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The 2021 Federal Budget: Impact on the Charitable and Non-Profit Sector

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On April 19, 2021, Finance Minister Chrystia Freeland tabled the 2021 Federal Budget (**Budget 2021**), which is the first Federal Budget introduced since 2019, almost a year before the COVID-19 pandemic began.

Budget 2021 contains temporary spending measures and longer-term investment priorities, both new and continuing, to tackle COVID-19, recover from the impact of the pandemic, and support growth and development. These measures and investments will mean continued support and new funding opportunities for the charitable and non-profit sector. In addition, Budget 2021 includes some measures which could have a potential impact on charitable spending requirements and the charitable status of Canadian registered charities.

Some highlights from Budget 2021 that will be of interest to Canadian charities and non-profits are outlined below.

Continued Funding Supports and Additional Investments

Pandemic-Related Supports

Budget 2021 proposes to extend a number of pandemic-related support programs, including the Canada Emergency Wage Subsidy (**CEWS**), the Canada Emergency Rent Subsidy (**CERS**), and the Lockdown Support until September 25, 2021, with gradual narrowing of these support measures beginning on July 4, 2021. For further details about these programs, see the article written by our tax colleagues Ted Citrome and Kay Leung.

Support for Canada's Social Finance Market

Budget 2021 announced that the Federal government is planning to expend previously planned disbursements of up to \$220 million in the next two years from the Social Finance Fund. The objective of the Fund is to provide social purpose organizations (which include charities, non-profits, co-ops and social enterprises, both non-profit and for-profit) with access to capital to carry out activities which will have a positive social or environmental impact. The Fund was first announced in the 2018 Fall Economic Statement (see our November 26, 2018 article) and the federal government re-affirmed its commitment to the Fund in the 2019 Federal Budget (see our March 29, 2019 article).

Budget 2021 also proposes to renew the Investment Readiness Program, which was first announced in June of 2019, for \$50 million over two years. This Program is to be used to support social purpose organizations to tackle urgent social, cultural, and environmental challenges faced by Canadians. Its goal is to assist these organizations with building capacity to allow them to participate in Canada's social finance market, and to prepare them to participate in the Social Investment Fund.

Other Funding Supports and Opportunities

Budget 2021 contains proposals to continue and expand upon existing support and investment in areas that are relevant to Canadian charities and non-profits, including supports for marginalized communities which have suffered disproportionately due to the impact of the pandemic.

Some highlights of these proposed measures include the following:

- \$140 million to top up the Emergency Food Security Fund and Local Food Infrastructure Fund, with the aim of preventing hunger, strengthening food security, and providing more Canadians with access to nutritious food;
- Additional investments in the Rapid Housing Initiative to address the urgent housing needs of vulnerable Canadians by supporting rapid construction of affordable housing, the Affordable Housing Innovation Fund, which supports the creation of new funding models and construction strategies in the affordable housing sector, and the National Housing Co-Investment Fund, which supports the creation of affordable housing units and units for people who have accessibility challenges; and
- \$100 million in additional funding for the Supporting Black Canadian Communities Initiative which enables capacity building for Black-led non-profit organizations.

New Funding Supports and Opportunities

New Temporary Supports

Budget 2021 includes a number of proposed temporary support measures that will be of interest to charities and non-profits, including the following:

- A proposal to augment the Canada Small Business Financing Program, including by allowing charitable and non-profit social enterprises to be eligible for this program;
- The creation of the Canada Recovery Hiring Program, which would provide eligible employers, including charities and non-profits, with subsidies to off-set part of the additional costs that employers are facing as they begin to re-open; and
- A temporary Community Services Recovery Fund of \$400 million in 2021-22 to help charities and non-profits adapt and modernize to enable them to better support economic recovery of Canadian communities.

New Funding Opportunities

The COVID-19 pandemic has highlighted the social, economic, and environmental challenges that

Canadians face, and has emphasized the unequal negative impact that these issues, and the pandemic itself, have on marginalized groups.

Budget 2021 contains a number of new funding opportunities, some of which are in response to the challenges that have been exacerbated by the pandemic, that will be relevant to charities and non-profits, including the following:

- A national autism strategy consisting of \$15.4 million of support over two years to improve the health and well-being of Canadians with autism spectrum disorder and their caregivers;
- The creation of a Black-led Philanthropic Endowment Fund to create sustainable sources of funding, including for social purpose organizations, to help combat anti-Black racism and improve social and economic outcomes in Black communities across Canada;
- Various measures to support the arts, culture, heritage and sports sectors in their pandemic recovery such as funding to help facilities comply with public health guidelines and new significant investments in festivals and events; and
- A proposal to provide \$275 million over five years in support of the reclamation, revitalization and strengthening of Indigenous culture.

Potential Impact on Charitable Spending and Charitable Status

Budget 2021 contains various proposals which could impact the status of Canadian registered charities. Many of these proposals build on current powers of the CRA.

The Disbursement Quota

Budget 2021 has proposed launching public consultations with charities on potentially increasing the disbursement quota (DQ) and updating the tools at the CRA's disposal to enforce DQ requirements. The DQ is the minimum amount required by the *Income Tax Act (Canada) (ITA)* that Canadian registered charities are required to spend each year on their charitable activities (which includes providing funds to other Canadian registered charities). Currently, charities are required to disburse 3.5% of their assets which are not used directly in the pursuit of their charitable activities or on their own administration.

The purpose of the DQ is to ensure that charities use their funds for charitable purposes and contribute to the community at large, rather than merely accumulating wealth. The rationale for increasing the DQ is that it would expand overall levels of expenditures by registered charities on their programs and activities in Canada. However, there is speculation that the purpose for an increase in the DQ is to target donor advised funds (DAFs). Charities, particularly those with significant DAFs, will benefit from monitoring and involving themselves in the proposed public consultations about the DQ.

False Statements

Currently the *ITA* gives the CRA the power to revoke the charitable status of a charity where, in the process of obtaining charitable status, the charity made a false statement which could amount to culpable conduct. Culpable conduct includes intentional conduct, indifference to compliance with the *ITA* and willful disregard for the law. Budget 2021 proposes to expand this power such that the CRA can suspend a charity's ability to issue official donation receipts for one year or revoke charitable status upon a finding by the CRA that a false statement amounting to culpable conduct has been made for the purpose of maintaining charitable registration.

Ineligible Individuals

Under the *ITA*, the CRA is granted the power to refuse or to revoke the registration of a charity or suspend a charity's ability to issue official donation receipts if, within the past five years, an "ineligible individual" is a director, trustee, officer or official of the charity or otherwise controls or manages the charity. An

“ineligible individual” includes someone who has been convicted of certain offences or was involved with a charity that lost its charitable status for breaching serious requirements of charitable registration.

Budget 2021 proposes to amend the *ITA* to also include individuals who “support terrorism” as “ineligible individuals”. Unlike the current provisions, there will be no five year time-limit on the newly added criteria.

Listed Terrorist Entities

Under the *ITA*, a registered charity can have its status revoked if it is listed as a terrorist entity under the *Criminal Code*. There is currently a process that must be followed for a charity to lose its status on this basis. Budget 2021 proposes to amend the *ITA* to allow for the immediate revocation of the charitable status of an organization which is listed as a terrorist entity without following a prescribed process. If, however, an organization successfully appeals its “terrorist entity” status, the organization will be deemed to have never been listed as a “terrorist entity” and therefore never ceased to be a charity. While curtailing terrorist activities is certainly desirable, the proposed deeming provision could significantly impact the rights of charities.

Audits

Budget 2021 proposes amendments to the *ITA* (and other statutes) in order to confirm the auditing authority of the CRA. In particular, persons will be required to answer all proper questions and to provide all reasonable assistance, in written, verbal, or other form required by the CRA, for any purpose related to the administration or enforcement of the *ITA*.

Budget 2021 proposes various amendments to the *ITA* and contains many announcements that pertain to charities and non-profits. The impact of these proposals will become clearer as further details become available.

We would be happy to advise on any changes in law and policy that may affect your organization.

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