

October 2, 2017

The Honourable William F. Morneau
Minister of Finance
Government of Canada

VIA Electronic Submission - fin.consultation.fin@canada.ca

Re: Tax Planning Using Private Corporations

Dear Mr. Morneau:

Doctors of BC has reviewed the consultation paper *Tax Planning Using Private Corporations* and takes this opportunity to formally communicate our views on how the proposed tax changes will impact physicians, patients, and health care delivery in British Columbia.

Please find attached a copy of our submission to the Federal Department of Finance.

We welcome the opportunity to discuss this further with you.

Sincerely,



Trina Larsen Soles, MD
President, Doctors of BC

ID134276



doctors
of bc

Submission to the
Federal Government on
Proposed Tax Changes

October 2, 2017

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Key Recommendation

Doctors of BC recommends that the federal government delay legislative changes to the *Income Tax Act* and undertake meaningful consultation with physicians and other small businesses across Canada. Doctors of BC, in conjunction with the Canadian Medical Association and other provincial and territorial medical associations, stands ready to work with the federal government to reform the tax system in a manner that:

1. Recognizes the financial risks of medical practice.
2. Minimizes potential adverse impacts on physicians, patients, and health care delivery.
3. Supports physicians to transition their medical practice and financial planning in a changing tax environment.

Background

Federal Tax Proposals for Private Corporations

On July 18, 2017 the Honourable Bill Morneau, Federal Minister of Finance, released a consultation paper titled *Tax Planning Using Private Corporations* (the “Consultation Paper”) detailing proposed legislative changes that, if enacted, will impact self-employed individuals, including many physicians who have set up private corporations. In connection with the proposed changes, the federal government announced a 75 day consultation period, ending October 2, 2017.¹

The Consultation Paper proposes changes to three areas of the *Income Tax Act*, including income splitting, taxation on passive investments, and converting income to capital gains.

In this submission, Doctors of BC outlines its concerns about the proposed tax changes. More specifically, our submission highlights the financial risks of medical practice, outlines how the proposed tax changes will adversely impact physicians, patients, and the health care system, and provides our perspective on two of the tax proposals that are most likely to impact physicians: taxation on passive investments and restrictions on income splitting.

Response from Physicians

Doctors of BC (formerly known as the BC Medical Association) is an association of more than 12,000 physician members in British Columbia. Our mandate is to promote a social, economic, and political climate in which physicians can provide British Columbians with the highest standard of health care. To advance this goal, we advocate on behalf of our members – ensuring that the collective voice of BC’s doctors is heard by government and the public. On the issue of the proposed federal tax changes, Doctors of BC is taking this opportunity to provide the perspective of BC’s physicians and to highlight the potential repercussions that the proposed tax changes will have on BC’s health care system.

The proposed tax changes have galvanized physicians in BC and across Canada. Nationally, the Canadian Medical Association (CMA) has advocated on behalf of physicians to highlight the unintended impacts of the proposed tax changes on physicians, patients, and the health care system. Recognizing that the CMA’s submission to the federal government will have a national

focus, Doctors of BC has prepared this submission to communicate the views of physicians in BC.

Physicians in BC and across Canada see firsthand how poverty and low income can lead to poorer health outcomes for their patients and communities, and Doctors of BC acknowledges the federal government's desire to address income inequality in Canada. However, Doctors of BC is concerned that the tax proposals, if implemented in their current form, will have significant negative impact on physicians and serious consequences for BC's health care system.

Physicians in BC are highly engaged on the issue. To date, Doctors of BC has heard from hundreds of members each sharing their personal stories. And, in a recent survey of members ("Doctors of BC Survey"), thousands of physicians shared their thoughts on the proposed tax changes.^{2,3} The response came from all sectors of the profession, from trainees and new-in-practice to retired physicians, and from generalists and specialists in both rural and urban communities.

When the Doctors of BC Survey asked physicians whether they agreed with the statement "the proposed tax changes will have a negative impact on patient care," 77% of total respondents agreed, 9% disagreed, and 14% were unsure. Even among physicians who are currently *not* incorporated, 64% agreed, 21% disagreed, and 15% were unsure about the statement. Physician opposition to the proposed tax changes remained strong across age, gender, and practice type, setting, and location.

In addition to concerns regarding the substantive content of the proposals, physicians in BC have strongly objected to the timing and inadequate duration of the consultation period and what they perceive to be the divisive way in which the federal government has communicated and defended its tax proposals. The use of language such as "closing loopholes" and the portrayal of incorporated professionals, including many physicians, as not paying their "fair share" of taxes have angered physicians who have dedicated their lives to caring for their patients and communities.

Doctors of BC Position

Based on widespread concern from members, Doctors of BC urges the federal government to delay legislative changes to the *Income Tax Act* and undertake meaningful consultation with physicians and other small businesses across Canada. Doctors of BC, in conjunction with the Canadian Medical Association and other provincial and territorial medical associations, stands ready to work with the federal government to reform the tax system in a manner that:

1. Recognizes the financial risks of medical practice.
2. Minimizes potential adverse impacts on physicians, patients, and health care delivery.
3. Supports physicians to transition their medical practice and financial planning in a changing tax environment.

Financial Risks of Medical Practice

In BC, the majority of physicians are self-employed. Unlike most employees, self-employed physicians typically:

- Do not have access to employer-sponsored retirement plans (e.g., pensions), full maternity/parental leave benefits,^{*} paid sick/disability leave, paid holiday, overtime pay, or EI benefits.
- Pay a significant proportion of their income (estimate average of 40%) to expenses such as staff salaries, office space, and equipment and supplies.⁴
- Due to the requirements of medical training, begin their careers at a later age (in early-mid 30s) with many medical school graduates carrying significant student debt loads.

It is also noted that, unlike other businesses, physicians generally cannot adjust their fees to offset increased costs or tax burden.

Adverse Impacts on Health Care

Over the past four decades, physicians in BC have had the legal right to incorporate. Currently, approximately 8,000 out of 12,000 (67%) practising physicians in BC are incorporated,⁵ resulting in roughly two-thirds of practising physicians in BC potentially being impacted by the proposed tax changes.

The proposed tax changes may result in a number of unintended consequences for patients and the health care system. The Doctors of BC Survey suggests that physicians may respond to the proposed tax changes in the following ways:

^{*} Eligible BC physicians can access limited parental benefits (up to 17 weeks) through the Parental Leave Program. Unlike most employees, most physicians are *not* eligible for EI parental benefits (up to 35 weeks).

Percentage of respondents (n = 3054)	Action considered	Examples	Most likely to impact
36%	Change practice profile or scope of practice.	Prioritize high volume episodic care over time-consuming longitudinal care.	Family practitioners
		Reduce/eliminate unpaid or less lucrative research or quality improvement activities.	Physicians engaged in medical research or quality improvement.
		Favour higher paying specialities over family practice	Medical students, residents, and new-in-practice physicians.
33%	Reduce hours of practice	Work fewer hours or retire earlier.	Physicians near retirement age.
30%	Decrease practice spending	Reduce spending on staff (e.g., nurses, technicians & assistants) and equipment.	Medical practices with significant overhead costs such as community-based offices.
25%	Move to another jurisdiction	Move to different country.	Medical students, residents, new-in-practice, and foreign trained physicians.

Many survey respondents noted that these potential outcomes will particularly impact regions that have a shortage of physicians, such as rural, remote, and Aboriginal communities. Moreover, decreasing practice spending and changing scopes of practice can potentially impede progress on provincial quality improvement initiatives, such as the implementation of team-based care in BC. Finally, lower practice spending by physicians will have a negative economic impact as physician practices generate significant economic activity and support thousands of jobs in BC’s health care sector.⁶

Taxation on Passive Investments

According to the Doctors of BC Survey, physicians in BC are most concerned about the prospect of new taxation on passive investments inside private corporations. According to the Consultation Paper, the federal government perceives the buildup of passive investment within a corporation through the deferral of tax to be unfair and proposes taxation on passive investments.

First, similar to other small business owners, physicians use passive investments within private corporations to save for retirement. As noted previously, unlike salaried professionals, most physicians do not have employer-sponsored retirement plans, such as pensions. Furthermore, physicians typically start their careers at a later age and most have to pay off significant debt loads – shortening the time available to save for retirement. Not surprisingly, Doctors of BC has heard from many physicians who are fearful of how new taxation on passive investing will jeopardize their ability to save for retirement.

Second, many incorporated physicians use passive investments to put money aside for maternity/parental leave. Although eligible BC physicians can access limited maternity benefits for up to 17 weeks, most physicians (as self-employed individuals) are not eligible for EI parental benefits (payable for up to 35 weeks) that are available to most employed workers.^{7,8} Note that the overhead costs of operating a medical practice remain even when a physician is unable to practice. Such expenses must be funded by self-employed physicians before any parental benefits can be accessed for personal use.

Taxation on passive investments will have a particular impact on female physicians, who are more likely to take time off to care for their children. In recent years, progress has been made to increase the number of women in the medical profession and in BC today, close to 40% of the physician workforce are women.⁹ Making it more difficult to save for maternity/parental leave may deter women from entering the medical profession and adds another barrier to advancing gender equality in medicine.

Third, physicians may use passive investments to build up a financial reserve to prepare for unexpected disruptions in their practice. Unlike most employed workers, self-employed physicians do not have access to paid sick/disability leave and EI benefits if they are unable to practice for an extended period of time.

Doctors of BC believes that the use of passive investments by incorporated physicians to fund the above activities is appropriate given that these physicians do not have access to employer or government-sponsored benefits that are available to most employees. At the same time, Doctors of BC recognizes the federal government's commitment to discourage the use of private corporations as a vehicle solely for the accumulation of wealth.

Reconciling these positions, a practical suggestion is to establish a threshold on passive investment in order to allow incorporated physicians to reasonably save for purposes such as retirement, maternity/parental leave, and unexpected practice disruptions.¹⁰ In this case, future passive investment above this threshold could be subject to new taxation rules. However, recognizing that many physicians have reasonably conducted their financial planning within the current tax system, all existing passive assets should be grandfathered and not subject to new taxation rules.

Income Splitting

In addition to passive investments, many physicians are also concerned about the proposed restrictions on income splitting. According to the Consultation Paper, the federal government is proposing the application of a new "reasonableness test" to ensure that income received by an adult family member is not greater than what would be expected in arrangements involving parties dealing at arm's length for given labour or capital contributions to the corporation.

Doctors of BC is concerned about how this reasonableness test will be defined and administered. In many situations, dividend payments are used to compensate a family member, typically a spouse or common-law partner, for work to support a medical practice. For example, a spouse or partner may take on the responsibilities of managing the financial or administrative duties of operating a medical practice. And similar to other family businesses, a spouse or

partner of a physician may contribute their own financial resources to support a medical practice. Additionally, as in running any small business, operating a medical practice is dynamic with the nature and quantity of contributions from family members fluctuating considerably over time.

Recognizing the dynamic and demanding nature of supporting a medical practice, Doctors of BC suggests that in its development of a reasonableness test, the federal government considers accepting a wide range of contributions to support a medical practice, applying clear and objective criteria to reduce uncertainty and judgement required when applying a reasonableness test, and implementing processes to minimize additional administrative burden on physicians and their families.¹⁰

Conclusion

Doctors of BC urges the federal government to delay legislative changes to the *Income Tax Act* and undertake meaningful consultation with small businesses, including physicians. Doctors of BC, in conjunction with the Canadian Medical Association and other provincial and territorial medical associations, stands ready to work with the federal government to reform the tax system in a manner that recognizes the financial risks of medical practice, minimizes adverse impacts on health care delivery, and supports physicians to effectively transition their financial planning and medical practice within a changing tax environment.

Appendices

Selected Stories from Physicians in BC

Below are two personal stories, from the hundreds we received, written by physicians in BC to Dr. Trina Larsen Soles, President of Doctors of BC.

Story #1

Dear Dr Larsen Soles

Like most incorporated physicians, these tax changes will have a significant negative effect on us. My wife and I are both 35 years old, we both practice family medicine, and we have two children under the age of 2. When we were in Medical School not too many years ago, the decision to pursue family medicine was made after much thought and discussion. We ultimately love being generalists and having direct relationships with our patients. For most of us, part of being a family doctor is having a business: an office, staff, and overhead to manage. This isn't the most enjoyable aspect of family medicine nor does family medicine compensate on the higher range when compared to other specialties, but after adding up all the pros and cons, we felt that family medicine provided us with the best option to enjoy our work while accepting some of its shortcomings. The proposed tax changes will essentially gut our corporation's ability to save efficiently or income split during times when my wife is either on maternity leave or working less to care for our children, and will have a major negative effect on our financial planning.

Since beginning practice five years ago, had we known then that our corporation benefits would be removed so soon after starting, it likely would have affected some of our decisions that led us to where we are today. With the proposed changes having such a negative effect on our financial security and retirement planning, we will have to consider all our options, which include reducing staff to lessen overhead costs (likely having a negative effect on our patients), the possibility of practicing in a different capacity other than full service family medicine, or even practicing in a different country. After 10+ years of expensive post-secondary schooling, we accumulated a large amount of debt - which we are still paying off today. We have numerous expenses affiliated with our profession that eat into our available income, including paying large amounts of tax already. These proposed tax changes attack our ability to earn and save a respectable and well deserved income, and will unfortunately push us away from a satisfying career path.

*Dr Bruce Rebner
Victoria/Pender Island, BC*

Story #2

Dear Dr Larsen Soles,

My name is Dr. David Beaulieu. I live and work in the Tahltan First Nation area of British Columbia's far northwest, in the town of Dease Lake. I have worked here full-time for 17 years as a full scope family practice, emergency and addiction medicine physician doing "one in two" call. As is often the case in these remote First Nation communities, the social conditions are difficult, amenities almost nonexistent and medical support is extremely distant (700 kilometers away in our specific case). Our nights on-call are onerous and frequent.

My wife works here as a therapist focusing on the care of First Nation children and youth who have been victims or witnesses to abuse; a job more difficult than most can imagine.

I am writing to express my deep concern regarding the changes being considered to the corporate tax laws. Our current corporate structure allows my family to plan financially for a future where there will be no pension for us. It creates a structure where one benefits from working hard in these under-serviced areas where recruiting full time physicians is extremely challenging.

The elimination of the current corporate system would lead to a tremendous loss in incentive to do this sort of work. It will lead to a drop in productivity of our hardest working physicians. I can only speak for myself but I can guarantee that should we lose many of the benefits of incorporation, I will be either decreasing my productivity to half-time work here or leaving the north altogether. Either way it will be a loss for the community and in many ways for my family as members of a community we cherish very much.

Given the important societal role we play, if our incentive to work hard is assailed it will become increasingly difficult to recruit and retain physicians not only in rural and remote communities but in all settings.

*Dr David Beaulieu
Dease Lake, BC*

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