



The Tax Treatment of Collectibles

by Debbie Pearl-Weinberg

Many Canadians may have various collections...be it of artwork, stamps, china or antique furniture. While they may not keep track of all items held, nor what they paid for the item, it is important for this information to be recorded, as there may be tax consequences when they ultimately dispose of the article(s).

PERSONAL USE PROPERTY

Under the tax rules, where an item is used primarily for the owner's (or someone related to the owner's) personal use or enjoyment, it is called "personal use property." Many collectibles will fall into this category. When the owner ultimately disposes of the item, or if it is still held at the time of the owner's death, a capital gain or loss may arise. However, when calculating this gain or loss, if the cost of the property was less than \$1,000, then it is bumped up to \$1,000. Similarly, if the amount received for it at the time of disposal is less than \$1,000, the proceeds considered to have been received is bumped up to \$1,000. Effectively, this means that no capital gain will arise where property is sold for less than \$1,000. Also, if a capital loss arises, it is deemed to be nil, unless the item falls into the category of "listed personal property" [discussed below].

Example 1

Assume Sally sells a boat for \$1,100 which she purchased for \$850. Because she paid less than \$1,000 for the boat, the cost for purposes of calculating the gain/loss on sale is increased to \$1,000. She is therefore deemed to have sold the boat for \$100 more than she paid for it and will report a \$100 capital gain for tax purposes.

Assume Sally also has a computer that she sells for \$1,500 which she purchased for \$3,500. She will realize a loss of \$2,000 on the sale. But, because this is the sale of personal use property, the capital loss will be deemed to be nil and cannot be used to offset any capital gains.

Listed Personal Property

The following items are considered to be "listed personal property":

- prints, etchings, drawings, paintings, sculptures or other similar works of art;
- rare folios, manuscripts or books; and
- jewelry, coins, and stamps.

If listed personal property is disposed of at a loss, then the loss can be offset against other capital gains, but only against those gains arising on the disposition of other listed personal property. Any such losses can also be carried back for three years or forward for seven years – but, even in those years, may only to be used to offset gains from the disposition of other listed personal property.

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Example 2

Assume Bob sells a painting for \$6,500 which he purchased for \$6,000. He realizes a \$500 capital gain on the sale. If in the same year he also sells jewelry for \$1,500 which he purchased for \$2,300, he will realize a capital loss of \$800. This capital loss can offset the capital gain so that he has a net listed personal property loss of \$300. This loss, however, cannot be used to offset a capital gain from anything other than listed personal property.

SETS OF COLLECTIBLES

Special rules apply where the collectible is considered to be part of a set of items, and only part of the set is disposed of to someone with whom the owner is not dealing with at arm's length. A group of items are viewed to be a set where they would ordinarily be disposed of together, and are generally thought of as belonging together. Often their value as a set is greater than the total value of the individual pieces. For instance, a group of different stamps that were issued by one country at the same time or over a short period of time will generally be treated as a set. Where this occurs, the set is deemed to be one single personal-use property, and the \$1,000 minimum cost and proceeds will be shared by all of the properties in the set. This rule is in place to prevent someone from selling parts of a set in a series of transactions, and then using the \$1,000 minimum cost for each transaction to reduce the overall gain for tax purposes.

DEPRECIATION

Since personal-use property is not used to earn income from a business or property, capital cost allowance, which is depreciation for tax purposes, cannot be claimed. There may, however, be situations where a collectible is purchased not merely for the personal use and enjoyment of the owner. For instance, art may be purchased for the purpose of displaying the piece in the business office of the owner. In this case, the art would not generally be considered personal use property, and capital cost

allowance may be claimed so long as it is otherwise permitted. In most cases, capital cost allowance may only be claimed on Canadian art. In addition, the cost of the art must be reasonable in relation to the value of the business itself. For instance, CRA may not view a claim of capital cost allowance to be a reasonable expense on a painting with a value of \$600,000, where the value of the business, without taking into account the artwork, is \$500,000.

TRUSTS FOR MINORS

A parent may choose to hold collectibles in a trust where children are the beneficiaries. If a parent gifts a collectible item to a trust, a capital gain or loss may be realized at that time; however, any capital gains arising should the trust later dispose of the property will not be attributed back to the parent and can be distributed and taxed in the child(ren)'s hands. The parent may wish to utilize the trust structure so that they can maintain control over the item and decide whether it should be held or sold.

DONATIONS

Donations of collectibles are usually eligible for the charitable donation tax credit. If the item donated is considered to be "certified cultural property" by the Canadian Cultural Property Export Review Board and the gift is made to a Canadian entity that has been designated by the Minister of Canadian Heritage, then any resulting capital gain will not be subject to tax. In order for an article to be certified, it must be found to be of "outstanding significance and national importance." Generally, this means that it must have either a close association with Canadian history or national life, aesthetic qualities, or value in the study of the arts or science.

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