Joint Filing of Spousal Personal Income Tax Returns

Issue

The Carter Commission recognized long ago that the appropriate unit of taxation is the "family unit" rather than the individual. Recent changes to the taxation of spouses within a family unit has highlighted the inequality of the tax burden realized by the family unit. In particular, shareholders of Canadian businesses are most affected by the changes, and it is now necessary to reverse them through the introduction of amendments to the Income Tax Act that will provide for the filing of Joint Spousal income tax returns.

Background

Prior to the issuance of the "Report of the Royal Commission on Taxation" more commonly referred to as the "Carter Commission" in 1966, the unit of taxation in Canada had been the individual. More specifically, income taxation was directed at the individual or "person" receiving the income, irrespective of marital status. In his report, Mr. Kenneth Carter pointed to the inequity of this approach and stated "Because the individual is the tax unit, serious inequity and enforcement problems arise"[1].

Two of the four fundamental objectives of the Carter Commission point specifically to the importance of taxation of the family unit as opposed to the individual. The report stated, in summary:

- *In most families, incomes are pooled, consumption is collective, and responsibilities are shared. It should be an objective of the tax system to reflect this fact, by considering families as taxable units. The ability to pay of the family, as distinct from the individual members of the family, must be recognized.*[2]

And,

- *The tax system must also recognize that the special responsibilities and non-discretionary expenditures of unattached individuals and families affect their ability to pay. Unusually heavy medical expenses, certain education costs and the number of dependent children, for example, should be taken into account in allocating tax liabilities.*[3]

The report by the Commission placed a significant amount of weight on the principles of "equity" and in particular the attention to equity and taxation of the family unit. As early as 1966, it was apparent that addressing the inequality in taxing the individuals who comprised a family unit was of paramount importance as Mr. Carter and his colleagues recommended the following amendments to the Income Tax Act:

- The family unit was to be granted a special rate schedule and would be taxed on the aggregate family income which would be filed as a single return;

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1 Report of the Royal Commission on Taxation, op. cit. n.1, Vol. 3 at p.127

2 The Family and the Income Tax Act in Canada, McGill Law Journal, Volume 18:4, 1972, David W. Beaubier, p.1

3 Ibid, p.1

Under the schedule, to be known as a “family unit rate schedule”, family units would pay less tax than individuals with the same income;

- Family units would be granted a “basic exemption” that would essentially be double that of an individual; and
- Non-refundable tax credits would be granted to the family unit for children of the family.[1]

Although the recommendations presented to the House of Commons Report on Taxation were accepted from the Commission, the recommendations on taxation of the family unit did not find their way into the amendment of the Income Tax Act at the time.

The recent changes to the taxation of Canadian-controlled private corporations (CCPC’s) and their shareholders has brought this issue, once again, to the forefront as the proposals (which have now found their way into legislation) addressed the ability for families who operate certain CCPC’s to allocate or “split” income between spouses and other family members. The new legislation that addresses the Taxation of Split Income (or TOSI) has eliminated what was once the principal objective of the Carter Commission Report – the ability to minimize the overall tax burden of the family unit.

We believe that the time is right to address the inequity that has resulted from the reluctance of successive Canadian governments to adequately recognize the “family unit” as the appropriate unit of taxation. The introduction of legislative provisions that will allow for the filing of a joint personal income tax return by married persons will address the inequality that is inherent in our system of taxation and can eliminate the administrative and compliance burden that is imposed by TOSI regime introduced in 2018.

Arguments have been advanced that the introduction of a method of taxation that does not singularly recognize the “female worker” and her contribution to the *fisc* by representing a unit of taxation bears any validity whatsoever. On the contrary, we believe that the introduction of provisions to allow for the filing of joint spousal returns will not have any adverse impact upon female labor participation rates and will only serve to provide greater after-tax resources to the family unit, thus ensuring greater financial security for female participants of the workforce.

The Alberta Chambers of Commerce recommends that the Government of Canada and Department of Finance:

1. Establish a framework within the Income Tax Act, Canada, to address the importance of the family unit as the appropriate unit of taxation;
2. Introduce legislation to provide for an appropriate “family unit rate schedule” to address taxation of the family unit;
3. Review and address current non-refundable tax credits to ensure their appropriate application to the taxation of the family unit; and
4. Introduce legislation to provide for the ability for families to file a Joint Spousal income tax return to report the aggregate family income of the family unit.

[1] Report of the Royal Commission on Taxation, op. cit. n.1, Vol. 3 at p.173