

Manage the Risks of Property Ownership

***B**usinesses owning real property need proper planning to reduce their risk factors. It is important to identify, evaluate and minimize risk factors such as financing, tenants and vacancies, insurance and taxes.*

Real estate financing should match your needs. For example, you may wish to finance your real estate with a fixed interest rate and a term that coincides with the length of your tenant's lease. Mortgage options include fixed and variable interest rates, various term lengths and lines of credit. You should have a backup financing plan in the event of vacancies or other cash flow impairments.

Viable tenants with proper leases will help reduce your risk. Engage a real estate lawyer to assist in preparing your lease document. A properly prepared lease will address the type of lease, i.e. gross or net lease, common costs, terms and payments and responsibilities. A triple net lease will help reduce the risk with regards to inflation. Consider the inclusion of related party guarantees and registration of the guarantee under the Personal Property Security Act in the lease document.

An insurance broker will assist you in obtaining adequate liability, property and casualty insurance. The needs of the mortgage holder should be addressed.

There are taxation issues involved in businesses owning real estate that need to be reviewed with your accountant. You also need to discuss the legal ownership of the real estate, whether personal or in a holding company. In addition you should understand the tax consequences of claiming capital cost allowance and its future recapture. Close attention should be paid to cash flows and the effect of future income taxes as taxable income increases with reducing interest and capital cost claims.



Real estate has traditionally increased in value over time and proper planning will minimize the risks involved and allow you to achieve your goals. Please contact Welch LLP for more information on this topic.



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A Business Plan – Yes. A Financial Plan – Absolutely!



When a business grows, it is not usually because the owners were lucky. More than likely it resulted from a great deal of hard work and planning. The process of planning the growth of a business requires the proper preparation of a business plan outlining strategies, resources, revenue forecasts, costs and expenses, cash flow projections and more. One other important component of any plan to attain success should include the determination of the financial requirements necessary to accommodate your desired level of growth. This is your “financial” plan.

The initial step in the development of a financial plan is the preparation of a forecast to determine your future financial requirements. The forecast should be prepared based upon

historical experience, industry statistics and management research and expectations. It should consider a variety of assumptions and sensitivity analysis from extremely conservative to a modest degree of optimism.

The use of financing should be contemplated under a conservative approach. Should financing prove to be unattainable there will be no opportunity for growth. Any decision on financing should consider cash flows of operational requirements related to receipts from customers, payments to employees and suppliers, and capital requirements for purchase of property and equipment.

Your forecast will help determine when there will be requirements for short term financing. Based on your particular business model and resources, this could take the form of bank lines of credit, commercial letters of credit and current loans, term financing in the form of loans and mortgages, government sponsored financing, shareholder financing or shareholder investment. There may also be bonding and insurance considerations.

Financing will be granted by lenders based upon acceptable business ratios for financial position and results of operations. Extreme care must be taken to ensure that all business ratios remain in line with prudent business practices and creditor requirements.

Your Welch LLP professional can prove to be of valuable assistance in the planning for business growth, especially in the development of a proper financial plan to accommodate the growth forecasted in your business plan.



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Recent Changes to the Canada – U.S. Income Tax Convention

The Fifth Protocol to amend the Canada – U.S. Income Tax Convention was signed on September 21, 2007. On December 14, 2007, the Minister of Finance announced that Canada completed the steps required to give effect to the Protocol. The Protocol will take effect once ratified by the U.S. The two countries have formally notified each other that their procedures are complete.

On July 10, 2008, the U.S. Treasury Department released the Technical Explanation of the Fifth Protocol. The Department of Finance stated that Canada agrees that the U.S. Technical Explanation “accurately reflects understandings reached in the course of negotiations with respect to the interpretation and applications of the various provisions in the Protocol”.

Key measures included in the Protocol are:

- ❖ Elimination of the 10% withholding tax on cross-border interest payments to unrelated parties. For related parties, it will be phased out at 7% for the first year, 4% for the second year and eliminated thereafter. This applies retroactively to the start of the year in which the Protocol is ratified.

- ❖ Extension of treaty benefits to U.S. limited liability companies.
- ❖ Allow taxpayers to settle through arbitration certain key double taxation issues, such as transfer pricing.
- ❖ Removal of double taxation on emigrants’ gains caused by the Canadian rule requiring taxpayers to recognize capital gains upon ceasing residency. This provision will allow, for U.S. tax purposes, an increase in the cost basis to fair market value at the time of departure from Canada. This applies retroactively to departures after September 17, 2000 (date first announced).
- ❖ Give mutual tax recognition of pension contributions, particularly to cross-border commuters who live in one country and work in the other.
- ❖ Clarify how stock options are taxed in certain cross-border situations.

If you would like more information, contact a professional at Welch LLP



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Accountant Responsibilities Under FINTRAC

The Financial Transactions and Reports Analysis Centre for Canada (FINTRAC) was established under legislation called the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). The purpose of FINTRAC is to provide information related to the identification of a) proceeds of crime or b) details of potential financing activities relating to terrorism.

A guideline has been developed which:

- Provides background information regarding these types of activities
- Outlines the legislative requirements with respect to a compliance regime, record keeping, client identification and reporting
- Provides an overview of the mandate and responsibilities of FINTRAC

As professional accountants we have responsibilities under the legislation. Specifically, accountants and accounting firms have certain regulatory requirements under the PCMLTFA when they engage in any of the following activities on behalf of any person or entity:

- Receiving or paying funds
- Purchasing or selling securities; real estate; business assets or entities, or
- Transferring funds or securities

Based on our practice we would not anticipate that our people would be involved in such activities for clients, however, we feel it is important that all

our people have a general knowledge and understanding of FINTRAC so they will be in a position to a) be able to determine if they have encountered a circumstance where there is a potential of FINTRAC being applicable and b) advise a client should the need arise.

Circumstances where reporting to FINTRAC is required include a suspicious transaction, a large cash transaction, terrorist property and third party determinations. Audit, review or compilation work carried out according to the recommendations in the Canadian Institute of Chartered Accountants (CICA) Handbook is not included in the activities subject to the Act or its regulations.

It is important to note that the act is not only applicable to accountants in public practice. For an accountant who is an employee of a reporting person or entity, these requirements are the responsibility of the employer except with respect to reporting suspicious transactions and terrorist property, which is applicable to both.

For further information on FINTRAC, visit the website: www.fintrac.gc.ca.



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Reporting Requirements:

- A suspicious transaction is when there are reasonable grounds to suspect that a transaction is related to the commission of a money laundering offence or a terrorist financing offence. There is no minimum threshold amount for reporting a suspicious transaction.
- A large cash transaction is defined as an amount of \$10,000 or more in cash in the course of a single transaction; or two or more cash transactions of less than \$10,000 each were made within a 24-hour period, by or on behalf of the same client.

- A terrorist property report to FINTRAC must be made if you have property in your possession or control that you know is owned or controlled by or on behalf of a terrorist or a terrorist group. This includes information about any transaction or proposed transaction relating to that property. In this context, property means any type of real or personal property in your possession or control.
- Third party determination, where a large cash transaction record is required, requires that you must take reasonable measures to determine whether the individual is acting on behalf of a third party.

Quebec and Ontario Retail Sales Tax Systems

Similar to most Canadian provinces, Quebec and Ontario impose consumption taxes to generate extra revenue. However, these two provinces vary greatly in the manner in which they impose the tax.

Quebec has modeled its sales tax legislation after the Federal GST. For instance, the Quebec Sales Tax (QST) applies to most goods and services provided in Quebec whereas, Ontario Retail Sales Tax (ORST) or (PST) is restricted mainly to just goods. Consequently, although the PST rate is higher than the QST rate (8% vs. 7.5%), consumers in Quebec will pay QST on a broader base of items.

For businesses, the major difference between the two taxes is that in Quebec, a business can claim input tax refunds (ITRs) for QST paid on business inputs. This means that QST paid for goods and services used in the course of operating most businesses in Quebec is refunded to the business thereby potentially reducing the cost of operating a business in Quebec. In Ontario, PST paid on goods

consumed in the business must be absorbed by the business. This means that Quebec businesses may have an advantage over Ontario businesses, allowing them to be more competitive in the market place.

Proponents of a harmonized sales tax in Ontario cite improved competitiveness, along with reduced compliance burden, as major potential benefits to businesses. For taxpayers, elimination of imbedded tax in prices would ultimately result in reduced prices for goods.

In Quebec, some of the benefits of sales tax harmonization have already been achieved. The province administers the GST as well as the QST so taxpayers need only deal with one governing body. Also, since both taxes are very similar, taxpayers are essentially dealing with only one set of rules.

Other Canadian provinces are considering the benefits of sales tax harmonization. We can expect to hear more about this topic in the future. If you have any questions, contact a professional at Welch LLP.



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Canada Pension Plan and Stay-at-Home Parents

If you stayed at home to raise young children, the “Child Rearing Drop-Out Provision” (CRDO) may help you qualify for or receive a higher Canada Pension Plan (CPP) benefit amount upon retirement, death or disability.

Generally, your CPP benefits will be calculated based on the amount and number of years that you contributed while you were working. The CPP benefit calculations take into account all years that you earn income. If you have low or no earnings in certain years, your CPP benefit entitlement normally results in a lower benefit entitlement.

Since caring for young children can mean leaving the workforce for a period of time or working fewer hours, the CPP program contains the CRDO provision to provide relief to individuals from an otherwise lower CPP benefit entitlement as a result of being a caregiver in some years.

If you had previously been a primary caregiver for a child under the age of seven, you should consider applying for the CRDO. This provision effectively excludes certain years that you were a

primary caregiver from the calculation of your benefit, thereby possibly increasing your benefits entitlement.

Consider the following example:

Emily was employed outside the home until her son was born in 1981. She stayed at home until her son started school in 1986, and then she resumed full-time employment. When Emily applied for her pension many years later, she also applied for the CRDO. As a result, the CPP dropped out the period from her son’s birth to 1986 in the calculation of her CPP benefit entitlement, thereby increasing her benefit amount.

There are certain requirements for CRDO eligibility, including:

- ❖ That the applicant has stopped working or had low earnings while being a primary caregiver of a child under the age of seven; and

- ❖ That the applicant, or his or her spouse, must have received Family Allowance payments or been eligible for the Canada Child Tax Benefit (even if they did not receive the benefit).

Either spouse can apply for the CRDO. However, the provision will not apply to both you and your spouse for the same time periods and children.

In order to apply, a special form is required to be completed at the time that you apply for CPP benefits. You can apply for the CRDO even years after you make your initial application to increase your benefits.

Please contact your chartered accountant with any questions you may have regarding your CPP benefits.

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