

FAQ ON INTERNATIONAL TAX

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NEW CANADIAN BENEFICIAL OWNERSHIP REQUIREMENTS

Tax Question:

How will the proposed changes to the Canada Business Corporations Act (CBCA) affect me, especially if I am a non-resident?

Facts:

The proposed changes to the CBCA affect the disclosure of the beneficial ownership of shareholders that have significant control over federal private corporations.

The Government of Canada has put forth these changes to create corporate and beneficial ownership transparency that protect against money laundering, terrorist financing, tax evasion and tax avoidance.



Discussion:

An individual with significant control is defined as:

- (a) an individual who has any of the following interests or rights, or any combination of them, in respect of a significant number of shares of the corporation:
 - (i) the individual is the registered holder of them,
 - (ii) the individual is the beneficial owner of them, or
 - (iii) the individual has direct or indirect control or direction over them;
- (b) an individual who has any direct or indirect influence that, if exercised, would result in control in fact of the corporation; or
- (c) an individual to whom prescribed circumstances apply.

If two or more individuals have interests or rights that combined give them a significant number of shares and they intend to act jointly, they are also considered to have significant control.

A significant number of shares is defined as:

- (a) any number of shares that carry 25% or more of the voting rights attached to all of the corporation's outstanding voting shares; or
- (b) any number of shares that is equal to 25% or more of all of the corporation's outstanding shares measured by fair market value.

A company will be required to keep a register of individuals with significant control over the corporation that includes: their name, their birth date, their last known address, their tax jurisdiction, the day they became or ceased to have significant control and how each individual is an individual with significant control.

Although the proposed changes affect federal private corporations, it is likely that provincial and territorial governments will also amend their acts to include similar requirements.

In the past, non-residents may have gone anonymous. The proposed changes will make it harder to do.

Recommendation:

If you would like to discuss the proposed changes to the CBCA and how it may affect your company, please contact Gilmour Group Chartered Professional Accountants.

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