CBAA·ACAA

Canadian Business Aviation Association
Association canadienne de l'aviation d'affaires

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# The Unintended Consequences of a Luxury Tax on Aircraft

## Brief submitted to Finance Canada

## September 30, 2021

## Contents

# Executive Summary and Recommendations

*The Canadian Business Aviation Association (CBAA) thanks the Department of Finance for the opportunity to share our recommendations on the government's proposed Luxury Tax, and we look forward to working collaboratively with officials to ensure that any new taxes are implemented in such a way that they are fair and avoid perverse social and economic effects.*

*While the government's "luxury tax" on aircraft may lead to a minor increase in tax revenues, the potential for negative implications and unintended consequences is significant and these should not be overlooked by Finance Canada. For example, the tax creates incentives to use older, less fuel efficient and sustainable aircraft, making it harder for business aviation to fulfill carbon reduction plans and further contribute to the federal government's ambitious commitments around the environment. Additionally, as designed, the tax will reduce demand for Canadian-made aircraft, negatively impacting jobs, business, and Canada's overall economic growth potential.*

A "luxury" tax on vehicles, yachts and "personal" aircraft was included in both the 2019 Liberal election platform and again in the 2021 federal budget, However, the August 10, 2021 consultation paper released by the Department of Finance extended the scope beyond aircraft purchased for enjoyment or personal use, and now includes virtually any aircraft with fewer than 40 seats.

It is as if, without prior consultation, the government decided to tax fishing boats and tugs as yachts or tow trucks and semis as luxury vehicles. The 1,400 private aircraft flown by Canadians, including light and ultra-light jets, turbo props and helicopters are not toys. They are essential transportation for a country blessed with too much geography.

Most importantly, the applicable framework of the luxury tax as currently proposed **does NOT exclude aircraft purchased for business use**. To conflate aircraft purchased to be used for business with aircraft used for enjoyment flagrantly disregards the intent behind this new tax as stated in the federal budget, and dismisses the fiscal policy underlying excise tax regimes and other federal tax systems such as the GST/HST/QST and federal income tax. This, in our view, is an erroneous inclusion of our sector in the scope of luxury tax and will significantly disrupt our industry and impact the jobs and economic output it creates for Canada.

The implications of the tax on aircraft as currently proposed have downstream and negative implications for Canada's business aviation and aerospace sectors, affecting job creation and making it more difficult for Canada to reach its 2050 net zero emissions goals.

It is evident that the negative consequences of this tax on aircraft far outweigh any potential gains. While we take issue with the imposition of a luxury tax at all, however, to avoid adverse effects at the very least **its scope must be limited to its original intention: a tax on luxury, not a tax on essential transportation.**

At the end of the day, business aviation works for Canada. But this tax does not.

## Recommendations

1. Recognize the true cost of aircraft by raising the sales price threshold from $100,000 to $5 million
2. Avoid tax inconsistencies by using the existing tax code
3. Add business use to the list of qualifying exempt activities
4. Expand the qualifying exempt activities to commercial (charter) use
5. Do not impose the luxury tax on exported specified aircraft
6. Do not impose the luxury tax on importation of specified aircraft
7. Defer the implementation date to January 1, 2023

## The unintended and negative consequences of a luxury tax on aircraft

Business aviation is an economic enabler, employing over **47,000 Canadians** while contributing **$12.1 billion** to the Canadian economy every year. Throughout much of our history, Canada has depended on reliable, nimble and tough aircraft to keep our communities connected and our companies competitive. Today, we estimate that about 23,000 people are employed keeping 1,400 business aircraft flying in Canada, covering virtually every square mile of our vast country, and taking us to every corner of the globe, no matter how remote or seemingly inaccessible.

Canada's reliance on aircraft is not limited to connectivity. After decades of successful federal industrial policy and financial investment, Canada has developed world-class business aircraft manufacturing and research capacity, with another 24,000 Canadians employed in aerospace jobs related directly to business aircraft. The success of our aerospace sector, which includes Bombardier, Viking Aircraft, CAE, P&WC, Bell Textron, Diamond Aircraft, IMP Aerospace, Dassault Canada and hundreds of smaller businesses, depends on the sale and upgrade of these jet and turboprop aircraft.

The smaller aircraft flown by Canadians, including light and ultra-light jets, turbo props and helicopters are not the equivalent of luxury yachts or sports cars. They are not toys. They are essential transportation for a country blessed with too much geography.

Businesses aviation helps move the people and things that keep business moving in Canada. From industry surveys, we know that 86 percent of business aviation flights carry marketing and sales personnel, technical and engineering staff, middle managers and corporate customers, and not senior executives, contrary to the perception of many that only the elite and senior executives travel by private plane. Also, 80 percent of business jet flights are made at airports in small towns and communities. While the largest business jets can carry 20 or more, the vast majority of business jets do not accommodate more than six people and make journeys of less than 1,600 km. Based on historical data, we know that these numbers are probably greater in Canada, with our business aviation operators proportionately deploying a greater number of smaller jet and turboprop aircraft from small airports and aerodromes than in the U.S.

These aircraft deliver the personnel and goods that keep northern communities provisioned and healthy. They move employees and materials to remote worksites. They keep Canada's national energy and communications infrastructure humming and ensure that resource extraction in the oil sands is efficient and safe. Small aircraft owned and operated by a single individual allow small businesses to build employee and manufacturing bases in local communities, and avoid the cost and congestion of major hub cities. As Canada seeks to economically develop our rural regions, business aviation will remain essential.

However, with very few exceptions, the government has proposed that all aircraft with fewer than 40 seats be subject to a new "luxury tax" on aircraft purchases over $100,000. This suggests that the government views virtually all of the 1,400 small aircraft flown by Canadian companies, communities and individuals to be a non-essential luxury.

Such a belief is not only wrong, but it also has serious consequences for the future of Canadian business aviation and aerospace. This tax will not only dampen demand for Canadian-made aircraft, it will discourage operators from renewing their fleet, and continue to fly older, less efficient aircraft that have a larger carbon footprint and older technology which may impact the high degree of safety our operators are able to provide.

The tax as proposed is a classic case of unintended consequences, with the stated benefit – a frankly insignificant tax bump – far outweighed by a host of negative impacts that even contradict the government's own direction and policies.

At the end of the day, business aviation works for Canada. But this tax does not.

## CBAA Position

The luxury tax on aircraft as outlined in the technical background paper issued by Finance Canada on August 10, 2021, is in fact a tax on virtually all aircraft that have fewer than 40 seats regardless of their use, with very few exceptions. This is an unexpected and insupportable deviation from the initial scope, which limited the tax to "personal" aircraft – with a clear inference that the tax would apply only to aircraft used for discretionary, non-business purposes[1]. This new expanded definition will have a substantial impact on business aviation and business aircraft manufacturing in Canada.

Most importantly, the applicable framework of the luxury tax as currently proposed **does not exclude aircraft purchased for business use**. To conflate aircraft purchased to be used for business with aircraft used for enjoyment flagrantly disregards the intent behind this new tax as stated in the April 2021 federal budget, the fiscal policies underlying excise tax regimes, input tax systems (e.g., GST/HST/QST) and federal income tax. This, in our view, is an erroneous inclusion of our sector in the scope of luxury tax and would significantly disrupt our industry and create uncertainty.

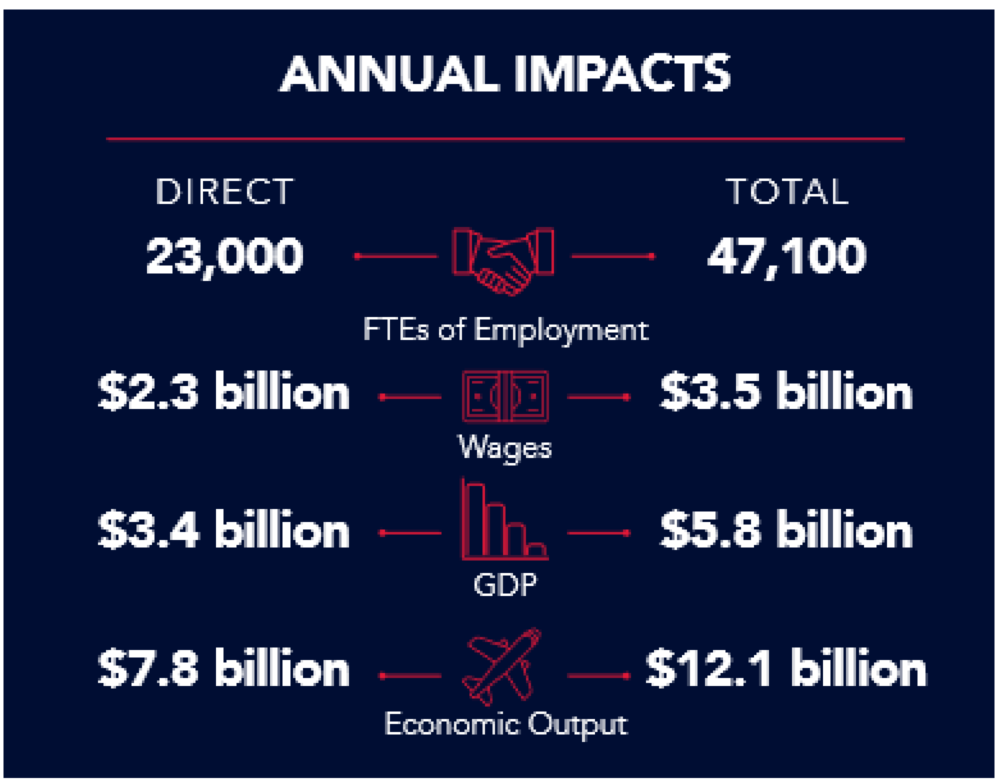
### There are serious issues with the tax as proposed

This tax, which would be applied to virtually all aircraft with fewer than 40 seats would have a punitive and disproportionate impact on the business aviation and aerospace industry and by extension the people employed directly and indirectly by business aviation and aerospace in Canada.

[1]" As part of Budget 2021, the Government of Canada announced its intention to introduce a new Tax on Select Luxury Goods (the Luxury Tax), effective as of January 1, 2022, aimed **at helping to ensure that those Canadians who can afford to buy luxury goods are contributing a little more"** https://www.canada.ca/en/department-finance/programs/consultations/2021/consultation-proposed-luxury-tax/select-luxury-goods-tax.html

Further, the government has not considered the unintended consequences of the date of manufacture. Imposing luxury tax on aircraft manufactured after 2018 will create a disincentive to purchase the very latest designs and hardware. This will impact safety and the ability to reduce emissions by industry and the Canadian manufacturers and support industry. The government rationale, “helping to ensure that those Canadians who can afford to buy luxury goods are contributing a little more” is not supported by the facts:

- The federal tax system already applies taxes such as GST/HST/QST on the purchase of aircraft.
- The Income Tax Act does not specify or limit the type or size of aircraft: an airplane of any size can be used for business purposes.
- The personal use of an aircraft is already recognized as a non-deductible taxable benefit to the individual.
- The income expected to be generated by the combined tax on aircraft, yachts and vehicles is estimated to be $600million **over five years**.
- In contrast, Canadian business aviation already remits almost $900 million in taxes **every year**, with the lion’s share - $560 million – to the federal government.
- The cost to government of monitoring and administering the new tax is likely to exceed the revenue it raises by a significant factor.



## Recommendations

**Recommendation #1: Recognize the true cost of aircraft by raising the sales price threshold from $100,000 to $5 million**

Aircraft are complex machines with sophisticated engineering, materials and technologies to ensure they are safe, reliable and efficient. There are very few small aircraft that can be purchased new for under $100,000. The CBAA suggests that, if this tax remains applicable on all aircraft with fewer than 40 seats, the more realistic and fairer price threshold should be set at $5 million.

**Recommendation #2: Avoid tax inconsistencies by using the existing tax code**

- If changes to the tax regime are implemented, the government of Canada should use the existing tax code rather than create a new tax that would generate miniscule revenue and be complex and costly to administer

There is no need to create a new tax (and its inherent new complexities and costs) as there already exists methods in the current tax regime to differentiate between business and non-business activities. In current state the Canadian tax system has the GST/HST/QST as a value-added tax. This tax is essentially only payable to the extent that the property is acquired for use otherwise than in the course of commercial activities. This is further validated by the use of input tax credits, which can be claimed by a registrant in respect of the GST/HST for goods acquired for consumption, use or supply in the course of commercial activities.

**Recommendation #3: Add business use to the list of qualifying exempt activities**

- Add the use of an aircraft or modifications to said aircraft by a business end-user in the course of its business activities in the list of "qualifying exempt activities"

From its initial introduction in 2019, the luxury tax was framed as a tax on certain select items such as "personal aircraft". Budget 2021 specified a luxury tax was intended to apply in respect of certain goods when acquired for "personal use". Further the consultation paper describes the luxury tax as being applicable to "select goods for their personal use and enjoyment".

As drafted, the consultation paper proposes that aircraft purchased for business use by a Canadian company be subject to the luxury tax. Our recommendation seeks to resolve the issue.

**Recommendation # 4: Expand the qualifying exempt activities to commercial (charter) use**

- By expanding the qualifying exempt activities related to the provision of a charter service where all or substantially all of the seats on that aircraft are to be offered by a person for sale, on an individual basis, **to any person** who is at arm's length with that person
- By providing that no luxury tax is payable by charter service providers in respect of the delivery of a specified aircraft in Canada to be used in its charter service activities and that luxury tax is only payable by charter service providers when the aircraft is used for personal purposes by clients of charter service providers that are not themselves registered under the luxury tax regime.

**Recommendation # 5: Do not impose the luxury tax on exported specified aircraft**

- No luxury tax should be required to be paid and accounted for by a registered vendor in respect of an exported specified aircraft.

**Recommendation #6: Do not impose the luxury tax on importation of specified aircraft**

- Deliveries in Canada of specified aircraft to non-registered persons for business use should be expressly excluded from the luxury tax regime.

**Recommendation #7: Defer the implementation date to January 1, 2023**

- The date of coming into force of the new luxury tax should be postponed to January 1, 2023, to provide sufficient time to both registered vendors and the CRA to implement the luxury tax system and related compliance requirements.

## Conclusion

The Canadian Business Aviation Association (CBAA), founded in 1961, represents aircraft operators and manufacturers across the country, with a mandate to promote and simplify business aviation.

This submission, which represents the united views of the business aviation community under the CBAA aegis, outlines a series of reasonable and fair recommendations that would mitigate the perverse and unintended consequences of the tax as currently proposed.

The CBAA is committed to working with the new federal government to create policies and programs that will support Canada's dynamic and essential business aviation sector while at the same time, contribute to the twin goals of sustainability and economic growth, while supporting Canada's business aviation sector.

**Anthony Norejko**
President and CEO
Canadian Business Aviation Association
anorejko@cbaa.ca

613-236-5611 ext. 1