

Incorporating has its benefits

Filings seen rising as awareness of rules spread

By CATHERINE MULRONEY

Ottawa lawyer Ted Mann jumped at the chance to incorporate his practice. "I incorporated in June, 2002, for two reasons. It allowed me to take advantage of the small-business deduction, which means I pay less tax on the money used to run the business – filing cabinets, letterhead – and incorporation affords some protection against supplier liability," Mr. Mann says.

Lawyers are just one of the many groups of regulated professionals now able to take advantage of amendments to the Ontario Business Corporations Act that allow them to incorporate their practices into professional corporations. The legislation is similar to that previously enacted in Alberta and British Columbia.

The list of other professions also benefiting from the Ontario amendments includes chartered accountants, dental hygienists and real estate agents. They join the ranks of such professions as software engineers and management consultants who had earlier won the ability to incorporate.

"Many professionals – lawyers, accountants, for example – found it unfair when they were doing work for small businesses and saw the advantages they were not able to access," Mr. Mann says. "It's a great relief."

Although the Ontario legislation was passed in January, 2002, many of the associations governing regulated professionals have only recently put in place the programs needed to incorporate, explaining each governing body's exact rules and regulations. Since the Ontario College of Physicians and Surgeons put its program in place in November of last year, for example, it has fielded about 750 inquiries about the process and issued close to 100 of the certificates needed to incorporate, a college spokeswoman says. The college currently has 20,000 practising members.

While some professional associations have not yet been promoting the concept, it's bound to take off in a changing workplace, where the number of "Me, Inc.," small businesses is growing, predicts Toronto accountant George Wall. He is president of Wall & Associates and founder of CA4IP, a national association of independent accounting firms focused on independent professionals. "Response has been slow," Mr. Wall says. "I don't believe people are aware of the changes and many professionals are slow to change." However, he expects many more individuals to go through the process, which takes about two days and costs about \$800 in Ontario, because it can result in significant benefits to the independent professional.

Perhaps the most significant impact is that of lower taxes because earnings can be retained within the corporation, Mr. Wall explains. Whereas the top tax rate in Ontario is about 46 per cent, the corporate tax rate on what is now the first \$225,000 of income (raised from \$200,000 in the last federal budget) earned by a small Canadian-controlled corporation in Ontario is about 20 per cent.

To demonstrate, he compares an employee earning \$150,000 to someone who has incorporated. After a \$14,000 RRSP contribution, the employee would pay \$50,200 in taxes. The scenario would be radically different, however, should that person own a corporation earning \$150,000 with expenses of \$40,000. If he paid himself and his wife \$35,000 each, and they each made RRSP contributions of \$5,000, their total personal tax would be \$13,200. The remaining \$40,000 in the corporation would be taxed at 19.2 per cent, resulting in about another \$7,600. All told, the tax savings in the second scenario would come close to \$30,000, Mr. Wall notes.

"Incorporating offers the flexibility to get family involved," and the resulting income splitting can reduce taxable income, he adds. And since a corporation can exist after death or retirement, it can provide pension and/or survivor benefits. Another plus is the ability to borrow money from the corporation for a house or a car, either paid out as dividends or reinvested in the corporation, he adds.

A corporation can also act as a long-term investment or pension fund; the first \$500,000 increase in the value of a private corporation is exempted from capital gains at the time of sale, Mr. Wall says. Incorporation also limits the owner's liability, protecting personal assets from being seized should there be a problem with the business, Mr. Wall says, adding that incorporation does not protect against professional misconduct, such as malpractice charges.

If independent professionals are slow off the mark to take advantage of the opportunity to incorporate, it goes with the territory, he adds. "Ninety per cent of them work in their business versus on their business," Mr. Wall says.