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Charity and Politics

The Canada Revenue Agency (CRA) is inviting Canadians to weigh in on the timely and important issue of charities and political activities, unnecessarily politicized by the previous government, but which we must now address with an eye to modernization.

Charities play a vital role in Canadian democracy, serving as the most common venue through which Canadians express and exercise their civic roles and participate in culture and community life. Charities also provide safe havens for those suffering abuse or neglect and are at the front lines of poverty, racism, addiction, family violence and other dynamics that hold back our communities from being the best they can be. Thriving communities need strong, confident charities with *all* of the tools they require to address the issue that their donors and volunteers – we Canadians – ask and expect of them.

Appropriately, we value these roles through provisions in the Income Tax Act that acknowledge the role charities play in creating public benefit. However, with the current approach to regulating the political activities of charities, a strong signal is sent that public advocacy is – at best – a marginal arrow in the quiver, and certainly not central to the purposes of the organization.

Yet, when Canadians donate to an organization working to regulate toxins in food or in children's toys, or to ensure that Indigenous children have the best chance of succeeding through equity of education financing, as just two examples, they *expect* that the NGOs who are advocating for these purposes are doing public policy work. The current regulatory framework tacitly assumes that Canadians would somehow be mortified if their donation was channeled to such advocacy. Yet, Canadians express their civic preferences in many ways, not simply through donating to political parties (which, ironically, enjoy the most favourable treatment of all, vis-a-vis income tax deductible gifts). As such, it is time we recognize and value the panoply of voices and perspectives in the civic "marketplace" of ideas and encourage, rather than scold, interventions in public policy by charities.

The current regulatory interpretation - punctuated by the "10% rule" does - on the surface - facilitate and acknowledge the role of charities in public policy discourse. On the face of it, it is reasonable and, in fact, is underutilized by the vast majority of charities. However, the notion that public policy advocacy

is something *apart from* charitable activities is actually stifling the voice of charities, who represent vital intelligence on many major public policy questions. Boards of charities across the country are squarely focused on their fiduciary duties: We can belittle this as unnecessarily conservative, but they are only applying a mainstream risk lens based on the available information. Moreover, the fact that no such restriction exists for the private sector - on the contrary, such advocacy is typically incentivized through tax write-offs - is patently unfair, skewing the democratic discourse toward private interests and away from public interests, all else being equal.

While the blanket restriction on partisan activity should remain, the current distinction between political and charitable activity is tortured and arbitrary (especially in the enforcement). Moreover, when considering any restrictions, the emphasis should be on charitable *purposes* rather than *activities*. As well, the notion that accountants - not independent public policy experts - are auditing charities for political activities is also troubling. It is as absurd as letting political scientists audit financial statements.

There are also much larger questions about charitable activity that we must address in Canada, well beyond political activity. Some years ago, the UK modernized the Elizabethan definition and scope of charity (which Canada still largely relies upon), such that activities like environmental protection, protecting human rights, promoting arts and culture and developing community are all considered charitable. In Canada, for example, we are permitted to relieve the effects of poverty, as a charitable activity, but not seek to *end* poverty. This is a grotesque and antiquated formulation, surely offensive to the ethics of most Canadians in the twenty-first century.

Therefore, while the CRA consultation is welcome and timely, we can hope that it is just the beginning of a new and ambitious dialogue to reconsider and reshape our country's approach to 'charity'. We might even ask – in this era of reconciliation - whether 'charity' is the appropriate term for public-purpose activity.

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