



Finance 2018 Fall Economic Statement and its Impact on Canadian Charities, Journalism and Social Finance

By Mark Blumberg (November 21, 2018)

The Department of Finance released their 2018 Fall Economic Statement today. It is 158 pages. There were a number of initiatives relating to charities and non-profits mentioned including:

- 1) Journalism
- 2) Political Activities
- 3) A Permanent Advisory Committee on the Charitable Sector
- 4) The Social Finance Fund

There was no mention of improving transparency in the non-profit and charitable sector which is sad but not surprising. There was an editorial in the Toronto Star talking about how Governor Generals get expense funds after they leave office. I doubt the 4 or so living ex-Governor Generals are expensing more than \$850,000 in total per year. Yet the charity sector has over \$250 Billion in revenue and we have no idea how much non-profits that are not registered charities take in or spend. The Toronto Star writes relating to the ex-Governor Generals "It bears repeating that a program with no transparency, no limits and no accountability is a very bad idea." For non-profits that are not charities the rules have not changed since 1917 and the transparency reflect 1917 standards ie. there is no transparency!

Here are some tentative thoughts on these 4 announced initiatives.

1. Journalism

The Federal government is going to introduce a new category of qualified donee "for non-profit journalism organizations that produce a wide variety of news and information of interest to Canadians. As qualified donees, eligible non-profit journalism organizations would be able to issue official donation receipts, which allows donors to benefit from tax incentives for charitable giving (including the Charitable Donations Tax Credit for

individuals and deductions for corporations). As qualified donees, these organizations would also be eligible to receive funding from registered charities.”

The details are sparse but we will be hearing more in the upcoming Federal budget. The government had essentially two options relating to journalism and charity – either change the definition of charity to include media organizations or create a separate type of qualified donee for media organizations. It probably made more sense to go the latter route and not try to amend the definition of charity to include non-profit journalism. As it is there are many different activities that a charity can do that relate to journalism – however they are creating a new category and they can fiddle with this category rather than charity law until they get it right.

A qualified donee is a type of organization that can issue “official donation receipts”.

The current list of qualified donees are the following:

- a registered charity (including a registered national arts service organization)
- a registered Canadian amateur athletic association
- a registered housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged
- a registered Canadian municipality
- a registered municipal or public body performing a function of government in Canada
- a registered university outside Canada, the student body of which ordinarily includes students from Canada
- a registered charitable organization outside Canada to which Her Majesty in right of Canada has made a gift
- Her Majesty in right of Canada (i.e. the Federal government), a province, or a territory
- the United Nations and its agencies

If we have 10 categories today, then we will one day have 11. The Eligible Non-profit Journalism Organizations (ENJO) or whatever it is called will have rules associated with how an organization can qualify and if they are like most qualified donees that are not registered charities or RCAAAs they will probably only have to comply with the charity rules around receipting and books and records and perhaps not other rules. Presumably they will need to be set up as non-profit corporations or trusts. It is not clear what the transparency on these entities will be. Presumably there will be a list of them on the CRA website. It is also not clear whether there would be restrictions for example that these organizations need to focus on local journalism or perhaps not focus on sports or have to

have only original news content etc. But we will have to see. It is not clear how significant the application process or whether it will be managed by CRA as the government seems to indicate an independent panel of journalists will define professional journalism and determine eligibility.

If a person or company makes a donation to a ENJO then they will get a tax receipt. A registered charity such as private or public foundation can make a gift to an ENJO if they have objects of making gifts to qualified donees (not just registered charities) so many private and public foundations with their current objects cannot support these entities. Funders who are interested in supporting these entities should look carefully at their objects and consider whether [object changes may be necessary](#).

Support for Canadian Journalism

A strong and independent news media is crucial to a well-functioning democracy. It empowers citizens by providing them with the information they need to make informed decisions on important issues, and also serves to hold powerful institutions—including governments—to account by bringing to light information that might not otherwise be made available to the public. In short, strong and independent journalism serves the public good— for Canada, and for Canadians. Canadians have a right to a wide range of independent news sources that they can trust, and government has a responsibility to ensure that Canadians have access to these kinds of news sources.

In recent years, changes in technology and in the way that Canadians consume news have made it difficult for many news outlets to find and maintain financially sustainable business models. At a time when people increasingly get their news online, and share news and other content through social media, many communities have also been left without local news outlets to tell their stories. Concerns have been expressed that, without government intervention, there may be a decline in the quantity and quality of journalism available to Canadians, including a significant loss of local news coverage.

In November 2018, the Prime Minister, together with other world leaders, committed to take action to support a strong and independent news sector in the digital age. The Government recognizes the vital role that local journalism plays in communities all across the country, and is committed to finding ways to help keep people, and communities, connected through local news providers.

Budget 2018 announced \$50 million over five years to support local journalism in under-served communities, helping to ensure that Canadians continue to have access to informed and reliable civic journalism. Starting in 2019-20, independent, not-for-profit organizations will have additional government support to create open source news content under a creative commons licence. This will allow local news organizations to access the content produced for free, helping to bolster local news coverage as organizations struggle with reduced capacity. Budget 2018 further

announced that the Government would explore new models to provide financial support for journalism in Canada. In determining its approach, the Government considered two key principles, which stipulate that any mechanism to support the news sector:

- Be arms-length and independent of the Government. To this end, an independent panel of journalists will be established to define and promote core journalism standards, define professional journalism, and determine eligibility.
- Be focused on the creation of original news content.

Guided by these principles, the 2018 Fall Economic Statement announces the Government's intention to propose three new initiatives to support Canadian journalism: allowing non-profit news organizations to receive charitable donations and issue official donation receipts, introducing a new refundable tax credit to support original news content creation, including local news, and introducing a new temporary non-refundable tax credit to support subscriptions to Canadian digital news media.

Access to Charitable Tax Incentives for Eligible News Organizations

Budget 2018 announced that the Government would explore new models that would enable private giving and philanthropic support for trusted, professional, non-profit journalism, including local news. To that end, the Government intends to introduce a new category of qualified donee, for non-profit journalism organizations that produce a wide variety of news and information of interest to Canadians. As qualified donees, eligible non-profit journalism organizations would be able to issue official donation receipts, which allows donors to benefit from tax incentives for charitable giving (including the Charitable Donations Tax Credit for individuals and deductions for corporations). As qualified donees, these organizations would also be eligible to receive funding from registered charities.

There are a couple of related items relating to journalism:

A New Refundable Tax Credit to Support News Organizations

To further support news journalism in Canada, the Government intends to introduce a new refundable tax credit for qualifying news organizations. This new measure will aim to support Canadian news organizations that produce a wide variety of news and information of interest to Canadians. The refundable credit will support labour costs associated with producing original news content and will generally be available to both non-profit and for-profit news organizations. An independent panel will be established from the news and journalism community to

define eligibility for this tax credit, as well as provide advice on other measures. Once established, the effective date of the refundable tax credit will be set for January 1, 2019.

A New Non-Refundable Tax Credit for Subscriptions to Canadian Digital News Media

To support Canadian digital news media organizations in achieving a more financially sustainable business model, the Government intends to introduce a new temporary, non-refundable 15-per-cent tax credit for qualifying subscribers of eligible digital news media.

In total, the proposed access to tax incentives for charitable giving, refundable tax credit for labour costs and non-refundable tax credit for subscriptions will cost the federal government an estimated \$595 million over the next five years. Additional details on these measures will be provided in Budget 2019.

Support for Canadian Journalism

These measures announce the Government's intent to allow non-profit news organizations to receive charitable donations and issue official donation receipts, as well as to introduce a new refundable tax credit to support original news content creation and a new non-refundable tax credit for subscriptions to Canadian digital news media. Direct benefits for the first two measures would accrue to non-profit news organizations and for-profit businesses, ownership of which is not evenly distributed throughout the economy. To the extent that these measures indirectly impact employment and wages in the news industry, benefits are expected to be shared by the diverse groups of men and women, including their families, working in this sector. Direct benefits from the tax credit for subscriptions would accrue to individuals claiming the credit.

According to Statistics Canada data, employment in the journalism sector is close to gender balanced, with 48 per cent of all journalists being women. It is anticipated that the same balance will be maintained in non-profit news organizations. Indigenous people account for 2.6 per cent of employment in the information, culture and recreation sector, which includes the news industry, and 2.9 per cent of employment in all sectors of the economy. The measures are intended to strengthen news organizations in Canada that produce a wide variety of news and information of interest to Canadians.

The update estimates that the three "Support for Canadian Journalism" initiatives will cost about 45m in 2019-2020 and rise to 165m in 2023-24. It is anticipated that there will be no costs this fiscal year which ends March 31, 2019 and \$595 million over the next five years.

One minor cautionary note – a qualified donee category can be easily adjusted to impose greater limitations so any journalism outfit should think very carefully before jumping in to become a qualified donee. Also once you are in it may be very difficult to get out without giving up all your assets.

2. Political Activities

I am quite unhappy about the recent Finance changes to the rules for charities and political activities that were announced on October 25, 2018. I have discussed those changes in my blog [Finance Changes to Political Activities and Canadian Charities](#).

Anyway here is what Finance says:

Better Public Policy Through Cooperation

Every day, Canadians come together to support each other, to help out friends and neighbours, to give to those most in need, to protect the environment, and build a better Canada. Canadians' generosity is also seen in the important role that charities play in our society. Along with providing much-needed programs and services in communities all across the country, Canada's charities serve the interests of all Canadians by pressing for positive social and environmental change. They bring to public policy development a deep commitment and considerable expertise, along with experience in developing innovative solutions and reaching out to a wide range of stakeholders. This is particularly valuable in an era of complex social and environmental challenges and constrained government budgets, where all informed perspectives and ideas should be considered. To make the most of what charities have to offer, Canada needs a regulatory environment that respects and encourages the full participation of charities in public policy dialogue and development.

A Stronger Role for Charities in Developing Public Policy

Recognizing the important contributions that charities make to public life and public policy in Canada, the Government has committed to allow charities to do their work on behalf of Canadians free from political harassment, with clearer rules governing political activity. To this end, the Government announced in August 2018 that it would amend the Income Tax Act to remove the limits on political activities, allowing charities to participate fully in public policy development. Canadians provided feedback on draft legislative proposals, and legislation to implement these measures was introduced on October 29, 2018 as part of the Budget Implementation Act, 2018, No. 2.

In a note on page 106 the Department notes:

Response to Consultation Panel on Political Activities by Charities

The Government has proposed, in Bill C-86, changes to the Income Tax Act to remove the current limits on non-partisan political activities to allow charities to engage fully in public policy dialogue and development in furtherance of their charitable purposes. This cost reflects the expected increase in claims of the Charitable Donation Tax Credit and other tax incentives for charities.

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|----------------|------------|
| 2018/19 | 10m |
| 2019/20 | 40m |
| 2020/21 | 60m |
| 2021/22 | 80m |
| 2022/23 | 90m |
| <u>2023/24</u> | <u>90m</u> |
| Total | 370 |

It is interesting to see their numbers. I think they are a little conservative. But anyway they are guessing that increased donations to charities on account of this unlimited political activities will be up to 90m in Federal taxes per year by 2022 would be foregone which means charities would be spending about say \$300m more on political activities per year. These figures don't include the hit to provincial governments. By my off the napkin calculation it appears that Finance is guessing that there will be about a 1200% increase in the amount of spending by registered charities from the numbers declared at the moment which are about 25m per year. Not sure how Finance is going to measure this as these public policy dialogue and development activities aka non-partisan political activities are now "charitable" and donations to charities therefore presumably are just regular donations to charities. I think we are going to have single individuals that will receive more than 90m in Federal tax relief but let us see who is right. The issue is not just going to be foregone Federal tax and provincial tax but the ultimately the quality of the work coming from a small number of charities with barely hidden partisan agendas that can undermine public confidence in the sector. Unfortunately we only need to look at the US at the moment to see the corrosive impact of lots of dark money and political contributions funneled through the non-profit sector.

It looks like the Finance Dept will be spending about 1m on political activities over the next 5 years and CRA will be investing about \$4m on that issue over the next 5 years. Not clear what that is for – I assume not for political activity audits of registered charities!

3. A Permanent Advisory Committee on the Charitable Sector

There has been lots of discussion about whether or not there should be a government department other than the CRA to be a home or hub for the non-profit and charity sector. Not sure if it is a good idea as charities essentially deal with almost every government department on the Federal, provincial and municipal level so the notion of one home may perhaps pigeonhole charities. Additionally, if the charity sector has one home – if there were a bad minister there could be a few bad years for the sector. Instead Finance has proposed a baby step by creating “A Permanent Advisory Committee on the Charitable Sector” to be led by the CRA.

A Permanent Advisory Committee on the Charitable Sector

The Government is committed to engaging in a meaningful dialogue with charities, and ensuring that the regulatory environment in which they operate is appropriate and supports the important work they do. In response to the recommendations of the Consultation Panel on the Political Activities of Charities, as well as the Social Innovation and Social Finance Strategy Co-Creation Steering Group, the Government is establishing a permanent Advisory Committee on the Charitable Sector. Led by the Canada Revenue Agency, the Advisory Committee will be made up of stakeholders from the charitable sector, and will provide advice to the Government on important issues facing charities on an ongoing basis. The Government is providing \$4.6 million in new funding over the 2018–19 to 2023–24 period for the Advisory Committee to strengthen the relationship between government and this important sector.

Permanent Advisory Committee on the Charitable Sector

Canada’s charitable sector is highly diverse, with registered charities carrying out activities in service of a vast range of communities, including individuals identifying as LGBTQ2+, the impoverished, refugees, and survivors of violence. There are approximately 86,000 registered charities in Canada. Registered charities generally fall within the following categories:

- Relief of Poverty (23 per cent).
- Advancement of Education (16 per cent).

- Advancement of Religion (38 per cent).
- Other Purposes Beneficial to the Community (23 per cent).

According to the 2017 Canadian non-profit sector salary and benefits study, women make up approximately 75 per cent of the workforce and 71 per cent of the management positions in Canada's charitable and non-profit sector. Consulting regularly with charities on key regulatory issues is expected to improve the charitable sector's understanding of and compliance with existing rules and requirements. Over the long and medium term, the Advisory Committee could influence administrative policies and legislative rules affecting the charitable sector, resulting in positive impacts on a variety of different groups.

The government estimates that the cost will be about 1m per year.

It is interesting to read the gender-based analysis for each measure including this one which notes for example "women make up approximately 75 per cent of the workforce and 71 per cent of the management positions in Canada's charitable and non-profit sector." That would seem to indicate relative equality – but I am not sure that the picture is nearly that rosy as you start to look at senior management positions.

4. The Social Finance Fund

The Finance Department has announced a new Social Finance Fund.

In June 2017, the Government created a Social Innovation and Social Finance Strategy Co-Creation Steering Group, primarily comprised of experts from the charitable and non-profit sector, to provide recommendations on the development of a social innovation and social finance strategy. The Steering Group delivered its final report, *Inclusive innovation: New Ideas and New Partnerships for Stronger Communities*, in August 2018. One of the report's key recommendations was to create a Social Finance Fund to help close the capital financing gap faced by organizations that deliver positive social outcomes, and to help accelerate the growth of the existing social finance market in Canada.

To help charitable, non-profit and other social purpose organizations access new financing, and to help connect them with private investors looking to invest in projects that will drive positive social change, the Government proposes to make available up to \$755 million on a cash basis over the next 10 years to establish a Social Finance Fund. Additionally, the Government proposes to invest \$50 million

over two years in an Investment and Readiness stream, for social purpose organizations to improve their ability to successfully participate in the social finance market. It is expected that a Social Finance Fund like the one the Government is proposing could generate up to \$2 billion in economic activity, and help create and maintain as many as 100,000 jobs over the next decade.

Details on the governance and parameters of the Fund will be developed further in the coming months and released in early 2019. In addition to these measures, the Government will continue to work on exploring other recommendations from the Steering Group's report.

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