GREATER CHARLOTTETOWN AREA
CHAMBER OF COMMERCE

To: Bill Morneau, Minister of Finance
Department of Finance, Government of Canada
Date: October 1, 2017
Re: "Tax Planning Using Private Corporations" Consultation Feedback

Dear Minister Morneau:

We write to you today on behalf of the Greater Charlottetown Are Chamber of Commerce (GCACC), representing 1000 members who employ almost 20,000 Islanders, to express our concerns with the proposed changes outlined in the July 18 consultation document titled "Tax Planning Using Private Corporations".

We believe this document paints an unfair picture of business in PEI, and across the country. Statements from your government suggest these changes will only affect the wealthiest Canadians. The Chamber disagrees with this statement based on the overwhelming amount of feedback received from our members, as well as what we discovered through consultations with a number of tax specialists. The implications of these proposed changes will reach well beyond closing a few tax 'loopholes' as has been suggested.

The Consultation & Document

- The consultation paper being released is not really a consultation paper. Out of the three areas "under review", the government appears to have made final tax policy decisions with respect to both "income splitting" and "converting income into Capital Gains".

- The paper was released in the middle of the summer holidays with only 75 days to make comments. In our view, this is a very unfair way to introduce major tax policy changes to Canadian private business.

- There is an anti-entrepreneurial sentiment that exists throughout the document. We know you are familiar with the work of Island Advance and its mandate to celebrate, support, and encourage entrepreneurship in Prince Edward Island. We are concerned that the tone and position of the consultation document conflicts with the efforts of Island Advance.

- The government is proposing these changes because they believe that tax planning undertaken by private companies "is raising concerns about the fairness of the tax system". Unfortunately, the government is comparing business owners and entrepreneurs, who undertake a significant amount of risk, to employees who do not have the same level of risk. Fairness does not always mean equal. Any consultation on appropriate tax policy for Canadian businesses needs to take this into account.

- The government proposals go well beyond targeting the wealthy - they also affect small business owners who clearly are part of the middle class. One tax specialist in the Chamber membership estimates that 80-90% of their small business clients will be impacted by these proposed changes.

- Any review of the tax policy with respect to Canadian private businesses must include a review of personal tax rates, and in particular, the level of taxable income where the top personal marginal tax rate kicks in for an individual.

- Any new tax policy proposed needs to balance fairness with complexity. The current proposals of the government are extremely complex, and in many cases will be difficult for the Canada Revenue Agency to administer. They will increase the cost of tax compliance for the Canadian business community, which is inconsistent with the government's objective of reducing red tape for businesses so they can focus on growing their businesses and creating jobs for Canadians.

Income Sprinkling

- The expectation that business owners must prove the amount of time and investment a family member puts into the business is "reasonable" compared to their dividends received. This unfairly paints family-run businesses in a negative light.

- Not only does this create unnecessary and costly administrative hurdles, it devalues the risk that all family members invest in the business. Small businesses are family businesses – with a commitment by all family members. Entrepreneurs put their life savings at risk, and consequently, so do their spouses and children.
- The tax policy in Canada with respect to income splitting has been very clear since 1999, when rules were introduced to restrict income splitting opportunities with minors. The current changes to these rules are very disruptive to Canadian businesses and how they are structured. This is a major tax policy change where a fair consultation is warranted before any changes are proposed.
- Any review of the tax policy around income splitting needs to consider what the right taxing unit should be in Canada. Should the family be the economic unit that is taxed – particularly, when in many Canadian private businesses, the entire family is involved, and family assets are put at risk? Should a married couple be the economic unit that is taxed? Canadian tax law is inconsistent in that it supports income splitting between spouses in some situations but not others.

Holding Passive Income in a Private Corporation

- There are sound tax policy reasons to allow Canadian businesses to save after-tax profits in their businesses. Business owners need to save profits earned in their business to reinvest in their businesses in the future, particularly when there is an economic downturn. We have many members that have reinvested savings in their businesses during difficult times allowing them to stay in business and avoid cutting jobs. Canadian tax policy should support putting money aside for these purposes.

- Saving by entrepreneurs should be encouraged for objectives such as retirement savings. There is not enough saving by Canadians and we should not be introducing tax policy that discourages our business owners from saving.
- The concept of integration, where the ultimate tax paid to the government should be the same, whether it is earned directly by an individual or indirectly through a corporation, is an important foundation of Canadian tax policy. The proposals suggested by the government will destroy the concept of integration for business profits that are taxed in a corporation and then reinvested in passive investments, with effective tax rates exceeding over 70% in some cases. This is not, in our view, sound tax policy.

Converting Income into Capital Gains

- This move is especially worrisome for families who opted to plan their retirement around the sale of their business based on existing tax rules. In some cases, the amount of taxes paid will double, triple, or more depending on the number of shareholders. We encourage you to consider this-would it be fair to reduce every single public servant pension by half, including your own? If the answer is no, then why is it fair to take money from retiring business owners?

- The proposals suggested by the government are retroactive in many cases. Any changes to Canadian tax policy should not be effective before the announcement date of July 18, 2017. Retroactive changes to legislation are not fair to Canadians who structure transactions based on the Canadian tax law in effect on the date of transactions undertaken. Retroactive legislation does not have a place in Canadian tax law.

Our Recommendation

- These proposals be immediately withdrawn by the government. No one wants to see individuals scam the tax system, but these changes will have unintended consequences on legitimate business owners.

- The government should engage in an open and transparent review of Tax Policy for Canadian Businesses that includes the tax and business communities. Any changes to existing tax policies should only come out of such a process.

As you are aware, there has been a significant amount of opposition to these proposed tax changes right across the country. We thank you for your consideration of the many concerns from the Prince Edward Island business community.

Respectfully submitted,

Rory Francis
President, GCACC

Penny Walsh McGuire
Executive Director, GCACC