Association chiropratique canadienne

Canadian Chiropractic Association

Working Together Towards Fairness

CCA Response to Consultation on Tax Planning Using Private Corporations

October 2017

EXECUTIVE SUMMARY

The Canadian Chiropractic Association (CCA) is a national membership organization that advocates on behalf of members and their patients to advance the musculoskeletal (MSK) health of Canadians and improve the effectiveness and efficiency of the healthcare system. This response to the Government's call for consultation represents 8,500 licensed chiropractors and, indirectly, the approximately 4.5 million Canadians they treat every year.

Chiropractic practices are small businesses, employing an average of three employees. These small businesses are of modest income, with two-thirds of chiropractors earning less than $120,000 a year.

We distributed a survey to our members to better understand how the proposed tax changes would impact their practices. The survey revealed that not only do they find the tax changes complicated, they worry that the new laws will create substantial uncertainty for their practices.

Our members are encouraged by Minister Bill Morneau's recent comments indicating that the proposed tax changes will not negatively affect those with a net income of less than $150,000 per year. Yet, despite more modest incomes, 60% of our members incorporate where permitted in order to use existing tax tools. As a result, our members remain concerned that the changes will have broad-based adverse consequences for their practices.

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To ensure the **stability and viability of modest income small businesses** like those of our members, we recommend the Government:

1. Utilize an income lens to better understand impacts on modest income small businesses
2. Engage in more targeted consultation to avoid inadvertent negative impacts
3. Refrain from having any changes apply retroactively

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CHIROPRACTORS' CONTRIBUTION TO CANADA'S ECONOMY

It is widely recognized that there is a public interest in a strong small business sector, including health care. Privately-funded extended healthcare practitioners, like chiropractors, make a significant contribution (over $3 billion in 2016) to the economy. However, nearly 5,000 healthcare and social assistance small businesses closed in 2013, resulting in less access to care and increased wait times for patients shifted to the public healthcare sector.

Canada's healthcare system relies on these private clinics to deliver essential treatment for pain management so patients can return to work faster and enjoy a better quality of life. For example, most non-opioid pain management treatment is delivered outside of Canada's publicly-funded system and will inevitably be included in Government plans to address the current opioid crisis.

WHY CURRENT TAX TOOLS MATTER TO US

Currently, 60% of chiropractors are incorporated to ensure the stability and viability of their practices. The proposed changes will create significant challenges, including tax planning, to modest small business owners who already face increasing costs of doing business.

Based on the information we received from over 500 respondents to our member survey about the proposed tax changes, and in discussion with tax experts who work directly with chiropractic practices, we have established the ways chiropractors are using the existing tax tools, including:

- To have equity available to invest in and expand their practices. These funds are used for securing new equipment, leasing or purchasing larger office space, and hiring employees.

- To save for an emergency fund. Retained income within their practices allows chiropractors to manage and reduce risks from variations in revenue, including sick leave and parental leave.

- To use leftover retained income for retirement and parental leave. The viability of their practice is the most important part of retirement planning. For modest income small businesses, RRSPs may be of limited usefulness because those funds are not available to address business pressures. Instead, chiropractors commonly plan to use retained income to fund their retirement.

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CCA RECOMMENDATIONS ON THE PROPOSED TAX CHANGES

1. Utilize an Income Lens to Better Understand Impacts on Modest-Income Small Businesses

An income lens can help avoid a negative impact on modest-income small businesses. The following examples illustrate that how chiropractors are currently utilizing the existing tax tools does not provide them with an unwarranted financial advantage.

i. **Sprinkling income using private corporations**

The consultation document identifies income sprinkling as a tax arrangement that allows private corporations considered “high-income” to retain income by meting out dividends to family members. When this tax tool is viewed through an income lens, the application of this existing tax law is not unduly advantageous. Chiropractors often rely on their spouse to share the financial risks of establishing a practice and to perform duties in their offices during employee absences. Doing this not only sustains the practice but ensures that patients continue to receive pain management treatment.

ii. **Hold a passive investment portfolio inside a private corporation**

The consultation document also points to inequitable gains by corporations that use passive investments to retain income. By looking at how more modest-income small business owners use passive investments, the outcome is far less discretionary than the Government implies. The respondents to our member survey overwhelmingly pointed to passive income as essential to the viability of their practices. Passive income is used to:

a) Reduce risk and manage variations in revenue from planned or unforeseen circumstances like illness, parental leave, or business cycle variations
b) Reinvest in and expand their practices

According to the Canadian Federation of Independent Business, more than three-quarters of small business owners did not have retirement plans in 2014, partially because they simply could not afford it. If the business has remained viable and stable, this retained income is available for retirement planning.

2. Engage in More Targeted Consultation to Avoid Inadvertent Negative Impacts

To avoid inadvertent adverse impacts, we recommend the Government take time to conduct more targeted consultation with modest-income small business owners. The proposed tax changes are complex. The confusion about the new laws has caused alarm to our members who are concerned about the impacts on their practices.

Chiropractors rely on passive income for the viability of their practice. Relying on RRSP contributions is simply not an option for many modest income small business owners. RRSPs cannot be used as collateral should funds for business investment be required, and the cost to withdraw from an RRSP for business purposes is far too substantial. Rather, chiropractors rely on passive income to sustain their practices as well as to provide savings for business expansion, new equipment, emergencies, parental leave, or retirement. The passive investments owned by chiropractors mean their practices remain open to provide essential pain management care to Canadians and ensure that the $3 billion extended healthcare sector contribution to our economy remains strong. Targeted consultation will allow potential impacts to be more carefully assessed and avoid inadvertent impacts that would undermine the objective of a strong small-business sector.

3. Refrain from Having Any Changes Apply Retroactively

Chiropractors who tax plan using existing tools should not be penalized for following the present rules. We recommend the Government avoid making any changes retroactive to any current small business owners. Furthermore, existing retained income should be allowed to continue to exist under the current rules to encourage further reinvestment and expand access to pain management care to Canadians. For any additional changes, we recommend the Government allow for a significant phase-in period to allow for the appropriate tax planning for small business owners.

RESPONSES TO CONSULTATION QUESTIONS

Q: In your view, what approach would be preferable in order to improve the fairness of the tax system with respect to passive income?

A: The proposed changes are complex and business owners have not been given ample time to fully grasp their impact. By providing additional time and using an income lens, the Government can ensure there are no negative consequences of proposed changes for modest income small businesses.

Q: Are there key transition issues that you would like to bring to the Government's attention?

A: Current small business owners—who rely on the viability of their business through tax planning using the existing tools and following the law—should not be bound by any

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proposed changes. We, therefore, encourage the Government not make any changes retroactively. For any additional changes, the Government should enact an ample phase-in period to allow for small businesses to adjust.

Q: The Government will consider the gender implications, and any other potential equity considerations, of potential changes to the tax treatment of passive income earned by private corporations. Are there any equity impacts involved in the potential changes that you would like to bring to the Government's attention?

A: The main impact on gender equity of the proposed tax changes on passive income is in the ability to fund parental leave. As modest small business owners, chiropractors do not qualify for parental leave benefits extended to regular employees. Also, without defined pensions, they must rely on their passive investments to plan their retirement.

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