COALITION POUR L'ÉQUITÉ FISCALE ENVERS LES PME

Le 13 février 2018

M. Bill Morneau
Ministre des Finances
Ministère des Finances du Canada
90, rue Elgin
Ottawa (Ontario) K1A 0G5

Objet : Observations de la Coalition pour l'équité fiscale envers les PME sur les nouvelles propositions fiscales

Monsieur le Ministre,

Nous vous écrivons au nom de la **Coalition pour l'équité fiscale envers les PME**. Ensemble, nos organisations représentent des centaines de milliers d'entreprises indépendantes, de professionnels et de contribuables de tous les secteurs économiques et géographiques au pays qui emploient des millions de travailleurs. Nous souhaitons vous faire part de nos inquiétudes à l'égard des changements récemment annoncés à propos des règles sur la répartition du revenu entre les membres d'une famille et des modifications prévues des règles sur les placements passifs.

Les règles sur la répartition du revenu : un casse-tête administratif pour les entreprises

Le 1er janvier 2018, sont entrées en vigueur des règles qui restreignent la capacité des propriétaires de PME à partager les revenus de leur entreprise avec les membres de leur famille. S'il est vrai que les membres concernés de la famille ne sont pas tenus de déclarer ces revenus avant 2019, ils recevront quand même ces paiements en salaires et en dividendes tout au long de l'année, ces revenus risquant d'être imposés à des taux bien plus élevés à la suite de l'application rétroactive des nouvelles règles.

Or rappelons que le gouvernement a laissé moins de trois semaines aux chefs d'entreprise pour comprendre, interpréter et appliquer ces changements majeurs. Nombre d'experts en fiscalité sont encore en train d'étudier ces mesures sur la répartition du revenu, et ils ont un besoin urgent d'information supplémentaire pour pouvoir conseiller adéquatement leurs clients PME. Bien que nous soyons reconnaissants envers le gouvernement pour avoir essayé d'assouplir les nouvelles règles en créant certaines exemptions, notamment pour les revenus transmis par un chef d'entreprise à son conjoint de 65 ans ou plus, à notre avis, ces dernières apportent trop peu de précisions ou de repères aux chefs de PME et aux experts en fiscalité.

En outre, même avec ces modifications, nous ne croyons pas que les nouvelles règles tiennent vraiment compte de la réalité liée à la gestion d'une petite ou moyenne entreprise. Elles ne tiennent notamment pas compte de la pluralité des rôles – tant formels qu'informels – qu'un conjoint peut jouer dans la survie d'une entreprise.

Par ailleurs, les experts en fiscalité estiment que les nouvelles règles créent de nombreuses zones d'ombre qui laissent beaucoup de place à l'interprétation par l'Agence du revenu du Canada (ARC). Par exemple, nous nous inquiétons de la capacité de l'ARC à déterminer avec exactitude si la contribution d'un membre de la famille est suffisamment « importante » et répond au critère de raisonnabilité.

Pour mieux illustrer ce point, nous soumettons à votre attention, dans l'Annexe A ci–jointe, plusieurs exemples et questions techniques.

En fait, ces exemptions qui étaient censées simplifier le processus et préciser davantage les situations ciblées n'atteignent pas ces objectifs. **La Coalition recommande donc au gouvernement fédéral de reporter la mise en œuvre des changements, à tout le moins jusqu'au 1er janvier 2019.** Comme le fardeau de la preuve et de la conformité repose sur les chefs d'entreprise, ce délai laisserait au milieu des affaires le temps de bien s'informer et de mettre en place les adaptations nécessaires à leurs structures organisationnelles. Aussi, compte tenu de la difficulté de quantifier le rôle indispensable que jouent souvent les conjoints (de fait ou de droit) dans une entreprise, nous **recommandons, par ailleurs, au gouvernement d'envisager d'exempter tous les conjoints des nouvelles règles sur la répartition du revenu.**

Retarder les dispositions concernant les placements passifs

Nous comprenons que les dispositions législatives concernant les placements passifs devraient être incluses dans le budget fédéral 2018. Comme nous l'avons déjà mentionné dans notre correspondance, nous sommes heureux de constater que le gouvernement a reconnu l'importance de permettre aux sociétés privées de faire certains placements passifs (avec les revenus qui en résultent). En revanche, nous estimons que le plafond de 50 000 $ proposé pour les revenus annuels non imposables tirés des placements passifs sera insuffisant pour de nombreuses entreprises, en particulier celles qui ont des projets d'investissements majeurs, d'innovation ou d'expansion.

Alors que le gouvernement souhaite voir plus de PME sur le chemin de la croissance, ces nouvelles règles risquent d'hypothéquer la capacité de certaines d'entre elles à épargner en vue d'effectuer des investissements (comme l'achat d'un bâtiment ou d'équipement) pour améliorer leur productivité ou croître. De plus, nous pensons que, malgré la limite proposée de 50 000 $ de revenus tirés des placements passifs, la plupart des propriétaires de PME resteront confrontés aux complications administratives supplémentaires et aux coûts de conformité accrus découlant de ces nouvelles règles.

Bien que le détail des changements ne soit pas encore connu, nous comprenons qu'il pourrait y avoir des scénarios où les chefs d'entreprise se verraient imposer un fardeau fiscal exagéré (notamment des taux excédant les 70 % dans certains cas) ainsi que des obligations de suivi et de déclaration complexes telles qu'ils seront obligés de recourir aux services d'experts en fiscalité. Nous donnons dans l'Annexe B des exemples qui illustrent certaines des conséquences inattendues des changements proposés aux règles concernant les placements passifs, suivant notre interprétation actuelle.

Par conséquent, nous recommandons au gouvernement de renoncer aux règles qu'il compte instaurer concernant les placements passifs en attendant qu'une analyse exhaustive de leurs impacts économiques ait été effectuée et qu'une formule permettant d'exclure tout effet secondaire indésirable ait été mise au point.

Conclusion et recommandations

Compte tenu de la complexité des propositions mises de l'avant, nous sommes toujours d'avis qu'une analyse et une consultation plus approfondies s'imposent pour bien comprendre leur incidence sur les PME. Nous restons disposés à travailler avec le gouvernement afin de trouver des solutions qui ne nuiront pas à la croissance et à la prospérité des petites entreprises. Par conséquent, nous **recommandons** ce qui suit :

1. Effectuer immédiatement une analyse des impacts économiques des modifications fiscales proposées et attendre que cette analyse soit terminée pour mettre en œuvre tout changement.
2. Au sujet de la **répartition du revenu** :
   - Repousser l'application des modifications concernant la répartition du revenu au moins jusqu'au 1er janvier 2019.
   - Au minimum, exempter de l'application des nouvelles règles les dividendes et les revenus versés aux conjoints des chefs d'entreprise.
3. Au sujet des **placements passifs** :
   - Ne pas adopter les règles proposées.
4. Entreprendre une révision complète du système canadien de l'impôt sur le revenu.

Enfin, afin d'attester encore davantage de la pertinence de nos recommandations, nous vous renvoyons au récent rapport du Comité sénatorial des finances, composé de sénateurs de tous les partis et de membres indépendants nommés récemment.

N'hésitez pas à contacter l'un des groupes ou l'une des associations soussignées pour toute question ou information.

Demeurant engagés à collaborer avec vous à l'avancement de ce dossier, nous vous prions d'agréer, Monsieur le Ministre, l'expression de notre plus haute considération.

P.-S. : Vous trouverez les Annexes A et B ci-dessous (en anglais seulement).

Greg Pollock
Président et chef de la direction, Advocis Association des conseillers en finances du Canada

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The Financial Advisors Association of Canada

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Président
Agricultural Manufacturers of Canada

AMC Agricultural Manufacturers of Canada

Andy Brooks
Chef de la direction, Alberta Roadbuilders & Heavy Construction Association

arhca
alberta roadbuilders & heavy construction association

1 000 membr

Luc Bélanger
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APCHQ
Association des professionnels de la construction et de l'habitation du Québec

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Association québécoise des pharmaciens propriétaires

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British Columbia Real Estate Association

John Reid
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Association dentaire canadienne

CANADIAN DENTAL ASSOCIATION
ASSOCIATION DENTAIRE CANADIENNE

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Fédération canadienne de l'entreprise indépendente

FCEI
FÉDÉRATION CANADIENNE DE L'ENTREPRISE INDÉPENDANTE

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Canadian Federation of Apartment Associations
Fédération canadienne des associations de propriétaires immobiliers

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Président et chef de la direction, Canadian Franchise Association

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Kevin Lee
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Canadian Home Builders' Association
Association canadienne des constructeurs d'habitations

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Institut canadien de la construction en acier

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Directrice exécutive,
Association des courtiers hypothécaires du Canada

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Glen Doucet
Chef de la direction par interim
Association des pharmaciens du Canada

John Ross
Directeur exécutif,
Conseil canadien du porc

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Gary Simonsen
Chef de la direction,
Association canadienne de l'immeuble

122 000 courtiers immobiliers

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Directeur exécutif,
Association canadienne des entrepreneurs en couverture

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Directeur,
Fédération canadienne
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Président,
Association canadienne
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Directeur exécutif,
Canadian Water Quality
Coalition

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Sean Hu
Directeur exécutif,
Chinese Business
Chamber of Canada

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James Swan, MD, FRCPC
Coalition of Ontario
Doctors

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Guy Legault
Président,
Conference for Advanced
Life Underwriting

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Léopold Turgeon
Président – directeur
général
Conseil québecois du
commerce de détail

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Président-directeur
général
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50 000 entreprises

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Fédération des courtiers
en fonds mutuels

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Président du conseil d'administration,
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Jeff Nielsen
Président,
Les Producteurs de grains du Canada

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Iain J.S. Black
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Richard McKeagan
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Président,
Association des radiologistes de l'Ontario

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Président,
Ontario Medical Association

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Ettore Cardarelli
Président,
Ontario Real Estate Association

Tony Elenis
Président et chef de la direction,
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11 000 membres

Doug Bedard, Président du conseil d'administration

Georgina Blanas,
Directrice exécutive
Private Capital Markets Association of Canada

500 membres

Sean Reid
Vice-président
Progressive Contractors Association of Canada

180 membres

Grace Sammut
Directrice exécutive,
Resorts of Ontario

Shanna Munro
Présidente et chef de la direction
Restaurants Canada

30 000 membres

Diane J. Brisebois
Présidente et chef de la direction
Conseil canadien du commerce de détail

45 000 membres

Shane Jahnke
Saskatchewan Stock Growers Association

600 membres

Levi Wood
Président, Western Canadian Wheat Growers Association

John Schmeiser
Chef de la direction
Western Equipment Dealers Association

800 membres

c. c. M. Peter Julian, député néo-démocrate de New Westminster-Burnaby, porte-parole en matière de finances
M. Percy Mockler, sénateur et président du Comité sénatorial permanent des finances nationales
M. Pierre Poilievre, député conservateur de Carleton, porte-parole en matière de finances dans le cabinet fantôme du chef du Parti conservateur du Canada et ministre responsable de la Commission de la capitale nationale
M. Wayne Easter, député libéral de Malpeque, président du Comité permanent des finances
Le très honorable Justin Trudeau, premier ministre du Canada

Income Splitting:

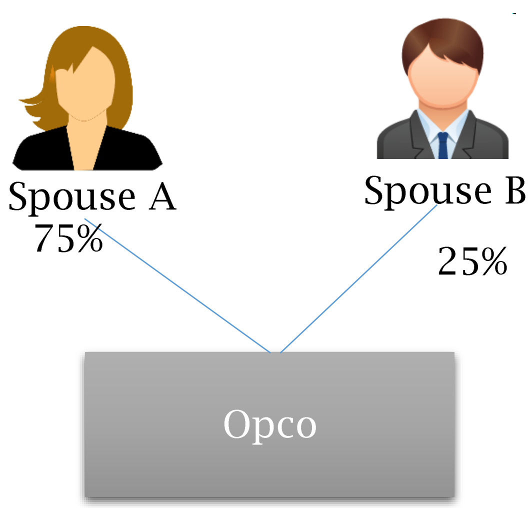
<u>Example – "Excluded Share" exclusion not available to common structures</u>

<u>Facts</u>

- Business is a start-up manufacturing company
- Spouse A is the primary business operator

Spouse B has many informal roles in the business, however, does not meet 20 hours per week bright line test for "excluded business" carve out.

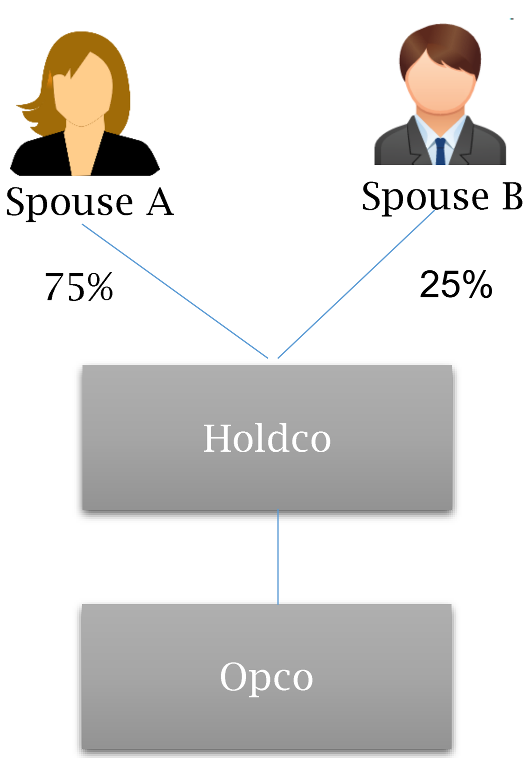
<u>Scenario – Direct Ownership</u>



The shares owned by spouse B meet the definition of "Excluded Shares." The company does not derive more than 90% of its business income from the provision of services, and the shares owned by Spouse B give him more than 10% of the votes that can be cast, and represent greater than 10% of the fair market value of the company. All or substantially all of the income of the corporation is not from a related business.

Conclusion: New income sprinkling rules do not apply. Dividends can be paid to Spouse B.

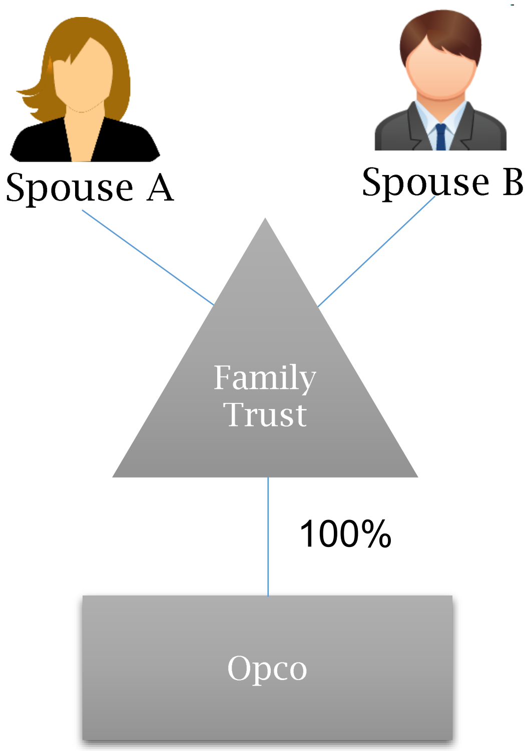
<u>Scenario 2 – Ownership through a holding company</u>



The economic interests are exactly the same as in Scenario 1. However all or substantially all of the income of Holdco is income derived from a related business, Opco. Therefore the shares owned by Spouse B <u>are not</u> excluded shares.

Conclusion: New income sprinkling rules apply. Dividends paid to Spouse B are subject to Tax on Split Income at the highest marginal tax rate.

Scenario – Ownership through a Trust



The economic interests are exactly the same as in Scenario 1. However, the shares are owned by a trust, not by the specified individual (Spouse B). Therefore, the shares of Opco are not excluded shares

Conclusion: New income sprinkling rules apply. Dividends paid to Spouse B through the trust are subject to Tax on Split Income at the highest marginal tax rate.

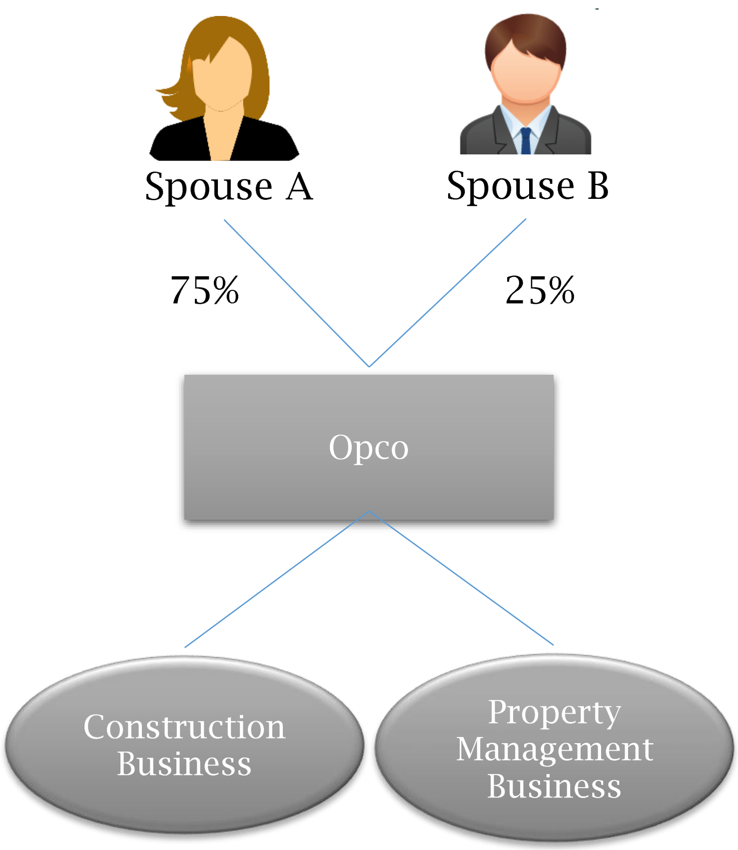
Conclusion: Three common structures that exist for both tax and non-tax reasons (i.e. creditor protection, estate planning, etc.) have vastly different results. Any level of complexity introduced to the structure will result in the Exclusions provided for in the legislation not being available to specified individuals.

<u>Example – Excluded Business – Application to Multiple Businesses</u>

<u>Facts</u>

- Spouse A founded and operates a construction business and a property management business.
- Both businesses are operated through a single corporate entity (Opco)
- Spouse B works 25 hours per week as a property manager

<u>Scenario</u>



The "Excluded Business" definition states that where Spouse B works at least 20 hours per week in <u>the business</u>. In this case, Spouse B works 25 hours in the property management business, but not the construction business. Do we now have to trace the flow of funds from the property management business to Spouse B to ensure they are "excluded amounts"?

Conclusion: New income sprinkling introduce significant administrative complexity that may not be possible to manage in ordinary business settings. It may be impossible to trace source of funds that Spouse B receives as dividends. If this isn't possible, dividends to Spouse B will be subject to the Tax on Split Income.

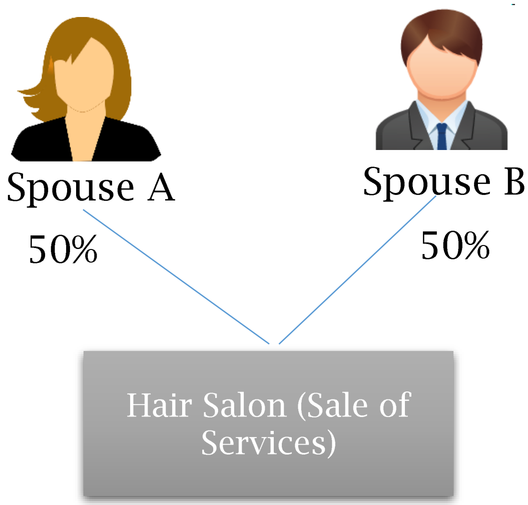
COALITION POUR L'ÉQUITÉ FISCALE ENVERS LES PME – ANNEXE A

<u>Example – Excluded Shares – Bias against Services Businesses</u>

Consider the following situation

1) Two families start new businesses at the same time
2) Family 1 starts a hair salon. Spouse A is active in the business, Spouse B is not.
3) Family 2 starts a Pizzeria. Spouse A is active in the business, Spouse B is not.

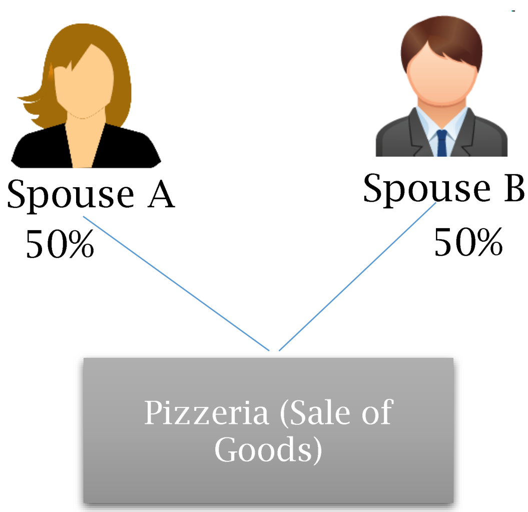
<u>Business 1 – Hair Salon</u>



The company derives more than 90% of its business income from the provision of services. Therefore, the shares <u>do not</u> meet the definition of "Excluded Shares"

Conclusion: New income sprinkling rules apply. Dividends paid to Spouse B are subject to Tax on Split Income.

<u>Business 2 – Pizzeria</u>



The company does not derive more than 90% of its business income from the provision of services. Therefore, the shares <u>do</u> meet the definition of "Excluded Shares"

Conclusion: New income sprinkling rules do not apply. Dividends can be paid to Spouse B.

Conclusion: Significantly different results are applicable to two similar small businesses. Given that 78% of Canadian small businesses are in the service sector, it is unclear why this exclusion should not be available to services businesses.

Examples provided by: MNP LLP

The proposals provide an exclusion for amounts earned by an individual (over the age of 17), in respect of a property, where the amounts are derived directly or indirectly from an "excluded business". To qualify for this exclusion, the individual must be actively engaged on a regular, continuous and substantial basis in the activities of this business, either in the current year or in any five prior years. To assist in determining whether this exclusion applies, a bright–line test has been proposed, whereby an individual is considered to be actively engaged in the business if they work at least an average of 20 hours per week in the business during the portion of the year in which the business operates. This will address situations where an individual is not currently working in the business, but did so previously on a basis that meets the bright–line test. However, there is a significant concern about how to prove sufficient hours were worked in the five prior years – in particular, if these five prior years took place a number of years ago. The CRA's guidance indicates that records such as timesheets, logbooks, schedules and payroll records will be sufficient to establish the number of hours. However, in many family run businesses, family members will not record specific hours worked. Or, if they did have such records, they may not have retained them if it was a number of years ago. As a result, providing records to satisfy this test could be a very onerous or even an impossible task for taxpayers, raising concerns of whether they can rely on this exclusion in situations where TOSI should not apply.

The proposals provide an alternate exclusion for an amount included in the income of an individual (over the age of 24), in respect of a property, where the amount is income from, or a taxable capital gain from the disposition of, "excluded shares". One condition that must be met for shares of a corporation to qualify as excluded shares is that less than 90% of the business income of the corporation was from the provision of services. Concerns have been raised as to why service companies have been targeted so broadly in the definition of excluded shares. There appears to be an inequity as to why a manufacturing business would likely meet this particular condition, while a business providing housecleaning services or IT consulting services would not? In addition, many businesses may be providing a combination of products and services. Therefore, in order to meet this condition, additional compliance for businesses would be needed in terms of keeping records to distinguish what income is and is not from the provision of services. In fact, this will likely also require a subjective analysis of the business income of the corporation, which introduces uncertainty into applying the tax rules appropriately.

Examples provided by: BDO Canada

Who Has the Advantage? - $150,000 - Updated

In the July 18 proposals, the federal government compared a self-employed business owner to a salaried employee making the same income. However, the federal government only looked at the taxes paid at the personal level at a point in time and ignored other benefits the employee receives that business owners must pay for themselves in addition to their income. These additional expenses are material.

Instead of focusing on the impact of proposed rules on taxes paid at a point time, let's look at the outcomes of the proposed rules throughout the business owner's lifetime.

Situation

Alex is an incorporated dentist. His neighbour, Kendra, is an employee. Today is the first day for each of them in their new jobs. They are both 35 years of age, live with their spouses. Up to this point they have no savings as they have been paying off school and other debt. They both plan on working for 30 years until they reach age 65.

Kendra earns a $150,000 salary, indexed 2% per year. She is a member of a defined contribution pension plan where the she contributes 5% and her employer contributes 5%. She will also receive employee benefits including group disability and life insurance, as well as medical and dental coverage. She shares the cost of these 50/50 with her employer. The cost of these benefits to her employer is $5,000.

Alex owns the voting shares in the company and the common shares are owned by a family trust. His spouse and a holding company are the beneficiaries. The earnings of Alex's company are $150,000, indexed at 2%, and before taxes. He has no pension plan and from the $150,000 he pays $5,000 towards the same benefits Kendra would receive from her employer. Alex will take a dividend from his corporation to support his family's lifestyle and the remainder will accumulate inside his corporation until there is $1,000,000 of passive investments. At age 55 the passive investments inside the corporation reach $1,000,000. At this time he will take 100% of his income in the form of salary and pay out enough dividends from his corporation in order to keep the passive investments from exceeding $1,000,000. He will start making contributions to CPP and maximize RRSP contributions and any remaining savings will go into his TFSA.

Kendra will elect to receive her CPP at retirement and it will be 75% of the maximum amount, indexed 2%, which she will split with her spouse. Alex will elect to receive his CPP at retirement as well and it will be 25% of the maximum amount, indexed at 2%, which he will split with his spouse. The CPP percentage is much lower because Alex chose to take dividends from his corporation as compensation throughout most of his working years. Alex will also be able to split with his spouse any dividends paid from his company once Alex reaches age 65.

Kendra had her financial advisor prepare a financial plan based on the above assumptions. Investment assumptions are 7.5% for equities and 3.5% for fixed income with an asset allocation of approximately 60% equity, 40% fixed income. The plan has determined that she can afford a $87,000 lifestyle indexed at 2% until death. For comparative purposes, it is assumed that Alex will have the same $87,000 lifestyle indexed at 2% until death.

Annual Savings

The chart below shows what will be contributed (saved) in their respective retirement/savings vehicles until retirement. In Alex's situation, at age 56, savings will need to be removed from the passive investments inside the company to ensure the $50,000 of investment income is not exceeded. This is shown as a negative deposit under the Corporate column. This amount is paid as a dividend to Alex and taxed. The after-tax amount is then reinvested in a TFSA and non-registered investments.

Annual Savings from Age 35 to 64

Equities - 7.5%
Fixed Income - 3.5%

	Business Owner (Proposed Rules)					Salaried Employee								
						Employee Pays					Employer Pays			Combined
Age	CPP	RRSP	TFSA	Corporate	Total	CPP	DC Pension	RRSP	TFSA	Total	CPP	DC Pension	Total	Total
35				20,542	20,542	2,544	7,500	11,760	2,115	23,919	2,544	7,500	10,044	33,963
36				21,677	21,677	2,595	7,650	12,000	2,154	24,399	2,595	7,650	10,245	34,644
37				21,528	21,528	2,647	7,803	12,240	2,197	24,887	2,647	7,803	10,450	35,337
38				22,406	22,406	2,700	7,959	12,485	2,241	25,385	2,700	7,959	10,659	36,044
39				23,148	23,148	2,754	8,118	12,734	2,286	25,892	2,754	8,118	10,872	36,764
40				23,797	23,797	2,809	8,281	12,989	2,332	26,411	2,809	8,281	11,090	37,501
41				24,502	24,502	2,865	8,446	13,249	2,379	26,939	2,865	8,446	11,311	38,250
42				25,231	25,231	2,923	8,615	13,514	2,426	27,478	2,923	8,615	11,538	39,016
43				25,986	25,986	2,981	8,787	13,784	2,475	28,027	2,981	8,787	11,768	39,795
44				26,769	26,769	3,041	8,963	14,060	2,524	28,588	3,041	8,963	12,004	40,592
45				27,583	27,583	3,101	9,142	14,341	2,575	29,159	3,101	9,142	12,243	41,402
46				28,428	28,428	3,164	9,325	14,628	2,626	29,743	3,164	9,325	12,489	42,232
47				29,305	29,305	3,227	9,512	14,920	2,679	30,338	3,227	9,512	12,739	43,077
48				30,217	30,217	3,291	9,702	15,219	2,732	30,944	3,291	9,702	12,993	43,937
49				31,165	31,165	3,357	9,896	15,523	2,787	31,563	3,357	9,896	13,253	44,816
50				32,150	32,150	3,424	10,094	15,834	2,843	32,195	3,424	10,094	13,518	45,713
51				33,175	33,175	3,493	10,296	16,150	2,899	32,838	3,493	10,296	13,789	46,627
52				34,241	34,241	3,563	10,502	16,473	2,957	33,495	3,563	10,502	14,065	47,560
53				35,352	35,352	3,634	10,712	16,803	3,017	34,166	3,634	10,712	14,346	48,512
54				36,508	36,508	3,707	10,926	17,139	3,077	34,849	3,707	10,926	14,633	49,482
55	7,562		12,789		20,351	3,781	11,145	17,482	3,138	35,546	3,781	11,145	14,926	50,472
56	7,712	38,084	11,395	(20,000)	37,191	3,856	11,367	17,831	3,201	36,255	3,856	11,367	15,223	51,478
57	7,866	38,845	33,212	(57,000)	22,923	3,933	11,595	18,188	3,265	36,981	3,933	11,595	15,528	52,509
58	8,024	39,622	33,343	(57,000)	23,989	4,012	11,827	18,552	3,331	37,722	4,012	11,827	15,839	53,561
59	8,184	40,415	30,872	(53,010)	26,461	4,092	12,063	18,923	3,397	38,475	4,092	12,063	16,155	54,630
60	8,348	41,223	28,547	(49,299)	28,819	4,174	12,305	19,301	3,465	39,245	4,174	12,305	16,479	55,724
61	8,516	42,048	26,272	(45,848)	30,988	4,258	12,551	19,687	3,534	40,030	4,258	12,551	16,809	56,839
62	8,686	42,889	29,094	(50,000)	30,669	4,343	12,802	20,081	3,605	40,831	4,343	12,802	17,145	57,976
63	8,860	43,746	29,053	(50,000)	31,659	4,430	13,058	20,483	3,677	41,648	4,430	13,058	17,488	59,136
64	9,036	44,621	28,990	(50,000)	32,647	4,518	13,319	20,892	3,751	42,480	4,518	13,319	17,837	60,317
Total Deposits					839,407					970,428			407,478	1,377,906

Savings Assets

The chart below shows the balances of the various retirement/savings vehicles throughout their lifetimes. Even though CPP is not liquid, the income stream has been

valued and shown as an asset to ensure a fair comparison. In Alex's situation, the balance of the corporate account balance is maxed out around $1,000,000. This is to approximate the $50,000 passive income limit announced by Minister Morneau.

Comparing Business Owner (Proposed Rules) to Salaried Employee

Equities - 7.5%
Fixed Income - 3.5%

Salaried Employee

Age	Savings (Assets) - Owner (Proposed Rules)					Savings(Assets) - Salaried				
	RRSP	CPP^	TFSA	Corporate	Total	DC Pension	CPP^	RRSP	TFSA	Total
35				21,651	21,651	15,885	5,388	12,454	2,240	35,967
36				45,371	45,371	33,025	11,202	25,897	4,653	74,777
37				70,505	70,505	51,500	17,470	40,387	7,255	116,612
38				97,754	97,754	71,396	24,219	55,991	10,056	161,662
39				127,158	127,158	92,803	31,481	72,780	13,071	210,135
40				158,785	158,785	115,816	39,288	90,830	16,311	262,245
41				192,795	192,795	140,539	47,674	110,219	19,792	318,224
42				229,339	229,339	167,077	56,677	131,034	23,529	378,317
43				268,578	268,578	195,547	66,335	153,362	27,538	442,782
44				310,681	310,681	226,068	76,690	177,300	31,836	511,894
45				355,831	355,831	258,770	87,782	202,948	36,441	585,941
46				404,220	404,220	293,788	99,663	230,413	41,372	665,236
47				456,052	456,052	331,268	112,378	259,808	46,650	750,104
48				511,542	511,542	371,361	125,978	291,253	52,295	840,887
49				570,921	570,921	414,232	140,521	324,876	58,332	937,961
50				634,430	634,430	460,050	156,064	360,812	64,784	1,041,710
51				702,329	702,329	509,000	172,670	399,203	71,676	1,152,549
52				774,889	774,889	561,274	190,404	440,202	79,037	1,270,917
53				852,403	852,403	617,077	209,334	483,968	86,895	1,397,274
54				935,176	935,176	676,626	229,537	530,672	95,280	1,532,115
55		8,008	12,789	977,397	998,194	740,151	251,087	580,495	104,225	1,675,958
56	40,331	16,648	24,939	999,819	1,081,737	807,896	274,069	633,628	113,765	1,829,358
57	83,848	25,960	59,623	999,680	1,169,111	880,120	298,569	690,273	123,935	1,992,897
58	130,755	35,989	96,484	998,880	1,262,108	957,096	324,682	750,645	134,774	2,167,197
59	181,268	46,779	133,048	996,381	1,357,476	1,039,115	352,505	814,972	146,323	2,352,915
60	235,619	58,380	169,445	996,284	1,459,728	1,126,484	382,143	883,496	158,625	2,550,748
65	573,968	129,386	228,307	995,334	1,926,995	1,566,086	492,527	1,250,843	188,818	3,498,274
70	615,484	100,549		946,264	1,662,297	1,679,363	382,755	1,341,318	164,712	3,568,148
75	626,803	73,742		416,151	1,116,696	1,710,247	280,710	1,365,986	203,440	3,560,383
80	402,715	48,822			451,537	1,670,872	185,849	1,334,537	279,492	3,470,750
85		25,657			25,657	1,530,962	97,665	1,222,789	406,796	3,258,212
90		4,122			4,122	1,245,775	15,689	995,009	607,475	2,863,948

^ Value of CPP is included as a savings asset, even though it is not liquid. During the employment years, this is valued by taking the employer and employee deposits and investing 60% in equities at 7.5% and 40% in fixed income at 3.5%. During retirement, the value of the CPP equals the present value of the future CPP payments to age 90 using a 3.5% discount rate.

Conclusion

- We determined that Kendra has the following advantages over Alex:
  - Kendra is able to save $538,000 more than Alex.
  - Kendra's employer contributed $407,000 of this excess over and above the salary Kendra received.
  - All of Kendra's savings are in tax-preferred vehicles, thus decreasing her taxes during her employment years
  - Kendra will have almost $1,571,000 more capital at retirement
  - If Alex maintains the same lifestyle as Kendra, his capital will be gone at age 82.
  - Kendra will have $2.8 million before taxes to share with her family at death at age 90. Alex will have nothing.

As mentioned earlier, **the federal government has ignored the additional benefits employees receive from their employer over and above their salary**. The above analysis includes the entitlements that Kendra will receive, as an employee,

- Employer's pension contribution up to $7,500
- Employer CPP contributions $2,600
- Employee benefits premiums of $5,000

However, the analysis does not include other entitlements that Kendra will also receive as an employee,

- Employer EI contributions $1,170
- Vacation, 3 weeks (worth) $8,600
- 10 statutory holidays (worth) $4,100
- Up to 15 sick days per year (worth) $6,150

The dollar value of these above items could top $20,000 per year. Even if the number is less than $20,000, the reality is once Alex has to fund these benefits for him and his family, the ultimate future retirement benefits will be dramatically lower than already shown above.

The above in-depth analysis clearly shows that the salaried employee has the advantage over the business owner under the proposed rules. An obvious question is did the business owner have an advantage over the salaried employee under the current rules?

Comparing Outcomes of Current Rules and Proposed Rules for the Business Owner to the Salaried Employee

	Current Rules*	Proposed Rules^	Salaried Employee
Annual Savings from age 35 - 64	1,336,000	839,000	1,377,000
Savings Assets at Retirement (Age 65)	2,938,000	1,927,000	3,498,000
Age Capital is Depleted	n/a	Age 82	n/a
Savings Assets at Death (Age 90)	1,751,000	-	2,864,000

* Income split with spouse and no limit on amount of passive investments inside corporation
^ Only split income with spouse starting at age 65 and limit passive investments to $1 million inside the corporation

If you compare the numbers under the Current Rules to the Salaried Employee in the chart above, the business owner is still worse off.

Then **why** does the federal government feel they need to make these changes?

They made their decision based on incomplete analysis. The federal government only looked at the taxes paid at the personal level at a point in time and ignored other benefits the employee receives that business owners must pay for themselves in addition to their income. These additional expenses are clearly material, as our analysis has shown. If they had done a complete analysis, all of this could have been avoided.

Owens MacFadyen Group specializes in wealth management, employee benefits consulting and insurance planning. A large part of the work we do is comprehensive wealth management and that includes building financial plans for our clients. As part of building these plans, we spend a lot of time modelling options for our clients, including the issues that make up the topic of this paper. Our clients are made up of business owners, professionals and executives.

We have offices located in Halifax, Moncton, Saint John and a recently opened office in downtown Toronto. We would not have been able to open up our Toronto office if these restrictions were in place in prior years.