



July 23, 2009

The Hon. James M. Flaherty, P.C., M.P.
Minister of Finance
Finance Canada
140 O'Connor Street
Ottawa, ON K1A 0G5

Dear Minister,

Imagine Canada is writing to express its deep concern with respect to the disbursement quota (DQ) regime governing charities under the *Income Tax Act*, and to request that the government move with urgency to abandon its current approach in favour of one that strikes a more effective balance between public accountability for tax expenditures and providing charities and donors the freedom and flexibility they need to effectively advance their charitable purposes. This change would be very well-received and appreciated by charities from coast to coast and would improve the charitable sector's ability to serve the millions of Canadians who benefit from its programs and services.

Charities, like businesses, benefit from simple regulatory regimes. This is particularly true in economic downturns, as charities struggle to maintain their programs and services in the face of declining revenues and mounting needs. Burdensome administrative requirements severely limit charities' flexibility to deploy their revenues and capital for the purposes for which they were intended – advancing their charitable objectives in a sustainable manner.

As you may be aware, the disbursement quota is the minimum amount of certain income (primarily income for which a receipt has been issued under the *Income Tax Act*) and accumulated capital that a registered charity is required under the *Income Tax Act* to spend each year on its own charitable programs, or on gifts to qualified donees, such as other registered charities. The stated purpose of the DQ is to ensure that charities use the bulk of their tax receipted gifts for charitable work. It is also intended to limit charities' fundraising expenditures and to discourage excessive accumulation of funds.

Imagine Canada and its members fully recognize and endorse the need for supervision to ensure that assets are used for charitable purposes, both on a current basis to match tax expenditure and on an ongoing basis to prevent undue accumulation. We do not believe, however, that the current legislative regime is achieving this core purpose and, consequently, that it serves the interests of the public, the government, or charities.

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In practice, the current disbursement quota measures:

- Impose an unduly complex and costly administrative burden on charities – particularly small and rural charities;
- Make arbitrary and excessive capital disbursement demands that ignore the harsh realities of the current investment market;
- Are less effective in meeting their ancillary purposes – curbing fundraising expenses and fostering efficiency – than a more streamlined and flexible regulatory approach that would readily adjust to market realities and permit unintended consequences to be remedied quickly and easily;
- Are neither equitable nor enforceable, undermining the government and sector’s shared goal of an accountable and transparent regulatory regime.

For a more detailed description of the disbursement quota provisions and the significant challenges they pose to charities, we encourage you to read the accompanying two-page *Appendix*. It is on the basis of the issues outlined both in this letter and the *Appendix* as well as in light of the current economic context that Imagine Canada and its members are asking the government to move quickly to eliminate the disbursement quota and then to work in consultation with charities to develop a new regulatory approach that will be both effective in advancing accountability and transparency, and practicable for all charities – large and small – to implement. We believe the process recently used to develop and refine CRA’s fundraising guidance is an excellent example of government and the sector working together to create a regulatory framework that advances accountability without unduly handicapping the operation of charities.

In considering options for a future regime, Imagine Canada would like to suggest the following guiding principles:

1. **A new regime must be sensitive to the operational needs of charities as well as the government’s need to effectively prevent and address abusive practices.**
2. **Any guidelines with respect to disbursement must be sensitive to prevailing market conditions** and responsive to changes in investment return levels. This means adopting a total investment return approach or a variation with comparable outcomes.
3. **The only appropriate objective for compelling disbursements should be to prevent inappropriate accumulation of funds by charities.** The ancillary objectives of the current approach – 1) promoting efficiency in the charitable and non-profit sector and 2) limiting excessive fundraising expenditures – are better addressed through other means. Efficiency is

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best advanced by transparency and accountability in the charitable marketplace, providing suitable information so that donors can make effective gifts in respect of the charitable purposes they wish to fulfil. Curbing undue fundraising costs is best addressed by CRA's recently released *Guidance on Fundraising by Canadian Charities*.

4. **A new regime must have transition rules to prevent inequities from arising as a result of the move from one regime to the next.** No charity must suffer a penalty for having complied with the current regime.
5. **Provision must be made for educating the charitable sector and its professional advisers** on the new regime.

The *Canadian Bar Association (CBA) – Charities and Not-for-Profit Law Subsection* has a longstanding interest in the issues addressed in this letter. The Subsection recently provided Imagine Canada with a working paper on alternatives to the current regime (please see enclosed).

We encourage the government to act as soon as possible with respect to announcing the removal of the disbursement quota provisions and, in the context of a subsequent consultative process, to review the CBA's suggestions and other potential options for a new, more flexible and enforceable regime to prevent inappropriate accumulation or use of charitable funds. We are confident that, together, we can devise more effective mechanisms that will successfully advance our mutual objective – an accountable and effective charitable sector.

Imagine Canada and its members would like to thank you for your consideration of our views on this important matter. We look forward with interest to your response and with confidence to a positive dialogue and resolution of these issues.

Sincerely,



Marcel Lauzière
President & CEO

cc : Mary Martin, Policy Advisor, Finance Canada

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