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To our valued clients:

On Tuesday July 18, 2017, the Federal Liberal Government appointed Finance Minister, Mr. Bill Morneau, made a significant announcement which he titled the “Fair Tax Plan”. The focus of the tax plan is to attempt to change the tax laws so that the small business owner receives no tax advantages that a T4’d employee would also not receive. Unfortunately, if the plan becomes law, it would not only achieve this objective but it would also go beyond the mark and would impose a number of unintended punitive and abusive tax consequences to the owners of Canadian Small Businesses.

There has been very little media attention given to this proposal due to its timing and the very technical consequences of the draft legislation or proposed actions.

We want to let you know that we are very aware of the details of the announcement and are intently studying the effects and consequences of the various aspects of the proposal with a specific eye towards how it will impact you and your business.

We have attached for your information an outline of the proposed changes. We apologize for the technical nature of the outline; however, due to the technical nature of the proposal, it’s difficult to summarize it in a less technical way without providing you with the information needed to understand the potential changes.

In short, here’s what we believe will potentially impact your small business. Under the proposed new rules:

1. You will no longer be allowed to pay a dividend to an adult family member, who is over the age of 18, that is not active in the business. Even if they are active in the business, the dividend will be subject to a “reasonableness test” similar to the reasonableness test that the CRA applies to wages paid to children and spouses that are not active in a business. How the reasonableness will be determined by the CRA is not understood yet.
2. The small business capital gains lifetime exemption will be restricted to be used only by individuals (and not beneficiaries of a trust) that are actively engaged in a small business corporation and who hold their shares directly. The ability to “multiply the capital gains exemption” with family members is being removed.

3. Your corporation may be subject to tax at a rate of up to 73% on all investment income earned on investments that originated from retained earnings that you have accumulated in your corporation over the years.
4. Your corporation will no longer be eligible to have capital gains treated as capital gains (50% taxable and 50% non-taxable) inside of the corporation. The proposal effectively eliminates the Capital Dividend Account for small business corporations as it related to the non-taxable portion of a capital gain (note that the CDA still exists for the flow through of life insurance and in some other scenarios).
5. Double taxation may apply to a family that transitions a small business from one generation to the next as a result of the death of the taxpayer holding the shares. This double taxation may result in effective overall tax on the assets of the business of up to 93% when this tax impact is taken together with the significantly increased tax on investments inside of a corporation.

As you can see, the "Fair Tax Plan" is anything but fair. The plan would ensure that there is no compensation to a small business owner for the risk and stress that you deal with on a daily basis. Also, it effectively confiscates the assets that an entrepreneurial family builds up over time and implements a punitive tax system on small business owners that attempt to build up retirement assets within their corporations.

In our opinion these proposed changes to our tax act are not only unfair, they are excessively discriminatory against the small business corporate owner, as there are no similar measures that will be imposed on public companies (non-Canadian Controlled Private Corporations).
We are working feverishly to fully understand the proposed changes and to understand what options are available to us and our clients in an attempt to minimize the negative effect the proposals will have if adopted into law in the near future.

There is a 75-day feedback period that the Department of Finance has provided which ends October 2nd, 2017. We intend to put on an information session an evening in the first 2 weeks of September to provide our clients, and any of your friends and associates that you would like to invite, an opportunity to understand and ask questions about these proposals. It is our intention to provide you with a template that you can use (and pass on to others to use) to provide feedback to our Federal Government in their requested format.

We believe that it is critical to raise as much noise as possible about the unfair and harmful nature of these proposals prior to October 2nd. It is imperative that these proposals do not get made into law!

We encourage you to reach out to your business friends and associates, especially your contacts in the professional and industry sectors, to enquire about what is being done to fight these changes. And don't be shy about making some noise with your local Member of Parliament. Here's a link for all members of parliament so that you can find out who you can talk to if you don't already know: https://www.ourcommons.ca/Parliamentarians/en/members. We look forward to providing you with more information on these matters in the near future, including the details of our information session once a date has been confirmed.

Sincerely,

The Partners and Staff of Chaggares & Bonhomme, CPA’s