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Estate Planning – The Tax Side
June 16, 2009



Topics we'll cover...

- Income splitting
- Death and taxes
- Gifts and donations



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Income Splitting

Overview

- The basic goals of tax planning are:
 - To save tax; and
 - To defer tax as long as possible
- The Canadian tax system provides many vehicles to achieve both
 - E.g. RRSP's and Tax Free Savings Accounts
- You can also achieve both when planning for your estate



Tax Savings through Income Splitting

- One of the ways we can save tax is by “income splitting”

Tax Savings Through Income Splitting

- Canada has a graduated tax system that taxes individuals separately
- For a BC resident, the 2009 combined Federal and BC tax rates are as shown (ignoring tax credits)
- Splitting income can provide tax savings

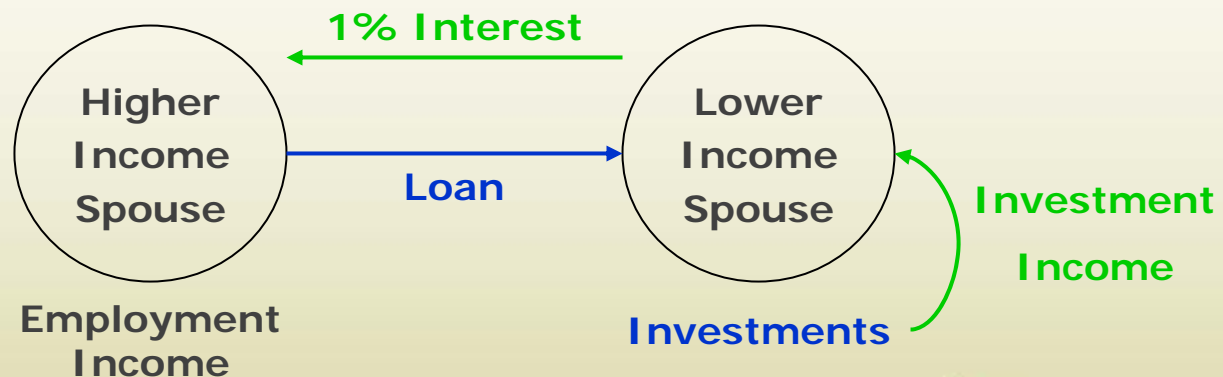
<u>From</u>	<u>To</u>	<u>Total</u>
\$0	\$35,716	20.06%
\$35,717	\$40,727	22.70%
\$40,728	\$71,433	29.70%
\$71,434	\$81,452	32.50%
\$81,453	\$82,014	36.50%
\$82,015	\$99,588	38.29%
\$99,589	\$126,264	40.70%
\$126,265	...	43.70%

How do we split income?

- Gift income-producing assets to your beneficiaries
 - Watch out for capital gains taxes!
 - A gift is a gift
 - Watch out for the “attribution rules”
 - These rules can “attribute” the income and gains you split to a spouse or minor child back to you

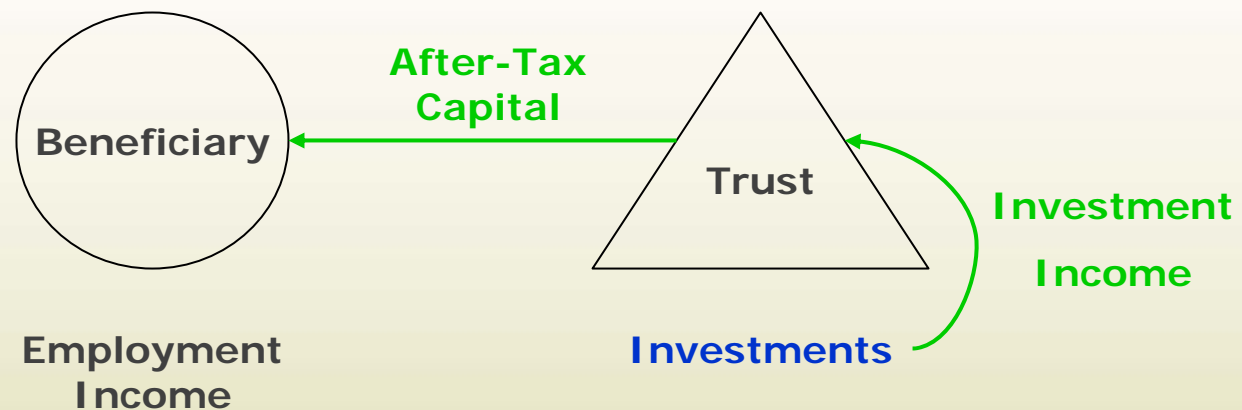
How do we split income?

- To avoid the attribution rules, make loans to your spouse/minor children at the Canada Revenue Agency Prescribed Interest Rate
 - Currently (and until September 30, 2009) set at only at 1% (the lowest rate ever!)



How do we split income?

- Set up a “testamentary trust” in your will
 - Creates a separate taxpayer with separate tax brackets for your beneficiaries



Death and Taxes

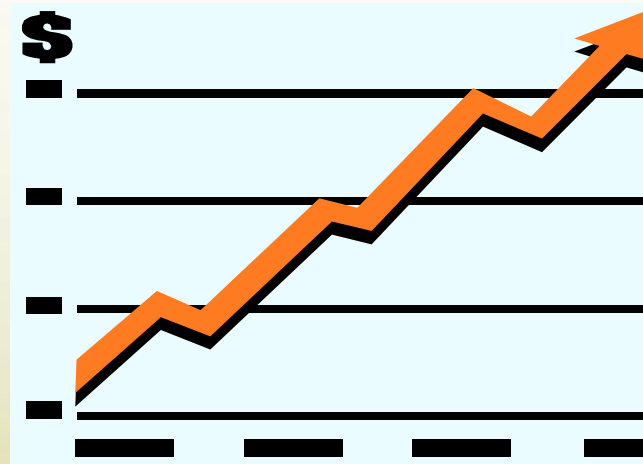


Death and Taxes

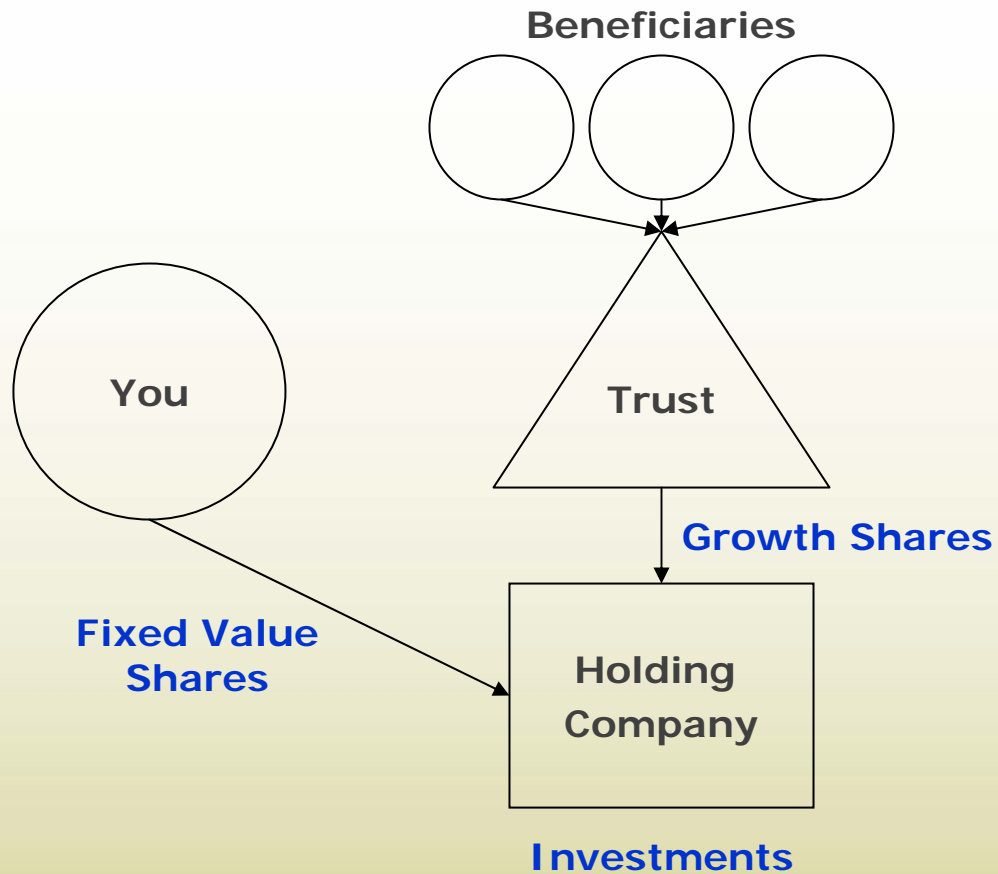
- The two “certainties” in life come packaged together
 - Deemed disposition of all assets at fair market value on death
 - Triggers capital gains – could be a significant cost to your estate
- Two strategies:
 - Funding (perhaps through life insurance)
 - Minimization

Minimizing capital gains taxes on death

- Gift assets to your beneficiaries now
 - You may be triggering capital gains taxes now, but an ounce of prevention...

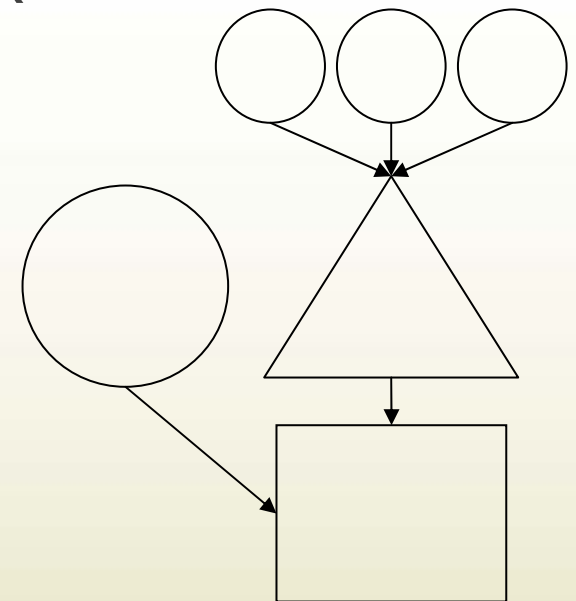


Complete an "Estate Freeze"



Complete an “Estate Freeze”

- No immediate capital gains tax
- Growth accrues to the trust
- Retention of control
- Potential for income splitting right away (keeping in mind the attribution rules)
- ...





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Gifts and Donations

Gifts and Donations

- Do we care about the potential tax savings?
 - The policy behind tax credits
 - Who can benefit?

Gifts and Donations

- Basic rules for individuals making gifts and donations to registered charities
 - Tax credit
 - 20.06% tax savings on the first \$200
 - 43.70% tax savings thereafter
 - Non-refundable tax credit
 - Limited to 75% of net income
 - Unused donations can be carried forward up to 5 years

Gifts and Donations

- Tips and traps
 - Gifts by will – wording must be precise to ensure you get the donation credit where you want it
 - Can be claimed in the year of death or the prior year
 - The 75% limit increases to 100% in the year of death and the prior year

Gifts and Donations

- Tips and traps
 - Gifts of marketable securities – capital gains inclusion rate of 0%, plus you get full credit for the amount of the gift
 - Works well for shares that you bought under an employee stock option plan that are now “underwater”

Gifts and Donations

- Tips and traps
 - Choice of donor
 - Ideally it's someone who can use the tax credits
 - Keep in mind there are technical requirements for a donation to qualify for a tax credit, and one key requirement is that the donation be voluntary



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