

## MEMORANDUM

**TO:** Hon. Chrystia Freeland, P.C., M.P., Deputy Prime Minister and Minister of Finance  
Hon. Marci Ien, P.C., M.P., Minister for Women and Gender Equality and Youth  
Hon. Marie-Claude Bibeau, P.C., M.P., Minister of National Revenue

**CC:** Mr. Jasraj Singh Hallan, M.P., Shadow Minister for Finance and Middle Class Prosperity  
Ms. Shelby Kramp-Neuman, M.P., Shadow Minister for Women, Gender Equality, and Youth  
Mr. Adam Chambers, M.P., Shadow Minister for National Revenue  
Ms. Sharmila Khare, Director General, Charities Directorate, Canada Revenue Agency

**FROM:** Andreae Sennyah, Director of Policy

**DATE:** December 4, 2024

### **SUBJECT: Politicization of Charitable Status**

#### **WHO WE ARE**

Cardus is a non-partisan think tank dedicated to clarifying and strengthening, through research and dialogue, the ways in which society's institutions can work together for the common good.

#### **ISSUE**

The Government of Canada intends to legislate against registered charities whose main activity is to provide pregnancy care services. The anticipated legislation targets all public communications that implicitly or expressly advertise these services. Public communications would include all advertising including bus advertisements, posters, billboards, posts on social media, and websites. These public communications must disclose in a "clear and prominent" way that they do not provide induced abortions or birth control services, do not provide information on how to obtain those services, and do not provide contact information for providers. Failure to comply with these requirements may result in the revocation of charitable registration.

#### **RECOMMENDATION**

The Government of Canada should not move forward with its proposed amendments to the *Income Tax Act*. This legislation would set a precedent for how charitable regulation can be manipulated to exclude or silence positions that do not align with the government of the day. To ensure that Canada's large and diverse charitable sector can carry out its work without the uncertainty of losing charitable status, the government should continue treating all charities equally through its existing regulatory framework.

#### **CONSIDERATIONS**

**Politicization of charitable sector:** While this legislation is being framed as a reproductive health issue, the broader consequence of the proposal is the politicization of charitable status. Currently, all charities are subject to the same basic guidelines and disclosure requirements as regulated by the Canada Revenue Agency. Imposing additional requirements for some organizations that have a different position than the government on a single issue sets a precedent for future politicization of charitable status. Today, it is this issue for this government. Tomorrow, it may be a different issue for a different government. Further, threatening the revocation of charitable status if certain information is not

disclosed on a single issue is heavy handed. It runs contrary to the CRA's existing approach which prioritizes education and only revokes charitable status in serious and repeated cases of non-compliance. The potential revocation of charitable status as a measure of first-resort creates uncertainty for all registered charities as it raises the question of what politically-sensitive issue will be targeted next.

**Limits on freedom of expression:** Canadians and Canadian charities are free to have different views about a range of politically-sensitive topics. The proposal demonstrates that if a charity does not align with the government on an issue, they will have to remain silent or will have to disclose what the government dictates must be disclosed on all public communications. Further, the proposed legislation would require specific charities to publicly communicate what they do *not* provide, including not providing the contact information for some services. Charities are not required to provide *all* legal services so long as they themselves are not engaged in illegal activities. Being required to communicate the non-provision of services places a punitive communications burden on one group of charities. It is also unclear what "clear and prominent" communication means and how it will be enforced in practice. Taken together, this sets a precedent for the federal government's willingness to regulate speech in the charitable sector.

**Importance of equal treatment:** As the legislation is debated, it is essential that policy makers consider the precedent that would be set and the effect these rules could have on the charitable sector as a whole. Consistent regulation allows charities to serve Canadians without the threat of losing their charitable status. Unequal application of regulations and limits on free expression politicize charitable regulation. While confined to one issue in this bill, the effects are potentially unlimited as governments may regulate other charities in similarly punitive ways in the future. We advise against this approach and reiterate the importance of treating all charities equally through the existing regulatory framework.

