



## 2021 Canadian Federal Budget - How will it affect the Canadian charitable sector?

**By Mark Blumberg (April 19, 2021)**

A lot has changed in the two years since the last Federal budget was delivered. Today, Canadian Finance Minister Chrystia Freeland introduced *Budget 2021: A Recovery Plan for Jobs, Growth and Resilience* for the Liberal Government of Justin Trudeau.

### Highlights

The budget dealt with big issues surrounding Canada's COVID-19 recovery: wage subsidies, affordable child-care, funding for Indigenous communities. It also touched on many different issues that affect charities. We will focus on some of the matters, particularly affecting charities and their regulation, but there is a lot in the 724 pages.

In my view, the highlight in the budget is a commitment in 2021-2022 of \$200 million to Employment and Social Development Canada (ESDC) "to establish a new Black-led Philanthropic Endowment Fund. This fund would be led by Black Canadians and would create a sustainable source of funding, including for Black youth and social purpose organizations, and help combat anti-Black racism and improve social and economic outcomes in Black communities." A recent [report](#) showed how few dollars go to Black-led organizations and groups that work primarily in Black communities. This is a victory for them.

Also, there will be another \$100 million in 2021-22 provided to the Supporting Black Canadian Communities Initiative at ESDC. This program supports the capacity building of Black-led non-profit organizations.

Another commitment in the budget is the proposal "to provide \$400 million in 2021-22 to Employment and Social Development Canada to create a temporary Community Services Recovery Fund to help charities and non-profits adapt and modernize so they can better support the economic recovery in our communities." As some charities and non-profits have had a very difficult year during COVID-19, this could be helpful. That said, it is far short of the 10B requested by at least one umbrella organization, and it will be interesting to see who ultimately benefits from the funds.

There are some minor changes to make it easier to revoke the charity status of charities involved with terrorism, and the definition of an "ineligible individual" was expanded to include present or previous membership of a listed terrorist entity. This might be a reaction to FATF who is not amused by Canada's lacklustre response to terrorism and money laundering. It will not have much impact on your charity unless you are really committed to supporting terrorism!

The Federal government seems to have largely ignored the Senate report on the charity sector, or any of the recommendations provided so far by the ACCS.

## **DONATION INCENTIVES**

There was nothing on new tax incentives for donations to registered charities except a clarification relating to cultural property. This is not surprising. Keep in mind that in December 2015, the Liberals [announced a major tax incentive when they raised taxes on those earning over \\$200,000 to 33%](#) but provided a matching tax incentive for those high-income earners who make charitable donations. In 2016, the Liberal Budget had indicated that the Liberals would not be proceeding with the extra tax incentives for donations of real estate and shares of private corporations. It is very unlikely they will reverse themselves on this position.

The amount of tax incentives for donations is already higher in Canada than perhaps any other country and with the huge budgetary constraints, it is not surprising that there are, and probably will not be, further incentives to encourage individuals and corporations to donate to registered charities. In the 2017 budget, they had removed the additional deduction for corporations who donate medicine and announced that the First-Time Donor's Super Credit "will be allowed to expire in 2017 as planned".

With COVID-19 the Liberals are more focussed on how tax dollars can be used to help certain marginalized groups, rather than encouraging/begging donors to donate to registered charities and perhaps dribble out grants of 3.5% per year. They are probably also concerned that most of the tax benefits accrue to higher-income individuals. The Biden Administration in the US has made lots of changes. However, Biden has not yet reversed the Donald Trump tax changes that indirectly resulted in 19 out of 20 Americans not receiving any tax incentive (or perhaps a few hundred dollars) for donating to charities. Therefore, there is probably little pressure on Trudeau and Freeland to increase incentives on giving.

### **NPORIP**

There was no mention of the NPO Risk Identification Project (NPORIP) in the last few budgets. The NPORIP was a CRA review of non-profits that are not registered charities and their compliance, especially in the area of non-profits and business activities. It would have been nice if Finance would have provided greater clarity on this issue. There are 80-100,000 non-profits that are not registered charities and there is some uncertainty around the extent to which they can operate.

### **TRANSPARENCY**

We were disappointed that there was no mention of increased transparency in the area of non-profits and charities. Currently, CRA is very limited in what information they can provide on registered charities and they cannot provide any information on non-profit organizations that are not registered charities. Here is a recent [submission](#) on this topic. Unfortunately, the government is not doing much to address the fact that trust in the charity sector is plummeting in Canada and it is partly due to lack of transparency. Without good transparency, it is unlikely that the public is going to trust charities. As we have seen over the last 9 months with the WE Charity scandal, even one charity carrying out questionable activities can undermine public trust in the charity sector. Having robust transparency

discourages this sort of behaviour and makes it easier to hold problematic charities accountable.

## **INCREASING DISBURSEMENT QUOTA**

The disbursement quota is the minimum amount a registered charity is required to spend each year on its own charitable activities, or on gifts to qualified donees (for example, other registered charities). The disbursement quota calculation is based on the value of a charity's property not used for charitable activities or administration. The disbursement quota is the minimum amount a registered charity is required to spend each year on its own charitable activities, or on gifts to qualified donees (for example, other registered charities). The disbursement quota calculation is based on the value of a charity's property not used for charitable activities or administration.

Currently the disbursement quota is set at 3.5%. Many, including myself, have argued that this is quite low and should be increased in light of the significant tax benefits for donors, for example to their own private foundations. Also, keep in mind that many foundations have had income or growth many times greater than 3.5% per annum! It makes the 3.5% figure seem particularly inappropriate when, at the moment, private foundations alone have about \$85 billion in assets.

Some have argued that the disbursement quota should be kept at that figure and that it is "complicated". I agree there is some complexity and if all foundations were spending 10-20 percent, we would not be having this discussion. However, some large foundations are not even spending 3.5% every year and many are only spending the minimum. The budget has proposed a "consultation" on this topic. It will be interesting to see who will do such consultation and whether the leaders of the consultation are on record as opposing this change! This government loves to consult but it would not have been very difficult, and would have cost anything, for them to increase the disbursement quota if they wanted to.

I have never believed that increasing the disbursement quota is, by itself, a solution. It is only part of a more complete solution. Foundations still need to do more to advance equity. A recent [report](#) showed how few dollars go to Black-led organizations and groups that work primarily on Black communities, and funders need to be much more cognizant of inequality and inequity, and the way it affects different groups in our society.

## **Here are some quotes from Budget 2021:**

### **Supporting Black Canadian Communities**

Events over the last year have shone a light on the complex and unique lived realities of Black Canadians. Data show that Canada's Black population remains one of the most disadvantaged, with a higher prevalence of low-income households, lower employment rates compared to the Canadian average, as well as a much higher likelihood of discriminatory treatment at work.

COVID-19 has only exacerbated these inequities linked to anti-Black racism, and many Black Canadian communities, and the organizations that support them, are increasingly vulnerable to economic hardship.

To continue to support the work of community organizations that empower, advocate for, and lift up Black Canadians:

Budget 2021 proposes to provide \$200 million in 2021-22 to Employment and Social Development Canada to establish a new Black-led Philanthropic Endowment Fund. This fund would be led by Black Canadians and would create a sustainable source of funding, including for Black youth and social purpose organizations, and help combat anti-Black racism and improve social and economic outcomes in Black communities.

Budget 2021 proposes to provide \$100 million in 2021-22 to the Supporting Black Canadian Communities Initiative at Employment and Social Development Canada.

The Supporting Black Canadian Communities Initiative is administered by Employment and Social Development Canada. The program supports capacity-building of Black-led non-profit organizations so they can better serve Black Canadian communities.

Organizations that recently received funding include:

- Black Wellness Cooperative of Nova Scotia (Bedford, NS): This organization provides expertise, knowledge, and training to promote health, wellness, and fitness among the African Nova Scotian and Mi'kmaq communities.
- Association Francophone de Brooks (Brooks, AB): 90 per cent of the francophone community of Brooks is of African origin. This organization offers activities for young people, community celebrations, and social activities for families in the francophone community of Brooks.

- Youth Stars Foundation (Montréal, QC): This organization supports vulnerable youth populations, including Black youth, by offering a variety of programs and workshops that use the arts, sports, dance, and music to foster life skills, promote self-esteem, and strengthen interpersonal skills.

Mobilizing the reach and expertise of community-based organizations is an important tool for empowering Black communities and confronting systemic economic barriers. It also ensures that federal investments best serve the needs of their communities. New research published by the Network for the Advancement of Black Communities and Carleton University found that Black-led and Black-serving charities receive significantly less grant funding than other charities in Canada.

## **Action Against Money Laundering and Terrorist Financing**

Money laundering and terrorist financing are a threat to the security of the financial system. An effective regime to combat these threats is essential to protecting Canadians and the integrity of the financial sector. Budget 2021 proposes to provide \$4.6 million over four years, starting in 2022-23, and \$0.6 million per year ongoing, to enable the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to: build its expertise related to virtual currency; supervise the armoured car sector; and develop and administer a cost recovery scheme for its compliance activities.

The Canada Revenue Agency plays an important role in the fight against terrorist financing and money laundering in Canada. In support of this role, amendments to the *Income Tax Act* are needed to address legislative gaps and streamline the revocation process to prevent abuse of charitable status.

- Budget 2021 proposes to amend the *Income Tax Act* to allow for the immediate revocation of charitable status for organizations listed as a terrorist entity.
- Budget 2021 also proposes to prevent individuals with a known history of supporting terrorism from becoming a director, trustee, or similar official of a registered charity.
- Budget 2021 further proposes to allow for the revocation of charitable status when a charity provides false statements for the purpose of maintaining their registration.

By preventing the abuse of charities, these proposed measures will strengthen Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime.

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## Registration and Revocation Rules Applicable to Charities

In order to further strengthen Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime, Budget 2021 proposes a number of amendments to the *Income Tax Act* in order to limit opportunities for the abuse of charitable registration status for terrorist financing purposes. Budget 2021 also proposes changes to the rules applicable to all registered charities in respect of certain false statements.

### Listed Terrorist Entities

Currently, under the *Income Tax Act*, the registration of a charity or other qualified donee may be revoked for non-compliance with the rules, but the Canada Revenue Agency must follow a series of steps in order to do so. In certain cases, a registered charity or other qualified donee may be listed as a terrorist entity under the *Criminal Code* by the Minister of Public Safety and Emergency Preparedness causing it to no longer qualify for registration. There is an administrative process that must be followed for an entity to be listed as a terrorist entity, with appeal rights to the courts.

Budget 2021 proposes to allow the Minister of National Revenue to immediately revoke the registration of a charity or other qualified donee upon its listing as a terrorist entity under the *Criminal Code*.

### Ineligible Individuals

Where a charity or Canadian amateur athletic association has an "ineligible individual" as a director, trustee, officer or like official, or where such an individual controls or manages the charity or association, the *Income Tax Act* provides the Minister of National Revenue with the discretion to refuse or revoke its registration, or to suspend its authority to issue official donation receipts.

Under current rules, an ineligible individual includes, in general terms:

- an individual who has been convicted of a criminal offence involving financial dishonesty; and
- an individual who – during a period in which a registered charity engaged in conduct that constituted a serious breach of the requirements for its registration and for which its registration was revoked within the previous five years – was a director, trustee, officer or like official of the charity, or controlled or managed the charity.

Budget 2021 proposes to amend the "ineligible individual" definition so that it includes an individual who:

- is, or is a member of, a listed terrorist entity; or
- in respect of a listed terrorist entity, was, during a period in which the entity supported or engaged in terrorist activities,
- a director, trustee, officer or like official of the entity; or
- an individual that controlled or managed, directly or indirectly, in any manner whatever, the entity.

The existing rule that requires the Canada Revenue Agency to only consider circumstances occurring within the preceding five-year period would not apply in relation to this measure.

## False Statements

The *Income Tax Act* currently allows for the revocation of the registration of a charity where a false statement amounting to culpable conduct is made for the purpose of obtaining registration. Budget 2021 proposes to allow the Minister of National Revenue to suspend the authority of a registered charity to issue official donation receipts for one year or to revoke its registration where a false statement amounting to culpable conduct was made for the purpose of maintaining its registration. All of these amendments would apply on Royal Assent.

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## 6.3 Building Stronger Communities

Canada's charities, non-profits, social enterprises, and other organizations provide vital services to our communities, including to the most vulnerable members of Canadian society. They work constantly to address hunger, improve socioeconomic outcomes for diverse Canadians, and keep communities connected and informed.

These organizations have provided essential services during the COVID-19 pandemic but they have also faced hardship. The Government of Canada is committed to providing them with temporary support. As we navigate our recovery, we must also bolster Canada's thriving social sector so that we can build healthy, resilient, and inclusive communities across the country.

### **Helping Charities, Non-profits, and Social Purpose Organizations Grow**

Communities across Canada face complex social, economic, and environmental challenges—many of which have been deepened by the COVID-19 crisis. Thousands of charities, non-profits, co-operatives, and other social purpose organizations are committed to addressing these challenges



directly at the community level. During the pandemic, many have seen demand for their services surge while watching their revenues plummet.

The sector employs over 611,000 people, many of whom are women, Black and racialized Canadians, young people, newcomers, and others who have been disproportionately affected by the pandemic. These organizations have invaluable on-the-ground knowledge of their communities' needs and provide much-needed community and social support. They are key partners in our work to reopen and rebuild our communities.

Social finance is about mobilizing private capital to bring about public good. To support the growth of social finance in Canada, strengthen our social sector, ensure our most vulnerable can access much-needed services, and help our communities recover more quickly:

The government is proposing to launch planned disbursements of the \$755 million Social Finance Fund and deploy up to \$220 million over its first two years. It is estimated that the Social Finance Fund could attract up to \$1.5 billion in private sector capital to support the development of the social finance market, create thousands of new jobs, and drive positive social change.

To ensure charities, non-profits, and social purpose organizations have the skills and capacity needed to access social finance opportunities:

Budget 2021 proposes to renew the Investment Readiness Program for \$50 million over two years, starting in 2021-22. This program supports charities, non-profits, and social purpose organizations in capacity-building activities such as business plan development, expanding products and services, skills development, and hiring.

## **Supporting Community Service Organizations**

A majority of the workers in the charity and non-profit sector are women. This sector has been significantly affected by the pandemic, causing further impacts on the she-cession. The effects have been especially significant for small and rural charities, whose ability to raise funds has been severely impacted even as the pressures for their services have grown.

Recent research from Imagine Canada suggests that as of late 2020, the average charity has reported a revenue decline of 16 per cent. Since the pandemic began, community service non-profit and charitable organizations have struggled to provide the fitness, children's programs, seniors programs,

and community building projects that Canadians rely on. These organizations have not been able to easily adapt and transition to remote work and online programming, which has made it hard for workers and left a gap in our communities, at a time when demand is higher.

Budget 2021 proposes to provide \$400 million in 2021-22 to Employment and Social Development Canada to create a temporary Community Services Recovery Fund to help charities and non-profits adapt and modernize so they can better support the economic recovery in our communities.

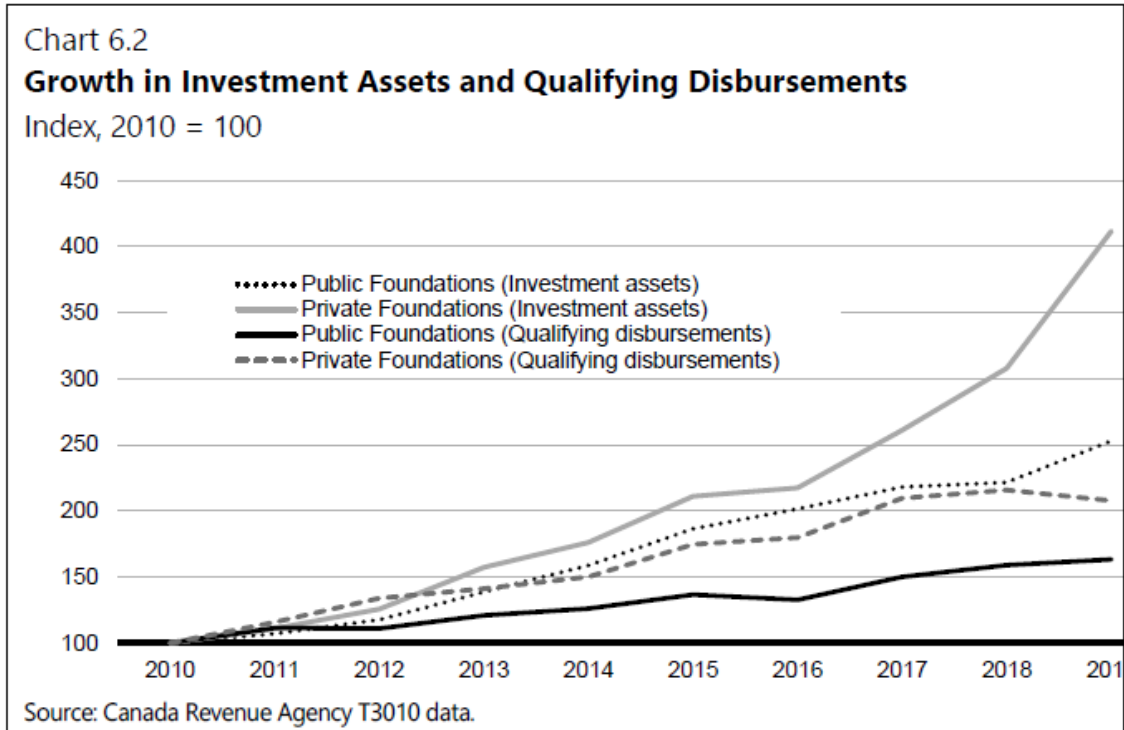
## **Boosting Charitable Spending in Our Communities**

Every year, charities are required to spend a minimum amount on their charitable programs or on gifts to qualified donees. This is known as the "disbursement quota" and it ensures that charitable donations are being invested into our communities.

While most charities meet or exceed their disbursement quotas, a gap of at least \$1 billion in charitable expenditures in our communities exists today. Furthermore, growth in the investment assets of foundations has increased significantly in recent years. In 2019, charitable foundations held over \$85 billion in long-term investments. But grant-making and other charitable activities have not kept pace.

Budget 2021 proposes launching public consultations with charities over the coming months on potentially increasing the disbursement quota and updating the tools at the Canada Revenue Agency's disposal, beginning in 2022. This could potentially increase support for the charitable sector and those that rely on its services by between \$1 billion and \$2 billion annually.

Chart 6.2



## Consulting on a New Canadian Social Bond

Social bonds are an opportunity to connect socially conscious investors with Government of Canada bonds that support social objectives such as reducing homelessness and improving access to high-quality early learning and child care.

Budget 2021 proposes to explore the potential for social bonds to complement the government's existing debt program. The government intends to include this topic as part of the Debt Management Strategy consultations this fall.

## Improving Food Security

At the height of lockdowns last spring, one in seven Canadians experienced food insecurity. Food Banks Canada reported a significant increase in use of food banks, especially among first-time users. The federal government responded quickly, investing nearly \$250 million to support local hunger relief initiatives.

Although things have improved, food bank lineups are still long, community food organizations are working long hours, and more than a third of those who rely on food banks are children. In Canada,

no one should need to go hungry. To provide continued support to emergency hunger relief organizations:

Budget 2021 proposes to provide \$140 million in 2021-22 to top up the Emergency Food Security Fund and Local Food Infrastructure Fund, which would prevent hunger, strengthen food security in our communities, and provide nutritious food to more Canadians.

*Mark Blumberg is a lawyer at Blumberg Segal LLP in Toronto.*

*To find out more about legal services that Blumbergs provides to Canadian charities and non-profits please visit [www.canadiancharitylaw.ca](http://www.canadiancharitylaw.ca) Blumbergs also maintains Canada's largest charity information portal at [www.charitydata.ca](http://www.charitydata.ca) with up to 17 years information on every Canadian registered charity. The portal is free and the aim is to increase transparency in the Canadian charity sector.*

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