

# COVID-19, A Time to Take Advantage of Unique Tax Planning Opportunities

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# Tax Planning with Losses

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## Carrying capital losses backwards or forwards

- Allowable capital losses may be carried back against taxable capital gains realized in the last 3 years
  - Capital losses realized in 2020 can be carried back and deducted against capital gains realized in 2019, 2018, and 2017
- Allowable capital losses may also be carried forward indefinitely to offset capital gains in future years
- Superficial loss rules deny the capital loss if the taxpayer or an affiliated person (which includes a spouse and a corporation controlled by the taxpayer) acquires an identical security within 30 days of the disposition



# Income Splitting Opportunities

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## Attribution

- Attribution rules apply when an individual gifts, or loans without interest, funds to certain family members for the purpose of earning income from property or capital gains
- When funds are gifted to a spouse, income from property (including dividends and interest) and capital gains derived from those funds are attributed to the individual who made the gift
- When funds are gifted to a minor child, income from property (but not capital gains) derived from those funds are attributed to the individual who made the gift



# Income Splitting Opportunities

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## Attribution

- Attribution does not apply to income from property or capital gains derived from funds gifted to an adult child
- Capital gains earned by a trust, the beneficiaries of which include only children (whether minor or adult), are not subject to attribution

# Income Splitting Opportunities

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## Income Splitting with a Trust for Children

- Loan funds without interest to a trust, the beneficiaries of which include only your children
- Trust invests in investments with primary goal of earning capital gains
- Capital gains realized by the trust are distributed to children who have little or no other income and taxed at a lower tax bracket
- The proceeds of disposition can be used to pay for the child's expenses, provided the trust authorizes this, or reinvested by the child



# Income Splitting Opportunities

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## Income Splitting with a Prescribed Rate Loan

- Funds loaned to a spouse or trust for minor child, with interest charged at a rate at least equal to the prescribed rate at the time the loan is made, are exempt from attribution
- From April 1, 2018 to June 30, 2020, the prescribed rate was 2%
- Since July 1, 2020, the prescribed rate has fallen to 1%, which is the lowest possible rate, making these loan plans very attractive
- Interest must be paid within 30 days after the end of each year that the loan is outstanding



# Income Splitting Opportunities

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## Income Splitting with a Prescribed Rate Loan

- The individual making the loan will recognize the interest income earned in his or her tax return
- The family members (or trust for spouse and/or children) receiving the loan will deduct the interest expense against investment income earned
- The loan may be called at any time if the funds are required
- The appreciation in the invested assets remains with the family members or trust to whom the loan was made



# Income Splitting Opportunities

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## Income Splitting with a Prescribed Rate Loan - Example

- Mrs. A, a high-income taxpayer, has a husband, Mr. A., and 2 minor children, all of whom earn no income
- Mrs. A has \$600,000 to invest
- If Mrs. A invests the funds herself and earns an 8% return, she would earn \$48,000 and pay tax of \$25,694 (after-tax net income of \$22,306)

# Income Splitting Opportunities

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## Income Splitting with a Prescribed Rate Loan - Example

- If Mrs. A loans \$200,000 to each of Mr. A and her 2 children, and charges 1% interest on the loans, Mrs. A will earn \$6,000 in interest income and pay tax of \$3,212
- Each of Mr. A and the 2 children earn the same 8% return on investment or \$16,000 each. They deduct the interest expense of \$2,000 each for a net investment return of \$14,000 each. They pay income tax of \$278 each.
- The total tax paid in this scenario by all the family members is \$4,046
- Tax savings of \$21,648 per year compared to first scenario

# Income Splitting Opportunities

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## Income Splitting with a Prescribed Rate Loan to a Trust

- Prescribed rate loan can be made to a family trust to provide for greater flexibility
- Lender may be the trustee (but should not be settlor)
- Income can be sprinkled among family members
- Control is maintained over the type of investments made
- The trust is subject to a deemed disposition of its capital property every 21 years

# Estate Freeze

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- Downward pressure from Covid-19 on value of marketable securities, private businesses and real estate
- Opportunity for an estate freeze at low values, which allows for greater income tax deferral
- Generally, an individual is deemed to have disposed of all of their property at death at fair market value
- An estate freeze fixes the fair market value of property at a point in time, so that the future growth in value of the property may accrue to the person's heirs

# Estate Freeze

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- Typically a freeze is effected utilizing shares of a private corporation
- Where the individual owns assets directly, the first step is to transfer those assets to a private wholly owned holding company on a s. 85 rollover basis
- The individual receives shares equal to the value of the assets transferred to the holding company

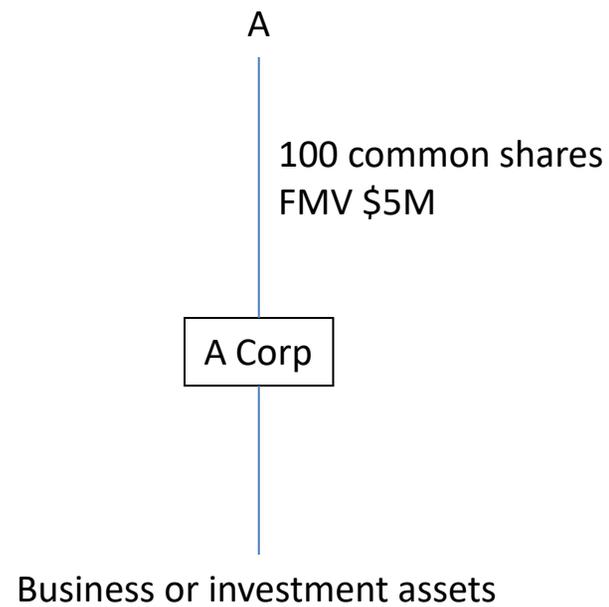
# Estate Freeze

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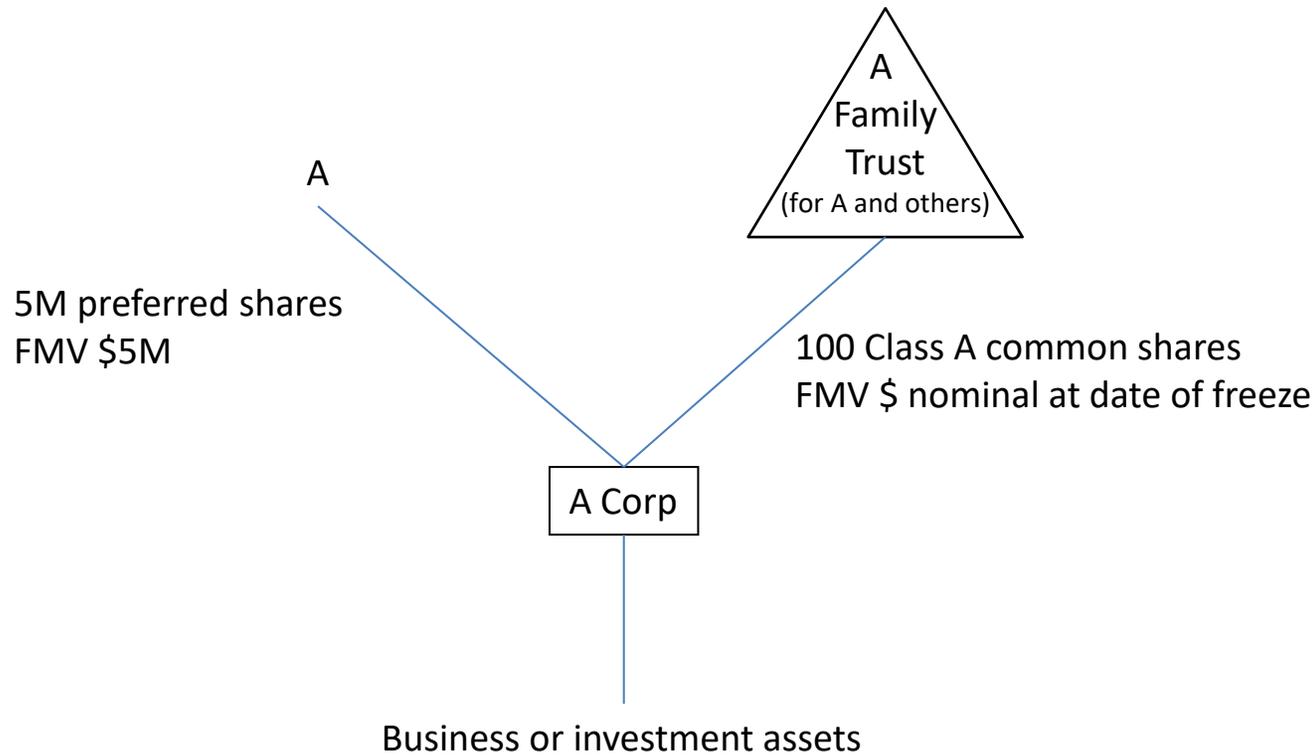
- The equity shares are exchanged for fixed-value preferred shares, and new growth shares are issued to the intended beneficiaries or to a discretionary family trust
- The fixed-value preferred shares can be redeemed over time to reduce or eliminate the capital gain otherwise realized on death
- The individual effecting the freeze may be a beneficiary of the trust
- Future growth accrues to the shares owned by the trust
- The trust is subject to a deemed disposition of the shares every 21 years requiring further planning before that time

# Estate Freeze

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# Estate Freeze





**Questions?**



THANK YOU