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Summary of OBA's Second Submission on Ontario ULC Legislation

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- This submission makes the case that Ontario should change the *Business Corporations Act* (OBCA) so that direct inbound foreign investment can be channelled through a new vehicle, an Ontario unlimited company (ULC). The submission also addresses the modest changes that would be required to the OBCA to accomplish this result.
- The flow-through treatment of ULCs has proven it extremely attractive for direct inbound investments from U.S. investors and indirect inbound investments from non-U.S. investors (i.e. non-US investors who channel their investments through the U.S.).
- There is no loss of Canadian tax revenue from allowing ULCs to be used as a vehicle for direct foreign investment into Canada. The ULC only allows the foreign investors flexibility in choosing a vehicle that, for U.S. tax purposes can elect to be taxed as a non-corporate entity (a partnership or branch operation). A ULC would always remain a Canadian corporation for Canadian and Ontario income tax purposes.
- An Ontario ULC would offer several advantages for foreign investors in comparison to prevailing Nova Scotia ULC, particularly in removing an additional layer of complexity and expense and offering an otherwise more attractive, modern corporate statute.
- Nova Scotia currently charges an annual incorporation tax of \$4,000 and an annual filing fee of an additional \$2,000 for each ULC.
- Ontario, as a financial engine of the country, should signal that it welcomes foreign investment and strives to create an efficient corporate regime to facilitate it.
- Adopting ULC legislation should form an integral part of the drive to keep Ontario's commercial laws competitive by global standards.