



February 19, 2021

The Honourable Chrystia Freeland  
Deputy Prime Minister and Minister of Finance  
Department of Finance Canada  
90 Elgin Street  
Ottawa, ON K1A 0G5

Submitted via [web portal](#).

**SUBJECT: Cannabis Council of Canada pre-budget submission 2021-22**

Dear Minister,

The Cannabis Council of Canada is pleased to provide its submission to the 2021-22 pre-budget consultations.

It has been just a little over two years since Canada legalized adult-use cannabis. While the period leading up to legalization and the subsequent months were rife with the challenges of creating an entirely new industry, your government can be pleased that Canadians recognize how legalization is helping to achieve the Government of Canada's key public policy objectives for cannabis. Public opinion indicates that Canadians have largely favoured cannabis legalization and are increasingly supportive of the government's efforts.

Canada's nascent cannabis industry is now at an inflection point: the world has paid close attention to Canada's legalization journey, and many international jurisdictions, including the United States, are now working to challenge our global leadership, while at home numerous barriers challenge the absorption of the legacy or illicit markets.

Our submission today is framed with the shared recognition that Canadians expect their governments to restart the economy, create jobs and rebuild – stronger than ever. Canada's cannabis industry stands poised to support these recovery efforts and through this submission, we intend to highlight critical barriers that stunt our ability to propel economic recovery efforts.

Foremost we must be mindful that significant markets like the United States are taking important steps towards total cannabis legalization and the window for Canada to capitalize on its first-mover advantage is rapidly closing.



## Championing Economic Development

Our industry, and indeed all Canadians, recognize that our governments are under tremendous pressure to restart our economies post-pandemic. The global COVID-19 crisis has rightfully taken a priority place in public policy discussions. Our industry can play an important role in supporting governments' efforts to build a greener, more competitive, more innovative, more inclusive, more resilient Canada. Our industry has identified the need for an industry champion within Government, distinct from our regulator that we can work with to maximize the positive economic impact of our sector, uniquely distributed throughout many regions of Canada.

The Council thereby strongly urges the Deputy Prime Minister to personally lead in the identification and empowerment of a cannabis champion so that more Canadians may benefit economically from the government's globally-recognized public policy leadership. The Minister is uniquely able to help address issues whether cross-government, housed at the Department of Finance as well as those managed through the established FPT Table.

To help promote responsible growth in economic opportunities a Government of Canada cannabis champion would work to ensure that key impediments are remedied. These include **streamlining the export permitting process, clarifying the regulation of CBD** to enhance exports including to the U.S., **and fixing issues related to cannabis beverage equivalencies**.

Fundamental **problems with the current Excise Regime** also warrant significant attention and if left untouched threaten a key principle of the Cannabis Act, namely the elimination of the illicit market.

### ***Updating the Cannabis Export Permit Process***

The cannabis industry has deep concerns about the responsiveness of Health Canada to established service standards in consideration of the payment of a 2.3 % Regulatory Tax.

Regarding the standards for export permits, it must be noted that Canada's cannabis industry is at a crossroads if it wants to capitalize on the burgeoning global cannabis market as numerous countries and jurisdictions have updated their regulatory regime in favour of cannabis products. Canada's cannabis export permit process is cumbersome, resulting in unnecessary delays for industry and missed economic development opportunities. Increasingly, other jurisdictions, like Australia for instance, have recognized the opportunity at hand for their newfound domestic cannabis producers and have established export permit processes that place our well regarded, value-added exports at a competitive disadvantage.

The Cannabis Council of Canada has strongly encouraged Health Canada to urgently participate with Industry in aligning simple improvements to processes that can lead to quicker permitting and we have offered practical solutions like concurrent approvals of the payment and application for export, and shorter processing times where the parties have a history of permitted exports and imports with each other. Establishing annual export allowances could also contribute to beneficial streamlining.



## ***Enhancing the Prospect of CBD Exports***

2020 closed out with a Declaration from The United Nations recognizing the benefit of medicinal cannabis. That stands as only one action that has contributed to an increasing number of international jurisdictions moving to deregulate CBD, a trend predicted to generate \$ 25 Billion in annual sales in the United States alone by 2025. Canada can indeed seize a significant part of that market, creating and sustaining Canadian jobs while increasing investments in research and development. However, Canadian licensed producers need a regulatory path to exporting CBD.

Currently, CBD products can only be exported once a permit from Health Canada has been issued. For a permit to be issued, the CBD products in question must be intended for specific medical or scientific purposes and the importing country must have issued a “letter of no-objection” (unless CBD is already deregulated in the importing country). A regulatory regime that evolves to recognize the potential of CBD and to establish a more automatic granting of permits to allow the export of CBD products to jurisdictions where CBD is deregulated stands as an urgent priority for C3.

Parliamentarians have reported hearing frequent complaints from constituents, many of whom are seniors, about challenges in securing adequate CBD despite an overabundance of high quality, tested and regulated product in Canada.

## ***Cannabis Beverage Products Equivalent Amounts***

For quite some time the Cannabis Council of Canada has been strongly encouraging Health Canada to address inadequacies in the equivalency formula that determines how much a particular cannabis product is deemed to represent in comparison to dry flower.

The Equivalency table is acknowledged to have missed the mark when it comes to the formula for beverages and it has contributed to an unintended public health concern by seeming to encourage the consumption of more potent formulas as noted below.

Currently, cannabis beverages are “non-solids containing cannabis” under the Equivalent Amounts provided in Schedule 3 of the *Cannabis Act*. Equivalencies are established by weight. Existing controls provide for a limit of 10 mg per container, regardless of overall weight. The current controls have created unintended outcomes in two respects:

- Consumers are permitted to possess significantly more quantities of other forms of cannabis products than they are permitted cannabis beverages. This is because cannabis beverages are by their nature higher in weight in comparison to other forms of cannabis products.
- Consumers are permitted to possess more containers of low weight, potent cannabis beverages, and fewer containers of higher weight, diluted cannabis beverages either of which may contain up to 10 mg THC. This purchasing behaviour is reinforced by in-market offerings and restrictions around purchase that limit an adult to acquiring more than 5 significantly diluted cannabis beverages.



To date, Health Canada has directed attention on this matter to the prospect of changes to personal possession limits in the future rather than addressing the formula immediately. While the Council supports responsible changes to possession limits, we are strongly concerned that timeframes for changes to such limits are unclear or years off and that in the interim the inequitable equivalency formula will reinforce unintended public health outcomes and suppress consumer access.

## Reforming the Excise Tax Regime

Recent Statistics Canada data indicates that the adult recreational regulated cannabis sector has eclipsed the sales of the illicit market for the first time. Price parity on dry flower product has been heralded as a key contributor to the progress to date.

As we look to contribute to the sustained growth of Canada's legal cannabis market and the elimination of the illicit market in keeping with the principles of the Cannabis Act, the Cannabis Council of Canada strongly advises the Government of Canada that the current construct of the Excise tax poses a significant barrier to achieving the stated public policy objective.

For Medicinal Cannabis patients the ongoing application of the Excise Tax on their medicine is both unjust and contributes to an ongoing reliance on legacy market cannabis and significant home growing to address fundamental affordability issues.

Affordability is also a key ingredient in fulfilling the successful migration of legacy consumers to the regulated market. It must be carefully noted that the burden of the final price to consumers represented by the cost of regulation, packaging, Excise Tax, Distributor and retail markups and the application of Sales taxes is dwarfing the actual cost of goods.

It is imperative to note that while we have celebrated the reduction of the illicit cannabis market and the monthly growth in legal sales of cannabis, we must also remember that reaching price parity has significantly contributed to these successes. This price parity was achieved largely on the backs of licensed producers, who further squeezed profit margins and created larger format offerings. The price degradation reflects a commoditization that runs the risk of severely devaluing our products while the cost of regulation, Excise tax, packaging, wholesale, and retail markups and finally sales taxes combine to represent an even larger share of the cost to the consumer.

Our members favour a model where the excise tax is applied at the wholesale level or at the point of sale rather than the production level, where it is currently applied. By moving the application of excise tax to point of sale, consumers could benefit from price reductions simply because the tax itself would no longer be subjected to markups.

Addressing the point of collection of excise taxes could have a material impact on the development of cannabis policy in consideration of Canada's first peoples as well, possibly providing the Government of Canada with significant leverage to encourage the promulgation of laws and regulations amongst indigenous communities and nations that are complimentary in intent to the Cannabis Act.



The Cannabis Council of Canada is on record in favour of contributing to any dialogue that can further the economic participation of Indigenous Communities within the context of cannabis legalization.

No discussion of the Excise Tax regime would be complete without referencing the extreme negative consequences of the current Excise stamp template on the operations of Cannabis producers. In particular, the burden of individualized Provincial stamps creates significant operational problems that compromise the shelf life of our value-added products. The Cannabis Council of Canada strongly encourages the leadership of the Department of Financing in enabling an appropriate FPT level conversation to consider practical changes led by a move towards a single national excise stamp.

The Council recommends that the federal government look at the excise regime on adult-use cannabis as a hindrance to the competitiveness of the legal market and determine avenues – such as point of sale application and medical cannabis exemptions – that could support further societal gains and compliance with the objectives of Bill C 45.

## Conclusion and Next Steps

In summary, the Council recommends that the government take these immediate steps to allow the cannabis sector to contribute to Canada's economic renewal:

- identify a Cannabis Champion;
- streamline the export permit process for cannabis products ;
- create a regulatory regime that promotes the exporting of quality CBD products;
- fix the equivalency formula for cannabis beverages;
- reform the excise tax regime;

Finally, and in a request best suited for a Champion, the Cannabis Council of Canada considers it of utmost importance for the Government of Canada to work to right the wrongs of historic cannabis prohibitions, which disproportionately continues to impact Canada's BIPOC communities. As we noted in our [Cannabis Legalization Report Card](#) last fall, only 3% of eligible Canadians have successfully applied for the Cannabis Record Suspension Program earning the government a very poor mark in an overall excellent report. The Government of Canada must champion meaningful, proactive cannabis amnesty – namely criminal record expungement – in a way that does not re-stigmatize those, many of whom continue to carry the burden of systemic racism.

The Council looks forward to working with the Government of Canada to advance these recommendations which align with Budget 2021-22's stated goals to work together to create new jobs and build a greener, more competitive, more innovative, more inclusive, more resilient Canada.

Thank you for your service to Canada during this challenging period.



# Cannabis Council of Canada

Licensed.  
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Sincerely,

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