

Maintaining Charity Status in Canada

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The main obligations of a registered charity are to:

- keep adequate books and records, and make them available for review by the Canada Revenue Agency on request;
- make sure that official donation receipts are complete and accurate when issued;
- file its annual Form T3010, *Registered Charity Information Return*, within six months of its fiscal period-end;
- meet its annual spending requirement (disbursement quota);
- maintain its status as a legal entity;
- inform the Charities Directorate of any changes to the charity's mode of operation or legal structure; and
- devote its resources to its charitable purposes and activities.

If a registered charity does not meet its obligations, it may be subject to a penalty and have its registered status revoked.

1) Keeping Adequate Books and Records

A registered charity must keep adequate books and records in either English or French, for the prescribed time period, at an address in Canada that is on file with the Canada Revenue Agency (CRA). The following checklist gives an overview of the general requirements.

The books and records of the charity must be kept as follows:

- **Copies of official donation receipts** (other than for 10-year gifts) kept for a minimum of two years from the end of the calendar year in which the donations were made.
- **All records concerning 10-year gifts** kept for as long as the charity is registered and for a minimum of two years after the date the registration of the charity is revoked.
- **Minutes of meetings of the directors/trustees/executives** kept for as long as the charity is registered and for a minimum of two years after the date the registration of the charity is revoked or, in the case of a corporation, for two years after the day the corporation is dissolved.
- **Minutes of meetings of the members** kept for as long as the charity is registered and for a minimum of two years after the date the registration of the charity is revoked.
- **All governing documents and bylaws** kept for as long as the charity is registered and for two years after the date the registration of the charity is revoked.
- **General ledgers or other books of final entry containing summaries of year-to-year transactions and the vouchers and accounts necessary to verify the entries** kept for

six years from the end of the last tax year to which they relate, for as long as the charity is registered, and for two years after the date the registration of a charity is revoked or, in the case of a corporation, for two years after the day the corporation is dissolved.

- **Financial statements, source documents, and copies of T3010 returns** kept for six years from the end of the last tax year to which they relate or, if the charity is revoked, for two years after the date of revocation. Source documents may include items such as invoices, vouchers, formal contracts, work orders, delivery slips, purchase orders, or bank deposit slips.

Notes

- The charity should keep all of its key documents (constitution, bylaws, registration letter, etc.) along with its books and records in one area for easy access. This will make it easier for the charity in the case of an audit or when there is a change to the governing board.
- Copies of key documents and records should also be kept in a separate location (preferably off-site) for back-up purposes.

Failure to keep adequate books and records may result in the suspension of a registered charity's tax receipting privileges, or the loss of its registered status.

2) Issuing Complete and Accurate Donation Receipts

A registered charity may only issue official receipts for donations that legally qualify as gifts. In most cases, a gift is a voluntary transfer of personal property without receiving anything valuable in return. However, under proposed legislation, for gifts made after December 20, 2002 a transfer of personal property for which the donor received something in return will still be considered a gift for purposes of the *Income Tax Act* as long as the CRA is satisfied that the transfer of personal property was made with the intention to make a gift. The existence of an advantage to the donor will not necessarily disqualify the transfer from being a gift if the amount of the advantage does not exceed 80% of the fair market value of the transferred property. For gifts made after December 20, 2002, it is the eligible amount of the gift that is used to calculate the donor's donation tax credit or deduction.

The official donation receipts of the charity must contain these mandatory elements:

- a statement that it is an official receipt for income tax purposes;
- the name and address of the charity as on file with the CRA;
- the charity's registration number;
- the serial number of the receipt;
- the place or locality where the receipt was issued;
- the day or year the donation was received;
- the day on which the receipt was issued if it differs from the day of donation;
- the full name and address of the donor;
- the amount of the gift;
- (under proposed legislation) the value and description of any advantage received by the donor;

- (under proposed legislation) the eligible amount¹ of the gift;
- the signature of an individual authorized by the charity to acknowledge donations; and
- the name and Web site address of the Canada Revenue Agency (www.cra.gc.ca/charities).

For non-cash gifts (gifts in kind), the following elements, in addition to the above-mentioned elements, are mandatory:

- the day on which the donation was received (if not already indicated);
- a brief description of the personal property transferred to the charity;
- the name and address of the appraiser (if personal property was appraised); and
- (under proposed legislation) in place of the amount of the gift mentioned above, the deemed fair market value² of the personal property.

Note: For gifts in kind, the eligible amount of the gift cannot exceed the deemed fair market value of the item. An appraisal is recommended for items valued at \$1,000 or more.

A registered charity cannot issue receipts for the following:

- for contributions of services provided to the charity (services do not qualify as gifts);
- on behalf of another organization or charity;
- in a name other than the name of the true donor.

3) Meeting the Annual Disbursement Quota

Note: The information below applies only for fiscal periods ending on or after March 4, 2010.

The disbursement quota is the minimum amount that a registered charity is required to spend each year on its own charitable activities, or on gifts to qualified donees (for example, other registered charities). The disbursement quota calculation is based on the value of a charity's property not used for charitable activities or administration.

Disbursement quota checklist:

- Determine the charity's spending requirement (disbursement quota) at the start of the fiscal period.
- If completed, the charity can use the amount on line 5910 of Schedule 6 - Detailed Financial Information on the Registered Charity Information Return it will file for the fiscal period that just ended.

¹ The amount by which the fair market value of the gifted property exceeds the amount of any advantage received or receivable as a result of the gift. This is the amount for which a qualified donee can issue a receipt.

² The deemed fair market value rule states that, under certain conditions, a receipt issued for a non-cash gift must be issued for the lesser of the gift's fair market value and its cost to the donor (or in the case of capital property, its adjusted cost base) immediately before the gift is made.

Fair market value is normally the highest price, expressed in dollars, that property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are knowledgeable, informed, and prudent, and who are acting independently of each other.

- If applicable, make note of any disbursement quota shortfalls from the previous year that need to be made up or any excesses that may be applied to meet the current year's spending requirement.
- Separate charitable expenditures from other expenditures such as management and administration, political activity, and fundraising and keep track of these throughout the fiscal period as well as amounts gifted to qualified donees.
- Enter the proper amounts on line 5000 (expenditures on charitable programs) and on line 5050 (gifts to qualified donees) when completing the Form T3010 return.
- The charity has met its disbursement quota if the total of the following expenditures equals or exceeds the calculated spending requirement:
 - amounts spent on charitable programs (line 5000);
 - gifts made to qualified donees (line 5050) minus any designated gifts³; and
 - amount of the special reduction approved in writing by the CRA for the fiscal period (line 5750).

4) File the Annual T3010 Information Return

A registered charity must file an annual information return (together with financial statements and required attachments) no later than six months after the end of the charity's fiscal period.

Complete and send to the Charities Directorate the following documents:

- Form T3010, Registered Charity Information Return.
- The Registered Charity Basic Information Sheet, with or without corrections
- Form T1235, Directors/Trustees and Like Officials Worksheet, including all the dates of birth (not required if filing Form RC232-WS).
- Form T1236, Qualified Donees Worksheet / Amounts Provided to Other Organizations, if applicable.
- Form T2081, Excess Corporate Holdings Worksheet for Private Foundations, if applicable.
- Form RC232-WS, *Director/Officer Worksheet and Ontario Corporations Information Act Annual Return*, or Form RC232, Ontario Corporations Information Act Annual Return, if applicable.

³ A designated gift is a type of gift made between registered charities that are not at arm's length to each other. A gift becomes a designated gift if the donor charity identifies it as a designated gift in its information return for the year the gift is made.

- A copy of the registered charity's own financial statements (assets and liabilities, revenue and expenditures, and any prepared notes).
- The signature of a director, trustee, or like official of the charity in the certification area of the return.

5) Maintain the Charity's Status as a Legal Entity

A registered charity that is constituted federally, provincially, or territorially must meet other specific requirements (in addition to the requirements of the CRA) in order to maintain its status as a legal entity. Failure to maintain its status as a legal entity could result in the revocation of its registration as a charity.

Check with the relevant authorities such as Industry Canada or the provincial/territorial registrar to verify the following requirements:

- Annual returns and/or fees. These are usually required to keep the charity's status as a legal entity current if the charity is constituted federally, provincially, or territorially. These annual returns are in addition to the CRA filing requirement for the T3010 registered charity information return.
- Governing documents (constitution, letters patent, etc.). Changes to the charity's name, list of directors, bylaws, etc., must be recorded with the relevant authorities in addition to the Charities Directorate of the CRA.

Additional Requirements/Restrictions

Although these are not regulated by the CRA, nor are they requirements for maintaining charitable registration, the charity should check with the relevant authorities, such as Industry Canada or the provincial/territorial registrar, to see if they apply:

- fundraising activities - licenses and/or permits may be required. There may also be restrictions on the use of commercial fundraisers and/or third-party fundraisers;
- gaming and lottery activities - licenses and/or permits may be required;
- charitable property - there may be restrictions on their use, as well as reporting requirements;
- duties of directors/trustees - there may be legal requirements to execute fiduciary responsibilities;
- changes to the charity's address, telephone number, contact person, etc. - these should be recorded with the relevant authorities in addition to the Charities Directorate of the CRA.

6) Inform the Charities Directorate of Any Change in the Charity's Mode of Operation or Legal Structure

You must contact or notify the Charities Directorate in the following circumstances:

- to ensure any proposed changes to the charity's objects or activities qualify as charitable;
- to obtain approval before making a change to the charity's fiscal period end;

- the charity wishes to request:
 - permission to accumulate property (funds),⁴
 - a re-designation (Form T2095),
 - associated status⁵ (Form T3011), or
 - a disbursement quota reduction⁶ (Form T2094);
- the charity has changed its name, address, telephone or fax numbers, email address, or contact information and has not already identified the change(s) on the Registered Charity Basic Information sheet;
- the charity has changed its governing documents (constitution, articles of incorporation, etc.);
- the charity has been part of an amalgamation, merger, or consolidation; and
- the charity is no longer in operation and wishes to have its registration voluntarily revoked.

Note: Send notifications or requests separately from the T3010 information return to ensure proper processing.

7) Devote a Charity's Resources to its Charitable Purposes and Activities

A registered charity must have exclusively charitable purposes, and must carry on charitable activities that support those purposes.

Charitable Purposes

An organization's purposes and activities must meet the public benefit test by ensuring 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.

Its purposes must also stay within one or more of the following four categories:

- relief of poverty
- advancement of education

⁴ Permission to accumulate funds helps a registered charity to temporarily accumulate funds in order to make a major expenditure, such as buying a building or a costly piece of equipment, which cannot be financed out of its current revenue without the charity incurring a spending shortfall (not meeting its disbursement quota). The amount approved for accumulation, and the income earned on the amount, is excluded from the charity's annual spending requirement. Send a letter with the following information: the specific purpose for which the funds will be used; the amount required; the length of time needed to accumulate the funds (minimum 3 years and maximum 10 years); the signature of a director/trustee or other authorized representative of the charity; the name and the registration number of the charity; and the effective date.

⁵ On occasion, a charitable organization may want to send substantial amounts to another registered charity. A charitable organization making substantial gifts to another registered charity can avoid being re-designated as a foundation if it is "associated" with the other registered charity.

⁶ A disbursement quota reduction is available to registered charities whose expenditures on charitable activities or on gifts to qualified donees were less than required in the year due to circumstances beyond their control, thus causing the charity to incur a spending shortfall (not meet their disbursement quota). A reduction will only be considered once the charity has exhausted all other available means to make up the shortfall.

- advancement of religion
- 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)

Charitable Activities

A registered charity must devote all of its resources (funds, personnel, and property) to **charitable activities** that directly further its **charitable purposes** both inside and outside Canada (if applicable) in only two ways: by carrying on its own charitable activities or by gifting to qualified donees.⁷

Fundraising and Social Activities

A registered charity must refrain from engaging in frequent fundraising or social activities, or that devotes a substantial portion of its revenue to fundraising activities. However, a registered charity that is established for exclusively charitable purposes may 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.

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:

⁷ 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.

- 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 may 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

A registered charity that carries out its own foreign activities through persons under its immediate control or through intermediaries should receive reports from those persons or organizations describing their activities and use of resources, and monitor and supervise the activity on an ongoing basis.

When working through an intermediary, a charity should also apply the following measures in order to ensure that it directs and controls the use of its resources:

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

When working through an intermediary, 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

Once an organization receives registered charity status, several requirements must be met in order for the organization to maintain such status. Being aware of, and adhering to, these requirements will allow an organization to continue to enjoy registered charity status.

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