the SmallBiz Builder
your monthly newsletter

Padgett

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Allowable Business Investment Loss

Allowable Business Investment Loss (“ABIL”)

A loss on an investment in a company you own or made in another person’s small business can qualify for some advantageous tax rules to help ease the impact of the loss on your finances. Whether the investment was in shares or a loan to a small business it may qualify for a deduction against your personal income. Unlike regular capital losses, which can only be used to offset capital gains, an ABIL can be used to offset other sources of income, such as employment or business income.

Eligibility Criteria

- **Type of Corporation**: The loss must be incurred on shares or debt of a Canadian-controlled private corporation (CCPC) that qualifies as a small business corporation at the time of the investment or at any time during the 12 months before the disposition or the debt becoming bad.

- **Nature of the Loss**: The loss must arise from the disposition of shares or debt (e.g., a loan) of a small business corporation. The loss can be from selling shares at a loss, or if a debt owed to you by the corporation becomes uncollectible (bad debt).

Qualifying as a Small Business Corporation

- A small business corporation is defined as a CCPC where all or substantially all (generally interpreted as 90% or more) of the fair market value of its assets are used in an active business carried on primarily in Canada.

Calculation of ABIL

- **Initial Calculation**: The capital loss is first calculated in the same way as any other capital loss.

- **ABIL Deduction**: Once the capital loss is calculated, and based on draft legislation, either 50% or 66 2/3% of the loss can be claimed as an ABIL. This portion (50% or 66 2/3%) is the allowable amount that can be deducted against all types of income, not just capital gains. If the legislation is passed, the 50% rate applies for dispositions up to June 24th, 2024, and 66 2/3% for dispositions as of June 25th, 2024.

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Limitations

- The disposition of loans or shares must be to an arm's length person unless a special election is filed.
- In most of the cases for small businesses, it is by filing the special election that the investor can write-off their investment as an ABIL. In these cases, it's important that the corporation not be dissolved before December 31st of the year the election is to be made. Furthermore, there are conditions to meet in filing the election. For a loan, it must be deemed as uncollectible, and for shares, the corporation must have ceased operations, be insolvent and will likely be wound up. If the loss results in an ABIL, but the corporation later recovers, the ABIL will need to be reversed or adjusted.

Documentation

- CRA will always review this type of deduction and will request supporting documents to support your claim.
- You must maintain adequate records such as documentation that there was a disposition of the investment or that the election was filed, that the loan is uncollectible, that the corporation is insolvent, and evidence that the corporation qualifies as a small business corporation.

If this unfortunate situation has impacted you, consult with your Padgett advisor to make sure that you can at least minimize your income taxes.