

Applying For Charity Status in Canada

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Application Requirements

Every application for charity status must be complete before it is reviewed by the Canada Revenue Agency. If an application is incomplete, it will be rejected and returned to the applicant, thus extending the review process from the normal average of 3 months to an average of 6 months. Before submitting an application for registration, review it carefully and check the most recent CRA web page and forms.

At the present time a complete application consists of the following documents:

- A completed Form T2050 – Application to Register a Charity Under the *Income Tax Act*.
- A copy of the organization's governing documents (documents that formally establish an organization and govern its operations – i.e., letters patent, certificate of incorporation, memorandum or articles of association, a constitution, trust documents, and bylaws – which contain the purposes (also called objects) for which the organization has been established, and if applicable, any associated amendments to the governing documents).
- For organizations that are incorporated, incorporating documents such as articles of incorporation, letters patent, and memoranda of incorporation, must contain the seal or stamp of the federal, provincial, or territorial authority.
- Organizations that are internal divisions of registered charities must submit a letter of good standing from the parent or head body, which confirms the name of the internal division and its status as a branch, section, parish, or congregation. The document must give the date the internal division was established, the name of the governing document under which it was established, and the name of the governing document it currently follows. The document must be dated and signed by a director or trustee of the parent body or the head body, and must show their position.
- A document issued by an incorporating authority (federal, provincial, or territorial government), usually called a certificate of good standing, stating that the organization is duly incorporated and that it is in good standing with the authority. This requirement only applies if the organization has been incorporated for five years or more.
- A copy of the by-laws, if available.
- If the by-laws do not bear a stamp from the incorporating authority, they should be signed by two officials of the organization. The effective date and the date that the two officials signed the by-laws must be included.

- A copy of the latest financial statements, if the organization has been operating for more than one year. The financial statements must consist of a statement of revenue and expenditures, a statement of assets and liabilities, and any prepared notes for the most recent fiscal period.

Send the above-mentioned documents by mail to:

Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

Completing Form T2050 – A Guide

Use the following information to guide you through Form T2050.

I. Organizational Structure

When applying for charity status, it is important to remember that a charity must fall under one of the three acceptable designations outlined below. Otherwise, your charity will not qualify for charitable status under the *Income Tax Act*. The designation which a charity receives depends on its structure, its source of funding, and its mode of operation. Similarly, if the organization structure of your registered charity changes such that it no longer fits under its current designation, you must reapply for charitable status.

1) Charitable Organization

- it is established as a corporation, a trust, or under a constitution;
- it has only charitable purposes;
- it primarily carries on its own charitable activities;
- it may engage in related business¹ activities that accomplish or promote those purposes;
- it has more than 50% of its directors, trustees, or like officials dealing with each other at arm's length²; and
- it generally receives its funding from a variety of arm's length donors.

2) Public Foundation

- it is established as a corporation or a trust;
- it has only charitable purposes;

¹ The term “related business” means a business that: itself delivers charitable services (for example, providing low-cost housing for the poor); is linked and subordinate to the charity's charitable purpose(s) (for example, a hospital parking lot); or is unrelated to the charity's purpose(s) but run substantially (90%) by volunteers (for example, weekly bingos).

² At “arm's length” is a tax concept describing a relationship in which the parties are acting independently of each other. The opposite, not at arm's length, covers people acting in concert without separate interest, including individuals who are related to each other by blood, marriage, adoption, common-law relationships, or close business ties.

- it may engage in related business activities that accomplish or promote those purposes;
- it generally gives more than 50% of its income annually to other qualified donees³, usually other registered charities, but it may carry out some of its own charitable activities;
- more than 50% of its directors, trustees, or like officials deal with each other at arm's length; and
- it generally receives its funding from a variety of arm's length donors.

Private Foundation

- it is established as a corporation or a trust;
- it has only charitable purposes;
- it carries on its own charitable activities and/or it funds other qualified donees, usually other registered charities;
- it does not engage in any business activities;
- 50% or more of its directors, trustees, or like officials do not deal with each other at arm's length; and/or
- more than 50% of its funding comes from a person or group of persons that control the charity in any way or make up more than 50% of the directors, trustees, or like officials of the charity.

II. Activities of the Organization

1) Charitable Purposes

To qualify for registration as a charity, an organization must have purposes that are exclusively charitable and charitable activities that support those purposes. The purposes (also called objects) describe the aim or main intent of the organization.

To be considered for registration as a charity, an organization's purposes must fall within one or more of the following categories:

1. relief of poverty
2. advancement of education
3. advancement of religion
4. certain other purposes that benefit the community in a way the courts have said is charitable (for example, relieving a condition or disability associated with old age, and providing certain public amenities to benefit the community)

³ A qualified donee is an organization that can issue official donation receipts for gifts it receives from individuals and corporations. It can also receive gifts from registered charities. A qualified donee can be: a registered Canadian charity (including a registered national arts service organization); a registered Canadian amateur athletic association; a listed housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged; a listed Canadian municipality; a listed municipal or public body performing a function of government in Canada; a listed university outside Canada that is prescribed to be a university, the student body of which ordinarily includes students from Canada; a listed charitable organization outside Canada to which Her Majesty in right of Canada has made a gift; Her Majesty in right of Canada or a province; and the United Nations and its agencies.

To be registered as a charity, an organization's purposes and activities must also meet a public benefit test. To qualify under this test, an organization must show that:

- its purposes and activities provide a measurable benefit to the public; and
- the people who are eligible for benefits are either the public as a whole, or a significant section of it. The beneficiaries cannot be a restricted group or one where members share a private connection—this includes social clubs and professional associations.

2) Charitable Activities

The activities describe how the organization will accomplish its purposes. To qualify for registration, an organization must show in its application that it devotes all of its resources (funds, personnel, and property) to charitable activities that directly further its charitable purposes. Therefore, it should explain, in detail, the specific activities it will undertake to achieve each of the formal purposes stated in its governing document(s).

A registered charity is permitted to carry out its charitable purposes, both inside and outside Canada, in only two ways: by carrying on its own charitable activities or by gifting to qualified donees.⁴

Some things to keep in mind:

Fundraising and Social Activities

As a rule, social activities are not charitable by law. However, a registered charity that is established for exclusively charitable purposes can devote some of its resources to social activities as long as:

- the activities are held to raise funds for its charitable purposes and are not so frequent to be considered as a primary purpose themselves; or
- the activities are incidental to the charity's charitable purposes. Generally, a registered charity should not devote more than 10% of its resources (funds, personnel, and property) to social activities.

A registered charity that engages in frequent fundraising or social activities, or that devotes a substantial portion of its revenue to fundraising activities, is putting its registered status in jeopardy.

⁴ A qualified donee is an organization that can issue official donation receipts for gifts it receives from individuals and corporations. It can also receive gifts from registered charities. A qualified donee can be: a registered charity (including a registered national arts service organization); a registered Canadian amateur athletic association; a listed housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged; a listed Canadian municipality; a listed municipal or public body performing a function of government in Canada; a listed university outside Canada that is prescribed to be a university, the student body of which ordinarily includes students from Canada; a listed charitable organization outside Canada to which Her Majesty in right of Canada has made a gift; Her Majesty in right of Canada or a province; and the United Nations and its agencies.

Political Activities

A registered charity cannot be involved in partisan political activities. A political activity is considered partisan if it involves direct or indirect support of, or opposition to, a political party or candidate for public office.

However, a registered charity may take part in limited political activities if they are non-partisan and connected and subordinate to the charity's purposes. A connected activity relates to and supports a charity's purposes and represents a reasonable way to achieve them. A subordinate activity is subservient to a charity's dominant charitable purpose or is a minor focus of the charity.

An activity is considered to be political if it:

- encourages the public to contact elected representatives or public officials to urge them to retain, oppose, or change any law, policy, or decision in any jurisdiction;
- communicates to the public that the law, policy, or decision of any level of government in any jurisdiction should be retained, opposed, or changed;
- attempts to incite or organize the public to put pressure on elected representatives or public officials to retain, oppose, or change any law, policy, or decision of any level of government in any jurisdiction; or
- attempts to sway public opinion on social issues.

A registered charity can devote part of its resources to political activities provided most of its resources are devoted to charitable activities.

The following thresholds will apply:

- Registered charities with less than \$50,000 annual income in the previous year can devote up to 20% of their resources to political activities in the current year.
- Registered charities whose annual income in the previous year was between \$50,000 and \$100,000 can devote up to 15% of their resources to political activities in the current year.
- Registered charities whose annual income in the previous year was between \$100,000 and \$200,000 can devote up to 12% of their resources to political activities in the current year.

Charitable Activities Outside of Canada

Regardless of whether a registered charity carries out its own foreign activities through persons under its immediate control or through intermediaries, it should put the following measures in place:

- provide clear and detailed directions concerning the activity, and how it is to be carried out, to persons under its immediate control or its intermediaries;
- receive reports from those persons or organizations that describe their activities and use of resources; and
- monitor and supervise the activity on an ongoing basis.

When working through an intermediary, a charity must direct and control the use of its resources. Otherwise, a charity risks being subjected to sanctions under the *Income Tax Act*, including the revocation of registered status.

To direct and control its resources when working through an intermediary, a charity should follow the measures listed above, as well as:

- create a written agreement, and implement its terms and provisions;
- for agency relationships, segregate funds as well as books and records; and
- make periodic transfers of resources, based on demonstrated performance.

When entering into such arrangements, a registered charity must ensure that it does not make its resources available, either directly or indirectly to:

- a terrorist group that is a listed entity under the *Criminal Code*; or
- any other organization engaged in terrorist activities or in activities that support terrorist activities.

Special provisions under the *Charities Registration (Security Information) Act* provide a mechanism for refusing to register or revoking the registration of any charity involved in supporting terrorism.

Closing Note

Setting up a charity can be a complex and time-consuming task. However, by allowing enough time to work things out with the help of knowledgeable professionals, the task is manageable and rewarding.

For more information on applying for registered charity status in Canada, visit <http://www.cra-arc.gc.ca>.