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**Certified General Accountants Association of Canada**

**Submission to the Red Tape Reduction Commission**

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## INTRODUCTION

The Certified General Accountants Association of Canada (CGA-Canada) welcomes the creation of the Red Tape Reduction Commission as a step in the right direction to addressing the burden of federal regulatory requirements on small and medium size enterprises (SMEs). We are hopeful that the work of the Red Tape Reduction Commission will provide the starting point towards real and lasting results in tackling red tape and regulatory inefficiencies. The following brief is a follow-up to remarks made by CGA-Canada at the round table meeting held in Ottawa on March 10, 2011.

Founded in 1908, the Certified General Accountants Association of Canada serves 75,000 Certified General Accountants and students in Canada and more than 90 countries. Respected accounting and financial management professionals, CGAs work in industry, finance, government and public practice. CGA-Canada establishes the designation's certification requirements and professional standards, offers professional development, conducts advocacy, and represents CGAs nationally and internationally.

CGA-Canada also develops impartial and objective research on a wide range of topics that extend beyond accounting. The SME sector – including the taxation and regulatory environments in which SMEs conduct their business – has long been an area of interest and concern for the association because of the contribution its members bring to that sector as business or tax advisors, as auditors or in leadership roles within the SME sector itself.

Regulation plays an important role in the daily lives of all Canadians. There is a need for regulation to govern conduct, protect consumers, guard the public interest or effect change. However, Canada's regulatory environment must be efficient, effective, consistent and purposeful. Also, it must not act to stifle competition in the marketplace, or place an undue burden on small and medium size enterprises.

Regrettably, Canada's regulatory system has evolved into a vast, complicated and fragmented structure of rules – criticized for being redundant, burdensome, costly and confusing. This regulatory burden puts a strangle-hold on entrepreneurship, business growth and job creation – costing valuable time and money.

A 2010 survey of more than 1,500 CGAs who work with or for SMEs across Canada revealed that those CGAs in business or public practice believe the climate for entrepreneurship had deteriorated over the past 18 months. Much blame has been directed towards the growing compliance requirements placed on SMEs as a result of the financial crisis. An earlier survey of publicly-listed SMEs found that it is the “cumulative effect” of regulations that is the problem. Our survey also indicated that approximately three-quarters of these Canadian SMEs relied on external advisors, including professional accountants, for assistance to meet these complex and burdensome regulatory obligations.

Reducing the regulatory burden will not be an easy task. CGA-Canada believes that focusing on the following key priorities will help enable Canada's SMEs to direct their attention and resources to more competitive, innovative and profitable pursuits – that are beneficial to the economy as a whole – rather than spending excessive amounts of time and energy on sorting through federal regulatory requirements, paperwork and the compliance burden. These key priorities include:

1. Put the needs of SMEs first and foremost
2. Adopt a “pan-Canadian” approach to tackle the cumulative regulatory burden
3. Simplify Canada's tax system
4. Implement a “sunset provision” for unlegislated tax proposals
5. Create a simple, standard means of measuring red tape; benchmark progress; establish a national reduction target and put a public reporting mechanism in place

## **RECOMMENDATIONS**

### **1. Put the needs of SMEs first and foremost.**

Canada's SME sector is the backbone of the economy – the engine of job creation and economic recovery. More than 60 per cent of working Canadians are employed by SMEs, and the SME sector is a significant contributor to Canada's GDP – producing almost half of Canada's economic output.<sup>i</sup> However, with fewer resources than their larger competitors and counterparts, it follows that the smaller entities also bear the disproportionate brunt of the regulatory burden. All of this underscores the importance of limiting the detrimental effects of regulation on Canada's SMEs and economy.

In this “Year of the Entrepreneur”, CGA-Canada would encourage policy-makers to promote a successful entrepreneurial climate where SMEs can thrive and grow. This means putting the needs of SMEs at the top of the public policy agenda. It means making regulatory efficiency a permanent and institutionalized priority throughout government. It also means changing the mindset of decision-makers on a going forward basis – that is adopting a business focus to regulatory policy and applying an SME lens *before* changes are made or new policies are adopted to assess the costs, benefits and impacts on business. We agree with the Red Tape Reduction Commission that more consistent front-end analysis of regulations should be part of the regulatory development process in order to catch red tape before it starts.<sup>ii</sup> CGA-Canada also believes that the Government of Canada would be wise to appoint a champion – whether that is a Minister responsible for red tape reduction or a high profile ministry to spearhead and implement effective and enduring reduction initiatives.

**2. Adopt a “pan-Canadian” approach to tackle the cumulative regulatory burden – that is, look beyond *federal* regulatory requirements.**

While the mandate of the Red Tape Reduction Commission is recommend ways to reduce the burden of *federal* regulatory requirements on Canadian SMEs, it is CGA-Canada's position that we need a coordinated national approach to address the accumulated effects of regulatory burden throughout *all* levels of government rather than just the specific requirements in one jurisdiction or under a single regulation or program.

Research conducted by CGA-Canada has demonstrated that the majority of regulations by themselves appear reasonable. However, it is the cumulative effect of all regulatory obligations taken together which has contributed significantly to the negative impact of regulation on SMEs in Canada. These regulations range from securities, to tax, environmental, human resource and payroll, to employment regulation, to name but a few.<sup>iii</sup> Every day, Canada's SMEs are required to comply with a myriad of regulations from all levels of government – including the HST, GST, PST, CPP, EI, records of employment, occupational health and safety, business registration, privacy rules, property taxes, land use and development, signage by-laws and so on.<sup>iv</sup> The sheer volume, duplication and complexity of requirements coupled with high compliance costs are of tremendous concern to Canada's SMEs. In CGA-Canada's survey of publicly-listed SMEs, more than 85 per cent of Canadian respondents were concerned about the quantity, complexity and inequity of government regulation.<sup>v</sup>

CGA-Canada submits that the federal government should take a lead role and work with the various regulatory players – ranging from federal, provincial, territorial and municipal authorities – to clarify and streamline areas of jurisdictional duplication or overlap. Moreover, the idea of a pan-Canadian arrangement is an appropriate fit with the Red Tape Reduction Commission's aim on finding ways to control and minimize the cumulative burden of multiple regulatory requirements so that business can get on with doing business.<sup>vi</sup>

It would be worthwhile for Canada's governments to look to the Council of Australian Governments (COAG), which was established in 1992, is chaired by the Prime Minister of Australia, and comprises State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association. It is within this forum where all levels of Australian governments discuss matters of national significance that require cooperative action, and agree on approaches to reduce regulatory overlap between jurisdictions.<sup>vii</sup> The COAG demonstrates that forging multi-level inter-governmental relationships can be crucial in moving the regulatory reform agenda ahead. A pan-Canadian arrangement or formalized structure of collaboration among the levels of government to tackle this cumulative regulatory burden would likely bring lasting economic benefits on a national scale to this country. As a first step, CGA-Canada recommends that the federal government convene a Federal-Provincial-Territorial-Municipal meeting to agree on a co-operative framework for reducing red tape.

### **3. Simplify Canada's tax system.**

While tax rates have gone down, tax compliance has kept on growing. On an international scale, Canada's tax system is among the most complex in the world. It is labour-intensive, costly to administer, full of red tape and clutter, as well as difficult to understand. This hurts our economy and imposes a formidable challenge to industry and especially to Canada's SMEs. Lacking the resources of large enterprises, SMEs struggle to meet these tax and compliance obligations, which often require the services of professionals such as accountants and lawyers.

There is no better time than present to bring about much needed reform to Canada's tax system. The federal government should act immediately to improve Canada's tax system – make it simpler, fairer and more efficient. Other countries are taking concrete steps in this direction – including Australia with its

Henry Tax Review and ten-year plan to modernize taxation, the United Kingdom with its newly-created Office of Tax Simplification, as well as the President's Economic Recovery Advisory Board in the United States which is working to overhaul and streamline the American tax system. Canada cannot afford to fall behind its global neighbours, and risk becoming a less attractive place to do business.

Tax simplification means increased compliance rates and lower compliance costs for taxpayers, less paperwork for businesses and lower administrative costs for government. It means a stronger system with a more secure tax base and predictable revenue. In short, tax simplification is good for the economy.

Undoubtedly, one of the most significant challenges with simplifying taxation is identifying a starting point. Canada's tax system is massive, the legislation is excessively comprehensive and the volume of interpretive materials is overwhelming. In consultation with members and through years of work in the area of taxation which continues to evolve, CGA-Canada is in the position to put forward a few suggestions at the federal level for consideration:

- Appoint a panel of experts to provide third party advice and an action plan to the Prime Minister, to be tabled in Parliament. The panel should be given a specific mandate to consult widely, generate debate and build consensus on ways to simplify and modernize Canada's tax legislation.
- Work with the remaining provinces to help facilitate the transition to provincial value-added sales taxes harmonized with the GST.
- Authorize the increased use of simpler/proxy methods under certain circumstances to lessen the compliance burden on SMEs. Areas that are subject to frequent changes when audited, or areas that are dependent on an analysis of historical events may be worthy of review.
- Remove some of the out-dated sections of the *Income Tax Act* (ITA) that are no longer relevant and only add to the clutter, confusion and complexity of the ITA. For instance, there are at least 52 classes for the Capital Cost Allowance, most of which are not relevant to the average business or taxpayer, with acquisition dates stretching back twenty or thirty years.
- Codify the ITA so that it is easier for the average taxpayer or SME to understand and to meet the requirements. The number of paragraphs, subparagraphs, sections, subsections and draft provisions is overwhelming and the way in which they are ordered is difficult to follow.

CGA-Canada recognizes that Canada, like other global nations, is tightening its fiscal belt and, consequently, government resources are scarce and options are somewhat limited. But this should not mean that initiatives to move the tax agenda forward should be set aside altogether. To the contrary, more work can be done to improve Canada's tax system, and there are cost-effective ways to do so.

#### **4. Implement a “sunset provision” for unlegislated tax proposals.**

There are literally hundreds of draft technical changes needed to the *Income Tax Act*, which has been a subject of interest to the Auditor General of Canada. These amendments have been proposed by the government but not yet enacted by Parliament, and some of these changes stretch back many years. Although the federal government has released draft legislative proposals for public comment, and even introduced legislation to implement some of these outstanding tax measures, an income tax technical bill to deal with the growing backlog has not been passed by Parliament in almost ten years – not since June 2001. Furthermore, it is not known when the next income tax technical bill will be introduced in Parliament to deal with the most recent draft legislative proposals. In short, the current process is uncertain and unpredictable.

These delayed technical amendments affect the clarity of tax legislation and make it difficult for Canadian taxpayers to self-assess or correctly calculate their taxes. This in turn means higher costs for taxpayers to obtain professional advice. It also means higher costs to tax professionals to provide guidance and interpretations.<sup>viii</sup> This uncertainty imposes an enormous burden on taxpayers, professional accountants and their clients as well as the Canada Revenue Agency (CRA). Taxpayers, professional accountants, and even the CRA prepare for government policy, which involves maintaining records and forms, not knowing if the legislation will come forward at all.

One case in point that CGA-Canada has brought to the attention of Finance Canada is the proposed changes to Section 56.4 of the *Income Tax Act* which pertains to restrictive covenants. This proposal has been identified by our members as problematic in view of its overbroad definitions, difficult interpretations, complex application and retroactivity clause. In the revised income tax technical proposals released by the Minister of Finance on July 16, 2010, Section 56.4 was reintroduced with a proposed implementation date retroactive to October 8, 2003. This would require taxpayers to locate and compile records and forms from seven years past, which puts tremendous pressure on taxpayers and their

professional accountants, and makes compliance difficult, if not impossible, under some circumstances. Furthermore, CGA-Canada submits a retroactive clause of this magnitude goes against the spirit of the *Income Tax Act* and, in particular, subsection 152(4) of the ITA which generally prohibits reassessments beyond three years to provide taxpayers with a certain peace of mind after a set period of time.

As another example, Section 3.1 of the *Income Tax Act* (Reasonable Expectation of Profit Required) was first proposed in October 2003 and no action has since been taken – not even a reference to it has been made in the revised income tax technical proposals released by Finance Canada since July 2010. Indeed, there is an abundance of proposed technical amendments or grey areas in the *Income Tax Act* that date back years and have not been passed by Parliament.

CGA-Canada believes the federal government ought to improve the way it manages the process governing technical amendments to the *Income Tax Act*. We need an effective method to address the backlog of technical changes to be made to the *Income Tax Act*, and to bring more certainty to the process. Too much time elapses between measures being announced and actually being implemented, with ensuing negative consequences. To correct this, CGA-Canada recommends a sunset provision for unlegislated proposals, along the lines of what is currently in place in Britain. In the U.K., when a tax policy change is announced, the change must be incorporated into the very next *Finance Bill* and/or separate piece of legislation and if the relevant legislation is not passed within 12 months, the measure is deemed to have lapsed. CGA-Canada submits that introducing a sunset clause – stipulating a reasonable amount of time – would bring clarity and predictability to tax legislation, reduce the burden of compliance and amount of paperwork for SMEs, and generally strengthen Canada's tax system.

**5. Create a simple, standard means of measuring red tape; benchmark progress; establish a national reduction target and put a public reporting mechanism in place.**

If the federal government is determined to reduce red tape, we need to create a simple, standard means of measuring red tape – one that accurately captures the extent of regulatory burden at any given point in time. We recognize that a process to measure the impact and burden of existing regulation began in Canada under the Paperwork Burden Reduction Initiative (PBRI) through Statistics Canada's *Survey of Regulatory Compliance Costs* – which looks at the impact of requirements including payroll remittances, tax filings and workers' compensation remittances. However, this survey falls far short of the

comprehensive approach that is needed to obtain a full inventory of the regulatory burden in Canada. Without a multi-jurisdictional approach, which involves a collective assessment of *all* requirements throughout the country, Canada lacks a full appreciation of its current regulatory environment, as well as the problems of accumulated regulatory burden and regulation creep that continue to persist. Thus, at the very outset, it is critical to establish an effective and inclusive measure which, in turn, can serve as a benchmark for evaluating the progress of any regulatory reduction initiative over time.

The next step is to establish a national reduction target that is reasonable, achievable and has the greatest impact on economic growth and competitiveness. While the PBRI's reduction target to cut red tape by 20 per cent for small business was met, some criticism has been directed towards this initiative for not placing enough focus on reducing requirements in the most economically productive areas. In addition, while some provinces – including British Columbia, Newfoundland and Labrador and Nova Scotia – have committed to reducing red tape and holding themselves accountable with publicly available measures to track progress<sup>ix</sup>, this kind of initiative has not happened on a nation-wide scale. CGA-Canada is hopeful that with the renewed attention being devoted to regulatory requirements through the Red Tape Reduction Commission, this will act as a catalyst to facilitate real change – such as making a sustained commitment over the long term to establish reasonable and achievable targets to reduce red tape in a permanent way.

Finally, a public reporting mechanism or process has to be put in place to document progress towards the prescribed reduction target. This is important as average citizens may have limited awareness of the costs that regulation can place on society – as much as \$30 billion a year, according to the Canadian Federation of Independent Business. With greater public awareness of these costs and an appreciation of the efforts taken by governments to address this issue, the public would be in a better position to hold governments accountable for how efficiently they regulate. Accountability, transparency and disclosure are absolutely essential to effectively address the regulatory burden, as noted by the Red Tape Reduction Commission – and each of these elements is a hallmark of the current government's agenda.

In this regard, CGA-Canada would recommend that progress in reducing the red tape burden – tracked through the use of a standard baseline measure – be reported to both Parliament and the public on an annual basis. Without measuring, benchmarking and reporting, there is no way to find effective and lasting solutions to reducing the red tape burden.

## **OTHER CONSIDERATIONS**

CGA-Canada submits that government will do well by drawing on private sector expertise to help devise strategies and tactics that aim to benefit SMEs, such as reducing waste, red tape, and regulatory inefficiencies. Outreach or dialogue mechanisms – whether in the form of public consultations, task forces, expert or advisory panels or other – serve to help inform and enrich the understanding of the issues at hand.

To this end, CGA-Canada recommends that the federal government would be well advised to reinstate the advisory committee structure at the Canada Revenue Agency.

Prior to the suspension of the activities of all advisory committees in 2006, the CRA had more than 50 advisory and consultative committees at the national, regional and local levels which focused on the service provided by the CRA to individual Canadians and Canadian business. Through this, the CRA was able to build a better understanding of the particular issues facing groups ranging from seniors and the charitable sector, to large business and small business.<sup>x</sup>

These committees – including the Disability Advisory Committee and the Technical Advisory Committee for the Charities Directorate on which CGAs served – proved to be both effective and valuable. The advisory committees provided practical feedback and a distinctive perspective to the CRA on the impact of changes to existing legislation, regulation and policy implementation. In addition, members of advisory committees acted as information conduits with the sector they represented through their clients and various networks. This two-way relationship or flow of information between the CRA and the various representatives of taxpayers and tax practitioners throughout the country produced some tangible results that can be directly traced back to the efforts of these stakeholders.

Given the challenges faced by SMEs – including a complex, confusing and costly regulatory environment – there is a great need to re-establish the CRA advisory committee structure and enlist the support of stakeholders and professional accountants who can function as a body of experts to bring skill, experience and first-hand knowledge to issues that concern individual Canadians and Canadian business.

## **CONCLUDING REMARKS**

CGA-Canada thanks members of the Red Tape Reduction Commission for the opportunity to participate in its public consultation process and provide comments on ways to reduce the burden of complying with federal regulatory requirements. We remain available for further comments or questions, and wish you well in your deliberations.

## REFERENCES

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<sup>i</sup> For further information, consult the website of the Canadian Federation of Independent Business at <http://www.cfib-fcei.ca>.

<sup>ii</sup> Red Tape Reduction Commission, *Consultation Discussion Paper: Cutting Red Tape and Freeing Business to Grow*, Treasury Board of Canada Secretariat, January 2011, page 13.

<sup>iii</sup> CGA-Canada, *Tackling Compliance: Small Business and Regulation in Canada*, October 2006. See <http://www.cga-canada.org/en-ca/ResearchAndAdvocacy/Pages/Reports.aspx>.

<sup>iv</sup> Canadian Federation of Independent Business, *Red Tape Diaries*, 2011.

<sup>v</sup> CGA-Canada, *Tackling Compliance: Small Business and Regulation in Canada*, October 2006. See <http://www.cga-canada.org/en-ca/ResearchAndAdvocacy/Pages/Reports.aspx>.

<sup>vi</sup> Red Tape Reduction Commission, *Consultation Discussion Paper: Cutting Red Tape and Freeing Business to Grow*, Treasury Board of Canada Secretariat, January 2011, page 5.

<sup>vii</sup> For further information on the Council of Australian Government (COAG), see <http://www.coag.gov.au/>.

<sup>viii</sup> For further information, consult the *Fall 2009 Report of the Auditor General of Canada*, Chapter 3 – Income Tax Legislation, at [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_200911\\_03\\_e\\_33204.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_200911_03_e_33204.html).

<sup>ix</sup> Canadian Federation of Independent Business, *Prosperity Restricted by Red Tape*, 2<sup>nd</sup> edition, 2010.

<sup>x</sup> The Canada Revenue Agency: *The First Five Years, Setting the foundation for Tax and Benefit Administration in the 21<sup>st</sup> Century*, 2005.