



Open Letter to the Minister of Finance re: Charitable Status

November 15, 2022

Dear Hon. Minister Freeland,

We understand that the [Prime Minister's mandate letter instructs](#) you, as the Deputy Prime Minister and Minister of Finance, to introduce amendments to the [Income Tax Act \("ITA"\)](#) in order to "make anti-abortion organizations that provide dishonest counselling to pregnant women about their rights and options ineligible for charitable status" ("Mandate Letters").

The Canadian Centre for Christian Charities (CCCC) believes in a transparent, accountable, and effective charitable sector. To be abundantly clear, as a Christian organization, **CCCC agrees that dishonesty is wrong**. We do not and would not support charities that conduct their activities in dishonest ways, regardless of their charitable purposes or objectives.

However, the proposal raises many significant and serious issues that would impact the entire charitable sector. Since we first raised concerns about this matter in our letter of November 24, 2021, we have asked for the government to engage stakeholders such as CCCC on this matter and have continued to make ourselves available for collaborative discussions about the proposed *ITA* amendments.

Unfortunately, we have not been taken up on our offer, nor have we received any reply that addresses this issue.

In the absence of an opportunity for collaborative discussion, we write this open letter to reiterate a few of our key concerns with the government's proposal and to make specific recommendations.

Concerns

Concern #1: Politicizing charitable status

The Mandate Letters do not, on their face, seek to address "dishonest counselling" generally, but only that which is allegedly provided by organizations with a certain perspective. By singling out a subset of charities based on a position or beliefs about a particular issue, the proposal appears to be motivated solely by political considerations. As such, it is an unwarranted politicization of charitable status that puts all charities at risk.

Concern #2: Long-term Impact

If an organization's charitable status is at risk simply because its views or beliefs are different than those of the government, all charities are at risk. It means that every time the government adopts a new view or political priority, or any time a new government is elected, charitable status for specific groups could be in jeopardy and charities may be singled out for additional monitoring or audits simply because they hold different views than the government.

Concern #3: Lack of Data

The Mandate Letters are troubling because of their vague assertions and unproven assumptions of dishonesty toward a specific subset of charities. The government must (a) clearly define what it means by the terms “dishonest,” “dishonest counselling,” and “anti-abortion organizations,” and (b) substantiate the basis for these allegations with objective data that would justify such drastic action as making organizations ineligible for charitable status.

Concern #4: Jeopardizes A Diverse Charitable Sector

Canada is a diverse and pluralistic nation. Its diversity is represented in many ways, including through the diversity of its charitable organizations. When it comes to all matters of conscience, belief, and non-belief it is incumbent on the government to neither “favour nor hinder any particular belief, and the same holds true for non-belief.”¹ It is very dangerous territory when a government wades into debates over matters of opinion, even those that are strongly held. One only need recall the scrutiny environmental charities endured, both federally and provincially, to see the danger of characterizing an opinion as “dishonest” simply because a government may disagree.

Concern #5: Charter Infringements

This proposal raises many potential *Charter* infringements. Here we highlight only two.

Freedom of expression ensures that everyone can express their thoughts, opinions, and beliefs, however unpopular or contrary to the mainstream.² Freedom to fully and openly express views on social and political issues is fundamental to democracy and therefore to all other *Charter* rights and freedoms. Restrictions that touch the core of social and political issues raise concerns about the “dangers inherent in state censorship of such debate.”³

Freedom of religion means the government must preserve a neutral public space where there is “true freedom to believe or not to believe.” Neutrality does not mean “the homogenization of private players in that space.” Rather, neutral public spaces “preserve and promote the multicultural heritage of Canadian society.”⁴ As one author has put it, “the state should be secular so that citizens do not have to be.”⁵

¹ [Mouvement laïque québécois v Saguenay \(City\)](#), 2015 SCC 16 at para 72 [*Saguenay*]

² [Irwin Toy Ltd. v Quebec \(Attorney General\)](#), [1989] 1 SCR 927 at 968

³ [R. v. Keegstra](#), [1990] 3 SCR 697 at 849

⁴ *Saguenay* at para 74.

⁵ Paul Marshall, [Institutional Religious Freedom: An Overview and Defense](#), *Religions* 12(5):365 at p 20, citing Cécile Laborde, *Liberalism's Religion* (Cambridge: Harvard University Press) at 125.

Recommendations

Recommendation #1: Existing Tools Are Sufficient

Canada Revenue Agency (CRA) has substantial tools at its disposal to address fraudulent actors and dishonest reporting that rightly fall within the parameters of the *ITA* – we encourage the government to review the robust compliance mechanisms currently available to CRA.

For example, CRA can review whether a charity’s activities align with the activities and purposes it identified during the registration process. This is a well-established, education-first, and procedurally fair process. Charities engaging in conduct that falls outside the scope of their approved purposes and activities would rightly merit scrutiny.

Further, dishonesty is already addressed in the *ITA*. Charities that make false statements in circumstances that amount to culpable conduct (s 149.1(4.1)(c), 168(1)(d) *ITA*) can lose charitable registration. Similarly, charities are prohibited from having directors, trustees, officers or like officials who, among other things, have been convicted of crimes involving financial dishonesty (s 149.1(1)).

These are just a few examples of how CRA ensures charities are operating in compliance with legal and regulatory requirements. If CRA’s existing tools are inadequate, the government must clearly state how and why these tools are insufficient.

Recommendation #2: Disclose Data

Decisions impacting the charitable sector should be evidence-based. As the Special Senate Committee on the Charitable Sector emphasized in its report, [Catalyst for Change](#), data is necessary “to support the evidence base for decisions” within the sector. Similarly, the Advisory Committee on the Charitable [Sector Data Working Group](#) is focusing its work to support the “Government’s capacity to make evidence-based decisions on the issues and priorities of the sector.”

Changes that could implicate charitable registration are serious and significant. Any such changes must be evidence-based. We would therefore recommend that the government disclose the data on which it is relying for its proposed changes.

Conclusion

Should the government choose to push forward despite these concerns, we expect it will first demonstrate how any change would, at minimum, meet a variety of prerequisites such as transparency in purpose, legislative authority for its use, *Charter* compliance, alignment with CRA’s education-first compliance approach, procedural fairness, etc.

Nonetheless, we trust that, given the concerns about politicizing charitable status shared broadly across the charitable sector, and the existing compliance mechanisms available to CRA, the policy proposal set out in the Mandate Letters will not be pursued.

As always, CCCC remains available and willing to participate in meaningful and collaborative discussions on this issue. We look forward to hearing from and working with you.

Sincerely,

Canadian Centre for Christian Charities