Eastern
Ontario
Landlord
Organization

The 2018 Rent Increase Guideline is 1.8%

NEWSLETTER

September 28, 2017 www.EOLO.ca

Marijuana Update

On September 13, CFAA President John Dickie appeared before the House of Commons Standing Committee on Health to address marijuana legalization. While the committee recognizes that some tenants will be disturbed by tenants who are smoking or cultivating marijuana in their apartments, it is clear that any solutions to that problem are going to have to come from the provinces.

At the committee, the Canadian Federation of Apartment Associations these points:

- Smoking marijuana should be banned anywhere that smoking tobacco is banned. In addition, landlords should be able to ban the smoking of tobacco or the smoking of marijuana.
- Growing marijuana in multi-unit or rented dwellings is more problematic than marijuana smoking. Concerns include:
  - Safety hazards due to electrical overloading, and excess humidity
  - Interference with other tenants through strong odours
  - Potential liability for the landlord and risk to the tenants and mortgage holder
  - Potential cancellation of building insurance or the calling of a mortgage with financially disastrous results for an innocent building owner.

Failing a prohibition on home growing, there should be a system which requires the landlord's consent for home growing.

There should be a volume restriction on the plant growth area to prevent growers from using use a screen of green (SCROG) technique to produce lots of marijuana from four plants.

Current leases do not prohibit marijuana smoking or growing, because it is against the law now. The current law prohibits smoking and growing, and especially in Ontario and Quebec, landlords will only be able to impose those terms themselves when they enter into new leases with new tenants. Existing tenants would effectively be grandfathered to grow and smoke, which would be against the interest of the majority of tenants.

Another witness was John Conroy, a lawyer who has been instrumental in the fight to legalize marijuana for medical purposes. He said that the most common complaint received about medical growing now is about odours. He added, most users want to buy their pot in a store, not to wait for it to be delivered, and not to grow it themselves.

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The proposed federal corporate tax changes

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The proposed federal corporate tax changes only apply to people who receive income as dividends from private corporations, or who hold real estate through corporations. There is no change to those who hold real estate in their own name or with their spouse. There will be minimal impacts on REITs and REIT unit holders. Investors who currently pay tax at the top personal rate on passive income should also not

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The proposed federal corporate tax changes (cont'd)

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be affected.

Some basic facts on the two key reforms are set out below. EOLO members are invited to check CFAA's website for the latest information, and are invited to email president@cfaa-fcapi.org with their issues and concerns. Please also send us any submissions or letters you send to the government on the tax issue. The three main types of corporate income are shown in table 1:

Current combined tax rates (federal and provincial)

Type of income	Combined Tax Rate Federal & Ontario	Comments
1. active business income up to the small business limit ($500,000 federal limit)	15%	For landlords, this rate is only available for the income that results from management activities or fees.
2. active business income in excess of the small business limit;	26.5%	Includes rental income earned by corporate rental housing providers with more than 5 full-time employees
3. Passive income	50.2%	Includes rental income of corporations and rental housing businesses with fewer than 6 full-time employees
TOP PERSONAL TAX RATE	53%	

Income sprinkling (also called income splitting)

Current regime – with the right corporate set-up, some business income can be directed to a spouse or adult children (who have low incomes), thus reducing the total tax paid by a family. (That typically works best with active business income, but it also works with rental income.)

Proposed regime – preventing income sprinkling by tests of reasonableness of the payouts compared to the capital and work contributed to the business.

Issues and implications – this is an area on which the doctors and other professionals are up in arms. It probably affects relatively low percentage of landlords as landlords, but those it affects face only downside.

Taxing passive income earned within a corporation

Current regime – corporations which earn income typically do one of three things with the income: namely, reinvest it into the business, distribute it (as dividends or salary), or invest it in other businesses or investments. Some of those investments produce passive income: e.g. real estate. That passive income is taxed at the high rates, but the government's objection is that the active income that went into the investment was taxed at lower rates, and that gives those owners an

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The proposed federal corporate tax changes (cont'd)

advantage over other people who paid tax on their incomes at the higher rates.

Proposed regime – increase the tax rate on such "second generation" income above normal rates. The stated goal is to be fair between income which received the favourable rates, and income which did not. The government proposes a tracking system, which would be an accounting nightmare.

Apparently, for pure holding companies (which did not receive tax-preferred income) no increases will apply, and they are to be able to avoid the tracking system. That would save many people who hold rental property through corporations from being negatively affected by the proposed reforms.

Implications – Depending on the details of the reforms, the higher tax rate could apply to the "second generation income" of landlords who receive the active business tax rate on rental income, because of having more than 5 full time employees. That could affect many mid-size landlords to a large extent. However, given their status, their second generation income should be treated as active business income, so that they will not be negatively affected. CFAA will address this point.

Reports say the government is looking to gain $1B to $2B of tax revenue per year by taxing passive income received by corporations.

CFAA action

CFAA invites landlords who will be affected to contact us at president@cfaa-fcapi.org. CFAA will oppose the proposed tax reforms and point out landlords' concerns to the government as the reforms are reconsidered or implemented.

Marijuana Update (cont'd)

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Provincial and municipal implications

The landlord-tenant issues will need to be addressed by the provinces. At the moment in Ontario, people are not going to be allowed to smoke pot outside or in pot lounges (like bars, but for pot), forcing them to smoke in their homes (and apartments). Landlords may want to promote freedom for people to smoke pot outside or in pot lounges because that will give users a place to smoke pot other than in their apartments.

As well, because Ontario is banning privately run pot shops, and opening only a limited number of pot stores, people will want to grow their own.

Instead, in Quebec, the provincial government apparently intends to ban home growing. The Saskatchewan government's current plan is to ban growing in multiple-dwelling buildings, and permit it in detached rented premises only with the consent of the landlord.

The Federation of Rental-housing Providers of Ontario (FRPO) and EOLO will be using those examples in our provincial lobbying efforts.

Further regulations may come from the municipalities since they can restrict where certain activities take place within the municipality. For example, the City of Ottawa could prohibit growing pot in multiple-unit dwellings. That would enable a landlord to proceed against a tenant for an illegal act, rather than for substantial interference with the reasonable enjoyment of other tenants. That would facilitate the enforcement of a no-growing rule.

Rent increase guideline for 2018

For rent increases that take place between January 1, 2018, and December 31, 2018, the rent increase guideline has been set at 1.8%.

Ninety days notice must be given, using the approved form.

Spring 2017 EOLO Networking Event

Our previous Networking Event, held in March 2017, was a great success for EOLO's landlord and associate members.

EOLO would like to thank all of the landlords and suppliers who were in attendance. If you are interested in joining EOLO in order to attend future events, please contact the Membership Services Coordinator at (613) 235-9792 or by email at admin@eolo.ca.

March 2017 Networking Event Sponsors:

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Employee Compensation & Benefits Survey

The CFAA-Accompass Rental Housing Employee Compensation & Benefits Survey for 2017-18 is now available for purchase, including a report for Ottawa, and a national benefits survey. For more information see www.cfaa-fcapi.org. To purchase the report, fill out the order form and email it to admin@cfaa-fcapi.org.

CFAA Rental Housing Conference 2018

CFAA will be holding Rental Housing Conference 2018 on May 14, 15 and 16 in Vancouver. Plan now to attend!

Email events@cfaa-fcapi.org for more information.

EOLO Spring 2018 Education & Networking Event

When: Wednesday, April 18, 2018

Education Sessions:

2:00–4:30 Education Sessions

4:30–5:00 Political update

Dinner & Networking:

5:00–7:00
Location: Centurion Conference Center
170 Colonnade Rd. South, Ottawa, ON

Registration is now open! RSVP to events@eolo.ca.

If you have any questions about the issues raised in this bulletin, please contact John Dickie (Chair) or David Lyman (Vice-President) at 613.235.9792, or Luigi Caparelli (President) at 613.723.6169.

If you are interested in membership or advertising opportunities, please contact the EOLO Membership Services Coordinator at 613.235.9792