Selling Your Business: Structuring a sale

I&A TAX SUITES

Summary

1. Sale of Assets
2. Sale of Shares
3. Hybrid Transactions

A hybrid transaction structure can help bridge the competing interests of the vendor and the purchaser.

Sale of Assets

An asset sale is the sale of assets and liabilities of the business. In an asset sale, the seller will retain ownership of the corporation but sell the assets to the buyer. A buyer tends to favor asset sales due to a “bump-up” in depreciable assets and avoiding inheriting potential or undisclosed liabilities from a share sale.

Sale of shares

A share sale is the sale of the shares or equity of a corporation. In a share sale, ownership of the corporation will transfer to the buyer. A seller tends to prefer a share sale due to the lifetime capital gains exemption available for qualified share sales and any future liabilities will be the buyer’s responsibility.

Hybrid Transactions

As described above under most circumstances, a seller of a company prefers to sell shares due to the capital gains deduction available, whereas the buyer prefers to buy assets due to the future tax shield from CCA (allowable deduction for depreciation) and to avoid unanticipated liabilities. A hybrid transaction structure can help bridge the competing interests of the vendor and the purchaser. It often involves a combination of both a share and asset purchase to achieve some or all of the benefits of both structures.