



Social Impact Newsletter

Federal Budget 2018: Measures Affecting Charities and Non-Profits

February 27, 2018 - Special Budget Edition

Introduction

The Federal Government of Canada tabled its 2018 Budget on February 27th. The Budget as a whole contained few measures that will affect charities and non-profits. There are, however, a few helpful changes, as well as indications that further changes in the sector may be on the horizon. The Government also pledged to make a number of new investments in specific charities and non-profits.

Universities Outside of Canada

Many universities outside of Canada are qualified donees for purposes of the *Income Tax Act* (Canada) (the “Act”), which allows them to issue official donation receipts to Canadian donors, thus allowing them to claim a charitable donation tax credit or deduction. In order to qualify, a university must be “prescribed”, which means that it must be listed in Schedule VIII to the Regulations under the Act. Prescribed universities must also apply to the Canada Revenue Agency (“CRA”) to be registered as a qualified donee. CRA provides an online list of such universities [here](#).

Budget 2018 proposes to eliminate the requirement that universities outside of Canada must be prescribed in the Regulations to the Act. Going forward, such universities will only need to appear on CRA’s list, rather than on two separate, identical lists. This will ensure a much faster process for universities that wish to be recognized as qualified donees, as the process to be added to the Schedule VIII has been known to take years. This new measure will apply as of Budget Day.

Municipalities are Eligible Donees

When a charity’s registration is revoked, the Act imposes a 100% revocation tax on the total net value of the charity’s assets. Charities are generally able to reduce their revocation tax liability by gifting their assets to “eligible donees”. This also ensures that charitable assets remain in the sector. Under the Act, an eligible donee is defined as a registered charity:

- that is not subject to a suspension of tax-receipting privileges;
- that is not subject to a security certificate under the *Charities Registration (Security Information) Act*;
- that has no unpaid liabilities under the Act or the *Excise Tax Act*;
- that has filed all of its information returns; and
- of which more than 50% of the members of the board of directors or trustees deal at arm’s length with each member of the board of directors or trustees of the particular charity.

Budget 2018 proposes to amend the Act to allow local municipalities to be considered “eligible donees” for purposes of the revocation tax. Such transfers would be subject to the approval of the Minister of National Revenue on a case-by-case basis. If implemented, this measure will apply to transfers made on or after Budget Day.

Local Newspapers May Qualify for Charitable Registration

The Budget proposes to provide \$50 million over five years, starting in 2018-2019, to one or more independent, non-governmental organization(s) that support local journalism in underserved communities. The Government is specifically interested in ensuring “trusted, local perspectives as well as accountability in local communities.”

The Government also announced that it will explore new models that enable private giving and philanthropic support for “trusted, professional, non-profit journalism and local news.” As part of this initiative, the Government indicated that such new models “could include new ways for Canadian newspapers to innovate and be recognized to receive charitable status for non-profit provision of journalism, reflecting the public interest they serve.” While this statement is quite vague and no further details were provided, the possibility that not-for-profit journalism might qualify for charitable registration could have a dramatic impact on the news industry. It is also of interest as it is an indication that the government may be open to considering a legislative definition of charity.

The Government indicated that the need to explore new funding models for newspapers is consistent with the Public Policy Forum's January 2017 report on news in the digital age. The Public Policy Forum is a registered charity under the Act. It recommended that Canadian charity law be amended to allow non-profit news organizations to qualify for charitable registration.

Political Activity

Shortly after the Government was first elected, it pledged to make changes to ensure charities will be able to do their work free from political harassment. This pledge was made in response to CRA auditing charities for political activity, which resulted in some charities losing their status. While the audit program has now been suspended, many charities remain fearful of engaging in political activity. Moreover, there is significant misunderstanding in the sector around the political activity rules.

In September 2016, The Minister of National Revenue appointed a panel of experts to look at charities and political activity, and the panel published a comprehensive report on March 31, 2017 after having received more than 20,000 submissions. In summary, the panel made four main recommendations:

- allow charities to engage in public dialogue;
- implement changes to the Act to enhance clarity;
- amend the Act by deleting references to non-partisan "political activities"; and
- modernize the legislative framework governing the charitable sector.

The Government was expected to respond within a few months of the report being published, but as of Budget Day, it had not yet responded. Today, the Government indicated in the Budget that it will respond in the coming months.

In the meantime, the Senate has appointed a Special Committee on the Charitable Sector to look at laws and policies that affect charities. It is expected that the Senate Committee may also look at the political activity rules as part of its review.

New Trust Reporting Rules

Registered charities and non-profits can be established as corporations, trusts, or unincorporated associations. Budget 2018 contained new reporting requirements for trusts (which generally file an annual T3 return of income with CRA). The Budget proposes that the additional reporting requirements will not apply to trusts that qualify as non-profit organizations and registered charities. We will continue to monitor whether these additional reporting requirements are implemented and, more importantly, whether charities and non-profits are exempt.

Non-profit Sector Funding Initiatives

The Budget directs significant funds towards initiatives in the non-profit sector. The specified recipients operate programs aimed at addressing a number of matters important to Canadians, including First Nations relations, fitness/sport, Canadian media, and other important issues.

For example, the Budget identifies several charities and non-profits as recipients of funding to support Canada's first ever National Housing Strategy. Additional funding is also given to Statistics Canada. Imagine Canada and others in the non-profit sector have repeatedly asked the government to return to providing detailed aggregate information about Canadians and it appears the government listened.

Some specific charities that will receive funding are listed below:

Gord Downie & Chanie Wenjack Fund

The Gord Downie & Chanie Wenjack Fund (the "**Fund**"), established in the name of Gord Downie, Canadian musician and lead singer of the acclaimed rock band The Tragically Hip, and Chanie Wenjack, an Ojibwe (Anishinaabe) First Nations boy who died fleeing a residential school in Northern Ontario, has as its primary mission the promotion of reconciliation between First Nations communities and the Government of Canada, and the awareness and education of Canadians about Canada's history of residential schools. To support the Fund's reconciliation initiatives, the Federal Government has proposed to provide \$5 million in 2018-19 to support the Fund.

ParticipACTION

ParticipACTION is a Canadian non-profit organization dedicated to making physical activity a part of daily life. ParticipACTION delivers programs focused on changing Canadian attitudes about physical fitness. The Government proposes to provide \$25 million over five years for ParticipACTION to increase participation in daily physical activity among Canadians. This funding is proposed to commence in 2018-19.

Special Olympics Canada

Special Olympics Canada ("**SOC**") is a Canadian registered charity that uses sport as a vehicle through which to enrich the lives of Canadians with intellectual disabilities. Commencing with \$2 million in funding in 2018-19, the Federal Government proposes to provide a total of \$16 million over 5 years to SOC to sustain its support of more than 45,000 children, youth and adults in Canada with intellectual disabilities.

Canadian Media Fund

The Canadian Media Fund is a non-profit organization that fosters, promotes, develops and finances the production of Canadian content for all audiovisual media platforms. The Government proposes to provide \$172 million over five years, to serve as a stable source of funding to develop Canadian content and support good jobs, including for Canadian writers, producers, directors, actors and crews.

Those who are interested in reading about other sections of the Budget may wish to consult Miller Thomson's [Federal Budget Review](#) series.

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