

Getting the most out of Capital Losses

Do you have unrealized capital losses?
If you do...read this before selling!

In order to maximize the tax refund that can be realized from crystallizing capital losses, consider 'transferring' your losses to your spouse (or common law partner).

This strategy should be followed if your spouse:

- is in a higher marginal tax bracket than you or,
- has net capital gains from the past three years (2003, 2004 or 2005).

How does this work

In order for your spouse to be able to claim your capital loss you will need to sell your spouse your shares at today's market value. Because of the superficial loss rules, your loss will be denied for tax purposes. However, your loss will be added to your spouses cost base. As a result, you have effectively transferred your loss to your spouse. Please note your spouse must hold the shares for 30 days prior to selling the shares in the open market in order for their loss not to be denied for tax purposes.

Here is an example

Jane and Rob Smith are in the same marginal tax bracket. Currently, Jane Smith owns shares with a cost base of \$20,000, and a current market value of \$12,000. Rob Smith, has capital gains from the year 2004 which could be offset however, he does not have capital losses in the current year. Jane sells her shares to her husband Rob for \$12,000. Jane is not able to claim her capital loss of \$8,000 (\$20,000 cost base less the \$12,000 current market value) because the tax rules known as superficial loss rules, deny the loss as her husband now owns the shares and 30 days have not passed. However, Jane's denied loss is added to Rob's cost base for tax purposes. Therefore, Rob's adjusted cost base is \$20,000 (the \$12,000 that he paid for the shares plus the \$8,000 superficial loss that was denied to Jane). After 30 days, Ron sells the shares in the open market for \$12,500. His loss for tax purposes would be \$7,500 (\$20,000 cost base less the \$12,500 current market value). This loss can now be used to offset his capital gains for this year or can be carried back to any of the three prior years.

As with all tax strategies, it is important to consult with your own tax advisor before implementing this strategy however, this is a very simple yet effective tool to reduce your families tax liability.

Note: The above article is for information purposes only and should not be construed as offering tax advice. Individuals should consult with their personal tax advisors before taking any action based upon the information in this article.

This publication has been prepared by ScotiaMcLeod, a division of Scotia Capital Inc.(SCI), a member of CIPF. This publication is intended as a general source of information and should not be considered as personal investment, tax or pension advice. We are not tax advisors and we recommend that individuals consult with their professional tax advisor before taking any action based upon the information found in this publication. This publication and all the information, opinions and conclusions contained in it are protected by copyright. This report may not be reproduced in whole or in part, or referred to in any manner whatsoever, nor may the information, opinions, and conclusions contained in it be referred to without in each case the prior express consent of SCI. Scotiabank Group refers to The Bank of Nova Scotia and its domestic subsidiaries. TM Trademarks of The Bank of Nova Scotia.

