

## Taxes: Opposition to changes

Finance Canada's proposals could have a big impact

By Rudy Mezzetta | October 2017

Investment industry organizations are working feverishly behind the scenes - surveying members, speaking with federal government officials and preparing submissions - to persuade Ottawa to reconsider what members of the industry believe are deeply flawed proposals to change the way in which private corporations are taxed.

"These proposals, the way they've been written, will have unintended impacts on the overall economy, on potential job creation, on innovation and risk-taking, and even on philanthropy," says Guy Legault, president of the Conference for Advanced Life Underwriting (CALU) in Toronto.

Adds Susan Allemang, head of regulatory and policy affairs with the Independent Financial Brokers of Canada (IFB) in Mississauga, Ont.: "We would like for them to back off [on the proposed changes] and let us all work toward something that will resolve the issues that [the government] is concerned about while not suffocating the small-business person or entrepreneur who has set up [tax planning] in good faith under the existing rules."

In July, the Department of Finance Canada released a consultation paper on the use of certain tax-planning strategies involving private corporations: the "sprinkling" of income among family members; the retention of passive income; and the conversion of a private corporation's income into capital gains. Finance Canada's paper argues that these strategies provide wealthy Canadians access to unfair tax advantages. Stakeholders had to submit their submissions by Oct. 2.

Since then, investment industry groups have spoken out against the proposals, arguing that the government's approach unfairly targets small-business people and entrepreneurs, many of whom would qualify more as middle-class than wealthy.

These industry groups claim that small-business owners take risks to start up ventures without access to safety nets, such as employment insurance (EI), that are available to employees and that the sector already faces the prospect of higher costs associated with increasing regulation and higher EI and Canada Pension Plan premiums.

CALU, the IFB, the Institute of Advanced Financial Planners, the Chartered Professional Accountants of Canada, the Canadian chapter of the Society of Trust and Estate Practitioners (a.k.a. STEP Canada) and the national body of the Canadian Mortgage Brokers Association, among others, stated they were preparing submissions.

In late August, 35 associations representing a wide range of industries (including several unrelated to the investment industry) formed the Coalition for Small Business Tax Fairness. That group sent a letter to federal Finance Minister Bill Morneau asking him to shelve the proposed tax changes in favour of consultation on addressing any perceived shortcomings in the tax laws involving private corporations. By mid-September, the coalition's membership had swelled to include more than 60 associations.

One of the coalition's members is the Mississauga, Ont.-based Canadian Institute of Financial Planners (CIFPs). The position of the CIFPs is that the proposals raise uncertainty for its financial

planner members, some of whom are incorporated, but, more important, for its members' clients, many of whom are entrepreneurs.

"In general, this is a retirement issue," says Keith Costello, president and CEO of the CIFPs, referring to Finance Canada's targeting of the rules regarding the retention of passive income. "Small-business owners have worked with their [financial] planners to create long-term retirement strategies within the [current] rules. Taking them away now, changing the retirement planning structure midway through after [planning] for years, is going to create some big problems for small-business owners. They don't have access to company pensions or to defined-benefit pension plans like civil servants do."

Morneau's office contacted the CIFPs directly to discuss the group's concerns. "We appreciate that," says Costello, who adds that the group hasn't yet decided to make a submission of its own.

Finance Canada also has contacted the IFB directly to discuss that group's concerns, Allemang says. The group intends to speak with Finance Canada about the possible effect that the proposed changes will have on its membership, who, concurrently, also are contending with the prospect of a ban on embedded commissions and trailer fees, she adds: "This is a double whammy" for members who sell investment funds and are incorporated.

According to Ian Russell, president and CEO of the Toronto-based Investment Industry Association of Canada (IIAC), the proposed tax changes have the potential to be "damaging to small-business financing, capital formation and job creation," particularly as they relate to the tax treatment of passive investments in a private corporation. The effective tax increases associated with the new rules "run counter to government efforts to promote small-business growth and development."

The IIAC doesn't intend to make a submission to Finance Canada, but has been working in conjunction with STEP Canada's committees, a collaboration that produced six case studies regarding how the proposed tax changes may have negative, unintended consequences for small businesses. The IIAC will support STEP Canada's submission.

The Toronto-based Canadian Federation of Independent Business (CFIB) states it has had discussions with Finance Canada officials in recent weeks as the group prepares its submission. Among other issues, CFIB members are concerned about the added compliance burden associated with Finance Canada's proposals, such as the introduction of a "reasonableness test" for determining the tax treatment of certain amounts received by family members from a private corporation.

"[That requirement] adds a level of complexity and paperwork," says Corinne Pohlmann, senior vice president of national affairs and partnerships with the CFIB. "We already know that red tape is right below total tax burden as the biggest issue for small businesses in terms of what they have to deal with on a day-to-day basis."

Investment industry associations state they will continue to survey their members and provide them with information and updates. They are also encouraging members to contact their local members of Parliament.

"Ultimately, what we're saying is 'Let's just slow this thing down'," says Greg Pollock, president and CEO of the Toronto-based Financial Advisors Association of Canada (a.k.a. Advocis), which is a member of the coalition. "Let's take these proposals off the table and have a broader, longer, deeper conversation [about the taxation of private corporations]."