

The Joint Committee on Taxation of The Canadian Bar Association and The Canadian Institute of Chartered Accountants

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May 6, 2003

The Honourable John Manley
Minister of Finance
Finance Canada
140 O'Connor Street
Ottawa, Ontario
K1A 0G5

Dear Minister:

Re: Timing of Release of December 20, 2002 Draft Technical Amendments Legislation

We are writing to express our concerns over the timing of the release of such a large package of technical amendments to the Income Tax Act (the "Act") on December 20, 2002, so close to the holiday season and to the end of the 2002 calendar year. In addition to this timing, the inclusion of certain types of previously unannounced tax policy changes in draft legislation billed as a package of technical fixes places an undue burden on taxpayers and their advisors and serves to undermine the integrity of the Canadian tax system.

We ask that in the future your Department avoid issuing omnibus technical amendments legislation so late in the calendar year. We have previously shared our concerns over the timing of the release of such legislation with Department of Finance officials, who have generally been quite supportive of our position. As many taxpayers have December 31 year-ends, the late December release of previously unannounced legislation that produces adverse tax consequences only serves to undermine the integrity of the Canadian tax

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system in the minds of such taxpayers, particularly foreign corporations carrying on business in Canada. The end of the year is a busy time for taxpayers and their advisors, many of whom may also be working to complete large reorganization or restructuring transactions before year-end.

The late December release of such amendments imposes unrealistic timelines for taxpayers to understand and react to unexpected adverse tax changes. This is especially problematic for transactions in progress that are intended to be completed just before year-end. For example, proposed subsection 93(1.4) of the Act imposed a dramatic new tax cost for certain foreign affiliate reorganizations. Taxpayers who were in the midst of undertaking reorganizations of their foreign affiliates just before the year-end were placed in the extremely difficult position of trying to understand and to react to those proposed changes before year-end with respect to transactions contemplated or partially completed at the time of announcement. Because many such transactions were motivated exclusively by foreign business considerations, the adverse reaction of taxpayers is understandable.

We submit that these types of far-reaching changes should be announced well in advance of year-end and, more appropriately, as part of the annual federal budget whenever there is a significant expansion of the scope of tax.

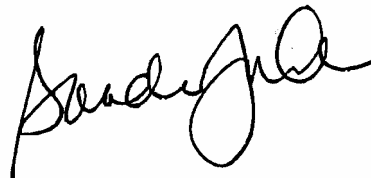
We are committed to working with your Department to help improve the Canadian tax system and to ensure that it functions as smoothly as possible for taxpayers and tax administration. In this regard, we have recently submitted a detailed brief to Mr. Len Farber containing our comments and suggestions for further technical corrections or modifications intended to clarify or remove uncertainty with respect to the general provisions (i.e., unrelated to the foreign affiliate amendments) of the December 20, 2002 draft technical amending legislation.

We thank you in advance for taking the time to consider our concern and look forward to your response.

Yours truly,



Roger D. Ashton
Chair, Taxation Committee
Canadian Institute of Chartered Accountants



Sandra E. Jack
Chair, Taxation Section
Canadian Bar Association

cc: Mr. Len Farber