Pfizer Canada
17300, autoroute Transcanadienne, Kirkland (Québec) H9J 2M5
17300 Trans-Canada Highway, Kirkland, QC H9J 2M5

Submission for the Pre-Budget Consultations
2021 Federal Budget

By: Pfizer Canada ULC

Recommendations

- **<u>Recommendation 1: Provide Clear and Predictable Tax Outcomes</u>**

  - Provide certainty and predictability by abiding by the application of the arm's length standard in the formulation of transfer pricing rules to functions such as distribution, research and development (R&D) services and contract manufacturing in Canada;
  - Implement a pre-approval process under Canadian tax incentive programs for manufacturing and R&D activities in Canada (e.g., Scientific Research & Developmental (SR&ED) credits).

- **<u>Recommendation 2: Improve Legislative Tax Measures</u>**

  - Maintain or reduce corporate income tax rates;
  - Increase the Manufacturing & Processing (M&P) credit;
  - Repeal the phasing out of the Accelerated Investment Incentive or postpone the phasing out beyond 2023; and
  - Make SR&ED tax credits refundable for Multi-National Enterprises (MNEs).

- **<u>Recommendation 3: Reconsideration of changes to the Patented Medicine Prices Review Board (PMPRB)</u>**

  - Create the stability and predictability that are essential to investors by reconsidering the changes to the PMPRB;
  - Ensure Canada remains as a preferred jurisdiction for clinical trials and launches of new therapies.

Introduction

Pfizer is a leading biopharmaceutical company with extensive experience in the Canadian healthcare sector. We strive to profoundly impact the health of Canadians through the discovery, development and delivery of medicines and vaccines. Pfizer Canada employs over 930 full-time employees across Canada, including at our Head Office in Quebec and our manufacturing facility in Brandon, Manitoba. Our leadership in Canadian healthcare is also reflected in our membership in our sector's industry associations, Innovative Medicines Canada, and BIOTECanada.

First, we would like to commend the Federal government, and especially public health officials, on how Canada has proactively dealt with COVID-19 in very challenging circumstances. The collaborations and contributions of all elected officials, the provinces

and municipalities are also admirable. The Canadian health and life sciences industry has proudly been at the forefront of fighting the COVID-19 pandemic in this country. For example, collaborations on developing treatments for the virus, donations of personal protective equipment for front-line workers, and allowing colleagues who are licensed healthcare professionals to volunteer their services to provide healthcare support, are just some ways our industry is responding to the pandemic.

A vibrant and strong Canadian pharmaceutical sector can play a significant role in restarting the economy and improving Canada's self-sufficiency in healthcare, as the country recovers from the COVID-19 pandemic. Yet for this to happen, Canada must create a fertile and hospitable environment to retain and attract economic activity and generate more self-sufficiency.

The impact of this pandemic has highlighted the positive measures the Government of Canada can take to help restart the economy. Our industry is part of a complex supply chain and the COVID-19 pandemic has put a very fine point on ways in which the government can provide certainty in our industry as well as others. Canadian economic recovery will take place when Canada becomes a more attractive jurisdiction for distribution, logistics, manufacturing and R&D activities. This will be critical for MNEs looking to adapt their supply chains to the realities of the COVID-19 economic crisis while, at the same time, countries worldwide are implementing tax and other policies to attract manufacturing and R&D activities to be more competitive.

In response to the Committee's question, Pfizer submits the following recommendations:

Recommendation 1: Provide Clear and Predictable Tax Outcomes

Countries around the world are implementing tax policy measures to restart their economies and to increase their self-sufficiency. Canada has the opportunity to not only match other jurisdictions with respect to regulatory and policy competitiveness, but to surpass them in order to re-ignite its economy.

To retain and grow biopharmaceutical manufacturing and R&D activities in Canada, the tax regime must provide certainty and predictability in order to be effective as incentive for investments. Otherwise, over time, MNEs will opt for jurisdictions which offer greater certainty. Relocating investments in favor of added tax certainty and predictability will particularly be attractive for MNEs that invest significantly in intellectual property and know-how, such as biopharmaceutical companies. The resulting jobs at stake are highly skilled and relatively highly compensated positions, which are of a type that Canada should retain and grow by fostering a comparatively favorable business environment. Predictability of tax outcomes is a key measure of attractiveness.

Unfortunately, over the last decade, Canada has been viewed as a jurisdiction in which transfer pricing is systematically and aggressively challenged by the Canada Revenue Agency (CRA). Although tax controversies can be resolved and corrected through audit,

treaty-based mechanisms or Canadian appeals processes and even litigation, the lack of certainty and predictability, as well as the time and resources required to defend the company's position, diminish the value of the benefits of Canada's fiscal policies and incentive programs.

Furthermore, certain CRA administrative policies in transfer pricing are directly aimed at further taxing federal and provincial incentives (even if they are generally taxable, already), thereby reducing their effectiveness in attaining the policy objectives for which they were introduced by the Government.[1]

In addition, the OECD's current proposals regarding the taxation of the digital economy will almost assuredly, if they were to apply to the biopharmaceutical sector, introduce additional uncertainty for MNEs and discourage them from maintaining or growing their activities in countries like Canada. This is because the OECD's proposal, as it is currently drafted, would introduce new uncertainty that would perpetuate, rather than resolve, the issues which typically lead to tax controversy for biopharmaceutical companies in Canada.

Accordingly, in order to support economic recovery post-COVID, the Government should implement legislation, regulations and policies that will ensure fair, clear and predictable tax measures, such as:[2]

a. Significantly improve and accelerate access to unilateral, bilateral and multilateral **advance pricing arrangements** (APA); [3]

b. introduce clear principles that will provide certainty and predictability to transfer pricing rules to the allocation of value and remuneration to certain functions in Canada, such as distribution, contract manufacturing and contract R&D services, all based in the application of the broadly accepted arm's length principle;

c. Encourage APAs for **restructuring transactions** involving a transfer of manufacturing, distribution, logistics and R&D activities to Canada; and

[1] See for example TPM-17, which seeks to establish an administrative presumption that provincial and federal tax incentives would not, at arm's length, use them to compete on cost and price to attract business in Canada.

[2] We are conscious of the fact that some of these recommendations are not solely related to legislative measures and may involve administrative policies (e.g., Canada Revenue Agency) but we believe that a holistic approach is necessary to achieve the Government's stated objectives.

[3] In 2019, the average time to complete a bilateral APA was 51.1 months: Canada, *Advance Pricing Arrangement - Program report - 2019* (May 27, 2020). https://www.canada.ca/en/revenue-agency/services/tax/international-non-residents/competent-authority-services/advance-pricing-arrangements/2019-apa-program-report.html

d. Allow MNEs to obtain preapprovals under Canadian **tax incentive programs** for manufacturing and R&D activities in Canada (e.g., SR&ED credits).

Recommendation 2: Implement Improved Tax Measures to Retain and Grow the Biopharmaceutical Industry in Canada

Pfizer also recommends that the *Income Tax Act* be amended to:

a. Maintain or reduce effective **corporate income tax rates**;[4]

b. Increase the **M&P credit from 13% to 16%**, so as to decrease the effective federal corporate income tax rate from 15 per cent to 12 per cent for M&P activities;[5]

c. Repeal the phasing out of the **Accelerated Investment Incentive** or postponing the phasing out of this program beyond 2023; and

d. Make **SR&ED tax credits** refundable to MNEs, not only to Canadian Controlled Private Corporations (CCPC).[6]

Increasing the **M&P credit** by 3% would represent a reduction of 20% in the corporate income tax rate for M&P activities. It would help Canadian M&P businesses, including biopharmaceutical manufacturers, to remain on a level playing field for existing operations and to compete globally in order to attract new investments in Canada.[7]

The federal **Accelerated Investment Incentive** provides an enhanced capital cost allowance (CCA) on equipment purchases, allowing companies to fully expense for

[4] For comparison, Canada's general corporate tax rate was 26.8% in 2019, higher than the OECD average of 23.5%. Between 2009 and 2019, 21 out of 31 OECD countries reduced their rate, eight of which by 5% or more.
Chaire en fiscalité et en finances publiques de l'Université de Sherbrooke, Bilan de la fiscalité au Québec 2020, page 59. https://cffp.recherche.usherbrooke.ca/wp-content/uploads/2020/01/cr_2020-01_bilanfiscalite2020.pdf

[5] Canadian Manufacturers & Exporters, "Industrie 2030 - Manufacturing a Competitive Business Environment in Canada" https://cme-mec.ca/home-departments/

[6] Among the 18 OECD jurisdictions that offer refundable (payable) tax credits or equivalent incentives, only three including Canada limit such refundability to Canadian-controlled private corporations. See OECD, *Corporate Tax Statistics Second Edition* (2020) at page 27. https://www.oecd.org/tax/tax-policy/corporate-tax-statistics-second-edition.pdf

[7] For example, Malaysia announced a 10-year 0% tax rate on certain new investments from foreign manufacturers and a 15% tax rate for new investments in the manufacturing sector for 15 years for certain companies. Bloomberg, "Malaysia Proposes Tax Incentives in Covid-19 Stimulus Package" (June 5, 2020). https://news.bloombergtax.com/daily-tax-report-international/malaysia-proposes-tax-incentives-in-covid-19-stimulus-package

the purpose of the calculation of taxable income M&P machinery and equipment in the year they become available for use. The incentive is 100% effective for property made available for use between December 2018 and 2023 and will phase out between 2024 and 2027. Repealing or postponing the phasing out and allowing the Accelerated Investment Incentive to remain fully effective after 2023 would help restart the Canadian economy as it recovers from the COVID-19 pandemic because investment decisions and their implementation, including putting M&P equipment in service, may not be possible within the current timeframe.

Recommendation 3: Reconsideration of changes to the Patented Medicine Prices Review Board (PMPRB)

We are very proud of our ability to bring clinical trials and related investments to Canada so that patients, clinicians, and hospitals can benefit. However, the innovative pharmaceutical industry in Canada has seen a great deal of uncertainty in recent years due to ongoing domestic policy challenges on several fronts.

Under the changes to the Patented Medicine Prices Review Board (PMPRB) regulations, Canada will lose its competitiveness as a preferred jurisdiction in which to launch new therapies. Companies look at markets that have regimes in place that encourage and attract innovation in which to launch new products. Innovative Medicines Canada has already been notified of nine specific planned drug launches, including rare disease and oncology medicines, which have been delayed or suspended due to the proposed PMPRB changes.[8] The proposed PMPRB changes will also add new pricing obstacles to the already significant reimbursement barriers for rare disease medications. The overall policy direction of these changes is at odds with the government's expressed interest in economic growth and fostering innovation.

The PMPRB 2018 Annual Report[9] concluded that prices of patented medicines in Canada have gone down. Further, Canada's prices remain at or below the PMPRB7 median. Industry offered to work with government to prevent negative consequences of the amended regulations and we still believe that a co-created alternative can be found. As the COVID-19 crisis has demonstrated, Canada's innovative medicines companies are vital to the health and well-being of all Canadians, and there needs to be a regulatory environment that encourages the industry to grow and thrive.

Conclusion

As Pfizer and others in the health and life sciences industry have been at the forefront of fighting the COVID-19 pandemic in Canada, we also wish to be at the forefront of helping with the economic recovery. Improvements to tax incentives cannot, alone, succeed in retaining and attracting economic activity in the healthcare sector but they are

---

[8] IMC Response to PMPRB Draft Guidelines – February 14, 2020
[9] PMPRB Annual Report (2018)

important building blocks. The overall business environment must be attractive, including clear and predictable tax outcomes.

Pfizer appreciates the opportunity to share our perspective on what federal actions should be taken to help restart the Canadian economy. If you have any questions, please do not hesitate to be in touch with us.

Sincerely,

Cole C. Pinnow
President, Pfizer Canada ULC