

Standing Committee on Finance (FINA)

Pre-budget consultations 2012

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Responses

1. Economic Recovery and Growth

Given the current climate of federal and global fiscal restraint, what specific federal measures do you feel are needed for a sustained economic recovery and enhanced economic growth in Canada?

Policies to increase worker productivity are extremely important to the Canadian economy. Specific improvements need to be made in both research and development and transportation infrastructure. One specific goal would be to get two universities in Western Canada up to level of University of Toronto and McGill in terms of research spending and granting. In terms of transportation further review and analysis must be made of Canada's pricing and tax policies regarding air transportation. Some type of certainty must be given to local airport authorities as to what the final state of their ground leases will be with Transport Canada. Given the proximity of competing airports in the United States further study must be given to the specific taxes the government imposes on air carriers. Additionally while not solely related to air transport specific importance must be given to the importance of maintaining and improving east west transport linkages.

2. Job Creation

As Canadian companies face pressures resulting from such factors as uncertainty about the U.S. economic recovery, a sovereign debt crisis in Europe, and competition from a number of developed and developing countries, what specific federal actions do you believe should be taken to promote job creation in Canada, including that which occurs as a result of enhanced internal and international trade?

As discussed earlier the importance of improving Canada productivity is paramount. Additional actions though can be taken to improve the structural efficiency of Canada economy through changes and improvements to tax and regulatory policies. Negotiating additional tax treaties is an action that should be given more thought. Canada doesn't but should have tax treaties in place with nations such as Saudi Arabia, Qatar, Ethiopia, and Taiwan. All of these countries have similar tax systems to nations that already have tax treaties with Canada. More thought should also be given to free trade agreements with nations Canada has traditionally not had extensive trade with. Many countries in Asia for example come to mind along these lines. A bilateral trade agreement with Hong Kong for example may get larger Asian nations to come to the table so to speak on terms more favorable to Canada.

3. Demographic Change

What specific federal measures do you think should be implemented to help the country address the consequences of, and challenges associated with, the aging of the Canadian population and of skills shortages?

Significant revamp is under way and continues to need to be undertaken in the immigration to provide better outcomes for Canadian society. First prospective immigrants need to have a much more timely process for successfully obtaining clearance (obtaining Permanent Residency) to enter Canada. Waits of two to three years or even more simply are not acceptable in this day in age. Special importance must also be given to importance of successfully obtaining professional certification in certain field (regulated by the provinces). Canada must also look at the possibility of increasing labor mobility under NAFTA.

4. Productivity

With labour market challenges arising in part as a result of the aging of Canada's population and an ongoing focus on the actions needed for competitiveness, what specific federal initiatives are needed in order to increase productivity in Canada?

As mentioned in my first response improvements to research and development activities and transportation infrastructure are critical. Canada should set a goal of getting at least two or three universities in Western Canada up to the level of joining the Association of American Universities (the main grouping of large North American research universities that McGill and UofT have been part of for many years). Further analysis must be undertaken of tax and regulatory policies in the Transport Sector.

5. Other Challenges

With some Canadian individuals, businesses and communities facing particular challenges at this time, in your view, who is facing the most challenges, what are the challenges that are being faced and what specific federal actions are needed to address these challenges?

A very specific problem in the past two to three years has been occurring with other countries (Eritrea and the United States) attempting to exert taxing powers over the citizens resident in Canada. The issues with Eritrea are being handled as a foreign affairs matter however, the issues with the US need to be discussed more thoroughly. First Canada has accepted many years of the US' taxing power over its citizens resident in Canada through the "savings clause" in the US Canada tax treaty. Given the US Canada tax treaty is now over 30 years old and its treatment "citizenship" based taxation is unique among all 90 or so treaties Canada has outstanding this issue must be discussed in future negotiations with the US. Second it is unclear as US Nationality and Immigration law has changed over the years who exactly is a US citizen. Many if not most US Citizens in Canada are also Canadian citizens too. Should the tax treaty be interpreted in an ambulatory manner of letting the definition of citizen for purposes of treaty be changed by the US at its pleasure or does "citizen" as defined in the treaty refer to the legal definition of US citizen back when the treaty was ratified in 1984. Additionally there is the issue of the Foreign Account Tax Compliance Act recently passed by the US Congress that created a huge regulatory burden for Canadian financial institutions. Even more recently there was a recently announced approach by the US and five European countries to implement the legislation through less burdensome "intergovernmental" method. I however, believe there are significant problems with this intergovernmental method perhaps even more so than under the original "intent" of FATCA. Under the intergovernmental approach Canada would be required under the Income Tax Act to impose a specific reporting requirement on US "Persons" (whether or not they are Canadian citizens) to the Canada Revenue Agency for forwarding to the US IRS. I believe a reporting requirement specific to nationality under the ITA is against the Charter of Rights and Freedoms. Previous cases such as *Chua vs Minister of National Revenue* and *Edwards vs Law Society* indicate I suspect what would be a strong reluctance by Canadian courts to support this "intergovernmental" approach to FATCA. In some sense a FATCA reporting requirement tied to nationality or in many cases even dual nationality would be seen as a modern day equivalent to the old Chinese Head Tax. Additionally the recently released FATCA IGA would require Canadian financial institutions to ascertain the birthplace of all Canadian bank customers and those who were born in the United States would be required to provide a US government issued Certificate of Loss of Nationality in order to be exempted from the reporting requirement under the FATCA IGA. Furthermore there is little if any reciprocity for the Government of Canada under the proposed FATCA IGA. Canada has already received from the US information on Canadian residents held in US Bank deposit interest for many years. In the agreement the US Treasury Department only commits to "attempt" to get the US Congress to approve legislation to impose some type of similar reporting requirement. Would US financial institutions have to report the identities of all of their Canadian citizen US resident customers?

