FREDERICTON CHAMBER OF COMMERCE
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21 September 2017

Alaina Lockhart, MP, Fundy Royal
Parliamentary Secretary, Department of Small Business and Tourism
599 Main Street (Main Office)
Suite 104
Hampton, New Brunswick
E5N 6C2

Dear Ms Lockhart:

Re: Proposed Private Corporation Tax Planning Changes

We are writing to express our concerns with the tax policy changes proposed in the document titled "Tax Planning Using Private Corporations" released by the Department of Finance on 18 July 2017. In your new role as Parliamentary Secretary for Small Business and Tourism, we expect that these proposals will be your top priority in the near term. Both of our organizations have previously sent similar letters to Fredericton MP Matt DeCourcey as well as Finance Minister Morneau.

In aberration from other processes (Innovation Agenda, etc) the national consultation process put forth by the Department of Finance has only a 75-day period for feedback. Viewed in its best light, the government has vastly underestimated the time required for proper consultation on proposals that have the potential to impact the vast majority of Canadian employers and employees alike. Viewed skeptically, a poorly publicized process launched in the dead of summer with such a short timeframe leaves observers speculating the Government has already determined the policy outcome and has no intention of engaging in substantive dialogue. Furthermore, Minister Morneau has stated that "we will not change our minds," in reference to the proposals. We take these as a clear signs that this is a consultation in name only.

Beyond the unreasonable timeframe, our overarching concern is that the document and related communications do not demonstrate a nuanced understanding of the fundamental differences between being self-employed and being an employee- the comparisons included in the discussion document are not apples-to-apples. This letter outlines our concerns that have been shared with us by our members, we expect you to share them with your colleagues in Ottawa as the voice for our region. The three specific proposals that are most concerning are:

1. **Income "Sprinkling":** Described by the Department of Finance as a "loophole," income splitting has been the legitimate basis of corporate tax planning for decades in Canada and across the world. It hardly needs to be said that this system was created by the federal government and at least tacitly approved by successive governments throughout the years. Moreover, it is a recognition that the risk assumed by entrepreneurs is borne by all members of the family unit. It

is also recognition that family members make tangible contributions to the success of a business without being on the payroll. The change could have unintentional impacts on the spouse working at home, which in some cases are women. We recommend that the proposed taxation changes and potential impacts be viewed through a gender lens. With the ambiguity of the term “reasonable contribution” introduced on page 24, spousal or other family member efforts towards the business could be devalued if the proposed changes are implemented. We fear that entrepreneurs will end up spending more time on administration and compliance instead of growing their business and creating jobs. It is concerning that civil servants will be tasked with determining how much an individual is contributing to a business - what is their worth. We also recommend a cost benefit analysis be done on this initiative.

2. **Succession planning:** Proposed tax reform regarding the lifetime capital gains exemption is attacking family succession planning. Under the current proposal family businesses will face double taxation if the family business is to be sold or transferred to a family member. With over 70% of businesses expected to change hands in the next decade, tax changes will severely impact the ability for succession to occur. The unintended consequences will be that many small businesses will close when third party purchasers are not available.

3. **Investment income**: The proposed legislation on investment income will significantly impact a business owners’ ability to save for expansion and to weather economic downturn. Many entrepreneurs also provide capital for entrepreneurs with new ideas - this may be challenging under the new system with fewer dollars to invest in new and innovative startups. The extremely punitive proposed taxation on these funds will result in significant economic impacts on small business sustainability and growth.

   There are well thought out public policy reasons for treating investment income differently. Business owners use these funds in lieu of maternity leave, sick time, vacation pay, retirement planning and many other benefits that employees receive. This income is also meant to protect the business (and jobs) during economic downturns or slow times for the business. It is what owners have to fall back on instead of EI eligibility that employees receive. The example of the fictionalized “Jonah” and “Susan” are not in remotely similar situations and serves to pit employees against entrepreneurs. An entrepreneur bears the risk, stress and rewards that comes along with owning a business. These changes could unintentionally create barriers for entrepreneurs. The same entrepreneurs that are the backbone of the Canadian economy accounting for some 1.17 million businesses in 2015, of which 97.9% were small business.

The proposed policies are diametrically opposed to the government’s stated objectives of encouraging innovation and entrepreneurship. The punitive measures amount to a tax on entrepreneurship, and dis-incentivizes risk takers that move our economy forward. Furthermore, these taxes ensure the very constituency this government has courted- the Canadian middle class- will inevitably be hurt most. Plans for new hires, pay raises and investments in employee benefits will be delayed to fill the balance sheet gap of profit-making enterprises and most small business owners are part of the middle class themselves.

Another priority initiative of your government - the Atlantic Growth Pilot - requires the small business community to make it a success. How will this strategy be executed upon if entrepreneurs are unable to reinvest in their business, to add staff, to try to expand their operations? Escalating costs involved with operating a business was already a growing concern for business in New Brunswick, many of whom feel that they are under attack from multiple levels of government.

While there are many ways wealth is created, in one of its simplest forms, those prepared to assume risks are rewarded for taking the risks by way of financial gain. These risk-takers are sometimes financially rewarded. They're the ones we call successful. They're the ones who built a business from the ground up to become what it is today. Most that take that risk never see the rewards. Taking risk is so fundamental to wealth creation that it's the way most businesses begin. In the process, they often create jobs for others, benefits for society and tax revenue to support the social support systems we provide for citizens. Over the years this risk taking has become recognized as having great value for society. In order to encourage people to take the necessary risks, successive governments have built a tax structure designed to help compensate these people for the risks taken.

The federal government asserts they value the contribution that small businesses and entrepreneurs make to the Canadian economy. However, this appears to be quite literally untrue given the lack of credit attributed to the risk entrepreneurs assume when starting a business as well as the financial disadvantages of owning a business. As discussed, these include employer-contributed pension plan, Canada Pension Plan, employer-contributed health or dental benefits, maternity leave, vacation pay, sick time, and the Employment Insurance safety net.

Perhaps most telling is the information not included in the document. Has an economic impact study been conducted on the proposed changes? Has government evaluated the increased compliance burden and financial cost to small businesses? Has government evaluated the increased cost and administration for CRA? How will the proposed changes be managed? Some of the language is vague and subject to interpretation. For example, implementing a "reasonableness" test. Has the benefit to the Canadian taxpayer been evaluated against the potential job loss and business failures this will result in once these measures are implemented? Small businesses are the middle class, and are the employer of the middle class. Who will employ the middle class once many small businesses no longer exist? Has the potential ripple economic effect of these proposed changes been considered or evaluated?

Finally, the language chosen in the document portrays the government's true valuation of the contributions of small business. Our members take offense to the tone of the document, implying that entrepreneurs avoid paying their "fair share" of tax due to taking advantage of "loopholes". The Minister of Finance and Prime Minister have used such misleading and targeted political rhetoric it borderlines on class warfare, recently exacerbated by the Minister of Small Business and Tourism approvingly tweeting the organization of a consortium of labour groups that support the proposals. Let us be clear: these measures do not address 'loopholes', they radically change existing tax policy in Canada.These "loopholes" are simply the corporate tax system that has been set up and accepted by federal governments for decades. To now suggest that the users of the system are avoiding paying their fair share is, at best, disingenuous - politics at its worst.

When businesses lose, so does the middle class. Business owners that are affected by these changes will, quite logically, take steps to protect their livelihood, their retirement, their rainy day fund. This will mean fewer jobs, fewer hours for employees, less disposable income for charities and community organizations - putting further pressure on the country's social safety nets. Small business owners are the engines of our communities - these proposed changes will hurt their ability to contribute and disincentivize the next generation of entrepreneurs - not a "fair" outcome for anyone.

Is the system as it is currently designed perfect? Unlikely. Are there provisions in the current set of tax structures that could be improved upon? Probably. Should we continue to encourage those willing to take risks to create wealth in our economy? Absolutely! We need to be careful that in the politically popular hunt to stamp out the advantages of the "wealthy" (i.e. the ones who create wealth and pay the bulk of the taxes in society) we don't irreparably harm the imperfect but relatively competitive system we currently have. If the purpose of these changes are to provide "fairness" to the middle class, don't forget that the vast majority of small business owners fall into this category.

Thank you,

Krista Ross
CEO, Fredericton Chamber of Commerce
Fredericton

Larry Shaw
CEO, Knowledge Park | Planet Hatch | Ignite

cc: Hon. Bill Morneau, Minister of Finance
cc: Hon. Bardish Chagger, Minister of Small Business and Tourism