



Written Submission for the Pre-Budget Consultations in Advance of the Upcoming Federal Budget on Transparency and Accountability in the Non-profit and Charity Sector

**Submission to the House of Commons Standing Committee on
Finance**

July 30, 2023

List of Recommendations

Primary Recommendations

- **Recommendation 1:** That the Federal government amend Section 241 of the *Income Tax Act* in order to allow the CRA to disclose serious non-compliance with legal requirements by a registered charity, Registered Canadian Amateur Athletic Associations or certain other qualified donees.
- **Recommendation 2:** That the Federal government amend Section 241 of the *Income Tax Act* in order to allow the CRA to disclose to the public information contained on the T1044 Non-Profit Organization (NPO) Information Return.

Secondary Recommendations

- **Recommendation 3:** That the Federal government provide funding to CRA to improve the transparency of the T3010 Registered Charity Information Return.
- **Recommendation 4:** That the Federal government further increase the disbursement quota payout from the slight increase from 3.5% to 5% beginning in 2023 to a higher number such as 8-10% per year to deal with the \$130 billion of accumulations held by private and public foundations.
- **Recommendation 5:** That the Federal government ensure that each donor advised fund is required to disburse a certain percentage per year per fund.
- **Recommendation 6:** That the Federal government and specifically the Charities Directorate of CRA roll out additional educational programs to assist Canadian charities and non-profits understand their compliance obligations or alternatively the Federal government reinstate the Charities Partnership Outreach Program which provided funds to Canadian charities to fund educational initiatives within the sector to increase compliance.
- **Recommendation 7:** That the Federal government require charities to demonstrate annually in their reporting that they actually have a “public benefit”, rather than this being assumed.
- **Recommendation 8:** That the Federal government consider a system where the ability to issue tax receipts is not based on being a “registered charity” but rather a narrower category of deductible gift recipients as is currently in Australia.
- **Recommendation 9:** That the Federal government establish a unit within the RCMP, or other police force, tasked with the responsibility of reviewing large, serious and complicated schemes that abuse registered charities and provide inappropriate official donation receipts or inappropriate private benefits.
- **Recommendation 10:** As the Federal Government as an important funder, either directly or indirectly, of the charity sector in Canada, that the Federal government maintain and increase funding to this important sector.

July 30, 2023

Dear Members of the Standing Committee on Finance,

Blumbergs Professional Corporation is a law firm based in Toronto that provides legal services to Canadian non-profits, registered charities and donors. Blumbergs maintains the websites, <http://www.CanadianCharityLaw.ca> and www.Smartgiving.ca that provide extensive information and resources to Canadian charities to encourage them to understand their legal obligations and strive for higher ethical standards and to donors to understand how to vet charities. Blumbergs also maintains the website www.CharityData.ca which is the largest portal of information on the Canadian charity sector with up to nineteen years of information on every Canadian registered charity. We encourage donors to be generous but careful in the way they practice charity and philanthropy. Our firm is concerned about the well-being of the non-profit and charitable sector and that there is appropriate regulation for this very important sector.

Executive Summary

We are concerned that there are not adequate measures in place to ensure the efficient use of charitable assets, prevent the misappropriation of charitable assets and prevent non-profits and charities from engaging in egregious conduct. We will provide some recommendations to improve transparency in the non-profit and charitable sector as well as other recommendations to improve regulation and impact of the charity sector.

Introduction

The voluntary sector in Canada plays a vital role in this country. The charity sector has revenue of over \$334 billion.¹ Unfortunately over the last decade public trust in the charity sector has [plummeted](#). Those involved with volunteering or working in the charity sector deserve more detailed and better information on their charities and the sector. Improvements in the voluntary sector by the Federal government will help not only non-profits and charities but also the many groups that they serve such as the unemployed, Indigenous peoples, patients, those with a disability, seniors, and students. The services provided by non-profits and charities affect people in all parts of the country including major urban, small towns and rural and remote communities.

¹ See [Blumbergs' Canadian Charity Sector Snapshot 2021](#).

Transparency

The work that charities do is extremely important to our society, so it is vital that various stakeholders, such as the public, the media, the government, donors, employees, volunteers, etc. have access to key information on what charities are doing and how they are doing it. [Transparency](#) will ultimately increase public trust and confidence in the sector by making the public more informed about the work that charities undertake.

Transparency can shine a light on certain charities, which will also hopefully help to improve the governance of non-profits and charities and reduce the amount of [abuse](#) that goes on. People are less likely to abuse charities if they know that they will be more easily discovered. Less abuse of charities' assets will also result in greater productivity and public benefit.

Registered Charities and Transparency

Currently, the confidentiality provisions in Section 241 of the *Income Tax Act* (Canada) forbid the CRA from disclosing information about any non-profit or registered charity either through an informal request or a formal access-to-information request except if it falls within certain narrow exceptions, such as the public portion of the T3010, or if there has been consent for disclosure provided by the non-profit or registered charity.

Without the consent of the charity, CRA can only provide information on the charity's non-compliance after the charity's registration has been revoked, which may be 10-20 years after CRA started having significant concerns about the charity. CRA also does not have the power to disclose to the public any information surrounding charities that have had complaints of receipting fraud, abusive receipting schemes, systemic child abuse or other major concerns such as terrorism. CRA also cannot disclose this information to MPs and Senators. This completely differs from the methods of the Charity Commission of England and Wales, which [regularly distributes information to the public when it has concerns with particular registered charities](#). The Australian government last week proposed a number of changes to ['lift the veil of secrecy' on Australian charities](#). In Canada, the public, especially donors, should have the right to know of any serious non-compliance by charities prior to revocation. It will take amendments to the *Income Tax Act* to allow for such disclosure. We anticipate that there will be little or no fiscal cost for the adoption of the transparency recommendation above.

Recommendation 1: Section 241 of the *Income Tax Act* should be amended to allow the CRA to disclose at any time serious non-compliance with legal requirements by a registered charity, Registered Canadian Amateur Athletic Associations or certain other qualified donees.

Non-Profit Organizations and Transparency

It is estimated that there are between 80,000 -100,000 non-profits that are not registered charities or other types of qualified donees in Canada. These NPOs are exempt from almost all transparency requirements even though they are exempt from taxes, and in many cases, they receive government funding, support or public donations. While non-profits that are not charities must in some cases file the two-page Form T1044, Non-Profit Organization (NPO) Information Return, such form is not made available to the public either electronically or by request. The T1044 is filed with the CRA which then inputs all the information in its database. There is no

additional cost, or “red tape” associated with this proposal as non-profits are already filing the form and the CRA is already inputting the information.

Recommendation 2: Section 241 of the *Income Tax Act* should be amended to allow the CRA to disclose to the public information contained on the T1044 Non-Profit Organization (NPO) Information Return.

Other Recommendations:

There are many ways in which the regulation of charities can be improved to result in greater public benefit that the Committee may wish to also consider:

- 3) The CRA should [improve the T3010](#) to ask more questions and provide greater transparency in the charity sector. The T3010 lags behind many other countries and their requirements even though those countries do not have as generous tax benefits. A better T3010 can lead to a better charity sector. For example, the T3010 does not ask about volunteers, restricted gifts, related entities or material diversion of assets not reported to regulators. There is a concern that with the [Federal 2023 Budget](#) that potentially some registered charities that have express trusts may have to report on express trusts using the T3 and this could be time consuming and difficult. CRA has traditionally taken the view that registered charities did not have to file the T3. It would be much easier for registered charities to [provide certain basic information on restricted gifts](#) using the T3010 they file every year and it should be made explicit in the Income Tax Act that the T3010 will contain that information on restricted gifts and registered charities that file the T3010 will not have to file the T3;
- 4) Private and public foundations are currently holding about \$130 billion in assets. The recent changes from the Liberal government to bring the DQ to 5% in 2023/2024 for registered charities with assets over \$1 million is not adequate. In light of the astronomic growth in assets of some foundations, it probably makes more sense to have a disbursement quota in the range of 8-10% per year. This will result in billions of extra additional dollars for operating charities;
- 5) With donor advised funds, donors get an immediate tax receipt while in some cases none of the money will be distributed to charities for years. Ensure that each donor advised fund account is required to disburse a certain percentage per year per fund. It could be as low as 10% or it could be 15% to 20% per year as has been suggested in the US in certain proposals.
- 6) Canadian charities generally want to be legally compliant. Those that are deliberately abusing the system are a very small minority. It would be helpful if CRA would conduct more educational programs to assist charities, especially small and rural charities in understanding how to comply with the requirements of a registered charity or if the Charities Partnership Outreach Program could be reinstated which provided funds to Canadian charities to carry out educational initiatives within the sector to increase charity compliance;
- 7) Require charities to demonstrate annually in their reporting (as in the UK) that they actually have a “public benefit”, rather than this being assumed, which could help the sector tremendously by increasing public confidence and reducing the number of dormant charities;

- 8) Consider whether Canada should move to a system similar to Australia's where the ability to issue tax receipts is not based on being a "registered charity" but rather a narrower category of deductible gift recipients;
- 9) Establish a unit within the RCMP, or other police force, tasked with the responsibility of reviewing complicated abusive charity schemes that provide inappropriate official donation receipts and other inappropriate private benefits; and
- 10) All levels of government in Canada provide funding of approximately [\\$228 billion](#) to the charity sector each year. This is approximately 68% of the total revenue of the charity sector. This funding is vitally important and should be maintained or enhanced. For governments to fund the sector they need to maintain their tax base and tax revenues.

If you require further information or wish to discuss this submission, please do not hesitate to contact us. We would certainly be interested in presenting to the Committee if it would be helpful and the opportunity should arise.

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