

## Superficial Loss

A superficial loss is deemed to occur when an individual sells a security to trigger a capital loss, and the identical security is then purchased by either the individual, their spouse or a corporation controlled by either, within 30 calendar days before or after the sale, **AND** that person still owns that security 30 calendar days after the sale date. In this case the loss on the sale will be considered a superficial loss and cannot be used to offset realized capital gains. This superficial loss amount is then added to the cost base of the substituted investment.

### Example:

Jesse has 100 shares of ABC Company which she purchased for a total cost of \$3,000 (cost base).

1. Jesse sells the shares on January 1<sup>st</sup> for a total of \$1,000, realizing a capital loss of \$2,000.
2. On January 20<sup>th</sup>, Jesse's partner Nicky purchases 50 shares of ABC Company (identical security) for a total cost of \$500.
3. On January 30<sup>th</sup>, Nicky still owns the shares of ABC Company.

In this case, Jesse's loss on 50 of the shares sold on January 1<sup>st</sup> is deemed a superficial loss. This loss of \$1,000 (half of the total loss of \$2,000) is added to the cost base of the shares Nicky purchased. Nicky's shares will now have a total cost base of \$1,500 (the original \$500 plus \$1,000).

Finally, recall that superficial losses also apply to purchases up to 30 days before the sale.

### Example:

Jesse purchases 100 shares of ABC Company at \$100 in September and then sells these shares for \$80 on December 10<sup>th</sup> of the same year. Jesse also purchased an additional 100 shares of ABC on December 1<sup>st</sup> (prior to the sale) for \$80.

Because the identical shares were purchased less than 30 calendar days before the sale, this is deemed to be a superficial loss.

**Note: Professional tax advice should be sought when trying to determine what constitutes an identical security, as these rules can be quite complicated.**

### Potential Strategies

To avoid the superficial loss rules, you may consider the following:

1. Simply delay the repurchase of the identical security until after the 30 calendar day waiting period. (i.e. after 31 days).
2. Ensure the purchase is made by someone other than then you, your spouse or corporation controlled by either, then the superficial loss can be avoided. Having your children, grandchildren, or siblings



acquire the security will allow you to claim the loss and avoid the superficial loss rules.

3. Purchase a similar but not “identical security” (i.e. common shares of a company in the same industry as the company whose shares were disposed of).

Having a good understanding of the superficial loss rules will help you to avoid any unpleasant surprises at tax time. As mentioned above, ensure you consult with a tax professional for more information regarding the “identical security” interpretation.

*Last Revised: January 25, 2010*

The information contained herein has been provided by TD Waterhouse Canada Inc. and is for information purposes only. The information has been drawn from sources believed to be reliable. Where such statements are based in whole or in part on information provided by third parties, they are not guaranteed to be accurate or complete. Graphs and charts are used for illustrative purposes only and do not reflect future values or future performance of any investment. The information does not provide financial, legal, tax or investment advice. Particular investment, trading or tax strategies should be evaluated relative to each individual's objectives and risk tolerance.

TD Waterhouse Canada Inc., The Toronto-Dominion Bank and its affiliates and related entities are not liable for any errors or omissions in the information or for any loss or damage suffered.

TD Waterhouse represents the products and services offered by TD Waterhouse Canada Inc. (Member – Canadian Investor Protection Fund), TD Waterhouse Private Investment Counsel Inc., TD Waterhouse Private Banking (offered by The Toronto-Dominion Bank) and TD Waterhouse Private Trust (offered by The Canada Trust Company).

®/ The TD logo and other trade-marks are the property of The Toronto-Dominion Bank or a wholly-owned subsidiary, in Canada and/or in other countries.