

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

MILLER THOMSON ON ESTATE PLANNING

Miller Thomson

Release No. 1, October 2021

Publisher's Special Release Note 2021

The pages in this work were reissued in October 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the October release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

THOMSON REUTERS CANADA®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

Miller Thomson on Estate Planning offers insight into estate planning, trusts, estate administration, insurance planning, charitable planning, business succession and corporate restructuring and the legal implications of immigration, emigration, and other cross board issues. This practical looseleaf service is updated regularly to ensure that you'll always have access to the latest information and developments.

This release features extensive updates to the commentary and case law in Chapter 11 (Income Splitting, the Tax On Split Income ("Tosi") and the Attribution Rules).

COMMENTARY HIGHLIGHTS

- **Potential for Income Splitting** — A special tax was introduced in section 207.8 of the Act that is payable by a specified employee on an "excess EPSP amount", generally defined as an employer's contribution allocated to the specified employee that exceeds 20% of the specified employee's salary received in the year from the employer. The special tax does not apply in respect of payments made to a trust governed by an EPSP before March 29, 2012, or before 2013 pursuant to an obligation arising under a written agreement or arrangement entered into before March 29, 2012.
- **Prescribed Rate Loans** — Interest is charged on the loan at a rate of at least *the lesser of*: The prescribed interest rate *in effect at the time the loan was made*; and an interest rate that would have been agreed on at the time the loan was made between arm's length parties; interest payable in respect of the lender's particular taxation year was paid to the lender not later than 30 days after the end of the taxation year; and interest payable in respect of each of the lender's previous taxation years on the particular loan was paid not later than 30 days after the end of each such taxation year.
- **Use of a Trust** — It should generally be considered inappropriate to refer to a trust, particularly in a legal sense, as a separate entity that holds property. Rather, it is trustees who are the holders of legal property rights. For example, shares held "in a trust" are in fact legally owned by the trustees, and the trust and fiduciary obligations upon which the trustees hold such property is a matter of the duties they hold towards their beneficiaries.
- **Meaning of "Desired"** — Where the payment in question is not for the benefit of the taxpayer but is a benefit conferred on another person there is, in subsection 56(2) a requirement of intent, as expressed by the word, "desired", as in a benefit that the taxpayer desired to confer on the other person. That issue was addressed in *Ascot Enterprises Ltd. v. R.*, wherein the Federal Court of Appeal held that where there is no intention to confer a benefit subsection 56(2) does not apply.

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases, Table of Statutes and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages