

CRA and Non-CCPC

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CRA and Non-CCPC

Advantage of Non-CCPC especially for large capital gains.

	RDOH System	Non-CCPC
Capital Gain	\$100	\$100
Taxable Capital Gain	\$50	\$50
Corporate Tax (50.2%/26.5%)	\$25.1	\$13.25
CDA (tax-free)	\$50	\$50
Net in Corporation	\$24.9	\$36.75
Additional Funds		<u>\$11.85</u>

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	RDTOH System	Non-CCPC
Payout remainder	\$24.9	\$36.75
Dividend refund	15.3	---
Total	40.2	36.75
Tax (47.74%/39.34%)	<u>(19.2)</u>	<u>(14.45)</u>
Net	21.0	22.3
Add CDA	<u>50.0</u>	<u>50</u>
	<u>71.0</u>	<u>72.3</u>

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Results

If taxable portion left in corporation left in corporation, non-CCPC defers tax of around 12%

When paid out, non-CCPC better by modest 1.3%

Main benefits is tax deferral

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How to Create

2 main ways, continuance and voting.

Continuance. Continue Canco under law of foreign country (e.g. US LLC or BVI/Cayman).

Becomes foreign corporation. Mind and management in Canada so foreign corporation remains Canadian resident but now non-CCPC (not Canadian corporation)

Voting. Issue voting shares to non-resident that then controls Canco. Not Canadian controlled so becomes non-CCPC.

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CRA Activity

CRA Activity

CRA now tracking change of status (CCPC – non-CCPC) based on tax return (deemed year end and box ticked).

CRA questionnaire an hour reason for change of status.

CRA challenge under GAAR.

Position – remains CCPC

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CRA Activity

CRA Activity - continued

Per CRA, GAAR applies.

Abuse of misuse.

Violates principle of integration.

Integration is fundamental principle of Canadian tax system.

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CRA Activity

Defences

Most people believe CRA will lose GAAR challenge.

Integration not a fundamental principle.

Not an abuse or misuse

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CRA Activity

Defences – continued

Likely to go to court to resolve.

CRA should lose but litigation never certain.

If CRA wins (not likely) then no worse off except interest on additional corporate tax.

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