



The Honourable Chrystia Freeland
Deputy Prime Minister and Minister of Finance
House of Commons
Ottawa, Ontario K1A 0A6

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May 27, 2022

Dear Minister Freeland,

On behalf of the Ontario Nonprofit Network (ONN), we are writing to express our grave concerns with provisions of the *Budget Implementation Act, 2022* ("BIA") intended to enable registered charities to more effectively partner with non-qualified donees while still ensuring proper accountability.¹ We echo the concerns and recommendations of Cooperation Canada, Imagine Canada, Philanthropic Foundations of Canada, and the legal profession.

ONN is the independent nonprofit network for the 58,000 nonprofits and charities in Ontario, focused on policy, advocacy and services to strengthen the sector as a key pillar of our society and economy.

We applaud the Government championing this issue and committing in Budget 2022 to implement the spirit of Bill S-216. However, the current wording of the BIA would not only fail to implement Bill S-216's spirit thereby preventing the creation of new partnerships due to cumbersome and inflexible regulation, but would fail to include shared platforms in this important reform, as well as recognize funding techniques used by municipalities and government agencies.

Cooperation Canada identified three concerns in their open letter dated May 17, 2022:

- The proposed definition of a 'qualifying disbursement' - section 149.1(1)
- The proposed language relating to 'directed gifts' - section 168 (1)(f)
- The prescribed conditions for qualifying disbursements to grantee organizations - regulation 3703

These are also our top concerns, and we support the following recommendations:

- Refine the proposed definition of 'qualifying disbursement', section 149.1(1). Remove the reference to disbursement meeting 'prescribed conditions' and replace it with a requirement that the charity instead takes reasonable steps to ensure that the resources disbursed are used exclusively in furtherance of a charitable purpose.

¹ Budget Implementation Act, 2022, No. 1, at s.16,

- Delete proposed Regulation 3703 in its entirety. This would allow for regulations to be in the CRA guidance documents rather than exist as codified rules in the Income Tax Act.
- Amend language related to 'directed giving', paragraph 168(1)(f).

These changes would allow for the Minister of National Revenue to develop and administer policy that allowed for flexibility in responding to the diverse types and level of risk posed in the sector.

We are particularly concerned about the proposed changes to s.168(1)(f) in the BIA and highly recommend they be amended. The proposed changes to s.168(1)(f) would prohibit partnerships where charities are meeting the standards of a qualifying disbursement but are working with a non-qualified donee that the donor or funder specifically supports. This prohibits all kinds of legitimate partnerships. For example:

- **Municipalities and provincial government agencies often fund registered charities to work with grassroots associations.** They do this because these charities provide valuable oversight and mentorship of the smaller, less experienced groups. These relationships currently operate under the direction and control rules, but could operate more effectively under a reasonable qualifying disbursement framework. However, under the proposed amendments to s.168(1)(f), they would not be allowed because the funder could not grant to charities to work with specific grassroots associations.
- **Multi-service agencies like St. Stephen's House or Delta Family Resource Centre currently serve as shared platforms to many grassroots associations,** such as COVID-19 mutual aid networks. These grassroots groups are often led by and serving Black, Indigenous, and racialized individuals and communities. The shared platform model is a promising framework where experienced charities administer funding for charitable grassroots projects while offering the efficiencies of established financial, HR, administrative capacity, and experience to incubate them to become independent and sustainable. This model holds a promising future but is constrained by the direction and control rules and would be completely shut out of the ability to administer grants to grassroots groups as qualifying disbursements by the proposed changes to s.168(1)(f).

To achieve the Government's stated objective of getting more funding to communities, while cutting unnecessary red tape, we recommend amending the proposed changes to s.168(1)(f).

We would be pleased to discuss any part of this letter and provide further details as needed. Thank you for your serious consideration of amending the Budget Implementation Act.

Sincerely,



Cathy Taylor, Executive Director, ONN