

## AFFILIATED CORPORATIONS AND STOP LOSS RULES

### The following are affiliated persons for tax purposes:

- (a) a **corporation** and
  - (i) a person by whom the corporation is controlled
  - (ii) each member of an affiliated group of persons by which the corporation is controlled
  - (iii) a spouse or common-law partner of a person described in subparagraph (i) or (ii);
- **b) two corporations, if**
  - (i) each corporation is controlled by a person, and the person by whom one corporation is controlled is affiliated with the person by whom the other corporation is controlled,
  - (ii) one corporation is controlled by a person, the other corporation is controlled by a group of persons, and each member of that group is affiliated with that person, or
  - (iii) each corporation is controlled by a group of persons, and each member of each group is affiliated with at least one member of the other group;

### What is the implication of being affiliated?

#### Transfers from individuals to corporations:

- Capital Losses are denied and added to the ACB of the transferred property.
- This is commonly found in section 85 rollovers, where a non-depreciable capital asset transferred to a holding company has depreciated in value (i.e. fair value < ACB); the losses simply are denied and are added to the ACB of the property transferred.

If **depreciable capital assets** are transferred (i.e. real-estate), the **terminal losses** are denied and stay with the transferor until the asset is ultimately disposed to a non-affiliated party.

#### Transfers between corporations:

- The Capital losses are denied
- However, instead of adding the denied loss to the ACB of the transferred property, the loss is denied in the hands of the transferor until:
  - The recipient corporation has disposed the asset to a non-affiliated party or
  - An deemed disposition occurs or
  - An Acquisition of Control occurs
- Once one of these are met, the transferor can claim the capital loss.

If **depreciable capital assets** are transferred (i.e. real-estate), the **terminal losses** are denied and stay with the transferor until the asset is ultimately disposed to a non-affiliated party.