A LEGAL LOOK INTO
INCORPORATIONS AND AGREEMENTS.
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DISCLAIMER

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1. ABOUT CAMERON FUNNELL

• I am a lawyer
• I practice in the areas of:
  • corporate
  • commercial (transactional)
  • real estate
  • leasing
  • etc.
2. WHAT IS A CORPORATION?

- A legal person
- Distinct from its shareholders
- Separate taxable entity
- Can own property, enter contracts sue and be sued, etc.
3. WHY INCORPORATE?

- limited liability (but personal liability for professional negligence remains)
- default governance structure
- tax planning
- estate planning
4. TAX PLANNING

• small business tax rate
• tax deferral
• “active” vs “passive” income
• income smoothing
• income splitting (limited by “TOSI” rules)
• capital gains exemption
5. ESTATE PLANNING

- corporation continues to exist after shareholders dies
- primary and secondary wills
- holding shares through a trust
6. INCORPORATION PROCESS

- get accounting/tax advice
- select jurisdiction
- reserve name
- select registered and records office
- appoint directors
- create share structure
- issue shares
7. HEALTH PROFESSION CORPORATIONS

- “health profession corporation” permit required to provide healthcare services
- apply to the College for a permit prior to incorporating
- name must meet College requirements (surname, professional designation, etc.)
- all directors and voting shareholders must be College registrants
- all non-voting shareholders must be College Registrants or family members of College registrants
8. OPERATING A HEALTH PROFESSION CORPORATION

• file annual report with BC corporate registry
• file annual tax return with CRA
• pay annual College permit fee
• pay salaries (and set up CRA payroll account)
• declare dividends?
• register for GST?
9. GROUP PRACTICE - CORPORATION

- multiple doctors may hold voting shares of a health profession corporation
- good way to share costs and revenue
- can be beneficial to hold shares through a holding company
- shareholders’ agreement is vital
- corporation is a taxable entity
10. GROUP PRACTICE - PARTNERSHIP

- doctors share liability
- partnership agreement sets out roles, responsibilities, decision making, etc.
- not a taxable entity; doctors are taxed separately
11. GROUP PRACTICE - COST SHARING AGREEMENT

- each doctor operates independently
- no revenue sharing
- common expenses are shared (premises, staff, equipment, consumables, etc.)
- not a taxable entity; doctors are taxed separately
12. GROUP PRACTICE - GENERAL CONSIDERATIONS

- cost and revenue sharing
- Scheduling
- retirement and leaves of absence
- loans and interest
- guarantees/indemnities
- dispute resolution (mediation and arbitration)
- sales to third parties ("drag along" and "tag along" rights)
- termination and wind up
Q&A

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