Taxation Issues

Brian J. Taylor, FCA
Deloitte & Touche LLP

How Are Members and Holders of Preferred Shares Taxed?

Purchase of Shares

The purchase of shares is not a tax deduction.

Patronage Dividends

Members pay personal (or corporate) income tax on all (allocated and deferred) patronage dividends received from an NGC. The income is taxed in the year it is received by the member.

Dividends on Preferred Shares

Holders of preferred shares pay tax on dividends received from an NGC.

Dividend Tax Credit

The dividend tax credit applies to taxable dividends received by individuals but excludes patronage dividends.

Withholding Tax

An NGC is required to deduct and withhold 15 percent tax on the portion of patronage payments (or sum of) exceeding $100. The NGC remits the tax to the Receiver General on account of the member's tax liability. When the member files a personal (or corporate) income tax, the tax withheld will either reduce taxes otherwise payable or increase the tax refund.

Capital Gains Tax

If a member sells shares, only 50 percent of any gain is taxable. If the member is a Canadian-controlled private corporation as defined in the *Income Tax Act of Canada* (the *Act*), the nontaxable portion of the capital gain can be paid on a tax free basis to its shareholders if prescribed conditions are met.

How Are NGCs Taxed?

Incorporated organizations, such as NGCs, follow corporate income tax laws.

Unallocated Net Income

Unallocated net income is taxable at the corporate rate, while deferred patronage allocations are taxed at the member level.

Dividends on Preferred Shares

NGCs may choose to pay dividends to holders of preferred shares. Dividends on preferred shares are not deductible in computing the income of the NGC.

More information regarding dividends on share capital is available at www.ccra-adrc.gc.ca/E/pub/tp/i362ret/i362re.txt.html.

Federal Large Corporations Tax (LCT)

NGCs will be subject to LCT if capital (as defined in the *Act*) net of eligible investments exceeds $10 million. Capital includes debt, unallocated retained earnings, and other items. The tax rate is presently 0.225 percent of capital in excess of $10 million. Associated corporations must share the $10 million exemption.

What Tax Deductions and Credits Apply to NGCs?

Tax deductions reduce an organization's taxable earnings. Tax credits reduce the amount of tax an organization pays.

Patronage Dividends

Patronage dividends are a tax deduction for a corporation such as an NGC. However, a patronage payment is deductible only if it is paid within the year, or within twelve months of the end of the year, to customers. A patronage payment is also deductible if it was made in a previous year in which such payments were not deductible.

Credit is not given to those customers to whom the patronage allocation would be less than $5.00, and no deduction is allowable to the NGC in computing income for such credits not given.

More information regarding patronage dividends is available at www.ccra-adrc.gc.ca/E/pub/tp/i362ret/i362re.txt.html.

Interest on Loan Capital

Interest on loan capital is deductible in computing income provided it is paid or payable in accordance with the *Act*. However, interest is not deductible unless it is paid pursuant to a legal obligation to pay the interest.

More information regarding interest on loan capital is available at www.ccra-adrc.gc.ca/E/pub/tp/i362ret/i362re.txt.html.

Small Business Deduction

The small business deduction is an annual tax reduction on up to $200,000 that may be claimed by a Canadian-controlled private corporation (CCPC) for carrying on an active business in Canada other than a "specified investment business" or a "personal services business." In Saskatchewan, it reduces the effective corporate tax rate from 45 percent to 20 percent. Corporations with LCT capital in excess of $15 million are not eligible for this tax reduction.

More information regarding the small business deduction is available at www.ccra-adrc.gc.ca/E/pub/tp/i73r5et/i73r5e.txt.html.

Tax Considerations for NGCs in Saskatchewan

Saskatchewan Manufacturing and Processing Investment Tax Credit

Corporations filing a T2 Corporation Income Tax (CIT) Return may be eligible for the Saskatchewan Investment Tax Credit (ITC) for Manufacturing and Processing. The ITC is a nonrefundable income tax credit that is designed to encourage plant and equipment investment for use in manufacturing and processing activities in Saskatchewan. The ITC applies as a percentage of the total capital cost of eligible building and machinery and equipment purchases. The current rate is 6 percent of eligible new or used acquisitions. The ITCs can only be used to offset Saskatchewan income tax otherwise payable.

More information on the ITC is available at www.cbsc.org/sask/sbis

Saskatchewan Corporation Capital Tax (CCT)

The CCT provides exemption for "natural product" co-ops where at least 90 percent of the members are individuals or other co-operative corporations and none of the members, apart from other co-operative corporations, has more than one vote.*

The capital tax rate is currently 6 percent of paid-up capital in excess of $10 million. This $10 million is available to every corporation, and does not have to be shared with associated corporations.

*This exemption may not apply to NGCs because preferred shareholders have limited voting rights (the Saskatchewan Department of Finance is apparently working on this issue).

When Do NGCs Pay Income Tax?

Annual Payments

An NGC only has to make one annual income tax payment if the federal taxes payable for the year or the prior taxation year are $1,000 or less. An NGC will also make annual income tax payments if the corporation is in its first taxation year and is not a continuation of a predecessor corporation.

Instalment Payments

After the first year of taxation, and if the prior year's federal taxes were $1,000 or more, NGCs pay income tax in monthly instalments. Instalment payments are due on the last day of every complete month of an NGC's taxation year. The first payment is due one month minus a day from the starting date of the corporation's taxation year. The rest of the payments are due on the same day of each month that follows.

Late Returns and Penalties

Penalties may apply if an NGC files the return late. The penalty for filing a late return is 5 percent of the unpaid tax that is due on the filing deadline, plus 1 percent of this unpaid tax for each complete month that the return is late, up to a maximum of twelve months. In exceptional cases, interest and penalties on late payments can be waived or cancelled.

Interest

Interest is charged on late instalments and late tax payments. The current rate charged is 10 percent. This interest expense is not deductible for tax purposes. Interest is also paid to the taxpayer on refunds. The rate is 2 percent less than the rate charged. The current rate is 8 percent. This interest income is taxable.

Filing a Corporate Tax Return

NGCs based in Alberta, Manitoba, and Saskatchewan mail the T2 Corporate Income Tax Return to: Tax Centre, Winnipeg MB, R3C 3M2.

Record Keeping

Books and records or electronic records, including related accounts and vouchers, must be kept for at least six years from the end of the last year to which they relate. Books and records or electronic records must be kept until two years after the date the corporation is dissolved.