# “Tax Planning: Making the best of an economic downturn”

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There are usually not many benefits for business owners during a financial crisis. However, during an economic downturn when valuations of companies are at its lowest, it may be the best time to consider estate and succession planning and other tax reorganizations.

*Estate and Succession Planning (Estate Freeze)*

If you are considering transitioning your business to your children or providing retention incentives to your employees through share ownership, then the opportunity during the COVID-19 pandemic may be appropriate. An estate freeze is a common planning tool to "freeze" the value of a shareholder's shares at today's value and to pass on the future growth in value to others, including children or employees.

Another main benefit of an estate freeze is that it would allow a taxpayer owning shares of private corporation to cap the value of the taxes associated upon his or her death. On the date of death, a taxpayer is deemed to have disposed of all of his or her assets, including shares in a company, at their fair market value. However, if the shares are freezed at their low value during this economic downturn, then the expected taxes on death will be reduced. This provides the shareholder and his or her family with greater financial certainty as they can plan for the amount of taxes that will be owing at death.

In general terms, an estate freeze is where an individual shareholder (the "**Freezor"**) reorganizes his or her shares of a private corporation (the "Corporation") by converting the Freezor's interest in his or her business into preferred shares with a value equal to the value of the business at the time of conversion. A holding company, family trust or individual family members or employees will be issued new common shares at nominal consideration. Doing an estate freeze now during the COVID-19 crisis can be very beneficial since valuations will likely be materially lower than they were before the global economic downturn. Provided there is an expectation of future recovery in the value of the business, the recovered value (and any growth thereafter) can accrue to the new common shares, positioning the parties to more fully benefit from an estate freeze (specifically any capital gains exemption multiplication and/or capital gains deferral planning).

*Re-Freeze*

If an estate freeze has previously been completed for a Freezor, this may also be the time to complete a re-freeze. Re-freezing shares previously the subject to an estate freeze will help to reduce taxes payable by the Freezor's estate at the time of death, particularly where the fair market value of the business of the Corporation is less than the redemption value of the preferred shares received by the Freezor during the original estate freeze. To effect a re-freeze, the Freezor will purchase the common shares of the Corporation for a nominal amount (since all the value will be with allocated to preferred shares) so that the Freezor owns all shares of the Corporation. Subsequently, the Freezor will exchange his or her original preferred shares and common shares recently acquired for a new class of preferred shares with the updated lower redemption value. The holding company, existing or a new family trust or individual family members and employees can then subscribe for new common shares for nominal consideration.

As each business and its shareholder(s) have their own set of circumstances, an estate freeze or refreeze may be beneficial during this time.  Please contact DD West LLP if you are considering these or other tax-planning opportunities.

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