

## Publisher's Note

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Miller Thomson

## Miller Thomson on Estate Planning

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*Miller Thomson on Estate Planning* offers insight into estate planning, trusts, estate administration, insurance planning, charitable planning, business succession and corporate restructuring and the legal implications of immigration, emigration, and other cross board issues. This practical looseleaf service is updated regularly to ensure that you'll always have access to the latest information and developments.

This release features updates to the commentary and case law in Chapters 11 (Income Splitting and the Attribution Rules) and 20 (U.S. Income Tax Issues Involved in Canadian Tax and Estate Planning).

### COMMENTARY HIGHLIGHTS

- **Income Splitting, the Tax on Split Income ("TOSI") and the Attribution Rules — 11.30.100.10.20** — The Tax Court of Canada considered among other issues the application of s. 74.5(11) of the *Income Tax Act*. The case concerned a transfer of shares in the taxpayer's dentistry professional corporation from a family trust, to the taxpayer's spouse and, immediately thereafter, the gifting of those shares by the taxpayer's spouse to the taxpayer. Dividends were subsequently declared while the shares were held by the taxpayer. However, those dividends were reported and taxed in the hands of the taxpayer's spouse on the basis that

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s. 74.1 of the Act applied. The Minister reassessed the taxpayer, adding the dividends received by him to his income on the basis that s. 74.5(11) applied. The court held that even in the absence of a “series of transactions” concept, the entire series of transactions may form part of the relevant circumstances in determining the purpose of the transfer of property: *Mady v. The Queen*, 2017 TCC 112, 2017 CarswellNat 2718 (T.C.C. [General Procedure]).

- **U.S. Income Tax Issues Involved In Canadian Tax And Estate Planning — Special Report on 2017 U.S. Tax Law** — The U.S. Congress passed and the President signed the most extensive U.S. tax reform bill since 1986. This tax reform law is commonly referred to as “Tax Cuts and Jobs Act” (TCJA). Technically, it is known as Public Law 115-97. This Report is intended to summarize the provisions of this Act as they affect the explanations and recommendations appearing in chapter 20.