



The Best Way Forward: Designing a Tax Review for Canada



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Leading the way forward – Insights from tax review role models

CPA Canada has consulted widely on international tax review models. Here are tax experts' comments from members of the Global Accounting Alliance (GAA) about the Canadian situation and their observations in the three GAA countries – New Zealand, Australia and the United Kingdom – that have conducted tax reviews in recent years. In addition, we present recommendations from parliamentary committees in Canada and from international organizations.

It's time to move from talk to action

“Fifty years is a long time between tax reviews! In New Zealand there tends to be a reasonably comprehensive tax system review on a 10-yearly basis (relative to the last 30 years at least).”

– **John Cuthbertson**, Tax Leader, New Zealand, Chartered Accountants Australia and New Zealand

“Appoint an expert panel to undertake a comprehensive review of the Canadian tax system through a “made-in-Canada approach” ensuring a tax system that strengthens the competitiveness of Canadian businesses, drives innovation, and reduces the administrative and compliance burden for all users of the tax system.”

– Recommendation from **House of Commons Standing Committee on Finance**, *Cultivating Competitiveness: Helping Canadians Succeed*, Pre-budget consultations report, December 2018

“The government should review the tax system to ensure that it remains efficient – raising sufficient revenues to fund public spending without imposing excessive costs on the economy – equitable and supports the competitiveness of the Canadian economy.”

– **OECD**, *Economic Survey of Canada - Key Policy Insights*, June 2018

Key principles of a 21st-century tax system

“In New Zealand, the review terms of reference typically require all deliberations and recommendations to be tested against a sound guiding principles framework for tax.... The current review has extended these principles to include societal measures via a separate living standards framework.”

– **John Cuthbertson**, Tax Leader, New Zealand, Chartered Accountants Australia and New Zealand

Defining the scope

“The committee holds the view that Canada’s [tax] system requires a complete examination to ensure that changes to one area do not have unintended consequences elsewhere.”

— **Standing Senate Committee on Banking, Trade and Commerce**, Canada: Still Open for Business?, October 2018

“[The Henry Tax Review] was hampered from the outset in that GST was not part of the terms of reference. So my first suggestion would be for Canada to have everything on the table.”

— **Michael Croker**, Tax Leader, Australia, Chartered Accountants Australia and New Zealand

“Our tax reviews tend to [...] deal with both tax policy and tax administration measures. How our tax system works in practice for both New Zealand Inland Revenue and taxpayers is important.”

— **John Cuthbertson**, Tax Leader, New Zealand, Chartered Accountants Australia and New Zealand

Designing the process

“When the Mirrlees team was trying to finalize its review they recognized that, as it had been written largely by economists, no one else would understand a word of it. So [Mirrlees editorial team member] Malcolm Gammie largely rewrote it in plain English. No one is ever going to act on a report that is incomprehensible!”

— **Ian Young**, The Institute of Chartered Accountants in England and Wales

Opportunities to make a difference

“Rebalancing taxation away from taxes with high efficiency costs, such as corporate and personal income taxes, towards those with low efficiency costs, such as GST (VAT) and environmental taxes, and reducing unwarranted tax expenditures would improve resource allocation and, hence, productivity.”

— **OECD**, Economic Survey of Canada - Key Policy Insights, June 2018

“The benefits from simplification of UK tax law and policy are considered to be:

- simpler tax law should encourage compliance and make avoidance more difficult
- the taxpayer’s compliance costs should be reduced
- HMRC’s [Her Majesty’s Revenue and Customs’] collection costs for the majority of
- the tax take could be reduced
- the effect of UK tax law should carry a greater degree of certainty, reducing the level of disputes and so avoiding negative use of resources
- UK public perception of tax law and the legislative process would be improved
- business perception of UK tax law could be enhanced, and
- the UK’s attractiveness as a place to do business would be enhanced”

— Excerpt from **ICAS (The Institute of Chartered Accountants of Scotland)**, *Tax Board Policy Positions 2017*

Introduction

It's time to move from talk to action

At CPA Canada, we strongly believe a tax system review for Canada is long overdue. With more than 50 years since our last full-scale tax review, the current tax system is in a sad state of repair, while our global peers, including the U.S., are leveraging their tax systems in an effort to boost their own tax competitiveness.

While the federal government's 2018 Fall Economic Statement introduced welcome new measures to help accelerate business investment, these measures are temporary and do not reduce the need for a more comprehensive review of the entire tax system.

A sound tax system is essential to Canada's competitiveness. Until we take a more universal approach to fix it, Canada's competitive advantage will continue to fade, and prospects for sustainable growth and prosperity will continue to dim for Canadians, Canadian businesses and our economy overall.

With this series of thought leadership reports, CPA Canada has aimed to spark a national discussion about our country's urgent need for a tax system review. Our most recent report¹ in this series examined what's wrong with the current system and why major corrections are so necessary. Our first report² examined how several other countries have approached tax system reviews and what lessons they offer for us in designing a review in Canada.

CPA Canada counts many of the country's leading tax experts among our members. CPA Canada President and CEO Joy Thomas assembled a panel of these professionals to contribute their knowledge and ideas as part of an Advisory Committee on a Tax Review (Advisory Committee). The panel's discussions helped shape many of the views expressed in this report.

We also consulted the tax leaders in the Global Accounting Alliance (GAA)³ members with the Institute of Chartered Accountants in England & Wales, the Institute of Chartered Accountants of Scotland, and Chartered Accountants

1 CPA Canada, *Canada's Tax System: What's so Wrong and Why it Matters* (Toronto: CPA Canada, December 2018), available at www.cpacanada.ca/taxsystem.

2 CPA Canada, *International Trends in Tax Reform: Canada is Losing Ground* (Toronto: CPA Canada, October 2018), available at www.cpacanada.ca/taxtrends.

3 The Global Accounting Alliance is made up of 10 of the world's leading accounting institutes, brought together to promote quality services, share information and collaborate on important international issues.

Australia and New Zealand — for their insights on recent tax system reviews in their countries, analyzed in our first report in this series. In this report, we highlight advice for Canada from the GAA tax leaders based on the reviews undertaken in their countries.

Fifty years is a long time between tax reviews! In New Zealand there tends to be a reasonably comprehensive tax system review on a 10-yearly basis (relative to the last 30 years at least).

— **John Cuthbertson**, Tax Leader, New Zealand,
Chartered Accountants Australia and New Zealand

To illustrate the opportunities that will come with a tax review in Canada, we devote a section to the priority areas of focus and provide specific examples of where a review could investigate and make recommendations for optimal impact for Canadians and Canada.

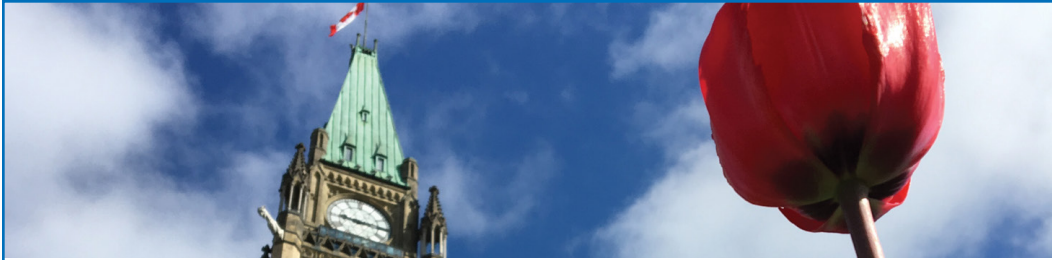
We now believe it's time to move the idea of a tax system review for Canada from talk to action. This final report in our series suggests a blueprint for achieving the best results through a review.

Appoint an expert panel to undertake a comprehensive review of the Canadian tax system through a “made-in-Canada approach” ensuring a tax system that strengthens the competitiveness of Canadian businesses, drives innovation, and reduces the administrative and compliance burden for all users of the tax system.

— Recommendation from **House of Commons Standing Committee on Finance**, Cultivating Competitiveness: Helping Canadians Succeed, Pre-budget consultations report, December 2018

The government should review the tax system to ensure that it remains efficient — raising sufficient revenues to fund public spending without imposing excessive costs on the economy — equitable and supports the competitiveness of the Canadian economy.

— **OECD**, Economic Survey of Canada - Key Policy Insights, June 2018



Recommendations in brief

Canada needs a 21st-century tax system: a simple, predictable, fair, efficient and transparent tax system with internationally competitive tax rates, where everyone pays their share so that all Canadians prosper.

In these pages, CPA Canada recommends that a tax system review for Canada should start by defining the priority principles that will guide the review and ground the recommendations. Among these principles, we believe simplicity, fairness, competitiveness and efficiency of the tax system would be key.

For optimal results, CPA Canada recommends the tax system review should be designed to be:

- **comprehensive in scope**, putting all aspects of tax policy and administration and how they interact on the table in order to identify broad, systemic measures to improve the tax system for the benefit of Canadians, their businesses and our economy overall
- conducted by an **independent expert panel** appointed by the
- Minister of Finance and comprising a mix of senior members of the tax, legal, business, economics and academic communities, and representatives of key stakeholders
- governed by **clear terms of reference** that set out a broad mandate for a **transparent process of analysis, public consultation and review** within a **reasonable timeframe** and with **access to adequate resources** for research and analysis

We then recommend how a review panel could deliver **opportunities to make a difference** by focusing on areas that ultimately **promote sustainable growth and prosperity for Canada and Canadians.**

We suggest areas where a review panel could investigate and develop practical recommendations, with examples under each of these themes:

1. Make the tax system **simpler, fairer, more efficient and competitive** so that all Canadians benefit.
2. **Simplify** and modernize tax policy.
3. Support changes to the CRA and tax administration that **ease compliance for taxpayers.**

As proposed in this report, CPA Canada recommends a well-designed tax review that will result in recommendations for a competitive tax system that supports sustainable growth and serves Canadians' best interests.

Key principles of a 21st-century tax system

Our position

CPA Canada agrees with experts and politicians who believe a principles-based approach will be key to achieving a successful tax system review in Canada.

In 2012, tax expert Heather Kerr and economist Ken McKenzie called for:

... a countrywide discussion of the basic principles, the foundation on which our tax system should be based. A lack of underlying principles and the piecemeal approach to tax law changes in Canada over the last several decades has resulted in a system that is replete with inconsistencies, and difficult to massage to meet social or economic objectives. It is time to rethink fiscal policy in general, and tax policy in particular, in light of the increasing integration of the world economy, demographic and labour market trends, and sectoral shifts in the Canadian economy.⁴

The House of Commons Standing Committee on Finance has also recognized the importance of taking a principles-based approach, as noted in its June 2016 motion to undertake its own comprehensive tax system review.⁵ The committee's approach would have considered tax issues in view of complexity, fairness and the general effectiveness of the tax system, as well as its competitiveness.

Recommendation: A tax system review should seek to deliver recommendations to achieve the priority principles of simplicity, fairness, competitiveness and efficiency of the tax system

4 Heather Kerr and Ken McKenzie, "Tax Policy in the 21st Century," Tax Policy in Canada (Toronto: Canadian Tax Foundation, 2012) at 14:10.

5 This motion was passed in June 2016 (see the last motion in the minutes here: <http://www.ourcommons.ca/DocumentViewer/en/42-1/FINA/meeting-30/minutes>), but the review was postponed through a later motion passed in February 2017.

Developing a set of guiding tax principles for Canada

In setting or evaluating tax policy, it is important to consider existing measures or new proposals through the lens of an overarching set of commonly accepted principles. With a principles-based approach, the reviewing body can define what an ideal tax system should look like, and then measure the current system and proposed measures against those principles.

In its final report, the Advisory Panel on Canada's System of International Taxation (International Tax Panel) noted, "In setting any government policy, a clear and sound set of principles is invaluable. Principles offer guidance now and in the future in setting tax policy, and they can point the way when making decisions among different alternatives."⁶

In the recent tax reviews in the United Kingdom, Australia and New Zealand, recommendations were developed within such frameworks, as discussed in our first report. Tax reviews in Canada, such as the review by the International Tax Panel, have been similarly premised on guiding concepts. Tax policy principles have also been advocated by professional accounting organizations in the U.S. and the U.K., and by international organizations such as the Organisation for Economic Co-operation and Development (OECD).⁷

In New Zealand, the review terms of reference typically require all deliberations and recommendations to be tested against a sound guiding principles framework for tax.... The current review has extended these principles to include societal measures via a separate living standards framework.

— **John Cuthbertson**, Tax Leader, New Zealand, Chartered Accountants Australia and New Zealand

A summary of key words used in the principles of some of these bodies and tax reviews is provided in the Appendix.⁸ These sets of tax principles may differ in their details, but they share some common themes, such as ensuring equity among taxpayers, clarity and simplicity, and promoting economic growth.

6 Advisory Panel on Canada's System of International Taxation, *Final Report: Enhancing Canada's International Tax Advantage* (Ottawa: Department of Finance Canada, December 2008).

7 OECD Committee on Fiscal Affairs, *Addressing the Tax Challenges of the Digital Economy* (Paris: OECD, 2014), Chapter 2.

8 In addition, see the principles set out in James Mirrlees et al., *Tax by Design* (United Kingdom: Institute for Fiscal Studies, November 2011) at 2-3; Ken Henry et al., *Australia's future tax system: Report to the Treasurer, Part One: Overview* (Canberra: Commonwealth of Australia, 2010); Minister of Finance (New Zealand), *Terms of Reference: Tax Working Group* (November 23, 2017); and Victoria University of Wellington Tax Working Group, *A Tax System for New Zealand's Future* (Wellington: Victoria University of Wellington (January 2010).

Tax system design in Canada: Suggested guiding principles

In the context of a tax system review for Canada, a good first step would be to gain consensus among policy-makers and stakeholders on the principles that would serve as the foundation for the process. CPA Canada has examined the various principles adopted by the above bodies and others. Based on our study and with input from CPA Canada's Advisory Committee, we propose the following principles as best suited for building a better tax system for Canada.

Overriding principle:

1. **Revenue for the public good** The primary aim of the tax system is to raise sufficient revenue for government programs in the simplest, most efficient and fairest way, for the benefit of all Canadians.

Principles for evaluating new and existing tax measures:

2. **Simplicity** Tax rules and administrative processes should aim to minimize the time needed by people and organizations to meet their obligations and access tax benefits. Tax guidance should be drafted in plain language. The tax system should employ reasonable policies and cost-effective processes and technology to make tax filings, transactions and interactions as easy as possible for all taxpayers.
3. **Fairness** People and organizations should be treated fairly. Tax rules should not give one business or individual an advantage over another. Based on the idea of progressivity, Canadians who can pay more should pay more through the full range of direct and indirect taxes. The tax system should not create barriers to accessing social benefits or participating in the workforce.
4. **Competitiveness** The tax system should help ensure Canada remains one of the world's leading economies and best places to live, work and do business. The tax mix, tax rates, tax thresholds and specific tax measures should align with global trends and be competitive with other advanced economies.

5. **Efficiency** The tax system should minimize the administrative burden so people and organizations can focus on their core roles and functions. Tax should only be used to meet specific policy aims when it has been clearly proven to be the most efficient and effective approach.
6. **Certainty** Taxpayers should be able to determine what policies apply to them and what they need to do to comply. Changes to the tax system should consider the impact on all taxpayers. Before changes take effect, taxpayers should have enough time to adapt.

Principles for guiding the tax system's ongoing development:

7. **Transparency and regular review** Data and evidence on the cost and value of existing tax measures should be publicly available. The rationale and benefits of any new tax measures, along with clear process and implementation timelines, should be easily accessible. Tax rules should be regularly reviewed to ensure they remain relevant and continue to meet their intended aim; if not, they should be eliminated.
8. **Good, coherent design** Current and future tax system changes should be developed through a comprehensive, formalized consultation process that draws on the knowledge of affected taxpayers. New measures should be substantiated by evidence and properly targeted, and their design should consider their interaction with other tax measures and the tax system as a whole. They should not produce unintended results or add reasonably avoidable complexity.
9. **Coordination** Efforts to ensure Canada's tax system promotes prosperity in a simple, fair and efficient way should be coordinated with all levels of government within Canada, and internationally when appropriate.
10. **Collaboration** A tax administrator's role should involve helping people and organizations meet their tax compliance obligations and claim tax benefits. Any change to the tax system should be assessed to see how it would affect the tax administration's ability to successfully fulfill that role.

Assessing current tax measures against the principles

Once a set of tax system principles for Canada has been agreed on, aspects of the tax system can be tested against them to determine whether and to what extent they adhere to the principles. Among others, the U.K.'s Mirrlees Review meticulously followed this approach to inform its analysis and recommendations.

Based on our findings in our second report in this series, there are many areas of the tax system that could be improved when tested against the proposed principles above. For example:

- Against the principles of **simplicity** and **certainty**, the tax changes affecting private corporations first introduced in July 2017 would not measure up. As CPA Canada and others have submitted, these rules are so complex and so broadly targeted that, in many situations, taxpayers, tax practitioners and the CRA are uncertain about what taxpayers need to do to comply.
- Against the principle of **fairness**, Canada's delivery of many social benefits through the tax system would not meet the test. High degrees of tax policy and administrative complexity make it difficult for lower-income and other vulnerable Canadians to access much-needed income supports through the tax system.
- Against the principle of **competitiveness**, Canada's corporate income tax rates fall short. Canada has lost its corporate tax advantage as the U.S. and other advanced economies have reduced corporate taxes and improved their own tax competitiveness. The same is true for Canada's personal income tax rates and our disproportional reliance on corporate and personal income taxes over indirect taxes (i.e. GST/HST).
- Against the principle of **efficiency**, Canada's system of tax expenditures undermines it. The high number of tax expenditures delivered by Canada's income tax and GST/HST rules greatly complicate the tax system, and it is not known whether they achieve their aims at an acceptable cost.

On the other hand, according to CPA Canada's Advisory Committee, there are also many aspects of the tax system that function well. For example, the CRA's steadily improving electronic services offer more administrative **simplicity** for Canadians and Canadian businesses when making their tax filings. Further, the Advisory Committee points out that Canada's adoption of a form of value-added tax, the GST, helps make Canada **competitive** by putting us in league with more than 160 countries worldwide (excluding the U.S.) that have adopted this highly efficient form of tax (despite ample room for Canada to improve in this area).

Sometimes these principles will be in conflict. As a common example, there are times when the principle to make tax rules **fair**, such as when ensuring different types of income are taxed equivalently, would be difficult to meet through measures that are also **simple**. Similarly, when designing anti-abuse rules to improve **fairness** for all taxpayers, a government's ability to achieve **efficiency** and **good, coherent design** is challenged by the need to balance the breadth and impact of new tax rules against taxpayers' ability to comply with them. While some principles, such as simplicity, fairness or competitiveness, could take priority over others, compromises and trade-offs among the principles should be expected.

In addition, we would be remiss if we failed to mention that revenue neutrality and fiscal responsibility are also of paramount importance to any tax review and reform initiative — especially when key government actions are taken in response to recommendations put forward. Again, trade-offs could be inevitable.⁹

What's critical is to make sure each principle is weighed and balanced when considering tax policies to ensure that Canada's tax system corresponds with the set of ideals overall.

9 In its 2018 pre-budget submission, CPA Canada called for action in certain priority areas as part of a comprehensive tax review. For example, we recommended the continued elimination of inefficient or poorly targeted tax preferences and suggested that – for purposes of revenue neutrality – the additional revenue from a broader tax base could be used to reduce tax rates generally. Similarly, we believe Canada should consider changing the income tax/consumption tax mix to bring it closer to OECD averages to improve Canada's tax competitiveness. An increased reliance on consumption taxes could also provide additional fiscal room to lower personal and corporate taxes.

Defining the scope

Our position

In defining the parameters of a tax system review, we believe that Canada stands to reap the most benefits from an ambitious, comprehensive review, especially since it has been more than 50 years since the Carter Commission undertook our country's most recent top-to-bottom assessment.

Recommendation: A tax system review should be comprehensive in scope, open to considering all aspects of tax policy and administration and how they interact, and aimed at identifying broad, systemic measures to improve the tax system for the benefit of Canadians, their businesses and our country's economy overall.

A comprehensive review versus a targeted review: What's Canada's best option?

With an agreed set of principles in place to guide a tax system review and ongoing policy development, the next task is to define the scope of measures to assess against those principles. Our second report in this series showed that there is a lot of ground to cover, and a successful review requires a mandate with a clear list of the issues on the table.

To recap, our second report highlighted some of the most pressing problems we found with the tax system's current state as follows:

- Canada has lost its corporate tax advantage as the U.S. and other advanced economies have reduced corporate taxes and improved their own tax competitiveness.
- Top personal income tax rates and thresholds in Canada are uncompetitive.
- Canada's tax mix is out of sync with international trends and overly reliant on income taxes with high efficiency costs, putting a drain on Canada's economy.
- Complying with Canada's complex tax laws is becoming exceedingly difficult for all Canadians, especially small business owners and their advisers. This creates needless costs for taxpayers and the CRA alike, putting the integrity of the tax system in jeopardy.
- Benefits delivered through Canada's Scientific Research and Experimental Development (SR&ED) program are declining, indicating a need to improve the program's accessibility, certainty and ease of use.
- Beyond SR&ED, the tax system does not adequately encourage innovation or attract investment in innovation to Canada.
- Canada's income tax and GST/HST rules deliver a high number of tax expenditures that greatly complicate the tax system, and it is not known whether and to what extent they are achieving their aims at an acceptable cost.
- Tax complexity makes it difficult for lower-income and other vulnerable Canadians to access much-needed income supports through the tax system.

Given complex and often overlapping or interrelated issues such as these, the scope of a tax review could follow one of two approaches:

1. **A comprehensive review**, such as the U.K.'s Mirrlees Review and Australia's Henry Tax Review, which each took a broad, long-term perspective.

- The Mirrlees Review covered the U.K.’s entire direct and indirect tax system, along with aspects of its interaction with the U.K. systems for social security and tax credits.¹⁰
- The Henry Tax Review aimed to define a tax structure that would enable Australia to meet its social, economic and environmental challenges while improving economic, social and environmental well-being.¹¹ However, the government limited the review’s scope by eliminating consideration of the GST and the tax-free status of certain retirement income.¹²

A comprehensive review should emphasize the long-term view over short-term fixes and open the review beyond specific issues to more systemic ones (e.g., tax mix). It would allow scope for examining interdependencies among all aspects of the tax system and how they interact with each other and other social supports (e.g., social security). It would also permit new taxes (e.g., on carbon and cannabis) and their interaction with existing taxes to be considered within the tax system’s broader scheme. Along the way, such a review would also reveal opportunities for “quick wins” for government to act on promptly.

The committee holds the view that Canada’s [tax] system requires a complete examination to ensure that changes to one area do not have unintended consequences elsewhere.

— **Standing Senate Committee on Banking, Trade and Commerce,**
Canada: Still Open for Business? October 2018

2. **A targeted review**, such as New Zealand’s 2009 Tax Working Group Review (TWGR) and the review recommended for Canada by the Advisory Council on Economic Growth.
 - The TWGR was tasked with identifying structural deficiencies in New Zealand’s existing tax system, defining the elements of a good tax system, and assessing the pros and cons of tax reform options.¹³
 - The Advisory Council on Economic Growth has recommended a targeted review of Canada’s tax system designed “to ensure that the tax regime fosters the development and adoption of innovation, and secures Canada’s position as a global magnet for investment and talent.”¹⁴

10 Chris Evans, “Reviewing the reviews: A comparison of recent tax reviews in Australia, the United Kingdom and New Zealand or “A funny thing happened on the way to the forum.” *Journal of Australian Taxation*, 14(2) (2012) 146-182.

11 Ibid.

12 Ibid. See also John Hewson, “The Politics of Tax Reform in Australia.” *Asia & the Pacific Policy Studies*, 1(3) (2014) 590-599.

13 Evans, supra note 10.

14 Advisory Council on Economic Growth, *The Path to Prosperity: Resetting Canada’s Growth Trajectory*, December 2017.

A targeted review may identify quick wins with immediate positive impact while revealing systemic issues for future, longer-term consideration. Addressing narrower, less contentious issues may reduce the time and resources needed to conduct the review. It might also increase the prospects that government would adopt the resulting recommendations.

Which type of tax system review would be optimal for Canada? Our analysis of recent tax system reviews in the U.K., Australia and New Zealand led us to identify some key ingredients for success. These include:

- Emphasizing a long-term view while identifying short-term fixes
- Allowing a reasonable time frame for analysis, consultation and consensus-building (e.g., over a year in Australia and New Zealand)
- Putting everything on the table with a broad scope that considers all aspects of the tax system, including policy and administration, and how they interact with each other and other social support systems

[The Henry Tax Review] was hampered from the outset in that GST was not part of the terms of reference. So my first suggestion would be for Canada to have everything on the table.

— **Michael Croker**, Tax Leader, Australia,
Chartered Accountants Australia and New Zealand

Recent experience in Canada shows the adverse results that can occur when major tax changes are considered in isolation from interconnected tax rules and without input from the tax community or the taxpayers who would be affected. The private corporation tax changes initially introduced in July 2017 aimed to address a narrow set of concerns over tax planning, such as income sprinkling, which was perceived as inappropriate. The solutions, however, such as the tax on split income (TOSI), were unduly complex and had adverse effects well beyond their intended targets. In response to widespread public outcry, the government's TOSI amendments provided some relief but made the rules even more complicated, to the point where many tax experts are unsure how taxpayers can properly comply.

A more expansive approach to the perceived problem would have seen this tax planning considered in the context of Canada's entire tax system — particularly the taxation of the income of small businesses, their owners and their families overall. Input from tax experts, business owners and other affected stakeholders could have helped determine a simpler, better way to achieve the intended results.

Some commentators have expressed concerns about the potential effectiveness of a comprehensive tax system review. While such concerns are important to acknowledge and address, we have views on how they could be resolved through a comprehensive review that is appropriately scoped and managed.

For example, the Carter Commission took five years to complete its work, and some argue that a current review would take as much or more time. However, the body of tax knowledge available now is broader than it was 50 years ago when the Carter Commission undertook its review, so much less original research would be needed than in the 1960s. Further, reviews conducted in other countries show that it is feasible to complete a tax review in a shorter period of time. Australia's Henry Tax Review was announced in 2008, and its results were released during 2010. In New Zealand, a tax review was announced in 2009, and its results were published in 2010.

Other observers have suggested that Canada needs to tackle some current issues, such as U.S. tax reform, more quickly than a comprehensive review would permit. In CPA Canada's view – as advocated in our 2018 pre-budget submission – the best way forward is to apply a two-step approach:

1. Address the urgent, immediate challenge of U.S. tax reform, which the federal government did in part in its 2018 Fall Economic Statement with temporary new measures to help accelerate business investment.
2. Then proceed to conduct a comprehensive tax review that looks to the longer term.

Finally, some observers have submitted that the scope of recommendations might cause unacceptable disruption if implemented as a package all at once. However, governments rarely take a “big bang” approach to implementing tax review recommendations. Abrupt changes in policies and regulations with broad impact create significant uncertainty for households, businesses and markets. Recommended changes should be planned for and implemented in phases to ensure a smooth, predictable transition to a better tax system.

Designing the process

Our position

Within Canada, there is a groundswell of support for a comprehensive tax review. Some advocates such as the Canadian Chamber of Commerce, Canadian Manufacturers & Exporters, and the Senate Banking Committee are calling for a royal commission, while others such as the House of Commons Standing Committee on Finance, the Business Council of Canada and the Advisory Council on Economic Growth support an independent expert panel.

While what matters the most is the review's outcome, CPA Canada believes that an independent expert panel review — governed by a clear terms of reference and backed by a commitment to provide the right support — would deliver the best results.

Recommendation: Canada's tax system review should be conducted by an independent expert panel comprising a mix of senior members of the tax, legal, business, economics and academic communities and representatives of key stakeholders.

Recommendation: Canada's tax system review should be governed by a clear terms of reference that sets out a broad mandate for a transparent process of analysis, consultation and review within a reasonable time frame and with access to adequate resources for research and analysis.

Who should conduct the review?

Once the optimal scope of a tax system review has been determined, the next decision involves selecting the right type of body to conduct the review.

Internationally and in Canada, tax reviews and other tax-related studies have been conducted by groups constituted as internal government-led teams, House of Commons and Senate committees, technical committees, expert advisory panels, task forces, working groups and royal commissions. While these bodies are loosely defined and their characteristics overlap, some distinguishing features are as follows:

- **Technical committees, expert advisory panels** and **task forces** are often comprised of experts in the field under study. Examples of each include:
 - The Technical Committee on Business Taxation (known as the Mintz Committee) included tax and legal professionals and academics, supported by a secretariat drawn primarily from Finance Canada and the Canada Revenue Agency (CRA).
 - The International Tax Panel was similarly constituted, but its members also included senior business leaders and its secretariat included tax professionals from industry and public practice. The CRA's Action Task Force on Small Business Issues had a relatively limited mandate to address administrative practices affecting small businesses but identified 61 concrete actions that were all implemented within five years after the task force issued its final report. Its members were primarily from business and professional groups.
- **Royal commissions**, such as the Carter Commission, are launched by the government through orders-in-council as official investigations into matters of national public concern under the Inquiries Act. It has been observed that “royal commissions have the added lustre of being created under the imprint of the Great Seal of Canada” but they “are no more regal than other kinds of inquiries.”¹⁵

15 Paul Fox, “Royal Commissions,” *Canadian Encyclopedia* (<https://www.thecanadianencyclopedia.ca/en/article/royal-commissions>, published February 7, 2006, last edited December 16, 2013).

- **House of Commons and Senate committee reviews and studies** are conducted by members of parliament or senators who examine selected matters, report findings and make recommendations to the Government of Canada, such as the critical analysis of the disability tax credit and the registered disability savings plan completed in June 2018 by the Senate Committee on Social Affairs, Science and Technology.
- **Internal government-led reviews**, such as the Department of Finance Canada's 2016-17 federal tax expenditure review, would generally be conducted within government by public servants, with external advisers as appropriate.

Canadian Manufacturers & Exporters (CME) has called for a royal commission of taxation to undertake a tax system review for Canada. CME distinguishes its proposed royal commission from bodies such as the Mintz Committee and the International Tax Panel based on the reviews' scope and mandates, rather than the bodies conducting them:

First, the Royal Commission would not be limited to business taxes, but the competitiveness of the entire Canadian tax system. Second, it would focus on wholesale rather than incremental reform, with an emphasis on tax simplification. Third, it would engineer the entire tax system around supporting economic growth and investment.¹⁶

Whether the review is conducted by an expert panel, task force, royal commission or parliamentary committee, what's important are the establishment of a clear terms of reference, backed by a commitment to provide appropriate resources and support, and, ultimately, the outcomes of the review.

¹⁶ Mike Holden, *Restoring Canada's Tax Advantage: A Need for Tax Reform* (Canadian Manufacturers & Exporters and BDO, June 2018).

What's the best approach?

Based on input from CPA Canada's Advisory Committee and our analysis of recent tax system reviews in the U.K., Australia and New Zealand, as well as some more targeted tax reviews conducted in Canada, leading practices for conducting a successful tax system review include:

- a review panel comprised of independent tax experts from the private sector and academia, and key stakeholders to reflect the public interest
- a reasonable time frame to complete the review, with milestones such as consultation papers, a preliminary findings report and a final report with recommendations
- the development of recommendations through an iterative, transparent process of analysis, ongoing consultation and review
- consideration of practical issues related to transition and implementation
- access to internal or external research capacity (e.g., secretariat, external advisers)
- a published response from the government

As noted, a clear terms of reference should set clear parameters for the review's scope, objectives, conduct and outcomes. For example, the terms of reference for Australia's Henry Review specified the review's objectives and scope, outlined the review's process, deliverables and timetable. It also specified the composition of the review panel, named supporting government agencies and outlined processes for undertaking public consultation and accessing external expertise.¹⁷

The 2016-17 federal tax expenditure review underscores the importance of independence, consultation and transparency to a tax review's outcome. That review was conducted internally by Finance Canada, with advice from a panel of external experts, and the process, data and detailed analysis were not made public. While the review was completed and some personal tax credits were adjusted, there is no way to know how Finance Canada reached its conclusions or whether those tax expenditures still in place are meeting their objectives for an acceptable cost.

By contrast, the International Tax Panel's approach to its specific area of review offers a more inclusive, transparent model, as Brian J. Arnold and Heather Kerr describe:

17 Australian Government, *Australia's future tax system: Terms of reference* (<http://taxreview.treasury.gov.au/content/Content.aspx?doc=html/reference.htm>); see also University of Wellington, "Tax Working Group: Scope and Objectives" (<https://www.victoria.ac.nz/sacl/centres-and-institutes/cagtr/twg/scope-objective>).

Within four months of its appointment, the panel issued a consultation paper setting out its preliminary observations and posing questions, and it called for submissions from the public. Given the importance of this topic, the panel's request attracted 34 submissions from private practitioners, business representatives, industry associations, professional groups, professional services firms, research institutes, and academics. Most of the submissions were made available to the public. One year after the panel's appointment, its recommendations were published in a report to the government, which was made public.¹⁸

Inclusiveness should also be considered when deciding the composition of an independent expert panel. The panel should tap the knowledge and insights of Canada's leading tax experts in the private sector and academia. The panel would also do well to include stakeholder representation from the groups that may be most affected by or vulnerable to tax system changes to ensure their issues are addressed and that any recommended solutions would make a difference in practice.¹⁹

Moreover, prevailing fiscal realities must also be considered with any review or reform initiative, in that the package of recommendations should be revenue-neutral if possible, or kept to a minimal cost, as well as practical in terms of their application.

Some commentators have raised concerns about assigning the task to an independent expert panel.

For example, it has been observed that after the review is complete, the independent expert panel is no longer accountable for its analysis or advice. However, the reviewing body's mandate would end after its recommendations are made. Implementation would remain the prerogative of the democratically elected government.

18 Brian J. Arnold and Heather Kerr, "The Canadian Tax Policy Process," *Tax Policy in Canada* (Toronto: Canadian Tax Foundation, 2012) at 3:24.

19 For example, the 2018 New Zealand Tax Review's terms of reference clearly states that the working group's membership ought to include individual(s) with expertise in the Maori community.

Commentators have also raised the concern that decisions on whether to implement the recommendations would be politically motivated. In fact, whatever the process – whether a royal commission or an expert panel or other body – politics will always play a role since politicians will make the final decisions when considering the recommendations. The Government of Canada formed the Advisory Council on Economic Growth and the Economic Strategy Tables, and both bodies delivered high-quality, insightful analysis, findings and recommendations.

Finally, it's been suggested that a one-off review by an independent expert panel may be less effective than ongoing recommendations from a permanent body such as the U.K.'s Office of Tax Simplification. In our view, an office of tax simplification would not have the capacity to take on the comprehensive tax system review needed to deliver the broadly effective tax policy options that Canada needs. A permanent body may well be recommended as one of the outcomes of a tax system review, but the experience in the U.K. should be closely examined.

When the Mirrlees team was trying to finalize its review they recognized that, as it had been written largely by economists, no one else would understand a word of it. So [Mirrlees editorial team member] Malcolm Gammie largely rewrote it in plain English. No one is ever going to act on a report that is incomprehensible!
— **Ian Young**, Technical Manager, Tax Faculty,
The Institute of Chartered Accountants in England and Wales

Opportunities to make a difference

Our position

Now that we have explored the options for the optimal design of a tax system review, a logical next step is to consider possible directions for a review, along with the opportunities this may present for positive change for Canadians and Canadian businesses.

As we have emphasized throughout this series of reports, Canada's future prosperity depends on a tax system designed for the 21st century: a tax system that is simple, predictable, fair, efficient and transparent and therefore promotes our competitiveness internationally.

Recommendation: Canada's tax system review panel should examine ways to make the tax system simpler, fairer, more efficient and competitive; to simplify and modernize tax policy; and to support changes to the CRA and tax administration to ensure compliance and ease the burden on taxpayers. The goal of the tax system review should be to develop practical recommendations that contribute to meeting the overarching goal of promoting sustainable growth and prosperity for Canada and Canadians.

Toward a better tax system: A suggested way forward

In the spirit of this recommendation, this section puts forward our suggestions for priority areas for a review, organized into three themes with one overarching goal:

Overarching goal: Promoting sustainable growth and prosperity for Canada and Canadians

- **Theme #1:** Make the tax system simpler, fairer, more efficient and competitive so that all Canadians benefit.
- **Theme #2:** Simplify and modernize tax policy.
- **Theme #3:** Support changes to the CRA and tax administration to ease compliance for taxpayers.

These themes and priorities, which we elaborate below, are drawn from input that members provided us through CPA Canada's Advisory Committee and our survey of members who work in tax. In addition, some of our recommendations align with those endorsed by the federal government's Advisory Council on Economic Growth. These suggestions also link to the key issues that we examined in our previous report in this series.

While this list of opportunities is not exhaustive, these examples suggest where a tax review might take us. It illustrates the improvements that a tax review panel could consider pursuing as part of a well-designed review and the practical proposals that could result.

Theme #1: Make the tax system simpler, fairer, more efficient and competitive so that all Canadians benefit.

A. Maintain Canada's competitive edge

- Review personal and corporate income tax rates to ensure Canada is in line with key trading nations and determine appropriate actions for Canada to attract and retain top talent and business investment.

- Determine how to broaden the tax base by continuing to eliminate inefficient or poorly targeted tax credits/preferences, and evaluate retained or new tax expenditures according to established criteria, including costs and benefits.
 - Determine the optimal mix of income and consumption taxes to bring the tax system more in line with those of other OECD countries and improve Canada's tax competitiveness.
- B. Provide fairness for all Canadians
- Assess how to strengthen and enforce rules designed to counter aggressive tax avoidance so that routine tax rules can be made clearer, simpler and provide more certainty, and so that everyone pays their fair share of tax.
 - Address issues involving the taxation of the digital economy to level the playing field for Canadians and non-residents, and ensure that digital business activities are taxed in a fair and growth-friendly way.
 - Find ways to make sure that benefits to be delivered by the tax system to those most in need are easily accessible and properly targeted.
- C. Motivate business investment
- Evaluate the effectiveness of the SR&ED program and other tax measures to support investment, and then propose ways to improve them.²⁰
 - Consider the introduction of a patent box, which has proven effective in helping businesses in other countries commercialize the results of their research and development.²¹
 - Reconsider all of the tax rules affecting private corporations and their shareholders in the context of a holistic tax review.

Rebalancing taxation away from taxes with high efficiency costs, such as corporate and personal income taxes, towards those with low efficiency costs, such as GST (VAT) and environmental taxes, and reducing unwarranted tax expenditures would improve resource allocation and, hence, productivity.

— OECD, *Economic Survey of Canada - Key Policy Insights*, June 2018

²⁰ There are similar recommendations by the Advisory Council on Economic Growth, *supra* note 14.

²¹ *Ibid.*

Theme #2: Simplify and modernize tax policy (a prerequisite for Theme #3)

- Provide advice to ensure tax rules are as simple and clear as possible so that taxpayers, especially those with the least resources to cope (e.g., small businesses and low-income Canadians), can fully comply and understand the consequences of their actions.
- Recognizing that tax legislation may, at times, need to be written with complex legal language, consider ways to ensure that new tax rules are clear enough that they can be supplemented with complete and easy-to-understand guidance so taxpayers can know what they must do to comply.
- Formalize a process for evaluating all new tax legislation in terms of taxpayers' ability to comply, the compliance costs for those who must follow the rules and the CRA's costs to administer the rules.
- Define a transparent and fully engaged consultative process for introducing tax changes.
- Consider the creation of an independent, impartial body or mechanism for regular tax policy and complexity reviews.

Theme #3: Support changes to the CRA and tax administration to ease compliance for taxpayers

- Examine ways to further facilitate the evolution of the CRA's culture to ensure its employees treat taxpayers as customers who the CRA is there to help, rather than merely enforcing compliance.
- Investigate how to ensure the CRA's administration and enforcement activities are as efficient as possible, in particular by focusing on risk and materiality in their audits to optimize tax revenue while minimizing the costs to the CRA and compliant taxpayers.
- Evaluate ways to leverage digital technology to improve standardization and automate the tax system, as in the U.K., to promote greater efficiency, elevate the customer experience and help Canadian taxpayers comply.²²
- Assess ways to achieve simpler rules and clearer guidance practices so that social benefits are received by their intended recipients.
- Explore how the federal government can better work with the provinces and territories to promote more harmonization of the tax rules, tax base and defined terms (i.e., for federal payroll tax and provincial workers' safety and insurance purposes).

²² CPA Canada notes the CRA's appointment of a new Chief Service Officer (CSO) in March 2018. According to the CRA's October 29, 2018, media release, the CSO is "responsible for leading the Agency's service transformation to be trusted, fair and helpful by putting people first." The CSO, Mireille Laroche, was also appointed as the Assistant Commissioner of the Service, Innovation and Integration Branch, as well as Chief Data Officer, where she will lead "the effective management and optimization of the Agency's data in support of its analytics and innovation agenda."

Conclusion

*Reforming the tax system may not be easy or popular in the short term, but it holds out the prospect of significant economic gains and hence the promise of higher living standards in the long term.*²³

— Comment from **Mirrlees review team** in their final report to the U.K. government

Any comprehensive tax reform exercise would need to surmount many hurdles, both logistically and politically. Nevertheless, the type of comprehensive tax reform we recommend in this report is a vital prerequisite for achieving a 21st-century tax system that delivers sustainable prosperity and growth.

Pragmatically speaking, however, CPA Canada recognizes that political imperatives and time frames will dictate the timing of a comprehensive tax review, making it unlikely to start before Canada's next federal election in the fall of 2019. A strong Canada needs the support of a competitive tax system. Canada's political parties could show their commitment to sharpening Canada's competitive edge by making a tax system review a central plank in their campaign platforms.

Yet with Canada's competitiveness in jeopardy, time is of the essence. The tax system plays a crucial role in supporting inclusive economic growth in the best interests of Canadians. We believe Canada must launch a full review of our tax system as early as possible to ensure it is designed for the taxpayer and is internationally competitive, with a goal of becoming one of the world's fairest, simplest and most efficient.

CPA Canada acts in the public interest, and we welcome the opportunity to contribute our knowledge and experience to help build an effective framework for achieving a tax system review that will benefit people throughout Canada. Our members and the businesses they work for are also keen to pitch in their ideas and insights to drive this vital initiative forward.

With this current thought leadership series now complete, CPA Canada looks forward to engaging with Canadians directly on how to move forward with the ideas discussed in these reports. Our reports, real-life case studies and invitations to hear Canadians' experiences with the tax system are available online at cpacanada.ca/taxreform.

²³ Supra note 8.

Appendix: International examples of tax principles

Below we list the key words in the tax principles advanced as theory by the American Institute of Certified Public Accountants and the Institute of Chartered Accountants in England and Wales, as well as the OECD's Committee on Fiscal Affairs in the context of the Action Plan on Base Erosion and Profit Shifting (Action 1: Address the Tax Challenges of the Digital Economy).

In developing the proposed set of principles for a tax system review in Canada (see the subsection titled “Key principles of a 21st-century tax system”), CPA Canada considered these principles as well as the principles that guided recent tax system reviews in the U.K., Australia and New Zealand.²⁴

For ease of comparison, we highlight the key words in each of these sets of principles in the table below. Where CPA Canada has suggested a principle for Canada that is largely equivalent to an international principle below, we have highlighted the international principle (or relevant part of it) in italics and blue text.

²⁴ Supra note 8.

International tax principles — Summary of key words

This table sets out key words included in representative sets of tax principles set out by selected international organizations, as well as principles used in tax system reviews in Australia and New Zealand.

Where CPA Canada has suggested a principle for Canada that is largely equivalent to an international principle below, we have highlighted the international principle in italics.

| American Institute of Certified Public Accountants ²⁵ | Institute of Chartered Accountants in England and Wales ²⁶ | OECD Committee on Fiscal Affairs ²⁷ | Australia: Henry Tax Review ²⁸ | New Zealand: Tax Working Group 2010 ²⁹ |
|--|--|---|---|--|
| <ul style="list-style-type: none"> • <i>Equity and fairness</i> • <i>Certainty</i> • Convenience of payment • <i>Effective tax administration</i> • Information security • <i>Simplicity</i> • Neutrality • <i>Economic growth and efficiency</i> • <i>Transparency and visibility</i> • Minimum tax gap • Accountability to taxpayers • Appropriate government revenues | <ul style="list-style-type: none"> • Statutory • <i>Certain</i> • <i>Simple</i> • <i>Easy to collect and to calculate</i> • <i>Properly targeted</i> • <i>Constant</i> • <i>Subject to proper consultation</i> • Regularly reviewed • Fair and reasonable • <i>Competitive</i> | <ul style="list-style-type: none"> • <i>Neutrality</i> • <i>Efficiency</i> • <i>Certainty and simplicity</i> • Effectiveness and fairness • Flexibility • <i>Equity</i> (horizontal and vertical) | <ul style="list-style-type: none"> • <i>Equity</i> • <i>Efficiency</i> • <i>Simplicity</i> • <i>Sustainability</i> • <i>Policy consistency</i> | <ul style="list-style-type: none"> • <i>Efficiency and growth</i> • <i>Equity and fairness</i> • <i>Revenue integrity</i> • Fiscal cost • <i>Compliance and administration cost</i> • <i>Coherence</i> |

25 Tax Division, American Institute of Certified Public Accountants (AICPA), *Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals* (New York: AICPA, 2001).

26 Tax Faculty, Institute of Chartered Accountants in England and Wales (ICAEW), *Towards a better tax system* (London: ICAEW, not dated).

27 OECD Committee on Fiscal Affairs, *Addressing the Tax Challenges of the Digital Economy* (Paris: OECD, 2014).

28 Ken Henry et al., *Australia's future tax system: Report to the Treasurer, Part One: Overview* (Canberra: Commonwealth of Australia, 2010).

29 Victoria University of Wellington Tax Working Group, "A Tax System for New Zealand's Future" (*Wellington*: Victoria University of Wellington (January 2010)).



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