

## Tax Savings for Professionals

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It has often been said that there are only two certainties in life: death and taxes.

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Interestingly, it was partly as a result of negotiations between the Ontario government and those who help preserve life, our physicians and surgeons, that a system came into place to permit the same people to reduce the amount of income tax they have to pay each year.

While negotiating OHIP fees in the 1990s, the Ontario government promised to permit physicians and surgeons to incorporate their practices to reduce their tax liability and thereby effectively increase their income.

### Preferential Tax Treatment for Small Corporations

In many cases, if certain criteria are met, a small business owner can save a substantial amount of money every year by operating through a corporation. That is because the corporation's first \$300,000 (or more) of active business income will be taxed at a much lower rate than an individual would pay on personal income of the same amount. In addition, there are ways for the business owner to draw money out of the corporation at reduced rates and also to defer the payment of some tax.

Of course, historically, members of regulated professions were not permitted to incorporate. The reasoning was tied to the importance of professionals being liable for their professional conduct, a concept that seemed inconsistent with the fact that incorporation usually shields business owners from much of the liability that can be incurred in operating a business.

### Extending the Benefits to Professionals

In 2002, after some delay, the Ontario government decided that it was unfair to allow some small business owners to have the tax benefits of incorporation, without making them available to doctors and other professionals. As a result, it enacted legislation permitting professionals to incorporate their businesses.

### Incorporating and registering a professional corporation may be of interest to you if:

1. you are a licensed and practicing professional in one of the categories listed below:

- |                  |                            |                                  |
|------------------|----------------------------|----------------------------------|
| •Doctor          | •Denture<br>Therapist      | •Veterinarian                    |
| •Dentist         | •Chartered<br>Accountant   | •Certified General<br>Accountant |
| •Physiotherapist | •Pharmacist                | •Social Worker                   |
| •Lawyer          | •Optician                  | •Massage<br>Therapist            |
| •Chiropractor    | •Occupational<br>Therapist | •Chiroprapist                    |
| •Psychologist    |                            |                                  |

or are a licensed and practicing member of any regulated health profession not listed above;

2. you carry on business as a sole practitioner or in partnership with one or two other members of your profession; and
3. you would like to reduce the amount of tax that you pay each year.

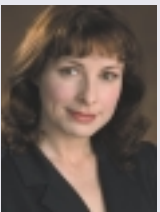
### Professional Liability & Creditor Protection

Note that incorporation does not shield professionals from liability in relation to their professional standards and obligations, but it may provide some protection from claims by lenders, landlords, suppliers and others who deal with the corporation.

## How it's Done

The process of incorporation itself can be completed fairly quickly, usually within a few days, and is not generally very expensive. It is, however, important to consult with your legal and tax advisors to determine whether incorporation is right for you, and to address any matters that may come up in connection with it. For instance, contracts that you have signed personally should probably be assigned to the corporation and certain assets may be transferred into it.

Following incorporation, it will be necessary for the corporation to register with the relevant regulatory body or college before commencing business, but again, this process can usually be completed fairly quickly and at a reasonable cost.



**Maureen McKay** is a member of the firm's Business Law Group. She helps clients create, organize and operate businesses and non-profit organizations.

Maureen regularly deals with the negotiation, preparation and enforcement of various types of corporate and commercial agreements, including partnership, shareholder, franchise, consulting, financing and licensing agreements, as well as transactions of purchase and sale.

Maureen has a particular interest in new technologies and related intellectual property issues. She assists in the legal aspects of innovation transactions.

## Conclusion

According to experts, on average, only 83,000 Canadians file tax returns showing income of more than \$250,000. That is certainly not because only 83,000 Canadians earn more than \$250,000 per year. It is simply because the vast majority of high income earners invest in good planning.

Whether you have established a successful practice and reached the level of personal income reported by 83,000 other Canadians, or you're just starting out, you should carefully consider the potential benefits of incorporation.

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This article provides information of a general nature only and should not be relied upon as professional advice in any particular context. For more information about professional corporations, consult your legal or tax advisors, or contact **Maureen T. McKay**, B.A., LL.B. at [mmckay@pallettvalo.com](mailto:mmckay@pallettvalo.com) or call **905.273.3022 ext. 209**.

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