

November 21, 2011

Honourable James Flaherty, PC, MP  
Minister of Finance  
Finance Canada  
140 O'Connor Street  
Ottawa, Ontario, K1A 0G5

Re: U.S. Foreign Account Tax Compliance Act

Dear Minister Flaherty:

On behalf of the Board of Directors of the Canadian Medical Association (CMA), and the over 76,000 physicians who are members of the CMA, I write in support of your recent public statements expressing the Government of Canada's position on the U.S. Foreign Account Tax Compliance Act (FATCA) and related Report of Foreign Bank and Financial Accounts (FBAR) requirements.

The CMA shares the concerns of the Government of Canada as well as the Canadian banking, investment and insurance industries that the FATCA and FBAR requirements create serious financial and privacy implications for Canadians, including Canadian physicians. While the CMA is not authorized to collect citizenship information about its membership, we are concerned that CMA members who have dual Canadian-American citizenship or who are caught in a potentially broader interpretation of "U.S. Persons" may be unduly burdened or penalized by these new requirements.

In addition to raising awareness of the implications of these new tax regulations for Canadians, we encourage the Government of Canada to seek an alternate mechanism for Canadian compliance. While we understand the objective of the U.S. Internal Revenue Service (IRS) to address the problem of tax evasion, we strongly believe that the proposed regulatory approach will be overly burdensome and punitive.

As you have previously stated, "Canada is not a tax haven...To rigidly impose FATCA on our citizens and financial institutions would not accomplish anything except waste resources on all sides." Accordingly, the CMA supports the efforts to explore alternate mechanisms to addressing the IRS's regulatory objective.

With respect to FBAR requirements, the CMA understands that the interpretation of "U.S. Persons" differs from its interpretation under the Foreign Financial Institutions (FFI) due diligence requirements, in that under FBAR, a "U.S. Person" is limited to U.S. citizens, residents, entities, trusts or estates. However, under FFI due diligence requirements, IRS Notice 2011-34 establishes a much broader definition of a "U.S. Person." The CMA shares the concerns of the Government of Canada and other organizations regarding this broader definition. In addition, we share the concerns of the Government of Canada that the FBAR requirements have introduced a lack of clarity and a potentially punitive tax regime on dual U.S.-Canadian citizens.

.../2

The Honourable James Flaherty, PC, MP  
November 21, 2011  
Page 2

Finally, we encourage the Government of Canada to work with its U.S. counterparts through the various bilateral and multilateral initiatives underway, including the Canada-U.S. "Beyond the Border" and Regulatory Cooperation Council initiatives launched earlier this year, the Canada-U.S. Bilateral Tax Information Exchange Agreement, and the recently signed international Convention on Mutual Administrative Assistance in Tax Matters.

In closing, the CMA encourages the Government of Canada to maintain its engagement on this problematic U.S. regulatory development. We respectfully request to be kept informed of further developments as discussions with U.S. officials advance.

Sincerely,

A handwritten signature in black ink, appearing to read "John Haggie", written over a large, light-colored oval shape.

John Haggie, MB ChB, MD, FRCS  
President