TD Wealth

Tax Strategies for Business Owners During an Economic Downturn

The following are some strategies to consider in light of current financial markets. It is important to discuss these strategies with your tax and legal advisor to determine if they are appropriate for your circumstances.

Trigger Capital Losses

Strategy	Additional Thoughts/Considerations
Capital losses can be carried back to the three previous tax years and carried forward for future tax years indefinitely. If you have realized capital gains in the last past 3 years, consider triggering capital losses today to offset previously realized capital gains and recuperate taxes paid in prior years.	Before triggering capital losses, consider your Capital Dividend Account (CDA) as any realized capital losses will reduce the CDA balance. Also, be aware of the superficial loss rules which denies the losses when the same stock is purchased within a 30 day period. For more information please see our article: Superficial Loss.

CDA Planning

Strategy	Additional Thoughts/Considerations
Dividends paid out of a corporation's CDA can be received tax-free by Canadian-resident shareholders[1].	Consider paying out CDA prior to realizing losses which would reduce available CDA. The CDA may also be used in relation to any deemed dividends on the redemption of shares. In addition, funds can be loaned back to the corporation if the business requires the funds to be retained within the corporation. The loan can be subsequently repaid back later tax-free.

Realize Capital Gains

Strategy	Additional Thoughts/Considerations
Consider restructuring while fair market value of assets may be lower and capital losses may be triggered to reduce overall taxes. If you have investments with unrealized capital gains in your corporation, sell it and if possible, pay yourself a capital dividend. If you wish to continue holding the investment, feel free to buy the exact same stock after the disposition and subject to cost averaging your cost base may be increased.	Half of the capital gain is taxable and half of the gain is credited to the CDA. The timing of a capital dividend will need to be carefully coordinated with any capital losses you wish to trigger. Be sure to understand any taxes that may be payable as part of your overall planning if capital gains are realized.

[1] For Canadian resident U.S. citizens, while capital dividends are tax-free for Canadian purposes, the capital dividend may be subject to U.S. taxation with limited foreign tax credit relief since no Canadian taxes were paid on the capital dividend.

Estate Freeze

Strategy	Additional Thoughts/Considerations
An estate freeze is an arrangement designed to freeze the current value of your shares in your private corporation and transfer any future growth to others, such as your family members either directly or indirectly (e.g. through a trust for their benefit). An estate freeze generally will occur on a tax-deferred basis and limit any capital gains liability associated with those shares on death.	Now might be a good time to freeze the value of your interest in the corporation. If you previously implemented an estate freeze, consider a ***refreeze*** to pass on more of the growth to your family members. Consider creating a family trust to hold the future growth shares to provide flexibility and potentially multiply the Lifetime Capital Gains Exemption (LCGE) among family members, if applicable.

Purification

Strategy	Additional Thoughts/Considerations
Now might be a good time to “purify” the corporation by removing passive investments and excess cash to qualify for the LCGE.	The LCGE of $971,190 (for 2023) is available on the sale of qualified small business corporation (QSBC) shares or $1,000,000 on the sale of qualified farm or fishing property. Be sure to understand any taxes that may be payable as part of your overall planning if excess cash or passive investments are removed.

Donate

Strategy	Additional Thoughts/Considerations
To help charitable organizations, consider donating shares directly from your corporation.	The income tax rules offer a variety of tax benefits. The corporation receives 100% of the fair market value of the securities in a tax receipt and no capital gains tax is payable when publicly traded shares/mutual funds or segregated funds are donated in-kind to a charity. In addition, 100% of the gain is credited to the CDA. Explore various types of registered charities and consider a strategic donation plan.

Claim Business Investment Loss (BIL)

Strategy	Additional Thoughts/Considerations
A BIL is a capital loss from a disposition of shares in, or debt owing from, a small business corporation (SBC)[2]. One-half of the BIL is an Allowable Business Investment Loss (ABIL).	Capital losses may only reduce capital gains. Unlike capital losses, an ABIL for a tax year may be deducted from all sources of income for that year. While beyond scope of this article, ABIL may be reduced where the LCGE has been previously claimed (and vice versa).

Speak with your TD advisor and your tax and legal advisors to understand if any of the above-mentioned strategies are appropriate for your situation.

[2] In order to be considered a BIL, the disposition of the SBC shares (or debt) is either made to an arm's-length person or a disposition to which an election is made to have subsection 50(1) apply.