Time to Act Before Year End Corporate RDTOH Planning Opportunities

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Currently, through the operation of the refundable dividend tax on hand (RDTOH) rules, a portion of the tax paid on passive income earned by a private corporation is refunded when the corporation pays dividends. The refund is available regardless of whether the dividends paid are eligible dividends (generally from active business income taxed at the general income tax rate) or non-eligible dividends (generally from passive investment income and active business income taxed at the small business tax rate).

As of January 1, 2019, changes to the RDTOH rules will limit the dividend refund to (1) non-eligible dividends paid by the corporation and (2) Part IV tax on eligible portfolio dividends received by the corporation.

What Planning Should You Consider Undertaking in 2018?

If a corporation is planning to sell corporate assets in the near future or it has a holding corporation/operating corporation (Holdco/Opco) structure, there are two options that should be considered in 2018 to plan for the RDTOH rule changes.

- Where possible, corporate asset sales planned within the next year or two should be completed before the end of 2018 in order to maximize the corporation's RDTOH balance at 2018 year end. Due to a transitional rule, a corporation's existing RDTOH balance at 2018 year end will be allocated to its eligible and non-eligible RDTOH balances for the 2019 taxation year.
- Where a Holdco/Opco structure is in place and Opco has a balance in its general rate income pool (GRIP) and Holdco has RDTOH but low or no GRIP, consideration should be given to whether eligible dividends should be paid by the Opco to the Holdco in 2018 in order to maximize Holdco's 2019 eligible RDTOH balance.

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