



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **TAX INCENTIVES FOR CHARITABLE GIVING IN CANADA**

## **Report of the Standing Committee on Finance**

**James Rajotte, MP  
Chair**

**FEBRUARY 2013**

**41st PARLIAMENT, 1st SESSION**

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Published under the authority of the Speaker of the House of Commons

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# **THE STANDING COMMITTEE ON FINANCE**

has the honour to present its

## **FIFTEENTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the tax incentives for charitable donations and has agreed to report the following:



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# TAX INCENTIVES FOR CHARITABLE GIVING IN CANADA

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## INTRODUCTION

Canada has a long history of charitable giving, and the entities thought to be responsible for providing charity — whether family, friends, neighbours, faith-based groups, or organizations formed to provide aid with government or other resources — have evolved over time. To at least some extent, a number of Canadians rely on charities to deliver services previously delivered largely by the various levels of government. From one perspective, the tax revenue allocated to these activities in the past has been replaced by tax measures — including for charitable contributions by individuals and corporations — that facilitate donations to the charity or charities of a donor's choice.

On 20 September 2011, the House of Commons Standing Committee on Finance adopted a motion to undertake a study of current tax incentives for charitable donations. The objective was to gather the views of individuals and organizations about existing and possible incentives, and to make recommendations that would encourage increased giving. This motion followed the adoption by the House of Commons, on 2 March 2011, of the motion introduced by Mr. Peter Braid, M.P. that: “the Standing Committee on Finance be instructed to undertake a study of the current tax incentives for charitable donations with a view to encouraging increased giving, including but not limited to (i) reviewing changes to the charitable tax credit amount, (ii) reviewing the possible extension of the capital gains exemption to private company shares and real estate when donated to a charitable organization, (iii) considering the feasibility of implementing these measures; and that the Committee report its findings to the House.”

To that end, over the course of 8 meetings during which the Committee heard from 36 organizations and 5 individuals, comments were made about the amount of charitable donations and the number of donors in Canada, the regulation of charities, and existing tax incentives for charitable giving and their estimated federal fiscal cost. These topics are discussed in Chapter One.

Chapter Two describes proposals made by the Committee's witnesses for changes to existing tax measures in order to encourage charitable giving. It also indicates the witnesses' thoughts about transparency and accountability in respect of charities, and about their fundraising activities. Finally, the chapter summarizes the witnesses' views on such other issues as the establishment of a culture of giving, the use of existing data to understand better the various aspects of charitable giving, housing and poverty reduction, a number of human rights issues in the context of charities and the use of technology to make charitable donations.

The Committee's recommendations in relation to charitable giving are provided in Chapter Three.

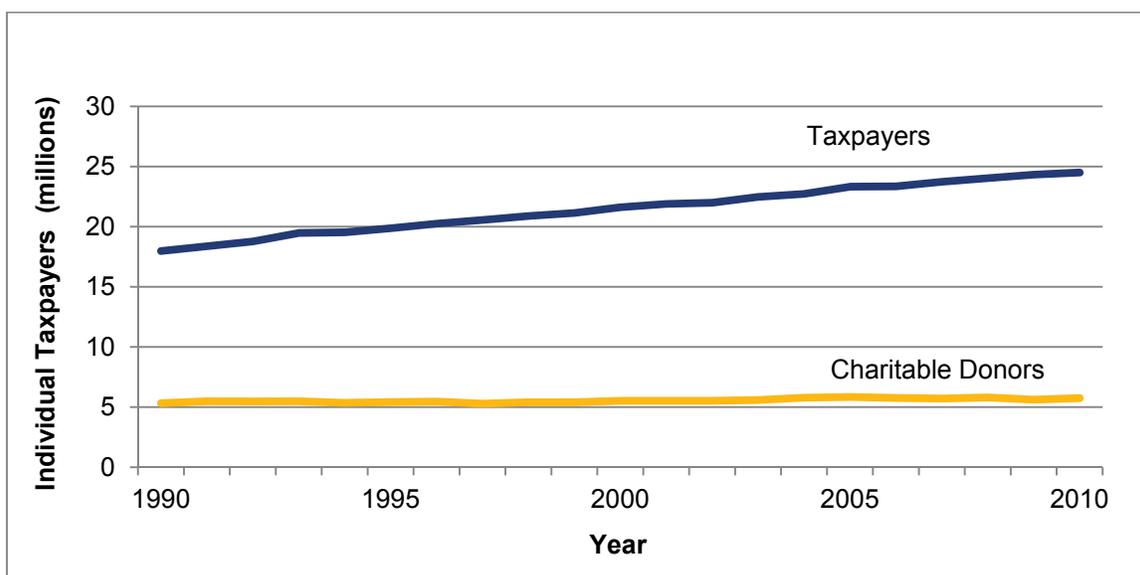


## CHAPTER ONE: DONORS AND DONATIONS, REGULATION AND EXISTING TAX INCENTIVES

### A. Charitable Donations and Donors in Canada

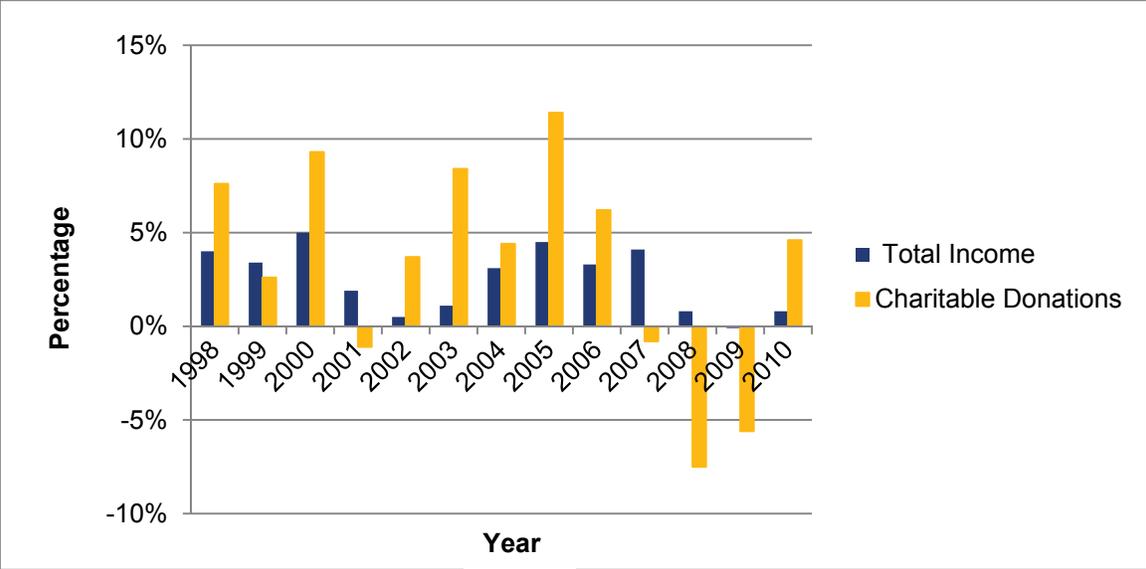
According to Statistics Canada, for the 2010 taxation year, approximately one in five individual taxpayers reported making a charitable donation; the median donation was \$260. As shown in Figures 1 to 4, which were provided to the Committee by Statistics Canada, the total number of taxpayers claiming a charitable donations tax credit was stable between 1990 and 2010, the total number of individual taxpayers increased from approximately 17 million to 24 million over the same period, charitable donations by individuals decreased from 2007 to 2008 and from 2008 to 2009 before rising from 2009 to 2010, one half of the total charitable donations by individuals in the 2010 taxation year were made by donors with an annual income of at least \$80,000, and 80% of charitable donations made by individuals in the 2010 taxation year were given by donors aged 45 years and older.

**Figure 1 — Total Number of Individual Taxpayers and the Total Number of Taxpayers Claiming a Charitable Donations Tax Credit, Canada, 1990–2010 Taxation Years**



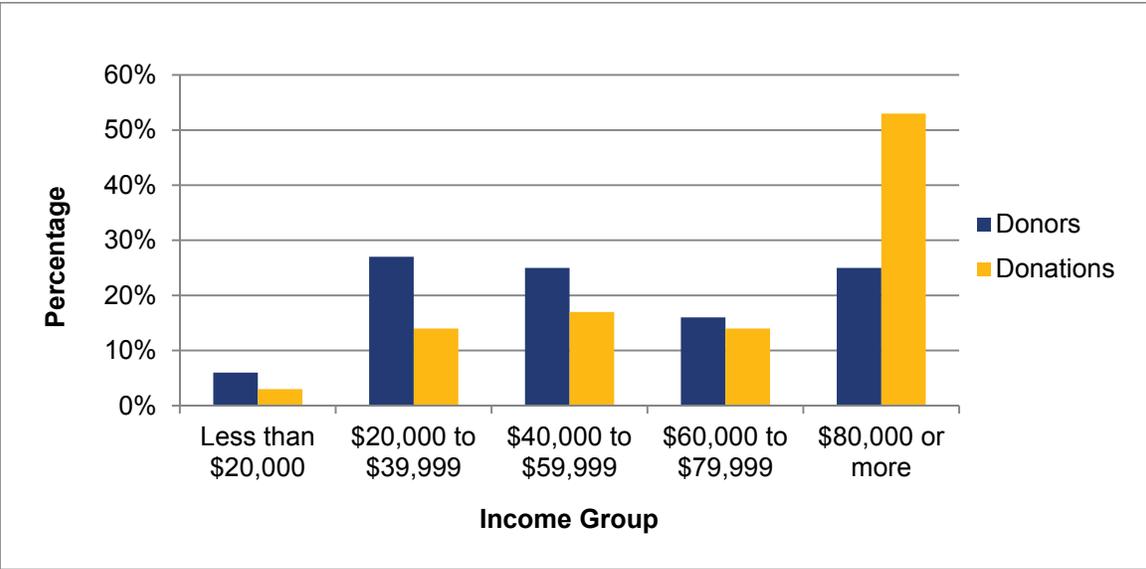
Source: Statistics Canada, Brief submitted to the House of Commons Standing Committee on Finance, 31 January 2012.

**Figure 2 — Inflation-Adjusted Annual Percentage Change in Total Income and in Charitable Donations by Individuals, Canada, 1998–2010 Taxation Years**



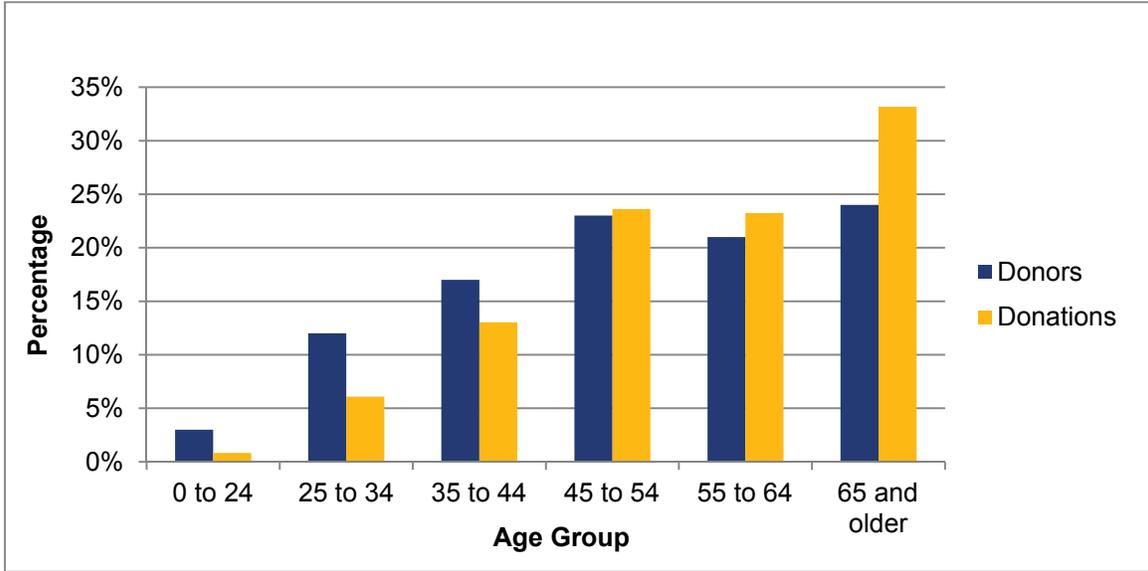
Source: Statistics Canada, Brief submitted to the House of Commons Standing Committee on Finance, 16 February 2012.

**Figure 3 — Percentage of Donors and Charitable Donations by Individuals, by Income Class, Canada, 2010 Taxation Year**



Source: Statistics Canada, Brief submitted to the House of Commons Standing Committee on Finance, 31 January 2012.

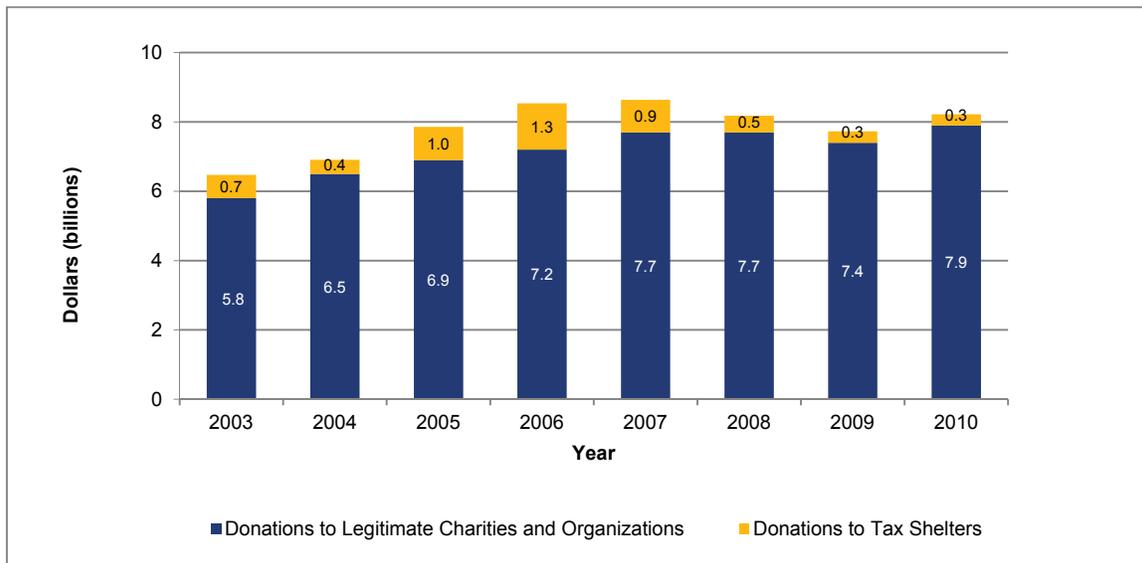
**Figure 4 — Percentage of Donors and Charitable Donations by Individuals, by Age of Donor, Canada, 2010 Taxation Year**



Source: Statistics Canada, Brief submitted to the House of Commons Standing Committee on Finance, 31 January 2012.

The Department of Finance told the Committee that charitable donations by individuals rose 6.5% from the 2009 to the 2010 taxation years, reaching \$8.3 billion, and that the total number of individual donors increased from 5.6 million to 5.7 million from the 2009 to the 2010 taxation years. As shown in Figure 5, the Department also indicated that tax shelter schemes involving charitable donations by individuals have been prevalent in the last 10 years. When these donations are excluded from Statistics Canada data, the result would be a 7% increase in charitable donations by individuals in the 2010 taxation year when compared to the 2009 taxation year, and in an average annual increase in such donations of 4.5% since the 2003 taxation year.

**Figure 5 — Total Charitable Donations by Individuals to Legitimate Charities and Organizations and to Tax Shelters, Canada, 2003–2010 Taxation Years**



Source: Department of Finance, Brief submitted to the House of Commons Standing Committee on Finance, 25 January 2012.

According to a paper cited by the Department of Finance that examined the charitable sector’s sources of revenue in the 2009 taxation year, federal, provincial/territorial and municipal governments contributed 44% and donations contributed 30% of total funding to the charitable sector if hospitals, universities, colleges and school boards are excluded from the sector. Regarding an “average” charity’s sources of revenue, where this average excludes hospitals, universities, colleges and school boards, the Department of Finance stated that funding from governments decreased to 15% and funding from donations increased to 60% for that taxation year.

## **B. The Regulation of Charities**

Regarding the regulation of registered charities, the Department of Finance told the Committee that the *Income Tax Act* (ITA) does not define “charity” but that charities with certain “charitable purposes” are able to register with the Canada Revenue Agency (CRA) and thereby obtain an exemption for income tax purposes and the ability to issue donation receipts; these receipts are used by donors to claim the charitable donations tax credit. According to the CRA, the four “charitable purposes” are: the relief of poverty, the advancement of education, the advancement of religion and certain other purposes recognized by the courts as charitable. The CRA added that a registered charity must operate on a not-for-profit basis, although not all not-for-profit organizations are registered charities.

The Department of Finance identified three types of registered charities supervised by the CRA: charitable organizations, which carry out their own activities and have an independent board of directors; public foundations, which fund the activities of other charities and have an independent board of directors; and private foundations, which fund

the activities of other charities and either have an independent board of directors or are controlled by a group that has contributed more than 50% of the foundation's capital. The CRA indicated that it also supervises two other types of not-for-profit organizations: registered Canadian amateur athletic associations and registered national arts service organizations.

According to the Department of Finance, restrictions are imposed on registered charities to ensure the proper functioning of the tax system and to safeguard the donations of Canadians by preventing the use of charities for personal benefit. The Department indicated, for example, that registered charities must operate for exclusively charitable purposes and must devote their resources exclusively to their own charitable activities; as well, they may only transfer funds to certain organizations, known as "qualified donees", and may only undertake business activities related to their charity's purpose.

The CRA informed the Committee that, in order to maintain their registered status, charities are required to submit to it an annual information return, known as the Registered Charity Information Return (Form T3010). This form, which provides certain financial information regarding revenue and expenditures, is used by the CRA to monitor compliance with restrictions identified earlier. According to the CRA, a registered charity is permitted to engage in non-partisan political activities if the activities use 10% or less of the charity's resources; as well, the CRA ensures that at least 3.5% of the investment capital of each charity is transferred to a qualified donee or used for the charity's charitable purposes, a restriction that is known as the disbursement quota. The CRA indicated that it monitors fundraising expenses, and the Association of Fundraising Professionals noted that an expense-to-revenue ratio greater than 35% may result in CRA scrutiny.

The Department of Finance and the CRA stated that violation of any restriction may lead to the charity's registration being revoked or suspended and/or to financial penalties. As shown in Table 2 for the 2010–2011 fiscal year, which was provided to the Committee by the CRA, 751 charity audits were conducted and 635 charities had their status revoked for failure to file an annual return. The CRA also indicated that two penalties were assessed in the 1 April 2010 to 31 December 2011 period and that, on average, approximately 1% of all registered charities are audited each year.

**Table 2 — Number of Registered Charities with Their Status Revoked or Annulled, by Reason, Canada, 2008–2011 Fiscal Years and 1 April–31 December 2011**

Fiscal Year (1 April–31 March)	Revocation Due to an Audit	Voluntary Revocation	Revocation for Failure to File an Information Return	Annulment Due to Registration Granted in Error
2008–2009	48	661	649	8
2009–2010	41	1,131	593	7
2010–2011	35	1,109	635	10
1 April–31 December 2011	14	511	715	3
<b>Total</b>	<b>138</b>	<b>3,412</b>	<b>2,592</b>	<b>28</b>

Source: Canada Revenue Agency, Written response to questions provided to the House of Commons Standing Committee on Finance, 17 April 2012.

The CRA told the Committee that, of the more than 85,000 charities that were registered in Canada as of January 2012, 90% were classified as charitable organizations and these organizations received more than 75% of the donations made annually. It also noted that 40% of all charities that were registered as of that date had a religious purpose, and that — from a geographical perspective — 80% of those were located in 4 provinces: Ontario (36%), Quebec (19%), British Columbia (14%) and Alberta (11%). According to Table 3, which was provided by the CRA, the charity's annual information return must indicate the 10 highest-compensated permanent full-time employees. The CRA highlighted that, from 1 April–31 December 2011, registered charities reported having 1,307,565 permanent full-time positions and 1,882,522 part-time positions.

**Table 3 — Total Number of 10 Highest-Compensated Permanent Full-Time Positions as Reported on the Registered Charity Information Returns Received 1 April–31 December 2011, Canada, by Salary Group**

\$1 to \$39,999	\$40,000 to \$79,999	\$80,000 to \$119,999	\$120,000 to \$159,999	\$160,000 to \$199,999	\$200,000 to \$249,999	\$250,000 to \$299,999	\$300,000 to \$349,999	\$350,000 and over
83,334	61,149	15,511	4,064	1,361	726	460	227	343

Note: Certain charities reported more than 10 positions.

Source: Canada Revenue Agency, Written response to questions provided to the House of Commons Standing Committee on Finance, April 17, 2012.

Moreover, the CRA indicated that it is the main regulator of charities, even though the *Constitution Act, 1867* provides provinces with the power to regulate charities; provincial laws are limited to charities' fundraising and gaming activities. According to the CRA, it approves applications for registration of a charity and, if registration is denied, the applicant may appeal to the Federal Court. Moreover, the CRA noted that the ITA allows it to disclose, to the public, certain information pertaining to a charity; this information includes annual information returns, the charity's application and notification for registration, the names of a charity's directors, letters of revocation, a charity's governing document, and a list of registered, revoked and annulled charities. The CRA highlighted that, as provided by the *Charities Registration (Security Information) Act*, it also plays a

role in preventing charitable fundraising and other forms of support for terrorism through revocation of a charity's status.

### **C. Tax Incentives and their Estimated Federal Fiscal Cost**

The Department of Finance told the Committee that federal tax incentives for charitable donations have existed since 1930; the current non-refundable charitable donations tax credit for individual taxpayers was created in 1988. At present, the tax credit rate is 15% on charitable donations up to \$200 and 29% on donations above \$200 for the taxation year in which the donation is claimed on the individual's tax return. Blumberg Segal LLP noted that, from a global perspective, Canada provides the most generous tax support for charitable donations by individuals.

The Department of Finance also said that an individual taxpayer may claim charitable donations up to 75% of his/her net income in a year or up to 100% in either the year of the taxpayer's death or in the immediately preceding year; that charitable donations that are not claimed in the current taxation year may be claimed in any of the following five years; that the CRA allows spouses to pool their charitable donations in order to maximize access to the 29% credit rate; that gifts of publicly listed securities, ecologically sensitive land and certified cultural property are exempt from capital gains tax; and that individual taxpayers may claim charitable donations of ecologically sensitive land and certified cultural property up to 100% of their annual income.

In respect of corporate gifts, the Department of Finance informed the Committee that corporate taxpayers are able to deduct donations directly from their taxable income equivalent to a maximum of 75% of the corporation's net income for the taxation year, with annual limits and capital gains exemptions for corporate donations of publicly listed securities, ecologically sensitive land and certified cultural property that are the same as those for donations of such property by individuals.

As shown in Table 4, the Department of Finance projected that the federal fiscal cost associated with the charitable donations tax credit for individuals and the charitable donations deduction for corporations will be \$2.9 billion in 2011. It highlighted to the Committee that individual charitable donations that exceed \$200 give rise to a 29% federal credit which, when combined with the corresponding provincial tax credit, results in a credit that exceeds the tax that would be paid on the income that financed the donation. Moreover, the Department indicated that tax incentives from all levels of government for cash donations is 46% and is between 60%–69% for donations of publicly listed securities. Regarding the capital gains tax on donations of capital, the Department noted that, in most cases, the charitable donations tax credit offsets any capital gains tax.

**Table 4 — Projected Federal Fiscal Cost of Tax Incentives  
for Charitable Donations, Canada, 2011**

	Donations by Individuals	Donations by Corporations
	(millions of dollars)	
Charitable Donation Tax Credit (individual) or Deduction (corporation)	2,280	390
Donations of publicly listed securities	150	67
Donations of ecologically sensitive land	9	10
Donations of certified cultural property	24	10
<b>Total</b>	<b>2,463</b>	<b>477</b>

Note: For 2011, the reference for individuals is the calendar year; for corporations, it is the corporation's fiscal year.

Source: Department of Finance, Brief submitted to the House of Commons Standing Committee on Finance, January 25, 2012.

## **CHAPTER TWO: COMMENTS AND PROPOSALS BY WITNESSES**

The Committee's witnesses commented on a variety of aspects of charitable giving in Canada. For example, they proposed changes to existing tax measures and indicated the expected impact of those changes. They spoke about transparency and accountability in relation to charities, and shared opinions about charitable fundraising activities. They also suggested initiatives in relation to a culture of giving, the use of existing data that would facilitate a better understanding of various aspects of charitable giving, some human rights issues in the context of charities and donating through the use of technology.

### **A. Charitable Donations Tax Credit Thresholds and Rates**

In their appearance before the Committee, witnesses proposed changes to the thresholds and rates that currently exist in relation to the charitable donations tax credit for individuals. Comments were also made about potential impact of these changes.

#### **1. Proposals for Change**

A number of witnesses, which are listed below, supported an additional 10% tax credit in relation to charitable donations by individuals if the donor's total donations claimed for the current taxation year are greater than his/her total contributions for the previous taxation year. The additional credit would apply only to donations that exceed those for the previous year, and could result in a maximum lifetime tax benefit of \$1,000, as the year-over-year incrementally increased donations to which the additional tax credit could be applied would be no more than \$10,000 over the donor's lifetime. The pooling of donations made by spouses — which can occur with the current structure — would not be allowed with this proposal. The resulting proposed tax credit is referred to as a "stretch tax credit".

Imagine Canada suggested to the Committee that a stretch tax credit could increase the number of donors and the total amount of donations, and would benefit the largest number of taxpayers and charities, while the World Wildlife Fund and the Association of Fundraising Professionals stated that such a credit would benefit small charities. The Calgary Chamber of Voluntary Organizations and the David Suzuki Foundation indicated that a stretch tax credit would provide tax relief to middle-income families, while the United Way of Burlington and Greater Hamilton suggested that such a credit would reward those individuals who make a financial contribution to the social health of their community. Moreover, Rachel Laforest noted that a stretch tax credit could increase donations from first-time donors and youth, while the Women's College Hospital Foundation emphasized that — due to its design — such a credit would not increase the number of donations that exceed \$10,000. Don McRae proposed that a stretch tax credit be implemented through a five-year pilot program.

Witnesses supporting a stretch tax credit included the Association for Healthcare Philanthropy, the Association of Fundraising Professionals, Big Brothers Big Sisters of Canada, the Calgary Chamber of Voluntary Organizations, CanadaHelps, Canada's Performing Arts Alliance, the Canadian Association of Gift Planners, the Canadian Bar

Association, the Canadian Diabetes Association, the Canadian Environmental Grantmakers' Network, the Canadian Land Trust Alliance, Community Foundations of Canada, Concordia University, the David Suzuki Foundation, the Evangelical Fellowship of Canada, McGill University, Philanthropic Foundations Canada, the Professional Association of Canadian Theatres, Scotiabank, the World Wildlife Fund, the United Way of Burlington and Greater Hamilton, the United Way of Canada, Women's College Hospital Foundation, Don McRae, Christopher Richardson and Rachel Laforest.

Some witnesses, such as CIBC Private Wealth Management, BMO Nesbitt Burns, TD Bank Financial Group and Drache Aptowitzer LLP, advocated a charitable donations tax credit rate of 29% for all donations; while preferring a stretch tax credit, Imagine Canada also supported this proposal. According to CIBC Private Wealth Management and Drache Aptowitzer LLP, a single tax credit rate would simplify the tax system and could increase the amount of donations. While they did not specify a tax credit rate, the Canadian Taxpayers Federation, Canadians for Tax Fairness, Laura Lamb, Adam Parachin and A. Abigail Payne also supported a single rate for all donations; the Canadian Council of Christian Charities requested a single rate of 42%. Gord Drimmie proposed a combined provincial-federal tax credit rate of 50% applicable to donations made to charities that spend at least 90% of their revenue within Canada and a rate of 25% applicable to donations made to other charities. BMO Nesbitt Burns proposed a single rate of 29% when the federal government is in a stronger fiscal position, and estimated that the proposed measure would cost less than \$200 million annually.

The Canadian Council of Christian Charities suggested to the Committee that donations of publicly traded shares should be eligible for a 42% tax credit rate on the original purchase price (i.e., the adjusted cost base) of the shares. The Canadian Equal Parenting Council supported a 42% rate for donations exceeding \$200, while Cardus proposed a 42% rate for donations above \$450 rather than a 42% rate for donations exceeding \$200 and indicated that — while a 42% rate would likely not increase the number of donors in the long term — this rate would provide individuals who donate regularly with greater income, which would likely be donated by those individuals. Canadians for Tax Fairness noted that a 20% tax credit rate for the first \$200 in charitable donations could lead to donations from new donors.

The Change Canada Charitable Foundation advocated a five-year pilot program in which a 100% tax credit rate would be applied to the first \$1,000 in donations and a 29% rate would be applied to donations above that amount. A similar proposal was made by the Canadian Taxpayers Federation, whereby all income donated to a charity would not be subject to income tax, which would be equivalent to a 100% rate for all charitable donations. According to it, this proposed measure would simplify the tax system and would be fair to taxpayers.

The Carleton Centre for Community Innovation requested that a higher tax credit rate be applied to charitable donations by individuals to organizations that provide basic goods and services to low-income persons, although no rate was proposed. It also suggested conditions for eligibility that are similar to requirements in Arizona, France and India, such as the purposes being pursued, the activities being performed and the

population being served by the charity. Laura Lamb stated that different rates could be applied based on the donee; for example, in her view, donations to a charity involved in health and social services could receive a different rate than donations to a religious organization. Patrick Ellis mentioned that tax incentives could target donations to organizations that help individuals find employment, while Big Brothers Big Sisters of Canada said that new tax credits should not favour certain organizations.

The Canadian Diabetes Association proposed that donations of more than \$500 to a single charity be eligible for a tax credit rate that is higher than the existing 29%. Although no rate was specified, it indicated that a higher rate could encourage individuals to donate larger amounts than is currently the case.

In relation to the charitable donations tax credit, the Canadian Council of Christian Charities suggested to the Committee that the carry-forward period for claiming a previously made donation should be increased from 5 years to 7 years or to 10 years, in order that donors would have a longer period to earn taxable income against which the tax credit could be claimed. The Canadian Land Trust Alliance also advocated an increase in the carry-forward period to 10 years, but only for gifts of ecologically sensitive land pursuant to the Ecological Gifts Program. It highlighted that the United States has a carry-forward period of 15 years for similar donations.

Drache Aptowitzer LLP and TD Bank Financial Group supported a change to the administration of the charitable donations tax credit so that donations made by an individual in the first 60 days of a calendar year could be claimed by the taxpayer in the previous taxation year. According to Drache Aptowitzer LLP, this change would enable taxpayers to make strategic donations to reduce their tax payable for the previous taxation year before the tax filing deadline for that year; it would also allow charities to “market” charitable giving as a means by which to reduce tax payable for the previous taxation year.

Drache Aptowitzer LLP suggested that the donation contribution limit of 75% of annual taxable income should be removed in order to increase charitable giving by corporations and to support the social enterprise sector. According to Scotiabank, the 75% limit is the highest in the world.

## **2. Potential Impacts**

According to Laura Lamb, research studies suggest that tax incentives have a significant effect on the likelihood and amount of a charitable donation by an individual. For example, according to her, an increase in the tax credit rate would lead to an increase in total donations, although certain sectors would likely benefit more than others, such as international, social service, health and religious charities. Similarly, Imagine Canada told the Committee that tax incentives affect donor decisions about whether and how much to donate. CanadaHelps stated that a survey of its donors showed that 42% would donate more if there was an increase in the tax credit rate. However, Scotiabank highlighted that, after Alberta raised its rate for donations above \$200, total donations by Albertans did not increase when compared to the amount of donations by residents of British Columbia for the same time period. Paul Reed said that some forms of charitable giving are not

influenced by tax credits, and Gord Drimmie indicated that the stretch tax credit would likely not have a significant impact on the level of donations.

Adam Parachin suggested that taxpayers would accumulate donations so that a higher tax credit could be obtained with a stretch tax credit; thus, on an individual basis, donors would not donate a greater amount than they did prior to the implementation of a stretch tax credit. He also mentioned that rules to prevent pooling would complicate the tax system.

TD Bank Financial Group stated that a stretch tax credit would be difficult for the federal government to administer, while Imagine Canada indicated that the CRA could administer such a credit in a manner similar to registered retirement savings plans contribution limits; that is, through an attachment to a taxpayer's annual notice of assessment.

Laura Lamb informed the Committee that the federal fiscal cost of a stretch tax credit would be offset by an increase in donations, while Imagine Canada suggested that a stretch tax credit would have a minimal federal fiscal cost when compared to the societal benefits that would result from the increased donations. It also highlighted a study by the Office of the Parliamentary Budget Officer on a version of a stretch tax credit; the study estimated that the annual federal fiscal cost would be between \$10 million and \$40 million. Canadians for Tax Fairness did not support more generous tax incentives for charitable donations, feeling that the result would be lower federal revenues, which would affect the funding of programs.

Charity Intelligence Canada speculated that more generous tax incentives for charitable giving could result in more tax shelter schemes. It highlighted that such schemes are currently reducing federal tax revenues.

According to the Office of the Parliamentary Budget Officer, the estimated annual federal fiscal cost of increasing the carry-forward period for donations of ecologically sensitive land to 10 years would be less than \$2.5 million.

## **B. Donations of Real Property and Shares of Private and Public Corporations**

The Committee's witnesses proposed changes in relation to donations of real property and of shares of private corporations to charities, especially regarding capital gains taxation, and speculated about the impact of these changes.

### **1. Proposed Changes**

A number of the Committee's witnesses supported the elimination of capital gains tax on charitable donations of real property, such as cottages and commercial property, and of shares of private corporations to charities. They also advocated the elimination in cases where the property and shares are sold, provided that the proceeds of disposition are donated to a charity within a limited period of time. In particular, the Association for Healthcare Philanthropy, the Association of Fundraising Professionals, Big Brothers

Big Sisters of Canada, Canada's Performing Arts Alliance, the Canadian Association of Gift Planners, the Canadian Council of Christian Charities, Concordia University, McGill University, Philanthropic Foundations Canada, Scotiabank, the University of Manitoba, the University of Victoria, TD Bank Financial Group, Women's College Hospital Foundation, the Association of Universities and Colleges of Canada, Cardus, Donald K. Johnson and Christopher Richardson advocated these proposals.

Donald K. Johnson, Imagine Canada, the Association for Healthcare Philanthropy, Women's College Hospital Foundation, the Association of Fundraising Professionals and the University of Victoria highlighted that donations of shares of publicly traded corporations increased after the capital gains tax on donations of such shares was eliminated in 2006. Donald K. Johnson mentioned that the United States and the United Kingdom exempt donations of real property and shares of private corporations from capital gains taxation.

Some witnesses supported the elimination of the capital gains tax on donations of real property and of shares of private corporations on the condition that the tax credit could not be claimed until the sale of the property or shares by the charity; with this approach, the gifts would be valued correctly. In particular, this proposal was advocated by the Association for Healthcare Philanthropy and the Association of Fundraising Professionals. Donald K. Johnson suggested that an independent appraisal of the value of real property should occur, and mentioned that the charity should retain the real estate for at least 10 years if the property is used by it for its charitable purposes.

To prevent abuse of the proposed measure, the Association of Fundraising Professionals and Donald K. Johnson stated that the charity should obtain two independent appraisals in cases where the real property or shares are sold by the charity to an entity or person controlled by or related to the donor. The Canadian Taxpayers Federation said that the capital gains tax should be eliminated only on gifts of cash from the proceeds of the sale of real property or shares involving unrelated parties; according to it, this approach would enable the true value of the gift to be determined. In the view of Christopher Richardson, a special form — to be signed by the donor, the donee and a valuator — could be submitted to the CRA in order to aid enforcement. He also stated that all valuations should be prepared by a member of the Canadian Institute of Chartered Business Valuators, and that the capital gains tax should be eliminated through a five-year sunset clause in relation to the proposed elimination of the tax; the time-limited nature of the measure would, in his view, increase donations over the course of the five-year period.

The Canadian Association of Gift Planners and Scotiabank proposed the elimination of the capital gains tax on gifts of shares of a private corporation only if the shares are sold by the charity within 60 months of their donation and on the sale of real property by a donor only if the proceeds of the sale are donated to a charity within 30 days of the sale. The Canadian Council of Christian Charities and Donald K. Johnson supported the 30-day requirement in relation to proceeds from the sale of real property.

Some of the Committee's witnesses opposed the elimination of the capital gains tax on donations of real property and/or of shares of private corporations. For example, CanadaHelps and Scotiabank said that the elimination would be difficult for small charities to administer, while Canadians for Tax Fairness stated that high-income taxpayers with capital would be favoured. The Land Trust Alliance and the David Suzuki Foundation did not support the elimination of the capital gains tax on donations of ecologically sensitive land, feeling that such land would not remain protected and would be sold to a developer. Drache Aptowitzer LLP favoured reducing, rather than eliminating, the capital gains tax on donations of real property. Regarding donations of publicly traded shares, PearTree Financial Services and the Canadian Association of Gift Planners proposed a 50% reduction in the capital gains tax on donations of flow-through shares, while Adam Parachin noted that the issuance of shares of a corporation to a charity is not recognized as a donation for tax purposes.

Benefic Lawyers proposed that individuals who donate shares of a private corporation should be allowed to receive a loan, known as a qualifying loanback debt instrument, from the donee in order that the donor can repurchase the shares donated or other private shares donated to that particular charity or another charity. According to it, the charitable donations tax credit received by the donor would be reduced by the amount of interest and principal not paid to the charity, and the donor would have to pay — to the charity — the full value of the shares when they are sold by the charity. Benefic Lawyers said that this measure could resolve the valuation problems associated with the donation of shares of a private corporation.

The Canadian Council of Christian Charities suggested that donations of real property to a charity in which the donor receives a benefit, such as the assignment of a donor mortgage on the property to the charity, should receive a charitable donations tax credit that is reduced by the amount of the benefit received.

## **2. Potential Impacts**

According to the Office of the Parliamentary Budget Officer, the estimated annual federal fiscal cost associated with eliminating the capital gains tax would be between \$42 million and \$101 million for donations of real property and between \$61 million and \$169 million for donations of shares of private corporations. Donald K. Johnson estimated that the combined annual federal fiscal cost for both measures would be between \$50 million and \$65 million, and predicted that annual donations would increase by \$200 million.

### **C. Bequests and Estate Planning**

The Canadian Bar Association proposed changes to subsection 118.1(5) of the ITA, which addresses gifts made through a will. For example, it suggested that transfers of property to a charity as a result of a will should be deemed a gift and that the legal representative of the estate should be allowed to designate the transfer, or a portion of the transfer, to have been made by the estate.

As well, the Canadian Bar Association commented on the property held by a testamentary trust created by a will. For example, it proposed that the legal representative of an individual's estate should be allowed to designate a portion of a donation made under the individual's will to be transferred to a testamentary trust, and that both transfers of a capital interest in a trust and gifts made upon the termination of a life interest in a trust should be a gift for tax purposes. According to the Canadian Bar Association, these measures would provide greater flexibility for estate administrators, and could reduce the tax payable and increase the amount of donations upon death.

The University of Victoria proposed that property that is transferred to a charitable remainder trust — a trust created to provide income to a beneficiary for his/her lifetime, with any remaining capital donated to charity — be treated as a gift for tax purposes and be eligible for the charitable donations tax credit. The Canadian Bar Association said that transfers from a charitable remainder trust to a charity should be a gift for tax purposes only if no corresponding charitable donations tax credit is claimed for a contribution to the trust; in its view, this approach would prevent abuse by taxpayers.

To promote bequests to charitable organizations, Paul Reed suggested to the Committee that such bequests should have tax credit rates that differ from the existing rates for charitable donations by individuals, and that a federal matching contribution equivalent to 10% or 15% of the bequest should be provided to the charity. Regarding the ability of a donation to reduce the taxable income of the donor, Gord Drimmie suggested a refundable tax credit for bequests. Finally, Susan Service mentioned that more registered pension plan holders would list a charity as a survivor beneficiary if the ITA did not impose a withholding tax on the transfer of the benefit.

#### **D. Tax Fairness**

Canadians for Tax Fairness did not support changes to the charitable donations tax credit rate that would favour rich individuals or corporations, feeling that such changes would disadvantage poor individuals, and noted that low-income individuals who donate do not always claim the credit. Cardus said that the existing charitable donations tax credit rates favour spontaneous giving rather than planned giving. A number of the witnesses supporting a single charitable donations tax credit rate stated that a single rate would be fairer to donors than the current two-tier rate or a stretch tax credit. In reference to a stretch tax credit, Adam Parachin highlighted the differential tax treatment of taxpayers who donate the same amount in a given taxation year, since individuals who donate more than the previous taxation year would receive a more generous tax incentive, and stated his preference for a graduated tax credit rate for individuals that increases with the size of the donation.

Brigitte Alepin did not support tax measures that would favour private foundations over other charitable organizations, as foundations are controlled by one person or a group of related persons rather than being subject to democratic control. In her opinion, incentives that favour private foundations would increase their influence on public policy. In describing private and public foundations, A. Abigail Payne noted that the number of private and public foundations in Canada increased from 5,800 in 1992 to 9,421 in 2008,

and said that their total assets — adjusted for inflation — increased from \$8 billion to \$30 billion over that period.

According to the Canadian Secular Alliance, the advancement of religion should not qualify as a charitable purpose; it suggested that religious activity should be removed from the list of eligible charitable purposes used by the CRA when examining an application for registration as a charity. In its view, with this change, the tax system would not transfer wealth from non-religious Canadians to the religious majority; it highlighted that the U.K. requires all charities, including religious organizations, to demonstrate how they benefit the public. A. Abigail Payne noted that religious organizations receive the most donations, and benefit the least from grants from all levels of government and from fundraising.

Donald K. Johnson, TD Bank Financial Group and Scotiabank stated that taxpayers who donate shares of a private corporation to a charity should be treated in the same manner as taxpayers who donate shares of a publicly traded corporation; in their view, both types of donations should be eligible for a capital gains tax exemption.

### **E. Other Tax Measures**

Food Banks Canada proposed a new tax incentive designed to promote charitable food donations by businesses. In particular, according to its proposal, food manufacturers, importers, distributors and retailers would be able to deduct, from their taxable income, the product cost or purchase price of food donated to food banks and one half of the potential profit on the sale of that food, to a maximum of twice the production cost. It estimated that the annual federal fiscal cost of its proposal would be \$15 million.

Adam Parachin suggested various technical changes to the ITA that, in his view, would simplify the interpretation of the law applicable to charities. For example, he advocated a study of the definition of “charity” for tax purposes, and supported a clear definition of the term “gift”. He believed that this term has not been adequately determined in the law, and proposed that it be substituted for the term “charitable donation” so as to include the net value of all transfers of property to, or for the benefit of, a charity; in his opinion, this change would simplify the law as well as reduce the administrative compliance and enforcement costs for charities and the CRA respectively. Finally, he indicated that services donated to a charity would be difficult to value and, thus, should not be included in the definition of the term “gift”.

Regarding direct or indirect federal funding of charities, A. Abigail Payne told the Committee that the U.K. government — through the Gift Aid program — provides a contribution to charities that is equal to the tax that would be payable on the income donated by an individual to a charity. CanadaHelps highlighted that, as evidenced by support for Haiti, donors give to charities for which the federal government makes a corresponding or matching donation. A. Abigail Payne advocated a study of the effects of federal matching donations in support of Haiti on donor behaviour. Canadians for Tax Fairness indicated that direct federal funding of charities may be relatively more cost-effective than tax credits because of the cost of fundraising for charities. Adam Parachin

mentioned that too many income tax subsidies for the charitable sector could result in the charitable sector being indistinguishable from government.

Regarding the social enterprise sector, the MaRS Centre for Impact Investing and Social Innovation Generation supported the development of federal tax incentives to promote capital investment in the sector; in their view, the incentives should be developed by a working group consisting of the federal and provincial/territorial governments, as well as the finance and social enterprise sectors.

On the issue of foreign donations and charities, the World Wildlife Fund indicated that charities need to increase foreign donations, and suggested to the Committee that the federal government should work with foreign governments to attract foreign donations and to provide tax incentives to foreign donors. Although no specific proposals were made, the David Suzuki Foundation stated that donations from foreign donors should be promoted. Regarding donations by Canadian charities to foreign charities, the Canadian Association of Gift Planners said that it is difficult for a charity to make a donation to a foreign entity while remaining compliant with Canada's tax laws.

In relation to clarification and modification of the ITA, the Canadian Bar Association indicated that language prohibiting certain types of inter-charity transfers should be narrowed or eliminated, and that the provisions in Bill C-13 in the 1st Session of the 41st Parliament that deal with ineligible individuals holding directorships or other positions of authority should be clarified.

According to the Evangelical Fellowship of Canada, families give the greatest percentage of their income to Canadian charities; income splitting for families for tax purposes would reduce the taxes paid by them.

Imagine Canada stated that the CRA could increase its "marketing" of the tax incentives for charitable donations.

## **F. Transparency and Accountability of Charities**

Regarding transparency and accountability in relation to charities, the Committee's witnesses spoke about the disclosure of information, communication with donors and considerations when selecting a charity, the administrative burden on charities and the role of governments in overseeing the charitable sector.

Some witnesses commented on the disclosure of information in relation to charities and not-for-profit organizations. For example, Blumberg Segal LLP proposed a review of the Registered Charity Information Return — which could be modelled on a similar review in the United States — to encourage greater disclosure of information to the public, an amendment to section 241 of the ITA to allow the CRA to disclose serious non-compliance with legal requirements by qualified donees and the annual returns of such donees, and the establishment of a requirement — like that which exists in the U.K. — for charities to demonstrate, on an annual basis, that they have a "public benefit". Brigitte Alepin suggested to the Committee that the number of CRA auditors dedicated to analyzing charitable organizations should be increased. Blumberg Segal LLP indicated that greater

use could be made of police forces to investigate abuse of charities and fraud, and proposed that the Registered Charity Information Return include more information and be similar to the form used in the United States. Imagine Canada noted that the charitable sector has implemented initiatives to provide greater transparency and accountability, such as the Standards Program and Charity Focus.

Charity Intelligence Canada and Blumberg Segal LLP stated that accountability and transparency should be increased in the not-for-profit sector, as not-for-profit organizations are currently much less regulated than charities in Canada; that said, they indicated that increased accountability and transparency could impose administrative burdens on smaller not-for-profit organizations, and should perhaps be implemented on a “sliding scale” basis, with more required of organizations with higher levels of income. According to the CRA, there are approximately 161,000 not-for-profit organizations operating in Canada. Blumberg Segal LLP suggested that section 241 of the ITA should be amended to allow the CRA to disclose information contained on the Non-Profit Organization Information Return.

Regarding federal communication with donors regarding charities and relevant considerations when selecting a charity to which to donate, the Association of Fundraising Professionals suggested that, in selecting a charity, donors should not focus solely on fundraising costs, but instead should consider factors such as the charity’s mission, its fiscal stability and the impact that it is having. According to Lukas Huisman, in addition to issuing a news release when a charity’s registration is revoked, the CRA should issue a periodic news release indicating the number of audits and reviews conducted in which no instances of material non-compliance were found. In order to allow a charity to reflect better the way in which it is fulfilling its mandate, Dexterity Ventures suggested that the CRA’s annual information return should ask questions that go beyond the cost of fundraising. Charity Intelligence Canada commented on charities that utilize tax schemes that result in donors being liable for income tax, as well as on the lack of public information about charities that promote and use these schemes.

A number of the Committee’s witnesses made proposals designed to reduce the administrative burden on charitable organizations. For example, the Canadian Bar Association encouraged the federal government to streamline the excess corporate holdings provisions for private foundations and to eliminate measures that are unnecessarily complicated or not supported by a strong policy rationale, while the Canadian Council of Christian Charities supported a change that would allow 1% of a charity’s annual revenue to be used outside of the country without the need for agency or joint ministry agreements.

Regarding the federal role in overseeing the charitable sector, Dexterity Ventures suggested that the federal government should review the application process for charitable status to ensure that, wherever possible, redundancy in the charitable sector is minimized by limiting the number of charities that provide a specific service. It also advocated the establishment of an ambassador of philanthropy within the federal government.

The Canadian Bar Association, Dexterity Ventures and Lukas Huisman highlighted the need to increase efficiencies for charitable reporting, perhaps through enhanced cooperation among federal departments and between the federal and other levels of government. Drache Aptowitzer LLP suggested that the provinces should play a role in the regulation of charities through the formation of a joint federal–provincial charity regulator that would have the ability to regulate other aspects of charity operations, such as political advocacy and fundraising costs.

## **G. Fundraising and Sources of Income**

In commenting on charitable fundraising and sources of income, the Committee’s witnesses spoke about the regulation of fundraising and charitable investments as well as about business activities and income.

Regarding the means by which charities are able to raise funds beyond donations, the Canadian Council of Christian Charities and Cardus encouraged continued dialogue between the federal government and the charitable sector about the involvement of charities in for-profit social enterprises; they also supported continued financial investment in social enterprises. Dexterity Ventures advocated legislation in relation to a social enterprise corporate classification, with tax benefits for investors; according to it, this legislation would allow private foundations to invest in for-profit social ventures as part of their disbursement quota and would permit the creation of a social investment bank similar to that which exists in the U.K.. Social Impact Generation and the MaRS Centre for Impact Investing suggested that social enterprises would benefit from a partnership between the federal government and financial institutions that would lead to the creation of national and regional impact investment funds that serve social enterprises focused on debt capital for charities. Philanthropic Foundation Canada advocated an amendment to the ITA that would permit foundations to make below-market-rate loans to entities other than registered charities, such as social enterprises. An increase in the disbursement quota was suggested by Brigitte Alepin and Blumberg Segal LLP.

Comments were also made to the Committee about other types of social finance, including by LIFT Philanthropy Partners, which suggested that venture philanthropy — a financing mechanism that applies venture capital financing concepts to philanthropic goals — should be considered as an innovative and credible solution to strengthen the not-for-profit sector’s ability to address societal challenges related to employment, literacy, skills training, health and wellness. Drache Aptowitzer LLP advocated a study of the issue of impact investing, which aims to create both a profit and a social return. Finally, Philanthropic Foundations Canada and Community Foundations of Canada indicated that the federal government should reconsider the interpretation of a limited partnership as an investment that is unavailable to a private foundation in circumstances where such an investment could be demonstrated to further a charitable purpose.

In an effort to allow greater flexibility for charities to control a “for-profit enterprise”, Habitat for Humanity, Social Impact Generation and the MaRS Centre for Impact Investing suggested that the federal government should introduce a “destination of profits test”; according to them, in Australia and New Zealand — which is where this test is used — a

non-taxable activity is considered to be legitimate as long as the profits of a related business activity remain within the charity and serve the public good. According to Patrick Ellis, charities should be allowed — for tax purposes — to conduct business activities in order to earn a profit to fund their charitable purposes. Dexterity Ventures advocated formal federal regulation of retail philanthropy, such as charitable gift cards, charity gift catalogues and web-based umbrella organizations collecting and disbursing funds; it also suggested that the federal government, in collaboration with the private sector, should create an accreditation process for philanthropic advisors.

## **H. Other Measures Proposed and Issues Highlighted**

Finally, the Committee's witnesses spoke about such other aspects of charitable giving as the establishment of a culture of giving, the use of existing data sources that could enable a better understanding of charitable giving, penalties for charities that violate human rights legislation, and the use of technology to make charitable donations.

Regarding the development of a culture of giving in Canada through public engagement designed to raise awareness and create a movement to improve Canadian giving habits, GIV3, Community Foundations of Canada, the Evangelical Fellowship of Canada and the David Suzuki Foundation suggested that the federal government could help to foster a culture of giving through providing assistance to charitable organizations in their efforts to increase donations, volunteering and outreach. In particular, GIV3 requested federal support for the creation of a long-term national campaign to increase awareness and charitable giving. According to Paul Reed, a culture of giving could be established within a community through public policies that strengthen "social learning processes", which are gained through life, education and work experience.

Similarly, the David Suzuki Foundation, Big Brothers Big Sisters of Canada and the Evangelical Fellowship of Canada highlighted the importance of engagement at an early age, and advocated raising awareness — through the school system as well as through community centres, churches, foundations and other organizations — of the benefits of charitable giving. They suggested that, by supporting the role of coaches, volunteers and other mentors, a culture of charitable giving could be developed further within Canada.

A. Abigail Payne and Volunteer Canada spoke to the Committee about the need to expand the use of existing data, such as that available in tax returns and charity information returns, to understand more fully the trends and characteristics of charitable giving. As well, according to Christopher Richardson, there is a need to continue developing new data sources; he supported the continuation of existing surveys, such as Statistics Canada's *Canada Survey of Giving, Volunteering and Participating*.

In speaking about federal programs related to charitable giving that reduce homelessness and support social housing, the Evangelical Fellowship of Canada said that the Homelessness Partnering Strategy and Housing First should be maintained and extended. As well, consistent with a recommendation made by the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities in its report entitled *Federal Poverty Reduction Plan: Working*

*in Partnership towards Reducing Poverty in Canada*, it advocated the establishment of a national poverty reduction strategy and — in partnership with the provinces/territories — the development of a national housing strategy.

The Canadian Equal Parenting Council indicated that charities, in refusing to provide assistance, can discriminate against people based on their sex, race, religion or other defined characteristic. Similarly, it noted that they can refuse to hire people as well as engage in campaigns that encourage discrimination against particular individuals. It suggested that, in order to address discrimination, the federal government could revoke the charitable status of charities if there is evidence that they engage in discriminatory behaviour that is contrary to the *Canadian Charter of Rights and Freedoms* and human rights legislation. According to the Canadian Equal Parenting Council, the term “community benefit” should be more clearly defined and should include charities that provide services that respect diversity, rights that are specified in the Charter, human rights legislation and various United Nations covenants. Finally, it proposed that excise tax rebates not be available to government-funded organizations that exclude certain individuals from the provision of commercial services, such as civil law services.

According to Mobile Giving Foundation Canada, m-commerce — the use of mobile technology to conduct commercial transactions — is expanding in Canada and around the world; m-commerce transactions are expected to reach just over \$100 billion in annual retail revenue by 2015, representing almost 10% of the total e-commerce market. It indicated that the use of this technology to make charitable donations, by text messaging, is also growing in Canada, and proposed that further awareness is needed so that Canadians can take full advantage of the potential gains in efficiency and convenience when making charitable donations using this technology.



## **CHAPTER THREE: THE COMMITTEE'S RECOMMENDATIONS TO ENHANCE CHARITABLE GIVING**

### **Tax Recommendations**

- 1. Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of eliminating or lowering the capital gains tax on charitable donations of real or immovable property or the shares of private corporations to charities, provided that the proceeds of disposition are donated to a charity within a fixed period.**
- 2. Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of adopting a stretch tax credit.**
- 3. Subject to the government's stated intention to balance the budget in the medium term, that the federal government examine the feasibility and cost of extending the carry-forward period for claiming a charitable donation, including gifts of ecologically sensitive lands or gifts of certified cultural property.**
- 4. Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore ways to increase charitable giving in the corporate sector — including through a review of the current donation contribution limit — and the cost of such potential initiatives.**
- 5. Subject to the government's stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of the promotion of bequests to charitable organizations and transfers of property to a charity as a result of a will.**
- 6. That the federal government undertake a technical review of the *Income Tax Act* as it relates to charities, including the definitions of the terms "charity", "charitable donation", and "gift", to ensure greater simplicity and reduced administrative compliance costs for charities.**

### **Public Awareness Recommendations**

- 7. That the federal government continue to monitor charitable giving trends and characteristics, and make such data available.**
- 8. That the federal government further promote charitable giving by reminding and educating Canadians of existing tax incentives for charitable donations and their benefits.**

9. That the federal government work with the charitable sector to promote the use of “mobile giving”, educating Canadians on the advantages and convenience when making charitable donations using new technology.
10. That the federal government continue to explore social finance instruments as a way to further encourage the development of government-community partnerships.

#### **Reducing the “Red Tape Burden” Recommendations**

11. That the federal government continue to explore ways to reduce the administrative burden or “red tape burden” on charitable organizations, including — but not limited to — a review of the possibility of streamlining the excess corporate holdings provisions for private foundations, duplicative requirements, and the possibility of introducing administrative reporting on a sliding-scale basis, proportional to the size of the charitable organization.

#### **Transparency Recommendations**

12. That the federal government continue to recognize that promoting increased transparency and accountability in the charitable sector will support greater confidence among Canadians and their willingness to donate more generously. As such, the federal government should explore options to continue to improve accountability and transparency in the charitable sector, such as potentially giving the Canada Revenue Agency (CRA) a greater ability to disclose serious non-compliance by qualified donees and to disclose the annual returns of such donees, establishing a requirement for charities to demonstrate annually their “public benefit”, adopting measures as proposed in Bill C-470 as passed at third reading in the 40th Parliament, and allowing the CRA the ability to disclose some or all information contained on the Non-Profit Organization Information Return.

## **LIST OF RECOMMENDATIONS**

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1. Subject to the government’s stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of eliminating or lowering the capital gains tax on charitable donations of real or immovable property or the shares of private corporations to charities, provided that the proceeds of disposition are donated to a charity within a fixed period..... 25
2. Subject to the government’s stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of adopting a stretch tax credit. .... 25
3. Subject to the government’s stated intention to balance the budget in the medium term, that the federal government examine the feasibility and cost of extending the carry-forward period for claiming a charitable donation, including gifts of ecologically sensitive lands or gifts of certified cultural property. .... 25
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5. Subject to the government’s stated intention to balance the budget in the medium term, that the federal government explore the feasibility and cost of the promotion of bequests to charitable organizations and transfers of property to a charity as a result of a will. .... 25
6. That the federal government undertake a technical review of the *Income Tax Act* as it relates to charities, including the definitions of the terms “charity”, “charitable donation”, and “gift”, to ensure greater simplicity and reduced administrative compliance costs for charities. .... 25
7. That the federal government continue to monitor charitable giving trends and characteristics, and make such data available. .... 25
8. That the federal government further promote charitable giving by reminding and educating Canadians of existing tax incentives for charitable donations and their benefits..... 25

**9. That the federal government work with the charitable sector to promote the use of “mobile giving”, educating Canadians on the advantages and convenience when making charitable donations using new technology..... 26**

**10. That the federal government continue to explore social finance instruments as a way to further encourage the development of government-community partnerships..... 26**

**11. That the federal government continue to explore ways to reduce the administrative burden or “red tape burden” on charitable organizations, including — but not limited to — a review of the possibility of streamlining the excess corporate holdings provisions for private foundations, duplicative requirements, and the possibility of introducing administrative reporting on a sliding-scale basis, proportional to the size of the charitable organization. .... 26**

**12. That the federal government continue to recognize that promoting increased transparency and accountability in the charitable sector will support greater confidence among Canadians and their willingness to donate more generously. As such, the federal government should explore options to continue to improve accountability and transparency in the charitable sector, such as potentially giving the Canada Revenue Agency (CRA) a greater ability to disclose serious non-compliance by qualified donees and to disclose the annual returns of such donees, establishing a requirement for charities to demonstrate annually their “public benefit”, adopting measures as proposed in Bill C-470 as passed at third reading in the 40th Parliament, and allowing the CRA the ability to disclose some or all information contained on the Non-Profit Organization Information Return. .... 26**

# APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p><b>Canada Revenue Agency</b></p> <p>Cathy Hawara, Director General, Charities Directorate, Legislative Policy and Regulatory Affairs Branch</p> <p>Bryan McLean, Director, Policy, Planning and Legislation Division, Charities Directorate, Legislative Policy and Regulatory Affairs Branch</p> <p><b>Department of Finance</b></p> <p>Sean Keenan, Director, Personal Income Tax Division, Tax Policy Branch</p> <p>Blaine Langdon, Chief, Charities, Personal Income Tax Division, Tax Policy Branch</p> <p><b>Statistics Canada</b></p> <p>Sonia Demers, Assistant Director, Director, Administration</p> <p>Alison Hale, Director, Income Statistics</p> <p>Sylvie Michaud, Director General, Education, Labour and Income Statistics Branch</p>	2012/01/31	38
<p><b>As Individuals</b></p> <p>Laforest, Rachel, Associate Professor, School Of Policy Studies, Queen's University</p> <p>Payne, A. Abigail, Professor, Department of Economics, McMaster University</p> <p>Reed, Paul, Professor, Department of Sociology and Anthropology, Carleton University</p> <p><b>Thompson Rivers University</b></p> <p>Laura Lamb, Assistant Professor, School of Business and Economics</p> <p><b>University of Western Ontario</b></p> <p>Adam Parachin, Professor, Faculty of Law</p>	2012/02/02	39
<p><b>As an individual</b></p> <p>Johnson, Donald K., Member of Advisory Board, BMO Capital Markets</p> <p><b>Canadian Association of Gift Planners</b></p> <p>Robert Kleinman, Executive Director, Jewish Community Foundation of Montreal</p>	2012/02/07	40

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Canadian Land Trust Alliance</b> Karen Cooper, Director	2012/02/07	40
<b>Imagine Canada</b> Marcel Lauzière, President and Chief Executive Officer		
<b>United Way of Burlington and Greater Hamilton</b> Len Lifchus, Chief Executive Officer		
<b>United Way of Canada</b> Alan Hatton, President, Chief Executive Officer		
<b>As an individual</b> Alepin, Brigitte, Chartered Accountant, Tax Policy Specialist, Author	2012/02/09	41
<b>BMO Nesbitt Burns</b> John Waters, Vice President, Head of Technical Expertise, Wealth Group		
<b>Canadian Taxpayers Federation</b> Gregory Thomas, Federal and Ontario Director		
<b>Drache Aptowitz LLP</b> Adam Aptowitz		
<b>Scotiabank</b> Malcolm Burrows, Head, Philanthropic Advisory Services, Scotia Private Client Group		
<b>TD Bank Financial Group</b> Craig Alexander, Senior Vice-President and Chief Economist		
<b>Big Brothers Big Sisters of Canada</b> Bruce MacDonald, President, Chief Executive Officer	2012/02/14	42
<b>Canadian Council of Christian Charities</b> Barry Bussey, Vice-President, Legal Affairs		
<b>Cardus</b> Michael Van Pelt, President		
<b>Community Foundations of Canada</b> Ian Bird, President, Chief Executive Officer		
<b>David Suzuki Foundation</b> Peter Robinson, Chief Executive Officer		
<b>Evangelical Fellowship of Canada</b> Don Hutchinson, Vice-President and General Legal Counsel, Centre for Faith and Public Life		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Association of Fundraising Professionals</b> Andrea McManus, Chair	2012/05/03	56
<b>CanadaHelps</b> Owen Charters, President and Chief Executive Officer		
<b>Canadians for Tax Fairness</b> Dennis Howlett, Coordinator		
<b>Mobile Giving Foundation Canada</b> Jim Patrick, Senior Vice-President, Canadian Wireless Telecommunications Association		
<b>Volunteer Canada</b> Ruth MacKenzie, President and Chief Executive Officer		
<b>Canadian Diabetes Association</b> Michael Cloutier, President and Chief Executive Officer	2012/05/08	57
<b>CanadianCharityLaw.ca</b> Mark Blumberg, Lawyer and Partner, Blumberg Segal LLP		
<b>Charity Intelligence Canada</b> Kate Bahen, Managing Director		
<b>Food Banks Canada</b> Shawn Pegg, Director, Policy and Research		
<b>Social Innovation Generation</b> Allyson Hewitt, Director, Social Entrepreneurship		
<b>Women's College Hospital Foundation</b> Mary Dodd, Vice-President, Finance and Operations		
<b>Canadian Bar Association</b> Peter Broder, Chair, Charities and Not-for-Profit Law Section	2012/10/03	75
<b>Carleton University</b> Calum Carmichael, Associate Professor, Research Associate, School of Public Policy and Administration, Carleton Centre for Community Innovation		
<b>GIV3</b> John Hallward, Chairman, Hallmont Foundation		
<b>Philanthropic Foundations Canada</b> J. Alexander Houston, Chair		



# APPENDIX B LIST OF BRIEFS

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## Organizations and Individuals

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Alberta Federation of Labour

Alepin, Brigitte

Association for Healthcare Philanthropy

Association of Fundraising Professionals

Association of Universities and Colleges of Canada

Benefic Lawyers

Big Brothers Big Sisters of Canada

Blumberg Segal LLP

BMO Nesbitt Burns

Calgary Chamber of Voluntary Organizations

CanadaHelps

Canadian Arts Presenting Association

Canadian Association of Gift Planners

Canadian Bar Association

Canadian Council of Christian Charities

Canadian Diabetes Association

Canadian Environmental Grantmakers' Network

Canadian Equal Parenting Council

Canadian Land Trust Alliance

Canadian Secular Alliance

Canadians for Tax Fairness

Cardus

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## Organizations and Individuals

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Carleton University

Change Canada Charitable Foundation

Charity Intelligence Canada

CIBC Private Wealth Management

Community Foundations of Canada

Concordia University

David Suzuki Foundation

Dexterity Ventures Inc.

Drache Aptowitzer LLP

Drimmie, Gord

Ellis, Patrick G.

Evangelical Fellowship of Canada

Food Banks Canada

GIV3

Habitat for Humanity Canada

Huisman, Lukas

Imagine Canada

Johnson, Donald K.

LIFT Philanthropy Partners

MaRS Centre for Impact Investing

McGill University

McRae, Don

Mobile Giving Foundation Canada

Payne, A. Abigail

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## Organizations and Individuals

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PearTree Financial Services

Philanthropic Foundations Canada

Professional Association of Canadian Theatres

Reed, Paul

Richardson, Christopher

Scotiabank

Service, Susan

Social Innovation Generation

Thompson Rivers University

University of Manitoba

University of Victoria

University of Western Ontario

World Wildlife Fund (Canada)



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (41st Parliament, 1st Session: [Meetings Nos. 38 to 42, 56, 57, 75, 96 and 101](#)) is tabled.

Respectfully submitted,

James Rajotte, M.P.

Chair



## Supplementary Opinion by the Official Opposition

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### Report on Tax Incentives for Charitable Donations

#### Introduction

The New Democratic Party (NDP) wishes to reiterate its support for Canada's charitable sector and is pleased that the Finance Committee was able to meet with so many of the representatives from the sector and experts on charitable giving.

While the NDP members of the Finance Committee are generally in agreement with the findings of the majority report, we have significant concerns regarding government actions to politicize the charitable sector and the cross-income fairness of the structure of tax incentives.

The Official Opposition, therefore, feels compelled to issue a supplementary opinion in order to emphasize the need for comprehensive government policy that addresses the root causes of problems faced by the charitable sector.

#### Federal Revenues

The NDP recognizes the vital importance of a robust charitable sector; however, we are concerned that the implementation of a number of the majority report's recommendations would drastically reduce federal tax revenues, which are essential for the government to meet its basic commitments to the Canadian people.

At a time when the government swears by deficit reduction – while blindly slashing services to Canadians - it is important to take into account this potential loss of revenue.

Tax incentives should be viewed as a form of government expenditures, and their value must be evaluated as such. As **Professor Calum Carmichael** (Associate Professor, Research Associate, School of Public Policy and Administration for Community Innovation, Carleton University) noted in his presentation to the Committee:

*“The Government of Canada has the responsibility to allocate tax revenues to purposes that best serve the needs of its citizens. This responsibility extends to the revenues that the government foregoes in providing tax incentives, whether by credits or deductions on charitable contributions.”*

While the majority report's recommendations make reference to “the government's stated intention to balance the budget in the medium term”, we remain concerned that this balance may involve the government proceeding on some of the more costly recommendations, while slashing a similar amount of spending from the front-line services on which Canadians depend.

On a related note, **Rachel Laforest** (Associate Professor, School of Policy Studies, Queen's University) raised the following concern regarding the charitable sector's role in the context of government cutbacks to frontline services:

*“The assumption is that voluntary sector organizations will be able to pick up that burden. I think it's important to ask ourselves whether the voluntary sector actually has the capacity and the ability to take up this additional burden, because ultimately it will have an impact on our communities and our quality of life.”*

The NDP members of the Finance Committee strongly agree with this note of caution. The federal government provides essential services to Canadians and this burden should not be placed upon the charitable sector.

### **Equitable Incentives**

The NDP members of the Finance Committee strongly believe that charitable donations, in the form of time or money, should not be the sole purview of the wealthiest Canadians. We are concerned that the recommendations in the majority report have ignored concerns such as those expressed by **Canadians For Tax Fairness**, who emphasized:

*“Our primary concern is that we not skew the tax credit system even more in favour of the rich, because we know that the rich have different priorities from the poor. The way the tax system operates, it treats donations by the rich more generously in terms of incentives than donations by those who give under \$200.”*

### **Political Attacks on the Charitable Sector**

We have significant concerns regarding the government’s escalating politicization of charitable status. The charitable sector is now in a state of fear that any criticism of, or disagreement with, the policies of the Conservative government will result in the loss of funding or the revocation of charitable status by the CRA.

During the Committee hearings, **Mark Blumberg** of Blumberg Segal LLP, expressed this concern:

*“I think people, parliamentarians, senators, and cabinet ministers should be more careful when they talk about the charity sector, when they make allegations and things like that. I think that would probably be more helpful than more tax incentives, in terms of encouraging public trust in charities....we live in a democracy and people are entitled to have their views. Some people don't have much money and aren't able to really express those views very much.”*

The NDP members of the Finance Committee are of the firm belief that support for the charitable sector must not be politicized or dependent on ideology.

### **Conclusion**

The primary points that the NDP members of the Finance Committee believe should be taken from this supplementary report are as follows. First, that any changes to the funding or tax incentives for the charitable sector must undergo thorough financial analysis and no changes should be implemented that will harm the federal government’s ability to meet the needs of Canadians. Second, that political attacks from the government against the charitable sector must come to a halt.