SUBMISSION TO:

HOUSE OF COMMONS STANDING

COMMITTEE ON FINANCE

PRE-BUDGET CONSULTATION HEARINGS

AUGUST 2014

OBJECTIVE:	**INCREASE CHARITABLE DONATIONS BY $200 MILLION PER ANNUM**
RECOMMENDATION:	**ALLOCATE 1% OF NEXT YEAR'S FORECAST BUDGET SURPLUS TO REMOVE THE CAPITAL GAINS TAX ON CHARITABLE GIFTS OF PRIVATE COMPANY SHARES AND REAL ESTATE.**

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Executive Summary

The government has prioritized attaining a budget surplus in fiscal 2015/16 and has committed to not increase taxes or reduce transfer payments. Consequently, a balanced budget can only be achieved by reducing spending on government programs and limiting measures that cost tax revenues. Canada's not-for-profit sector is also facing significant fiscal challenges, because all levels of government will be unable to increase funding while they focus on eliminating deficits. However, demand for the services provide by these organizations continues to grow.

The 2015 budget provides a unique opportunity for the federal government to address these challenges. **Elimination of the capital gains tax on gifts of listed securities has resulted in over $1 billion of donations of shares each year since 2006. The capital gains tax exemption can be expanded to include gifts of two other appreciated capital assets—private company shares and real estate**. Charitable donations of both these asset classes are exempt from capital gains tax in the U.S and on real estate in the U.K. Extending the exemption to include these assets would unlock additional private wealth for public good on a much more effective and targeted basis than the bureaucratic process of direct government appropriation.

Any concern about valuation abuse can be addressed by one simple measure: the charity would not issue a tax receipt to the donor until it has received the cash proceeds from the sale of the asset. Also, if the purchaser is not at arm's length from the donor, the charity would need to obtain two independent, professional appraisals to confirm that the charity is receiving fair market value.

At the 2011 C.D. Howe Institute Conference on Strengthening Charity Finance in Canada, **a prominent expert on charitable giving estimated that our proposals would result in an annual increase in charitable giving of $170 to $225 million at a cost to the federal government of only $50 to $65 million**. **This amount represents only 1% of the $6.4 billion budget surplus forecast for 2015/16.**

The Canadian Federation for Independent Business (CFIB), representing 105,000 private enterprises, supported this initiative in its 2010 Submission to the House Finance Committee. Most of the 1,800 mayors associated with the Federation of Canadian Municipalities (FCM) are supportive. Charities in their municipalities would receive incremental funding from donors in their community, with no cost of tax revenue to the municipality, which derives its revenues from property, not income taxes. The C.D. Howe Institute published an e-brief on September 15th, 2009, endorsing these measures.

We urge the Finance Committee to recommend that the Government implement these measures in the upcoming budget.

Introduction

These are challenging times for Canada's federal, provincial and municipal governments, as they attempt to eliminate fiscal deficits. These are also challenging times for Canada's vital not-for-profit sector, as our charities cannot expect governments to increase funding materially when their focus is on reducing deficits. Our Submission addresses the challenges faced by both groups in this uncertain global economic environment, and outlines an opportunity for the government to stimulate additional funding for charities from the private sector, on a basis that is value-added for all three levels of government.

Fiscal Challenges Facing the Federal Government

The government has prioritized attaining a budget surplus by 2015/16 and has committed to not raise taxes or reduce transfer payments. The deficit can thus only be eliminated by reducing spending on government programs and limiting measures that cost tax revenues.

Fiscal Challenges Facing Our Charitable Sector

Given the fiscal challenges facing our governments, it is unrealistic for charities to expect material increases in direct government funding during the next few years. However, each area of our not-for-profit sector can expect demands for their services to increase:

- As our population ages, the demand for timely access to healthcare services increases;
- The uncertain job outlook will increase the need for assistance from our social service agencies;
- In order for Canada to compete more effectively in international markets, we need to focus on innovation and creativity, key drivers for productivity. An increased commitment to post-secondary education is an important part of this strategy; .

In addition to increased funding requirements, our charities receive reduced financial support from endowment funds because of the reduction in the disbursement percentage caused by the decline in interest rates.

The Opportunity

The Government of Canada now has a unique opportunity to unlock significant *additional* private wealth for public good in the next budget, by capitalizing on the enormous success of the 2006 budget measure eliminating the remaining capital gains tax on gifts of listed securities. This measure has resulted in charitable donations of listed securities of over $1 billion each year since 2006.

The capital gains tax exemption currently applicable to gifts of listed securities should be expanded to include gifts of two other asset classes: **shares of private companies and real estate.** The proposal would apply to gifts of vacation, industrial, commercial and residential investment properties, but would exclude principal residences, which are already tax exempt. Both asset classes are exempt from capital gains taxes in the United States and gifts of real estate are exempt in the U.K.. Currently, in Canada, only gifts of listed securities are exempt.

Addressing Concerns about Valuation Abuse for Gifts of Private Company Shares

Concerns about valuation abuse for gifts of private company shares can be addressed by requiring a charity to issue a tax receipt to the donor only after it has received the cash proceeds from the sale. In the vast majority of cases, the charity wants to monetize its gift of appreciated capital property at the earliest opportunity. If the purchaser of the asset is not at arm's-length from the donor, the charity would be required to obtain two independent, third-party professional appraisals for the asset to ensure that it is receiving fair market value on the sale.

These conditions not only address concerns about valuation abuse, but also significantly decrease the administrative burden and risk for the charity.

Addressing Concerns about Valuation Abuse for Gifts of Real Estate

We propose two measures for charities to receive gifts of real estate, both of which would be exempt from capital gains taxes. Under the first measure, the qualified donee would receive all or part of the cash proceeds from the sale of the property, and the donor would be exempt from capital gains tax on that portion of the real estate sale which he or she donated to the charity. If the purchaser of the real estate asset is a non-arm's length party, two independent, third party appraisals would be required. Under the second measure, the donor could gift the real estate to the qualified donee to retain the property for use within its mission.

Under our proposal, the donor would be responsible for the sale of the real estate and the valuation of the gift would be based upon a matter of fact, rather than an evaluation. The precedent exists within the Income Tax Act to sell property to fund a donation – and to eliminate the capital gains tax on its disposition – as long as the cash is donated within a certain time period. Gifts of publicly traded securities acquired under a securities option plan must be donated within 30 days of the exercise date to eliminate the capital gain. Moreover, there is a provision in the Income Tax Act that provides the ability to donate all or a portion of the cash proceeds of disposition to a qualified donee, if this gift is made within 30 days of the tax event.

Obviously, a taxpayer willing to make a gift of real estate, for use or occupation by the charity for charitable purposes, should not be penalized by a new tax incentive. Those donors should also be exempt from capital gains taxes, but appropriate restrictions would need to be included, such as an independent, third party valuation of the property and the requirements for the charity to hold the real estate for a minimum of 10 years.

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 would be only $50 to $65 million. This represents only 1% of the forecast budget surplus for fiscal 2015/16.** 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. made in the form of private company shares and real estate.

Canadian Federation for Independent Business (CFIB)

The Canadian Federation for Independent Business (CFIB), representing 105,000 private corporations or enterprises across Canada, has an interest in our proposal regarding private company shares. This measure would be particularly interesting to business owners considering selling their company instead of turning it over to their children. The sale of their business could be a catalyst for a significant charitable donation to a local not-for-profit organization. Importantly, the measure would level the playing field for entrepreneurs who maintain private company status relative to those who take their company public.

Federation of Canadian Municipalities (FCM)

The Federation of Canadian Municipalities (FCM) represents 1,800 mayors of cities, towns and villages across Canada. As municipalities derive their revenues primarily from property, not income taxes, these measures would cost them no tax revenue. However, they would result in significant increases in private sector funding for not-for-profit organizations in their municipalities. Consequently, most FCM members support these proposals.

Support of the NDP and Liberals

Thomas Mulcair, Leader of the Official Opposition, stated during the House Finance Committee's September 15th, 2009 pre-budget consultation that "Mr. Johnson…is entirely right. My colleague Judy Wasylycia-Leis…and myself have had the opportunity of telling him that we support his proposal…There have to be safeguards in order to ensure that no one can get around or abuse the system, but the idea is positively brilliant, at a time when universities and the health care sector in particular need more assistance." [as quoted in Hansard]

Scott Brison, the Finance Critic for the Liberal Party, has also communicated his support for these measures.

Although these are challenging times for our governments and our charities, implementation of these two proposals in the next federal budget would be appreciated by the 2.1 million Canadians employed in our not-for-profit sector, the managements of our hospitals, universities, arts and culture organizations and social service agencies across Canada, and the tens of thousands of business and community leaders who serve as volunteer board members of these organizations. In addition to providing advice and oversight, each of these individuals is involved in private sector fundraising, as well as donating personally. The millions of Canadians whom our charities serve would be very grateful.

It is understandable that these measures could not be introduced while running a deficit. Now that a $6.4 billion surplus is being forecast, the 2015 budget is the perfect time to introduce them. We strongly recommend that your Committee support these proposals in your report to the House of Commons!