

## ATTRIBUTION

### What is attribution?

- Attribution rules kick in to stop individuals from redistributing their income to their spouses or kids to pay lower taxes
- For example: a husband who is in the high tax bracket owns shares of XYZ corp. that pays dividends. He gifts the shares to his wife who has no other income. His does this thinking his wife will report future dividends under a lower tax bracket and save the family taxes.
  - This is where attribution rules kick in
  - In short, CRA will attribute the dividend income back to the husband and the husband will need to report this (and pay higher taxes due to him already being in the high tax bracket)

### Attribution applies in situation where property is transferred to:

1. A spouse or common-law partner
2. Children under the age of 18 who does not deal at arms-length with the transferor
  - For attribution purposes **nieces and nephews** are considered non-arm's length (even though they are considered not related elsewhere in the tax act)

### Attribution applies to two sources of income

1. Property income (interest, dividends, rent, royalty)
2. Capital Gains

### The Attribution Rules

Transfer to	@ point of transfer	Income Attributed Back
Spouse	<b>Automatic roll over @ ACB/UCC</b>	<b>Property income + Capital Gains</b>
<b>Minor (kids, niece, nephew under 18)</b>	<b>Deemed disposal @ FMV -- Capital Gain/CCA recapture to the transferor</b>	<b>Property Income</b> (Note that future Capital Gains doesn't get attributed back since it was transferred at FMV already)

### Avoiding Attribution

#### To avoid attribution w/ spouse:

1. **Elect** to sell the assets at FMV (**opt out of the automatic spousal rollover**); **and**
2. The spouse receiving the asset needs to pay FMV consideration to the transferring spouse or take a loan from the transferring spouse at CRA's prescribed interest rate at the time.
  - The interest needs to be paid by **January 31<sup>st</sup> of the following tax year**; if not attribution will take place, and all future income will be attributed back to the transferring spouse; you can never get back on side.

**To avoid attribution with a minor :**

1. sell the assets to the minor at fair market value (if the minor has the money); or
2. sell the assets to the minor at FMV and extend a loan to the minor at CRA's prescribed interest rate;
  - the interest needs to be paid by the minor by **January 31 of the following year** or attribution will always apply in the future; you can never get back on side.

**Attribution on Separated Spouses (see divorce of a taxpayer notes for more detail)**

- If a common-law or marriage break down happens and the marital status is now separated; the attribution rules stops on the date the spouse moves out of the house and starts living separately on property income
- Attribution still applies on capital gains (however, a joint election can be filed to avoid attribution on capital gains)