



**Canadians demand more
transparency in non-profit
and charitable sector**

**Pre-Budget Submission to
the House of Commons
Standing Committee on
Finance**



August 12, 2010

Dear Members of the Standing Committee on Finance,

Blumberg Segal LLP is a law firm based in Toronto that provides legal services to Canadian non-profits, registered charities and donors. Blumberg Segal LLP maintains a website, <http://www.globalphilanthropy.ca>, that provides extensive information and resources to Canadian charities to encourage them to comply with their legal and ethical obligations. Our firm is concerned about the well-being of the non-profit and charitable sector and grateful that you have asked Canadians for input as you prepare for the upcoming budget.

The non-profit and charitable sectors are vitally important for Canadian society and the economy. According to 2008 T3010 data, the charitable part of the sector alone has revenue of \$183 billion¹.

The vast majority of non-profits and charities attempt to be law abiding, transparent and ethical in their operations, however, some non-profits and charities are involved with reprehensible behavior and hide behind the confidentiality provisions of the *Income Tax Act* to avoid closer scrutiny. Unfortunately, these few bad apples are undermining public confidence in the sector.

There is tremendous public concern about the conduct of some non-profits and registered charities. Recent polling by Ipsos-Reid shows the public overwhelmingly wants more information about charities, their conduct and practices:

“Canadians continue to place great importance on the information charities provide to the public. Almost all Canadians think it is important (very or

¹ According to T3010 Registered Charity Information Return provided by the Charities Directorate of the Canada Revenue Agency the total revenue of registered charities is \$183,366,094,414.00. Of those funds approximately 2/3 come from government namely almost \$123 billion.

somewhat) for charities to provide information on how they use donations (98%), information about the programs and services the charities deliver (98%), information about charities' fundraising costs (97%), and information about the impact of charities' work on Canadians (96%).”²

The non-profit and registered charity sector is essentially divided into two. While non-profits and registered charities are both exempt from paying income tax, only registered charities, and some other categories of qualified donees, can issue official donation receipts for income tax purposes.

Confidentiality Provisions of the *Income Tax Act*

Currently, the confidentiality provisions in Section 241 of the *Income Tax Act* (Canada) forbid the Canada Revenue Agency (“CRA”) from disclosing any information about any non-profit or registered charity either through informal request or a formal access-to-information request unless the information falls within certain narrow exceptions such as the public part of the T3010 or the non-profit or registered charity consents to such disclosure.

Registered Charities

Without the consent of the registered charity, currently CRA can only provide the “entirety of or any part of any letter sent by or on behalf of the Minister to the charity relating to the grounds for the revocation or annulment” but only after the charity’s registration has been revoked. By the time the charity has lost its registered charity status it could be years after CRA started having significant concerns about the charity. Therefore, CRA has no ability to disclose to the public information about charities involved with abusive gifting tax shelters (totaling approximately \$5 billion dollars over the last 7 years), complaints about systemic child abuse, inappropriate third party transactions or other major concerns. The public and especially donors should have the right to know when CRA is aware of serious non-compliance with legal requirements by a charity and it will take amendments to the *Income Tax Act* to allow for such disclosure.

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

² Talking About Charities 2008 - Canadians’ Opinions On Charities And Issues Affecting Charities, Ipsos Reid

Non-Profit Organizations

It is estimated that there are over 80,000 non-profits that are not registered charities or other types of qualified donees in Canada. They are exempt from almost all transparency requirements and in many cases receive government funding and support and some also receive public donations. They are not required to disclose publicly anything about their finances including revenues, expenditure, compensation and programs. While non-profits that are not charities in some cases are required to file the two page Form T1044, *Non-Profit Organization (NPO) Information Return*, such form it is not made available to the public either electronically or by request. In essence, there is no transparency about these non-profits in Canada.

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

Conclusion

We need real transparency in the charitable sector. Secrecy breeds mistrust and lowers public confidence in the non-profit and charitable sector. The *Income Tax Act* should be amended to allow greater disclosure of information on Canadian non-profits and charities. We anticipate that there will be no fiscal cost for the adoption of these recommendations.

If you require further information or wish to discuss this submission, please do not hesitate to contact us.

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