INFOexchange

The Conference for Advanced Life Underwriting

2021 | Vol. 1

Message from the Chair: Finding the Opportunities in a Year of Challenges

This is my final INFOexchange chair's message as my year in this role will come to an end in just a few days. This past year reminds me of a quote by Nicholas Sparks who more plainly referenced a quote by Theodore Roosevelt: "Nothing that's worthwhile is ever easy. Remember that." Well, let's just say that this year has been very worthwhile!

Cindy David

A right of passage to become chair of this great organization is to be chair of the AGM. So, by the time I was chair of the board, I, along with Guy and our AGM committee, had already cancelled the in-person AGM, amended our bylaws to allow us to hold a virtual Annual Meeting of Members, and held it so that our board could continue to function. From March to May of 2020 life changed for all of us. I'll never, ever forget it.

Honestly, while we were all in lock down with insurance medicals – and as a result, our paycheques – on hold, we were afraid of how bad the pandemic could get. The fear could have frozen me. Instead, CALU kept me busy and gave me purpose. Another thing I will never forget. You believed in my ability to lead. I have never been more nervous or excited to step up to the plate!

The truth is that our board and our entire staff is the definition of the phrase there's no "I" in "team." I have no words to describe the bench strength, support and comradery of the people I have had the privilege of serving

... continued on next page

inside...

Message from the Chair

(continued from previous page)

with. Hands down it has been the most rewarding experience of my career. I would do it over again in a heartbeat. Our late friend and vice-chair David Brown, an irrefutable insurance legend, in his last words to the board said that being chair of CALU would have been the highlight of his career. Through tears, I'd like to say for the both of us, thank you for giving us the gift of serving together. I'm in awe of our great organization, and in awe of you. I don't think I'll ever stop being impressed by CALU or its members.

Did we get everything right? Heck no. But did we do the very best we could with our blood, sweat and tears? Absolutely.

Back in May 2020 we had more questions than answers. Could we deliver some of our planned AGM content remotely? How? We had never done that before. Would members even attend, given the pressures they were under to support their clients. What did our members most need from us now? And what would be the financial impacts of the pandemic for CALU?

Looking back on those days, I can hardly believe we were able to find solutions to the issues we needed to address. But, like you did in your own businesses and personal lives, we not only found solutions to the problems, somehow, we uncovered new opportunities.

Thriving in the age of disruption

The age of disruption theme we had planned for the 2020 AGM made us feel as though we were in the movie Back to the Future: Thriving in The Age of Disruption. How did we know? Obviously, we made it back in the DeLorean time machine. Seriously, the content planned for our 2020 AGM gave us a head start on meeting your needs in a changed world. We prioritized delivering a planned session from innovation and disruption expert Jim Harris into a complimentary webinar for you, your clients and staff. We then packaged together other planned AGM sessions on mindful and agile leadership with our technical workshops and panels to create the 2020 CALU Webinar Program. Finally, we provided new on-demand access to the webinars and CE credits on the LumaOne platform.

We were starting to get the hang of it. Trust me, we know the prolonged roll out of the webinar program wasn't ideal. On that arm twist I'm calling Mercy! Which is why you will experience this year's AGM format much condensed and with any luck, more valuable to your practice.

In addition to delivering our first-ever weekly webinar program, we simultaneously planned and launched registration for this year's virtual AGM. Based on the registrations of members, guests, clients and family so far, you seem to agree that the AGM committee has put together an exceptional program. Thanks to vice-chair Barry Pascal who graciously accepted the baton pass from then-AGM chair David Brown when health issues arose halfway through the year. David would be proud, and I know there is no one he would rather have shared the role with.

For my part, I look forward to seeing all of you there remotely in our networking sessions and to hearing from some of you in the Q&A portions of each session. Here's hoping we will be together In Real Life in 2022.

Joining with others to strengthen our impact

We also looked for new ways to amplify our presence and impact through strategic partnerships in the past year, starting with a focus our pandemic response. We joined the Canadian Business Resilience Network of the Canadian

... continued on next page

Message from the Chair

(continued from previous page)

Chamber of Commerce to make sure the needs of business in the pandemic were heard by the federal government. Our membership in the Chamber's ThinkGrowth initiative was an important channel for letting the federal government hear our views that post-pandemic recovery must be achieved by growth, not by increased personal and business taxation.

More recently, we have partnered with other important players in the health and health insurance space as part of the Together for Better Health coalition. The initiative features a campaign called Keep My Plan, which urges Canadians who like the prescription drug plan they have now to visit keepmyplan.ca and let their member of parliament know they want choice in pharmacare.

Rounding out these new relationships is our sponsorship of the wonderful Will Power campaign launched this year by the Canadian Association of Gift Planners. This advisor-centred initiative intends to inspire $40B in gifts to Canadian charities by 2030. The deadline for signing up for the program is May 31, and our Will Power webinar can still be viewed on LumaOne.

Leveraging member feedback to plan for tomorrow

As preoccupied as we were with dealing with a difficult present, your board managed to spend a lot of time thinking about the future in 2020 as we considered and developed our 2021-2023 Strategic Plan. We asked members for your input on CALU's performance and direction as part of this process. While your overall satisfaction with CALU was exceptionally high at 80 per cent, there were some areas where you felt we could improve. These included ensuring a consistent level of influence with the federal government no matter which party is in power and doing a better job of communicating the connection between some of our initiatives and our stated priorities. The board and leadership team also saw opportunities to improve, such as enhancing our online presence and our digital delivery of professional development and resources. The CALU 2021-2023 Strategic Plan tackles these and other issues through our five strategic pillars of Addressing Disruption; Public Policy and Advocacy; Branding and Communications; Member Experience and Innovation and Efficiency. I encourage you to read it. We welcome your thoughts.

I'm proud of what your board has been able to accomplish this past year, including important strides in our advocacy work (check out our new Advocacy page at calu.ca). It's been an honour to work with such a talented group of professionals. Kudos must also go to Guy and his team for their incredible energy, commitment and creativity; when life gives Guy lemons, he just learns how to juggle – while making lemon meringue pie! Guy's exceptional leadership was recognized this year when he was awarded the CSAE Pinnacle Award. This award celebrates sustained commit-ment and outstanding volunteer contribution to the Canadian Society of Association Executives and to the association sector at large. It's one of the CSAE's highest levels of recognition. Well done, Guy!

I'm very excited about the year ahead when we will be able to put all of our learning to work and accomplish even more on your behalf. My very best wishes to vice-chair Barry Pascal who is slated to be appointed to the chair position on May 4.

For a full summary of CALU's accomplishments, see the CALU 2020-2021 Year In Review.

GR Column

By Adrian George, CFP, CLU, TEP, FCSE, chair, Government Relations Committee

March and April were busy months for both the government and opposition parties. From the federal budget to party conventions, here's what CALU has been working on and monitoring.

Budget 2021

Last week, the federal government unveiled their first budget in two years. The mammoth 724-page budget articulated the government's vision for a post-COVID-19 Canada, with a major focus on childcare and the environment. In many ways, the Liberals chose to ignore Bay Street concerns about the timing and scale of the fiscal stimulus – following the theory of former Bank of Canada Governor Stephen Poloz that "no one ever blames firefighters for using too much water."

This budget sees several new areas of focus for the government, including a flagship childcare program, funding for green technology, and continued support for small and medium-sized businesses. With respect to taxes, the Liberals largely stayed quiet. Although the budget does tighten corporate tax law and includes a few changes to RRSP and registered investment rules, it forgoes a full-fledged review of the tax code, changes to the capital gains inclusion rate, and a wealth tax.

Budget highlights

- $101.4 billion in new spending
- $355.1 billion in budget revenues for 2021-2022
- $154.7 billion deficit for 2021-2022
- Extensions of COVID-19 relief programs for businesses and individuals and a new COVID-19 recovery hiring benefit for businesses
- $30 billion over the next five years to implement a $10/day national childcare program, and
- $3 billion starting in 2022-2023 to set standards for long-term care.

Changes to taxation

As mentioned, the Liberal government did not make taxation a big focus in Budget 2021. Some minor moves included:

- Launching a consultation on Canada's transfer pricing rules with a view to protecting the integrity of the tax system
- A national, annual 1% tax on the value of residential real estate owned by non-Canadians that is considered to be vacant or underused
- Imposing a 3% digital sales tax starting January 2022, barring any progress at the OECD
- Updating capital cost allowance rules to accelerate depreciation for more clean energy technologies, and
- A proposal to introduce a tax on the sale of personal use luxury cars and aircraft with a retail sales price over $100,000, and on boats for personal use that are priced over $250,000.

Changes to retirement planning

This budget also made a few minor changes to how Canadians can prepare to retire. Notable

... continued on next page

GR Column

(continued from previous page)

changes include:

- A 10% increase to old age security payments for those over 75, effective July 1, 2022
- A one-time payment of $500 in August 2021to OAS pensioners who will be 75 or older as of June 2022, and
- Enabling defined-contribution plan sponsors to correct accidental under contributions made in the preceding five years by making additional contributions to an employee's account, subject to a dollar limit.

You can read more Budget 2021 highlights of interest to members in the CALU Special Report and in commentary provided by CALU public affairs firm Summa Strategies.

Finance Committee appearance

On March 9, Cindy David and Kevin Wark appeared before the Standing Committee on Finance to offer CALU's support for Bill C-208. Since amending Section 84.1 of the Income Tax Act has been a key policy position for CALU, Cindy and Kevin were pleased to answer questions from members of all political parties on the need for this policy change. Cindy emphasized that such a change would protect small businesses, local jobs and economies. Kevin addressed committee members' concern about the potential lost revenue for the government. Cindy and Kevin's appearance was well received by all members, setting the stage for future advocacy at the committee level.

Party conventions

Last month saw the federal parties unofficially kick off their election campaigns with bi-annual policy conventions. The Conservatives held their convention first with a keynote speech from Erin O'Toole on his 5 pillars to get Canada back on track.

The speech was overshadowed by delegates voting against a policy resolution that recognizes climate change.

The NDP convention hit a few speed bumps of its own, including a policy resolution to defund the military, but was deemed an overall success for Jagmeet Singh. Liberal Party convention attendees heard from current, former and potentially, future cabinet ministers. Liberal delegates voted in favour of key policies including pharamare, basic income and creating long-term care standards.

Election speculation

With the federal budget now tabled and confidence votes on the way, election speculation is back in full force. A spring election remains unlikely as the NDP confirmed it would support the government's budget. Other factors working against a spring election include widespread pandemic fatigue, a delayed vaccination campaign rollout, and fear of a federal repeat of the pandemic-delayed Newfoundland and Labrador election. It would seem the Liberals' plan would be to pass the budget, get through the third wave of the pandemic, see widespread vaccinations, and piggy-back off a booming re-opening economy in hopes of capturing a majority sometime in the fall.

Legislation tracking

Despite the election chatter, MPs remain busy passing (and debating) several pieces of legislation. We're currently keeping an eye on Conservative Larry Maguire's Bill C-208, which seeks to amend section 84.1 of the Income Tax Act. The bill is currently before the House of Commons and was last debated on April 21st. The bill is waiting to be voted on a final time before being referred to the Senate to be reviewed.

The Valuation of Corporate-owned Life Insurance on the Death of a Shareholder[1]

Glenn Stephens, LLB, TEP, FEA

The valuation of life insurance policies for the purposes of Canadian tax law is subject to a confusing set of rules and interpretations. In some instances, there are specific provisions in the Income Tax Act (the Act) that apply, and in others there are more general provisions that may or may not apply as their application to a given set of circumstances is unclear. Furthermore, these rules are subject to the interpretation of the Canada Revenue Agency (CRA), whose pronouncements have been inconsistent and at times difficult to reconcile. This can lead to confusion, and occasionally unexpected and onerous tax treatment, when there is an actual or deemed disposition involving a life insurance policy.

This article will focus on the rules that apply where a private corporation owns a policy on the life of a deceased shareholder. In this case, subsection 70(5.3) of the Act provides rules that are relatively clear for most purposes. Predictably, however, there are circumstances that fall outside of the specific wording of this provision and which should be identified. There will also be commentary on a recent statement from the CRA regarding the application of subsection 70(5.3) to shared ownership arrangements involving life insurance policies.

1. General application of subsection 70(5.3) on a shareholder's death

Section 70 of the Act contains a lengthy list of provisions dealing with a taxpayer's death. In the case of capital property, such as shares of a private corporation, a disposition is deemed to occur immediately before the shareholder's death. To the extent that the shares' fair market value (FMV) at that time exceeds their adjusted cost base (ACB), a capital gain will be recognized in the deceased's terminal return. Similarly, a capital loss will be realized where the ACB of the shares is greater than their FMV.

The above is subject to exceptions that apply where shares are transferred to a surviving spouse or common-law partner, or to a qualifying trust for such person. In that case the Act provides a "rollover" that defers the realization of any capital gain or loss until the death of the surviving spouse or partner or a prior disposition.[2]

Subsection 70(5.3) specifically deals with the valuation of shares deemed to have been disposed of on death, where the corporation owned insurance on the life of the deceased or on the life of an individual with whom the deceased did not deal at arm's length at the time the policy was issued (such as the deceased's spouse, sibling or child). Where subsection 70(5.3) applies, the FMV of the shares will be determined as though the FMV of the relevant policy was its cash surrender value (CSV) immediately before death. For these purposes, policy loans are essentially ignored, and are therefore included in the policy's CSV. Unpaid policy dividends and the CSV of paid-up additions are also included.

These rules were introduced following the 1977

1 A version of this article was previously printed in CLU Comment published by The Institute and is being reprinted with permission.

2 Subsection 70(6) of the Act.

... continued on next page

The Valuation of Corporate-owned Life Insurance on the Death of a Shareholder

(continued from previous page)

federal Court of Appeal decision in the case of *Mastronardi v. The Queen.*[3] In that case, the taxpayer successfully challenged the CRA's position that the death benefit under a corporate-owned term insurance policy should be considered in valuing the deceased's shares. The Court held that no insurance proceeds were payable "immediately before death" and that as a result the amount of the proceeds should not be considered in valuing the deceased's shares under the deemed disposition rules. Subsection 70(5.3) essentially codifies the *Mastronardi* decision, although with certain limitations as will be addressed below.

2. Technical and planning considerations

(a) Limitations on the scope of subsection 70(5.3)

As described above, subsection 70(5.3) applies to policies on the life of the deceased and certain non-arm's-length parties. It does not however apply in a number of other circumstances. Here are three examples where the subsection would not apply:

Example 1

Assume that A is the sole shareholder of a corporation that owns insurance on A's life. The corporation also owns a "key person" policy on B, a person who is a key employee but not a shareholder, and with whom A deals at arm's length. On A's death, subsection 70(5.3) will apply in valuing the policy on A's life. It will not, however, apply in determining the value of the policy on B's life. Therefore, the FMV of A's shares immediately before death will include the CSV (if any) of the policy on A's life, but the policy on B's life, as it impacts the value of A's shares, will be valued under general valuation principles (see discussion below).

Example 2

The inclusion of insurance on the life of non-arm's-length parties within subsection 70(5.3) applies only where that relationship existed at the time the policy on the deceased's life was issued. There could be (admittedly rare) circumstances where there was an arm's-length relationship between the shareholder and the life insured under a corporate-owned policy when the policy was issued, but the parties became non-arm's length at a later date. For example, if A and B in the above example were originally arm's-length parties but were married after the policy on A's life was issued, subsection 70(5.3) would not apply in valuing the policy on B's life at the time of A's death. However, any resulting increase in A's share value due to the policy on B's life would not be of concern if A's shares were transferred to B on a tax-deferred basis following A's death.

Example 3

Assume that three arm's-length shareholders, X, Y and Z, are equal shareholders of a corporation. The corporation acquired insurance on all three lives for the purposes of buy-sell funding pursuant to a shareholders' agreement. Assuming X was the first to die, subsection 70(5.3) would theoretically apply regarding the corporate-owned policy on his life, but not apply in valuing the policies (and valuing X's shares) on his arm's-length co-shareholders, Y and Z. However, this would likely be simply an academic point, as the valuation formula under

3 The Queen v. Mastronardi (1977) DTC 5217 (FCA).

... continued on next page

The Valuation of Corporate-owned Life Insurance on the Death of a Shareholder

(continued from previous page)

the shareholders agreement should override subsection 70(5.3), i.e., the FMV of the deceased's shares would be based upon a binding agreement that, in most cases, would specifically exclude the value of any corporate-owned life insurance policies in determining the purchase price.

(b) Valuation where 70(5.3) does not apply

Where subsection 70(5.3) does not apply, an insurance policy would be valued on general valuation principles. These principles would presumably apply in Example 1 above, in valuing the policy on B's life at the time of A's death. The valuation would likely require the services of an independent actuary. The CRA's views on the valuation of life insurance policies are provided in Information Circular IC 89-3 and would be important in any valuation performed by an independent actuary. The key factors identified in the circular are as follows:

- the CSV of the policy
- the loan value of the policy
- the face value of the policy
- the state of health of the life insured and his or her life expectancy
- the policy's conversion privileges
- the policy's replacement value, and
- the perceived imminence of death of the life insured.

(c) CRA commentary on shared ownership of a life insurance policy

Under a typical shared ownership agreement, ownership of a life insurance policy is shared by one person who requires the life insurance coverage (typically a corporation) and another person who has longer-term investment and insurance needs (typically the shareholder). The costs and benefits of the policy are shared by the parties in accordance with a shared ownership agreement. Generally, the death benefit owner (the corporation) will pay an amount reflecting insurance charges under the policy and will designate a beneficiary for the policy's face amount. Deposits to the policy's investment accounts will be made by the cash value owner (the shareholder), who will designate a beneficiary for that portion of the policy.

In a recent CRA Roundtable presented by the Conference for Advanced Life Underwriting, the CRA was asked to comment on the potential application of subsection 70(5.3) to an insurance policy that is subject to a shared ownership arrangement.[4] The essence of the question was whether the policy's CSV would be included in determining the value of shares owned by a deceased shareholder where, under the shared ownership arrangement, the CSV of the policy is owned by the deceased shareholder.

In its response, the CRA noted that subsection 70(5.3) does not specifically refer to policies where there is more than one ownership interest, and it was unable to state definitively that the value of the corporation's interest would be nil. It may be the case that the CRA is concerned about certain situations where the corporation is "quick paying" premiums and, as a consequence, benefiting the shareholder by enhancing the growth of the policy's CSV. In its response, the CRA stated that "the terms and conditions of the shared ownership arrangement, the specific life insurance contract

4 CALU 2020 CRA Roundtable Q.5 (CRA Views 2020-0842191C6 dated July 8, 2020).

... continued on next page

The Valuation of Corporate-owned Life Insurance on the Death of a Shareholder

(continued from previous page)

and all other related agreements which may form part of the particular arrangement and the particular facts at the given time would have to be considered...."

It is hoped that in an arrangement where the corporation's share of the premiums more accurately reflects the actual annual cost of insurance, and does not benefit the shareholder in any way, the corporation's interest in the policy will be valued at nil for the purposes of subsection 70(5.3). In this regard, shared ownership arrangements will need to be considered on a case-by-case basis and structured carefully.

Summary

Advisors need to be familiar with the tax rules relating to life insurance policy transfers and dispositions, and the resulting tax consequences to the transferor and transferee. In particular, when dealing with shareholders of private corporations, the potential impact of corporate-owned insurance in valuing the shares of a deceased shareholder, and the mitigating effect of subsection 70(5.3), require careful review and consideration.

Glenn Stephens, LLB, TEP, FEA
Glenn is vice-president, Planning Services for PPI Advisory, where he provides tax and legal support to PPI Associates across Canada. A member of the Conference for Advanced Life Underwriting, the Society for Trust and Estate Practitioners, the Canadian Tax Foundation and the Institute for Family Enterprise Advisors, Glenn has lectured and written extensively on the subjects of estate planning, taxation and life insurance. He is a regular contributor to *Insurance Planning*, published by Thomson Reuters, a columnist for FORUM magazine and editor of *The Essential Canadian Guide to Life Insurance Transfers*. He is also the author of the book *Estate Planning with Life Insurance*, the seventh edition.

We wish to thank the committees that contributed to the program of professional development at the CALU 2021 Conference and Annual General Meeting.

Annual General Meeting Committee 2020-21

Barry Pascal (chair)
Hemal Balsara
Warren Blatt
Wendy Brookhouse
Kate Pal
Miles Rubinoff
Tracy To
Samuel Waxman

Annual General Meeting Workshop Committee 2020-21

Diane Everett (chair)
Kelly Adams
Brad Brain
Jennifer Jacobs
Rob McCullagh
Barry Pascal (ex-officio)

Annual General Meeting Committee 2019-20

Cindy David (chair)
(late) David Wm. Brown (vice-chair)[1]
Glenn Ayrton
Scott Beckett
Wendy Brookhouse
Zak Goldman
Jeffrey Kraemer
Kate Pal
Wayne Stone
Tracy To

[1] David Brown was also 2020-21 AGM Committee chair until he stepped down in December 2020.

Will Canada Have a Wealth Tax?[1]

Margaret O'Sullivan
O'Sullivan Estate Lawyers LLP

Whether new forms of tax might be introduced on the Canadian scene, including an inheritance tax or wealth tax, has had currency in the last few years in the face of increasing government debt and income inequality. The tsunami that has hit government debt levels as a result of COVID-19 has made these issues only more relevant and top of mind.

Although governments may be loath to introduce new forms of tax too soon for concern it will put a chill on a fragile economy, higher taxes and possibly new types of tax could be on the horizon to pay for the enormous public debt brought about by COVID-19.

The idea of an annual wealth tax was raised in the Canadian context in the 2019 federal election by the NDP, which proposed an annual wealth tax on total assets of $20 million or more.[2] More recently, Saskatchewan NDP leader Ryan Meili proposed a 1% tax on those with a net worth of more than $15 million. In the Speech from the Throne, the federal government spoke of the need to identify new ways to tax extreme wealth inequality.[3] But the federal government's Fall Economic Statement 2020 did not address how it would tackle this issue.[4] And in November 2020, the NDP introduced a motion in the House of Commons to introduce an annual wealth tax of 1% on total assets of over $20 million. This motion was soundly defeated by a coalition of Liberals, Conservatives and the Bloc. But talk of wealth and inheritance taxes continues with a recent edition of The Canadian Tax Journal having no less than three articles on the topic.[5]

South of the border, the 2019 campaigns of both Elizabeth Warren and Bernie Sanders to become the U.S. Democratic presidential nominee included proposals for an annual wealth tax. Although she didn't succeed in her goal of becoming president, in early March 2021 Elizabeth Warren proposed legislation for an "ultra millionaire tax" that would impact households with wealth in excess of $50 million.[6]

Wealth taxes are not new – several European countries have had them, and many have abandoned them. Countries that currently have them include Argentina, Bolivia, France, India, Italy, Norway, Belgium, Spain and Switzerland. Spain and Belgium have both recently increased their wealth taxes to help pay for the pandemic. Argentina is a recent newcomer and in December 2020 it introduced a one-time wealth tax for assets that applies where wealth exceeds approximately $2.5 million US., to help pay for deficits arising

1 A prior version of this article was published by O'Sullivan Estate Lawyers LLP in its blog dated October 28, 2020, see www.osullivanlaw.com, and in the January 2021 issue of STEP Toronto Connection, the STEP Toronto monthly member newsletter. STEP Toronto is a branch of STEP Canada (Society of Trust and Estate Practitioners Canada).

2 The Parliamentary Budget Office estimated that the NDP proposal would impact 13,800 Canadian economic families and it would raise total net revenues of $5.6 billion in 2020-21 (PBO Costing Note dated 2020-07-08).

3 Speech from the Throne to open the Second Session of the Forty-Third Parliament of Canada (delivered September 23, 2020).

4 Fall Economic Statement released November 30, 2020.

5 Policy Forum in Canadian Tax Journal, Volume 68, No. 3 (published by the Canadian Tax Foundation).

6 It is estimated this tax would only affect .05% of U.S. taxpayers and raise over $3 trillion dollars over 10 years.

... continued on next page

Will Canada Have a Wealth Tax?

(continued from previous page)

from the pandemic. Following this, Bolivia passed a longer-term annual wealth tax with progressive rates starting at 1.4% for assets of $4.3 million US. Proposals for a wealth tax are also being pushed for in Chile and Peru.

The idea of a wealth tax is to tax the value of a person's assets less debt. Some of the challenges in the design of the tax include:

- at what level of assets will the tax be triggered
- should it be a flat or progressive rate based on total assets
- is it based on individual or family assets
- what types of assets and liabilities are included in the base calculation, and
- how to value those assets.

In looking at which assets should be taxed, the question is whether taxable assets should be broadly defined or limited to specified assets, such as real estate. For example, France eventually abandoned as unworkable its initial broad-based scheme in 2017 and now limits its annual wealth tax to real estate-based assets.

It is of interest to note that in 1974 the U.K. Labour government was elected on a platform that included introducing an annual wealth tax. But many practical implementation problems were identified, including its potential negative economic impact on the U.K. As a result, plans to introduce a wealth tax were ultimately abandoned as unworkable and undesirable.

More recently, the U.K. struck a Wealth Tax Commission[7] to consider whether to introduce a wealth tax. In December 2020, the Commission released its final report. It recommended a one-time wealth tax on assets over £500,000 with progressive rates from 3% to 8%, instead of an annual wealth tax with its high administrative costs. The tax would apply to all U.K. residents regardless of their domicile status on the effective date, and the Commission recommended the tax be introduced without prior warning to minimize avoidance. It will be interesting to see the U.K. government's response to the report, but it may be significant that British finance minister Rishi Sunak's budget statement on March 3, 2021 made no mention of a wealth tax.

Historically, inheritance and wealth taxes have been poor revenue generators and very costly to administer. Their real social purpose may be an attempt to curb income and wealth inequality, or at least give the appearance of trying to do so. Some of the economic negatives include a potential flight of capital as high net worth individuals leave for more tax-friendly regimes, given the mobility of capital.

Finance Minister Chrystia Freeland will no doubt be consumed by the issue of addressing growing income and wealth inequality. The Finance Minister previously provided her views on related issues in her 2012 book entitled "*Plutocrats,*" where she writes about the rise of the super rich and the super elites, the emergence of the so-called Second Gilded Age, and increased concentration of wealth[8].

An annual wealth tax might be seen as a simple way to redistribute wealth in the face of increasing

7 https://www.ukwealth.tax

8 It is of interest to note that Budget 2021 contained no reference to the imposition of a wealth tax on high net worth individuals or families.

... continued on next page

Will Canada Have a Wealth Tax?

(continued from previous page)

income inequality and concentration of wealth, but its efficacy must be thoughtfully considered. A wealth tax should not be bandied about merely to cater to populist sentiment, or to make it look like the government is being proactive on wealth and income equality.

It is also important to query whether a wealth tax can really make a major contribution to wealth redistribution or instead simply be used to increase government coffers. Income inequality might better be addressed by creating more equality of opportunity, including the removal of financial and other barriers to higher education, skills training and sponsoring economic expansion.

Crises often breed new taxes which are touted as being "temporary," but which inevitably become permanent. In the Canadian context, the Income Tax Act was first introduced in 1917 as a temporary tax to pay for the costs of the first World War. In turn, federal succession duties were introduced in Canada in 1941 to help pay for the Second World War and stayed with us until 1971, when they were replaced by the current capital gains tax regime.

The burning question is what new taxes might be introduced now and in the future to help pay for the economic costs of the pandemic and to address the income inequality that has been exacerbated by it. Will such taxes in fact be temporary or become the new normal? And will they accomplish the identified goals or merely result in further tax complexity and red tape?

Margaret O'Sullvan is the Managing Partner of O'Sullivan Estate Lawyers LLP, the trust and estate boutique firm that she founded in 1998. Margaret is one of the top-ranked Band 1 private client lawyers in Canada in Chambers High Net Worth Guide 2020 and has won numerous awards for her contributions and achievements in estate planning. Margaret speaks and writes on trusts and estate matters, including contributions to *International Succession Laws* and *The Private Wealth and Private Client Review.*

CRA Extends Relief from Loss of Credits under HCSAs

Kevin Wark, LLB, CLU, TEP, Tax Advisor, CALU

In a technical interpretation issued by the Canada Revenue Agency (CRA) in May 2020 (CRA TI-2020-084675 dated May 25, 2020), it was acknowledged that employees may not be able to fully utilize credits to their health care spending accounts (HCSAs) under an employer's private health services plan (PHSP) due to restrictions in health and dental services during the first wave of the pandemic.

To alleviate the forfeiture of these credits, the CRA indicated it would temporarily permit a one-time carry forward of unused credits expiring between March 15 and December 31, 2020 for a "reasonable period" to allow affected employees to obtain services that were not otherwise available during the pandemic. The CRA also noted that a carry-forward period of six months would generally be considered to be reasonable, and that any extension of time to use credits would be at the discretion of the plan sponsors and should be extended to all plan members by benefit class rather than on an individual basis.

The CRA has now issued a new technical interpretation (CRA TI-2020-0857841E5 dated January 26, 2021), which provides a further extension for expiring HCSA credits due to the second wave of the COVID-19 outbreak. The extension applies to any HCSA that qualifies as a PHSP and which has unused credits expiring between March 15, 2020 and March 16, 2021. The temporary one-time carry forward of those unused credits is available for a reasonable period to all members to access services that were otherwise restricted during the pandemic. The CRA has also indicated that a period of up to 12 months will generally be considered to be reasonable. It was further noted that since a HCSA must involve a reasonable element of risk to qualify as a PHSP, it is the CRA's view that any further extension of the temporary carry-forward period beyond 12 months would likely disqualify the HCSA from being a PHSP.

Please feel free to contact Kevin Wark (kwark@calu.com) should you have any questions.

In Memoriam

We are deeply saddened by the passing of long-time CALU member and past vice-chair David Wm. Brown on February 17, 2021.

David Brown

David was a respected leader and beacon of our industry. He started his career in 1983 with Al G. Brown & Associates, a firm his father founded forty years earlier. Over the next 38 years, David distinguished himself as an insurance advisor and leader in the use of life insurance for estate planning and charitable giving. His involvement with the industry was extensive and his professional accomplishments were many: certified financial planner, chartered life underwriter, registered health underwriter and chartered financial consultant.

David was one of CALU's greatest advocates and most active members. He joined the Board of Directors in 2016 and sat on numerous committees, most often serving as chair. These include: the AGM Committee, the AGM Workshop Committee, the Financial and Audit Committee, the Human Resource & Compensation Committee, the Life Insurance Issue Group, the Wealth Creation & Management Issue Group and the Investment Committee. As 2020-21 vice-chair and AGM chair, David would have been named chair of Board of Directors for the current 2021-22 board year.

His legacy is not only that he was able achieve and contribute at such a high level but that he did so with a rare level of wisdom, generosity, empathy and caring. He was an ardent philanthropist and was active on many Jewish community organizations and boards. His contributions, friendship and fellowship will continue to inspire all those who knew him.

David leaves behind his wife Helen, two daughters, one of whom is an advisor at his firm, his sister Golda who is also a partner at the firm, and his two grandchildren.

Contact Us

President & CEO
Guy Legault, MBA, FCPA, FCGA, CAE
glegault@calu.com Phone: 613.523.4112

Manager of Operations
Lorna Huiskamp
lhuiskamp@calu.com Phone: 613.693.0353

Membership Coordinator
Tammy Harrington
tharrington@calu.com Phone: 613.820.6284

Chair, CALU Board of Directors
Cindy David, CFP, CLU, FEA, TEP
chair@calu.com

Communications Advisor
Mary Ann Prychoda
maryann@prychoda.com Phone: 647.990.3137

Tax Advisor
Kevin Wark, LL.B, CLU, TEP
kwark@calu.com Phone: 416.843.5418

The Conference for Advanced Life Underwriting • Suite 600, 170 Laurier Ave. W, Ottawa, ON K1P 5V5