



**APRIL 2009.** It has long been a concern to the estate practitioners that, while a post-death increase in the value of a decedent's RRSP/RRIF is fully taxable in the hand of the beneficiary, a similar decrease is nowhere deductible. The 2009 federal budget finally removes this glaring inequity.

For final distributions from a decedent's RRSP/RRIF that occur after 2008, any decrease in the value of the RRSP/RRIF between the date of death and the date of final distribution may now be deducted on the decedent's terminal return. A request for re-assessment of the terminal return will be needed. The deduction is available only when the final distribution is made in the year of death or in the year thereafter. Therefore, the estate administrator may have as little as one year's time to distribute from all RRSPs and RRIFs in order to take advantage of the deduction.

This is a timely and welcome change of the law, as most investments have been heading south since the latter part of 2008 and the deduction can help to ease the pain.

The 2009 budget brings forth a large number of measures and changes. Among them is another amendment to the ITA to plug a loop hole inadvertently created by the Act's assumption that an acquisition of control takes place at the beginning of the day on which control changes hands.

The 2007 Federal Court of Appeal (FCA) decision which triggered the amendment was studied in CanMAPP's

**Corporate Life-Cycle Taxation** seminar in 2008. In the decision, the FCA allowed *La Survivance*, a public corporation, to deduct as ABIL the loss suffered on the sale of its subsidiary to a private corporation. As control was deemed to have changed hands at the beginning of the day, the FCA reasoned that, at the moment of disposition, the subsidiary, though still owned by a public corporation, was under the control of a private one. The disposition by the vendor was no longer a disposition of shares of a public-corporation-controlled corporation. It had become a disposition of shares of a Small Business Corporation. The loss on the disposition was, therefore, ruled to be a Business Investment Loss.

The amendment to the ITA takes retro-active effect to 2006. Unless a taxpayer can demonstrate that the position taken in a return filed before the budget date of 2009-01-28 relies upon the above FCA decision, the beginning-of-day deeming rule will henceforth not affect the status of a corporation at the time of control change. This applies to acquisitions of control that occur after 2005. The loop hole is now plugged.

As of 2009-03-11, the **Apology Act** is law in Ontario, making it the fifth Canadian jurisdiction in which its citizens can freely say "sorry" without the fear of the apology being used later in a lawsuit. The law is meant to speed emotional healing for victims of wrongdoings and is expected to reduce caseload in the courts. It has been shown that 30% of all plaintiffs would not have gone to court had they received an apology.

Ontarians can be true human beings again from now on.

CanMAPP is a self-help group of accounting practitioners from coast to coast. Everyone is invited to participate in its events and organization.