



March 27, 2006

The Honourable James Flaherty, P.C., M.P.
Minister of Finance
House of Commons
Ottawa, ON K1A 0A6

Dear Minister:

Re: Voluntary and Not-For-Profit Sector

I write to you on behalf of the Charities and Not-For-Profit Law Section of the Canadian Bar Association (the CBA Section). During the election, your party had promised to remove the capital gains tax on publicly traded securities donated to registered charities. The CBA Section encourages the government to act upon this promise as quickly as possible, and extend it retroactively to gifts of securities made to registered charitable organizations, public foundations, *and* private foundations. We also urge you to simplify the disbursement quota (DQ). Lessening this administrative burden will permit charities to devote more of their time and resources to their good works in the community.

The Canadian Bar Association is a national association representing approximately 35,000 jurists, including lawyers, notaries, law teachers and students across Canada. The primary objectives of the CBA include improving the law and the administration of justice.

The CBA Section has participated in pre-budget consultations and provided commentary to the Department of Finance on a number of issues relating to the *Income Tax Act* and regulations dealing with registered charities and the voluntary sector.

In your speech in Whitby on March 9, 2006 you discussed the need for your government to make choices in setting its priorities. However, you did not refer to the voluntary sector or your election promise relating to it. We understand all parties agree on the elimination of capital gains tax on gifts of marketable securities to registered charitable organizations and public foundations, and we recommend that this be included in the next budget, with retroactive effect to January 1, 2006. Donors who contributed earlier in the year will be penalized if an arbitrary line is drawn to give more favourable treatment for gifts made later in the year than for those made earlier in the year.



We also encourage you to extend this important measure to gifts of marketable securities to private foundations. While Finance Canada has expressed concerns about possible abuses, we believe abuses could be prevented by a rule requiring a private foundation, within a stipulated holding period, to dispose of (and not reacquire) all marketable securities given to it.

While moving forward with this election promise, Finance Canada should review recent amendments to the DQ, as well as the draft legislation tabled on July 18, 2005. The CBA Section has made extensive submissions to Finance Canada on the complexity of the DQ rules, both in its own name and through the Joint CICA/CBA Taxation Committee. We have recommended that the regime for regulating expenditures be reviewed from first principles.

I enclose a copy of the CBA's letter presented to the House Finance Committee for its pre-budget consultations last fall. The portions dealing with registered charities and not-for-profit organizations are in the third paragraph on page two and in the first schedule. The chart dealing with the DQ illustrates the complexity that has crept into the system.

We would be pleased to discuss these issues with you or your staff.

Yours truly,

(Original signed by Kerri Froc on behalf of James M. Parks)

James M. Parks
Chair, Charities and Not-for-Profit Law Section

cc. Diane Ablonczy, Parliamentary Secretary to the Minister of Finance