in 2019.
- Review your investment portfolio for potential dispositions to realize gains or losses in 2018 (note the last day for settlement of a trade in 2018 is 27 December on both Canadian and US stock exchanges).
- Make capital acquisitions for business.
- Evaluate owner-manager remuneration strategy.
- Consider allowable income-splitting strategies.

Early 2019:

- Interest on income splitting loans must be paid by 30 January.
- Make 2018 RRSP contribution (if not already made) by 1 March.
- Make 2019 RRSP contribution.
- Make 2019 TFSA contribution.
- Make 2019 RESP contribution.

A framework for year-end tax planning

There are two benefits to doing year-end tax planning while there is enough time left in the year to do it well.

First, you're more likely to avoid surprises next April that can be both financially and emotionally stressful. Second, if done from the wide-angle perspective of comprehensive financial and estate planning, year-end tax planning can help you understand whether you're doing the right things in the right way, not just to minimize income taxes, but also to make it that much easier to achieve your longer-term financial goals.

Consider how you can approach current year-end planning with an eye to the future. By assessing any major step taken today for its effect on the tax, financial and estate planning in the next stage(s) of your life, you may preclude choices that will reduce planning flexibility and could increase taxable income in the future.

A good place to start is a quick check of some fundamentals that may need some attention while there's still time this year to fix any problems. For example, do a projection for 2018 taxes to determine whether you had enough tax withheld and/or paid sufficient instalments to avoid an underpayment issue. The projection might suggest that some adjustments are in order (or that you can relax a little).

You should also determine if there will be any significant change in the amount and/or composition of your income next year. Among other things, changes in your personal life (such as changes in your marital or parental status) need to be considered. This information could prove to be important when selecting and designing particular tax planning steps.

Planning with income

You should understand the composition of your employment, business or professional income (salary, bonus, options, self-employment income, etc.), how each component is taxed in the current or future years and the extent to which you can control the timing and amount of each type of income.

Taxes are only one of the factors to be considered in deciding whether to do some loss planning in your portfolio. But there may be capital losses that can be triggered and/or used to offset gains or to avoid year-end distributions. You should also understand the composition of your investment income (i.e., interest, dividends and capital gains) and the extent to which you can control the timing, amount and character of each item.

Another tax planning issue associated with investing is "asset location," meaning selecting the right investments to hold in taxable versus tax-deferred accounts, respectively. Even some minor tweaking here could create significant benefits down the road.

Planning with deductions and credits

On the other side of the ledger from income are deductions. Here again, you should understand what deductions you are entitled to and the extent to which you can control the timing of those deductions. If you can benefit from a deduction or credit this year, make sure you pay the amount before year end (or in the case of RRSP contributions, no later than 1 March 2019). Or, if you expect to be in a higher tax bracket next year, consider deferring deductions until next year, when they will be worth more.

Consider reviewing and re-assessing the tax and financial implications of your major deductions and credits. For example, can you plan to minimize non-deductible interest expense or replace it with deductible interest expense? Or can you plan your usual charitable contributions to maximize their tax benefit? If you will incur significant medical expenses in 2019, will you be able to use all the credits? (If not, consider other options such as choosing a different 12-month period ending in the year for computing medical expenses, or having your spouse claim the credit).

Also, if you're thinking about making a gift to an adult child, it pays to do your homework. In Canada, gifts to adult children are generally received tax free, but there may be tax implications for the parent. See "It's better to give than to receive: tax-free gifts to adult children" in the November 2017 issue of [TaxMatters@EY](#).

Estate planning

Your estate plan should start as soon as you begin to accumulate your estate. It should protect your assets and provide tax-efficient income before and after your retirement, as well as a tax-efficient transfer of your wealth to the next generation.

Your will is a key part of your estate plan. You and your spouse or partner should each have a will and keep it current to reflect changes in your family status and financial situation as well as changes in the law.

Remember that the revised tax on split income rules may limit income-splitting strategies using estate freezes. It's generally a good idea to review your estate planning goals and wills on a regular basis, but now is an especially good time to do that review in light of the new rules.

These suggestions for year-end tax planning should help you set the agenda for a comprehensive discussion with your tax advisor this year and in years to come.



Year-end remuneration planning

Wes Unger, Saskatoon



Corporate business owners have great flexibility in making decisions about their remuneration from a private company. This flexibility is available to all types of businesses, including incorporated professionals and business consultants. It's important that decisions about remuneration be considered before year end, as well as during the business's financial statement and tax return finalization processes.

Starting in 2018, the government's new proposals on income sprinkling will be applicable. On 13 December 2017, the government released draft legislation to increase the application of the tax on split income (TOSI) rules. The 2018 federal budget confirmed that the proposed measures would proceed, and the corresponding legislation was enacted in June 2018. These new rules will impact some of the traditional planning that corporate business owners had available to them previously.

In addition, the 2018 budget introduced legislation that impacts the taxation of private corporations. These changes will begin in 2019 and could change the remuneration strategies of corporate business owners. Further discussion of these proposals is described below.

Income sprinkling legislation for 2018

The new rules broadened the base of individuals affected and increased the types of income subject to rules already in place, commonly known as "the kiddie tax." In essence, these rules limit income splitting opportunities with adult family members through the use of private corporations after 2017.

Beginning in 2018, any income received by an individual that is derived directly or indirectly from a related private company (with the exception of salary) could be subject to the TOSI legislation. Any income subject to TOSI will be taxed at the highest marginal tax rate, which eliminates any tax advantage. To avoid application of the TOSI, the type of income needs to meet one of the exceptions or the individual receiving the income must meet one of the exclusions. The application of the rules will also depend on the age of the individual receiving the income.

Exclusions are provided to recipients who are actively engaged in the business, payments that represent a reasonable return (based on a number of factors) and payments received by certain shareholders. Certain other exclusions are also provided. For more information, refer to [EY Tax Alert 2017 No.52, Revised income splitting measures](#), and the [February](#) and [May](#) 2018 issues of TaxMatters@EY.

Basic considerations

- ▶ In general, if a corporate owner-manager does not need personal funds for spending, earnings should be left in the corporation to generate additional income and defer the personal tax until a later date when personal funds are needed. This tax deferral benefit between corporate tax rates and personal tax rates for 2018 can range from as little as 20.4% in Prince Edward Island when applying the general corporate tax rate, to as high as 41.0% when applying the small business corporate tax in Nova Scotia.

⁹ The federal general corporate rate is 15%. The small business rate is 10% for 2018, 9% for 2019.

¹⁰ The Ontario finance minister explicitly said in the 2018 Ontario Economic Outlook and Fiscal Review that the province will not parallel the federal measure.

Deferring personal tax allows you to reinvest the corporate earnings and earn a rate of return on the personal tax you would have otherwise paid if you had extracted the funds from the business.

- ▶ For fiscal years starting in 2019, the amount of income eligible for the federal small business deduction could be reduced if the corporation (together with all associated corporations) has passive investment income greater than \$50,000 in the previous year, and will be eliminated entirely if the amount of passive investment income exceeds \$150,000, similar to the reduction that is applied to a corporation whose taxable capital exceeds \$10m in the prior year. A corporation with too much passive investment income in the prior year will be taxable at the general corporate rate⁹ on its active business income. Paying tax at the higher general corporate tax rate will decrease the amount of the tax deferral benefit, but will allow the corporation to pay out eligible dividends in the future. It is unclear at this time which provinces will follow this federal provision.¹⁰
- ▶ Even if funds are not required for personal consumption, business owners may want enough salary to create sufficient earned income to maximize their RRSP contribution and use tax savings associated with graduated income tax rates. Whether or not this is an appropriate strategy depends on an overall review of the owner-manager's financial plan for the near future, as well as the long term. In order to contribute the maximum RRSP amount of \$26,500 for 2019, business owners will need 2018 earned income of at least \$147,222. One method to generate earned income is to receive a salary in the year. Note that salary must be earned and received in the calendar year. Receipt of a salary would also allow the business owner to maximize CPP pensionable earnings for the year (based on maximum pensionable earnings of \$55,900 for 2018).

▶ If funds are needed for personal consumption, the CRA has a longstanding policy of not challenging the reasonableness of remuneration where the recipient is active in the business and is a direct or indirect shareholder. This criterion of reasonableness is relevant when considering if the remuneration is deductible to the paying corporation. It is generally more advantageous to distribute corporate profits as a salary or bonus to an active owner-manager based on current provincial corporate and personal tax rates. However, this may not be applicable for all provinces, and certain provinces levy additional payroll taxes, such as Ontario's employer health tax, which may impact an analysis of the optimal compensation strategy.

▶ Many provinces have an overall "tax cost" to distributing business profits in the form of a dividend, meaning the total corporate and personal tax paid on fully distributed business earnings exceeds that province's personal tax rate. This situation may be irrelevant to business owners, as future cash needs may be satisfied by salaries or bonuses from future profits. Earnings subject to a large deferral of tax can remain reinvested in the business or corporate environment for many years, sometimes indefinitely. Accumulating excessive business earnings could impact the corporation's ability to claim the small business deduction on its active business income in the future. See the previous discussion on passive investment income changes.

Advanced considerations

- ▶ Shareholder loans made to the corporation can be repaid tax free and represent an important component of remuneration planning. Advance tax planning may permit creation of tax-free shareholder loans.
- ▶ Changes in the tax rules associated with otherwise tax-free intercorporate dividends could result in the dividends being recharacterized as capital gains. Advance tax planning may be available to mitigate this issue, or to benefit from corporate distributions taxed at reduced tax rates associated with capital gains.

- ▶ A business owner who holds personal investments such as marketable securities can sell them to a private corporation in exchange for a tax-paid note or shareholder loan. While capital gains may arise on the transfer, the personal tax rate on capital gains is generally lower than the personal tax rate on eligible or non-eligible dividends. Advance tax planning may also allow recognition of the capital gain to be deferred; however, tax losses may not be realized on a transfer to an affiliated corporation.
- ▶ Corporate-level merger and acquisition transactions, such as the divestiture of a business or real estate, may also generate favourable tax attributes such as tax-free capital dividend account (CDA) balances or refundable taxes. These attributes form an important component of remuneration planning.
- ▶ A business can claim a capital cost allowance (CCA) deduction for the purchase of depreciable assets that are available for business use on or before the business's fiscal year end. A business that is contemplating a future asset purchase and has discretion in the timing of acquisition may choose to make the purchase sooner rather than later and then bring the asset into use to allow CCA to be claimed.
- ▶ Retaining earnings in a corporation may affect a Canadian-controlled private corporation's (CCPC's) entitlement to refundable scientific research and experimental development (SR&ED) investment tax credits. A business should compare the investment return from deferring tax on corporate earnings against the forgone benefit of high-rate refundable SR&ED investment tax credits.
- ▶ Leaving earnings in the corporation may also impact its status as a qualified small business corporation (QSBC) for the purpose of the shareholder's lifetime capital gains exemption (currently \$848,252). Advance tax planning may be available to mitigate this issue and permit continued accumulation of corporate profits at low rates, without impacting QSBC status.



- ▶ Paying dividends may occasionally be a tax-efficient way of getting funds out of a company. Capital dividends are completely tax free, and eligible dividends are subject to a preferential tax rate. For fiscal years that begin after 2018, eligible dividends will only be eligible to generate a dividend refund out of the eligible refundable dividend tax on hand (ERDTOH) account. Non-eligible dividends can generate a dividend refund out of the ERDTOH and the non-eligible refundable dividend tax on hand (NERDTOH) account. A review of the company's tax attributes will identify whether these advantageous dividends can be paid¹¹.
- ▶ Dividends and other forms of investment income from private corporations do not represent earned income, and so do not create RRSP contribution room for the recipient. An individual also requires earned income in order to be able to claim other personal tax deductions, such as child care and moving expenses. Business owners should consider how much earned income they need in light of the RRSP contributions they wish to make or personal tax deductions they wish to claim.

¹¹ ERDTOH consists of refundable taxes paid under Part IV of the Income Tax Act (the Act) on eligible portfolio dividends. NERDTOH consists of refundable taxes paid under Part I of the Act on investment income, as well as under Part IV on non-eligible portfolio dividends. See [EY Tax Alert 2018 No. 7, Federal budget 2018-19](#).



Income splitting considerations (subject to new TOSI legislation)

- ▶ Consider paying a reasonable salary to a spouse or adult child who provides services (e.g., bookkeeping, administrative, marketing) to the business in order to split income.
- ▶ If a spouse or adult child (older than 24 years of age) is not active in the business and has no other sources of income, consider an income-splitting corporate reorganization whereby the family members become direct shareholders in the business, owning 10% or more of the votes and value of the corporation. This planning is still available as long as the corporation is not a professional corporation or has less than 90% of its gross business income from the provision of services and at least 90% of the company's income is not derived directly or indirectly from one or more related businesses. Non-active family members are no longer able to be indirect shareholders and avoid the TOSI legislation. Active family members are able to be indirect shareholders and avoid the TOSI legislation. Depending on the province of residence, an individual who has no other source of income can receive anywhere between approximately \$9,000 and \$51,000 of dividends tax free. These amounts increase where the recipient has access to tax credits such as the tuition tax credit in the case of adult-children students. Commercial and family law considerations, in conjunction with the tax benefits, will determine whether it is worthwhile pursuing such a strategy.

- ▶ In select cases, a low-interest family loan can be advantageous for permissible income splitting. Given the low 2% "prescribed rate," it may be worthwhile exploring this planning option, especially if the return on investment exceeds the prescribed rate.

Managing tax cash flow

- ▶ If there's a plan to pay salary, remember that bonuses can be accrued and deducted by the business in 2018, but not included in the business owner's personal income until paid in 2019. To be deductible to a corporation, the accrued bonus must be paid within 179 days after the company's year end, permitting a deferral of tax on salaries of up to six months.
- ▶ If earnings left in the corporation exceeded the available small business deduction limit for the preceding tax year, corporate taxes for the current year will be due two months, rather than three months, after the year end. The current rate for late payment arrears interest is 6%, and is not deductible for income tax purposes.
- ▶ Monthly and quarterly tax instalments (for corporate and personal income, respectively) must be managed to avoid arrears interest and penalty interest. A single midyear payment strategy can be used to simplify the obligation of making recurring payments, and generally reduce or eliminate interest and penalties.
- ▶ Use of a shareholder "debit" loan account (where the corporation has a receivable from the individual shareholder) may simplify the need to project exact owner-manager remuneration requirements.

Shareholder debit loans must be repaid within one year after the end of the year in which the loan was made, or else the loan will be included in the business owner's income in the year funds were withdrawn. The repayment of a shareholder loan cannot constitute a series of loans or other transactions and repayments if the one-year repayment is to be considered valid.

- ▶ Borrowing from the company within the permissible time limits will cause a nominal income inclusion at the prescribed rate, which is currently only 2%. The cost of financing from the corporation using shareholder loans can therefore currently be achieved at tax-effected rates of 0.95% to 1.08% at the highest marginal rates of tax, depending on your province of residence.

💡 For more information on remuneration planning and other tax-planning and tax-saving ideas, contact your EY professional advisor.

Risk management issues for audit committees

Excerpt from content originally published in EY's 2018 year-end issues for audit committees

Disruption in the business environment has taken on many forms, including political instability fueled by economic uncertainty across the world, digital transformation and business model disruptions, greater scrutiny of corporate behavior, and regulators that are under increasing pressure to develop frameworks that foster growth but curb short-termism and unfair practices.

The pace and scale of disruption will continue to present a number of challenges to companies; however, opportunities to harness new technology and trends will undoubtedly emerge to reshape business models, improve companies' performance and value creation, and focus on and address emerging risks. In this continually changing environment, boards and audit committees need more than ever to focus on risk management.

“Most of the recent drivers of advancement and growth are technological advances that undermine security. Boards need to help companies balance the need to grow and be profitable with securing the business.”

Larry Clinton
President and CEO
Internet Security Alliance

The next generation of Enterprise Risk Management (ERM)

Rather than avoiding risk, evolved companies will focus on mitigating risk to a tolerable level and, ultimately, optimizing it to drive competitive advantage. Boards have a role to play in challenging organizations to embed risk management in their strategic decision-making and leverage digital capabilities to harness risk intelligence across their enterprises. Such an approach strives to balance upside, downside and outside risks; instill a digital risk mindset and culture; digitize risk intelligence, monitoring and reporting, and consider embedded risks in strategy and operations. That means evaluating business risk drivers, prioritizing opportunities and remediation activities, designing risk response plans to optimize value and return on investment, and keeping risk within acceptable levels of risk tolerance and appetite.

To further facilitate this shift in ERM focused on strategy and operating performance, audit committees are expecting the internal audit function to go beyond controls auditing to provide assurance over governance and emerging risks. Leading audit committees are also encouraging companies to perform their risk assessments more frequently than once a year with internal audit adopting the "six plus six" approach to audit planning and risk assessments (i.e., a risk-based rolling plan of IA work that is updated every six months). Such a flexible and dynamic approach allows organizations to better meet the changing needs and priorities.

Driving digital trust and overseeing data privacy

The cyber threat environment alone is such that it is only a matter of time before all businesses will suffer a cyber breach. And as consumers become more aware of (and potentially alarmed by) the extensive sharing of their data in the digital economy, and as global data protection laws and regulations proliferate, data privacy risks are growing in number and scope. More than ever, organizations need to be confident that their complex and evolving digital platforms are safe and secure. The boundless possibilities, efficiencies and conveniences of digital are bundled with evolving and emerging risks and challenges, from business disintermediation, cybercrime, data loss and technology outages to third-party risks.

With the EU's General Data Protection Regulation (GDPR) now legally enforceable and the passing of the California Consumer Privacy Act (which provides the most sweeping, comprehensive consumer privacy rights in the United States), organizations must bolster their cyber defenses to be certain that the personal data collected in each jurisdiction are properly maintained and managed.

Boards and audit committees should view GDPR and data privacy legislation as an opportunity to evaluate, streamline and standardize data processes and procedures, so that risk management controls are primed for the increasingly stringent regulatory requirements that are expected to come.

While the boards' obligation extends to ensuring regulatory compliance, all stakeholders across the organization are responsible for working together to create resilience.

Some key board considerations include:

- How cybersecurity and personal data risks are featured in the organizational risk assessment
- Whether controls relating to the collection, processing and use of personal data and its security are compliant with data protection requirements
- In the event of a personal data breach, whether there are established response procedures that are built into the business continuity plans

- How often the board will be updated on data protection and cyber matters
- How data protection policies will be communicated internally and externally to build buy-in and assurance for all stakeholders.

Audit committees should assess whether compliance with data protection and privacy laws is a process that is continually evaluated and evolving within the organization.

Third-party risk management

Boards also must exercise vigilance in confirming that organizations are properly monitoring the heightened risk presented by third-party service providers in a digital world. These providers often have access to a company's data and its internal systems, which raises concerns and serious potential risks related to fraud, cybersecurity and the company's reputation. It is paramount that effective governance structures be put into place to manage these risks. Companies may opt for a centralized third-party risk management structure, a decentralized model that provides oversight at the business unit level, or some combination of the two approaches.

Regardless of which model an organization adopts, the board can challenge the company to construct a clear profile of all third-party partners and the potential risks they pose. This means insisting on proper due diligence, strong contracts that protect the company, and methods to consistently evaluate and monitor each service provider (including the third parties' compliance with stipulated codes of conduct). Companies must have a fundamental understanding of their business processes: how their data is being secured by hosts who are managing their information in the cloud, clarify whether clients' and customers' employees with whom they are working are client employees or third party, as well as how their data is being managed through robotic process automation and artificial intelligence.

The future of compliance and board oversight of culture

In a world of changing business models, the explosion of data, and increased regulation and enforcement, integrity remains a critical foundation for driving the ethical and compliance-oriented behaviors needed to protect businesses and business reputations. [EY's 15th Global Fraud Survey](#) found that fraud and corruption remain among the greatest risks to businesses today, and a significant level of unethical conduct is ongoing, with junior professionals more likely to justify fraud. How an organization brings integrity into its culture will become increasingly important.

In this environment, board oversight of corporate culture, controls and governance through an integrity lens is a growing priority. Audit committees should work hand in hand with the board and other committees to create and define a culture of ethics and integrity that is modeled by the board, executives and other management and expected of all employees and other members of the workforce – even as the workforce is radically changing. The cultural values should also apply to third parties with which the company regularly does business, including key suppliers and business partners. Audit committees will also need to work ever more diligently to help make sure that company codes of conduct and ethics, compliance programs, whistle-blower policies and procedures, and related employee engagement and training programs are effective in defining and enforcing ethical behaviors.

Overseeing whether the compliance function is effective and appropriately evolving through advances in governance practices and technology is also critically important. Clear assessments of the effectiveness of compliance and ethics policies and programs can lead to more effective risk management, a stronger culture of compliance, ethics and integrity, and increased transparency. With the introduction of digital compliance tools, such as predictive analytics and real-time risk alerts, forensic data analytics can significantly improve the effectiveness and efficiency of monitoring and reporting. Along with providing better data insights, leveraging new technologies may also better optimize resources, which can be critical with budget restraints. Leading companies are also using artificial intelligence technology to replace classroom and web-based training with individualized risk-based communications in real time.

Boards and audit committees should set the right tone at the top by clearly and consistently communicating and demonstrating a clear culture of compliance, ethics and integrity, and by verifying that ethics and compliance policies and procedures (backed by effective training and consistently applied enforcement) are working to maintain the culture and deliver effective compliance.

Additional references

- ▶ [Risk. Innovation. Can your business strategy tell the difference?](#)
- ▶ [How can you turn digital risk into a source of competitive advantage?](#)
- ▶ [Does a disrupted Internal Audit function mean a stronger strategic partner?](#)
- ▶ [Can you transform your third parties' risk into a competitive advantage?](#)

Risk management

Questions for the audit committee to consider

- 1 Do the organization's ERM practices incorporate forward-looking insights and use of data analytics to determine trends and predictive indicators?
- 2 Has management clearly articulated the key individual risks and aggregate risk to achieving its strategic goals, and properly applied the organization's risk tolerance to determine risk management priorities?
- 3 Is the organization continually scanning the risk landscape and responding? Is its risk mitigation approach shifting from reactive to predictive response strategies?
- 4 Is the organization harnessing emerging technology to better mitigate downside risk?
- 5 Is the organization's talent pool equipped to meet the changing needs of the risk function?
- 6 How does the company incentivize executives, as well as lower-level employees and third parties, to act ethically? And how does it instill the concept of employees taking individual responsibility for the integrity of their own actions?

Publications and articles

Tax Alerts – Canada

Tax Alert 2018 No. 39 – “Foreign specified suppliers”: less than two months to register

Non-Quebec resident suppliers that are located outside Canada and not registered for the purposes of the goods and services tax (GST) meet the definition of “foreign specified suppliers” and have until 1 January 2019 to comply with the new provisions of the *Act Respecting the Québec Sales Tax*.

Tax Alert 2018 No. 40 – FES announces significant acceleration of CCA

On 21 November 2018, Finance Minister Bill Morneau presented the Fall Economic Statement in the House of Commons. On the same day, the Minister tabled a notice of ways and means motion to amend the Income Tax Act and the Income Tax Regulations, which was accompanied by explanatory notes relating to these measures.

The statement introduced three key capital cost allowance (CCA) acceleration measures:

- ▶ Full expensing for M&P machinery and equipment
- ▶ Full expensing for clean energy equipment
- ▶ An accelerated investment incentive.

Publications and articles

EY's Global Capital Confidence Barometer

The 19th edition of EY's *Global Capital Confidence Barometer* describes how Canada's executives are optimistic about the strength of the Canadian and global economies but are dialing back their merger and acquisition intentions.

2018-19 Worldwide Personal Tax and Immigration Guide

This guide summarizes personal tax systems and immigration rules in more than 160 jurisdictions, including Australia, Brazil, Canada, France, Germany, Mexico, the Netherlands, the Russian Federation, the UK and the US.

EY's Worldwide Capital and Fixed Assets Guide 2018

The *Worldwide Capital and Fixed Assets Guide* helps our clients navigate the rules relating to fixed assets and depreciation. It summarizes the complex rules relating to tax relief on capital expenditures in 29 jurisdictions and territories.

EY's Worldwide Estate and Inheritance Tax Guide 2018

EY's *Worldwide Estate and Inheritance Tax Guide* summarizes the estate tax planning systems and describes wealth transfer planning considerations in 39 jurisdictions around the world, including Australia, Canada, China, France, Germany, Italy, the Netherlands, the UK and the US.

Worldwide Corporate Tax Guide 2018

Governments worldwide continue to reform their tax codes at a historically rapid rate. Chapter by chapter, from Afghanistan to Zimbabwe, this EY guide summarizes corporate tax systems in 166 jurisdictions.

Worldwide VAT, GST and Sales Tax Guide 2018

This guide summarizes the value-added tax (VAT), goods and services tax (GST) and sales tax systems in 122 jurisdictions, including the European Union.

Worldwide R&D Incentives Reference Guide 2018

The pace at which countries are reforming their R&D incentives regimes is unprecedented. This EY guide summarizes key R&D incentives in 44 countries, and provides an overview of the European Union's Horizon 2020 program.

2017-18 Worldwide Transfer Pricing Reference Guide

The proliferation of transfer pricing rules and regulations around the world, and the huge increase in focus on the subject by the world's tax authorities, require practitioners to have knowledge of a complex web of country tax laws, regulations, rulings, methods and requirements. This guide summarizes the transfer pricing rules and regulations adopted by 119 countries and territories.

Board Matters Quarterly

The September 2018 issue of *Board Matters Quarterly* (BMQ) includes four articles from the EY Center for Board Matters. Topics include: Crossing the digital divide, Audit committee reporting to shareholders in 2018, 2018 proxy season review, and a fresh look at board committees.

EY Trade Watch

This quarterly publication outlines key legislative and administrative developments for customs and trade around the world. Highlights of the September edition include: NAFTA update: US and Mexico reach an agreement in principle, inclusion of Canada remains uncertain; Duty relief, duty drawback and remission available for Canadian surtaxes on certain US originating goods; Canada updates trade compliance verification list; Mexico takes retaliatory measures against US imposition of steel and aluminum tariffs; US issues new steel and aluminum proclamations outlining potential relief opportunities for US importers; US-China trade dispute escalates with punitive tariffs implemented on a total of US360 billion of trade between the two nations; UK Government's guidance on preparing for “no deal” on Brexit outlines indirect tax implications, among other topics.

Publications and articles

Websites

EY Law LLP

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Because we believe in the power of private mid-market companies, we invest in people, knowledge and services to help you address the unique challenges and opportunities you face in the private mid-market space. See our comprehensive private mid-market [webcast series](#).

Online tax calculators and rates

Frequently referred to by financial planning columnists, our mobile-friendly calculators on [ey.com/ca](#) let you compare the combined federal and provincial 2017 and 2018 personal tax bills in each province and territory. The site also includes an RRSP savings calculator and personal tax rates and credits for all income levels. Our corporate tax-planning tools include federal and provincial tax rates for small-business rate income, manufacturing and processing rate income, general rate income and investment income.

Tax Insights for business leaders

Tax Insights provides deep insights on the most pressing tax and business issues. You can read it online and find additional content, multimedia features, tax publications and other EY tax news from around the world.

The Worldwide Indirect Tax Developments Map

Updated monthly, our interactive map highlights where and when changes in VAT, Global trade and excise duties are happening around the world. The map can be filtered by tax type, country and topic (e.g. VAT rate changes, compliance obligations and digital tax).

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EY's Federal Income Tax Act, 2018 Edition

Editors: Alycia Calvert, Warren Pashkowich and Murray Pearson

Complete coverage of Canada's *Income Tax Act* and Regulations. Included with this edition: interactive online features and purpose notes for selected provisions. Purchase of a print book includes access to an online updated and searchable copy of the federal *Income Tax Act* as well as the PDF eBook. This edition contains amendments and proposals from the 27 February 2018 federal budget tax measures, Bill C-63 (SC 2017, c. 33), *Budget Implementation Act*, 2017, No. 2, the 13 December 2017 amendments to the *Income Tax Act* and Regulations (income sprinkling), and the 24 October 2017 notice of ways and means motion.



EY's Complete Guide to GST/HST, 2018 (26th) Edition

Editors: Dalton Albrecht, Jean-Hugues Chabot, Sania Ilahi, David Douglas Robertson

Canada's leading guide on GST/HST, including GST/HST commentary and legislation, as well as a GST-QST comparison. Written in plain language by a team of EY indirect tax professionals, the guide is consolidated to 15 July 2018 and updated to reflect the latest changes to legislation and CRA policy.



EY's Guide to Capital Cost Allowance, 6th Edition

Editors: Allan Bonvie, Susan Bishop, Brett Copeland, Krista Robinson

Takes you through the capital cost allowance and eligible capital expenditure rules in Canada with commentary and illustrative examples. Unique CCA lookup tables (by class and by item) are included.



EY's Guide to Scientific Research and Experimental Development, 3rd Edition

Editors: Susan Bishop, Kevin Eck, Elizabeth Pringle, Krista Robinson

This guide has been prepared to assist Canadian tax professionals in understanding the scientific research and experimental development (SR&ED) rules in Canada.

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