

Minister of Finance



Ministre des Finances

Ottawa, Canada K1A 0G5

MAY 24 2007

2006FIN206851

Mr. Alain Pineau
National Director
Canadian Conference of the Arts
804-130 Albert Street
Ottawa, ON K1P 5G4

Dear Mr. Pineau:

Thank you for your correspondence of December 15, 2006 regarding the role of the arts and culture sector in assuring a strong economic future for Canada. Please excuse the delay in replying.

Your organization makes representations on various income tax issues relating to the tax treatment of artists, as well as on matters relating to the constitutional role of the Government of Canada as applied to the arts and culture sector.

Before commenting on each of these issues, I would like to emphasize that the tax system already provides generous support to Canada's cultural industry, specifically through:

- a tax credit for Canadian film and video productions, including the cost of scriptwriters;
- immediate deductibility for artists of the cost of created inventory;
- in certain circumstances, deduction over time of the cost of Canadian art purchased by businesses;
- flexibility for valuation of charitable gifts from an artist's inventory;
- special deductions for artists and employed musicians; and
- non-taxation of capital gains on cultural property transferred to museums.

Generally, employed artists are not entitled to claim expenses incurred to earn income to the same extent that self-employed artists are. Your organization proposes that artists be presumed to be self-employed for income tax purposes.

In its 1990 response to the 1989 *Report of the Parliamentary Standing Committee on Communications and Culture Respecting the Status of the Artist*, the Government proposed to address the special circumstances of artists by allowing self-employed artists to form associations to bargain collectively, and by allowing employed artists to deduct certain personal expenses that are not available to other classes of employees. As such, employed artists already receive unique treatment under income tax legislation.

Canada 

The current \$1,000 annual maximum deduction of employment expenses by performing artists supplements the deduction for musicians, such as rent, maintenance costs and depreciation for instruments. Furthermore, artists, like other employees, may also deduct the cost of supplies that the employer requires them to purchase, as well as travel and motor vehicle expenses incurred in the course of their duties.

In addition, Canada's new Government has introduced the new Canada Employment Credit in Budget 2006 in recognition of work-related expenses incurred by employees in general, which benefits artists as well.

The determination of whether artists are earning employment income, such that they are eligible for Employment Insurance benefits or, alternatively are self-employed, should continue to be assessed by Canada Revenue Agency on a case-by-case basis, as it is largely a factual question.

You also propose income averaging for artists. In this regard, the former five-year block averaging provision was replaced in 1981 with a forward averaging system. The forward averaging system was itself eliminated in 1988, because fewer tax brackets and a smaller spread between marginal tax rates reduced the need for such complex income averaging mechanisms. Furthermore, artists, like other Canadians, can use certain existing mechanisms to average income, such as investing in Registered Retirement Savings Plans.

Additionally, your organization proposes a federal income tax exemption for copyright and residual income of \$30,000. However, such treatment would provide no assistance to low-income artists who pay no tax, but would at the same time benefit high-income artists who need no special benefits.

Most importantly, while it is true that the consequence of such amendments to the *Income Tax Act* (Act) would be a financial benefit to people working in the arts, it would be difficult to justify this type of tax preference to other taxpayers. Any change of the rules for artists would lead to calls from various industry groups (such as farmers or athletes) asking for similar treatment. This would undermine the basic fairness of the tax system and could entail significant fiscal costs.

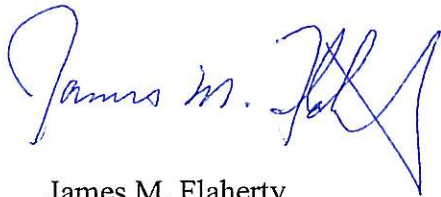
The CCA proposes that the basic personal amount be increased to \$10,000 for the self-employed. In Budget 2006, Canada's new Government announced that one of its priorities is to reduce the tax burden for all Canadians. The basic personal deduction will be increased gradually, by indexation plus certain additional amounts, so that it will reach \$10,000 by the year 2009 for every Canadian regardless of their employment status.

With regard to your proposal concerning infrastructure, Budget 2007 announced a seven-year \$33 billion long-term plan for Canada's infrastructure. This historic plan includes \$8.8 billion for a Building Canada Fund, which will support investments in a number of types of infrastructure projects, including cultural facilities.

Finally, you propose a formal clarification that the arts and culture sector is, under the Constitution Act, one of the responsibilities of the Government of Canada. Also, you propose that the Government entrust the task of regulatory review to the Standing Committee on Canadian Heritage. As these matters are the responsibility of my colleague, the Honourable Bev Oda, Minister of Canadian Heritage, I have taken the liberty of forwarding a copy of this correspondence to her office, so that she may be aware of your concerns.

Thank you for communicating your concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "James M. Flaherty". The signature is stylized and cursive, with a large, sweeping flourish at the end.

James M. Flaherty

c.c.: The Honourable Bev Oda, P.C., M.P.