

October 2, 2017

Attention: The Honourable Bill Morneau, P.C., M.P.
Minister of Finance
Department of Finance, Canada
House of Commons
Ottawa ON K1A 0A6

Doug Hartkorn, Partner
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Dear Honourable Finance Minister Morneau:

I am a CPA, CA and have been a tax practitioner since 1981. The negative reactions to the Federal government's July 18, 2017 tax proposals especially with respect to private corporations reminds me of the backlash to Finance Minister Allan MacEachern's 1981 budget when I first commenced my tax career.

My point is that history has shown that tax reform is a complex matter and there is no quick fix.

As well, it is important on many levels that taxpayers feel that they have been dealt with fairly and not burdened with an unduly complicated tax system.

I thank you for considering my views which I have shared by way of the attached open letter with clients, colleagues, and friends which speaks more towards tax policy and the process to achieve tax reform.

Yours very truly,

Shimmerman Penn LLP



Doug Hartkorn, CPA, CA

Tax Reform 2017 – Not a Good Start

By now, most Canadians are aware that a tax revolt is happening in our “fair” country because of the introduction on July 18, 2017 by federal Finance Minister Bill Morneau of both draft legislation and a consultation paper (i.e. tax proposal documents) which in its entirety, will fundamentally change the taxation of private corporations, their shareholders and family members.

As a tax practitioner, I have reviewed the draft legislation and tax proposal documents, have read the many comments made by both supporters and opponents, participated in various webinars and most recently watched the live broadcast of the Finance Minister at his Oakville townhall meeting.

The tax proposals are not tweaks to our tax system nor are they aimed solely at the so-called rich. As a matter of fact, simply taxing the rich because they are rich does not make good tax policy and history has shown that such policies always fail in the end.

The tax proposals deal with complex matters and, as evidenced by all the comments and criticisms being levied, these proposals will have far reaching effects well beyond what the federal government considered.

It did not help matters that from the outset both Prime Minister Trudeau and the Finance Minister made statements that were not entirely accurate and arguably disingenuous. Thankfully, it has been made clear of late that owners of private companies are not tax cheaters nor have they taken advantage of any tax loopholes but more precisely, have followed the tax rules laid out in the Income Tax Act.

It is beyond the scope of this open letter, to deal with the “gaps” within the draft legislation and the volume of concerns and issues raised out of the consultation paper on the taxation of passive investments made by Canadian controlled private corporations. I will leave that task to the able members of the Joint Tax Committee of CPA Canada and the Canadian Bar Association. Frankly, I will be shocked if their submission is under 50 pages.

From a tax policy perspective, I concur with many of the comments and suggestions made by Allan Lanthier, a former chairman of the Canadian Tax Foundation, in his August submission to the Finance Minister and in his September 7th article in the Financial Post. Some of Mr. Lanthier’s suggestions include replacing the small business rate deduction with targeted measures to help businesses succeed which by the way would also eliminate the need to differentiate dividends between eligible and ineligible tax treatment, extending the current “kiddie tax” to adult family members between ages 18-24 as opposed to increasing its scope and complexity, and abandoning the proposal to levy a 50 percent tax on investment income earned by private corporations where their passive investments have been made from after-tax corporate business profits. Simply put, the passive income proposal would be unduly complicated and arguably unfair.

Overall, many aspects of the draft legislation introduce too much complexity and will only increase the level of tax disputes which is both costly and unfair.

At the recent Oakville townhall meeting, the Finance Minister said that the government studied the matter for 1 year before introducing the tax proposals on July 18th. It speaks volumes that the federal government could only introduce a “proposal document” with respect to the taxation of passive investments made by private operating businesses and draft legislation for other specific changes which politely itself is in need of some “tweaking”.

Yet the federal government believes a 75-day consultation period ending on October 2nd is sufficient time to properly address the tax proposals?

The actions of the federal government suggest that it was unequivocally mandated to reform our tax system, that the system is seriously flawed and most of the new tax measures need to be in place effective the start of 2018. With all due respect, our tax system was last reformed in 1972 after 10 years of careful studies and a major undertaking by a Royal Commission.

Every Canadian taxpayer should be concerned about the federal government’s tax proposals and more importantly, about the process and pace at which the government is seeking to make changes.

The October 2nd deadline has arrived to make submissions to the Department of Finance on the new tax proposals, however, there is no deadline for Canadians to stand up and make their voices heard about their concerns over the tax proposals.

If anything is to be accomplished before the start of 2018, the federal government must be convinced to defer many of the tax proposals for further careful study, make a genuine effort to avoid undue complexity and to truly strive for fairness for all taxpayers in the course of improving our tax system.