Sunil and Nita LLP
Tax and Business Advisors Chartered Professional Accountants

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Tax Free Section 85 rollover

You started your business as proprietor and over the year your business has grown. You want to incorporate a company to optimize your tax savings. Section 85 of The Income Tax Act allows you to transfer property (in proprietorship business) to your corporation without any immediate tax impact. This transfer is called “rollover” which allows you to avoid immediate capital gain taxes. For Example, You transfer a capital property to your corporation. The fair market value (FMV) at the time of transfer is $100,000 which you purchased at $25,000. You incorporated a company and received 100 common shares in the corporation and elected to transfer the property at $25,000 (cost) to the corporation. By this section 85 rollover, you will not pay capital gain tax on $75,000 gain (i.e. FMV - $100,000 minus cost $25,000). The corporation’s cost of the property will be $25,000 and the cost of 100 common shares will be $25,000. Please note that 85 rollover is a deferral of capital gain tax rather than complete exemption from tax. For more info, please contact us.

Tax Avoidance and Tax Planning
`Tax avoidance and tax planning both involve tax reduction. Effective tax planning are consistent with the intent of the law. When tax planning design such a way to reduce taxes which is inconsistent with the overall spirit of the, then it falls under tax avoidance. Canada Revenue Agency (CRA) sees "tax avoidance" as unacceptable and abusive tax planning. Some accountant take pride in aggressive tax planning to please clients which can be seen as arrangements that push the limit of acceptable tax planning. You wan to be careful because ultimately you will face the conciseness of aggressive tax planning resulting tax fines and penalties.

Employer Owned Vehicle

One would think that if an employee simply return the automobile along with keys to an employer's premises then it would not be considered taxable benefit. However, in a income tax ruling CRA indicated that the employee must be "required" to return the vehicle to the employers premises. Employers must have written policy which require employee to return the vehicle.

Taxable benefits (i.e. standby charge) for employers owned cars can result in situation where the cumulative stand by charge will exceed the cost of automobile. Do your homework before buying or leasing a car in your business name.

We are always on your side. E-mail us at info@sunilandnita.com or call at 905-491-6148

Download 2018 Tax Checklist