



For your
information

Important update on Professional Corporation Legislation

October 30, 2009

One of Catalyst's objectives is to keep its clients informed. Included below is an update on Professional Corporation Legislation.

What's happening?

The Professional Corporations Statutes Amendment Act, 2009 (Bill 53) was introduced October 26th, 2009 in the Alberta Legislature by MLA Greg Weadick. If passed, the legislation will enable professional corporations to issue non-voting shares to shareholders that include the professional as well as immediate family members.

In announcing the bill in a news release, the Government of Alberta described the bill as follows:

"This bill will encompass amendments to the Regulated Accounting Profession Act, the Legal Profession Act, and the Health Professions Act to extend non-voting share ownership to non-professional family members. This legislation will align Alberta practice with that of other provinces and allow professional businesses to include family members as other small businesses do, while retaining the need for the professional to be responsible and accountable."

This proposed legislation will impact professionals such as doctors, dentists, chiropractors, optometrists, lawyers, and accountants.

What does this mean to you?

Under the current legislation, only members of the above-noted professions are permitted to be shareholders of their respective professional corporations. While the professional corporation does not shield the professional from personal liability in their respective practice area, the professional corporation does permit certain income tax benefits to be accessed, such as the small business deduction, access to the capital gains exemption and the deferral of income tax until amounts are paid out to the professional as a shareholder.

The proposed legislation will allow the professional, their spouse or common-law partner, children or a trust (all of the beneficiaries of which are children of the professional) to hold non-voting shares of the professional corporation. As proposed, the legislation does not permit a holding company or a typical family trust (beneficiaries other than children) to hold non-voting shares of the professional corporation – this latter aspect will be the subject of further consultation with the Government.

The proposed legislation will create additional tax planning opportunities – namely income splitting with spouses, common-law partners and possibly children (subject to kiddie tax concerns), and possibly multiplication of the capital gains exemption.

Professionals looking to add immediate family members as non-voting shareholders should seek professional assistance. Guidance will be required as to how family members will be inserted into the existing professional corporations as non-voting shareholders. Options may include issuing the non-voting common shares at fair market value, or performing a freeze on the professional's existing shareholdings to permit the subscription for new non-voting shares by the professional/immediate family members for a nominal amount.

What should you do now?

If you are interested in learning how to take advantage of this proposed legislation, Catalyst can help. Please follow this link to contact any one of our professionals for more information: www.catalystsolutions.ca/professionals.html

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