COALITION FOR SMALL BUSINESS TAX FAIRNESS

March 26, 2018

The Honourable Bill Morneau
Minister of Finance
Finance Canada
90 Elgin
Ottawa, Ontario K1A 0G5

Subject: Coalition for Small Business Tax Fairness feedback on revised passive investment rules.

Dear Minister Morneau,

We are writing on behalf of the **Coalition for Small Business Tax Fairness**. Together, our organizations represent hundreds of thousands of independent businesses, professionals and taxpayers, across all sectors of the economy and all regions of the country that employ millions of Canadians. We are writing today to raise concerns regarding the new rules around passive investment income announced in federal budget 2018.

We would like to start by thanking your government for making efforts to listen to the small business community and for beginning to address some of the most serious concerns related to passive investment income rules.

While progress has been made since the original proposals were brought forward last summer, we remain concerned with certain aspects of the new passive investment income rules that we hope will be addressed before legislation is brought forward in the House.

According to the proposed rules, starting in 2019, businesses will begin to lose access to the small business deduction once they earn more than $50,000 in passive investment income in a year, and lose access entirely once they earn more than $150,000 per year. This means that businesses with more than $150,000 in passive investment income will pay the general corporate tax rate on their active business income.

While the suggested approach is somewhat simpler than previous proposals, we feel it will unfairly penalize businesses that use passive investments in order to save for downturns, to buy property or for future investments in their business. We also believe the scope of the proposals will be broader than the federal government predicted.

Previous proposals also indicated that all existing passive investments would be “grandfathered”. While we understand taxes on passive investments themselves will not change under the new proposal, those who have already built a significant pool of passive investments will be negatively affected by losing access to the small business rate for their active business income. As a result, there is a significant retroactive element to the new proposal as past decisions will have negative tax consequences in the future.

Many of the Coalition's members have begun to hear from small business owners who are deeply concerned with the new proposal, particularly due to the retroactive element. Many business owners took you at your word that their previous passive investment decisions would not negatively affect them going forward.

We urge you not to penalize business owners for past passive investments that were legally accumulated over the past several decades, by ensuring that those investments are excluded when calculating new taxes going forward. We are committed to working with the Department of Finance to find solutions to help address this issue without creating significant new complexities for government or business taxpayers. Additionally, we would strongly urge the government to index the $50,000 and $150,000 exemption limits to inflation to prevent small businesses from being subject to bracket creep on the taxation of their passive investment income.

In addition to our remaining concerns regarding passive investment rules, the small business community remains distressed by, and unprepared for, the new rules on income splitting. This issue has not gone away and we believe it is critical that your government consider amendments to income splitting rules. After reviewing the Parliamentary Budget Officer's (PBO) recent report, it is even more clear that government agencies and taxpayers continue to struggle to understand the scope of the new rules. The PBO report also reveals that the potential tax increase to small business families may be considerably higher than government estimates.

It must be remembered that in addition to these tax changes, small business owners are facing added uncertainty over the prolonged renegotiation of NAFTA and significant tax reform in the U.S, which are raising questions about Canada's ability to effectively compete on a global stage. We urge the government to continue to find solutions that do not negatively affect the small business community's ability to grow and prosper.

In summary, we recommend your government:

1. Immediately undertake an economic impact assessment of the package of proposed changes and delay implementing any tax changes until this assessment is complete.
2. On **income splitting**:
    - Postpone the application of the changes until, at the very earliest, January 1, 2019.
    - Consider, at a minimum, a full exemption for spousal income and dividends from the new income splitting rules.
3. On **passive investment**:
    - Do not proceed with the proposed passive investment rules.
    - If determined to proceed, ensure that past passive investments are excluded when determining eligibility for the small business deduction going forward.
    - Index the $50,000 and $150,000 exemption limits to inflation to prevent small businesses from being subject to bracket creep on the taxation of their passive investment income in future years.
4. Undertake a comprehensive review of Canada's income tax system with a view to reducing complexity, thereby helping small business owners to better understand tax implications before making critical business decisions.

Please do not hesitate to reach out to any of the undersigned groups and associations should you have any questions or comments about the contents of this letter. We remain committed to working with you.

Sincerely,

Greg Pollock
President and CEO, Advocis
The Financial Advisor Association of Canada

13,000 members

Luc Bélanger
CEO
Association des professionnels de la construction et de l'habitation du Québec

John D. Gamble, CET, P.Eng.
President & CEO
Association of Consulting Engineering Companies

Alan Rowell, MFA, DFA–Tax Services Specialist
Director, Association of Tax and Accounting Professionals

195 members

Caroline De Guire, M.Sc. Écon.
CEO, Association québécoise des informaticiennes et informaticiens indépendants

1,500 members

Jean Thiffault
President
Association québecoise des pharmaciens propriétaires

Robert Laing
CEO
British Columbia Real Estate Association

John Reid
CEO, Canadian Advanced Technology Alliance

Mary Blair
Managing Director
Canadian Association of Management Consultants

2,500 members

Dr. Emil Lee, President
Canadian Association of Radiologists

2,182 members

Kerry Simmons, Q.C.
President,
Canadian Bar Association

36,000 members

Terry Kremeniuk
Executive Director
Canadian Bison Association

550 members

Dr. Larry Levin
President
Canadian Dental Association

Dan Kelly
President and CEO
Canadian Federation of Independent Business

110,000 members

John Dickie,
President of the Canadian Federation of Apartment Associations

11,200 rental owners, rental managers and rental industry suppliers

Lorraine McLachlan
President & Chief Executive Officer, Canadian Franchise Association

750 Corporate members representing 40,000+ franchised outlets

Kevin Lee, Chief Executive Officer,
Canadian Home Builders' Association

8,500 members

Keith Costello, BADM, MBA–Strategy
President & Chief Executive Officer
Canadian Institute of Financial Planners

8,000 members

Ralph Suppa, CAE, President & General Manager
Canadian Institute of Plumbing and Heating

260 members

Edward Whalen, P.Eng.
President & CEO
Canadian Institute of Steel Construction

Christopher White
President & CEO
Canadian Meat Council – conseil des viandes du Canada

52 Regular Members and over 92 Associate Members

Dr. Laurent Marcoux
President
Canadian Medical Association

85,943 members

Samantha Gale
Executive Director
Canadian Mortgage Brokers Association

5,000 members

Glen Doucet
Interim Chief Executive Officer
Canadian Pharmacists Association

John Ross
Executive Director
Canadian Pork Council

7,000 producers

Gary Simonsen
Chief Executive Officer
Canadian Real Estate Association

122,000 Realtors

Bob Brunet, CAE, BComm
Executive Director
Canadian Roofing Contractors' Association

400 members

Aaron Wudrick, Federal Director
Canadian Taxpayers Federation

123,000 supporters

Dr. Troye McPherson
President,
Canadian Veterinary Medical Association

6 665 members

Kevin Wong, CAE, MBA
Executive Director
Canadian Water Quality Coalition

208 members

Sean Hu
Executive Director
Chinese Business Chamber of Canada

1,300 members

James Swan, MD, FRCPC
Coalition of Ontario Doctors

2,450 members

Guy Legault
President
Conference for Advanced Life Underwriting

670 members

Léopold Turgeon
Président–directeur général
Conseil québecois du commerce de détail

5,800 members

Jeff Koller
Executive Director
Electrical Contractors Association of Ontario

Bill Brushett
President and CEO
Family Enterprise Xchange

Stéphane Forget, MBA
President and CEO of the Fédération des chambres de commerce du Québec

139 Chambers and
50,000 businesses

Sandra Kegie
Executive Director
Federation of Mutual Fund Dealers

Jaye Hooper, Chair of the Federation of Ontario Law Associations

8,500 members

Mark Brock
Chair
Grain Farmers of Ontario

28,000 members

Jeff Nielsen
President
Grain Growers of Canada

50,000 members

Iain J.S. Black
President and CEO
Greater Vancouver Board of Trade

5,200 members

Warren Heeley
President
Heating, Refrigeration and Air Conditioning Institute of Canada

Nancy Allan
Executive Director
Independent Financial Brokers of Canada

3,500 members

Jeff Wachman
President
Institute of Advanced Financial Planners

Richard McKeagan, Chief Executive Officer
Mechanical Contractors Association of Canada

900 members

Terrance Oakey
President
Merit Canada

3500 members

Mark Prieditis, MD, FRCPC
President
Ontario Association of Radiologists

1,400 members

Dr. Shawn Whatley,
President
Ontario Medical Association

43,493 members

Ettore Cardarelli
President
Ontario Real Estate Association

Tony Elenis
President & CEO
Ontario Restaurant Hotel and Motel Association

11,000 members

Doug Bedard, Chair

Georgina Blanas, Executive Director
Private Capital Markets Association of Canada

Membership 500

Sean Reid
Vice President
Progressive Contractors Association of Canada

180 members

Grace Sammut
Directrice exécutive,
Resorts of Ontario

Shanna Munro
President and CEO
Restaurants Canada

30 000 membres

Shane Jahnke
Saskatchewan Stock Growers Association

600 members

Levi Wood
President, Western Canadian Wheat Growers Association

John Schmeiser
CEO
Western Equipment Dealers Association

800 members

cc: Mr. Peter Julian, NDP Member of Parliament for New Westminster–Burnaby, Finance Critic
Senator Percy Mockler, Chair of the Senate Committee on National Finance
The Honourable Pierre Poilievre, Conservative Member of Parliament for Carleton, Shadow Minister of Finance and National Capital Commission
The Honourable Wayne Easter, Liberal Member of Parliament for Malpeque, Chair of the Standing Committee on Finance
The Right Honourable Justin Trudeau, Prime Minister of Canada