Physicians

Incorporating your practice

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It's your practice

The ability to incorporate a professional practice has many members of professional bodies eager to take advantage of its benefits. For physicians who are considering incorporation, this informative report discusses the opportunities and issues that should be considered in making your decision. Remember, take time to do your research and seek professional advice.

Benefits

This section provides an overview of the main benefits that can be realized when a professional incorporates their practice.

Tax strategies

- Reduced corporate tax rate and tax deferral
- Lifetime capital gains exemption ($866,912 for 2019 and indexed inflation)
- Income splitting with family members
- Payment of expenses using corporate after-tax dollars

Estate planning & practice succession

- Estate freeze
- Multiplication of the capital gains exemption

Creditor protection

- Limited liability

Because each province and professional organization has their own set of rules and regulations, we recommend that you speak to your professional tax advisor and professional governing body to determine whether the benefits are applicable in your particular situation.

Wealth planning advice for physicians

Tackle your wealth planning needs and avoid financial burnout with comprehensive, long-term strategies and solutions, customized for physicians. Richardson Wealth understands the unique wealth planning challenges of medical doctors and can help you overcome or minimize the repercussions of a later start in the workforce, and the impact on earning, saving and investing. Distinguish our offering of proper wealth management expertise from run of the mill advice. This is the Richardson Wealth difference.

Tax strategies

Typically, the most compelling reason for incorporating your professional practice is to take advantage of the tax benefits. Depending on the province and the type of income earned, there may be tax savings and/or tax deferral opportunities.

Tax deferral

In theory, there should be no difference between earning income personally or through a corporation. This concept is commonly known as “integration”. However, in practice the theory of integration does not always hold true. Each province has its own corporate and personal tax rates, therefore you should consult your tax professional to determine the cost/ benefit of incorporating your professional practice.

Who should consider incorporation?

- Professionals with significant meals, entertainment or insurance costs
- Professionals in the accumulation stage of saving
- Professionals who can sell their professional practice or transfer it to their children

Small business deduction

To be able to defer tax you must retain income eligible for the small business deduction inside your corporation. If your lifestyle requires all of your after-tax income, then you may not benefit from incorporation.

However, if the funds are left inside the corporation for a significant period of time, the tax deferral benefits may significantly outweigh any lack of integration.

Associated corporations and partnerships

To avoid setting up multiple corporations with low tax rates, “associated” corporations or members of a corporate partnership must share the small business deduction. In general, corporations are associated where a controlling shareholder owns at least 25% of another corporation controlled by related individuals. Professional tax advice should be obtained prior to structuring your corporation to ensure access to the small business deduction is maximized.

Income splitting

Professional corporations may provide opportunities to split income by paying reasonable salaries or certain dividends to family members where provincial and professional jurisdictions permit. However, expanded “tax on split income” (“TOSI”) rules have significantly reduced the ability to implement previously-common income splitting strategies. For example, specifically for professional corporations, the TOSI rules no longer allow non-active shareholders to receive dividends as the shares are not considered “excluded shares”. If such dividends are paid out, they would be subject to tax at the top marginal tax rate.

The TOSI rules are extremely complex and thus professional tax advice should be sought to identify whether an existing or proposed professional corporation can still achieve income splitting.

Lifetime capital gains exemption

Another opportunity for the professional who incorporates their practice is the ability to shelter up to $866,912 (for 2019) of capital gains realized on the disposition of their shares, if they are shares of a "qualified small business corporation". While the requirements are complex, generally the corporation must use 90% (of the fair market value) of its assets in an active business on the date the company is sold and in the preceding 24 months 50% (of the fair market value) of their assets must be used as described above.

Corporate after-tax dollars

Where an individual has expenses that would not be considered a taxable benefit to the employee but are still required to earn income from the practice, consideration should be given to paying for certain non (or partially) deductible expenditures with preferential corporate after-tax dollars as opposed to more costly personal after-tax dollars. Examples include life insurance, club dues, and meals and entertainment.

Tax deferral on salary

Where a corporation declares a bonus to an employee, the corporation may deduct the bonus for purposes of calculating corporate income taxes; however, the corporation may delay payment of the bonus until 180 days after the year-end.

Because employees report their income when received, a deferral of tax may be available where a corporation deducts the bonus in one year and the employee does not have to take it into income, for tax purposes, until the following year.

What is an estate freeze?

In general terms, an estate freeze is the process of freezing the value of an asset at its current value, while future growth (and the tax liability associated with that growth) is transferred to future generations.

Death benefit

Another benefit of incorporating your professional practice is the ability for an employee (which may be the professional or where available, the professional's family members) to receive a one-time, tax-free death benefit of $10,000 upon death of that employee.

Estate planning and practice succession

A corporation provides for additional flexibility in the area of estate planning and practice succession where the provincial and professional jurisdictions permit family members to be shareholders. Because a corporation is separate from its owners, there is an ability to continue the professional corporation after the professional's death, potentially have multiple family shareholders make use of their lifetime capital gains exemption and provide flexibility in performing estate freezes to defer tax.

Creditor protection

A non-tax benefit is the limited liability afforded to shareholders. Generally speaking, limited liability restricts creditors' access to the company's assets and the "piercing of the corporate veil" to recover funds from the shareholders. Therefore, the shareholder's legal liability is limited. For most professionals, limited liability does not apply to liabilities that arise as a result of professional negligence.

While limited liability is not available for professional negligence, professionals may still have protection from liabilities such as personal injury claims and practice losses. In addition, some possibilities to limit the amount of assets exposed to creditors of a professional may exist where multiple family shareholdings of a professional corporation is allowed. For instance, where a provincial and professional jurisdiction allow for discretionary family trusts to own common shareholdings of a professional corporation, a professional could limit their exposure to personal creditors by having the discretionary trust own the assets instead of them personally.

Conclusion

Incorporating your professional practice may provide significant tax and non-tax benefits. While this article has outlined some of the more common benefits and pitfalls of incorporation, it is not meant to be all-inclusive. The decision to incorporate should be made in conjunction with your professional tax, legal, and financial advisors to ensure that you have considered all merits and identified all risks with your decision.