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I am contacting you today to ask that you protect small business owners like myself by reviewing this misapplication and issuing an interpretive burden which clarifies that PSB legislation only applies to those who restructure their engagement model to avoid their responsibilities under the tax act.   Contractors represent over 19% of Canada’s most rapidly growing industry, information technology, according to a 2009 Labour Force Survey. Canadian businesses cut hiring costs by using our expertise on an as needed basis, lifting Canada out of the recession with services engaged under contract.   As consultants, we pay ourselves salary which is taxed at normal income tax rates. We then pay corporate taxes due on the residual amounts retained in our company. Should we take further funds from our company during slow times or times of need, we must also pay a dividend tax rate. Lastly, we also collect and remit HST on all earned revenue. By threatening contractors that fail to fit standards established in the 1980s with further taxation and years of legal fees, the CRA is wasting taxpayer money and stifling small business.   The threat of being labelled an “incorporated employee” causes knowledge workers to relocate, causing “brain drain” and shrinking the domestic contingent labour force that has become indispensible to both public and private sectors. It also frustrates corporate initiatives to manage costs in preference to putting jobs off shore.   I believe that the factors for determining whether a consultant is a PSB, such as “control,” and “ownership of tools,” and “risk” are outdated and fail to account for the increasingly mobile and knowledge-based labour that constitutes much of Canada’s economy. As a contractor, I am free to choose my own work hours, but will more than likely work the hours most convenient for my client. Working on-site during a contract is a matter of convenience and security for both parties. Making these accommodations does not indicate a lack of control and should not be grounds for punishment by the government.   The CRA wants to penalize contractors for using their clients’ tools, but this doesn’t apply to knowledge workers. As Information Technologists, Engineers, Architects, Management Accountants or even Lawyers, we use our own tools: specialized knowledge and training. The most important tools for my work aren’t tangible; the device doesn’t do the work, my expertise does. I do not invest in physical things. I invest in my education, commonly making sacrifices by accepting lower rates or difficult locations to gain valuable experience. Knowledge is the essence of my security.   As a consultant, no matter the length of my contract, I risk non-payment if my work is not to my client’s satisfaction. This is something that no employee has ever experienced. There are also rewards with the most obvious being work continuity when a job is well done, either with the same company or another who might want my services.   I would be grateful if you could stand with me and my fellow Canadian small business owners, to help re-define and clarify the criteria for PSB designation, and end the unfair labelling of IT contractors and other knowledge workers as such.   Thank you for taking the time to look into this issue and considering my request, made on behalf of knowledge workers across Canada.  Sincerely,  **Your Name** | | |  |  |  | | --- | --- | | |  | | --- | | **Have something else to say? Customize your letter or add/substitute the following paragraph(s):** | |  |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | |  | | --- | | As Peter Drucker predicted, the knowledge worker has become a significant portion of the employment mix used by companies for managing their work force. This has been a big help for the Canadian economy and has allowed a more entrepreneurial segment to the work force and allowed a significant portion of society to be more in control of their own destiny than they could be as an employee. This is positive for |Canadian society and I will only support politicians who assist us to build this segment of employment and will vote against those who would support the recent CRA initiative which audited 234 small business recently and took the position that 96 of them could be considered PSBs. This CRA initiative is wrong and will probably be struck down by the courts in a case that is currently being supported by [www.naccb.ca](http://www.naccb.ca) and will likely be released by the end of the summer.  Independent contractors have come a significant component of the work force and indeed forecasts have been released that indicate up to 50% of service delivery will be supplied by independent in  the near future. The disruption of this industry would adversely affect a large number of people with consequent negative impact on the employment levels which the Canadian economy can ill afford at this time in our economic recovery from the worst financial crisis in 60 years.  A significant number of employment opportunities are project based and can only be delivered by sophisticated resources that are in short supply. Independent contractors who hit the ground running and can easily find new projects are an efficient way of allocating scarce resources for the benefit of the Canadian economy, This segment of the work force should be encouraged and not attacked as it has been by the CRA initiative which recently audited 234 small business delivering services and initially held that 96 were PSBs. This destructive initiative has been taken on by [www.naccb.ca](http://www.naccb.ca) and this initiative should be brought to the attention of our MPs who can ensure that CRA’s interpretation of tax law is not used to destroy a significant and valuable component of the Canadian work force  It has been estimated that the average independent contractor generates approximately 5 jobs as a result of the spending by this workforce component. The service industry in Canada represent approximately 46% of the work force If the independent contractor service delivery is 10% of the work force, up to 5 times this or 50% of the work force could be impacted by a total elimination of this segment of our work force. We need to bring to the attention of our MPs the significant impact that this could have on employment levels and urge them to take action to support the independent contractor movement as opposed to allowing CRA to persecute the segment as they did by auditing 234 small business delivering services and taking the position that 96 of them are PSBs with significant tax liabilities that could destroy this segment of the work force  PSB cases are generally targeted at small businesses that gross less than $150,000 per year and are ill prepared to match the deep pockets of CRA and frequently cases are lost because they are poorly defended. Well defended cases rarely lose to CRA on the PSB  issue but CRA| continues to win a number of poorly defended cases, not because CRA is right but because small businesses that generate less than $150,000 per year can not afford the costly process of adequately defending cases that are appealed up to higher and costlier courts by the CRA. This is persecution that we have to turn to our MPs to stop.  The Minister of Finance has to admonish CRA for their conduct on this issue. The courts have attempted to do this to some extent and Judges have admonished CRA for bringing these cases before them but CRA continues to waste taxpayer resources with the hope of a big potential payday if they can get enough precedents from poorly defended PSB cases.  The Federal Government is targeting “knowledge based businesses” in an effort to reclassify them as Personal Services Businesses, and remove their status as a legal Incorporated entity.  The Canada Revenue Agency defines a business as “an activity that you conduct for profit or with a reasonable expectation for profit.”  This being the case, we as business owners are being asked by the Federal Government to prove ourselves as individuals engaged in the act performing business functions and duties to turn our work into a profitable enterprise.  We engage in contractual based deals, we operate our delivery of services for profit, we meet our obligations and collect legislated taxation, and we enter into partnerships and agreements with other businesses.  The APCC is committed to advocating our right to own and operate a legal business in Canada.  To educate our Federal Government in how an IT consulting business operates, it is important to ensure that the CRA realize that consultants engage in legal contracts and conduct themselves as business owners.  Client engagements are formalized in legally binding contracts that outline obligations, fees, deliverables, and timelines for delivery of services.  IT consultants engage in business to business relationships when seeking clients, either directly or through third parties who specialize in the marketing of our skills/knowledge or relationship management.  This model is repeated throughout other sectors in the form of brokers, which can be found in the financial, insurance, and retails verticals of our economy. The APCC is committed to ensuring the Federal Government is educated on how our knowledge-based businesses operate. | | | | |
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