

Testimony before the House of Commons Standing Committee on Finance

Bill C-74 – An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures

May 1, 2018

Thank you, Mr. Chair, members of the Committee. As mentioned, my name is Ian Russell and I am President and CEO of the Investment Industry Association of Canada (IIAC).

I am grateful for the invitation to come before this Standing Committee to present the views of the IIAC on the Budget Implementation Act, 2018. I will focus my remarks on Part 1 of the Bill and, more particularly, on the sections that pertain to passive investment income, the refundability of taxes on investment income, and income sprinkling.

The principle focus of our remarks is on the impact of the private corporation tax proposals on the capital formation process for new and emerging small businesses. Recent budget changes to the tax proposals have given small business qualifying for the small business deduction greater flexibility and scope in managing financial

investments. On the other hand, private corporations are still discouraged from building financial assets and engaging in small company financing and merchant banking activities.

Under the first feature of the tax proposals, the availability of the small business deduction, namely eligibility for a preferred corporate tax rate of 10% on the first \$500,000 of qualifying active income (falling to 9% effective January 2019), will be phased out for CCPCs and their associated corporations that exceed \$50,000 of passive investment income in the taxation year. This will be achieved by reducing the amount of income eligible for the small business rate by \$5 for every \$1 of investment income that exceeds the \$50,000 threshold. This phase-out mechanism eliminates the availability of the small business tax rate completely, once passive income reaches \$150,000 in a year. Businesses with more than \$150,000 in passive investment income will pay the higher general corporate income tax rate (15%) on their active business income.

While this approach is simpler than proposed previously, the inability to qualify for the preferred corporate tax rate, unless passive income is at or below \$50,000, unfairly penalizes small business owners by limiting holdings of passive investments to meet unforeseen contingencies, purchase corporate assets for eventual corporate acquisition or purchase of property to expand business operations.

Moreover, this tax proposal is unfairly retroactive in that past investments, and the income earned from such investments, is not grandfathered. The government had pledged in October 2017 that they would be.

The second feature limits the refundable taxes that private corporations receive on the payment of certain dividends.

Under the current policy, private corporations qualifying for the preferred corporate tax rate, or businesses taxed at the general corporate tax rate, are entitled to a refund of taxes paid on dividends from passive investment income. However, the budget provisions effectively limit the tax refund to non-eligible dividends paid from passive income.

While the new proposals are an improvement, this new approach will increase the administrative burden for small business that will now be required to establish separate accounts for eligible and non-eligible dividends.

We urge the government not to proceed with the passive investment income tax proposals. The government estimates that the proposals will affect less than 3% of private corporations, or about 50,000 of them. We have little idea how important these companies are to the Canadian economy. They may be among the largest and most dynamic in the country.

If the government does proceed, it should, at the very least, grandfather and exclude existing holdings of passive investments in determining eligibility for the small business deduction. Further, the sliding scale of permitted holdings of investment income, from \$50,000 to \$150,000, should be indexed to inflation.

Finally, the third feature of the proposals relates to the income splitting rules. The government should consider further amendments to the income splitting rules or, at a minimum, an implementation delay to provide greater clarity to the rules and give firms time to comply. Businesses will have to determine and define who has substantial ownership stake (10% or more) in the company. For professional businesses (like, lawyers and doctors) that derive their income from services, it becomes even more complicated. Moreover, the legislation leaves the definition of “services business” undefined.

Members of the Committee, the substantive adjustments to the tax proposals for private corporations illustrate the new rules were introduced too quickly and with insufficient analysis. If the government proceeds with its modified new tax rules, we recommend it closely monitor the impact on expansion of existing, growing private corporations, and migration of these businesses to the United States. Canada can ill-afford the loss of available capital for small and mid-sized businesses.

Thank you for your attention. I would be pleased to answer any questions you may have.

Summary of IIAC Recommendations

That the federal government:

Re: Passive Investment Income

- Not proceed with the passive investment tax proposals.
- If determined to proceed:
 - Grandfather past investments, and the income earned from such investments.
 - Index the \$50,000 and \$150,000 exemption limits to inflation.
 - Monitor the impact of the new rules on business behaviour.

Re: Income Splitting

- Consider further amendments to the rules to provide greater clarity.
- Delay implementation to give businesses more time to prepare and comply with the new rules.