

The Joint Committee on Taxation of  
The Canadian Bar Association  
and The Canadian Institute of  
Chartered Accountants

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January 27, 2006

Mr. Brian E. Ernewein  
Director, Tax Legislation Division  
Tax Policy Branch  
Department of Finance  
L'Esplanade Laurier, 17<sup>th</sup> Fl., East Tower  
140 O'Connor Street  
Ottawa, Ontario K1A 0G5

Dear Mr. Ernewein:

**November 17, 2005 NWMM – Proposed Section 143.3**

We are pleased to provide the enclosed submission for your consideration. The submission sets out the concerns and suggestions of the Joint Committee with respect to proposed section 143.3 of the *Income Tax Act* (Canada), as it applies to corporations. This provision is contained in a Notice of Ways and Means Motion tabled by the Minister of Finance on November 17, 2005.

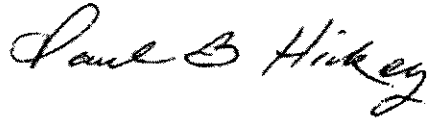
The Joint Committee understands the concern that has given rise to proposed section 143.3. However, we do not think that the need for a rule of broad application has been demonstrated. Unless this can be done, we recommend that section 143.3 be restricted to the SR&ED investment tax credit rules.

The submission identifies a number of aspects of section 143.3 that are of concern to us. Principal among these are the use of paid-up capital in determining the amount by which expenditures are reduced, and the lack of any tax recognition when a corporation pays for property or services by issuing options to acquire its shares.

Our consideration of section 143.3 has caused us to also focus on problems with the determination of the cost of property in other circumstances, specifically where property is acquired by a corporation by way of contribution of capital or where it is distributed by a corporation on a reduction of capital. These problems are also discussed in the submission.

We trust you will find our comments and recommendations helpful. We believe that it would be fruitful to get together with you and other officials involved in this matter to discuss it further. Accordingly, we will contact you shortly to request a meeting.

Yours truly,



Paul B. Hickey, CA  
Chair, Taxation Committee  
Canadian Institute of Chartered Accountants



William R. Holmes  
Chair, Taxation Section  
Canadian Bar Association

cc: Kerry Harnish, Department of Finance  
Davine Roach, Department of Finance  
Ed Short, Department of Finance