

Tax on split income (TOSI)

Questions and answers to address changes to income splitting

Effective as of January 1, 2018

Are you a Specified Individual?

A "Specified Individual" is defined as:

[ITA 120.4(1)]

- a) a resident of Canada at the end of the taxation year or, if the individual died during the taxation year, the individual was a resident of Canada immediately before their death; and
- b) if the individual has not attained the age of 17 years before the year, the individual has a parent who is resident in Canada at any time in the year.

NO

TOSI EXEMPT

YES

Do you have Split Income?

"Split Income" is defined as:

[ITA 120.4(1)]

- Taxable dividends from non-public corporations, or shareholder benefits [ITA 15]
- Partnership income received from a "Related Business" [ITA 120.4(1)], or rental income with involvement from a related person [ITA 120.4(1)(b)(ii)]
- Taxable dividends from non-public corporations, shareholder benefits [ITA 15], income from a "Related Business" [ITA 120.4(1)], or rental income with involvement from a related person [ITA 120.4(1)(b)(ii)] received from a trust
- Debt obligation income from a non-public corporation, partnership or trust
- Gains from the sale of non-public corporation shares, or income from property with historical Tax on Split Income

NO

TOSI EXEMPT

YES

Do you have an Excluded Amount?

You received "Split Income" AND:

[ITA 120.4(1)]

- You are under 25 years old and received the property from the death of a parent
- You are under 25 years old, received the property from the death of any person AND were a full-time student or eligible for the disability amount [ITA 118.3(1)]
- Received the property as a result of a decree, order, judgement or separation agreement due to a breakdown of a marriage or common-law partnership [ITA 160(4)]
- Gain from a deemed disposition on the death [ITA 70(5)]
- Gain from the disposition of a property eligible for the Capital Gains Deduction
- Your spouse is 65 years old or older, or is deceased, and the income would be excluded from TOSI for the spouse under the same rules [ITA 120.4(1.1)]

YES

TOSI EXEMPT

NO

Under 18

Did you receive a Gain from private shares transfer?

[ITA 120.4(4)]

Do you have a taxable capital gain from the transfer of non-public corporations shares to an arm's length person?

YES

2X taxable capital gain deemed as a non-eligible dividend subject to the highest marginal rate.

NO

SUBJECT TO TOSI

18 and over

Did you receive an income from a Related Business?

[ITA 120.4(1)]

A "Related Business" is:

- a) a resident in Canada a source individual (related person) in respect of the specified individual at any time in the year, or a partnership, corporation or trust if a source individual (related person) in respect of the specified individual at any time in the year is actively engaged on a regular basis in the activities of the partnership, corporation or trust related to earning income from the business;
- b) a business of a particular partnership, if a source individual in respect of the specified individual at any time in the year has an interest – including directly or indirectly through one or more partnerships – in the particular partnership; and
- c) a business of a corporation, if the source individual (related person) owns shares in the corporation, or property that derives, directly or indirectly, all or part of its fair market value from shares of the capital stock of the corporation that is at least 10% of the FMV of the shares

YES

NO

TOSI EXEMPT

Do you have an Excluded Business?

[ITA 120.4(1)]

An "Excluded Business" is: a business if the specified individual is actively engaged on a regular, continuous and substantial basis (average 20 hour work weeks) in the activities of the business in either:

- a) the taxation year
- b) any of the 5 preceeding tax years

YES

TOSI EXEMPT

NO

18-24 Years old

Is the split income within the Safe harbour capital return?

[ITA 120.4(1)]

Safe Harbour capital return is the FMV of the property contributed by the specified individual in support of a related business multiplied by the prescribed interest rate.

YES

TOSI EXEMPT

NO

Did the income/gain come from Excluded Shares?

[ITA 120.4(1)]

Shares are considered excluded if:

- i. less than 90% of the business income of the corporation for the last taxation year of the corporation that ends at or before that time was from the provision of services
- ii. the corporation is not a professional corporation
- iii. the shares you own represent 10% of the voting and FMV of those shares
- iv. less than 10% of the income received by the corporation came from a related business

YES

TOSI EXEMPT

NO

Is the split income within the Reasonable return?

[ITA 120.4(1)]

Reasonable return based on the contributions you or related person made, having regard only to the contributions of arm's length capital.

YES

TOSI EXEMPT

NO

SUBJECT TO TOSI

Is the split income within the Reasonable return?

[ITA 120.4(1)]

Reasonable return is the specified individual's split income that is deemed reasonable based on:

- i. the work they performed in support of the related business
- ii. the property they contributed, directly or indirectly, in support of the related business
- iii. the risks they assumed in respect of the related business
- iv. the total of all amounts that were paid or that became payable, directly or indirectly, by any person or partnership to, or for the benefit of, in respect to the related business
- v. other factors as may be relevant

YES

TOSI EXEMPT

NO

SUBJECT TO TOSI



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