

Personal Real Estate Corporation (PREC)



Tax Presentation & Legal Considerations

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Personal Real Estate Corporation (PREC)

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PREC Overview

- Ontario Bill 145, real estate agents can form a private corporation. The Act came into force on October 1st, 2020, permitting real estate agents and brokers to incorporate through a Personal Real Estate Corporation (PREC).
- This opens doors for real estate professionals to access a wide range of tax planning opportunities (see next few slides).
- PREC corporation must meet the necessary criteria:
 - Must be incorporated under the Ontario Business Corporation Act.
 - The (1) salesperson must hold all the voting shares of the corporation and be the only director and officer of the PREC, making the salesperson the controlling shareholder.
 - Any non-voting shares must be held by the family members of the controlling shareholder.
 - Cannot carry on the business of trading in real estate other than providing the services of its controlling shareholder. The PREC cannot carry on business as a brokerage or hold any money or property of a client in connection with trading in real estate either.

2020 Federal and Ontario Tax Rates



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个人边际率

Individual Marginal Tax Rates

普通收入

上市股息

其他股息

资本收益

Taxable income	Total (Ordinary)	Eligible Dividend	Other Dividend	Capital Gains
\$1 – \$44,740	20.05%	0.00%	9.24%	10.03%
44,741 – 48,535	24.15%	0.00%	13.95%	12.08%
48,536 – 78,783	29.65%	6.39%	20.28%	14.83%
78,784 – 89,482	31.48%	8.92%	22.38%	15.74%
89,483 – 92,825	33.89%	12.24%	25.16%	16.95%
92,826 – 97,069	37.91%	17.79%	29.78%	18.96%
97,070 – 150,000	43.41%	25.38%	36.10%	21.71%
150,001 – 150,473	46.41%	29.52%	37.90%	23.21%
150,474 – 214,368	47.97%	31.67%	41.35%	23.99%
214,369 – 220,000	51.97%	37.19%	15.95%	25.99%
220,001 +	53.53%	39.34%	47.74%	26.77%

Ordinary income:

Wages, bonuses, commissions, Canadian and overseas pensions, old age and unemployment benefits, interest, overseas dividends, rent and self-employment income.

Basic personal amount for 2020: \$13,229.

公司税率

Corporate Rates

Type of income	Total
CCPC to \$500,000 加拿大私人控股公司的前50万ABI税前利润	12.20%
CCPC excess of \$500,000 (active) 私人公司ABI超过50万利润	26.50%
CCPC (Investment) * net to 19.5% when dividend out * 投资收入	50.17%
Personal Service Business income	44.50%
Basic (other than CCPC) 非私人公司（外国人控股，上市公司）	26.50%
M & P (other than CCPC) 非私人公司 – 制造加工业	25.00%
Investments (other than CCPC)	26.50%

CCPC = Canadian Controlled Private Corporation.

M & P = Manufacturing and Processing. **Part VI tax** of 38 1/3% applies to certain dividends received. Fully refunded when dividend out to individuals.

Advantages of Incorporation

- ***Tax Reduction*** – Combined corporate and personal taxes could be less than the personal taxes paid when business income is taxed at personal level based on a marginal tax system.
- ***Tax Deferral*** – The SBD corporate tax rate is only at 12.2%, as compared to the personal marginal tax rate at 53.5%. A substantial opportunity for tax deferral and wealth accumulation.
- ***Tax saving through Income Splitting*** – Subject to tax on split income (TOSI) rules.
- ***Access to Lifetime Capital Gains Exemption (LCGE)*** – The LCGE (\$883,384 in 2020) on the disposition of shares of a QSBC when there is an opportunity to sell shares.
- ***Flexibility on Remuneration*** – Access to different types of payment options (salaries, dividends, and bonuses) and the ability to select the timing of payment.

Disadvantages of Incorporation

- ***Incorporation Costs*** – Legal and accounting fees. An existing business may require a Section 85 rollover process that may include goodwill valuation.
- ***Limited Loss Deductions*** – Sole proprietor can deduct the business loss against other personal income. Corporation can only use loss against the corporation income.
- ***Additional Administrative Burdens*** – These may include:
 - ***Compiling financial statements***: Balance Sheet and Income Statement.
 - ***Preparing corporate tax (T2)***: Must file T2 return no later than 6 months after the end of each tax year, even no income to report or no tax owing.
 - ***Adhering to corporate tax payment schedule***: Tax is typically paid two or three months after the end of the tax year. Plus taxes in instalments.
 - ***Maintaining HST/payroll taxes compliance***: Required to withhold CPP and EI from their employees and remit the payroll deductions to CRA. Plus filing T4.
- ***Complex Corporate Dissolution Process*** – Related legal and accounting costs.

Advantage of Tax Deferral - An Illustration

<u>Corporate Level</u>	<u>Earned Personally</u>	<u>Incorporation</u>	
		<u>Year1</u>	<u>Year2</u>
Active Business Income		200,000	
Less: Bonus			
Less: CPP Employer			
Taxable Income		200,000	-
Corporate Taxes -12.2%		(24,400)	-
Cash earnings for distribution		175,600	-
Cash earnings in Corporation - Beginning		-	87,800
Declared Dividend		(87,800)	(87,800)
Cash earnings in Corporation - Ending		87,800	-
<u>Personal Level</u>			
Business Income	200,000		
Dividend Income		87,800	87,800
Salary Income			-
	200,000	87,800	87,800
Personal Taxes			
on business/salary -36%	(71,035)		
on dividend -12%	(10,828)	(10,828)	(10,828)
CPP employee portion	(2,898)		-
CPP employer portion	(2,898)		
Cash earnings Personally	123,169	76,972	76,972
Total corporate and personal taxes	71,035	35,228	10,828

- The net tax savings amount to \$24,979, (Personal tax of \$71,035 minus the combined corporate and personal taxes of \$35,228 for year 1 and \$10,828 for year 2).
- This is in addition to CPP cost savings of \$5,796 (\$2,898 multiplied by 2).

Criteria and conditions of PREC

Criteria - Corporate Attributes

- ☐ Must be incorporated under the *Ontario Business Corporations Act*
- ☐ The corporation has one (1) single controlling shareholder (a broker or salesperson who owns ALL the equity shares, which are the voting shares)
- ☐ The controlling shareholder is the president and sole director and officer of the corporation
- ☐ The controlling shareholder is registered as a broker or salesperson
- ☐ Any non-equity shares (non-voting) must be owned directly or indirectly by the family members (spouse, children, parents, trust for minor child) of the controlling shareholder or by the controlling shareholder
- ☐ There is no written agreement or other arrangement that restricts or transfers the powers of the sole director and officer to manage or supervise the management of the business and affairs of the corporation

Criteria and conditions of PREC

PREC Conditions

- ☐ The PREC does not carry on the business of trading in real estate other than providing the services of its controlling shareholder to the brokerage that employs that individual
- ☐ The controlling shareholder is employed by a brokerage to trade in real estate
- ☐ The PREC, its controlling shareholder and others are prohibited from representing to the public that the PREC trades in real estate
- ☐ The PREC does not carry on business as a brokerage
- ☐ The PREC only receives remuneration for trading in real estate from the brokerage employing the controlling individual and the controlling individual only receives remuneration for trading in real estate from the PREC or their employing brokerage
- ☐ The PREC does not, on behalf of the brokerage, directly or indirectly hold any money or other property of a person in connection with trading in real estate

Criteria and conditions of PREC

Agreement – Brokerage, PREC and Controlling Shareholder

There must be a written agreement between the PREC, the controlling shareholder and the brokerage governing the relationship between the brokerage and the corporation and its controlling shareholder. Under the agreement, the PREC agrees:

- ☐ Not to hinder or obstruct the brokerage or its broker of record in their performance of duties under the legislation
- ☐ Not to hinder or obstruct the controlling shareholder in the performance of the controlling shareholder's duties under the legislation
- ☐ To provide whatever assistance may be reasonably necessary to enable the brokerage and its broker of record to comply with their duties under the legislation and to enable the brokerage and its broker of record to ensure that the controlling shareholder is complying with the controlling shareholder's duties under the legislation
- ☐ To provide whatever assistance may be reasonably necessary to enable the brokerage to determine whether the conditions are met

Criteria and conditions of PREC

Brokerage Obligations

- ☐ Before any remuneration is paid to the PREC, the brokerage must satisfy itself that the corporation meets the requirements to be a PREC
- ☐ The registrant must enter into an agreement with the PREC and the brokerage regarding the use of the PREC and payment of remuneration to the PREC

Registrant (Controlling Shareholder) Obligations

- ☐ The registrant must be employed by the brokerage
- ☐ In establishing the PREC, the registrant must ensure that the criteria and conditions identified are met
- ☐ The registrant must enter into an agreement with the PREC and the brokerage regarding the use of the PREC and payment of remuneration to the PREC
- ☐ The registrant must notify the registrar (RECO) of the legal name of the PREC and the address for service of the PREC before the PREC receives any remuneration from a brokerage
- ☐ The PREC cannot pay the registrant an amount for remuneration that is greater than the amount of the remuneration received from the brokerage
- ☐ The registrant must notify the registrar (RECO) in writing of any change in circumstances that would affect the PREC's eligibility for the exemption from registration or any change to the information provided to the registrar (RECO) about the PREC, within five days after the change takes place
- ☐ The registrant must ensure that the PREC does not engage in any activity that would otherwise require registration

FAQ - PERSONAL REAL ESTATE CORPORATIONS IN ONTARIO

WHAT CAN A REALTOR® DO TO MAXIMIZE THE TAX ALLOCATION OF COMMISSION REVENUE TO A PREC FOR EXISTING LISTINGS AND PENDING DEALS AT THE TIME THE PREC IS INCORPORATED?

Advice from your tax advisors on whether this approach is possible for you and what documentation is appropriate is very important. There are very specific tax rules for the valuation of work-in-progress of a professional business for which you should seek the advice of a tax lawyer or accountant. For example there is a possibility that the fair market value of the work-in-progress could be lower than the cost amount. This may arise if the closing of the transaction was conditional on various factors, such as financing, due diligence, home inspections etc. If that is the case, you may be required to elect the lower of the two amounts. In addition, there may be Harmonized Sales Tax implications. Most importantly, the Canada Revenue Agency election form referred to above (currently Form T2057) **must** be filed on or before the earlier date upon which either the REALTOR® or the PREC is required to file an income tax return for the year in which the sale of work-in-progress occurs.

<https://www.orea.com/~media/Files/Downloads/FAQ-PRECS>



Thank You!

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