The voice of **Canadian fruit and vegetable growers.**
La voix des **producteurs de fruits et légumes du Canada.**

October 2, 2017

Response to Finance Canada's Proposed Corporate Tax Changes
"Tax Planning Using Private Corporations"

Submitted to: fin.consultation.fin@canada.ca

Introduction:

The Canadian Horticultural Council (CHC) is an Ottawa-based voluntary, not-for-profit, national association that represents fruit and vegetable growers across Canada involved in the production of over 120 different types of crops, with farm cash receipts of $6 billion in 2016.

To understand the scope and importance of the horticultural sector, the economic impact of our industry has been analyzed. The GDP footprint associated with the exports of produce, household consumption of produce in Canada, and the use of produce by other industries in Canada, throughout the value chain, is valued at $15.7 billion (in 2016), which in turn supports 181,600 jobs in the Canadian economy.

It all starts on the farm, with a grower and his/her family. The proposed tax changes may cause significant harm to the farm, disrupt this multibillion dollar industry, and cost hundreds of thousands of jobs.

Please know that CHC agrees with the principles of tax fairness. However the proposed changes are so wide sweeping and complex that they are hitting the middle class small businesses and farmers. Minister Morneau has mentioned that farmers are not the focus of the changes and CHC will be pleased to work with the Minister and Finance Canada to ensure the agricultural sector is not impacted as a result of collateral damage.

CHC has partnered with a number of agricultural associations to study the proposals in detail and work with a tax consulting firm to further analyze the impacts of the changes. Preliminary results from the tax analysis indicate additional tax liabilities of $1.5 million on a typical family farm over a twenty year period. This is substantial.

CHC's main ask of Finance Canada is to provide an agricultural exemption to the corporate tax changes and work with the agricultural sector to ensure the changes are not unintentionally hitting farm families. Below, we have highlighted how we understand the proposed changes will affect farms.

Lifetime Capital Gains Exemption (LCGE)

The proposed changes to the LCGE may have the largest impact, particularly for farmers, where succession planning is concerned. At a time when the government is encouraging more youth to get involved in farming, these changes have the exact opposite effect. Under the proposed changes, it would become more lucrative to sell to somebody outside the family (i.e. a stranger) than pass on to

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children, due to tax burdens on the children. In some cases, these burdens will discourage family transfers and instead encourage Canadian farmers to sell farms to buyers outside the family, including foreigners, with the added potential of losing Canadian-owned family farms. Further, the young farmers are the age group that we *need* on the farm, as the younger generations will continue to bring innovation to the agri-sector.

The 2018 special election may create unmanageable tax liabilities through the Alternative Minimum Tax Treatment. There are further consequences to families with young children, should the parents die young, as their children realizing a capital gain when they are under the age of eighteen will be ineligible to use their capital gains exemption on any property including eligible farm property and shares. Please know that CHC is ready to work with government to provide clarity and find an appropriate solution to accommodate real intergenerational farm transfers.

Income Sprinkling

CHC is concerned that while Finance Canada may be attempting to address the use of incorporation to shift income to family members who make no real contribution to the business, in fact, it will also hit family farms, who will need to pass a reasonableness test to be considered legitimate or risk serious tax consequences. The question of *what* will be considered reasonable is subjective to the auditors, which provides grave uncertainty to the farm business. The proposed tax changes need to include details with consistent application of the reasonableness test, understanding that the farm is a very different business from other industries.

It appears income sprinkling would unfairly target women as well. In most cases, on the farm, one spouse is looking after the crop, while the other takes care of everything else, from children to the house, to family finances. Meaning, the farm would not be successful without the help of that spouse. While the spouse may not be actively engaged in specific farm work, they manage other aspects that allow a spouse to focus attention on farm activity. For the majority of farm families, this change will impact women more.

Children of farm families may also be *unfairly* hit by the income sprinkling change. Many children go to university with the possibility of returning to the family business, once they have a secondary education. Most accountants and business professionals would consider this a prudent plan, especially when considering succession planning. While the children may not be on the farm every day, their efforts during harvest and other crucial times would make their value worth two to three times a non-family member worker. Children are invested and dedicated like no other, and CHC is concerned they may not pass the subjective reasonableness test. Further, farm transfers can take place over decades, while children go to university and build other skills (and contribute other revenue) before coming back to take over the farm.

Particularly, the 18-24 demographic is very important to the future of the farm with new technologies being integrated to farms. The strict reasonableness test for this age range creates more challenges. CHC advises that the reasonableness test needs to be outlined further, defined in objective terms, and we are happy to work with government to achieve this. Without clarity, farm families will be left in an

unstable limbo, not knowing if they pass the reasonableness test. Please note that the agricultural industry is willing to help with the technical guidance document, to ensure farms are not impacted through these changes. While suggestions have been made that the solution would be to implement a payroll system, this would be a substantial added cost that farms, especially small family farms, do not necessarily incur.

Passive Investment:

The proposed tax changes do not take into account the number of reasons why a farm corporation would have passive investments, including unexpected downturns, changes to policy, and future investments, particularly retirement. Farmers need to plan for retirement, and putting dividends into RRSPs are not possible, as they are not considered salary. However, for farmers to now have to input payroll logistics would be costly and timely.

The "passive investment" monies might be invested in a building unrelated directly to the business, but with the intent of using the growing investment down the road for the business (for example, expanding, buying new equipment or investing in new technologies). The dichotomy between these proposed tax changes and the stifling of agri-food innovation and growth is glaring.

Further, CHC has been assured AgriInvest funds and rented farmland will not be affected. However, based on the complexity and vagueness of the proposals, we flag this as an additional concern.

Passive investments are taxed at 50%, which is already *too high*. The new rules would tax at 73%; to describe this change as *unfair*, would be putting it lightly.

As mentioned above, CHC is available to collaborate on preparation guidelines and technical papers, by providing examples and working with the Canadian Revenue Agency and Finance Canada to ensure the legislation is that which is intended, without room for subjective interpretation.

Conclusion:

In addition to the above rational, we look forward to discussing and analyzing typical farm examples of how the corporate tax changes will severely impact the horticultural sector of agriculture. As mentioned above, we are working with accountants across the country on this. However, due to the complexity of the changes and the limited time of the consultation, we will have the complete analysis available after Finance Canada's consultation deadline. We trust our analysis will still be used as part of the Minister's commitment to ongoing consultations beyond the deadline. Please note, that due to confidentiality, further discussion and analysis will not be available publicly but will be available upon request.

Lastly, CHC requests that the government move forward cautiously and slowly, taking into account all of the submissions and provide further consultations with industry to study our independent analysis before making a final decision on legislation. The consultation period was quite short, especially given the complexity of the proposals. For many in the agricultural sector, the consultation occurred in the middle of harvest season. Many farmers haven't had the chance to sit down with their accountants to see how they will be affected, and for some of these changes, effects may not be known for years.

Therefore, CHC asks that you continue to consult farmers beyond the deadline to ensure these changes are not all encompassing on small business, particularly family farms.

As you may be aware, Andrew Lovell, an apple farmer from New Brunswick shared his personal story of how the changes will negatively impact his family farm, with the House of Commons Finance Committee. He is not alone. There are hundreds of thousands of other family farmers, just like Andrew; these changes will not only affect them but their children and grandchildren.

Farmers are used to taking risks—it is at the heart of the farming life. Corporate tax benefits are not only useful but necessary as incentives to help farmers and other small businesses take risks and continue benefiting their communities in so many ways. At a time when the government has publicly targeted the agricultural sector as a priority industry for economic growth due to the industry's huge potential for future success, why change the current (working) tax system, which will in fact, hurt farmers and their growth? CHC strongly advises the government to review the corporate tax changes and ensure middle class farmers are not unintentionally hurt in the process.

CHC looks forward to working with the Minister of Finance and Finance Canada, among others, to ensure farmers continue to receive fair tax treatment. We are available to discuss at your convenience.

Sincerely,

Rebecca Lee, PhD
Executive Director