# Getting the "GRIP" on CCPC Dividends

## Complex calculation requires business to seek advice

BY CARL ROSEN

While the reduced personal income taxes on corporate dividends essentially favour dividends from public companies, the rules for Canadian Controlled Private Corporations (CCPCs) are established through a complex formula, known as the General Rate Income Pool (GRIP) which determines eligible dividends for a CCPC.

Located in Section 89(1) of the *Income Tax Act*, the GRIP Calculation can result in a positive or negative GRIP amount. The GRIP calculation in Section 89(1) is set forth below and, clearly, the complexity of the determination of a company's GRIP requires specialized tax advice.

### FORMULA:

"general rate income pool" at the end of a particular taxation year, of a taxable Canadian corporation, that is, a Canadian-controlled private corporation or a deposit insurance corporation in the particular taxation year, is the positive or negative amount determined by the formula:

A-B

where

A is the positive or negative amount that would, before taking into consideration the specified 'future tax consequences for the particular taxation year, be determined by the formula: C + 0.68(D - E - F) + G + H - I

where

C is the corporation's general rate income pool at the end of its preceding taxation year

D is unless paragraph (b) applies, the corporation's taxable income for the particular taxation year, and if the corporation is a deposit insurance corporation in the particular taxation year

E is the amount determined by multiplying the amount, if any, deducted by the corporation under subsection 125(1) for the particular taxation year by quotient obtained by dividing 100 by the rate of the deduction provided under that subsection for the particular taxation year

F is if the corporation is a Canadian-controlled private corporation in the particular taxation year, the lesser of the corporation's aggregate investment income for the particular taxation year, and the corporation's taxable income for the particular taxation year, and in any other case, nil,

G is the total of all amounts each of which is an eligible dividend received by the corporation in the particular taxation year, an amount deductible under section 113 in computing the taxable income of the corporation for the particular taxation year

H is the total of all amounts, determined under subsections (4) to (6) in respect of the corporation for the particular taxation year, and

I is (a) unless paragraph (b) applies, the amount, if any, by which (i) the total of all amounts each of which is the amount of an eligible dividend paid by the corporation in its preceding taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the corporation in its preceding taxation year, or (b) if subsection (4) applies to the corporation in the particular taxation year, nil and

B is 68% of the amount, if any, by which the total of the corporation's full rate taxable income (as would be defined in the definition "full rate taxable income" in subsection 123.4(1), if that definition were read without reference to its subparagraphs (a)(i) to (iii)) for the corporation's preceding three taxation years, determined without taking into consideration the specified future tax consequences, for those preceding taxation years, that arise in respect of the particular taxation year,

exceeds

(b) the total of the corporation's full rate taxable incomes (as would be defined. in the definition "full rate taxable income" in subsection 1234(1), if that definition were read without reference to it subparagraphs (a)(i) to (iii)) for those preceding taxation years;

### FORMULA'S EFFECT

Now, the formula for establishing the GRIP includes a deduction for amounts deducted by the corporation under section 125(1) (the small business deduction) for the year and for prior years under the formula. Since most CCPCs will have utilized the small business deduction they will have a negative GRIP and will continue their policy of increasing salary or bonusing amounts out over the small business deduction. Further, in Ontario, the claw back of the small business deduction (increased rates to recover the lower rate advantage) above the small business level will additionally discourage such CCPCs from having income above the small business deduction.

### NO GRIP EFFECT ON RCAS

The new dividend rules for CCPCs and the GRIP calculation do not change the attractiveness of retirement compensation arrangements (RCAs). The purpose of the RCA is to provide adequate retirement benefits, deductible by the corporation and not taxable until received by the beneficiary for owner/executives in a separate fund protected from creditors and providing long-term tax deferral.

The GRIP calculation will ensure that CCPCs continue to use the small business deduction to fund corporate growth as they have done in earlier years, while bonusing out above the small business deduction, or paying ineligible dividends.

Speculation by commentators on major changes to CCPC behaviour, in relation to bonuses and dividends, such as reducing salaries and taking dividends, is premature. For a CCPC utilizing the small business deduction, the GRIP calculation is a deterrent to creating eligible dividends.

Further, as in the past, preferences for dividends over salaries due to rates of taxation will lead, over time, to an adjustment of rates equalizing the tax treatment.

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