



THE CANADIAN
BAR ASSOCIATION
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February 19, 2016

Via email: fn.trusts-fiducies.fn@canada.ca

Brian Ernewein
General Director
Tax Policy Branch
Department of Finance
90 Elgin Street
Ottawa, ON K1A 0G5

Dear Mr. Ernewein:

Re: Legislative Proposals on the Tax Rules for Certain Trusts and Their Beneficiaries

I am writing on behalf of the Canadian Bar Association's Wills, Estates and Trusts Section (the CBA Section) about draft proposals to modify the tax treatment of certain trusts and their beneficiaries, in particular those related to estate donations and spousal trusts.

The CBA is a national association of 36,000 lawyers, Québec notaries, law teachers and students, with a mandate to promote improvements in the law and the administration of justice. The CBA Section comprises lawyers from across Canada who advise clients in all aspects of will, estate and trust issues.

We wish to express our appreciation for the Department's responsive engagement on these issues, including your November 16, 2015 correspondence to the Joint Committee on Taxation of the Canadian Bar Association and Chartered Professional Accountants of Canada, the Conference for Advanced Life Underwriting, and STEP Canada.

The amendments to the income taxation of trusts and estates in the *Economic Action Plan 2014 Act*, No. 2, SC 2014, c. 39 raised both technical and substantive concerns in the wills, estates and trusts community, particularly with subsection 104(13.4) of the *Income Tax Act*. The CBA Section welcomes the changes proposed to subsection 104(13.4). They address many of the issues raised by the profession and will be helpful to Canadian taxpayers who otherwise would have been negatively affected by the amendments.

Although outside the scope of the current consultation, the CBA Section would encourage the Department to further consider the following issues:

1. Allowing a distribution of capital from a life interest trust to a beneficiary that is a registered charity or other qualified donee in satisfaction of its capital interest in that trust to qualify for a donation tax credit.

2. Allowing a donation made by a life interest trust after the death of the life beneficiary to have the same flexibility for use of the donation credit as donations made by a graduated rate estate.

We would welcome the opportunity to discuss these with the Department at your convenience.

Yours truly,

(original letter signed by Tina Head for Stanley Rule)

Stanley Rule
Chair, CBA Wills, Estates and Trusts Section