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Michael is Counsel to the firm practicing in the Tax Law Group. He is an accomplished tax lawyer, providing tax planning and estate planning advice, as well as tax dispute resolution advice, to individuals and corporations including owner-operated private companies and family businesses.

Michael's tax law practice includes personal and corporate tax planning, corporate reorganizations, tax issues in estate planning, tax planning for business succession, tax planning for charities and not-for-profit organizations, cross-border tax planning, tax opinions, tax dispute resolution and tax litigation.

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I recently met with my accountant to have my tax return prepared – and the accountant told me that, unless I get some tax planning advice and act on it, my family would have a large capital gains tax bill to pay when I die. The accountant suggested that I speak with a tax lawyer. How could tax planning assist me?

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Without obtaining tax planning advice, and thereby benefiting from having a tax-effective estate plan, an individual could leave his or her family with a substantial tax bill upon his or her death. If you own assets such as real estate (other than your personal residence) and/or shares (whether of a privately-held company, such as your incorporated business, or a publicly-traded company) which have increased in value during the time you have owned them, then upon your death the accrued capital gains on them would be triggered for tax purposes – resulting in potentially substantial capital gains tax payable when your “terminal” income tax return is filed – unless during your lifetime you obtain tax planning advice designed to minimize, or at least to defer, the tax impact.

Tax planning to minimize the capital gains taxes arising on death can benefit both an individual and his or her family members – and is a key component of estate planning. Estate planning is the process by which an individual arranges, during his or her lifetime, for the distribution of his or her assets after death (i.e. the estate, in accordance with his or her will) – and possibly, for some assets, prior to death (by way of gift(s)). Assets such as real estate, shares, mutual funds, life insurance policies and RRSPs may all form part of a person's estate – and might be dealt with in tax planning.

If, for example, you are married, such “capital” assets could be transferred to your spouse, either during your lifetime or upon your death (through your will), without incurring any current liability for capital gains tax (any tax impact would thereby be deferred). If you are not married, but you have a common-law partner, a similar tax deferral could result from a transfer of such “capital” assets to her or him. In addition, on your death the proceeds of your RRSP would become taxable, unless you had named your spouse (or a dependent child or grandchild) as the beneficiary of your RRSP.

Tax planning, when utilized to create a tax-efficient estate plan, might involve the use of trusts or other tax-effective techniques in your will – to minimize taxes which would occur on death (and achieve even more than a deferral of tax). Tax planning can, and should, be an ongoing process – and provide enough flexibility to make any changes which might be needed in the event that circumstances change in the future. A tax lawyer can help navigate you through this process and help you determine what is the most appropriate tax plan for you.



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