



Pension Investment
Association of Canada
Association canadienne des
gestionnaires de caisses de retraite



January 22, 2014

The Honourable James M. Flaherty
Minister of Finance
House of Commons Centre Block Building – Room 435-S
Ottawa, Ontario K1A 0A6
E-mail: flaherty.j@parl.gc.ca

Dear Minister Flaherty:

Re: Income Tax Regulation 4802

This submission is made by the Pension Investment Association of Canada (PIAC) and the Canadian Association of University Business Officers (CAUBO) in response to the above referenced tax provision, which has an adverse impact on Canadian universities.

CONTEXT

PIAC has been the national voice for Canadian pension funds since 1977 and its membership has broadened out to include organizations similar to pension funds that are responsible for the fiduciary management of assets for a specific set of beneficiaries, such as workers' compensation boards, endowment funds, and foundations. PIAC's member funds are responsible for the oversight and management of over \$1 trillion in assets on behalf of millions of Canadians.

PIAC's advocacy initiatives support general principles that include prudent management of investments, tax efficient investing, low costs, efficient and effective governance structures, and a level playing field.

Founded in 1937, CAUBO represents the administrative function of over 100 Canadian universities. CAUBO, through its national Treasury and Investment Committee, supports the development and implementation of best practices in investment management and governance across these universities. CAUBO's member institutions are collectively responsible for the management of over \$12 billion in endowment funds and \$35 billion in pension funds.

PROFILE OF CANADIAN UNIVERSITIES

Canadian public universities are institutions that are established by virtue of an Act of a province or by the Crown by virtue of Royal Charter. The investments of these institutions typically include both pension plans and endowment funds or foundations that are managed by the same personnel. As such, there is a high level of overlap in the underlying investment strategies for university pension plans and endowments and important synergies are obtained from economies of scale and management efficiency.

To provide an indication of the number of institutions being impacted, from the CAUBO survey report as at December 31, 2012, 68 universities reported on endowments and 56 universities reported on pension assets. These institutions represent the combined values of \$12 and \$35 billion cited above for endowments and pension assets, respectively.

INCOME TAX REGULATION 4802

PIAC and CAUBO are requesting that the federal government amend Section 4802 of the Income Tax Regulations (the "Regulations") to permit Canadian public universities to invest as shareholders in corporations that are exempt from tax under paragraph 149(1)(o.2) of the Income Tax Act (the "Act"). The purpose in seeking this status is to allow these institutions to participate in investments, through tax exempt corporations, in asset classes such as real estate. Investing through corporate form provides liability protection; however, for such investment corporations to retain their tax-exempt status, the shareholders are, broadly speaking, limited under the Act and Regulations to pension plans, governmental entities and workers' compensation boards.

While the pension plans of universities are already eligible to invest in these corporations, Canadian universities themselves currently do not qualify. As a result, the endowment funds of a public university must, in certain asset classes, invest in different investment vehicles and strategies than its pension funds; this is not desirable from a governance, operational, administrative, and liability perspective. It would be preferable for universities to be able to make investments alongside pension plans by participating as shareholders in these tax-exempt corporations.

As indicated above, Canadian public universities are institutions that are established by virtue of an Act of a province or by the Crown by virtue of Royal Charter. Further, university operations are largely funded by provincial operating grants and research is funded at both the federal and provincial levels. As such, public universities, by their nature, are akin to entities already described in Regulation 4802. Furthermore, these are not-for-profit registered charities that are already exempt from tax under paragraph 149(1) (f) of the Act. Unlike the institutions' pension funds, the endowment funds, utilized for university operations, are currently not permitted to invest directly or indirectly in shares of the exempt corporations because universities are not prescribed persons for purposes of clause 149(1)(o.2)(iv)(D) of the Act.

Given the governance, operational, administrative, and liability considerations outlined above, PIAC and CAUBO are requesting that the Minister of Finance designate universities and related entities as a prescribed person under Regulation 4802 in order to allow these entities to hold shares of exempt corporations, similar to pension plans.

In regard to the proposal under Regulation 4802, the following is suggested for consideration as a new paragraph 4802(h):

- (h)(i) a university established by or continued by or arising by virtue of an act of a province and that is a registered charity,
- (ii) a university established by or continued by or arising by an act of the Crown by virtue of Royal Charter and that is a registered charity,
- (iii) a foundation established by or continued by or arising by virtue of an act of a province the principal purpose of which is to support one or more universities described in this paragraph and that is a registered charity, and
- (iv) a trust all the beneficiaries of which are universities, foundations, or corporations described in this paragraph.

CLOSING REMARKS

PIAC and CAUBO are requesting a reasonable change that will benefit Canadian public universities by expanding the opportunity set of investment options and asset classes, lowering the cost of investment management and reducing administrative complexity. This is consistent with general principles for prudent management of investments, tax efficient and low cost investing, as well as efficient and effective governance. Given that Canadian universities and related charitable foundations are already tax exempt entities, there would be no tax leakage from the provincial or federal governments' perspective.

Thank you for your consideration of these issues and we look forward to further discussion and progress towards a satisfactory resolution.

Yours sincerely,



Michael Keenan
Chair, PIAC



David Button
President, CAUBO