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December 6, 2017

Re: Consultations on the Proposed Excise Duty Framework for Cannabis Products

Dear Minister Morneau,

I am writing to contribute to the consultation on the Finance Department's Proposed Excise Duty Framework for Cannabis Products. I have worked with various stakeholders in my constituency to develop the following submission.

The Proposed Excise Duty Framework for Cannabis Products is intended to restrict youth access and deter illicit activities. While I applaud and share these goals, the proposed taxation framework is unlikely to achieve either aim. Overall, the framework is based on existing taxation of other luxury products currently covered by the *Excise Act, 2001* like tobacco, wine and spirits. This was a sensible decision. However, subjecting cannabis products sold under the *Cannabis Act* for medical purposes to the duty rates and conditions of the excise duty framework is misguided and counter-productive.

Multiple government spokespeople have asserted that the government task force recommended implementing the same tax regime for medical and recreational cannabis, fearing that making medical cannabis more affordable would incentivize people to utilize that system in search of cheaper drugs. This argument is a fallacy. Firstly, patients seeking access to medical cannabis require authorization from a physician or nurse practitioner, a document the Colleges of Physicians and Surgeons in Ontario, British Columbia, New Brunswick, Nova Scotia, Quebec and Saskatchewan



acknowledge is akin to a prescription. The fear that citizens seeking less expensive cannabis would flock to medical cannabis is predicated on two assumptions: that those people would actually approach a physician or nurse-practitioner for what is essentially a prescription on false terms; and that the physician or nurse practitioner would then authorize their use of medical cannabis without just cause. There is no reason to believe such things, in large part because the incentive for recreational users of cannabis to attempt to access medical cannabis is much greater right now than it will be once cannabis is legalised. At the moment, recreational cannabis users have the choice to risk arrest, fines and incarceration to illegally acquire the drug, or to attempt to access it under the *Access to Cannabis for Medical Purposes Regulations (ACMPR)*. Not only are such attempts negligible, but the people who would try such a thing are more likely to do so now while cannabis is still illegal, rather than after legalization.

Secondly, studies show that even though current legislation allows physicians and nurse-practitioners special dispensation to authorize the use of medical cannabis, they are demonstrably reluctant to exercise it.

The Canadian Aids Society and researchers from the University of British Columbia, the Centre for Addictions Research of British Columbia at the University of Victoria and the Canadian Association of Medical Cannabis Dispensaries conducted a study, called the Cannabis Access for Medical Purposes Survey. Their results showed that “finding a physician to support an application to access cannabis for medical purposes is a challenge for many respondents.” Among respondents who discussed using cannabis for medical cannabis with their physicians, more than a quarter of them said that even though their physicians recommended such a course of medication, they refused to endorse their patients’ application for authorized access to medical cannabis. Their reluctance to authorize medical cannabis for their patients is attributed to widespread stigma and controversy regarding its use. Addressing this stigma and consequent reluctance in future legislation was one of the study’s key recommendations. Far from addressing that stigma, imposing an excise or “sin tax” on medical cannabis will only exacerbate the problem.

Thirdly, the issue of medical cannabis’ affordability already drives many ill Canadians requiring the drug to the black market. Another key finding from the Canadian Aids Society study was that “despite the existence of a legal framework, a substantial number of chronically and seriously ill Canadians continue to access cannabis for medical purposes without legal authorization and from illegal sources.” More than half the study’s respondents reported “that they were sometimes or never able to afford to buy a sufficient quantity of cannabis to relieve their symptoms and approximately one third reported that they often or always choose between cannabis and other necessities (food, rent, other medicines) because of lack of money.” To levy taxes on medical cannabis under the proposed framework is to *increase* medical cannabis users’ incentive to go to the black market for their medicine, as not only will the “sin tax” likely affect their willingness to discuss cannabis with their physicians, it will make the drug less affordable. Eliminating the illicit sale of cannabis will require not only making taxes low



enough overall to compete with black market prices for recreational users, but also eliminating those barriers that *already* exist for medicinal users.

Many opponents of eliminating taxes on medical cannabis have pointed to Washington State as an example of unworkable parallel taxation systems for medical and recreational cannabis. What those people fail to recognize is that there was no effective state licensing requirements, production standards or agricultural or health regulations on medical cannabis in Washington State. Under such circumstances it is unsurprising that the differing tax regimes proved unworkable. The solution is clearly to maintain the same regulations for medical and non-medical cannabis, but exempt the former from the excise tax, as is the case with prescription drugs.

Furthermore, many of my constituents are greatly concerned about the disproportionate cost imposed on small producers by the Canada Revenue Agency's (CRA's) proposed excise stamp regime and complex documentation requirements. Requiring licensed producers to source acquire and retain excise stamps in sufficient volumes to cover incoming orders will impose significant additional costs on producers. The complex summaries, monthly reporting and audits will also necessitate an onerous workload upon small producers. All this taken together with the expected bond posting per the proposed licensing requirements is estimated to cost between \$150,000 and \$200,000. Multiple producers from my riding assess that they will require an additional \$500,000 investment to cover these obligations, an arduous sum indeed for a small, local business.

Thank you for your consideration. I would be very happy to meet with the department and staff to discuss these matters further.

Sincerely,



Elizabeth May, O.C.
Member of Parliament
Saanich - Gulf Islands
Leader of the Green Party of Canada

