

REPLACEMENT PROPERTY RULES

When businesses replace their old business properties with the new one. They have to meet certain criteria to make it qualify for replacement property rules.

- (i) The property was acquired to replace former property
- (ii) The property acquired will be used in same or similar business by taxpayer or related/affiliated person *Note that you can use the property for insignificant portion for different use
- (iii) If the former property was a taxable Canadian property than the new property should also be
- (iv) Should be replaced within specific time frame as discussed below

WHAT ARE THE REPLACEMENT PROPERTY RULES?

Depends on whether it is a voluntary disposal or involuntary disposal

1. Voluntary Disposition:

- Property must be replaced within **one year from the end of taxation year** of sale.
- Must be a former business property i.e. **land and building (not equipment)**- cannot be real estate rental.
- The new property acquired must be used to produce income from similar business

2. Involuntary Disposition (e.g. fire, natural disasters etc.):

- Replaced within 2 years from the end of the year the proceeds (insurance) became receivable
- Land, building and equipment used in earning business or property income qualify

Replacement property – Usefulness

- Allows taxpayer to elect to defer the tax on the recapture/capital gain to the extent that the taxpayer reinvests the proceeds of disposition in a replacement property

Capital gain lesser of

- (i) Actual Capital Gain
- (ii) **Proceeds** not reinvested
 - $POD = 100, ACB = 50$, replacement done in 1 year for 80
 - Actual CG = 50
 - $POD \text{ not reinvested} = 100 - 80 = 20$ ***

Recapture - lesser of

- (i) Actual recapture
- (ii) **Recapture** not reinvested
 - $POD = 100, ACB = 50, UCC = 10$, replacement done in 1 yr. for 80
 - CCA Recap = 40
 - $CCA \text{ Recap not reinvested} = 40 - 80 = 0$

New ACB of the property = Cost – capital gain deferred

New UCC of the property = Cost – capital gain deferred – recapture

Planning opportunities

- To defer the capital gain: reinvest an amount equal to or greater than the proceeds from selling old property
- To defer recapture: reinvest amount equal to recapture.

Other Matters

- Replacement property need not to be in the same class as the old property
- **Election required** to be made in the year of acquisition of the replacement property to amend the return for the year in which the voluntary/involuntary disposition took place