



Buying or Selling a Business?

You need to consider income taxes.

Assets or Shares?

When you are contemplating the purchase or sale of an incorporated business, you need to consider whether the transaction will involve the sale of business assets by the corporation or the sale of the corporate shares by the shareholders. Whichever option is chosen, income taxes will have a major impact on the net benefits received by both the purchaser and the seller. It is, therefore, important to be aware of how income taxes affect each party during negotiations. Present and future income taxes resulting from a transaction impact the purchaser and the seller differently. As well, the impact of income taxes may be significantly different depending on whether the business assets or the corporate shares are sold.

The sale of shares usually involves a single transaction; the transfer of shares from the seller to the purchaser.

The sale of corporate assets may involve multiple transactions at two distinct stages:

- The sale and transfer of assets from the seller to the purchaser; and
- The wind-up and distribution of the liquidated corporate surplus to the shareholders by way of a dividend.

Motivations and Negotiations

A purchaser is often motivated to purchase the business assets from the corporation because the cost of the assets to the purchaser is equal to their purchase price. If the fair market values of the assets are greater than their carrying cost to the vendor corporation, the

purchaser will realize future income tax benefits from the asset's increased tax cost by way of increased tax-deductible depreciation and reduced tax liabilities if the assets are eventually sold.

A seller will usually want to sell the corporate shares as the transaction is much simpler from a legal, accounting and tax compliance standpoint. As well, if the corporate ownership has been structured properly and the corporation meets the definition of a small business corporation, the seller may realize \$750,000 or more of their business value tax-free by accessing the seller's and the seller's family's capital gains exemptions. If the capital gains exemption is unavailable, capital gains on the sale of shares still attract preferential tax treatment as only 50% of the gain is taxable. Recaptured tax depreciation which usually arises when the assets of a corporation are sold is fully taxable. As the tax cost of the corporate assets remains unchanged when the corporate shares are sold, the benefit of increased tax deductible depreciation is unavailable to the purchaser and the tax liability inherent in the unrealized gain on corporate assets remains with the corporation.

Since a share transaction has significant benefits to the seller, the purchaser can leverage this knowledge to negotiate a lower purchase price and overcome some of the disadvantages associated with purchasing shares.

These are only a few of the factors involving income taxes that may arise during the negotiations leading up to the sale of a business. Excellent tax advice from your Collins Barrow tax advisor both before and during the negotiations will ensure you maximize your value from the transaction.

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Buying or Selling a Business?

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Why Collins Barrow Ottawa LLP

We are a well rounded **tax, accounting and business advisory firm**. Our extensive experience spans various industry sectors including manufacturing, retail, construction, service, not-for-profit, technology, petroleum, health care, education, and transportation. That means we can quickly and efficiently apply our cross-industry experience – and add significant value to the work we do for you.

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The information in this bulletin is current as of November 2009.

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