The Red Chamber—as the Canadian Senate is known—has its Standing Committee on National Finance examining proposed changes to the taxation of private corporations. Its final report and recommendations are expected at the end of November.

TAXES: NEXT STEPS

Ottawa may have backpedalled on some of its tax proposals but physicians remain very concerned

BY COLIN LESLIE • Ottawa

The federal government may have blinked on its small business tax proposal, which impacts the 60% of Canadian doctors who are incorporated, but the changes don't seem to have mollified the nation's doctors.

Last month, federal Finance Minister Bill Morneau said while the "income sprinkling" provisions (where doctors can use their corporation to pay dividends to adult family members) would move ahead, he'd provide a clear definition of a "reasonable" contribution over the next two months.

Morneau also said there would no longer be a complete elimination of the tax deferral on passive investment income earned in the corporation and instead there would be an exemption on the first $50,000 a year in passive-investment income.

"We believe we've found a balance," Morneau told the Senate's national finance committee when he appeared before it recently.

Canadian Medical Association president Dr. Laurent Marcoux said when the changes were originally announced in July "it seemed almost certain that the proposals would go through as presented," he wrote in an online opinion item for the *Medical Post*. However he argued the broad "engagement" on this issue by the physician community "led to the government actually making changes to their original proposal."

Still, even with the changes, Dr. Marcoux said the CMA remains opposed to the proposal and concerned that the government is not spending enough time examining the issue.

Indeed, in an unscientific poll we asked doctors on our website: "Is the proposed $50,000 income threshold for medical corporations enough of a change?" and 88% said it was not enough for those saving for retirement.

Financial advisors

We asked financial planners how they're advising incorporated doctors given the new announcements.

Alan Acton, a portfolio manager with Polaris Wealth in Ottawa, said regarding the income sprinkling aspect "the advice that I am g-iving now is to closely examine the dividends paid to shareholders of the medical corporation. It may be prudent to pay more dividends to family members before the end of the year—to family members who may be in lower tax brackets before Dec. 31, 2017. Generally the benefits of splitting income with a spouse or family member 'top out' at about $120,000, however individuals should consult their tax advisor, as everyone's situation is different. Going forward in 2018, a new payment strategy may be needed for shareholders in order not to have the top tax rate applied on dividends paid to family members."

On the corporate investments, he said: "I would invest as much as possible in the medical corporation before the end of the year. This can be done be putting off large purchases until after the new year. Going forward, the government has said that corporations will be subject to a $50,000 annual income test (for normal tax rates to apply). We still need more details on this plan, and they should be coming shortly according to the finance department. I would take a wait-and-see approach to investments in the corporation for 2018, because it will depend to a certain degree on the complexity of the government's rules. Depending on what happens, doctors may want to start contributing to RRSPs again, or even starting an Individual Pension Plan (IPP)."

Rona Birenbaum, founder and a financial planner with Toronto's Caring for Clients, said:

"**Step 1:** Confirm if your corporation currently reports more than $50,000 of passive investment income. If not, you have time to plan for the time when you will. Identify if your personal marginal tax rate is likely to be less than the (to be announced) punitive passive income tax rate.

"**Step 2:** Consider strategies that will support wealth building within the corporation while generating little or no taxable passive income. Strategies worth investigating are: life insurance strategies for tax deferral on savings, and/or estate transfer, utilizing investment vehicles that offer an investment return deferral feature, and withdrawing tax-free capital (investments) from the corporation. Shareholder loans and capital dividend account balances should be cleaned out annually if passive income exceeds $50,000.

"**Step 3:** Take your time and do your homework. The level of taxation on corporate passive income over $50,000 won't be known until the spring federal budget. So the cost/benefit of a particular strategy won't be calculable until then. The above strategies may be attractive in isolation, but could be less impactful in the context of your overall financial affairs and long-term funding. Get your advice from an independent planner if possible, rather than an advisor/salesperson who will be marketing these strategies to all business owners aggressively in the coming months." **MP**

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Doctors on tax proposals at the Senate committee

THE CANADIAN SENATE STANDING Committee on National Finance decided to study the impact of the proposed incorporation tax changes. The committee invited physician organizations that opposed the changes and those that supported them to address the committee and a number did so on Oct. 25. Key points from their remarks are below.

In Canada, of course, the House of Commons is the dominant chamber so why address a Senate committee? The Canadian Medical Association and several provincial associations (B.C., Ontario and N.S.) did meet with the finance minister in September and the CMA twice addressed the Commons' Standing Committee on Finance in September before the government announced some tweaks to the proposals in mid-October. As well, the Senate does have the power to accept, reject or make changes to legislation made by the Commons—though this is only periodically exercised.

❶ Dr. Laurent Marcoux, President of the Canadian Medical Association.

❷ Dr. Shawn Whatley, President of the Ontario Medical Association.

❸ Dr. Kulvinder Gill, President of Concerned Ontario Doctors.

❹ Dr. Rita McCraken, family physician.

❶ Time to hit the pause button

- "The CMA is opposed to the tax proposal given the significant destabilizing effect on medical practices and the small business sector. Doctors employ 137,000 Canadians and provide needed medical infrastructure. About 54,000 physicians are incorporated."
- "While the government has made some adjustments to its initial proposal, the adjustments contain a level of complexity that will be both difficult to comply with and track as well as difficult to administer. We remain very concerned with the pace at which these changes are being considered. Let's not forget that the proposed tax changes are the most significant to the small business tax system in 45 years. With so much detailed information lacking, it would not be prudent to proceed with implementation as currently planned."
- "We submit that a spousal exemption for income sprinkling is appropriate. Most jurisdictions recognize spouses as equal economic partners as they also share the risks and benefits of operating a small business."

—Dr. Laurent Marcoux, President of the Canadian Medical Association.

❷ Proposed $50,000 threshold won't cut it

- "With respect to passive investment, we appreciate that the finance minister has reconsidered the original proposal regarding taxation of passive income within a private corporation. Most physicians use their MPC (medical professional corporation) as a vehicle to fund retirement and to operate and expand their practice. The proposed $50,000 tax-free threshold, which is not indexed to inflation, would easily be reached by anyone who uses a private corporation for long-term retirement savings. Hence the proposed $50,000 threshold would prevent physicians from using their MPC to draw income upon retirement. The threshold creates similar problems for physicians who use passive investment on income to fund maternity leave, short-term disability or educational leaves."
- "Regarding income splitting, the consultation document proposes amendments that would remove the ability to split. The consultation document uses the example of Jonah and Susan to compare the income tax paid by an employee and a corporation owner. This comparison is flawed. . . . Equating the tax treatment of a self-employed incorporated business owner with a salaried employee ignores the fundamental tax differences between the two. This comparison provides no recognition of the risks associated with starting and operating a business. For physicians these risks include incurring and personally guaranteeing debt for startup, staff recruitment, provision of staff benefits, rent, equipment and overhead costs."

—Dr. Shawn Whatley, President of the Ontario Medical Association

❸ Proposed tax changes disproportionately hurt female physicians

- "In 2000 Ontario granted physicians the ability to incorporate in lieu of fee increases. The government even encouraged doctors to use incorporation as a vehicle to save for their retirement. Now more than 70% of Ontario's doctors are incorporated."
- "As a young, female, visible minority physician I represent the changing face of medicine in Canada. Since 1970 the number of practising female physicians has grown dramatically from 7% to 41%. Now approximately 60% of all medical students are women. The proposed tax changes disproportionately hurt female physicians who must use their corporations to fund their ongoing clinical overhead while at home taking care of their newborns. It creates roadblocks for women wanting to pursue medicine and entrepreneurship. A full analysis looking at the gender implications of any proposed tax changes is critical."

—Dr. Kulvinder Gill, President of Concerned Ontario Doctors.

❹ Why we support the proposed tax policies

- "I'm a family doctor in Vancouver, B.C. . . . I'm here to speak to the content of a letter that has been signed by 490 doctors and medical students across Canada. The signatories of this letter are in favour of the proposed tax policies regarding Canadian Controlled Private Corporations (CCPC) . . . However our support is not unequivocal. This group also calls for a more comprehensive approach to tax reform including addressing the special rules for tax on stock options available to some of the highest-paid Canadians."
- "Even for doctors there is inherent unfairness with the current tax benefits. Of the 117,000 people who are currently using income splitting in Canada only one in 73, or less than 2%, of them are women whereas 41% of Canadian doctors in 2016 are women. . . . Only 60% of doctors in Canada are incorporated. Many doctors are single or have children who are the wrong ages (for income-splitting) or have crippling debt. All are situations which prohibit use of all of the current CCPC benefits and while 40% of unincorporated doctors is a minority, it is a large portion of the profession who may have important contributions to this conversation and who have not been widely heard in the media nor in communications from our professional associations. I will mention that the signatories of our letter include both incorporated and non-incorporated physicians."

—Dr. Rita McCraken, family physician