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# SETTING UP A PERSONAL REAL ESTATE CORPORATION

How Miller Thomson can help



# WHY YOU SHOULD INCORPORATE YOUR PREC BY DECEMBER 31

1. Avoid double paying Employer Amount of CPP Contributions – a savings of \$3166.45. As a self-employed individual, you are obligated to make both the employee and employer contributions towards the Canada Pension Plan (CPP). Your PREC will need to as well. If you expect to make more than \$123,200 in 2021 and it is split between yourself as an individual and a PREC, both may be required to pay up to the maximum CPP employer contribution amount. By ensuring your PREC is operational as of January 1, 2021, you can cap your CPP payments for all of your income to the 2021 maximum of \$3,166.45.
2. Avoid making two income tax returns and two HST filings in 2021. Save administration, accounting and filing costs and effort by ensuring all compensation for your real estate trading services are provided through your PREC starting January 1, 2021.
3. Start the tax savings immediately for any income you may receive in 2020. If you expect any compensation or commission to be paid in 2020, you may wish to ensure that your PREC receives as much of that income as possible so it can be taxed for income at the lower tax rate than you would personally. Your accountant can then advise you immediately whether to leave that money inside the PREC and how to most efficiently distribute that money out to you or your family members. The sooner you form your PREC the sooner you will realize the benefits.

Contact our PREC Team to Establish Your PREC



[PREC@millerthomson.com](mailto:PREC@millerthomson.com)



416.595.2633



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As legal counsel to the Ontario Real Estate Association, Miller Thomson LLP helped shape the regulatory scheme which now permits Ontario REALTORS® to establish and use Personal Real Estate Corporations (“PREC’s”). REALTORS® have joined the ranks of the professionals who can access the income tax and income/estate planning advantages that incorporation can bring.

## Benefits of incorporating a PREC can include

- Tax deferral to allow your investments to grow faster
- Income sprinkling to family members
- Lower tax on non-deductible or partially-deductible business expenses such as life insurance, meals, and entertainment
- Flexible retirement planning options to smooth and/or reduce total tax burden
- Flexibility for estate and succession planning
- More remuneration options (salary, dividends, bonuses) for your personal situation
- Access to the lifetime capital gains exemption
- Providing liability protection to your other business activities

## How to make the most of a PREC

Not every REALTOR® will benefit from the use of a PREC. Furthermore, PRECs are only a tool and will provide full benefits only if used properly. Not only do you need to determine whether you should use a PREC, you have to decide how to best use a PREC. Those decisions will depend on you, your brokerage and your family’s unique circumstances. Our qualified team can assist you after reviewing your personal circumstances, such as:

- Are you presently earning more than you need to cover your living expenses?
- If so, what are the sources of that income?
- Do you have plans to pass on or sell your business to a family member or other Realtor®?
- Do you have significant expenses that presently are only partially deductible, or not deductible at all?
- What types of investments or other business opportunities do you want your savings to fund?
- Would you potentially benefit from splitting business income with family members?
- What value have you built up in your business already?

If you have financial planning and accounting advice, we will work with your other advisers to implement your vision with the best set of arrangements for your circumstances.

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## The Miller Thomson advantage

PREC's are a result of OREA's efforts. As OREA's trusted legal advisor on how PRECs should be best implemented, we worked and met with the Ontario government to shape the regulations which now govern you, your brokerage and your PREC. Our team possesses not only the legal expertise required to properly structure a PREC, but also a detailed understanding of why the regulations require certain things, are silent on other matters and how specific regulatory provisions were crafted to facilitate options that you can take advantage of. The combined experience of our team members provides you not only with our skills, but a keen understanding and appreciation of the practical considerations unique to Realtors®.

Miller Thomson LLP provides a full suite of legal services to properly service Realtor® clients as your lives and businesses, and thus your legal needs, evolve and change over time. When it comes time to think about your retirement, providing for your family through estate planning or when you move into other areas of business or opportunities, in or out of real estate, Miller Thomson LLP will be there. We are a full service, national firm, equipped to provide you and your business with tailored, specific and current advice in all areas of business, employment, regulatory, estate, litigation, real estate and taxation law matters. With over 500 lawyers and 12 offices across Canada (six (6) in Ontario alone) we have you covered, whatever future legal needs may arise.

## Our PREC service offerings

### Fixed Fee for Incorporation & Crucial Agreements (\$4,000 plus HST and disbursements):

- Incorporation of the PREC (including name reservation, preparing and filing Articles of Incorporation\*, initial corporate notice filings, by-laws, organizational resolutions and a virtual minute book)
- Employment Agreement between the Realtor® and the PREC
- Asset Purchase Agreement between the Realtor® and the PREC to roll assets into the PREC\*
- Documentation of Section 85 Rollover including Promissory Note from the PREC to the Realtor evidencing consideration payable\*
- Detailed Final Reporting on Incorporation (includes instructions on how to operate the PREC, maintain TRESA compliance, and required filings)

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**Optional Add-Ons (each service starting at \$1,500 plus HST and disbursements):**

- Discretionary family trust\* (if determined beneficial to utilize a trust as the shareholder)
- Holding company (allowing for investment outside the PREC to minimize creditor risk)
- Brokerage Agreement (advice provided on implications of required agreement between brokerage, registrant and PREC)
- Ongoing Maintenance (annual maintenance and filing fee starting at \$375/year):
- Maintain electronic PREC Minute Book Records (to ensure ongoing compliance with legislative requirements)
- Automatic filing of annual PREC corporate returns (including issuance of dividends, etc. as per accounting instructions)\*
- Other updating of PREC Minute Book (when and as required)

*\* Additional taxation and accounting advice is required in relation to those items as indicated.*

**Tax advice**

It is highly recommended that you seek comprehensive financial planning, tax and accounting advice in relation to setting up a PREC, in addition to legal advice. Miller Thomson LLP will work closely with your accountant to ensure that the legal documentation prepared incorporates all recommendations and requirements from a tax planning perspective. Alternatively, Miller Thomson LLP's qualified tax lawyers can provide you with tax planning advice in relation to the PREC, for an additional fee for service.

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DISCLAIMER: The enclosed information is meant to act as a brief summary of considerations relating to PREC's and the services Miller Thomson LLP offers in conjunction thereto, and is not meant to be relied upon as legal advice. Appropriate financial planning, tax and legal advice should be sought to determine whether or not a PREC is recommended for you based on your personal circumstances. Please reach out to one of our PREC team members to discuss whether or not setting up a PREC may be the right choice for you and your business.

Please note that pricing quoted above is based on average pricing and is subject to change based on the specific requirements and complexity of your personal circumstances.

## OUR PREC TEAM

If you have any questions about our services and pricing as provided for herein, please reach out to any of our team members set out below:



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