Written Submission for the Pre-Budget Consultations in Advance of the Upcoming Federal Budget

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RECOMMENDATION

- **That the government eliminate the capital gains tax on charitable donations of private company shares and real estate.**

THE OPPORTUNITY

This submission provides an opportunity for the government to help all charities by stimulating increased charitable donations from the private sector on a very timely basis during the COVID-19 pandemic. It also demonstrates why this measure is good public policy and that it has the support of the parties. Any concerns expressed by the tax policy professionals in the Department of Finance are also addressed.

THE FISCAL CRISIS FACING ALL CHARITIES

The COVID-19 pandemic has resulted in a significant loss of funding for all charities. This comes at a time when help provided by the charitable sector is needed more than ever by Canadians. A study by Imagine Canada forecasts a loss of private sector donations of between $4.2 billion and $ 6.3 billion depending on the length of the crisis, with job losses estimated between 117,000 and 195,000.

This is devastating for the charitable sector, for those who provide these services, and the millions of Canadians who receive them. A report by the Cardus think tank in July found that seven charities out of 10 reported lower revenues and had already laid off 84,000 full and part-time workers. The Canada Emergency Wage Subsidy (CEWS) does not benefit registered charities directly.

In April, the government announced a generous $350 million sectoral relief fund to be administered by United Way/Centraide, the Red Cross and Community Foundations of Canada to help with the grassroots delivery of services to our fellow Canadians, but this is only a fraction of the charitable sector needs in the midst of the worst economic crisis since the Great Depression.

Fortunately, the government has an opportunity to deliver immediate relief to help Canadians through the present economic emergency without significant additional cost to a fiscal framework that is already running historic deficits.

The proposal is very simple, achievable and low-cost while significantly stimulating donations to the charitable sector.

The government will simply remove the capital gains tax on donations of private company shares and real estate to a registered charity. The forgone federal capital gains tax of $50–60 million would result in an increase in charitable donations of an estimated $200 million per annum. Existing jobs would be saved, new jobs will be created and urgently needed benefits would be delivered.

This can be accomplished by a simple amendment to the Income Tax Act that could be adopted by Parliament either as a standalone measure, as part of a fiscal update expected during the fall sitting or in the upcoming budget. This is not a matter for partisan debate or division. Our soundings indicate that parties in the House would support such a measure, as would members of the Senate.

And all stakeholders in our hospitals, social service agencies, universities and the arts, and the millions of Canadians they serve, will be very appreciative of any additional support as a timely reminder that we are, indeed, all in this together.

WHY OUR PROPOSAL IS GOOD PUBLIC POLICY

The proposal would strengthen the relationship between the federal government, the provinces and the municipalities. 2/3 of the fiscal cost of the measure is borne by the federal government and 1/3 by the provinces.

As hospitals and universities would be significant beneficiaries of the increased donations, and the provinces provide funding for healthcare and education, provincial governments should be supportive and appreciative.

Hospitals, universities, social service agencies, arts and cultural and religious organizations in cities, towns and municipalities would receive additional funding at no fiscal cost to the municipality. Municipalities generate revenue from property taxes, not income taxes. All mayors would be very grateful if this measure was implemented.

There is a very high level of awareness and support of this measure among all stakeholders in charities across the country. These include the board members, management and staff of not-for-profit organizations as well as philanthropists/potential donors. Board members of charities are all involved in fundraising as well as donating personally.

This measure would remove an inequity in the tax system and remove a barrier to charitable giving. In the current tax system, entrepreneurs who start a company, take the company public and donate shares to charities are exempt from the capital gains tax on their gift. However, entrepreneurs who start a company and keep it as a private corporation do not have the same tax treatment.

This measure would also level the fundraising playing field for Canadian charities with their counterparts in the U.S. Gifts of private company shares and real estate in the U.S. are already exempt from capital gains taxes. We compete with our counterparts in the U.S. for the best and the brightest talent and this measure would strengthen the ability of our charities to provide funding to attract talented people internationally.

ADDRESSING ALL CONCERNS

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. At the C.D. Howe Institute's *Strengthening Charity Finance* in *Canada* conference in 2011, a presenter estimated that our proposal 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 of the foregone capital gains tax would be only $50 to $65 million.

The fiscal cost to the federal government of the charitable donation tax credit (CDTC) would be the same as $200 million of cash donations, or approximately $60 million. The fiscal cost of the forgone capital gains tax and the CDTC is a very small fraction of the current fiscal deficit. 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. that are made in the form of private company shares and real estate.

Concern about potential valuation abuse

Any concern about the potential for valuation abuse is addressed by the provision in the measure that the donor must sell the asset to an arm's-length party and donate the cash proceeds to a charity within 30 days of the closing of the sale. Since the purchaser must be at arm's-length and the donor would logically obtain the highest possible price for the asset, this provision addresses any concern about the potential for valuation abuse.

Concern about substitution of private company shares and real estate for cash donations

The donations of private company shares and real estate would be largely incremental donations, not substitutions for cash donations. For example, an acquaintance of mine shared with me recently that he has been a minority shareholder in a private company for over 25 years. He can sell his shares at any time at fair market value to the controlling shareholder. If the capital gains tax on private company shares is removed, he will donate $6 million to two prominent charitable organizations. If this measure is not introduced, he will continue to hold his shares and donate $25,000 annually, as he has done in previous years. The $6 million donation would be incremental.

This measure would capitalize on the success of the removal of the capital gains tax on gifts of listed securities. Since 2006, charities received donations of listed securities of over $1 billion virtually every year. This measure provides a unique opportunity to capitalize on this enormous success and increase charitable donations by an additional $200 million every year going forward.

We urge the House of Commons Standing Committee on Finance to recommend that this measure be implemented as a standalone measure, in the fall fiscal update or in the upcoming budget.

Thank you for your consideration.