



Professional Corporations

Traditionally, professionals have carried out their professional businesses as either sole proprietors or in partnerships. There are many positive tax and non-tax reasons to carry on business in one of these structures, but tax planning may be more limited. A few years ago, Ontario passed legislation to permit certain professionals such as lawyers, accountants, dentists, physicians, architects, and engineers to incorporate a professional corporation to carry on their professional business.

A professional corporation is like any other corporation, but is subject to certain rules. It provides the ability to limit certain liabilities, with the exception of negligence and malpractice for most professionals. A professional corporation can limit liability in respect of other forms of liabilities such as financing obligations, leases and non-guaranteed bank loans.

In Ontario, a professional corporation must include in its corporate name the words "Professional Corporation". A professional corporation may not operate under a numbered company name. Additionally, it may not carry on a business other than the practice of the profession and the temporary investment of surplus funds. A professional corporation may be subject to additional restrictions imposed by its professional governing body. The majority require certification by their profession's governing body before they can carry on the professional business.

One of the greatest benefits of incorporation is the ability to defer tax by retaining income in the corporation. The income is subject to corporate tax rates, which are usually lower than the professional's personal tax rates. In addition, the professional corporation may be able to obtain the benefit of the small business deduction.

After incorporation, assets used for the professional business are normally transferred to the professional corporation on a tax deferred basis in exchange for the professional receiving shares of the professional corporation. The professional becomes an employee of his or her professional corporation and receives a salary for services rendered. As a shareholder, the professional can receive dividends from the professional corporation. Salaries and dividends can be maximized to minimize overall taxes.

In Ontario, dentists and doctors are permitted to have non-voting family members as shareholders of the professional corporation. The advantage is that dividends can be paid to these family members and can result in significant overall family tax savings. However, like many other professional corporations, health professional corporations are not allowed to have holding companies or family trusts as shareholders.

In Ontario, a second will to avoid probate on certain assets is allowed. Shares of a professional corporation are property that can be dealt with under a secondary, non probatable will.

Because of the many tax advantages, professionals are increasingly considering incorporating their professional businesses. There are many planning opportunities and strategies for professional corporations, including the use of life insurance owned by the professional corporation. Any questions that a professional has regarding incorporating their professional business should be discussed with their accountant, lawyer and insurance agent.