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WEALTH MANAGEMENT

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MONEY *matters*

USE A TRUST TO HOLD THE FAMILY COTTAGE

With summer in full swing, the family cottage becomes a hub of activity once again. While cherishing the moments in the sun at the cottage, most Canadian families want to ensure they can pass their cottages on to the next generation and look for the most tax-efficient ways of doing that. One of the strategies that you can consider is using a trust to hold the family cottage.

This can be a good strategy if you would like continued access to the cottage during your lifetime but would like to pass on the increase in value, future capital gains and hence the related tax liability to future generations. If you opt for this solution, you should ensure that the trust agreement addresses the ongoing management of the property and defines the responsibility for costs. As part of the trust, you may also choose to include a sum of money for the upkeep of the cottage.

You can simplify decision-making for your heirs by having the trustee make the decisions with regards to use, maintenance and the eventual sale of the property. This will simplify reaching a resolution when sensitive issues are involved.

This strategy can also be helpful if you feel that your children are not able to handle the financial responsibilities, or have concerns about existing or potential



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"By having the cottage owned by a trust, you can keep it safe from claims of creditors and ensure that it will not be subject to division of property under the family law act."

creditors, or a marital breakdown. By having the cottage owned by a trust, you can keep it safe from claims of creditors and ensure that it will not be subject to division of property under the family law act.

You can also save on estate administration taxes (formerly called probate fees in Ontario) on death, due to the fact that the cottage will be owned by the trust rather than personally by you.

USE MULTIPLE WILLS TO LOWER PROBATE TAXES

Having a will is a prudent measure for anyone, but for Ontario business owners, having more than one will can be even more prudent and beneficial in reducing probate fees, now called "estate administration taxes" (EAT) in Ontario. Probate fees in Ontario are among the highest in the nation. The first \$50,000 of estate assets is taxed at 0.5% and anything above this threshold will be subject to a 1.5% probate fee.

The use of dual wills gained popularity in 1998 after an Ontario judge found their use to be acceptable to lower probate fees. Since then, the courts in Manitoba and Nova Scotia have banned the use of dual wills. Therefore, Ontario is now the only province that allows the use of dual wills.

When using the dual will strategy, the "primary will" contains the assets that must go through the court system and be probated. These assets would require a Certificate of Appointment of Estate Trustee, and would include assets such as a house that is not jointly owned, shares in a public company or a bank account.

The "secondary will" pertains to assets that do not have to go through the courts and therefore are not subject to EAT. This includes an art collection, shares in a private corporation or jewellery.

If a person holds property outside of Canada, a third will is suggested. In this situation taxes would depend on the location of the property.

For owners of shares of private companies the savings from having dual wills can be substantial. For example if the value of the private company shares are \$1,000,000, the EAT is \$14,500. By excluding those shares from the primary will and including them in the secondary will, the estate will not have to pay EAT on those shares.

Many business owners own holding companies that hold significant real estate, cash and other assets. By having a secondary will that deals with the shares of the holding company, they can ensure that these assets will not be subject to EAT.

Different executors can be appointed for each of the wills. Also, both wills should mention that there is another will looking after different assets. It is important to keep both wills in one place and to make sure that ideally both or at the minimum, one of the executors knows about the location of both wills.

If you use dual wills, you should ensure that your assets are completely and clearly differentiated in each will. If the two wills overlap or contradict each other, you will run the risk that they will be invalidated, which would mean that your estate is treated as if there was no will at all and straightening the situation would require an often lengthy and costly court process.

Obviously the cost of having dual wills needs to be considered and assessed against the resulting tax savings.

While using dual wills is a common strategy used by many wealthy families in Ontario, you should discuss the ramifications and the appropriateness of this strategy for your circumstances with your estate planning lawyer.

Other strategies that can be used to lower EAT include designating a beneficiary on an insurance policy, RRSP, or pension plan contract, joint ownership of assets and making a gift prior to death. Each of these strategies has drawbacks that need to be considered and fully discussed with your financial planner and tax and legal advisors.

•(source:<http://www.mrwills.com/ontario-probate-taxes-new-rules-for-2013/>, July 2013)

USING IMMIGRATION AS AN INVESTMENT AND HIRING TOOL FOR BUSINESS IN ONTARIO

By Elizabeth Long, JD

Immigration can be a powerful tool for Canadian businesses to attract foreign investment and hire indispensable workers. In recent times, immigration policies have shifted dramatically with many of the traditional avenues for permanent residence closing (e.g. the Federal and Quebec Investor Classes) or tightening (e.g. new highly restrictive rules for the Federal Skilled Worker Program) and new avenues opening up (e.g. new Canadian Experience Class rules and Provincial Nominee Programs). In this article, we present to you two current immigration policies that may be helpful to your business.

ONTARIO PROVINCIAL NOMINEE PROGRAM FOR INVESTORS

Provincial Nominee Programs (PNPs) are immigration programs where the provinces select which applicants can qualify for permanent residence. In Ontario, the PNP qualifies certain investors who invest in an Ontario business for

permanent residence along with his/her immediate family. The program is as follows:

- The Ontario business must have a viable business plan for a \$3 million investment in Ontario.
- The business must create at least 5 jobs for Ontario residents.
- Foreign investors who invest in this business – each investing at least \$1 million or holding 1/3 of the company shares – can be issued PNP certificate which will qualify them for permanent residence with their immediate family.
- The Foreign investor will need to hold a position in the new company and be actively involved in the company.
- The Foreign investor must have at least 2 years of experience in the occupation of the position which he/she will hold in the company.

The total processing time for the permanent residence in this category is approximately 2 years (approximately 6 months for Ontario to issue the PNP certificate and approximately 1 to 1.5 years for the Federal government to issue the permanent residence visas). However, once the PNP certificate has been issued, the investor can apply for a work permit for him to work and bring his family to Canada while waiting for permanent residence.

INTRA-COMPANY TRANSFEREE CATEGORY

The intra-company transferee category is a work permit category that allows businesses to transfer key employees from an overseas business to its related Canadian business. The employee must have worked in the overseas business for over one year and has and will undertake a senior management position or have specialized skills. Once the employee has worked in Canada for over one year, he/she may be able to qualify for permanent residence under the Canadian Experience Class.

One of the benefits of this category is the speed in which the employee can obtain a work permit. This process bypasses the dreaded Labour Market Opinion. If the employee does not require a visa to enter Canada they can apply for the work permit at the border upon entry to Canada. If the employee requires a visa, the process normally takes approximately 1-3 months to apply at the visa post.

For Canadian businesses, this is an important method to bring employees to Canada in an efficient manner. It can also be a reason for an overseas company to merge with the Canadian business.

As with most other business tools, planning is key when utilizing immigration laws to attract foreign investment and hire workers. For more information contact:

Elizabeth Long, J.D., is an immigration lawyer with Long Mangalji LLP at 416-548-9089, elong@lmlawgroup.com or through her web site at www.lmlawgroup.com.

SOMETHING TO CELEBRATE:

MCMICHAEL MOONLIGHT GALA 2013 RAISES MORE THAN \$100,000 TO SUPPORT GALLERY PROGRAMS



This year I had the pleasure of chairing the second annual McMichael Moonlight Gala 2013, held on Saturday, June 8th. This was a memorable evening on the beautifully transformed grounds of the Collection. The sold out event was a resounding success, raising more than \$100,000. Five hundred guests, including prominent members of the arts and culture community, enjoyed gourmet cuisine and live entertainment amid stunning works of Canadian art. Proceeds from this evening will support exhibitions that explore the country from coast to coast, programs that engage people of all ages in art and art-making, and ensure that the McMichael is accessible to all members of the community.

The event was headlined by internationally renowned jazz chanteuse Holly Cole, who recently received the Montreal Jazz Festival's coveted Ella Fitzgerald award. Sponsored by Kleinburg Crown Estates, Cole's sultry performance captivated the crowd with songs from her new album, NIGHT, as well as old favourites, like "I Can See Clearly Now." The South Beach Orchestra, led by Miles Raine and DJ Bellosound with Daniel Buckman rounded out the evening's entertainment.

Chef Jamie Kennedy treated guests to an assortment of elegant dishes, and award-winning Toronto landmark, Via Allegro Ristorante, supplied a wonderful array of wine and spirits, including the event's signature cocktail—the Moonlight Martini.

The live and silent auctions, which raised over \$54,000, included a trip to London donated by Amia, Canada Club and the Dulwich Picture Gallery, dinner at the Barberian's Steak House Wine Cellar with Hockey Hall of Famer Paul Coffey, along with work by Canadian contemporary artist, Charles Pachter.

It was a great pleasure working with our most delightful and

energetic organizing committee and the incredibly helpful staff at the McMichael. We are extremely happy that we could help raise funds for the fantastic educational programs and exhibitions at the gallery.

Planning is already underway for next year's gala, which will take place on Saturday, June 14, 2014.

ABOUT THE MCMICHAEL CANADIAN ART COLLECTION

The McMichael Canadian Art Collection is an agency of the Government of Ontario and acknowledges the support of the Ministry of Tourism, Culture and Sport and the McMichael Canadian Art Foundation. It is the foremost venue in the country showcasing the Group of Seven and their contemporaries. In addition to touring exhibitions, its permanent collection consists of almost 6,000 artworks by Canadian artists, including paintings by the Group of Seven and their contemporaries, as well as First Nations, Métis and Inuit artists. The gallery is located on 100 acres of northern landscape and hiking trails at 10365 Islington Avenue, Kleinburg, north of Major Mackenzie Drive in the City of Vaughan.

ABOUT THE EDITOR

Tina Tehranchian MA, CFP, CLU, CHFC, is a branch manager and senior financial planner with Assante Capital Management Ltd. Assante Wealth Management is one of Canada's largest wealth management firms, offering integrated financial solutions to create wealth and prosperity for you and your family. Our 900 advisors in 300 offices across Canada take pride in the exceptional service they offer to clients through trusted face-to-face relationships and a level of service excellence second to none. Money Matters is published as a special service for clients of Tina Tehranchian.

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Tina Tehranchian and Holly Cole



Maurizio Bevilacqua, The Mayor of Vaughan and Tina Tehranchian

"The sold out event was a resounding success, raising more than \$100,000."