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Minimizing Taxes on Your Estate

As the old adage goes, “nothing is certain but death and taxes”. So it is surprising that many of us are reluctant to address the issues that surround death, especially as they relate to taxes. There are a number of strategies that may minimize the amount of your hard-earned wealth that will be left to the tax collector.

Unlike the U.S., Canada does not have an estate tax. Rather, in Canada you are deemed to have sold all of your assets at death and your estate is subject to tax on any accrued gains. For many estates, the greatest tax exposure arises from investments sitting in a registered account such as a Registered Retirement Savings Plan (RRSP) or a Registered Retirement Income Fund (RRIF), capital gains on other investments, and assets such as vacation properties that have appreciated in value over time.

Here are some ways to minimize the tax when it comes to your estate:

- **Defer Taxes** — In extreme cases, the tax liability associated with appreciated assets can be so significant that estates have to liquidate assets, such as businesses or cottages, to cover the tax expense. In such situations and in many less extreme cases, it may make sense to defer taxes. With a spousal rollover, as one example, assets may be transferred upon your death to your surviving spouse, or a spousal trust, on a tax-deferred basis with the associated tax liabilities being deferred until your spouse dies or the asset(s) are sold.

- **Use Exemptions** — Exemptions within the tax rules can offer significant savings. As an example, if you own more than one property, proper planning and use of the principal residence exemption (PRE) may provide an opportunity to reduce the total tax liability on these properties. If you are a business owner, the lifetime capital gains exemption (LCGE) may be potentially applied by the estate.

Dekker Hewett Group
Canaccord Genuity Wealth Management
609 Granville St., Vancouver, BC, V7Y1H2
T: 604.699.0852
E: dhginfo@canaccord.com
www.dekkerhewettgroup.com

> “When it comes to your estate, various tax planning techniques can have a significant impact on the assets that you leave behind”

- **Minimize Foreign Estate Taxes** — This may be necessary if you own assets outside of Canada or if any of your beneficiaries reside in a country which has an estate tax. For many Canadians it is common to own U.S. assets. Under U.S. tax law, U.S. “situs” assets, which include U.S. real estate and shares in U.S. corporations, may be subject to the U.S. estate tax, even for Canadian residents. There are a variety of ways to minimize a potential U.S. estate tax bill, including disposing of U.S. situs assets prior to death or using a Canadian holding company, trust or partnership to own the U.S. situs assets.

- **Freeze Taxes** — If you own a business, you may wish to freeze your tax liability at death based on today’s value of the business and transfer any future growth (and the related tax liability) to another party, such as your adult child. This is called an “estate freeze”. This allows you to continue to control the business and lock in your future tax obligations, while the other party benefits from any increases in the value of the business (but is also liable for the future taxes on the growth) after the date of the estate freeze.

- **Plan on Giving** — Leaving a legacy through a charitable donation can have a lasting impact while potentially offsetting 100 percent of net income in the year of death and the year preceding death, if structured properly.

When it comes to your estate, various tax planning techniques can have a significant impact on the assets that you leave behind. Seeking advice from a professional can help to ensure that your plan has been structured properly and most effectively, in order to keep your estate’s taxes to a minimum so that more of your assets can be passed on to your beneficiaries.