



Allowing Investment Advisors to Incorporate Can Enhance Alberta's Professional Attractiveness

Issue

Over the past several years, Alberta has fallen behind Canada's other provinces in fostering the business competitiveness of its highly educated, trained, and successful professionals.

Background

Alberta's leading economy has been built on its commitment to encouraging business and fostering an environment of success. As our economy evolves, it is important that Alberta maintains its commitment to business and maintains its competitiveness. Over the past several years, Alberta has fallen behind Canada's other provinces in fostering the business competitiveness of its highly educated, trained and successful professionals.

Alberta is home to some of Canada's leading professionals. Our doctors, dentists, engineers, accountants and lawyers provide a high level of expertise and service to Albertans. On November 24, 2009, the Alberta Legislature passed Bill 53, the *Professional Corporations Statutes Amendment Act, 2009*, to finally acknowledge that Alberta professionals have been at a disadvantage when it comes to their business structure and planning opportunities.

Alberta's rules governing the ownership of shares, both voting and non-voting of professional corporations have differed materially from those of other provincial jurisdictions, including those of British Columbia, a signatory of the *New West Partnership Agreement*.

The *Professional Corporations Statutes Amendment Act, 2009*, takes steps to correct the limited tax planning options of the professional. With Alberta raising overall tax rates plus having artificial limits on the tax-planning opportunities afforded to its professionals, it has resulted in a larger disadvantage for professionals in Alberta.

Much like the ownership restrictions that had limited planning opportunities for professional corporations, the rules in Alberta for investment advisors differ from those of British Columbia, where an investment advisor can receive compensation to their personally owned corporation.

Life insurance agents operating in Alberta are permitted under Alberta's *Insurance Act* to incorporate their business. Yet a dual-licensed advisor for insurance and mutual funds/securities can operate their insurance business through a corporation, but not their mutual funds and securities business. This creates a duplication of costs and closes doors on proper tax and succession planning.

Currently, under a temporary exemption granted by provincial securities regulators in Ontario, Manitoba, Saskatchewan, Nova Scotia, New Brunswick and British Columbia, members of the Mutual

Fund Dealers Association of Canada (MFDA) are permitted to pay commissions to incorporated salespersons. Alberta is the only province recognizing the MFDA to not permit this temporary exemption. The MFDA exemption was scheduled to expire on March 31, 2010. Other provinces have stated that they will not extend this temporary exemption and that a permanent solution needs to be implemented. It is likely that these provinces will continue to allow advisors in neighbouring provinces to be compensated to a corporation through their own permanent solutions.

Many Alberta advisors with large investment practices will often choose to work in other provinces such as BC because of the specific ability to have securities incomes paid to a corporation in that jurisdiction. As a matter of fact, advisors who have built practices in Alberta before moving to other provinces are still able to retain their Alberta based clients while residing in those other provinces. Effectively, this means that another province is earning the tax revenue that could otherwise have been earned in Alberta. All things being equal, advisors may be more inclined to reside in Alberta if they had the ability to incorporate.

For Alberta to keep in step with the other provinces, its *Securities Act* needs to be amended to allow the definition of “salesperson” to include a corporation, and allow for the exemption of the corporation from being registered, as the individual advisor is already a registrant under the *Act*. This exemption has worked successfully in British Columbia and Manitoba. These changes will remove the competitive disadvantages that Alberta’s investment advisors have as compared to advisors in neighbouring jurisdictions.

The Alberta Chambers of Commerce recommends the Government of Alberta:

1. Implement legislative amendments to the *Securities Act* that would allow financial advisors (mutual fund and securities representatives) to incorporate through a change to the definition of salesperson to include a corporation under that definition.
2. Provide an exemption from the requirements in the *Securities Act* that require a corporation to be registered, given that the individual financial advisor is already a registrant under the *Act*.