

When the going gets tough...the smart stop and think about the tax implications.

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Will I be able to repay my loans? Will my operations remain stable? Am I going to incur losses from which I can't recover? These are just some of the ways nervous Canadian business owners are asking the same basic question: What does the financial future hold for me and my company?

A major economic downturn is no longer looming—it's here. And the credit crunch is squeezing businesses of all sizes, across all sectors. With these pressures bearing steadily down, business owners are looking not only to cut losses, but to recoup wherever possible. This is where creative strategies can come into play. But the Canada Revenue Agency (CRA) is increasingly on guard, and tax-wise, there are as many traps to avoid as there are strategies to consider. Let's look at some key areas you might need to address.

Directors' liability

When the economy's booming and companies are turning a consistent profit, the prestige of holding a directorship is an invariable lure. In an economic downturn, however, there are certain associated risks that many aren't fully aware of. If a business fails, for example, a director of that business may incur liability for such things as unpaid GST or payroll deductions, and this liability can extend up to two years after the directorship is relinquished. Moreover, even if you're not officially a director, you may be considered one if you're determined to have acted in that capacity. And under current income tax legislation, the CRA can immediately

determine liability with no court action required. For all these reasons, it may be a wise tax strategy to assess your situation and determine whether you want to continue to act in this capacity.

Asset protection

Issues may also arise for owners if there has been a transfer of assets between themselves and their corporation. Often, owners will decide to purchase assets from the company—such as real estate or shares in other corporations—in order to prevent their seizure should the company fail, or in payment of a debt owed them by the company. In such cases, the CRA will look closely at whether or not the transfer has been executed at fair market value; if not, you may find that you are subject to tax to the extent the fair market value of the property exceeds its sale price. There can also be legal concerns around the timing of withdrawals and distributions from your company when it's in financial difficulty.

Debt resolution

At the same time as companies are cinching up the purse strings and looking for financial help, banks are becoming more rigorous—extending new loans warily, expanding reviews of existing loans, demanding thorough client asset reviews, and generally exercising more caution and oversight with respect to their lending activities. This is not, however, to say that banks are entirely inflexible, and they do still need to do business and maintain their clientele. So if you have outstanding loans and are increasingly concerned about your ability pay, it can be worthwhile to discuss alternative debt resolution strategies with your bank. At this point, trying to hide financial problems from the bank is the biggest

Tips to remember, plans to reconsider

- Assess the benefits of being a director—the liability issues may not be worth it.
- Be up front with the bank—they'll work with you if you keep them in the loop.
- Be careful with debt resolution strategies—know the tax implications before settling.
- Get your financial adviser involved early—a good plan is the best solution.

mistake you can make. It's crucial to be open and frank. They may well be willing to discuss restructuring your loan repayment options if they feel they're getting full disclosure. You may even consider relinquishing assets to the bank in payment of a debt. But there are issues to consider here as well. A foreclosure, for instance, is essentially treated like a sale for income tax purposes, something many are not aware of when they believe it has simply accomplished the final settlement of a debt. For instance, if you own an asset worth \$60,000 and your bank agrees to acquire it in payment of an \$80,000 debt, your bank may call it even, but the CRA will call it a \$20,000 profit and present you with a bill for taxes owing.

When times are tough, it's crucial to consider measures you can take to avoid placing yourself in an unnecessarily vulnerable tax position. Knowledgeable, innovative, forward-thinking tax advice can help you save as much money as possible in these trying times while also helping you avoid unseen pitfalls and false panaceas.

For more information contact a tax specialist at www.GrantThornton.ca.