QUESTION 1 - Purification - 20 marks

Incorporation and organization of Newco

Newco should be incorporated under ABCA 1

Newco should have a class of common shares and a class of rollover preferred shares 1

Newco will not be a professional corporation 1

Nancy will subscribe for 1 common share of Newco 1

Other

Rollover of 40 Class A Shares of PC by Nancy to Newco

Nancy will transfer 40 Class A Shares of PC to Newco 1

As consideration, Newco will issue 99 common shares to Nancy 1

Rollover agreement should have a price-adjustment clause 1

To avoid s.84.1(1), Newco will add $40 to stated capital account for common shares 1

Nancy and Newco will make a joint election under s.85(1) 1

The agreed amount will be $40 1

Other

Rollover of marketable securities by PC to Newco

PC will transfer the securities to Newco 1

As consideration, Newco will issue preferred shares to PC 1

Shares will be redeemable retractable fixed-value 1

preferred shares with redemption price equal to FMV of securities (i.e., $200,000) 1

Rollover agreement and articles should have price-adjustment clauses 1

To avoid s. 85(2.1), Newco will add $40 to stated capital account for preferred shares 1

PC and Newco will make a joint election under s.85(1) 1

Agreed amount will equal ACB of marketable securities 1

Other

Cross redemption/repurchase of shares and set-off

PC will purchase and cancel 40 Class A Shares held by Newco 1

PC will issue a promissory note for $200,000 to Newco 1

Newco will redeem preferred shares held by PC 1

Newco will issue a promissory note for $200,000 to PC 1

The promissory notes will be set off against one another 1

Other

Conclusion

Nancy will own 60 Class A Shares of PC ½

PC will own medical practice and related assets ½

Nancy will own all the issued shares of Newco ½

Newco will own marketable securities ½

Other

QUESTION 2 - Partial Internal Estate Freeze - 20 marks

Selection of plan

Recommendation: partial estate freeze using a s.86 reorganization of capital 1

s.86(2): FMV of preferred shares should not be less than FMV of Class A Shares 1

s.15(1): FMV of preferred shares should not exceed FMV of Class A Shares 1

Articles should have a price-adjustment clause 1

s.86(2.1): PUC of preferred shares should not exceed PUC of Class A Shares 1

Other

Amendment of CWI's articles

CWI must amend articles to create freeze shares 1

Freeze shares should be redeemable retractable fixed-value preferred shares with redemption price equal to FMV of Class A Shares (i.e., $10,000,000) 1

The articles of amendment should change Paul’s Class A Shares into preferred shares 1

s.86(1): There must be a reorganization of capital; this can be achieved by amending CWI’s articles 1

s.86(1): Paul must hold his CWI shares as capital property 1

s.86(1): Paul must dispose of all his CWI shares 1

s.86(1): Paul must receive other shares of CWI 1

s.86(1): There is no required election 1

Other

Amendment of CWI’s articles

CWI must amend articles to create freeze shares 1

Freeze shares should be redeemable retractable fixed-value preferred shares with redemption price equal to FMV of Class A Shares (i.e., $10,000,000) 1

The articles of amendment should change Paul’s Class A Shares into preferred shares 1

s.86(2): FMV of preferred shares should not be less than FMV of Class A Shares 1

s.15(1): FMV of preferred shares should not exceed FMV of Class A Shares 1

Articles should have a price-adjustment clause 1

s.86(2.1): PUC of preferred shares should not exceed PUC of Class A Shares 1

Other

Rollover of 40 Class A Shares of PC by Nancy to Newco

Nancy will transfer 40 Class A Shares of PC to Newco 1

As consideration, Newco will issue 99 common shares to Nancy 1

Rollover agreement should have a price-adjustment clause 1

To avoid s.84.1(1), Newco will add $40 to stated capital account for common shares 1

Nancy and Newco will make a joint election under s.85(1) 1

The agreed amount will be $40 1

Other

Rollover of marketable securities by PC to Newco

PC will transfer the securities to Newco 1

As consideration, Newco will issue preferred shares to PC 1

Shares will be redeemable retractable fixed-value 1

preferred shares with redemption price equal to FMV of securities (i.e., $200,000) 1

Rollover agreement and articles should have price-adjustment clauses 1

To avoid s. 85(2.1), Newco will add $40 to stated capital account for preferred shares 1

PC and Newco will make a joint election under s.85(1) 1

Agreed amount will equal ACB of marketable securities 1

Other

Cross redemption/repurchase of shares and set-off

PC will purchase and cancel 40 Class A Shares held by Newco 1

PC will issue a promissory note for $200,000 to Newco 1

Newco will redeem preferred shares held by PC 1

Newco will issue a promissory note for $200,000 to PC 1

The promissory notes will be set off against one another 1

Other

Conclusion

Nancy will own 60 Class A Shares of PC ½

PC will own medical practice and related assets ½

Nancy will own all the issued shares of Newco ½

Newco will own marketable securities ½

Other

QUESTION 3 - Types of Trusts - 30 marks

(a) Testamentary spousal trust (11 marks)

Colleen should create a testamentary spousal trust 1

s.70(6)(b) provides for a testamentary spousal trust 1

Colleen must be a resident of Canada 1

Hotel must be a capital property 1

Hotel must vest indefeasibly in trust 1

Indefeasible vesting must be shown within 36 months of Colleen’s death 1

Ralph must be entitled to receive all of the income of the trust before his death 1

No person except Ralph may, before his death, receive or obtain the use of any income or capital of the trust 1

(b) Bare trust (4 marks)

Sam should create an agency and bare trust relationship 1

s.104(1) states that, for most purposes of the ITA, “trust” does not include an agency/bare trust 1

There must be an arrangement under which the trust acts as agent for all the beneficiaries with respect to all dealings with all of the trust’s property 2

Other
Zeke should use a minor trust (a trust for minors) 1
s.104(18) provides for a minor trust 1
Trust must be resident in Canada 1
The income of the trust must not be payable in the year 1
The income must be held in trust for an individual who is under 21 years of age 1
The right to the income must have vested otherwise than because of the exercise of, or failure to exercise, a discretionary power 1
The right to the income must not be subject to any future condition (other than a condition that the individual live to an age not exceeding 40 years) 1
Other 1
(d) Alter ego trust (8 marks)
Hilda should use an *alter ego* trust 1
s.248(1) and s.104(4)(a)(ii.1) & (iv)(A) provide for an *alter ego* trust 1
Trust must not make election under s.104(4)(a)(ii.1) 1
Trust must be created after 1999 1
Trust must be created during Hilda’s lifetime 1
Hilda must be 65 years of age or older when the trust is created 1
Hilda must be entitled to receive all of the income of the trust before her death 1
No person except Hilda may, before her death, receive or obtain the use of any income or capital of the trust 1
Other 1
**QUESTION 5 - RPP/RRSP Comparison & Contrast - 10 Marks**
**Comparison**
Both are intended to provide a retirement income 1
Both are registered with CCRA 1
Contributions to both are deductible within limits 1
Income accrues in both on a tax-deferred basis 1
Benefits paid out of both are taxable 1
Other 1
**Contrast**
RPP is generally set up by employer for employees; RRSP may be used by any taxpayer 1
RPP is administered by employer; RRSP is generally self-administered or managed 1
**Future income splitting**
s.146(5.1): taxpayer may deduct spousal RRSP contribution 1
s.146(8): a benefit received by a spouse from a spousal RRSP is included in the spouse’s income 1
s.74.5(12)(a): attribution does not apply to a premium under a spousal RRSP 1
Other 1
**Pitfall**
s.146(8.3): if spouse receives benefit from spousal RRSP in the year the premium was contributed by the taxpayer or in the following two years, the benefit is included in the contributor’s income 2
**Student: ______________________________________________**

**QUESTION 4 - Rollover/attribution - 20 marks**
(a) s.85 Rollover (10 marks)
Hank should use a s.85(1) rollover 1
Holdco should make and deliver to Hank a promissory note with a principal amount of $80,000 1
s.85(1)(e.2): FMV of Pubco Shares should not be more than principal amount of promissory note and FMV of shares issued by Holdco to Hank 2
.: Holdco should issue to Hank redeemable retractable fixed-value preferred shares with redemption price of $20,000 2
Rollover agreement and articles should have price-adjustment clauses 1
s.85(1): Hank and Holdco should file joint election (Form T2057) 1
Agreed amount should be ACB of Pubco Shares (i.e., $80,000) 1
s.85(1)(a): Agreed amount will be Hank’s proceeds of disposition and Holdco’s cost of Pubco Shares 2
s.85(2.1): PUC of preferred shares should be nominal 1
Other 1
(b) Corporate attribution rule (10 marks)
Concern: corporate attribution rule in s.74.4(2) 1
s.74.4(2)(a): attribution will cease to apply when Jill and Bill attain 18 years of age 1
s.74.4(2)(b): attribution will cease to apply if Hank becomes a non-resident 1
s.74.4(2)(c): Hank’s income inclusion will be reduced by any interest paid by Holdco to Hank on promissory note 1
s.74.4(2)(f): Hank’s income inclusion will be reduced by 5/4 of any dividends paid by Holdco to Hank on preferred shares 1


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