Sent by email to Consultation-Legislation@fin.gc.ca

January 6, 2023

Finance Canada
90 Elgin Street
Ottawa, Ontario

RE: Canadian Chamber of Commerce submission on draft legislative proposals relating to the *Income Tax Act* - Excessive Interest and Financing Expenses Limitation

This document constitutes the response of the Canadian Chamber of Commerce (the "Chamber") to the request of the Department of Finance ("Finance") in its November 2022 draft legislative proposals relating to the *Income Tax Act* - Excessive Interest and Financing Expenses Limitation ("EIFEL) (the "proposals") for feedback. The Chamber welcomes the opportunity to articulate its views on the proposals and would be pleased to continue its dialogue with Finance.

The Canadian Chamber of Commerce

1. Founded in 1925, the Chamber is a non-partisan, not-for-profit organization that represents nearly 200,000 businesses across Canada through its network of more than 400 affiliated chambers of commerce and boards of trade, as well as its own member companies and sectoral associations. The Chamber's members include businesses of every size, from all sectors of the economy and every region of the country, constituting a significant portion of Canada's tax base.

Overview

2. The Canadian Chamber is pleased to provide commentary and recommendations on the proposals. Yet given the inherent complexity of the proposals, this submission does not address each element that may impact Canadian businesses. Broadly, the Chamber believes the proposals should be introduced in a balanced manner that simplifies the intricate, interconnected provisions of existing rules as failing to do so would place Canadian businesses at a competitive disadvantage relative to global peers. In the spirit of preserving Canadian competitiveness, the Chamber also recommends raising the de minimis exemption to better align with other jurisdictions which have implemented similar interest deductibility measures. Further, the Chamber recommends issuing guidance on converting excess capacity transfers between currencies. Finally, the Chamber urges Finance to consider the impact the proposals will have on capital-intensive industries.

Excluded Entities

3. While the Chamber supports Finance's raising of the de minimis exemption for groups with less than $1 million net interest expense, it notes the amount still falls below the thresholds set by other countries that have implemented similar OECD interest deductibility measures. For example, the United Kingdom has implemented a £2 million ($3.3 million at the time of writing) threshold, while France and Germany have each implemented €3 million ($4.3 million at the time of writing) thresholds. The Chamber recommends implementing a higher threshold to preserve its competitiveness as a jurisdiction for debt financing relative to global peers.

   Additionally, the Chamber suggests that Finance provide additional guidance on applying the "all or substantially all test" within the revised domestic exclusion under paragraph (c).

Restricted Interest and Financing Expense

4. The Chamber welcomes the additional flexibility provided by allowing excess capacity transfers between entities with different Canadian tax reporting currencies, yet the Chamber suggests issuing guidance on converting these amounts between currencies. In instances where a taxpayer would be required to convert these amounts, they would presumably need to either use either the average exchange rate for the transferor's tax year or the exchange rate on the last day of the transferor's tax year.

Capital-intensive Industries

5. The Chamber recommends that the government introduce measures to mitigate the EIFEL regime's disproportionate impact on capital-intensive industries including real estate and infrastructure projects. While the Chamber welcomes the public-private partnership exemption, which could incentivize investment in infrastructure projects, failing to address the distortive impact of these measures on capital-intensive industries would result in reduced investment in Canada. Introducing clear exceptions for real estate and infrastructure investment, as exist in the United States, would mitigate this harm.

Conclusion

6. The Chamber thanks Finance for the opportunity to express its views on the proposals and welcomes the possibility of continued dialogue. As an EIFEL regime will form an important component of the *Income Tax Act*, the Chamber wishes to underscore the importance of introducing the proposals with extensive guidance and appropriate consideration of the Canadian business environment. We welcome the opportunity to engage in continued dialogue.