CLU ADVANCED LEARNING SERIES

CASE STUDY: TAX PLANNING ON DEATH

Advocis

Case Study: Tax Planning on Death

Learning Objective

- Identify issues and planning strategies that are appropriate to a client's family situation and the property to be distributed to family members
- Understand the tax and legal consequence of death
- Formulate appropriate estate planning strategies to mitigate the effect of the tax implications at death
- Explain how tax-deferred rollovers and the capital gains exemption can be advantageous

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Question

Assume the perspective of Tom's executor and suggest three strategies that you might undertake to minimize taxes otherwise payable in the hands of Tom, his estate, or his heirs. Explain the benefits of each recommendation.

References

257 Advanced Estate Planning Study Guide (Section 2.7)
Wealth Planning Strategies for Canadians, 2019 Edition (Chapter 21)
Estate Planning with Life Insurance, 6th Edition (Section 2.4)

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Solution

The named-beneficiary on the $235,000 RRSP may be considered a poor choice from a tax perspective as the tax-deferred rollover is not available to a spouse trust. However, the fact that Tom's wife is beneficiary of the estate could possibly open the door to tax relief. Depending on the circumstances, the executor may be able to exchange the spousal trust's right as beneficiary of the RRSP for proceeds from sale of the cottage (equal value). Tom's executor and Gwendolyn would have to file a joint election to treat the RRSP proceeds as though they had been payable to Gwendolyn directly, qualifying them for the rollover.

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Solution, continued

The fact that Tom had little earned income in his year of death, but $35,000 in carried-forward allowable loses opens the door to other post-mortem tax planning. On transfer of the private company shares to a trust for Tom's sons, $879,000 of capital gain will be triggered in Tom's hands for his year of death. $848,252 (2018 amount) of that gain can be sheltered by Tom's LCGE, leaving $30,748 of gain ($15,239 of taxable capital gain) unsheltered. This gain could be offset for tax purposes by $15,239 of the carried-forward allowable capital losses, leaving $19,761 of the losses unclaimed at this point.

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Solution, continued

Normally, it would be most practical to do a tax-deferred rollover all of the non-registered stock portfolio into the spouse trust at its ACB of $242,000, avoiding triggering the realization of $38,000 of capital gains ($19,000 of taxable capital gain) in Tom’s terminal tax return. However, there is still $19,761 of unused carried-forward allowable capital losses to be claimed. The executor could elect to “opt out” of the rollover on part of the shares, triggering $19,000 of taxable capital gains in Tom’s hands and allowing the spouse trust to receive the shares with a bumped-up ACB.

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Solution, continued

This benefits the spouse as her ACB on the shares would be averaged up, reducing her future tax consequences associated with the disposition of the shares.

The cottage could possibly quality for some or all of Tom's principle residence exemption; however, a full analysis would be required to determine if this would be tax efficient as the home currently has a larger accrued gain.