



THE CANADIAN  
BAR ASSOCIATION  
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BARREAU CANADIEN

September 1, 2009

James Rajotte, M.P.  
Chair, Standing Committee on Finance  
6-14 131 Queen Street  
House of Commons  
Ottawa, ON K1A 0A6

Dear Mr. Rajotte:

**Re: Pre-Budget Consultations 2009**

The Canadian Bar Association is a national association representing 37,000 jurists, including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice. This submission was prepared by the National Charities and Not-for-Profit Law Section of the Canadian Bar Association (the CBA Section). The CBA Section represents lawyers from across Canada who advise or serve on the boards of charitable and non-profit organizations. The CBA Section welcomes the opportunity to provide its recommendations for the upcoming federal budget.

The CBA Section believes that the following measures are needed to ensure prosperity and a sustainable future for Canadian charities and not-for-profit organizations and would contribute to stimulating this important sector of the economy. In particular, our recommendations focus on supporting effective changes and the removal of ineffective measures which have not had their intended effects.

1. Disbursement Quota

Our first recommendation relates to the *Income Tax Act* (ITA) provisions regulating the disbursement quota and the difficulties it has posed for charities. For several years, we have documented concerns ranging from the complexity of the provisions to the challenges encountered by small and rural charities that operate primarily with donor funds, as opposed to large charities that are primarily government funded.

Our concerns were outlined in a detailed submission dated July 2009 to Finance Canada and the Canada Revenue Agency (a copy of which is available on request). In our submission, we suggested that the rules regarding the expenditure of tax receipted income should be removed from the ITA. We reiterate this suggestion. As indicated in our submission, the tax policy objectives of the rules

are now adequately dealt with by other provisions of the ITA and by the *Guidance on Fundraising by Registered Charities* released by the Canada Revenue Agency.

## 2. Helping Canadian Charities Respond to the Recession

We are well aware from the clients we serve of the financial difficulties faced by charities as a result of the recession. We think it is an appropriate time for the government to introduce measures that will lead more Canadians to give more in support of their favourite causes. We support the recommendation advanced by Imagine Canada and other sector organizations to introduce a stretch tax credit applicable to *new* charitable giving. Imagine Canada's proposal would apply an increased tax credit of 39% on donations above \$200 that exceed a donor's previous highest giving level. This stretch credit is 10% higher than the existing credit available on donations above \$200.

We trust that the Standing Committee on Finance will find these recommendations helpful in its pre-budget deliberations. We would welcome an opportunity to expand on these matters in an appearance before the Committee.

Sincerely,

*(Original signed by Susan Manwaring)*

Susan Manwaring  
Chair, National Charities and Not-for-Profit Law Section