

IT'S TIME TO BRING CANADA'S CHARITY LEGISLATION INTO THE 21ST CENTURY

Creating a stronger, healthier democracy for today and tomorrow

The Issue: **A Modern Approach to Charities**

In this era of false news and extraordinarily low public trust—there has never been a greater need or opportunity for charities to help engage a diverse public in policy discussions. Today's policy issues—from climate change, to reconciliation with Indigenous peoples, to refugees, to sustainable economies—are increasingly complex and urgent. Through their missions and services, charities can help connect everyday people to the important policy conversations that will shape their lives and our country.

But here's the challenge: *Canada's outdated legislation is significantly impeding the charitable sector's ability to play this vital role.* Under Canada's confusing and constraining current legal regime—the risks and administrative efforts involved in advocacy work are simply too high. As a result, the diverse voices and perspectives that charities could bring to our policy discussions go unheard.

Given how much Canadians value the strength of our free democracy, we can and must do better. The Prime Minister recognized this in fall 2015. His message to Ministers (included in mandate letters to those responsible for finance, revenue, and social development) was clear: *charities should be allowed to do their work on behalf of Canadians free from political harassment.* Ministers were instructed to

modernize the rules governing the charitable and not-for-profit sectors, including those governing so-called "political activity," with an understanding that charities make an important contribution to public debate and public policy. The PM expected a new legislative framework for the sector to emerge.

To date, that has not happened.

Where We Stand Today

In March 2017, at the request of the Minister of National Revenue, an expert panel reviewed the outdated laws and guidance that limits the advocacy efforts of Canadian charities. The panel made a series of recommendations to modernize charity legislation and bring Canada in line with other common law countries such as the United Kingdom, Australia and New Zealand.

WHAT "POLITICAL ACTIVITY" ACTUALLY MEANS (AND DOESN'T MEAN)

Limits around so-called "political activity" are the biggest barrier to full charitable engagement in advocacy work. But what does the CRA mean by this term? In a nutshell, advocacy efforts by charities that include a public "call to action" for policy change fall into this category. It's specifically about charities reaching out to their supporters and asking them to show support for policy change. A great deal of advocacy pursued by charities does not fall into this definition. And of course, to be clear, partisan activities are completely distinct, prohibited and should remain off-limits.

CHARITIES BY THE NUMBERS¹

8.1% The charitable and nonprofit sector contributes an average of 8.1% of total Canadian GDP

Two million Canadians are employed in the charitable and nonprofit sector

Over **13 million** people volunteer for charities and nonprofits.

50% of Canada's 170,000+ charitable and nonprofit organizations are registered charities

¹<http://sectorsource.ca/research-and-impact/sector-impact#2>

Summary of the Expert Panel's Four Recommendations

Recommendation #1

Amend the CRA's administrative guidance to expressly permit charities to engage in non-partisan public policy dialogue as long as it furthers and is subordinate to the charity's purpose.

Recommendation #2

Improve trust and collaboration between the CRA and charitable sector by clarifying, strengthening and increasing the consistency of the CRA's compliance, audit, and education activities.

Recommendation #3

Amend the Income Tax Act to explicitly allow charities to fully engage, without limitation, in non-partisan public policy dialogue as long as it further and is subordinate to the charity's purpose.

Recommendation #4

Modernize the Income Tax Act to ensure a focus on charitable purposes rather than activities, and adopt an inclusive list of acceptable charitable purposes to reflect current social and environmental issues and approaches.

As of today, there's been no movement on these recommendations from the Government of Canada

Busting the Myths, Responding to Misperceptions

Despite significant support from Canadians, who sent upwards of 19, 600 letters to the expert panel, some decision-makers have expressed concerns. At the root of most of these concerns is a common misunderstanding about the difference between what the CRA calls "political activity" (which is permitted, though arbitrarily limited) and direct "partisan activity" - which is, and shall rightly remain, prohibited.

Here are a few important points of clarification:

- 1** The panel's recommendations specifically support the continued prohibition of direct partisan activity. That means, if their recommendations are implemented, charities would continue to be absolutely prohibited from directly supporting political campaigns, parties, or candidates. If the CRA suspected that a charity was, in anyway, engaging in direct partisan behaviour (for example, acting like a PAC), it would retain the ability to revoke its charitable status.
- 2** Any new or existing organization (including a non-profit) seeking to gain charitable status would still have to go through the CRA's rigorous process, which includes demonstrating that it has a defined charitable purpose that guides everything it does.
- 3** Modern legislation would not change the CRA's definition of a "charity." All charities engaged in advocacy efforts would have to prove that everything they do is completely aligned with, and subservient to, their stated, CRA-approved charitable purposes.

HERE'S THE MOST IMPORTANT TAKE-AWAY:

This is about acknowledging and accepting that, in today's world, it is perfectly valid and valuable for charities to engage in public policy dialogue including "call to action" advocacy as part of their efforts to achieve their charitable purpose.

Our ask: **Call on the Minister of Finance to Act**

Our ask is simple and straight-forward: we need MPs who agree with modernizing Canada's charity legislation to write directly to Minister Morneau and to Minister Le Bouthillier and tell them two things:

- 1) That you agree with and support the expert panel's recommendations, and
- 2) You want the Ministers to act immediately on the first three recommendations of the Sector Panel and to commit to a dialogue on the fourth recommendation.

It's time to bring Canada's charity legislation into the 21st century, and this is the government to make that happen. Your support will create an enduring legacy, securing and strengthening a healthy Canadian democracy for today and for generations to come.