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Time for a New “Charities Council” to Take the Canada Revenue Agency out of Social Policymaking: C.D. Howe Institute

Toronto, Nov. 12 – Canadian charities need a new federated “Charities Council,” whose benefits would include getting federal tax bureaucrats out of the social policymaking arena, according to a study released today by the C.D. Howe Institute. In the study, *Bringing the Provinces Back In: Creating a Federated Canadian Charities Council*, author Adam Aptowitzer, LL.B., argues the role of the Canada Revenue Agency (CRA) as the primary regulator of charities emerged owing to the provinces’ historical failure to assert their Constitutional authority in the area. The result is a regulatory environment that is rigid and selective, stymies the development of new charities, and injects tax bureaucrats into the arena of social policymaking; the provinces should instead assert their constitutional power in this area.

Charities, by virtue of the donation tax credit, can reduce the tax base, says the author, and the CRA’s regulating them conflicts with its mandate to protect the tax base. Aptowitzer, an Ottawa lawyer specializing in the field, proposes reforming the system through the creation of a federal-provincial “Canadian Charities Council” that would assume from the CRA responsibility for i) registering charities, ii) advancing the common law definition of charity, iii) regulating non-tax-related aspects of the charity system, iv) adjudicating disputes regarding areas under the Council’s jurisdiction, and v) ensuring compliance with the rules the Council creates. Involving the provinces, as the Constitution intended, and encouraging their cooperation with the federal government will result in a system that will comprehensively regulate the sector for the benefit of both charities and the public, he says.

As it is, says the author, the current registration system and the tax authorities that administer it are ill-suited to regulate charities. Since the federal government lacks the jurisdiction to regulate the sector properly, charities must work in a patchwork system with components added in response to particular pressures. The solution, he concludes, is a

comprehensive and flexible system that proactively involves the provinces and that is enforced by a government agency with the expertise for such work. Given that charities provide essential services to all Canadians and provide significant representation overseas, policy-makers should create a regulatory system with vision, a workforce dedicated to this work, and a well-defined mandate in which regulating and promoting charities is the focus rather than simply an offshoot of our tax system.

For the study, go to www.cdhowe.org

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Bringing the Provinces Back In: Creating a Federated Canadian Charities Council, C.D. Howe Institute Commentary No. 300, by Adam Aptowitzer, (November 2009). 21 pp; \$12.00 (prepaid, plus postage & handling and GST – please contact the Institute for details). ISBN-13: 978-0-88806-792-0.

Copies are available from: Renouf Publishing Company Limited, 5369 Canotek Road, Ottawa, Ontario K1J 9J3; or directly from the C.D. Howe Institute, 67 Yonge St., Suite 300, Toronto, Ontario M5E 1J8. The full text of this publication is also available from the Institute's website at www.cdhowe.org.