

Tax Planning
Opportunities for
Private Corporations
and their Shareholders:

The 2018 Federal
Budget and Beyond



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May 9, 2018

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Tax on Split Income (TOSI)

Four sets of rules, based on age of income recipient

- Under 18
- 18 – 24
- Over 24
- Over 65

Under 18

Old rules continue to apply

- Dividends from private corporations taxed as TOSI
- Capital gains from non-arm's length transactions deemed to be dividends (x2)
- Capital gains exemption on arm's length transactions available (gains in excess of exemption taxed in child's hands at child's marginal rate)

Ages 18 and up

TOSI rules apply unless

- amount is derived directly or indirectly from an excluded business; or
- Income is not derived directly or indirectly from a related business; or
- “safe harbour” capital return

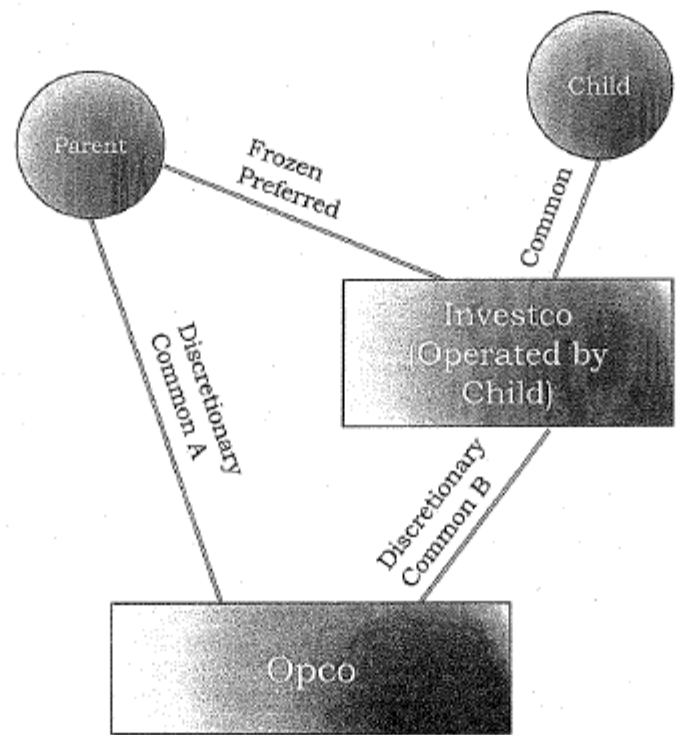
Excluded Business

- Individual is “actively engaged on a regular, continuous and substantial basis in the activities of the business” either in the taxation year or any five prior years;
- 20 hours per week deeming rule
- Query: investment business?

Derived directly or indirectly from a business

- Derived from the provision of property or services to, or in support of, the business;
- Arises from ownership or sale of the business;
- Is derived from a “directly or indirectly derived” amount

Excluded Business ?



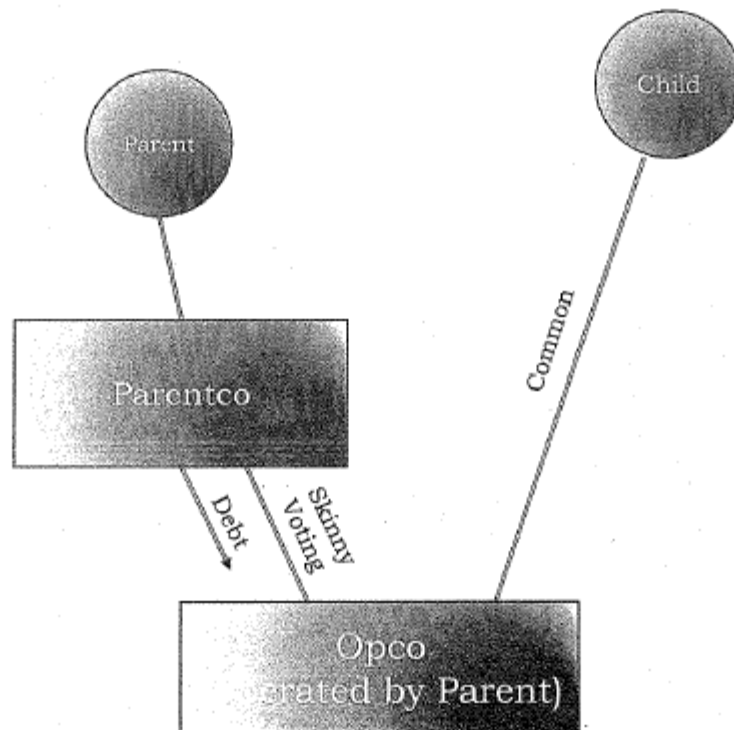
Related Business

- Business carried on by “source individual” in the year
- Business carried on by partnership, corporation or trust if source individual is actively engaged on a regular basis in the year in the activities of the partnership, corporation or trust
- Business of partnership if source individual has any interest in the partnership in the year

Related Business

- Business of a corporation, if, at any time in the year:
 - Source individual owns shares of the corporation; or
 - Property deriving value from the shares of the corporation (i.e. shares of a holding corporation); and
- The above property amounts to at least 10% of the fair market value of the corporation's shares

Related Business ?



Ages 18-24

- Safe harbour capital return
- “Reasonable return” on “arm’s length capital”

Safe Harbour Capital Return

Of little practical use

Limited to “prescribed rate”

“Reasonable Return”

Work Performed

Arm’s length property contributed

Risks assumed

Amounts payable (salary, bonus)

Other relevant factors

Ages 24 and up

- Income from or capital gain from “excluded shares”
- “reasonable return” – with respect to property, not limited to “arm’s length property”

Excluded Shares

Shares owned by the taxpayer

- Less than 90% of “business income” for last taxation year is from provision of services
- Not a “professional corporation”
- Taxpayer has 10% or more votes and value
- All or substantially all income is not derived from one or more other related businesses

Ages 65 and up

- Old rules – income splitting allowed

Summary

- Estate Freezing still valuable tax strategy
- Multiplication of capital gains exemption still permitted (including for minors)
- Use of classes of discretionary common shares to respect the direct shareholding requirements of “excluded shares”

Pipeline

Pipeline transactions not
affected

Inter vivos pipelines

Downstream pipelines

RDTOH Rules

Commencing 2019

RDTOH refund only in respect of
non-eligible dividends

exception: Part IV RDTOH from
portfolio dividends

Claw-back of Small Business Deduction

Straight-line clawback if investment
income exceeds \$50,000;

Fully clawed back at \$150,000