



OFFICE OF THE SECOND VICE PRESIDENT
CABINET DU DEUXIÈME VICE-PRÉSIDENT

Bernard Amyot
Heenan Blaikie
1250, René-Lévesque Blvd. West
Suite 2500
Montreal, Quebec H3B 4Y1
Tél/Tel: (514) 846-2321
Fax/Télécop.: (514) 921-1321
E-mail/Courriel: bamyt@heenan.ca

BY COURIER

Montreal, April 26, 2006

The Honourable James Flaherty, P.C., M.P.
Minister of Finance
Finance Canada
L'Esplanade Laurier
140 O'Connor Street
Ottawa, ON K1A 0G5

Dear Minister:

Re: Budget Priorities 2006

Thank you for the opportunity to participate in your pre-budget consultations on April 13. On behalf of the *Canadian Bar Association*, I would like to reiterate our views on the key issues the government should address in the budget next week.

Legal Aid

The current under-funding of legal aid requires urgent attention. Too many people in Canada have no access to the protections promised by the laws, no access to justice at all. On a national level, the legal aid system isn't working. The federal government can show leadership by increasing its own funding for criminal and civil legal aid, tying its spending to that actually spent by the province or territory, setting minimum national standards for access to justice that are guaranteed for everyone, clarifying that the Justice Department is responsible for both civil and criminal legal aid at the national level, and eliminating the GST on legal aid accounts.

Criminal Justice Initiatives

Federal government leadership is needed to adopt effective and cost efficient criminal justice strategies most able to meet the goals of public safety and justice, that is to say long-term policies shown to reduce and prevent crime, rather than retribution. Crime prevention measures reduce demands on more expensive responses, such as incarceration and the use of the criminal justice system, and better advance the interests of justice. The likelihood of getting caught is a demonstrated deterrent to criminal activity. Well-resourced police forces will contribute to a safer society.

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Employment Insurance Parental Benefits

The federal government can improve choice to parents in child care by extending parental benefits under EI to self-employed persons. Employees can be eligible for income replacement through EI after the birth or adoption of a child. Self-employed persons must return to work quickly after birth or adoption if they wish to maintain the family's income. This measure would give equal choices to these parents and help small businesses and professionals.

The federal government has signed an agreement with the Quebec government to implement that province's parental insurance plan. The Quebec plan is one possible model to extend these benefits to all self-employed workers in Canada.

Retroactive Tax Measures

Time did not permit us to raise another important issue that we nonetheless believe to be critical. The CBA has long taken the view that retroactive tax legislation is contrary to the Rule of Law. In income tax matters, the taxpayer must know what transactions to report and how they will be taxed. In GST matters, both the vendor and the taxpayer/purchaser must know the nature and characterization of the transaction with which they are dealing.

In June 2003, Parliament enacted retroactive amendments to the *Excise Tax Act* in response to the *Des Chênes* case¹. In October 2005, the House of Commons Finance Committee adopted a motion calling for the repeal of these amendments. I understand that several school boards have written to you in this regard, and the CBA supports their view. Repeal is the only principled course of action.

These and other matters are outlined in greater detail in our fall 2005 pre-budget submissions to the Finance Committee. Again, I thank you for listening to our views and we look forward to a fruitful working relationship with you and your officials.

Yours truly,
(s) Bernard Amyot

Bernard Amyot

cc. Brian A. Tabor, Q.C.
President, Canadian Bar Association



¹ *Des Chênes (Commission Scolaire) v. The Queen*, [2002] G.S.T.C. 11 (F.C.A.).