

**Department of Finance Canada
Consultations on Tax Planning Using Private Corporations**

Submission by the Burnaby Board of Trade

This submission is made by the Burnaby Board of Trade, the leading business association in Burnaby, British Columbia, on behalf of our 1,100 member businesses and organizations. We would like to express our concerns with the proposed changes to the taxation of private corporations and we are calling for these changes to be deferred until further consultation can occur with the aim of avoiding unintended negative consequences for our business community.

While the justification for these changes is tax fairness and closing loopholes for high-income individuals, the sweeping changes that are proposed could have unintended consequences for the business community as a whole. The Burnaby Board of Trade and our members would be supportive of finding ways to increase tax fairness, but feel that this must be accomplished in a way that does not impose undue harm on small and medium businesses, which are the backbone of our local economies.

After careful review of the proposed changes, the Burnaby Board of Trade believes that these changes may impact the very viability of some businesses, they may chill entrepreneurship in this country, they may undercut business investment in innovation and productivity, and they may create an unwieldy administrative burden for both business and government.

The current tax regime provides businesses with tax planning tools that account for the substantial personal risk and investment involved in owning a business, and help assist with maintaining the long-term viability of the business. The ability to hold passive investments in a business, to engage family members in the business, and to utilize capital gains exemptions is key to many small business' survival; to make sweeping changes to that regulatory regime could have unforeseen negative consequences.

Many business owners have structured their business, family involvement, career and retirement on the existing tax regime, and the proposed changes are significant enough to upend many of those existing plans. For sectors or industries which operate on thin margins or in a very competitive environment there is potential for the very viability of some small businesses to be put into question by these proposed changes.

These proposed changes also have the potential to put a chill on entrepreneurship in this country. The proposed taxation changes may discourage future entrepreneurs from starting businesses by removing incentives and strategies which allow businesses to grow and entrepreneurs to prosper. By making it harder for business owners to succeed and achieve adequate returns, these changes may dissuade people from taking the risks necessary to start a business in the first place.

Specifically, we see the restriction on holding passive investments in a business and the imposition of a reasonableness test on dividend payments to family members as worrying.

Business owners often hold passive investments in a business for various reasons, such as for bridge financing during downturns—which saved many companies in the 2008-09 recession---, to fund future investments in the business operations, and yes, as the owner’s own personal savings. However, the nature of business means there are no guarantees for the future, and what today may be an owner’s savings may end up being tomorrow’s payroll if the business requires it.

This proposed restriction on holding passive investments may depress overall business investment as owners may opt to leave less income in a business to avoid the cost and administrative burden of the new rules. This would be an unfortunate outcome as that passive income would then not be available to fund the kinds of unforeseen expenses mentioned above. This would undermine investment in innovation and productivity where Canada already lags behind many other jurisdictions, and make it that much harder for small businesses to both thrive and survive. Instead of discouraging passive investment, a more prudent course may be incentivizing active business investment through more aggressive investment tax credits or accelerated capital cost allowances.

The imposition of a reasonableness test is also concerning as it will almost certainly create a significant administrative burden for both business and government. In fact, the government’s own consultation paper on these changes acknowledges that the reasonableness test will “not always be straightforward” and will be impacted greatly by case-by-case variations. It will be very difficult for the government to accurately and efficiently measure the value of the contributions of family members to a family business and this will almost certainly result in costly delays, appeals, and litigation.

For all of the aforementioned reasons, the Burnaby Board of Trade respectfully requests that the proposed changes to the taxation of private corporations be deferred and the consultation period be continued until more businesses can be engaged on a better solution.