

real properties under a discretionary trust. If the assets are directly held by a trust, federal and BC capital taxes should not be applicable. This option is especially appealing to non-residents because of other tax benefits that may be derived from the using of a trust to hold Canadian investments. These advantages include eliminating double taxation on repatriation of profits, avoiding thin capitalization restrictions on interest deduction and deferring the realization of capital gain on disposition.

Resident real property owners may consider holding their investments under their personal names or under limited partnerships. Traditionally, the use of a corporation is the norm because of its simplicity and the limited liability concept. With the introduction of capital taxes on corporations, these additional costs should be taken into consideration. If liability is a concern, it may even be possible to incorporate limited liability into a non-corporate entity.

If assets are currently held by a corporation, it may be possible to embark upon a corporate reorganization to transfer the ownership of the assets to a non-corporate entity. It is important to review other tax implications such as capital gain or loss on disposal of assets, GST, BC Social and Services Tax on sale of tangible assets and Land Transfer Tax on sale of land. If the reorganization results in the recognition of goodwill, the company will be faced with a larger taxable capital. Furthermore, the federal and BC anti-avoidance rules should be examined closely to determine whether the tax benefits from such reorganization would be denied by the tax authorities.

It may not be effective for many companies to reorganize their businesses to beat the BC capital tax. However, the few ideas mentioned above may be implemented by companies without too much effort. Currently, provincial payroll and capital taxes are deductible for calculating the federal tax liability. However, the government has proposed to put an annual cap on the amount of such taxes that may be deducted in computing income. The impact of capital taxes will become more substantial when this proposal is implemented. ♦

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