



TO: Honourable François-Philippe Champagne
Minister of Finance and National Revenue
90 Elgin Ottawa, Ontario K1A 0G5, Canada

CC: Miodrag Jovanovic, Assistant Deputy Minister
Tax Policy Branch
Department of Finance
Government of Canada
Via: charity-bienfaisance@fin.gc.ca

Re: Consultation: Changes to Nonprofit Organization Reporting Requirements

Dear Minister Champagne,

On behalf of Ontario Nonprofit Network (ONN), we are writing to provide feedback to the proposed changes to nonprofit organization (NPO) reporting requirements under the *Income Tax Act* set out in the supplementary information to the Tax Measures proposed in the 2024 Fall Economic Statement. ONN is the independent nonprofit network for the 58,000 nonprofits and charities in Ontario.

Below are some overarching criteria we believe these proposed reporting measures must meet to achieve their policy objective, followed by recommendations regarding how to achieve these criteria. The Appendix includes specific feedback on the content of returns. Ultimately, we believe that in the current form, the reporting requirements will not achieve their intended objective of greater transparency and accountability in the sector.

Complete, not misleading, and accurate data: A vision for more effective ITA enforcement

We fully support the government's overall objective of ensuring the Income Tax Act (ITA) is administered effectively. We agree that bad-faith for-profit actors disguised as nonprofits (NPOs) pose a threat not only to the integrity of Canada's tax base, but to trust in the nonprofit sector.

To achieve this objective, CRA needs complete, not misleading, and accurate data on NPOs.

1. In order for the data to be complete, the entire sector, down to the smallest, most remote, and overburdened NPO must know to complete the form and be able to complete their return.
2. In order for the data not to be misleading, CRA must be able to distinguish between a *bona fide* nonprofit with healthy returns and a bad faith actor.

3. In order for the data to be accurate, CRA would strongly benefit from the transparency that comes from data being made public, so interested parties can flag inaccuracies.

1. Obtaining complete data: Educating the sector and reducing administrative burden

There are already a large number of NPOs that are required to, but do not, file T2 tax returns. We anticipate the number of NPOs that will not complete the short-form information return will be at least as large if not larger. Consequently, in order to obtain complete data through the new and more extensive returns, you must implement the changes to reporting requirements in a manner that addresses the current reasons why NPOs do not file T2 returns, including:

- Recommendation #1: Dedicate \$250,000-500,000¹ to communications and education of the sector, with a special focus on small NPOs led by or serving equity-deserving communities that are not plugged into traditional information networks.
- Recommendation #2: Ensure returns take as little time and money as possible by making available user-friendly online and paper versions, and streamlining additional steps such as obtaining a business number and opening a MyBusiness Account.
- Recommendation #3: Set the threshold for filling in the T1044 at \$100,000 in annual revenue rather than \$50,000. Community Legal Education Ontario's (CLEO's) [legal needs study](#) of the Ontario nonprofit sector suggests this is the point at which nonprofits tend to have their first employee or contractor.

2. Obtaining not misleading data: Distinguishing public and private benefit NPOs

Public benefit NPOs are facing sharp increases in demand, stagnant government funding, and declining donations. Public benefit NPOs have no choice but to diversify revenue sources. Meanwhile public benefit NPOs are [increasingly having to tap into their reserves](#) to confront crisis after crisis. The CRA's 2013 study showed that at that time 43.5 per cent of nonprofits were non-compliant with the restrictive definition of the sector. The study itself concluded that these organizations were caught between the impossible choice of having a sustainable organization and delivering on their mission or being compliant with the outdated definition of an NPO. At a time when Canadians rely on nonprofits more than ever, it is deeply damaging to discourage nonprofits from pursuing financial sustainability through the risk of increased auditing.

- Recommendation #4: The data NPO returns generate as well as CRA risk matrixes must enable CRA to distinguish between good faith public benefit NPOs with healthy returns and bad faith for-profit actors. See Appendix for more detailed suggestions.
- Recommendation #5: s.149(1)(l) The Income Tax Act should be amended to distinguish between public benefit NPOs and member benefit NPOs. This would enable public benefit NPOs to earn revenue justified by their missions. See [here](#) for more details.

¹ This estimate is based on both the success and limited reach we observed in the Government of Ontario attempting to educate Ontario's 58,000 nonprofits about Ontario's Not-for-Profit Corporations Act.

3. Obtaining accurate data: Transparency and networked regulation

We acknowledge that currently the ITA contains no similar provisions for NPOs to s.149.1(15) that mandates the Minister of National Revenue to publish information from the T3010. Consequently, it may be argued that the Minister's legislative mandate to provide public transparency with respect to NPOs is different from registered charities. However, legitimate privacy concerns of member-serving organizations must be balanced with the transparency and accountability that publicly accessible data about individual NPOs delivers in the regulation of tax exempt entities.

- Recommendation #6: Amend the ITA to mandate the Minister of National Revenue to publish the information returns (without the addresses of directors, officers, or trustees as that is confidential information) of public benefit NPOs and the identifying information of member-serving NPOs at an individual organizational level. This data will have many secondary benefits for journalists, academics, donors, funders, and policymakers at all levels of government.

Conclusion: Do no harm

If the proposed reporting requirements are not amended in a manner that respects the above principles, then the Government of Canada risks:

- obtaining incomplete, inaccurate, and misleading data that will fail to capture some bad faith actors and lead CRA to waste scarce resources auditing good faith NPOs;
- creating additional administrative burden for NPOs unprecedented costs and demands.

We implore you not to harm Canada's fraying community supports at an almost unprecedented time of strain. If these reporting requirements cannot be implemented in a sensitive manner, it would be much better for Canadians and the government's policy priorities not to implement these reporting changes at all.

We remain at your disposal to discuss any aspect of this submission.

Sincerely,

Pamela Uppal-Sandhu
Director of Policy, Co-Executive Director (interim)
Ontario Nonprofit Network

Appendix: Specific Comments on T1044

Below are comments on both specific provisions of current provisions in the T1044 as well as the instructions provided for those questions in the Income Tax Guide to the Non-Profit Organization (NPO) Information Return.

1. Name and Address of Organizations: For NPOs without a BN, there should be a communicated expectation of using its legal name in order to be able to more easily coordinate with other data sources (e.g. provincial registries).
2. 102-Interest, taxable dividends, rentals, and royalties: Conflating these sources of revenue is highly misleading. For instance, a community economic development corporation may receive below-market returns from loans or a housing corporation may receive significant revenue from below-market rents. This does not demonstrate higher risk revenue earning activities, but the successful carrying out of nonprofit activities. We therefore recommend separating these types of revenue and ensuring internal CRA risk matrixes capture programmatic justifications for revenue.
3. 104-Gross sales and revenues from organizational activities: Currently it is unclear whether revenue that comes in the form of interest, taxable dividends, rentals, or royalties should be listed under 102 or 104 if it is the result of nonprofit activities (as discussed above). We recommend that the T1044 Guide provide instructions for these revenues to be listed under 104 rather than 102.
4. 120-Total remuneration and benefits paid to all employees and officers: It would help to make clear that “officers” in this context for the purpose of the ITA includes contractors who do not meet the definition of an employee for the purpose of the ITA. This is particularly important in the context of transactions with non-arm’s length for-profit corporations.
5. Part 5: Briefly describe the organization’s activities: It would be helpful to make explicit in the Guide that CRA is looking for details about the activities that may explain the revenues and expenses of the NPO.