

FEDERAL BUDGET 2009: GRANTS, CONTRIBUTIONS AND EARMARKS, BUT NO NEW TAX INCENTIVES

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A. INTRODUCTION

Canada's much anticipated 2009 federal budget was released on January 27, 2009 ("the Budget").¹ Given the current economic situation, the charitable sector was hoping for a number of measures to stimulate charitable giving, but found the budget to be lacking in key areas. The budget is available online at: <http://www.budget.gc.ca/2009/index.html>.

In early January 2009, Imagine Canada (a national umbrella charity that engages in research and initiatives to assist and promote the work of charities and not-profit organizations in Canada) struck a task force to embark on consultations to provide additional detail to the measures called for in an Open Letter² to the Prime Minister published in newspapers on November 21, 2008. The resulting brief, entitled *Short-Term Stimulus Measures for Assisting Canadians and Communities during the Economic Downturn*³ ("the Brief"), was then submitted to the Prime Minister and the Finance Minister on January 15, 2009. In the Brief, the following three key stimulative measures were recommended to assist Canada's vulnerable populations and the charitable and non-profit sector that supports them: 1) maintain direct funding through federal grants and

¹ Online at: <http://www.budget.gc.ca/2009/index.html>.

² Online at: http://www.imaginecanada.ca/files/en/publicaffairs/pm_letter_ad_20081120.pdf.

³ Online at: http://www.imaginecanada.ca/files/en/publicaffairs/brief_budget_2009_20090115.pdf.

contributions agreements; 2) earmark federal infrastructure funding for community and social services, arts and culture, sports and recreation and green retrofit initiatives; and 3) provide a time-limited enhanced tax credit measure to stimulate giving.

The sector has expressed disappointment that, while the Budget provides for various grants, contributions, and earmarks that will benefit charities and non-profits, it does not establish any new tax incentives that might stimulate charitable giving.

This *Charity Law Bulletin* briefly examines the stimulative measures that are contained in the Budget.

B. GRANTS, CONTRIBUTIONS AND EARMARKS WELCOME, BUT TEMPORARY

In relation to the almost \$30 billion announced to support the economy this year, the Budget provides for various grants, contributions, and earmarks that the federal government claims acknowledges the importance of charities and non-profits in Canada's economy. Specifically, the Budget provides a targeted, two-year fund of \$60 million to support infrastructure-related costs for local and community cultural and heritage institutions, such as local theatres, small museums, and libraries. Examples include: the Toronto Public Library revitalization project; Toronto's Famous PEOPLE Players; la Maison du Festival de Jazz in Montréal; and the Confederation Centre of the Arts in Charlottetown. This support will be provided through Canadian Heritage programming.

Another infrastructure related Budget initiative that purports to assist charities and non-profits to contribute to Canada's economy, is the announced \$1 billion earmarked over five years for a new Southern Ontario Development Agency. The Budget claims that its programs will support economic and community development, innovation, and economic diversification, with contributions to communities, businesses, as well as non-profit organizations to help workers and communities in Southern Ontario.

With respect to grants, the federal government describes Canada's Youth Employment Strategy as its key program to help young people support non-profit organizations. The government anticipates that the current labour market disruptions may mean that young Canadians, in particular, may find it harder to find summer jobs. To improve their prospects, the Budget will provide a two-year targeted funding campaign of \$20 million delivered through the Canada Summer Jobs program to enable more employers in the non-profit

sector to hire summer students. In addition, the government will provide a one-time grant of \$15 million to the YMCA and YWCA to place youth in internships in non-profit and community service organizations, with a focus on environmental projects.

C. NO NEW TAX INCENTIVE TO STIMULATE CHARITABLE GIVING

Although the Budget addresses funding concerns through various grants, contributions, and earmarks, the Budget unfortunately does not provide any direct mechanism to encourage charitable donations through enhanced tax-measures, such as a three-year enhancement of the charitable tax credit as recommended by Imagine Canada.

One stimulus in the Budget that may indirectly have the effect of encouraging charitable donations is the Mineral Exploration Tax credit, which has been extended for another year until March 31, 2010. This credit is part of the incentives that encourage gifts of flow-through shares (tax-based financing incentives available to the oil and gas and mining sectors). The current rules effectively permit corporations to renounce or “flow-through” income tax deductions associated with certain activities to shareholders in exchange for the sale of their shares. The impact of the elimination of the tax on capital gains accruing on donations of publicly-traded securities to registered charities in previous budgets, when coupled with tax incentives on flow-through shares issued by companies in the resource sector, has generally garnered interest and planning opportunities for investors in the charitable sector.⁴ However, this one indirect tax incentive directed at the mining sector is hardly enough to make any significant difference to encourage giving in Canada.

⁴ For more information, see Theresa L.M. Man, Karen J. Cooper, and Terrance S. Carter, “Donation Tax Shelters Involving Flow-Through Shares” in *Charity Law Bulletin No. 116* (June 12, 2007) online: <http://www.carters.ca/pub/bulletin/charity/2007/chylb116.pdf>.

D. CONCLUDING COMMENTS

In these difficult economic times, support for charities and non-profits by individual Canadians is critical, since such organizations help the most vulnerable of those in our communities. As such, the voluntary sector was looking for much more from the federal government, particularly given the broad support that the sector gave to the Imagine Canada recommendation of enhanced tax credit measures to stimulate charitable giving. While the grants, contributions, and earmarks provided for in the Budget are certainly welcome, they are only temporary stimuli which do not reflect a serious commitment by the federal government to assist charities and non-profit organizations to fulfil their role in Canada's economy and society. It seems the sector will now have to look to the 2010 Budget to hopefully see any real progress in the area of tax incentives for charitable giving.