COVID-19: Anticipating Capital Gains, Wealth, Gift and Inheritance Taxes

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The deficits being generated by the emergency measures that the federal and provincial governments have implemented since March 2020 are a reminder of the magnitude of our governments' pre-crisis deficits. This situation will inevitably lead to a greater tax burden for businesses and individuals at some point. Despite the unprecedented nature of these circumstances and the difficult financial situations that organizations find themselves in, steps can be taken now to mitigate repercussions.

For several years, there has been increasing speculation about the capital gains inclusion rate being increased. Rumours also abound about the potential creation of an inheritance tax, which would undoubtedly be accompanied by a gift tax and a wealth tax.

In this context, it is becoming ever more plausible that the federal government will finally increase the capital gains inclusion rate and tax the value of inheritances and gifts as early as the next budget, which has been postponed because of the ongoing crisis. An annual wealth tax on high net worth individuals could likewise be in the pipeline. As is now customary, the measures would apply as of midnight the night before the budget is tabled, closing the door to most tax planning strategies to reduce the impact of such measures.

In the face of this situation, several steps can be taken as of now as, for instance:

Crystallization of unrealized capital gains using a business corporation, partnership or trust;
Gifts of money or property to family members or trusts;
Termination of Canadian tax residency in favour of a lower-tax jurisdiction.

The majority of tax planning strategies aiming to reduce or postpone the impact of such measures can be reversed should the anticipated measures not be adopted. In the event that governments do not increase the tax burden straightaway or opt for other, difficult-to-predict measures, well-planned transactions, such as realizing an accumulated gain on certain assets, making a direct gift, or making a gift through a trust, will ensure that additional taxes need not be paid.

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