Bermuda Bankers Association

 Cumberland House, 7th Floor

 1 Victoria Street, Hamilton HM11

31 January 2019

[The Hon. Curtis Dickinson, JP, MP](http://parliament.bm/cabinet/view/40)

Minister of Finance

Government Administration Building, 2nd Floor

30 Parliament Street

Hamilton HM 12

Bermuda

RE: Bermuda Bankers Association (BBA) – Comments on Pre-budget Report [in advance of Fiscal Year 2019-2020]

Dear Curtis,

The BBA welcomes this opportunity to share its views with you on several of the proposals contained in the Pre-budget Report. As you may be aware, the BBA has now undertaken a governance initiative under which it will be speaking more cohesively on all matters impacting the banking sector as a whole and we have retained the services of an executive officer to coordinate these efforts. Accordingly, the comments that follow reflect the consensus of the banking sector.

Prior to discussing the specific provisions in the Pre-budget Report, the BBA is of the strong view that several important process-related considerations should be made part of the final tax reform package. Elements of fundamental fairness such as a comprehensive economic impact analysis, extended phase in periods to allow for operational implementation and increased resourcing for the Office of the Tax Commissioner should be strongly considered and made part of any final package. The BBA also believes that an assessment of the cumulative impact of raising what are largely “pass through” taxes, where the burden of collection falls largely on the financial services sector, should be undertaken to determine if taxation of this nature can be inhibiting economic activity. Lastly, the BBA has also communicated its view on the ineffectiveness of the government’s use of a sinking fund at a time when the incremental debt service costs significantly outweigh the earnings associated with the retention of these funds.

**Managed Services Tax** – the BBA notes that this proposed tax seeks to address the use of foreign service providers and the consequent loss of economic activity. However, we note that the Pre-budget Report only provided broad categories of includable services and did not address scenarios where services cannot be obtained from a Bermuda provider. In addition, there are no provisions addressing the use of affiliated companies that may be located outside of Bermuda. As these entities are providing services for a related Bermuda-based entity, the BBA believes that this activity should not be within the scope of this proposed tax and that a specific exclusion for services provided by affiliated companies should be contained in the final tax reform package.

**Interest and Dividend Withholding Tax** – the BBA is aware of several discussions between our members and yourself with respect to the intent of this proposed tax and issues relating to the recharacterization of active income into passive income. In furtherance of those discussions and in the interest of providing clarity on the application of this proposed tax, the BBA asks that the final tax reform package contain an exclusion for dividends and interest on issued debt relating to entities listed on the BSX and all other major stock exchanges.

**Financial Services Fee** – the BBA finds the manner in which this proposed increase was disclosed in the Tax Reform Commission report to be confusing as there is reference to an increase of “0.075 or 75 percentage points” and we are unclear as to what the actual proposed increase is based on this information. The BBA also believes that the computational base for this tax should be amended to end the use of consolidated assets. The use of consolidated assets subjects our members to taxation on activity that takes place outside of Bermuda which may be subject to separate taxation in those jurisdictions. By limiting the application of this tax to Bermuda-based assets, the proposed tax package can be implemented in a fairer and more equitable manner.

**Foreign Currency Purchase Tax** – while the BBA is not providing a specific comment on the merits of this proposal, it does wish to advise that sufficient lead time for changes to operational systems must be included in order to have these changes accurately reflected. The BBA also expresses its concern that further increases to this tax will lead to further disintermediation from the Bermuda dollar.

We are also very mindful that the prior introduction of the Financial Services Fee and the current Pre-budget Report recommendation of an Interest and Dividend Withholding Tax, comes on top of Deposit Insurance Assessments and significantly increased BMA fees. The totality of these extractions is considerable and has been levied over a relatively short time span. We would encourage the exercise of business judgement that recognizes the downstream impact of these actions may lead to reduced employment and local spending. The BBA would also expect that any budget requesting this level of revenue increase will also contain concomitant spending restraint and increased efforts to collect taxes that are currently in force.

The BBA extends an ongoing invitation to members of the Finance Ministry or Tax Reform Commission to meet and discuss our positions on these proposed taxes and fees, and to provide further clarification where needed.

In closing, the BBA again appreciates the opportunity to provide the views of its members and while these comments were derived through a deliberative process, you may also hear from individual banks on aspects of the proposed taxes that specifically impact them.

Kind regards,

Thomas O’Rourke

Bermuda Bankers Association