

What is a PSB?

Being Assessed as a Personal Service Business Can Cost Contractors Thousands

Learn More. Protect Yourself.

PSB History



1969 - Ralph J. Sazio is taken to Tax Court for ending his employment with the Hamilton Tiger-Cats, then offering his coaching services as a corporation under contract.



1981 - Parliament introduces the PSB amendment to the Tax Act to assess contractors engaged in what would normally constitute an employee-employer relationship.



1986 - The Wiebe Door Services Ltd. Federal Court Appeal (FCA) - a landmark employee vs. independent contractor tax case determining employees vs. independent contractor status with the following criteria:

- A) Control over how work is done
- B) Ownership of Tools
- C) Change of profit/loss
- D) Integration



2006 - To deny PSBs potential tax deferral opportunities afforded by the new Eligible Dividend Regime, the Department of Finance redefines "full rate taxable income" in subsection 123.4(1) of the Income Tax Act. Before this, PSBs were simply taxed as employees and their disallowed small business deductions became remunerations paid to the "incorporated employee."



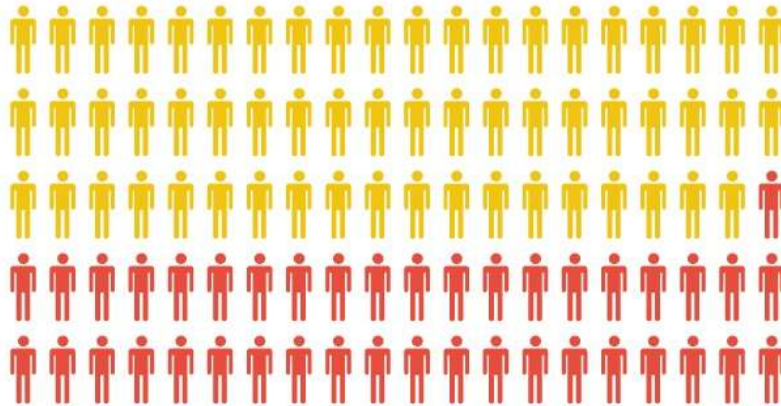
October 31, 2011 - Effective for tax years beginning on this date, any contractor labelled a PSB is denied the federal general rate reduction of 13%. No longer having this federal general rate reduction eliminates any deferral opportunity for PSBs and effectively increases the fully-distributed tax rate on PSB income in Alberta to approximately 50% at the top marginal rates.



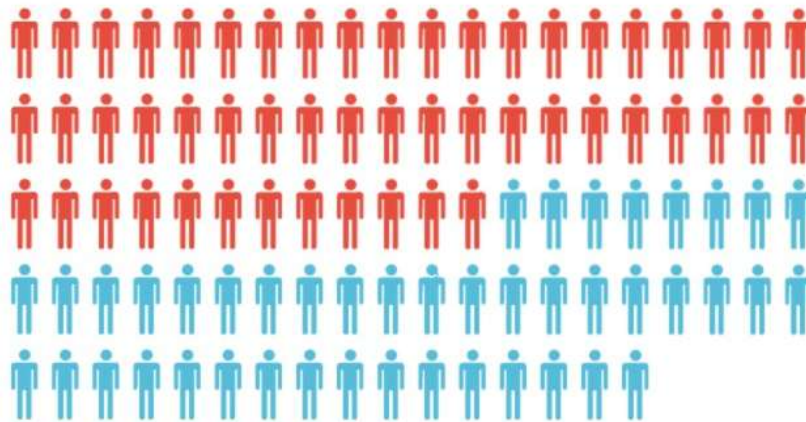
June 26, 2013 - PSB Regime gains Royal Assent.

Between September 2009 - October 2010

The CRA Conducted an Audit in which...







96 out of 234 small businesses were found to be PSBs






44 of the 96 PSBs were in the IT field ²

What PSBs Pay

- 13%**  Elimination of General Rate Reduction increases the rate of income tax payable by 13% for contractors deemed PSBs. ³
- 10%**  The additional provincial rate paid in Alberta by contractors deemed PSBs. ⁴
- 28%**  Federal corporate income tax rate for contractors deemed PSBs, with federal abatement (10%). ⁵
- 38%**  Federal corporate income tax rate for contractors deemed PSBs, without the federal abatement (10%). ⁶

How The CRA Determines a PSB

On paper...	In reality...
 <p>You previously had an employee-employer relationship with your client</p>	Contractors beware! PSB rules can now apply to any contractor, regardless of whether they've restructured their employment.
 <p>You do not use own your own tools</p>	PSB rules are outdated & don't take into consideration the security issues surrounding BYOD, or the fact that the technical contractor's primary tool is knowledge.
 <p>You have no risk of loss</p>	Contractors risk non-payment if they fail to deliver the services in a manner acceptable to their clients; they are also commonly deprived of the security of ESA legislation.

Next Steps



Read up on the History and development of PSB rules.



Follow this "Business Checklist."



Read "Suggestions on How to Safeguard Your Self-Employed Tax Status."



Consult an accountant specializing in IT consulting, such as Chartered Accountants & Information Technologists.



Consider engaging through an agency such as Procom and clarifying your contract to reduce the risk of assessment.



Contact your MP!

Ask your MP:

- If this legislation was a response to people RESTRUCTURING their employment relationship from Full Time Employee to contractor to avoid taxes, why doesn't the CRA target retired federal civil servants returning as contractors?

- Why should Knowledge Workers, who take on significant risk in order to develop in-depth expertise in their fields, and realize the rewards of an entrepreneurial career as a small business offering services, be punished for rejecting the Full Time Employment model with its risks of job loss due to mergers, acquisitions or offshore outsourcing?

- Why are small businesses offering services being accused of not paying their fair share of taxes, when the Theory of Integration says that they pay the same tax rate as Full Time Employees and generate even more taxes when you consider Sales Taxes (GST, QST, HST)?⁷

- 1 Keung, K. (2014, March 5). Are You Walking Into A Tax Disaster - Incorporated Contractors & Taxes (Part 1). Moodys Gartner tax law. Retrieved April 8, 2014, from <http://tinyurl.com/msphey>
- 2 Industry Issues: Audits of IT Contractors. NACCB Canada. Retrieved April 8, 2014, <http://naccb.ca/audit-it-contractors.php>
- 3 Keung, K. (2014, March 5). Are You Walking Into A Tax Disaster - Incorporated Contractors & Taxes (Part 1). Moodys Gartner tax law. Retrieved April 8, 2014, from <http://tinyurl.com/msphey>
- 4 Nijhawan, A., Batzel, J. C. (2013, July 11). Tax Changes: Corporate Contractors May Be Subject To 13% Higher Tax Rates. Bennet Jones LLP. Retrieved April 8, 2014, from <http://tinyurl.com/nszjmr>
- 5 Income tax rates for Canadian-controlled private corporations (CCPCs)—2012-2013. Retrieved April 8, 2014, from <http://www.apcconline.com/wp-content/uploads/2014/04/Income-tax-rates-for-CCPC-private-corporations-2012-and-2013-1.pdf>
- 6 Income tax rates for Canadian-controlled private corporations (CCPCs)—2012-2013. Retrieved April 8, 2014, from <http://www.apcconline.com/wp-content/uploads/2014/04/Income-tax-rates-for-CCPC-private-corporations-2012-and-2013-1.pdf>
- 7 Integration of Corporate and Personal Income taxes . Retrieved July 22, 2014, from <http://www.apcconline.com/wp-content/uploads/2013/03/Dave-Clancy-Theory-of-Integration.pdf>