

APCC OPINION LETTER ON PERSONAL SERVICES BUSINESS

On December 2, 2009, the Standing Committee on Finance held a hearing about taxation and characterization of Personal Services Businesses (PSB) by the CRA.

The view of the committee (refer to the page six of the Report of the Standing Committee on Finance¹) was that:

1. The Federal Government should examine the Income Tax Act with a view to proposing changes which might reflect the realities of the modern labour market; and
2. The rules regarding disallowance of the lower small business tax rate and of expenses deductibility appeared to penalize professionals who have chosen to become an entrepreneur and to incorporate.

The Minister of Finance responded to the committee in an Oct 6, 2010 letter² noting that:

1. The objective of the PSB business provisions in the Income Tax Act was to ensure that individuals who would provide their services through a corporation would be treated comparably for income tax purposes;
2. Comparison of:
 - a. Manitoba's small business tax rate of 11% (11% federal plus 0% provincial) to the federal/provincial personal income tax rate of an unincorporated employee of 35%; and
 - b. Quebec's small business tax rate of 19% (11% federal plus 8% provincial) to the federal/provincial personal income tax rate of 37%;
3. There is an absence of equality, and any changes to these rules will provide preferential treatment to the Information Technology sector.

It appears that the minister, in his reasoning, mentioned only taxes applied towards retained earnings and didn't consider taxes applied towards money taken out of a corporation for personal use. Please refer to the diagram on the following page to better understand why the reason of tax unfairness is flawed and unfunded.

The APCC has been an advocate in ongoing communications with the Canadian Government on the topic of Independent Contractors and small businesses and its negative effect on the Canadian economy. While progress has been made on the PSB issue, the APCC feels strongly that a true and lasting solution can only come from improvement in federal legislation concerning the rules governing these workers.

This can't be done without support of the parties directly influenced by PSB legislation - namely, small business owners like you.

¹ [Servant or Master? Differing Interpretations of A personal Services Business](#)

² [House of Commons Committees - FINA - Government Response to the Report of the Standing Committee on Finance](#)