

Stock Option Tax Issue Update

CFET

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Canadians for Fair and Equitable Taxation (CFET)

- A growing group of hard-working Canadians who have seen their lives deeply impacted and their life savings destroyed as a result of an issue in tax law
- Representative of 1000s of Canadians in the same situation. See petition and comments on our web site
- Political: Letter writing campaigns and meetings with FINA 2008 (mostly supportive), MPs, ... Unable to secure a meeting with Flaherty
- Press: Articles, letters and interviews in local and national press
- Recent engagement with banks and professional organizations for accountants and lawyers to solicit their support
- www.cfet.ca, inquiry@cfet.ca

The Tax issue – An example

- An employee is granted stock options at \$15
- He exercises them when the stock is at \$115 and holds the shares. He is assessed an employment gain on \$100
- The stock crashes back to \$15, at which point he sells. He is assessed a capital loss of \$100
- He can't use the capital loss against the employment gain so, he is taxed on \$100 he never really made.
- For 2,000 stock options (not a huge number in the .com days), this is a tax on \$200K that the person only ever had on paper

Nortel bankruptcy will ruin people

- Provisions passed in the 2000 budget allowed some tax to be deferred until stock is sold.
- Nortel being sold would trigger the tax
- Such a sale would immediately result in huge tax liability for many people
 - RM age 69 would owe \$200K+ and have to liquidate most of his RRSP (in itself taxable) to pay the tax. In addition it looks like his small Nortel Pension will disappear as will his retirement health plan.
 - RK age 54 would owe \$800K and would have to contemplate personal bankruptcy after 30 years of hard work

South of the border

- Stock Options are assessed at sale, not exercise and valued fairly
 - “If the sales price of the shares is less than the Fair Market Value on the date of exercise, the amount of ordinary income is limited to the amount of gain, if any.”
- People ran afoul of the AMT with profound impacts similar to Canada
 - AMT causes a “prepay” but gives the money back in credits but over a very long time
- Influenced by fairness, situations of financial ruin and even two suicides, Congress (Van Hollen) and Senate (John Kerry/Joe Lieberman) sponsored a bill to fix the issue. The bill was passed in late 2008
- This also makes Canada more “structurally deficient” than the US for early-stage businesses that rely heavily on equity participation
- Rep Van Hollen: “no one should lose their homes, savings, and retirement to a wildly disproportionate tax on phantom income they never saw, because our tax laws failed to anticipate the circumstances in which a number of our citizens now find themselves.”

If the US can fix it, surely Canada should

Our Request

Sponsor or support a motion in FINA to request that the real capital loss on the shares be allowed to offset the paper employment income

Any solution needs to be retroactive