

## Canadian Unitarians for Social Justice



*A national faith-based organization founded in support of Unitarian values*

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Charities Directorate  
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### Submission to the Canada Revenue Agency Consultation on Charities' Political Activity

#### Introduction

I am writing to you on behalf of Canadian Unitarians for Social Justice, a national faith-based organization promoting Unitarian principles and values, including “the right of conscience and the use of the democratic process within our congregations and in society at large”.

I thank you for the opportunity to allow charitable and non-profit organizations, as well as all Canadians to weigh in on the needed reform of the regulations related to charities. I recently wrote a letter to the Minister of National Revenues, the Honourable Diane LeBouthillier. It reads in part:

“Canada’s ambiguous and confusing charity laws allowed the previous federal government to launch costly audits on legitimate charities--including our national association, the Canadian Unitarian Council (CUC)--largely because these charities disagreed with the government’s policies. We are aware of a number of registered charities that have been or still are being audited perhaps, because they addressed government policies on such issues as the right to die legislation and the protection of Canada’s freshwaters and lands. The previous government’s abuse of power and the chilling effect it has had on charities and their supporters, should compel the current government to modernize the rules governing charities.

CUSJ echoes the recommendation others have made, that protections be enshrined in legislation to prevent future Ministerial interference with the work of charities carrying out their charitable purposes. We take heart from Prime Minister Trudeau's mandate letter bidding you "to allow charities to do their work on behalf of Canadians free from political harassment".

#### 1. Carrying out political activities

*Are charities generally aware of what the rules are on political activities? What issues or challenges do charities encounter with the existing policies on charities' political activities? Do these policies help or hinder charities in advocating for their causes or for the people they serve?*

As noted in CUSJ's letter to the Minister of National Revenues above, there is much ambiguity surrounding charity laws in Canada, which the previous federal government took advantage of, insinuating that charities were participating in partisan support of particular political parties. This was far from the truth. Engaging in non-partisan political activity should be the right of all charities in Canada.

The experience of charities that underwent political audits has put a chill through the sector. The CRA audit of our national religious association, the Canadian Unitarian Council, was completed at the end of May 2016, after a lengthy and expensive audit process. The end result of the audit, was to ask the CUC to remove 'the work of social justice in the world' as one of its charitable purposes.

This caused a considerable stir amongst our members and a distancing effect between the CUC and CUSJ, an affiliate organization of the CUC. Most CUSJ members are also members of Unitarian-Universalist congregations. The idea that a religious organization cannot explicitly state 'social justice' work in the world, as one of its charitable purposes, runs counter to U.U. values and principles.

CUSJ promotes dialogue and action on social justice issues. Why should our national religious association and our congregations be restricted from connecting with CUSJ to learn more about any given social justice issue, including the environment?

To cite another example, groups such as the West Coast Environmental Law Research Foundation, (WCEL) during a Canadian Revenue Agency's political activities audit, reported that despite the explicit phrasing in the policy documents that making a presentation to a public official is considered charitable, auditors from the CRA considered uninvited submissions to be a political activity. WCEL pointed out that the CRA did not in this circumstance, follow its own policies, which is of great concern as to the integrity of this government agency. In the words of British jurist Gordon Hewart, for a government and its agencies to retain their legitimacy in the eyes of their citizens, "Not only must justice be done; it must also be seen to be done."

The restrictions placed on Canada's charitable sector are in stark contrast to the freedoms afforded to for-profit corporations, that are able to deduct 100% of their lobbying and public relations campaigns for tax purposes. Corporations face none of the same restrictions or accountability that charities do. Citizens donating to charities as a way to have their voice heard on issues they care about are provided with a much less generous tax credit that is only usable when tax is payable. Corporations do not have to act in the public interest or use well-reasoned or even truthful arguments. In contrast, charities must act in the public interest and be research-based, truthful and unbiased in their public dialogue and public policy positions. These requirements should not change for charities but the fact that they do not apply to corporations creates an arena of public policy debate that favours self-interest over the public good. As a result, individual citizens are discriminated against by income tax law in their ability to participate with others in the public policy process.

CUSJ supports maintaining a prohibition on charities from engaging in direct partisan activities. However, new legislation is needed to give citizens a voice through the charities and non-profits they support and to enable them to continue critical public policy work on issues that impact Canadians.

## 2. The CRA's policy guidance

*Is the CRA's policy guidance on political activities clear, useful, and complete? For example, how could the CRA improve its policy guidance on these topics: the description of a political activity; the description of a partisan political activity; charities' accountability for their use of resources.*

The CRA's interpretation of the Income Tax Act stipulation that charities must devote substantially all of their resources to charitable purposes to be 90-10 with exceptions, is difficult and problematic. The system fails to recognize the nature of the process to amend or change a law or policy – which may take years and/or substantial efforts, including efforts to educate the public. Other countries have policies that recognize this.

As other charities have pointed out, there is an inherent tension between the Income Tax Act's focus on "charitable activities" and the common law's emphasis on "charitable purposes." The distinction between "charitable" and "political" activities has always been confusing. Such a line is increasingly meaningless in an era when non-partisan, non-profit organizations such as CUSJ, were created to solve society's greatest humanitarian and ecological problems and work towards long-term systematic change.

The CRA policy guidance leaves many practical questions unanswered. In the case of churches, the vast majority of work related to charitable purposes is done by volunteers who give freely of their time on matters they deeply care about. There is a lack of clarity on how to track volunteer time, especially on social media. For example, how does one quantify use and circulation through social media?

### 3. Future policy development

*Should changes be made to the rules governing political activities and, if so, what should those changes be?*

#### CUSJ's Recommendations for Future Policy Development

- Amend Income Tax Act to focus on charitable purposes, NOT activities. Courts only look at purposes, not how you get there. There is a disconnect between the Income Tax Act and policy guidance.
- Modernize the Income Tax Act by changing the definition of 'charity' to include prevention of poverty, violence, and damage to the environment.

- Amend the Income Tax Act to allow charities to choose any action to meet its purpose unless that action is specifically prohibited by law.
- Amend the Income Tax Act to allow charities a more level playing field with corporations to promote public policy initiatives
- Amend the Income Tax Act to protect free speech by clarifying that charities are allowed to raise public awareness, advocate for a change of policy, and report on public policy positions directly related to their charitable purposes.

The outcome of the government's review must be new legislation that ensures that all charities are encouraged and enabled to participate in public discussions of key issues related to ending poverty and violence, protecting the environment, and ensuring equality, freedom and justice for all. Canada's future rests in all our hands.

CUSJ looks forward to the results of the public consultation and subsequent legislative reform promised by your government. The ability of Canadian charities to participate in shaping public policy is vital for a healthy democracy, truly representative of all its citizens.

Sincerely,



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cusj.org