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## Advising Small & Family Businesses

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# Splitting Income - Changes and Challenges for Small Business Owners

*Advising Small & Family Businesses*

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## **INTRODUCTION**

Both 2017 and 2018 have been rife with serious proposed and enacted tax changes that will impact small businesses and their owners.

Caveat: This paper is written by a lawyer and it references tax – a dangerous concept. \*Always talk to your accountant.

## **EXPANSION OF TAX ON SPLIT INCOME (TOSI)**

The TOSI (commonly known previously as the “Kiddie Tax”) used to be something that most small business owners were only worried about when they were looking at remunerating children under the age of 18. Effective January 1, 2018, the Government expanded TOSI to include “specified individuals”. Before 2018, this would have meant any minor, while now the definition has been expanded to include an individual who:

- (a) is resident in Canada at the end of the year (or in the year of death, immediately before the death), and
- (b) for individuals who have not attained the age of 17 before the year, has a Canadian-resident parent at any time in the year.

The Government’s objective is to eliminate the tax benefits of income splitting where the recipient of the income (a related family member) has not made a sufficient contribution to the family business. Any income taxed under the TOSI rules is subject to tax at the highest personal marginal tax rates, attempting to eliminate any advantage achieved from income splitting.

The TOSI rules application is broad. The rules potentially apply to essentially any income amounts, dividends and capital gains that are considered “split income” (a non-exclusive list of the forms will follow below).

Where one person is doing most or all of the work, but a related person gets some or all of the income related to that work, situation is created wherein income splitting is occurring and where TOSI may thus apply. The person doing most, or all of the work, is considered to be the “source individual” which is defined as a Canadian-resident person who is related to the “specified individual”. FYI - A spouse or partner that has been separated by the end of the year is no longer considered a source individual – but then again, who wants to split income with a separated spouse (could this be a topic for creative collaborative divorce methodology?)...