

# Tax on Split Income (TOSI) – Quick Reference Chart (updated 8/19/2024)

This chart is intended to be a general guide in determining exposure to the TOSI rules applicable to the 2018 and later taxation years (Section 120.4). The descriptions and titles are general references. The specific legislation should be reviewed for a complete and detailed understanding of each concept.

## 1. TOSI applies to “Split Income”, defined to include the following receipt streams<sup>1</sup>:

|                                                                                                                                       |                                                                                                                      |                                                                                                                                      |                                      |                                                        |                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------------------------|-------------------------------------------------|
| <b>Taxable Dividends</b><br>(amounts in respect of taxable dividends, generally from private corporations only – Subparagraph (a)(i)) | <b>Shareholder Income Inclusions from Section 15</b> (e.g. shareholder benefits, loans, etc. – Subparagraph (a)(ii)) | Income in respect of <b>Debt Obligations</b> (e.g. interest, fees, etc.) of, generally, entities not publicly traded – Paragraph (d) | <b>Capital Gains</b> (Paragraph (e)) | <b>Partnership Income</b> (Paragraph (b)) <sup>4</sup> | <b>Trust Income</b> (Paragraph(c)) <sup>4</sup> |
|---------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------------------------|-------------------------------------------------|

## 2. “Excluded Amounts” – TOSI will not apply where any of the following exceptions are met <sup>1,2</sup>:

| Exception                                                                      | 0-17 at year-end                                                                                                                                                                                                                                                                                                                                                                                                              | 18-24 at year-end                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 25 or greater at year-end                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Related Business</b>                                                        | NA                                                                                                                                                                                                                                                                                                                                                                                                                            | Not derived directly or indirectly from a Related Business in respect of the individual for the year. Subparagraph (e)(i). See note 3.                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Reasonable Return</b>                                                       | NA                                                                                                                                                                                                                                                                                                                                                                                                                            | A return on <b>capital contributions</b> , generally no greater than the <b>prescribed rate (Safe Harbour Capital Return)</b> . A higher return requires <b>Arm’s Length Capital</b> (numerous restrictions apply, including no use of borrowed funds). Paragraph (f).                                                                                                                                                                                                                                          | A Reasonable Return based on contributions to the business which include: <b>labour</b> (work performed), <b>capital</b> (property contributed), <b>risks</b> assumed, <b>amounts paid</b> or payable from the business and any <b>other relevant factors</b> . Subparagraph (g)(ii).                                                                                                                                                                                                |
| <b>Excluded Business</b>                                                       | NA                                                                                                                                                                                                                                                                                                                                                                                                                            | Derived directly or indirectly from an Excluded Business of the individual for the year. The individual must be “actively engaged on a regular, continuous and substantial basis” in the year (does not apply to capital gains), or in any five prior taxation years. Subparagraph (e)(ii). The test is automatically met if working at least an average of 20 hours per week during the portion of the year in which the business operates. Paragraph 120.4(1.1)(a).                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Excluded Shares</b>                                                         | NA                                                                                                                                                                                                                                                                                                                                                                                                                            | NA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Income from, or capital gains from the disposition of, Excluded Shares. Various conditions must be met: less than 90% of business income for the previous year was from the provision of services; cannot be a professional corporation; all or substantially all income in the previous year derived from sources other than a related business not carried on by the corporation; and the income recipient directly owns at least 10% of the votes and value. Subparagraph (g)(i). |
| <b>Disposition of Qualified Property</b>                                       | A taxable capital gain for the year from the disposition by the individual of property that is, at the time of the disposition, “qualified farm or fishing property” or “qualified small business corporation shares”. Subparagraph (d). Does not apply if gain is deemed to be a dividend under Subsection 120.4(4) or (5) (deeming only applies to share sales by individuals under age 18 to non-arm’s length purchasers). |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Spouse</b>                                                                  | <b>Age 65 and Up</b> – Income or taxable capital gain that would be an excluded amount if it had been received by the individual’s spouse or common-law partner who is at least 65 years old at year-end.                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                | <b>Deceased</b> – Income or taxable capital gain that would have been an excluded amount if it had been received by the individual’s deceased spouse or common-law partner in that person’s year of death.                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                | <b>Divorce/Relationship Breakdown</b> – Income or taxable capital gains from property (see note 5) acquired as part of a matrimonial property settlement (i.e. pursuant to a court order or written agreement on relationship breakdown). Paragraph (b) and Subsection 160(4).                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Property Acquired as a Consequence of a Person’s Death (“the Deceased”)</b> | NA                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>General</b> – For purposes of income or capital gains arising from the property acquired, the Reasonable Return test will consider the contributions made by the deceased. The recipient will be eligible for the Excluded Business exception if the deceased met the five-year test for that exception. If the deceased was age 25 by the end of the year of death, the recipient of the property may apply the Reasonable Return and Excluded Shares tests as if they were age 25. Paragraph 120.4(1.1)(b) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                | <b>Deceased Parent</b> – Income or capital gains from property (see note 5) acquired as a consequence of a parent’s death. Subparagraph (a)(i)                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | NA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                                                | <b>Acquired by a Student or a Disabled individual</b> – Income or capital gains from property acquired as a consequence of any person’s death by an individual who is either a full-time student or is eligible for the disability tax credit. Subparagraph (a)(ii)                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | NA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Death</b>                                                                   | <b>Deemed Disposition</b> – A taxable capital gain arising from a deemed disposition on death. Paragraph (c) and Subsection 70(5).                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

### Notes:

- Income Tax Act references in part 1 refer to the definition of “Split Income” in Subsection 120.4(1) while those in part 2 refer to the definition of “Excluded Amount”, unless otherwise indicated.
- The items in these columns list only the key elements of the particular exclusion. Other exceptions and conditions may apply.
- A Related Business (defined in Subsection 120.4(1)) in respect of a taxpayer includes any business, where another individual (the “source individual”) related to the taxpayer does any of the following:
  - personally carries on the business at any time in the year;
  - is actively engaged in the business carried on by a partnership, corporation or trust at any time in the year;
  - owns shares of the corporation carrying on the business, or property the value of which is derived from shares of the corporation, having a fair market value not less than 10% of the fair market value of all of the shares of the corporation; or
  - is a member of a partnership which carries on the business.
- Specific rules apply in determining what types of partnership and trust income are subject to TOSI. In general, it includes similar income to those caught by other provisions (like taxable dividends), amounts derived from a related business, and rental income in which a related person is actively engaged.
- On August 12, 2024, the Department of Finance released [draft legislation](#) that would extend “property” to also include “substituted property” for these provisions. This was proposed to be effective as of August 12, 2024.