Tax Planning Using Private Corporations
Finance Canada – Next Steps

NATIONAL BANK FINANCIAL
WEALTH MANAGEMENT

December 13, 2017

Details Regarding Income Sprinkling

Reminder

In the summer and fall of 2017, the federal government proposed several changes regarding Tax Planning using Private Corporations.

- See the July 18 proposals **here** (Part 1, "Income Sprinkling using Private Corporations").
- See the table summarizing the changes announced in October **here**.
- See the October 17 communiqué **here**.

December 13 Announcement

The federal government has announced the details addressing the measures restricting income sprinkling (i.e. "Kiddie Tax") applicable to private corporations **and confirmed that they will come into effect on January 1st 2018**. For a brief summary, refer to Part 1, "Income Sprinkling using Private Corporations" of the July 18 communiqué.

While maintaining the general scheme of the July 2017 draft legislative proposals, the revised draft legislative proposals provide **exclusions** from the application of the Kiddie Tax rules, including:

- The business owner's spouse, provided that the owner meaningfully contributed to the business **and** is aged 65 or over;
- Adults aged 18 or over who have made a substantial labor contribution (generally, an average of at least 20 hours per week) to the business during the year, or during any 5 previous years. Any combination of 5 previous years would satisfy the test (defined as "*excluded shares*").
- Adults aged 25 or over who own 10% or more of a corporation that earns less than 90% of its income from the provision of services **and** is not a professional corporation.
- Generally, the Kiddie Tax rules will not limit access to the lifetime capital gains exemption (LCGE).

If the individual does not fall in any of the exclusions, the *reasonableness test* would need to be analyzed to determine if the Kiddie Tax applies.

When possible, taxpayers shall have until the end of 2018 to comply with the definition of excluded shares.

Advice from NBFWM

2017 is the last year to declare dividends to a "specified individual" without being subject to the Kiddie Tax rules, unless the new exclusion measures apply.

It is imperative that you recommend to your clients that they consult their external advisor prior to the end of the year.

We will keep you informed after analyzing the new proposed legislation and the details of their application.

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