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UNDERSTANDING AND IMPLEMENTING “ALBERTA ADVANTAGE” TAX AND ESTATE PLANNING

By William J. Fowlis

MARCH 16, 2004

MILLER THOMSON LLP

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Understanding and Implementing “Alberta Advantage” Tax and Estate Planning



Date: March 16, 2004

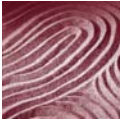

Presented by: William Fowles, CA, TEP



ALBERTA ADVANTAGE TAX PLANNING



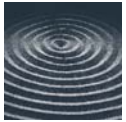
➤ Comparison of Provincial Tax Rates



	Dividends	Capital Gains	Salary & Interest, etc.
Alberta	24.08%	19.50%	39.00%
B.C.	31.58%	21.85%	43.70%
Manitoba	35.08%	23.20%	46.40%
Ontario	31.34%	23.20%	46.41%
Saskatchewan	28.33%	22.00%	44.00%



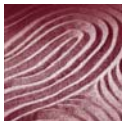
RESIDENCY CONSIDERATIONS



➤ Individuals



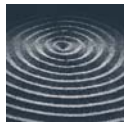
➤ Trusts



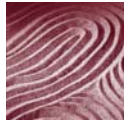
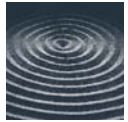
- Where majority of Trustees reside and where the Trust is administered



TYPES OF TRUSTS USED IN TAX PLANNING

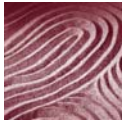
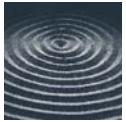


- Inter Vivos Family Trust
- Testamentary Trust
- Spousal Trust
- Joint Spousal or Common-Law Partner Trust
- Alter Ego Trust



TAX IMPLICATIONS ARISING FROM THE TRANSFER OF PROPERTY TO A TRUST

- Fair market value disposition
- Availability of a Rollover
- Approach to Plan and Type of Trust to be used is impacted by the Tax Consequences of the Transfer



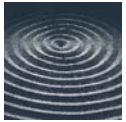
CIRCUMSTANCES IN WHICH TO UTILIZE AN ALBERTA RESIDENT TRUST

➤ Dividend Income

- Large Tax Rate Spread
- Recovery of RDTOH
- Wasting Freeze
- Matrimonial Settlement
- Withdrawal of surplus from Corporation
- Investment Portfolio

➤ Capital Gains

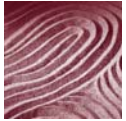
- Recognize Gains in the Trust



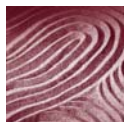
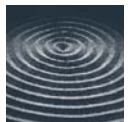
CIRCUMSTANCES IN WHICH TO UTILIZE AN ALBERTA RESIDENT TRUST (cont'd)



- Loan by Beneficiary to Alberta Resident Trust
 - Shift in Interest Income



- Loans owing by a Corporation to a Shareholder
- Fee Revenue Strategy
- Dissolution of a Trust
- Probate Planning
- Use of a Trust to operate like a Will

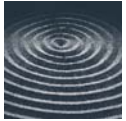


HAVING INCOME OF AN ALBERTA RESIDENT TRUST TAXABLE IN ALBERTA

- Income needs to be reported by Alberta Resident Trust
- Terms of applicable Trust
- Selection of type of Trust Impacted by Tax
Consequences of Transfer of Property to the Trust
and Conditions Regarding Payment of Income from
the Trust
- Subsection 104(13.1) and (13.2) Designations
- Income for Trust Law Purposes vs. Income for Tax
Purposes



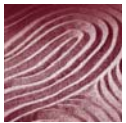
INCOME TAX TRAPS



➤ Reversionary Trust Rule



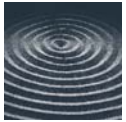
➤ Association of Corporations



➤ Corporate Attribution Rule

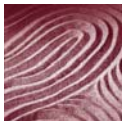


PROVINCIAL ANTI-AVOIDANCE



➤ General Anti-Avoidance Rule

- Avoidance Transaction
- Tax and Non-Tax Advantages from Use of a Trust

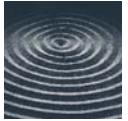


➤ Quebec Amendments

- Information Reporting
- Control and Administration of Trust
- Sections 104(13.1) and (13.2) Designation



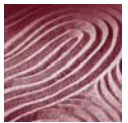
CONCLUSION



➤ Opportunities



➤ Pitfalls



➤ Possible changes