



July 14, 2014

Via email: [scott.brison@parl.gc.ca](mailto:scott.brison@parl.gc.ca); [john.mccallum@parl.gc.ca](mailto:john.mccallum@parl.gc.ca); [hedy.fry@parl.gc.ca](mailto:hedy.fry@parl.gc.ca)

The Honourable Scott Brison, P.C., M.P.  
Liberal Finance Critic  
House of Commons  
Ottawa, ON K1A 0A6

The Honourable John McCallum, P.C., M.P.  
Liberal Seniors Critic  
House of Commons  
Ottawa, ON K1A 0A6

The Honourable Hedy Fry, P.C., M.P.  
Liberal Health Critic  
House of Commons  
Ottawa, ON K1A 0A6

Dear Members of Parliament:

**Re: Budget 2014 – Changes to Taxation of Testamentary Trusts**

I am writing on behalf of the Wills, Estates and Trusts section of the Canadian Bar Association (the CBA Section) to seek your support in re-establishing graduated rates of tax for testamentary trusts. The CBA is a national association of more than 37,500 Canadian lawyers, notaries, law teachers and students. Members of the CBA Section practice in the areas of wills, estates and trusts law.

The CBA Section recognizes the need to neutralize use of the trust as a tax abusive measure, but we do not believe that complete elimination of graduated personal tax rates for testamentary trusts is the appropriate response. For this reason, we opposed the changes proposed to the taxation of testamentary trusts in our response to a 2013 consultation by Finance Canada. Our submission, attached, focused on the non-tax reasons to create testamentary trusts, and the consequent challenges that the changes would have to the tax system.

The CBA Section identified the reasons why trusts are established for non-tax reasons, such as protecting infants or minors, persons with addictions, spendthrifts, elderly and other vulnerable persons and surviving spouses, where the new rules for taxation of testamentary trusts will disadvantage those most in need of protection and support.

Unfortunately, the CBA Section's suggestions on means to ameliorate the proposals were not adopted in C-31, the 2014 Budget Bill.<sup>1</sup> The changes to the taxation of testamentary trusts will be virtually

---

<sup>1</sup> Full text available at [www.parl.gc.ca/content/hoc/Bills/412/Government/C-31/C-31\\_1/C-31\\_1.PDF](http://www.parl.gc.ca/content/hoc/Bills/412/Government/C-31/C-31_1/C-31_1.PDF)

identical to those announced in Budget 2013. The CBA submission, echoed by other organizations, was ignored by the Government of Canada.

The CBA Section encourages you to consider the attached submission as your party develops policy on these issues. We would be pleased to discuss these issues in further detail.

Yours truly,

*(original signed by Rebecca Bromwich for Richard Niedermayer)*

Richard Niedermayer  
Chair, National Wills, Estates and Trusts Section