
PERSONAL TAX PLANNING

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TAX COLLECTION: THE RISK OF LESS THAN FAIR MARKET VALUE PROPERTY TRANSFERS

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ABSTRACT

This article reviews recent and pertinent case law in respect of one of the more powerful collection tools granted to the Canada Revenue Agency (CRA) under subsection 160(1) of the federal Income Tax Act and subsection 325(1) of the federal Excise Tax Act. These provisions extend the collection powers of the CRA beyond the tax debtor, allowing it to potentially pursue any non-arm's-length transferee who has received property from the tax debtor, by making the transferee jointly and severally liable for the tax debtor's debt. The willingness of the CRA to utilize this power, and the very real risk that taxpayers may unwittingly become caught in its grasp, merit a review of these provisions and the recent and relevant case law. The article provides guidance on the breadth and possible limits of the provisions, with a focus on their implications for individuals and for owner-managers of private corporations.

KEYWORDS: ASSESSMENTS ■ TAX COLLECTIONS ■ PAYMENTS ■ TRANSFERS ■ TAX LIABILITY

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