May 27, 2024

The Honourable Chrystia Freeland
Deputy Prime Minister and Minister of Finance
Department of Finance
90 Elgin Street
Ottawa, Ontario K1A 0G5

Sent via email to: chrystia.freeland@parl.gc.ca

RE: Budget 2024 measures related to the Capital Gains Inclusion Rate, Alternative Minimum Tax and Canadian Entrepreneurs' Incentive

Dear Minister Freeland:

On behalf of the undersigned representatives of Canada's 190,000 farm families, we would like to bring to your attention some concerns with respect to Budget 2024's proposed increase to the capital gains inclusion rate, the Alternative Minimum Tax (AMT) and the Canadian Entrepreneurs' Incentive (CEI).

First, we would like to acknowledge Budget 2024's proposed increase to the Lifetime Capital Gains Exemption (LCGE) to $1.25 million. This helps address one of our sectors concerns that the LCGE threshold does not reflect the appreciation of farmland values and capital demands in agriculture over recent years and helps create more favourable conditions for younger generations of farmers seeking to enter the sector.

However, we are concerned with the potential impacts associated with Budget 2024's proposed increase to the capital gains inclusion rate from one half to two thirds for corporations and trusts, and from one half to two thirds on the portion of capital gains realized in the year that exceed $250,000 for individuals on or after June 25th, 2024.

When Parliament passed Bill C-208 it recognized that section 84.1 of the *Income Tax Act* imposed significant costs on the transfer of farms and other small businesses between generations. Bill C-208, and the subsequent amendments announced in Budget 2023, made an important contribution to the sustainability of family farming and family-owned small businesses by directly addressing those provisions that made it costlier to pass a family farm or small business on to a family member than to a stranger.

Our concern is that by increasing the capital gains inclusion rate to two thirds we are neutralizing the increase to the LCGE threshold, undermining the policy intent of Bill C-208 and jeopardizing the success of genuine intergenerational farm transfers to young farmers across Canada.

The average age of Canadian farmers is now over 55 years old and tens of billions of dollars in farm assets is set to change hands over the next decade. Canadian farms continue to expand, often supporting multiple households, with more and more farms incorporating for tax and estate planning purposes. Meanwhile the cost of land and farm assets continues to rise and those looking to purchase a farm face unprecedented capital costs.

We are writing today to propose several targeted measures that we recommend be taken into consideration by the Government of Canada as it finalizes draft legislation that will bring into force the Budget 2024 personal income tax measures. These recommendations are intended to address the unique circumstances of Canada's agriculture sector and help avoid a number of unintended consequences of these new legislative measures on farmers.

First, by announcing the proposed tax changes in the budget on April 16th with an effective implementation date of June 25th, we are not providing Canadian farm businesses with enough runway to fully assess the potential implications of these changes for farm succession tax planning purposes and adjust accordingly. Recognizing the breadth of impacts associated with these measures and their complex interactions across a diversity of business structures employed by Canadian farm families, **we recommend that the effective implementation date of these measures be postponed until at least January 1st, 2025, to allow for more in depth consultation with affected parties.** This would not only provide time for more detailed analysis and engagement with affected stakeholders, but would allow farm families time to adjust, where possible and if necessary, to accommodate the recently announced changes.

Furthermore, while we are encouraged by the companion announcement in Budget 2024 to introduce the CEI which would reduce the tax rate on capital gains for qualifying dispositions, **we recommend that the CEI include not only first-generation farm businesses (i.e., the founding investor), but also be made available to successive generations of farm families**. For example, it is common in a farm family for the next generation to receive shares in a company through a parent's donation. The child is therefore not a founding investor and would not be eligible for the CEI. 98% of Canadian farms are proudly owned and operated by farm families and we need to ensure that the definition of a qualifying entrepreneur recognizes the unique characteristics of farming in Canada. Given the capital involved in transferring increasingly large and sophisticated farm businesses, each successive generation faces many of the same risks and financial hardships experienced by all entrepreneurs in founding a business such as access to capital and challenges maintaining sufficient cash flow when investing in the future of their operations.

The tax implications of a proposed increase to the capital gains inclusion rate and the introduction of the CEI are significant and complex, requiring careful consideration. As implicated stakeholders, we need time to do a more fulsome assessment of these tax changes to ensure there are no unintended consequences.

Regardless of when the proposed tax measure come into force, we hear regularly from farmers across Canada encountering significant and costly obstacles when attempting to pass their businesses on to family members. Bill C-208 brought welcome and much needed support for genuine intergenerational farm transfers in Canada. Given the impact of the proposed increase to the capital gains inclusion rate on intergenerational farm transfers, and in keeping with the overall spirit and objective of Budget 2024 to support *Fairness For Every Generation*, **we recommend that all Bill C-208 eligible intergenerational farm transfers in Canada continue to fall under the old one-half inclusion rate under the *Income Tax Act*.** This would ensure not only that intergenerational farm transfers that are already underway and operating under the premise of the old inclusion rate, can proceed without significantly impacting their financial sustainability and retirement plans, but also maintain the policy intent of Bill C-208 to facilitate successful intergenerational farm transfers in Canada going forward.

We also recommend that any capital gains eligible for the lifetime capital gains exemption be excluded from the calculation of the AMT, even if the exemption is not claimed (for example, if it has all been used). The AMT obliges an individual disposing of their shares to pay a tax that can be quite high even in situations where all the gain may be exempted. Although this tax can be recovered by applying it against taxes payable in future years, the seller needs to have sufficient income during this period to have taxes to pay; otherwise, it becomes a permanent tax. For many retiring farmers, they lack sufficient income to ever recover these funds. In these circumstances, AMT essentially undermines the utility of the LCGE, making impacted farm transfers more costly and negatively affecting the financial health of both the retiring party and next generation.

Effective tax planning is essential in this new environment. Canada needs to ensure farm families have the flexibility they need to maintain financially viable family farms for future generations. By leveraging the real intergenerational business transfer tests employed in response to Bill C-208, the Government of Canada would be in a position to uphold robust safeguards to maintain the intent of genuine intergenerational farm transfers that prevent tax avoidance announced in Budget 2023.

Furthermore, farms employ diverse operating structures for a variety of business planning reasons, with many incorporated family farms employing holding companies and other structures based on years, if not decades, of tax advice. **To ensure tax neutrality, we strongly recommend that the CEI not discriminate against businesses employing these structures**. Placing farmland assets in a holding company is a widespread approach that has been encouraged by many financial advisors across Canada, yet these assets are core to the business of farming and should not be excluded from access to the CEI due to the adoption of sound financial planning under the existing capital gains treatment. These unique considerations highlight some of the unintended consequences that could arise if implementation of these measures is advanced without sufficient consultation with affected business sectors.

RBC recently reported that by 2033, 40% of Canadian farm operators will retire, "placing agriculture on the cusp of one of the biggest labour and leadership transitions in the country's history." We need to ensure that the proposed personal income tax measures announced in Budget 2024 do not jeopardize the transfer of assets from one generation of farmer to another, but rather encourage the next generation of farmers to take up the calling, drive much needed rural economic activity and help the agriculture sector reach its growth potential.

Thank you for the opportunity to provide comments on the Budget 2024 measures related to these personal income tax measures. We would be happy to discuss these matters further.

Sincerely,

CC:
The Hon. Marie-Claude Bibeau, P.C., M.P. Minister of National Revenue
The Hon. Lawrence MacAulay, P.C., M.P. Minister of Agriculture and Agri-Food