

REPORT ON RECENT DEVELOPMENTS

Tax Update – Year in Review

As the year draws to a close, here is a list of some of the notable tax changes we've seen in 2006.

1. *Changes in effective tax rates for dividends.*

- For Quebec residents this means lower rates (29.7%) on eligible dividends (generally dividends from public companies), but higher rates (36.36%) on non-eligible dividends (generally dividends from small business corporations).

2. *No capital gain on gifts of public securities to registered charity (other than private foundation).*

- For gifts of public securities made after May 2, 2006, the capital gain is not taxed and the full donation credit may be used to offset other income. For donors that are private corporations, the entire non-taxable capital gain may also be added to the capital dividend account. This provides a real incentive for donating public securities to charity.

3. *Reduction in GST rate.*

- Effective July 1, 2006, the GST rate was reduced from 7% to 6%.

4. *Change in implementation date for new tax regime applicable to Non-Resident Trusts (NRTs) and Foreign Investment Entities (FIEs).*

- These rules were first announced in 1999 and underwent numerous revisions. New proposals released on November 9, 2006 introduce further revisions. Most notably, they change the basic implementation date from 2003 to taxation years beginning after 2006.

5. *Proposed taxation of income trusts.*

- New proposals were announced on October 31st to further level the playing field between income earned through public corporations and income earned through trusts other than certain REITs. Under the proposals, income will be taxed once in the trust and distributions will be subject to a second layer of tax in the hands of unit holders as if they were dividends. It is proposed that the new rules apply starting in 2007 for income trusts created after October 31, 2006 and beginning in 2011 for pre-existing trusts.

6. *Non-Competition Payments*

- Rules were introduced in October 2003 to provide for the taxation of amounts received by a taxpayer for granting a restrictive covenant such as an undertaking not to compete. Technical changes released on November 9, 2006 broaden the exceptions to the income inclusion rule. However, new anti-avoidance rules were also added to prevent taxpayers from using the exceptions to recharacterize as capital amounts that would otherwise have been income.

Sweibel Novek News

Best Lawyers: Trusts and Estates

Congratulations to our partner Barbara Novek on being named by the National Post as one of the Best Lawyers in Canada in the area of Trusts and Estates.

We take this opportunity to extend our best wishes for the holiday season and a safe, happy and healthy New Year.

The material contained herein is necessarily of a general nature and cannot be regarded as legal advice. The members of our firm would be pleased to provide additional information. You may reach us at (514) 849-1188 or by e-mail as follows:

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