



A New Way to Operate as a Social Enterprise in BC

One of the challenges of any charity or not-for-profit organization is to maintain a sustainable level of funding in order to fulfill its mandate. This can often prove difficult as many organizations will be dependent upon philanthropy, government funding or earned income to meet their needs. During the great recession of 2008, many charities and not-for-profits soon discovered that philanthropists can easily become paupers and government funding can dry up as government departments slash their budgets. Earned income however can offer some form of funding stability and potential long-term growth.

The Province of British Columbia appears to have been listening to the challenges of the not-for-profit world. On July 29, 2013 amendments to the *Business Corporations Act* were enacted, thus bringing about a new business model. Without much fanfare, British Columbia became the first jurisdiction in Canada to make available the Community Contribution Company.

A Community Contribution Company (CCC) is a hybrid social enterprise structure which combines the legal structure of the corporation with the social values found in many charities and not-for-profit organizations. The idea behind the CCC model is to allow and encourage private investment into a social enterprise. You will know you are doing business with a CCC as the company must have the words "Community Contribution Company" or the abbreviation "CCC" as part of its name. This status will signal to the general public that the company has a legal obligation to conduct business for social purposes.

The Gordon Gekko's and the Kevin O'Leary's of the world may cringe and scoff at the mere thought of a company operating for a social purpose, but the model is nothing new. The CCC is based on the UK's model of the Community Interest Company (CIC). Even the United States has similar models such as the Low-Profit Limited Liability Company (L3C) and the Benefit Corporation (B corporation).

For a company to adopt the CCC model, the company must have one or more community or social purposes in mind. Those purposes must be set out in the company's notice of articles. The CCC's purpose needs to be beneficial to society at large or a segment of society that is broader than the group of persons who are related to the CCC and includes, without limitation, a purpose of providing health, social, environmental, cultural, educational or other services, but does not include any prescribed purpose. Examples would include a construction company which employs and trains at-risk First Nations youth in the trades sector, or a food truck business which provides food to the needy in the Downtown Eastside.

A new entity can be incorporated as a CCC. Regular corporations can also migrate to the CCC model (if agreed to by all shareholders through a unanimous resolution). A CCC however cannot revert to a regular corporation, nor can a CCC amalgamate with another company outside BC. An





amalgamation with another BC company can only occur if the amalgamation results in an amalgamated CCC.

A company is a CCC if its notice of articles contains the following statement:

“This company is a community contribution company, and, as such, has purposes beneficial to society. This company is restricted, in accordance with Part 2.2 of the *Business Corporations Act*, in its ability to pay dividends and to distribute its assets on dissolution or otherwise.”

CCC's are essentially taxable corporations with some unique additional characteristics.

Asset Lock

There are strict caps on the dividends that can be paid out to shareholders. Dividends are capped at 40% of the CCC's annual profits plus any unused dividend amounts from previous fiscal years. This cap continues should the CCC ever be sold. The majority of the CCC's profits are intended to be used for community purposes (or transferred to a “qualified entity” such as a charity). Unlike the cap on dividends, there are currently no explicitly stated interest rate caps.

There are also limits on the assets shareholders are entitled to receive upon the company's dissolution. After settlement of all liabilities, at least 60% of the remaining assets must be distributed to a qualified entity or another CCC.

Higher Level of Accountability

Unlike a regular corporation, a CCC must meet a certain level of reporting requirements. The CCC must publish an annual “community contribution report”. The report is presented to shareholders at their AGM and posted on the CCC's website for public viewing. The report *does not* need to be filed with Victoria.

The report must include:

- a description of the manner in which the CCC's activities benefit society;
- the remuneration and positions held for each person whose remuneration during the fiscal year was at least \$75,000, or if there was more than 10 persons whose remuneration was greater than \$75,000, the remuneration and positions held during that fiscal year of each of the 10 most highly remunerated persons;
- the annual financial statements (these do not have to be audited);
- total of all declared dividends for each class of shares and which shareholders received those dividends;





- details of any asset transfers greater than \$10,000 to a single transferee.

Tax and Business Consideration

It should be pointed out that a CCC does not qualify for tax exempt status as a not-for-profit organization as it is still a taxable corporation in the eyes of the Canada Revenue Agency. Federal and BC corporate tax rates will still apply.

Just like a regular corporation, the CCC does have the same opportunity to donate up to 75% of its net income for tax purposes towards a charity of its choice. The donation will thus reduce the company's taxable income and taxes payable. For a charity holding controlling interest in a CCC, this could prove advantageous as the charity can be the recipient of both the company's donation and dividends. It's important to note that the organization structure is important in ensuring the charity, being the controlling shareholder, continues to maintain its charitable status while holding shares in the CCC.

There are no required minimum levels of annual contributions for the CCC as profits can be carried over to subsequent years. This can be a good thing given that at the end of the day, the CCC is still a business and business decisions such as managing cash flow, investing in new equipment or training of staff still need to be made.

Summary

A CCC will not be for every entrepreneur given the restrictions placed on assets and dividends along with the additional reporting requirements. But for entrepreneurs and investors looking for a new way to do business that doesn't follow the "Gekkoist" mantra of *greed is...good*, the CCC model does present an opportunity to create a win-win for all stakeholders – both the traditional shareholders of the company as well as the community in which they live.

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