

Submissions must be sent to: finapbc-cpb@parl.gc.ca

Submissions must be received by Friday, August 5th, 2016 at 11:59PM Eastern Standard Time

Background

The lifetime capital gains exemption (the “exemption”) rules contained in Section 110.6 of the *Income Tax Act* (the “ITA”) is an integral mechanism to facilitate investment in entrepreneurial and owner-managed business in Canada. As of 2016, the exemption permits \$824,176 in gross capital gains to be triggered tax free over an individual’s lifetime when a sale is made of a qualifying active Canadian business. The substantial tax savings offered by this exemption provides additional after-tax proceeds on the sale of a business, which investors may then reinvest into subsequent business ventures.

Qualifying for the lifetime capital gains exemption requires that the capital gain arise on the sale of qualified small business corporation shares (in addition to farming and fishing property and reserves, which we have not discussed), a definition under ITA 125(7) which includes, among other things, the requirement to not be controlled “by one or more public corporations (other than in a prescribed venture capital corporation)”.

Prescribed Venture Capital Corporations are defined in ITA Regulation 6700 to include corporations registered under a variety of provincial and territorial small business venture capital and tax credit acts; New Brunswick however, is not represented on this list. The inclusion of these provincial and territorial acts in the legislation is meant to enhance access to various tax benefits contained in the ITA, for investors specifically contributing their funds and expertise to small owner-managed companies with active local operations.

For federal purposes, labour-sponsored funds tax credits are being phased out by 2017, per the 2013 budget amendments, and ITA Regulation 6701.1 was included in the Act in 2013 to disqualify Labour-Sponsored Venture Capital Corporations (“LSVCCs”) from being Prescribed Venture Capital Corporations as well. However, Regulation 6701.1 was then repealed in the 2016 budget to continue to allow organizations registered under their provincial and territorial acts to obtain the benefits granted by ITA Regulation 6700 and, with its redaction from the act, to qualify as Prescribed Venture Capital Corporations. Therefore, qualifying as a Prescribed Venture Capital Corporation, continues to be beneficial to investors in NB private companies and would assist them in obtaining access to their lifetime capital gains exemption, even where there is no access to a federal labour-sponsored fund tax credit.

The provincial venture capital act for the province of New Brunswick, which fits within the scheme of the others contained in ITA Regulation 6700, is the New Brunswick *Small Business Investor Tax Credit Act*. This Act provides a provincial credit for investors in qualifying and registered corporations who maintain active operations within the province, are below a specific size, and are funded by local investors.

Recommendation

We propose that the New Brunswick *Small Business Investor Tax Credit Act* be added to the list of acts under which a corporation may be registered in order to qualify as a Prescribed Venture Capital Corporation under Regulation 6700.

Alignment with Federal Policy Goals

Policy Goal 1 - What federal measures would help Canadians generally – and such specific groups as the unemployed, indigenous peoples, those with a disability and seniors – maximize, in the manner of their choosing, their contributions to the country’s economic growth?

This proposal would assist Canadians generally, and the specific group of the unemployed in particular, maximize their contributions to the country’s economic growth. Entrepreneurship and the facilitation of start-up capital for new business ventures will assist in the creation of jobs and assist in retaining skilled labour within the country.

2 – What federal actions would assist Canada’s businesses – in all regions and sectors – meet their expansion, innovation and prosperity goals, and thereby contribute to economic growth in the country?

The federal action that would assist Canada’s business, located in New Brunswick, meet their expansion, innovation, and prosperity goals, would be to include the New Brunswick *Small Business Investor Tax Credit Act*.

3 – What federal measures would ensure that urban, rural, and remote communications through Canada enable residents to make their desired contribution to the country’s economic growth and business to expand, prosper, and serve domestic and international customers in order to contribute to growth?

The expansion of access to investors qualifying under the New Brunswick *Small Business Investor Tax Credit Act*, would bring the incentives available across Canada to those New Brunswick citizens who are interested and able to support local business expansion. It would promote equity and fairness in how the provinces and territories are benefited by this exemption, and allow further growth in New Brunswick’s business community.

Policy Sponsors

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