



October 31, 2024

By e-mail

Hon. Marci Ien
Minister of Women and Gender Equality
and Minister of Youth
House of Commons
OTTAWA, Ontario

Dear Minister:

We wish to encourage the government to give serious reconsideration to the proposed amendments to the Income Tax Act as they relate to pregnancy counselling centres that are registered charities.

The Pemsel Case Foundation (www.pemselfoundation.org) is a registered charity that was established to foster better knowledge and understanding by the Canadian public and voluntary sector organizations of charity law and regulation. We do so through research, education and litigation.

We understand the government is concerned about what it perceives to be inappropriate behaviour by an incredibly small percentage of the 86,000 registered charities in Canada. It is our belief that there are existing mechanisms that would allow the government to act on these concerns without the changes outlined in the Notice of Ways and Means motion tabled on October 29. Moreover, we believe that these amendments would set a very dangerous precedent.

We have two major concerns about the proposed legislation. The first is its requirement for compelled speech. The second is that the proposed reporting goes well beyond the question of whether they are, at law, a charity.

The proposed amendments would require a small subset of Canadian charities to disclose, in virtually every communication, what they do not do. The disclosure requirements would, in fact, make the use of social media impossible for the targeted charities, due to the length of the required disclosures. If one extrapolates that concept to Canadian charities more broadly, it would create an unmanageable situation. There are charities in every sphere of activity that limit what they do, because of resources or fundamental beliefs. That does not make them noncharitable, so long as they continue to benefit an appreciable segment of the public.

To the extent that the government believes that some organizations are misleading potential beneficiaries, we believe the Canada Revenue Agency has tools at its disposal to question whether those organizations continue to comply with the rules regarding public benefit. To the extent that the government believes that some organizations are engaging in misleading advertising, there are provisions within the Competition Act that allow for investigation and prosecution of those claims. The penalty – revocation of charitable status – to be imposed on these charities for what amounts to misleading advertising goes well beyond any penalty that is imposed on corporations found guilty of the same offence.

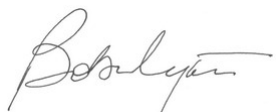
In dealing with reporting, the annual return filed by every charity is meant not only to provide public information but also to demonstrate that it continues to qualify for charitable registration. The provisions that are contained in the notice of the legislation goes well beyond that. Again, if applied to all registered charities, there would be a significant administrative burden in identifying what they do not do or what services they are unwilling or unable to provide.

In its 2015 election platform, the current government attacked what it termed harassment of some types of charities by the previous government. Our view is that by making a certain subset of charities fulfil obligations not faced by other charities, the legislation would create a precedent that could be used by future governments to make operations more difficult for some other types of charities. When there already exist alternate mechanisms to deal with perceived wrongs by some organizations, we believe that those mechanisms are better suited to achieve the desired goal than to set out different sets of rules for different types of charities.

We would encourage the government to give serious consideration to the precedent it is setting, and the damage use of that precedent could cause to a much larger group of charities in the long run.

We would be pleased to meet with you, your staff, or your officials to discuss this matter further.

Yours truly,

A handwritten signature in cursive script, appearing to read "Bob Wyatt".

Bob Wyatt, C.M.
Vice-President

cc: Rt. Hon. Justin Trudeau
Hon. Chrystia Freeland
Hon. Marie-Claude Bibeau