

Transition to the Next Generation: Tax-free Rollovers



SUMMARY

1. Section 85 Rollover
2. Section 86 Rollover
3. Section 51 Rollover

Transferring future growth of certain assets to the next generation tax-free.

Section 85 Rollover

Section 85 permits taxpayers to elect to transfer certain assets with inherent tax liabilities to a corporation on a tax-deferred basis. The government's policy intent is to allow certain transfers to occur on a tax-deferred basis to facilitate capital accumulation.

Opportunities for use:

- Estate planning and income-splitting
- Transferring future growth of certain assets to the next generation tax-free (provides a significant tax-deferral)
 - Ex: Real-estate, investment portfolio, shares
- Incorporation of a business or investment portfolio
- Transfer of assets within a related group
- Acquisition of assets or shares of other corporations
- Crystallization of the capital gains exemption
- Creditor proofing
- Loss utilization

Section 86 Rollover

Similar to the Section 85 rollover but Section 86 deals specifically with a disposition of shares by a shareholder in the course of a reorganization of capital. Due to the simplicity compared to Section 85, Section 86 rollover is most often used when implementing estate freezes, particularly internal freezes where creating a new corporation is not necessary.

Opportunities for use:

- Internal estate freeze
- For establishing different classes of shares for different family members to facilitate dividend sprinkling.
- To introduce employees to the shareholding and get them more invested in the business.

Section 51 Rollover

Section 51 applies in situations involving the exchange of a share, bond, debenture or note of a corporation (the convertible property) for one or more shares of the same corporation. The effect of section 51 is to defer recognition of any capital gain or loss inherent in the convertible property until the shares acquired on the exchange (the new shares) are disposed of. Unlike section 86, the taxpayer is not required to dispose all shares of a class and does not require a reorganization of capital.

Opportunities for use:

- To Facilitate an estate freeze
- Refinance or raise new capital for a corporation
- Undertake a partial reorganization of the share capital of a corporation (where Section 86 would not be applicable)
- Establish different classes of shares for different family members to facilitate dividend sprinkling
- Establish different classes of shares to allow for the introduction of new shareholders

A Section 51 rollover allows a taxpayer to undertake a partial reorganization



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