The Tax Treatment of Collectibles

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Some of us may have various collections... be it of artwork, stamps, or antique furniture. There may be tax consequences when we ultimately dispose of the article(s) so it often helps if we keep track of all items held and what we paid for them.

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.
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 one person or a group of people who are not dealing 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
You may choose to hold collectibles in a trust where your children are the beneficiaries. If you contribute a collectible item to a trust, a you may realize a capital gain or loss at that time; however, any capital gains arising should the trust later dispose of the property will not be attributed back to you and can be distributed and taxed in your child(ren)’s hands. You may wish to utilize the trust structure so that the trustee can maintain control over the item and decide whether it should be held or sold. As with any trust, it is important to accurately document the trust terms, such as the powers of the trustee and when and how the trust property is to be distributed. You should obtain legal advice on how to establish and maintain the trust.

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. Historically, for an article to be certified, it must have been found to be of “outstanding significance and national importance.” Generally, this meant that it must have had either a close association with Canadian history or national life, aesthetic qualities, or value in the study of the arts or science. This requirement was removed effective March 19, 2019.
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As with all planning strategies, you should seek the advice of a qualified tax advisor.

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