

Government Backtracks on Certain Income Tax Proposals Impacting Private Corporations and their Shareholders

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By Ryan Morris

On October 16, 2017, the Federal Government announced its intention to lower the small business tax rate from 10.5% to 10 per cent, effective January 1, 2018, and to 9 per cent, effective January 1, 2019. It also announced it will “simplify” the proposed dividend sprinkling rules and that they will not be moving forward with proposed measures to limit access to the Lifetime Capital Gains Exemption (the “[Announcement](#)”). See our a prior [Client Alert](#) for a summary of the original proposals.

Under the original dividend sprinkling proposals, dividends would be taxed at the highest marginal tax where (i) they are received by an individual, (ii) they are derived from a business of a related individual (including through a corporation of which the related individual can exert influence), and (iii) the amount of the dividend is unreasonable having regard to such circumstances as the dividend recipient’s labour and capital contributions to the business. The Announcement indicates that the reasonable test will take into account any assumption of financial risk of the business (such as co-signing of a loan or other debt), as well as past contributions of labour and capital and prior assumptions of risk.

However, the Announcement is short on details as to how the dividend sprinkling rules will be simplified. The Government indicates that the rules will be effective after this year, and that it will be releasing revised draft legislative proposals outlining the proposed changes.

The Announcement did not provide any update on the anti-surplus stripping proposals or the proposals to remove the deferral advantage associated with a corporation using active business income to make passive investments. The Government indicated that it will be making further announcements in the coming days.

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The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should

seek professional advice.

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