

September 10, 2024

Sent by Email consultation-legislation@fin.gc.ca

Department of Finance Canada

90 Elgin Street
Ottawa, Ontario K1A 0G5
House of Commons
Ottawa, Ontario K1A 0A6

Dear Officials at the Department of Finance Canada:

Re: Submission on August 12, 2024 Draft Legislation Concerning Trust Reporting Requirements

We are writing to provide our comments on the Department of Finance Canada's ("Finance") consultation on budget priorities. More specifically, we would like to address the measures to improve tax fairness as proposed in the draft legislation released by Finance on August 12, 2024, *Legislative Proposals Relating to the Income Tax Act and the Income Tax Regulation* ("Draft Legislation"), particularly as it relates to trust reporting requirements by charities and not-for-profits ("NFPs").

In this regard, below is a link to our recent *Charity & NFP Bulletin No. 528*, dated August 29, 2024, which includes links at the bottom of page 1 to a number of earlier publications that our firm has posted concerning issues involving trust reporting by charities and NFPs as a result of recent amendments to the *Income Tax Act* under Bill C-32. Our *Charity & NFP Bulletin No. 528*: <https://www.carters.ca/pub/bulletin/charity/2024/chylb528.pdf>.

As you will see from *Bulletin No. 528* and the links therein to our earlier publications, we are concerned that notwithstanding the proposed amendments in the Draft Legislation, there may still be significant confusion in the charitable and NFP community concerning whether there will be trust reporting obligations when a charity or NFP is a trustee under either a bare trust (now proposed to be a "deemed trust" under the Draft Legislation) or an express trust where another party is the beneficiary.

An example of this is where an incorporated religious denomination holds property in trust for its separately incorporated members (e.g. local churches, temples or other religious entities within the denomination) in a bare trust arrangement. If it is not the intent of Finance that this type of bare trust arrangement be caught by the trust reporting requirements, then further amendments to the Draft Legislation would be necessary. This is because, as currently drafted, the Draft Legislation does not appear to exempt such arrangements from having to file T3 returns.

A similar concern arises when individuals are appointed to act as bare trustees of an unincorporated religious organisation under provincial legislation, such as the Ontario *Religious Organisations' Lands Act* ("ROLA"). If this type of bare trust arrangement is not already clearly excepted by paragraph 150(1.31)(a) in the Draft Legislation or otherwise deemed to be exempted in the CRA's administration exemption announced on November 10, 2023 (i.e. exempting internal trust of charities from the new trust reporting requirements), then Finance may also want to address this issue through additional amendments to the Draft Legislation. There are likely thousands of unincorporated religious organisations across Canada that rely upon provincial type of ROLA

statutes and similar legislation in order to allow trustees to be able to hold property on behalf of unincorporated religious organisations on a perpetual basis.

We trust that these comments will be of assistance as Finance looks to make final amendments to the Draft Legislation. If you have any questions, please do not hesitate to contact us and we would be happy to have a discussion at your convenience.

Yours Sincerely,

Carters Professional Corporation

Per: 

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