

The Honourable Chrystia Freeland
Deputy Prime Minister and Minister of Finance
90 Elgin Street
Ottawa, Ontario K1A 0G5

17 May 2022

Dear Minister Freeland,

Canadians are generous. Despite the COVID-19 pandemic, tax-filed charitable donations increased by 2.7% in 2020. The Canadian charitable sector, which employs over 2 million people and accounts for over 8% of Canada's GDP, works hard to tackle poverty and inequality, deliver emergency relief in times of crisis and provide critical services to marginalized communities in Canada and around the world. This life-saving and life-changing work is done by charities within an outdated and challenging Canadian legislative and regulatory regime. This is why, after years of advocacy, we welcomed the pledge in Budget 2022 to implement the spirit of Bill S-216, *The Effective and Accountable Charities Act*. Our expectation was that this commitment would result in changes to Canada's existing regulatory regime to reduce unnecessary red tape, maintain high levels of accountability to the Canadians who support our work, and allow more effective and equitable partnerships between charities and organizations not recognized as charities (non-qualified donees), such as Indigenous groups, diaspora associations and community organizations.

We are therefore disappointed at the language proposed in Bill C 19, Budget Implementation Act, 2022, No. 1 (BIA), which was tabled on 26 April, 2022. Informed by several legal opinions, our view is that the BIA reinforces the colonial and paternalistic approach to the relationship between charities and the partner organizations supporting their charitable purposes. It makes the current regime more challenging for organizations to fulfill their charitable purpose by embedding a rigid and prescriptive approach to funding non-qualified donees inside and outside Canada in legislation. It makes the system more confusing, risky and challenging for registered charities and non-qualified donees to work together, and as such, impedes philanthropic and charitable resources flowing to communities that need them the most.

Our most acute concerns with the BIA include:

- The proposed definition of a 'qualifying disbursement' - section 149.1(1)
- The proposed language relating to 'directed gifts' - section 168 (1) (f)
- The prescribed conditions for qualifying disbursements to grantee organizations - regulation 3703

We are concerned that the BIA limits opportunities for partnerships between equity-seeking organizations and Canadian charities here in Canada. For example, picture a small Indigenous-led organization working to improve health services in their community. They are experts in their local context and produce tangible impact, improving living conditions for many families. But they may be overstretched with demands and not have the resources to register as a charity, or may not be interested in achieving charitable status. Under the changes proposed, given this Indigenous-led organization's status as a non-qualified donee, a partnership between a charity and this organization would need to meet a long list of 'prescribed conditions' outlined in the Income Tax Act, conditions that perpetuate a colonial dynamic. This administrative red tape could deter the charity and the Indigenous-led organization from entering into a partnership, and mean that critical resources for this important work do not flow to the organization and support the transformational work they are doing in their community.

The current Ukraine crisis offers another illustration of the problems in the proposed BIA. In European countries such as Moldova, Poland, Romania and Ukraine, local civil society organizations are knowledgeable of local conditions and have established and trusted networks in which they work effectively. Millions of dollars have been generously donated by Canadians to help Ukrainians survive

trauma, access safe water and dignified shelter, and escape human trafficking. However, to meet the BIA ‘prescribed conditions’ for qualifying disbursements, Canadian charities will have to exert operational control on life-saving operations that require a nimble and knowledgeable response and flexible arrangements. Canadian organizations know that good partnerships require mutual trust and that their charitable status can be revoked if they engage in corrupt partnerships. They are also highly motivated in times of crisis to get resources into the hands of those who best understand the local context so that charitable dollars can have the greatest impact. The language in the BIA would greatly impede Canadian charities’ capacity to do this.

Proposed amendments to the BIA

Since the tabling of the BIA and raising our concerns, the Canadian charitable sector has welcomed the government’s openness to dialogue. We have been clear that it is essential that the BIA be amended before being passed into law. These amendments will move us forward as a country, rather than backward, and put us more in line with global best practice in charity regulation. Our proposals will prevent the perpetuation of a colonial dynamic between charities and equity-seeking partners in Canada and around the world, and create the conditions for more, rather than less, partnerships between the charitable and philanthropic sector and communities that need the resources the most.

At a minimum, we strongly urge that the BIA be amended, at minimum, to:

- Refine the proposed definition of ‘qualifying disbursement’, section 149.1(1). Remove the reference to disbursement meeting ‘prescribed conditions’ and replace it with a requirement that the charity instead takes reasonable steps to ensure that the resources disbursed are used exclusively in furtherance of a charitable purpose.
- Amend language related to ‘directed giving’, paragraph 188(1)(f). This would allow Canadian charities to contribute to pooled funds supporting non-qualified donees.
- Delete proposed Regulation 3703 in its entirety. This would allow for regulations to be in the CRA guidance documents rather than exist as codified rules in the Income Tax Act.

We acknowledge and fully support the need for accountability in our fiscal regime. We are confident that the changes we propose will ensure the upmost accountability of Canadian charities and the trust of our supporters. We urge the government to address the unintended consequences of the BIA language so that we can put in place a regulatory framework that is connected to the reality and operations of Canadian charities improving lives in Canada and abroad.

Signatories

1. ACTED
2. Action Against Hunger
3. Action Canada for Sexual Health and Rights
4. ADRA Canada
5. AidWatch
6. Association québécoise des organismes
7. Alberta Council for Global Cooperation
8. Alternatives
9. Atlantic Council for International Cooperation
10. British Columbia Council for International Cooperation
11. Canada World Youth | Jeunesse Canada Monde
12. Canadian Feed the Children
13. Canadian Foodgrains Bank
14. Canadian Lutheran World Relief
15. CARE Canada

16. CECI (Centre d'étude et de coopération internationale - Centre for International Studies and Cooperation)
17. Climate Action Network Canada - Réseau action climat Canada
18. Coady Institute
19. Cooperation Canada | Coopération Canada
20. CPA Sans Frontières
21. Crossroads International
22. Cuso International
23. Development and Peace Caritas Canada
24. Equality Fund
25. Equitas - International Centre for Human Rights Education
26. Farm Radio International | Radios Rurales Internationales
27. Food for the Hungry Canada
28. Hope and Healing International
29. HOPE International Development Agency
30. Human Concern International
31. InterPares
32. Islamic Relief Canada
33. Jane Goodall Institute of Canada
34. KAIROS Canada
35. Kentro Christian Network
36. Manitoba Council for International Cooperation
37. Médecins du Monde Canada
38. Mennonite Economic Development Associates
39. Mission inclusion
40. Northern Council for Global Cooperation
41. Nutrition International
42. ONE Canada
43. Ontario Council for International Cooperation
44. Operation Eyesight
45. Oxfam Canada
46. Oxfam-Québec
47. Partners In Health Canada
48. PEGASUS Institute
49. Penny Appeal Canada
50. Plan International Canada
51. Primate's World Relief Development Fund
52. Results Canada
53. Samaritan's Purse
54. Saskatchewan Council for International Cooperation
55. Save the Children Canada
56. SOCODEVI
57. SOS Children's Villages Canada
58. Steelworkers Humanity Fund
59. SUCO
60. The McLeod Group
61. The United Church of Canada
62. Veterinarians Without Borders
63. VIDEA
64. World Accord
65. World Vision Canada
66. WUSC-EUMC