Personal Tax Planning

Co-Editors: T.R. Burpee* and P.E. Schusheim**

SHARE CAPITAL REORGANIZATIONS FOR PRIVATE CORPORATIONS

*Maureen Tabuchi***

Share capital reorganizations can be implemented to meet one or more of the following objectives of shareholders of private corporations: estate and succession planning, loss utilization, asset protection management, exit planning, and overall tax minimization. If share capital is to be reorganized on a tax-deferred basis, one of the rollover provisions in the Income Tax Act must apply. Certain issues concerning benefits and deemed proceeds may arise on a transfer of shares between parties that are related or that do not deal at arm's length. This article summarizes the requirements of the rollover provisions and the advantages and disadvantages of each, issues concerning valuation, and the relevant anti-avoidance provisions. Planning strategies that involve share attributes, paid-up capital, contributed surplus, valuation-day value, refundable dividend tax on hand, loss utilization, and estate freezes are discussed. Late-filed and amended elections, rectification, attribution, association, and acquisition of control are also addressed.

KEYWORDS: PAID-UP CAPITAL ■ ESTATE PLANNING ■ ANTI-AVOIDANCE

* Of Ernst & Young LLP, Montreal (retired).

** Of Ernst & Young LLP, Toronto.