October 6, 2016
Secretary Kimberly Robinson,

Attached please find several supporting documents, relative to the Capital Gains exclusion, consistent with my recent testimony to the Task Force on Structural Changes in Budget and Tax Policy, and prior testimony to the Senate Revenue & Fiscal Affairs Committee, as well as the House Ways and Means Committee. Based on this information, I urge the Task Force to maintain the capital gains law, as originally passed in 2009 (Act 457) and revised in 2016 (Act 11) after careful deliberations and a compromise solution worked out by various stakeholders and policymakers.

At the very least, the panel should consider giving the new law adequate time to take effect before rendering a final decision on any further policy changes. A two-year window should be strongly considered, allowing fresh data to be captured in 2017 and 2018 tax filings to determine the impact of the new law meant to restrict use of the Cap Gains eligibility, with significant savings to the state. The intent versus the actual cost and effectiveness should be carefully monitored before any serious changes to the law are contemplated in order to establish a new baseline and trending.

A few particular points to emphasize about the Capital Gains exclusion:

- The cap gains issue was reinforced by a 2008 Tax Study conducted by Dr. Jim Richardson on behalf of Greater New Orleans, Inc. as part of a broader Tax Competitiveness effort.
- The 2009 cap gains law was driven by the economic development community, as a wealth/business retention strategy—important to philanthropy, local assets, and community reinvestment.
- Within the broader context of unearned income, this law addresses a narrow issue with a narrow solution applied only to sale of privately held businesses (not short term gains, investment stocks, dividends, royalties, interest, raw land, etc.)
- The law is working as intended to keep business owners in our state, rather than setting up in TX or FL before “cashing out” on sale of their company or retirement.
- The cap gains exclusion is equitable, available to business owners of any size in any sector of our state economy.
- These same owners have paid annual taxes during their years of operations, including income tax, sales tax, property tax, etc.
- Reducing the marginal income tax rate for personal income tax on annual wages should not be connected with capital gains treatment for sale of business – a one time/infrequent event.
- Bills to repeal the Cap Gains law were defeated by a broad coalition in the 2015 and 2016 Sessions, establishing legislative precedent.
- As a practical matter, repealing the Cap Gains law will not realize significant savings, as major business owners will simply exit for other states again, leaving small businesses to pick up the tab.
- **The law was tightened and potential abuses addressed by the 2016 revised statute, including a five year holding period and tiered benefit based on longevity, which will yield savings long term.**

Thank you for your consideration,
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Copy: Task Force members