GOING PUBLIC: TAX CONSIDERATIONS FOR THE OWNER-MANAGER

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An owner-manager must consider many factors, including his or her personal tax situation, when deciding how and when to take a private company public. External factors, such as the evolving regulatory environment and the current credit crunch and financial crisis, may also be relevant. The owner-manager must decide how to effectively maximize the use of the capital gains exemption and whether the gain should be realized by way of election or pre-transaction corporate reorganization. Recent jurisprudence on the timing of a status change by a Canadian-controlled private corporation and changes to the taxation of dividends may affect related decisions, such as how and when to create basis in shares or extract corporate surplus in the course of reducing the taxation of going-public gains.

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