

the SmallBiz Builder

your monthly newsletter



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This Month – upcoming tax law changes as of January 1, 2024:

- Immediate expensing incentive for capital assets
 - Intergenerational transfer of a business
 - Alternative Minimum Tax calculation

Immediate Expensing Incentive for Capital Assets

Since April 21, 2018, a Canadian Controlled Private Corporation (“CCPC”) has been able to expense the cost of capital asset purchases up to a limit of \$1.5 million. The limit is shared amongst associated parties. For sole proprietors and partnerships, the same rule applies as of January 1, 2022. There are exclusions for certain long-lived assets, most commonly real property, and goodwill. Changes are on the horizon *for CCPCs*, as these rules will expire as of December 31, 2023. Therefore, if you are considering an imminent purchase of assets in your CCPC, to benefit from the immediate expensing rules, be sure the acquisition takes place prior to January 1, 2024. There is also a requirement that the assets be “put into use” prior to January 1st 2024. Note that the immediate expensing rules will continue to apply for sole proprietors and certain partnerships until December 31, 2024.

Intergenerational transfer of a business

In 2021, new rules were introduced to correct unfairness in the tax legislation that made it difficult to pass on a family business to the next generation while claiming the lifetime capital gains exemption. It was simpler to sell the business to an outside party. There is a significant tax impact since the 2023 capital gains exemption limit is \$ 971,190. This problem existed for a long time, with the Department of Finance concerned about ensuring a “legitimate” transfer of the business and not simply a manner of extracting funds from the company as a tax-free capital gain rather than a taxable dividend. Finally, it was a private member’s bill that was adopted by Parliament to allow these related business transfers. While the 2021 changes were well-intentioned, the Department of Finance has implemented changes coming into effect as of January 1, 2024, to close certain loopholes. While it will still be possible to benefit from the capital gains exemption on a sale to a related person under the new rules, the new law will require that the parents transfer *voting control* of the business to the related persons at the time of sale. In addition, those persons would also have to be actively involved in the business at that time. Furthermore, after a certain number of years, the remaining voting shares must be transferred as well as the full management of the business. The current rules do not have these conditions therefore it may be preferable to wrap up the business transfer prior to January 1, 2024. However, the new rules will expand the permitted transferee to include nieces and nephews. So, depending on your situation, you may prefer the new rules coming into effect.

[continued...]

Alternative Minimum Tax calculation

The alternative minimum tax ("AMT") is not new. However, there are significant changes to the calculation of this tax that may have an impact on you, particularly if you are planning on selling shares of your business or if you own stock options with your employer.

The AMT is a different method of calculating personal taxes. The AMT calculation of tax payable is compared to the usual calculation you would see on your personal tax return. If the AMT results in higher personal taxes, then you are in effect paying the higher amount.

There are four components to how the AMT is calculated:

1. Income inclusions
2. A base exemption
3. The tax rate
4. Personal tax credits

Beginning January 1, 2024, each of these components will be modified. Although the base exemption will be increasing from \$40 000 to \$173 000; the tax rate is increasing from 15% to 20.5%.

The most significant changes will come from items that are added to income compared to the regular tax payable calculation. These are a few of the proposed changes to the existing AMT income inclusion rules:

- Increasing the capital gains inclusion rate from 80% to 100%. However, this would exclude capital gains that are fully eligible for the lifetime capital gains exemption. Nonetheless, because of the rate increase, there will still be an impact on those gains too.
 - ***If you are contemplating the sale of a property with a significant capital gain, or shares eligible for the exemption, it might be better to ensure the sale is finalized prior to January 1st, 2024.***
- Eliminating the 50% deduction of employee stock option benefits, effectively taxing 100% of the benefit.
 - ***Depending on your income level and the amount of the benefit, you may want to exercise these stock options before January 1st, 2024.***
- Decreasing the amount of capital and non-capital loss carryforward deductions to 50% of the amount that would otherwise be deductible.
 - ***While it is a common year end planning consideration to trigger capital gains prior to year-end to use up loss carryforward deductions, depending on the amount of capital gain and losses carrying forward, there is a now an AMT consideration as well.***

