SUBMISSION TO:

HOUSE OF COMMONS STANDING

COMMITTEE ON FINANCE

PRE-BUDGET CONSULTATION HEARINGS

AUGUST 2016

OBJECTIVE:	**OPPORTUNITY TO INCREASE CHARITABLE DONATIONS BY $200 MILLION PER ANNUM AND BENEFIT ALL CANADIANS WHO ARE SERVED BY OUR CHARITABLE ORGANIZATIONS.**
RECOMMENDATION:	**REMOVE THE CAPITAL GAINS TAX ON CHARITABLE GIFTS OF PRIVATE COMPANY SHARES AND REAL ESTATE.**

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Member, 2016 Major Individual Giving Cabinet, United Way of Greater Toronto and York Region

Executive Summary

How the 2017 Budget can Stimulate a $200 Million Increase in Charitable Donation

The 2015 Budget measure, which had the support of all three parties, included a measure that would have increased annual charitable donations by $200 million. The measure stated that, if the owner of private company shares or real estate sold his or her asset to an arm's-length party and donated all or a portion of the cash proceeds to a registered charity within 30 days, he or she would be exempt from capital gains tax. To everyone's surprise, the 2016 Budget stated that the Government would not proceed with this measure. The purpose of this Submission is to outline why this proposal would help the Government achieve its 2017 Budget objectives. Their objectives were outlined in the Government's invitation to participate in the pre-Budget Consultations. Also, we have listened to concerns expressed by the Department of Finance, senior bureaucrats, Members of Parliament and Senators. This Submission outlines each of these concerns and our responses.

Achieving the Government's 2017 Budget Objectives

Here is a summary of the merits of our proposal:

- Our social service agencies, such as United Way/Centraide, provide vital services to the unemployed, indigenous peoples, those with disabilities and seniors. Hospitals are the largest recipients of charitable donations, and seniors represent a significant percentage of patients.
- Increased donations to our hospitals, universities, social service agencies and arts and cultural organizations create new jobs and stimulate economic growth. Many large donations, as a result of this measure, would provide funding for infrastructure projects for many of these not-for-profit organizations and contribute to economic growth.
- Entrepreneurs play an important role in growing our economy with a focus on innovation, new products and infrastructure. The Canadian Federation for Independent Business (CFIB) which represents 109,000 private companies is supportive of this proposal.
- All municipalities, large and small, are logically supportive. They derive their revenues from property taxes, not income taxes. Therefore there is no fiscal cost to the municipality. However, not-for-profit organizations in all municipalities benefit from the increased charitable donations. This is a great opportunity for the Federal and Provincial governments to stimulate donations to not-for-profit organizations in all municipalities across Canada.

Addressing Concerns

Here is a summary of the concerns which are addressed in the main body of this Submission:

- ***Federal tax revenue costs*** The foregone capital gains tax on these donations is only $50-65 million per annum and the Charitable Donation Tax Credit is the same as gifts of cash.
- ***The potential for valuation abuse*** The donor must sell the assets to an arm's-length party, which ensures that he or she receives fair-market value for the sale
- ***Some contend that Canada's charitable tax incentives are already very generous*** The proposal removes an inequity in the current Income Tax Act. It provides the same tax treatment for donations of private company shares and real estate that currently apply to gifts of the other appreciated capital assets – listed securities.
- ***Substitution of private company shares and real estate for cash donations*** Experts estimate that 90-95% of these donations would be incremental and only 5% or 10% substitution.

We urge the Finance Committee to recommend that the Government implement these measures in the 2017 Budget. It will be a great legacy for all Canadians for generations to come!

Introduction

The 2015 Budget included a measure that if the owner of private company shares or real estate sold the assets to an arm's-length party and donated the cash proceeds to a registered charity within 30 days, he or she would be exempt from any capital gains tax on that portion of the cash proceeds that were donated to a charity. The measure had the support of the Conservatives, the Liberals and the NDP. While the measure was in the Budget, it was not included in the Budget Bill that was passed in June 2015, because the legislative documents had not been drafted. Consequently, the measure was not enacted into law.

All stakeholders in the not-for-profit sector were surprised and disappointed that the 2016 Budget stated that the Government was not going to proceed with this measure. The 2017 Budget provides an opportunity for the Government to reintroduce this measure and stimulate an additional $200 million per annum in charitable donations. This funding will benefit all Canadians who are served by our hospitals, social service agencies, colleges and universities, arts and cultural organizations and religious organizations.

The purpose of this Submission is to outline the reasons why this measure is consistent with the Government's objectives outlined in its invitation for Canadians to participate in the Pre-Budget Consultation process.

How this Proposal Helps the Government Achieve its 2017 Budget Objectives

On June 3, 2016 the Government invited Canadians to share their priorities for the 2017 Federal Budget. The invitation outlined the recommended focus of written Submissions to the Committee and appearances in the fall of 2016. The following is a summary of the three main focus items and how our proposal helps the Government achieve its objectives:

1. **Help Canadians generally – and such specific groups as the unemployed, indigenous peoples, those with a disability and seniors – maximize in the manner of their choosing, their contributions to the country's economic growth.**
   - Social Service agencies, such as those funded by the United Way/Centraide organizations across the country, provide assistance to the unemployed, indigenous Canadians, people with a disability and seniors. Our colleges and universities provide education and training which helps people join the skilled work force.
2. **Assist Canada's businesses – in all regions and sectors – meet their expansion, innovation and prosperity goals.**
   - Entrepreneurs play an important role in creating jobs and stimulating economic growth. They also are a key factor in innovation, which is one of the government's top priorities. The Canadian Federation for Independent Business (CFIB) represents 109,000 private companies and is strongly supportive of this proposal.
3. **Ensure that urban, rural and remote communities throughout Canada enable residents to make their desired contribution to the country's economic growth and businesses to expand, prosper and serve domestic and international customers in order to contribute to growth.**
   - All municipalities across Canada in both urban and rural areas are naturally supportive of this proposal because there is no fiscal cost to the municipality, as they derive their revenues from property taxes, not income taxes. Increased charitable donations will create new jobs for our hospitals, universities and colleges, arts and cultural organizations and social service agencies, which will help stimulate economic growth.

Addressing Concerns about our Proposal

The balance of this Submission will address all concerns expressed by the Department of Finance, as well as Members of Parliament, Senators and senior bureaucrats.

Federal Tax Revenue Cost

The federal tax revenue cost of the proposal depends on the amount of the increase in charitable gifts of private company shares and taxable real estate and the adjusted cost base (ACB) of the donated property. **The C.D. Howe Institute hosted a Conference on Strengthening Charity Finance in Canada on March 8th, 2011. A presenter estimated that our proposals would result in an annual increase in charitable giving in the form of private company shares and real estate of $170 to $225 million and the tax revenue cost to the federal government of the foregone capital gains tax would be only $50 to $65 million.** The fiscal cost to the federal government of the Charitable Donation Tax Credit would be the same as $200 million of cash donations, or approximately $60 million. The fiscal cost of the foregone capital gains tax is only 0.002% of the projected budget deficit and the combined fiscal cost to the federal government of the foregone capital gains tax and the CDTC is only 0.004% of the deficit. The fiscal cost of this measure does not cause a material increase in the deficit. These estimates were based upon an analysis of the Department of Finance's Annual Tax Expenditure Report, taking into consideration the percentage of donations of appreciated capital property in the U.S. that are made in the form of private company shares and real estate.

Concern about the Potential for Valuation Abuse

Any concern about the potential for valuation abuse is addressed by the provision in the measure that the donor must sell the assets to an arm's-length party and donate the cash proceeds to a charity within 30 days of the closing of the sale. Since the purchaser must be at arm's-length from the donor and the donor will logically obtain the highest possible price for the asset, this provision addresses any concern about the potential for valuation abuse.

Concern that Canada's Charitable Tax Incentives are already very Generous

These proposals address an inequity in the current Income Tax Act. The exemption from capital gains tax on gifts of listed securities is already a fundamental public policy principle of both Liberal and Conservative Governments. The same principle should apply to gifts of other appreciated capital property – private company shares and real estate. In the United States, gifts of appreciated capital property are exempt from capital gains taxes. These include listed securities, private company shares and real estate. Our proposal would level the playing field for charitable fundraising by our not-for-profit organizations in Canada with our counterparts in the United States, with whom we compete for the best and brightest talent.

Concern about Substitution of Private Company Shares and Real Estate for Cash Donations

The donations of private company shares and real estate would be largely incremental donations, not substitutions for cash donations. For example, a friend of mine has been a minority shareholder in a private company for over 25 years. He can sell his shares any time at Fair Market Value to the controlling shareholder. If the capital gains tax on private company shares is removed in the 2017 Budget, he will donate $6 million to two prominent charitable organizations. If it is not included, he will simply continue to hold his shares. His annual cash donations to charities is approximately $10,000. His $6 million donations would be incremental.

Capitalizing on the Success of the Removal of the Capital Gains Tax on Gifts of Listed Securities

In 1997, the Federal Government reduced the capital gains tax on donations of listed securities by 50% on a five-year trial basis. In 2006, the federal government removed the remaining capital gains tax on gifts of listed securities. Prior to 1997, Canadians did not donate listed securities to charities because when they transferred the shares to the charity, they were deemed to have sold the shares and were required to pay a capital gains tax on the donation. Since 2006, charities have received donations of over $1 billion virtually every year. The 2017 Budget provides a unique opportunity to capitalize on this enormous success and increase charitable donations by an additional $200 million per annum.
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We urge the Finance Committee to recommend that the Government implement these measures in the 2017 budget. It will be a great legacy for all Canadians for generations to come!

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