

Good news for charities in federal budget

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For Law Times

One measure proposed in the federal government's 2010 budget that has found support from across the charitable sector in Canada is the provision eliminating the 80-per-cent disbursement quota for registered charities and increasing the exemption from the separate 3 1/2-per-cent disbursement quota.

Over the years, those requirements have created an unnecessarily onerous administrative burden on registered charities that few of them have had the ability to comply with, let alone understand. These burdensome complexities include having to wrestle with the complicated concepts of enduring property, 10-year gifts, capital gains pools, and inter-charity transfers. The 80-per-cent requirement was particularly difficult for small and rural charities to adhere to because they tend to be more dependent on receipted income than large organizations.

The government introduced the disbursement quota to help curtail fundraising costs, limit capital accumulation, and ensure that a significant portion of an organization's resources went to charitable activities as opposed to administrative costs. In general terms, it requires that the amount a charity spends each year on charitable activities be at least equal to 80 per cent of the previous year's tax-receipted donations. However, with the recent release by the Canada Revenue Agency of its guidance on fundraising by registered charities, the charitable expenditure rule has become less relevant.

In July, the national charities and not-for-profit law section of the Canadian Bar Association submitted a paper to the Department of Finance indicating that the disbursement quota regime results in substantial distortions of donors' gifting decisions and investment choices by charities. The paper made a number of recommendations for reform, including the complete repeal of the charitable expenditure rule or the 80-per-cent disbursement quota and modifications to the 3 1/2-per-cent requirement.


Now, the 2010 federal budget proposes to reform the disbursement quota for fiscal years that

end on or after March 4, 2010, by completely repealing the charitable expenditure rule. In addition, the disbursement quota currently includes a requirement that charities spend an amount equal to 3 1/2 per cent of their investment assets each year if their value exceeds \$25,000. The budget proposes to increase this threshold to \$100,000 for charitable organizations, thereby reducing the compliance burden on small charitable organizations and providing them with greater ability to maintain reserves to deal with contingencies.

Other proposed measures include extending existing anti-avoidance rules to situations where the purpose of a transaction was to unduly delay or avoid the application of the disbursement

quota; amending the provisions that allow charities to accumulate property for a particular purpose, such as a building project, to exclude these funds from the capital accumulation rule; and extending the mineral exploration tax credit, an important component of many flow-through share-gifting arrangements.

The proposed changes will have a substantial impact on charities, significantly decreasing the administrative complexity of complying with the disbursement quota. No longer will they have to struggle with structuring long-term gifts or endowment funds to comply with complex Income Tax Act language related to enduring property. They will instead be able to focus their efforts on balancing donor desires for long-term financial stability with the need for flexibility to meet changing economic conditions.

Charities and their financial advisers will also not have to spend scarce resources accounting for and allocating expenses between those related to carrying on charitable activities and overhead or administrative costs. Instead, the focus will be on complying with CRA's guidance with respect to fundraising expenditures. 

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Speaker's Corner