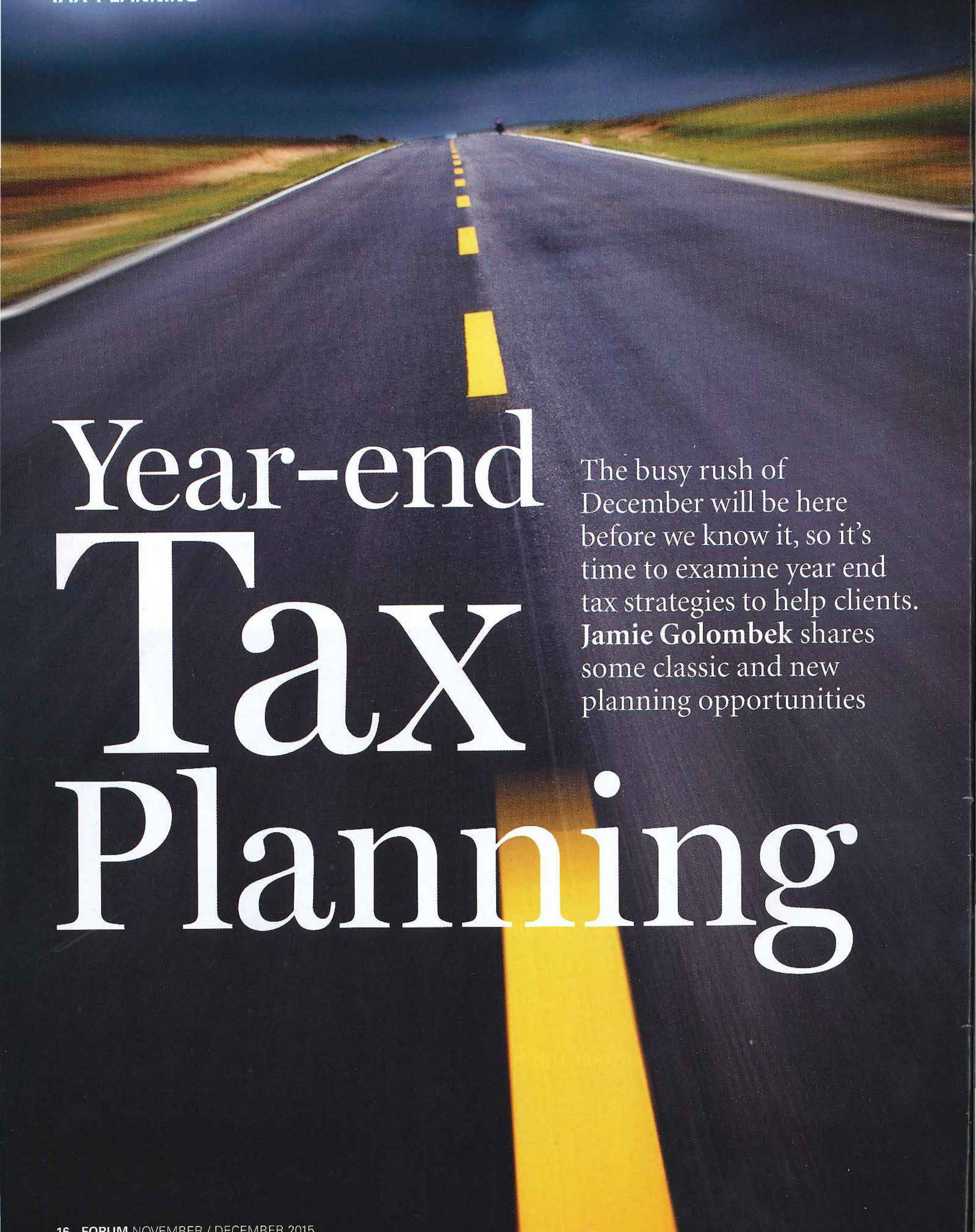

Year-end Tax Planning

The busy rush of December will be here before we know it, so it's time to examine year end tax strategies to help clients. **Jamie Golombek** shares some classic and new planning opportunities

Tax-loss Selling

Tax-loss selling involves selling investments with accrued losses at year end to offset capital gains realized elsewhere in the portfolio. Any capital losses that cannot be used currently may either be carried back three years or carried forward indefinitely to offset capital gains in other years. In order for the loss to be immediately available for 2015 (or one of the prior three years), the settlement must take place in 2015, which means the trade date must be no later than December 24, 2015.

Note that if securities were purchased in a foreign currency, the gain or loss may be larger or smaller than anticipated once the foreign exchange component has been taken into account. The recent decline in the value of the Canadian dollar may increase capital gains or decrease capital losses.

For example, suppose your client bought shares for US$10,000 when the exchange rate was US$1.00 = CDN$1.00 and later sold the shares for US$10,000 when the Canadian dollar declined in value and the exchange rate was US$1.00 = CDN$1.25. In US dollars, there would be no capital gain or loss. In Canadian dollars, however, there would be a capital gain of CDN$2,500 {($10,000 x 1.25) -($10,000 x 1)}.

Superficial loss rule

If your clients plan to repurchase a security they sold at a loss, remind them of the "superficial loss" rule that applies when property is sold for a loss and bought back within 30 days before or after the sale date. The rules apply if property is repurchased within 30 days and is still held on the 30th day by the taxpayer or an "affiliated person," including the tax-payer's spouse (or partner), a corporation controlled by the taxpayer or their spouse (or partner), or a trust of which the taxpayer or their spouse (or partner) are a majority interest beneficiary (such as an RRS P or TFSA).

Under the superficial loss rule, the capital loss will be denied and added to the adjusted cost base (tax cost) of the repurchased security. That means the benefit of the capital loss can only be obtained when the repurchased security is ultimately sold.

Transfers and swaps

How often have you wanted to tell your clients to realize an accrued capital loss for tax purposes but at the same time continue to own the underlying security? While it may be tempting to accomplish this by having the client transfer an investment with an accrued loss to her RRSP or TFSA to realize the loss without actually disposing of the investment, such a loss is specifically denied under our tax rules.

There are also harsh penalties for "swapping" an invest-ment from a non-registered account to a registered account for cash or other consideration. Toavoid these problems, you should advise your client to consider selling the investment with the accrued loss and contributing the cash from the sale into her RRSP or TFSA. Then, if the client wants, her RRSP or TFSA can buy back the investment after the 30-day super-ficial loss period.

Prescribed Rate Loans

The Canada Revenue Agency recently announced that the prescribed rate will remain at the historic low of one per cent until (at least) Dec. 31, 2015. That means if you have clients in a high tax bracket, it might be beneficial to have some invest-ment income taxed in the hands of family members (such as their spouse, common-law partner, or children) who are in a lower tax bracket by using a prescribed rate loan.

If you implement a loan before the end of the year, the one per cent interest rate will be locked in and will remain in effect for the duration of the loan, regardless of whether the prescribed rate increases in the future. Note that interest for each calendar year must be paid annually by Jan. 30 of the following year to avoid attribution of income for the year and all future years.

More information about this tax strategy can be found in my May 2015 *FORUM* column on page 24.

Retirement Considerations

Convert an RRSP to a RRIF or registered annuity by age 71 If you have clients who turned 71 in 2015, they have until Dec. 31 to make any final contributions to their RRSPs before converting them into RRIFs or registered annuities — they don't have the normal 60-day (Feb. 29, 2016) deadline this time!

In such cases, it may be beneficial for such a client to make a one-time over-contribution to an RRSP in December 2015, before conversion, if the client has earned income in 2015 that will generate RRSP contribution room for 2016. While the client will pay a penalty tax of one per cent on the over-con-tribution (above the $2,000 permitted over-contribution limit) for December, new RRSP room will open up on Jan. 1, 2016 so the penalty tax will cease in January. The client can then choose to deduct the over-contributed amount on his 2016 (or a future year's) return.

This may not be necessary, however, if the client has a younger spouse (or partner), since he can still use his contribu-tion room after 2015 to make contributions to a spousal RRSP until the end of the year his spouse (or partner) turns 71.

Help your client keep more of their RRIFs tax sheltered

The 2015 federal budget announced changes to the RRIF factors for ages 71 to 94 "to better reflect more recent long-term historical real rates of return and expected inflation." The new RRIF factors start at 5.28 per cent at age 71, rising to 18.79 per cent at age 94, with the cap remaining at 20 per cent at age 95 and older.

Your client only needs to withdraw the lower amount, based on the new RRIF factors, by year end. If they had already withdrawn more than the new minimum amount in 2015, they can re-contribute any excess (up to the old minimum amount) until Feb. 29, 2016, and the amount re-contributed will be tax deductible in 2015.

Certain Payments Must Be Made By December 31

Charitable donations

Dec. 31 is the last day to make a donation and get a tax receipt for 2015. Keep in mind that many charities offer online donations where an electronic tax receipt is generated and e-mailed instantly.

Both the federal and provincial governments offer donation tax credits that, in combination, can result in tax savings of up to 50 per cent of the value of the gift. Your client may also be able to claim the federal First-Time Donor's Super Credit (FDSC) if neither the client nor her spouse or common-law partner has claimed the donation tax credit from 2008 to 2014. The FDSC provides an additional 25 per cent tax credit on total monetary donations up to $1,000. The FDSC could be particularly helpful to recent graduates who are starting their first jobs and may have never claimed a donation credit in prior years' tax returns since the combination of the basic personal credit, tuition, education, and textbook credits were sufficient to reduce their tax payable to zero while in school.

Finally, encouraging your clients to gift publicly-traded securities, including mutual funds, with accrued capital gains to a registered charity or a foundation not only entitles them to a tax receipt for the fair market value of the security being donated, but it eliminates capital gains tax, too. Note that there is a proposal to extend this capital gains free treatment to the donation of the proceeds from the sale of real estate and private company shares, beginning in 2017.

Pay expenses by year end

Certain expenses must be paid by year end to claim a tax deduction or credit in 2015. This includes investment-related expenses, such as interest paid on money borrowed for investing and investment counselling fees for non-RRSP/RRIF accounts. Other expenses that must be paid by Dec. 31 include child-care expenses, interest on student loans, spousal support payments, and medical expenses.

While expenses must be paid by Dec. 31 to claim a tax deduction or credit in many cases, the related good or service does not always need to be acquired in the same year. This provides an opportunity to prepay certain items and claim the tax benefit currently.

For example, a tax credit can be claimed when total medical expenses exceed the lower of three per cent of net income, or $2,208, in 2015. If your client's medical expenses will be less than this minimum threshold, they may wish to prepay expenses that would otherwise be paid in 2016, such as a child's braces, so that it will raise total medical expenses over the threshold.

Prepayments can also be used for expenses that qualify for the children's fitness tax credit (now doubled to $1,000 annually per child) and the children's arts credit (up to $500 per child). For example, if your client plans to enroll their child in baseball or guitar programs for 2016, they can claim the credit(s) in 2015 if they pay for the activities by Dec. 31.