CLU ADVANCED LEARNING SERIES

CASE STUDY: BUSINESS ESTATE PLANNING

Advocis

Case Study: Business Estate Planning

Learning Objective

- Understand and explain the planning needs and opportunities for owner-managers.
- Explain how estate plans are tailored to a business owner's situation.

Case Study: Business Estate Planning

Question

Offer three recommendations, with possible income tax ramifications/advantages, that could help Theresa to achieve her objectives (you have already advised her that any suggestions with legal/tax implications should be referred to the appropriate expert advisors).

References

257 Advanced Estate Planning Study Guide (Study Unit 4)
Wealth Planning Strategies for Canadians, 2019 Edition (Chapter 9 and 16)
Estate Planning with Life Insurance, 6th Edition (Chapter 5)

Case Study: Business Estate Planning

Solution

Theresa should consider incorporating her business. This would serve the dual purposes of:

- Qualifying the business interest for the LCGE; and,
- Allowing undistributed income ($200,000 a year at present) to be currently taxed in the business at about 15% (CCPC) rather than at about 50% in Theresa's hands (personally-owned), lowering current taxes by about $70,000 a year.

Case Study: Business Estate Planning

Solution, continued

Once Theresa has set up a corporation in which she will operate the business, she could transfer the business (effectively goodwill), building and equipment into the corporation, on a tax-deferred rollover basis using section 85. That would, in effect, convert all accrued gains associated on these assets from a non-sheltered personal gain to a gain in the value of the corporate shares that would in turn be eligible for the LCGE.

Case Study: Business Estate Planning

Solution, continued

Note that alternatively, Theresa could establish two corporations – one for the active business and one for the land and buildings. This could provide more flexibility for estate and succession planning.

Case Study: Business Estate Planning

Solution, continued

When she retires, Theresa could consider implementing a corporate estate freeze. That would allow her to crystallize her LCGE and cap the unrealized capital gains at the time of the freeze. It would also allow the future growth in value of the corporation to accrue in the hands of her children (the beneficiaries of the freeze) and provide a multiplier effect in the use of their individual LCGEs.

Case Study: Business Estate Planning

Solution, continued

Theresa could consider having the common shares held by an inter vivos family trust, rather than directly in the hands of the children active in the business. This would give Theresa more control than if the shares were held directly by the children, and also provide more flexibility when income splitting or in determining how much income to pay to those working in the business. They should also consider purchasing insurance in order to buyout Theresa or the two children (after they become shareholders) as time goes on.