



*Be well-advised.*

## **INCOME SPRINKLING** SIMPLIFIED RULES FOR BUSINESS OWNERS



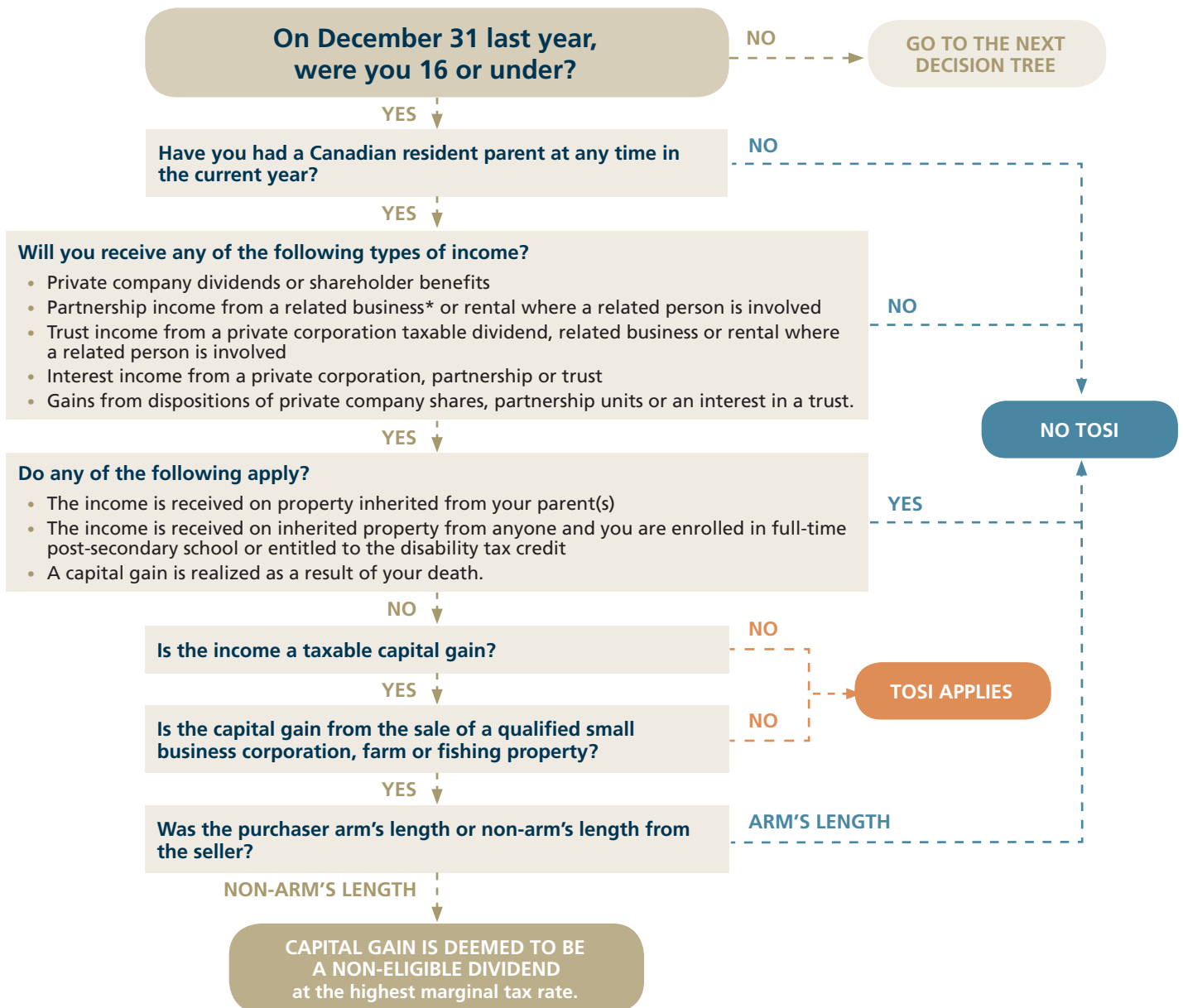
# INCOME SPRINKLING

On December 13, 2017, federal Finance Minister Bill Morneau released updated legislation relating to “income sprinkling” by business owners and their families. The new legislation, which came into effect on January 1, 2018, is still very complex and includes four different sets of rules depending on the individual’s and/or their spouse’s age.

To assist you in navigating these rules, we have prepared a set of “decision trees” that can be used as a guide to determine if the new tax on split income (TOSI) rules may

apply. If TOSI does apply, the income will be taxed to the recipient of the income at their highest marginal tax rate.

Please note, these “decision trees” were designed to simplify the rules for discussion purposes and should be used as guidance only. There could be additional exemptions relating to inherited property that are not reflected in this guide, and individuals should seek confirmation from their tax advisor on their specific situation.



\*Related business will generally be a business where someone related to you is involved in the business

Are you celebrating your 18<sup>th</sup> to 24<sup>th</sup> birthday this year?

NO

GO TO THE NEXT DECISION TREE

Are you, or will you be a Canadian resident at the end of this year?

NO

YES

Will you receive any of the following types of income?

- Private company dividends or shareholder benefits
- Partnership income from a related business\* or rental where a related person is involved
- Trust income from a private corporation taxable dividend, related business or rental where a related person is involved
- Interest income from a private corporation, partnership or trust
- Gains from dispositions of private company shares, partnership units or an interest in a trust.

NO

YES

Do any of the following apply?

- The income is received on property inherited from your parent(s)
- The income is received on inherited property from anyone and you are enrolled in full-time post-secondary school or entitled to the disability tax credit
- The income is received on property obtained under a separation agreement resulting from the breakdown of a marriage or common-law partnership
- A capital gain is realized as a result of your death
- A capital gain is realized on the disposition of qualified small business shares, farm or fishing property.

YES

NO TOSI

NO

Is the income from a related business?

NO

YES

Is the income a taxable capital gain?

NO

YES

Have you been actively involved in the business on a meaningful and continuous basis in the current year or any of the five previous years? Generally, an average of 20 hours per week is considered meaningful and continuous.

Were you actively involved in the business on a meaningful and continuous basis in any of the five previous years? Generally, an average of 20 hours per week is considered meaningful and continuous.

NO

YES

NO

YES

Did you contribute capital to the business that was not borrowed by you or gifted to you by a related party and not capital you received as income from a related business?

NO

YES

Is the income earned equal to or less than the current prescribed rate on the capital you contributed?

Is the income earned equal to or less than a reasonable rate of return on the capital you contributed? Factors to consider in determining reasonability can include work performed, property contributed, risk assumed, total amounts already paid and other relevant factors.

NO (portion of income in excess of prescribed rate)

YES

NO (unreasonable amount)

YES

NO (portion of income equal to prescribed rate)

NO (reasonable amount)

Is your spouse over or turning 65 this year?

NO

TOSI APPLIES

YES

REPEAT TREE and answer the questions for your spouse, the same rules will apply to you.

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## Are you over 25 or celebrating your 25<sup>th</sup> birthday this year?

YES ↓

### Will you receive any of the following types of income?

- Private company dividends or shareholder benefits
- Partnership income from a related business\* or rental where a related person is involved
- Trust income from a private corporation taxable dividend, related business or rental where a related person is involved
- Interest income from a private corporation, partnership or trust
- Gains from dispositions of private company shares, partnership units or an interest in a trust.

NO

YES ↓

### Do any of the following apply?

- The income is received on property obtained under a separation agreement resulting from the breakdown of a marriage or common-law partnership
- A capital gain is realized as a result of your death
- A capital gain is realized on the disposition of qualified small business shares, farm or fishing property.

YES

NO ↓

### Is the income from a related business?

NO

YES ↓

### Is the income a taxable capital gain?

NO ↓

YES ↓

**Have you been actively involved in the business on a meaningful and continuous basis in the current year or any of the five previous years?** Generally, an average of 20 hours per week is considered meaningful and continuous.

**Were you actively involved in the business on a meaningful and continuous basis in any of the five previous years?** Generally, an average of 20 hours per week is considered meaningful and continuous.

NO ↓

YES

NO ↓

YES

### Is the corporation a professional corporation or service business, or does it earn substantially all of its income from a related business?

YES ↓

NO ↓

### Do you own 10% or more of the corporation's votes and value?

YES

NO ↓

### Is the income earned a reasonable rate of return based on relative contributions from you and other related individuals?

Factors to consider can include work performed, property contributed, risk assumed, total amounts already paid and other relevant factors.

YES

NO (unreasonable amount)

NO (reasonable amount)

### Is your spouse over or turning 65 this year?

NO

**TOSI APPLIES**

YES ↓

### REPEAT TREE

and answer the questions for your spouse, the same rules will apply to you.

**NO TOSI**

\*Related business will generally be a business where someone related to you is involved in the business



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