



The Honourable Diane Lebouthillier
Minister of National Revenue
House of Commons
Ottawa, Ontario, Canada, K1A 0A6
Via email: Diane.Lebouthillier@parl.gc.ca

June 1st, 2021

Subject: Immediate Action Required to revise CRA Interpretation of the *Income Tax Act* Section 149(1)(1) “Not For Purpose of Profit”

Dear Minister Lebouthillier,

On behalf of the Ontario Nonprofit Network (ONN), the Canadian Community Economic Development Network, Calgary Chamber of Voluntary Organizations, Imagine Canada, Le Chantier de l'économie sociale, SEED Winnipeg, Social Economy through Social Inclusion, and Social Enterprise Council of Canada, we are writing to you concerning the CRA's current interpretation of the *Income Tax Act* as it relates to what constitutes an organization to be organized for “any other purpose except profit.”

CRA guidelines and technical interpretations have taken [a very narrow view](#) of what constitutes “profit” - the tax-exempt generation of surpluses by nonprofits. **We urge you to take immediate action to amend CRA's existing guidance to allow [public benefit nonprofits](#) to earn and hold surplus funds, so long as the surpluses are reinvested in the mission.** This will allow nonprofits to generate long-term sustainable revenues and build capacity for resilience.

CRA's [guidelines](#) and technical interpretations prohibit nonprofits from holding any excess revenue that is not accidental and incidental. In practice, this means nonprofits must break even each budget year and cannot earn revenue on one activity and use it to fund another activity. This requirement for nonprofits to break even on each activity is not a sustainable business model - it is simply impossible for many public benefit nonprofits to comply and continue operating to achieve their missions. Between 2010 and 2013, your department undertook a research project ([Non-Profit Organization Risk Identification Project Report, 2012](#)) of 1,440 randomly selected audits of nonprofit organizations, and found that 40 percent were offside, unable to *comply* and *remain* operational to achieve their missions.

In 2019, the Special Senate Committee on the Charitable Sector - following [ONN's 2017 policy work](#)- recommended that the CRA revise its interpretation of the “not-for-profit purpose rule” so there is clarity about a nonprofit’s ability to earn and hold surplus funds. However, in your response, you simply stated that your department will *evaluate* its interpretation and *consider* whether it can provide greater certainty- with no timeline provided.

With the launch of the Social Finance Fund this year, as well as the expansion of access to the Canada Small Business Financing Act to include nonprofit and charitable social enterprises, this issue takes on new urgency. To make use of these repayable funds, nonprofit organizations must be able to take on loans: to expand, innovate, and improve services to Canadians. Loans require financial reserves and operating revenues in excess of break-even to ensure repayment capacity. CRA’s current guidelines must be amended immediately for public benefit nonprofits to access the loan funding the federal government wishes to make available to us.

We strongly urge you to amend the “not- for purpose of profit” guidance and technical interpretations to allow public benefit organizations to generate reasonable revenues provided any surplus from those activities is applied for “benefit with public character.”

The 2021 federal budget recognized the critical role public benefit nonprofits have played during the pandemic and how important they will be to Canada’s pandemic recovery. Indeed, it is in times of crisis and rebuilding that the nonprofit sector is often needed the most. For nonprofits to serve our communities in a more sustainable and responsive manner, the sector requires immediate action from the federal government on this issue.

We look forward to meeting with you or your representatives at your earliest opportunity to discuss these recommendations and how with your support, Canada’s nonprofit sector can build capacity for resilience and become more sustainable to support Canada’s recovery.

Sincerely,



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Ontario Nonprofit Network (ONN)

Co-signed by:

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Karen Ball, President and CEO
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