

CANADIAN FAQ FOR THE TAX SAVVY

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TAX ON SPLIT INCOME

Tax Question:

What are the new Tax On Split Income Rules (TOSI)?

Facts:

On December 13th, 2017, the Canadian government released the draft legislation for the new tax rules on tax on split income. **Under these new rules, all split income is taxed at the highest personal rate unless you meet one of the TOSI exclusions.**

Discussion:

As proposed in July 2017, the new tax rules limit the ability to save taxes by splitting income amongst family members. Effective for the 2018 calendar year, all split income is now subject to TOSI rules and can be taxed at the highest personal rate unless you meet one of the TOSI exclusions.



Excluded Business

To be excluded from TOSI rules under this option, all the individuals receiving dividends must be actively engaged on a regular, continuous and substantial bases in either:

- the current year
- or in five of the previous years.

Excluded Shares

To be excluded from TOSI rules under this option, all of the following must be true:

- All of the individuals receiving split income must each own 10% or more of both the voting shares and 10% or more of the value of the company.
- The corporation earns less than 90% of its income from providing services.
- The corporation is not a professional corporation (i.e., a corporation that carries on the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor).
- Less than 10% of the income of the corporation from the last year was from another related business (i.e., the corporation is not a rental/management company or holding company in a corporate group).

If neither of the above exclusions have been met, the individuals are entitled to receive a reasonable return based upon their effort, capital invested, risks assumed and appropriate benchmarks for industry return on investment. Any earnings or return on investment which CRA deems to be beyond reasonable will be subject to the highest personal tax rate.

Recommendation:

If you would like to discuss these new TOSI rules and how to restructure your business or earnings to avoid TOSI in future years, call us at Gilmour Group Chartered Professional Accountants.

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