ACQUISITION OF CONTROL (AOC)

What is AOC?

- Arises whenever an individual or a group which acquired control is *different* from the individual/group that controlled the corporation previously
- Doesn't apply to acquisition of shares from related parties
- After the sale of shares one person must control the corporation, if no one controls the corporation AOC doesn't apply

Tax Impact of Acquisition of Control

- Deemed year end one day before the change in control happened. This means that there will be a short taxation year.
- Example – Mr. A acquired the shares from Mr. B on October 1, 2011 that resulted in change of control for ABC incorporation. ABC incorporation year end is December 31 each year. There is an acquisition of control and hence there will be a deemed year end as at September 30, 2011

What will be the impact of deemed year end?

- The short taxation year will **count as one full year** of expiring non-capital losses, shareholder loan payments
  - if shareholder has the loan than it will affect that – Please check our notes on shareholder loans to understand this concept
- **Small business deduction and CCA are prorated because** of short taxation year.
  - This means that CCA and SBD will only be taken for 9 months i.e. up to September 30. This could increase taxable income.
- Need to choose new year end – Cannot exceed 53 weeks

There are 4 things that happen during an AOC for Tax Purposes:

1. **Net capital losses, allowable business investment losses (ABIL), property losses, and unused charitable contributions** expire and cannot be carried forward after deemed year end.

2. **Deemed to accrue losses (net capital losses, non-capital losses, and terminal losses)** i.e. at AOC all the assets with the losses are required to be bumped down FMV.
   - Inventory - **Non Capital Loss (i.e. Business Loss)**
   - Depreciable Property - if UCC>FV **- Non Capital Loss (i.e. terminal loss)**
   - Eligible Capital Properties - if CEC > 75%*FV **- Non Capital Loss (terminal loss)**
   - AR (write down to FV) - **Non Capital Loss**
   - Non depreciable capital property (land, marketable securities) - ACB>FV – **Net Capital Losses (these expire!)**

3. **Trigger capital gains** to use up the expiring losses

4. **Streaming rules**; The non-capital losses can be carried forward however with the following conditions

- Can be applied against a similar line of income only
- There has to be a reasonable expectation of profit (business must be carried on with a reasonable expectation of profit)
- Remember, the non-capital losses will age by one year due to the deemed year-end (one period will be lost in their Carry forward period)

Tax Planning points

- Bump up the prices of your assets to FMV to utilize the expiring losses (best to do with non-depreciable assets such as land as it will not result in recapture)
- Make sure you don't use your non-capital losses because you can carry forward them if criteria is met as discussed above. Therefore keep in mind the CCA recapture when determining which assets to bump-up
- If you have an option than try to change the control at your year end to avoid problems with short taxation years

Integration with other topics

- CCPC status losses if acquired by non-resident or public company. This impacts Capital Dividend Account, RDTOH, and ability to claim capital gain exemption (QSBC Exemption)
- Please refer to the above sections under our notes for details on each of the above concepts