
CRA'S PROPOSED NEW GUIDANCE FOR CHARITIES OPERATING OUTSIDE OF CANADA

*By Terrance S. Carter and Karen J. Cooper**

A. INTRODUCTION

On June 30, 2009, CRA released its much anticipated draft consultation paper entitled *Consultation on the Proposed Guidance on Activities Outside of Canada for Canadian Registered Charities* ("Proposed Guidance").¹ The Proposed Guidance is intended to update and replace the current CRA publication on foreign activities entitled *Registered Charities: Operating Outside Canada* RC4106 ("Current Policy").² In this regard, the Proposed Guidance constitutes a significant improvement over the Current Policy by providing a more practical guide for charities that operate outside of Canada. It should be noted that CRA is accepting comments on the Proposed Guidance until September 30, 2009.

This *Charity Law Bulletin* summarizes the Proposed Guidance, and, where appropriate, compares and contrasts it with the Current Policy. However, since the content and organization of the Proposed Guidance is significantly different from that of the Current Policy, it is not possible to provide a comprehensive comparison between the two documents. It is important to note at the outset, however, that the Proposed Guidance is intended to apply to all activities carried on through intermediaries both outside and within Canada, notwithstanding that the name of the Proposed Guidance would suggest otherwise.

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¹ Canada Revenue Agency. *Consultation on the Proposed Guidance on Activities Outside of Canada for Canadian Registered Charities*. May 6, 2008. available online at <http://www.cra-arc.gc.ca/tx/chrts/cnslttns/ccrc-eng.html>.

² Canada Revenue Agency. *RC4106 Registered Charities: Operating Outside of Canada*. Oct 15, 2000, p. 4. available online at <http://www.cra-arc.gc.ca/E/pub/tg/rc4106/README.html>

B. SUMMARY OF GUIDANCE

The Proposed Guidance states that it is intended to assist registered charities and applicants for charitable registration who wish to carry on activities outside of Canada comply with the requirements of the *Income Tax Act* (“Act”). In this regard the Proposed Guidance is organized to address a number of specific issues that are of importance to charities with international operations. The summary that follows generally reflects the sequencing of those issues as set out in the Proposed Guidance.

1. Local Laws

When a charity operates within Canada, it must comply with Canadian laws, including the Act and the common law. A charity that operates outside of Canada may find itself operating in regions where the legal framework and laws are very different. The Proposed Guidance reminds the reader that the Act does not require registered charities to comply with laws in foreign jurisdictions. However, being a registered charity in Canada does not exempt a charity from the laws in the jurisdiction in which they operate. As such, CRA strongly recommends in the Proposed Guidance that all charities make themselves aware of local laws before operating abroad. Awareness of local laws will help make sure that the public benefit provided by a charity’s activities is not offset by the harm that may result to those carrying on the activities, to the charity’s beneficiaries, or to anyone else.³

2. Canada’s Anti-Terrorism Legislation

One of the most noticeable additions in the Proposed Guidance when compared to the Current Policy is a section on compliance with Canada’s anti-terrorism legislation. It should be remembered the Current Policy predates the September 11, 2001 terrorist attacks, and not surprisingly does not mention anything about anti-terrorism legislation. The Proposed Guidance reminds charities that it is their responsibility to ensure that they do not operate or associate with individuals or groups that support terrorist activities and that failure to do so may result in the charity losing its status under the Act. However, the Proposed Guidance does not provide much detail on how to ensure compliance with Canada’s anti-terrorism legislation, other than referring the reader to another CRA publication entitled

³ *Supra note 1.*

Charities in the International Context.⁴ The Proposed Guidance does not make any mention of the recent CRA Anti-Terrorism Checklist that was posted by CRA in April, 2009.⁵

3. How Can a Charity Operate?

The Proposed Guidance explains the two means available under the Act by which a registered charity can pursue its charitable purposes.

1. The charity can make gifts to qualified donees;⁶ or
2. The charity can carry out its own charitable activities, which in turn would require that the charity must control all of its activities and resources. (This latter application is referred to in the Proposed Guidance as “its own activities test.”)

The Proposed Guidance points out that the CRA defines a gift to a qualified donee as “a transfer of money or any other property to a qualified donee.”⁷ This definition reflects a relatively broad interpretation by CRA regarding gifts to qualified donees, in that it does not require the strict formalities of a gift to be present.

The Current Policy, acknowledges that it “may not be practical for the charity to meet its ‘own activities’ test by operating abroad using its own employees or volunteers directly funded by that charity.”⁸ In the Current Policy, CRA indicates that a charity is allowed to work through other organizations if it “employs certain structured arrangements that allow it to retain direction and control over the use of its resources.”⁹ In the Proposed Guidance, CRA’s language has become more specific:

⁴ Canada Revenue Agency. *Charities in the International Context*. October 16, 2008. available online at <http://www.cra-arc.gc.ca/tx/chrts/ntrntnl-eng.html>.

⁵ Canada Revenue Agency *Anti-Terrorism Checklist*, available online at <http://www.cra-arc.gc.ca/tx/chrts/chcklsts/vtb-eng.html> See Terrence S. Carter and Nancy E. Claridge, “CRA’s New Anti-Terrorism Checklist-A Step in the Right Direction” in *Anti-Terrorism and Charity Law Alert No. 17* (April 29, 2009), available online at <http://www.carters.ca/pub/alert/ATCLA/ATCLA17.pdf>.

⁶ Subsection 149.1(1) of the Act provides that qualified donees are organizations that can issue official donation receipts for gifts that individuals and corporations make to them under paragraphs 110.1(1)(a) and (b) and 118.1(1). They consist of registered charities, registered Canadian amateur athletic associations, certain low-cost housing corporations for the aged, municipalities, provincial and federal governments, the United Nations and its agencies, prescribed universities outside Canada, charities outside Canada to which the federal government has made a gift in the past year, and registered national arts service organizations.

⁷ *Supra* note 1 at para 26.

⁸ *Supra* note 2 at p. 4

⁹ *Ibid.*

When working through an intermediary, a charity must always direct and control the use of its resources. A charity cannot simply act as a passive funding body for an intermediary's programs. A charity that does not carry out its own activities, or direct and control its resources, risks sanctions under the Act, including the loss of its charitable status.¹⁰

The Proposed Guidance then refers the reader to three Federal Court of Appeal Decisions¹¹ in which various organizations lost their charitable status for failing to maintain control of activities carried out on its behalf and over the use of its resources.¹²

4. Intermediaries

When a charity cannot carry out an activity with its own staff (although not stated in the Proposed Guidance, the reference to staff would presumably include volunteers as well), a charity is permitted to use an intermediary to carry out its activities. The Proposed Guidance states that the charity should be able to document that, "it has reasonable assurance that the intermediary, by virtue of its reputation, expertise, capacity, or experience, can carry out the tasks required by the charity."¹³ The Proposed Guidance then goes on to explain the different types of intermediary relationships that are acceptable to CRA.

a) Agents

In this regard the Proposed Guidance states that a registered charity can carry on its own charitable activities through the use of agents. In the Current Policy, CRA explains that a charity must consider the risks associated with an agency and an implied agency relationship before embarking upon this type of arrangement. It is also noted that CRA recommends in the Current Policy that charities should carefully structure these arrangements to reduce possible liability associated with an agency relationship. Unfortunately, this warning about the significant liability associated with utilizing an agent as an intermediary is absent in the Proposed Guidance. Instead, CRA simply

¹⁰ *Supra* note 1 at para 31.

¹¹ See, e.g., *The Canadian Committee for the Tel Aviv Foundation v. Canada* (2002 FCA 72), 2002-03-01, *Canadian Magen David Adom For Israel v. Canada (Minister of National Revenue)* (2002 FCA 323), 2002-09-13, *Bayit Lepletot v. Canada (Minister of National Revenue)* (2006 FCA 128), 2006-03-28.

¹² The Proposed Guidance also reminds those charities in Ontario that there are restrictions on which qualified donees the Office of the Public Guardian and Trustee of Ontario ("PGT") will allow charities to gift their funds to. The reader is encouraged to contact the PGT in Ontario in this regard.

¹³ *Supra* note 1 at para 37.

warns charities in the Proposed Guidance that they “must always be able to show that the agent is carrying on the charity’s own charitable work.”¹⁴

b) Joint Venture Participants

The Proposed Guidance then explains that a charity can also carry on its activities jointly with other organizations or individuals. This can occur through joint ventures where the joint venture participants pool their resources in order to accomplish their goal in accordance with the terms of a joint venture agreement. As a joint venture participant, a charity can work with non-qualified donees as long as the charity is exercising control over the activities proportionate to the resources it is providing and it can demonstrate this fact. In the Current Policy, an example is given of a church that provides 25% of the funding for a project. CRA’s position in the Current Policy is that the church should be entitled to 25% representation on the board and to have approximately 25% of the voting strength or decision-making power in the venture. In the Proposed Guidance, a similar example is given, but CRA’s tone is again more prescribed. In the example given in the Proposed Guidance, the church provides 40% of the resources and has 40% of the decision-making power, but CRA warns that because it only has 40% of the decision making power, it could be outvoted and see its resources used for non-charitable purposes. The Proposed Guidance states that the Canadian church should therefore ensure that the joint venture arrangement includes a provision that allows it to discontinue supplying resources to the joint venture.¹⁵

c) Co-operative Participants

The Proposed Guidance explains that charities can be considered co-operative participants in situations where the charity works side by side with another organization to achieve a particular goal, but the organizations do not pool their resources or carry out the project as a joint venture. In the Current Policy, CRA refers to co-operative participants as “co-operative partnerships.” This terminology is not used in the Proposed Guidance, which is likely a good idea, since the relationship described is that of a co-operative undertaking as opposed to a legal partnership, which the common law defines as an activity carried out in common with a view to a profit. CRA defines a co-operative participant as “an organization that a charity collaborates with to achieve a common,

¹⁴ *Supra* note 1 at para 40.

¹⁵ *Ibid.*

charitable purpose. It is not meant to create or imply a special legal status between the organizations.”¹⁶ In these kinds of situations, each organization might be responsible for a certain aspect of the project. CRA does warn charities, though, that they must direct and control their own activities and use of its resources. It must not give funds to non-qualified donee organizations even if those organizations are working on the project in concert with them.

d) Contractors

In the Current Policy and the Proposed Guidance, CRA permits charities to contract work out to an organization or individual in another country to provide goods and services to achieve the charitable purpose of the charity. CRA advises charities that before contracting out the work, charities should have a clear idea of what the project is that the charity is attempting to carry out and how long it will take to complete from beginning to end. This is necessary to ensure that precise instructions are given to the contractor.

5. The “Own Activities Test”

The key component of the Proposed Guidance is the requirement that a charity must meet the “own activities test.” This test is defined in the Proposed Guidance as follows:

Whether a charity works through its staff or through intermediaries, the Act requires a charity to devote all of its resources to charitable activities carried on by the organization itself... This requirement is referred to as the ‘own activities’ test.¹⁷

The Proposed Guidance reminds readers that charities cannot act as mere passive funding bodies for a non-qualified donee. If a charity takes on this role, then CRA will consider that the charity is acting as a passive conduit, which is a violation of the Act and would jeopardize the charity’s status.¹⁸ CRA further states that “[T]he surest and safest way to control and direct its resources is for a charity to use its staff to carry out its activities.”¹⁹ The balance of the Proposed Guidance is focused in defining how a charity can meet the “own activities test.”

¹⁶ *Supra* note 1 at para 48.

¹⁷ *Ibid.*

¹⁸ A conduit is defined as an organization whose primary purpose is to raise money in Canada for the benefit of a foreign non-qualified donee, and does not control all activities carried out on its behalf.

¹⁹ *Supra* note 1 at para 58.

6. Control and Direction of Resources

The Current Policy provides some guidelines for charities regarding structured arrangements with intermediaries. These guidelines are described as factors that CRA would consider when determining whether the arrangements are acceptable. They are broken up into three categories: general guidelines, additional guidelines for joint ventures, and written agreements. In the Proposed Guidance, however, the guidelines of the Current Policy are replaced by six “measures of control,” which are more detailed than the guidelines published in the Current Policy. The six measures of control are:

- a) written agreements;
- b) description of activities;
- c) monitoring and supervision;
- d) ongoing instruction;
- e) periodic transfers;
- f) separate activities and funds.

CRA states that agreements will generally need fewer of these measures of control when the resources (because of their nature) can only be used for charitable purposes and there is a reasonable expectation that the intermediary to whom the resources have been transferred will use them only for charitable purposes. This statement represents CRA’s current position on the longstanding informally recognized “charitable goods policy,” i.e. goods that inherently can only be used for a charitable purpose or purposes would not necessarily require a written agreement. At the other end of the spectrum, if the charity is transferring money to an intermediary, whose status and activities are uncertain, it will need as many of the above mentioned control measures as possible.

a) Written Agreements

Although there is no formal requirement in the Proposed Guidance or under the Act for a written agreement, CRA recommends that a charity have one with each of its intermediaries. CRA views good written agreements as an effective way to help meet the “own activities test.” In Appendix E of the Proposed Guidance, a checklist is included to help charities create an effective written document for the purposes of meeting the “own activities test.” The checklist is an expanded, but similar, version of the Written Agreements Guidelines that is contained in the Current Policy. In

both documents, CRA emphasizes the importance of utilizing written agreements. In the Proposed Guidance, however, CRA states that there are times when the complications of a full formal written agreement may outweigh the benefits of an agreement. In this regard CRA gives an example of where money is being spent on a one-time activity of about \$1,000 or less, and indicates that other forms of communication may instead be used to satisfy the “own activities test” in such circumstances.²⁰ These include faxed written instructions, copies of bank transfers, minutes of meetings, receipts and invoices, and written reports. If the transfer is to be repeated on an ongoing basis, CRA recommends that a written agreement be used. CRA further reminds the reader that simply entering into an agreement is not sufficient to prove that the charity meets the “own activities test.” The charity must actually show that it has “a real ongoing, active relationship with its intermediary whereby it directs and controls the use of its resources by that intermediary.”²¹

b) Description of Activities

The Proposed Guidance then explains that a statement of activities is required to show that the charity is able to give “a clear, complete, and detailed description of that activity.”²² In this regard, the Proposed Guidance lists what the description should demonstrate, which list is reproduced in its entirety below:

- exactly what the activity involves, its purpose, and the charitable benefit it provides;
- who benefits from the activity;
- the precise location(s) where the activity is carried on;
- a comprehensive budget for the activity, including payment schedules;
- the expected start-up and completion dates for the activity, as well as other pertinent timelines;
- a description of the deliverables, milestones, and performance benchmarks that are measured and reported;
- how the charity monitors the activity, the use of its resources, and those who carry on the activity; and
- the mechanisms that allow the charity to modify the nature or scope of the activity, including discontinuance of the activity if the charity so decides.

²⁰ *Supra* note 1 at para 72.

²¹ *Ibid.*

²² *Supra* note 1 at para 76.

c) Monitoring and Supervision

The Proposed Guidance explains that one way that a charity can demonstrate it controls the use of its resources and meets the “own activities test” is to have an “ongoing relationship with its intermediary through regular monitoring and supervision.”²³ However, the Proposed Guidance offers no details concerning what is meant in this regard, other than providing an example in which a charity is using an agent to build a school in South America. In the example the agent sends monthly progress reports and photographs, receipts and vouchers, and one of the charity’s staff also visits the site quarterly. More detail, such as a list of factors or a general checklist, would have been of assistance here.

d) Ongoing Instruction

It is important that the charity and its intermediary are clear on what activity is to be undertaken at the outset, usually through a detailed description of the activity before it is commenced. Further, according to the Proposed Guidance, the charity should be providing ongoing instructions to the intermediary. CRA states in the Proposed Guidance that records of any ongoing instructions and minutes of meeting are some of the ways to show that a charity has given ongoing direction to the intermediary and continues to control the activities. CRA cautions, however, that arranging to have a director/trustee, volunteer, or employee work for both groups may not be enough to show that the charity is maintaining control over the use of its resources by the intermediary.

e) Periodic Transfers

There is only one small paragraph dealing with this measure in the Proposed Guidance. It states that a charity should retain the right to discontinue the transfer of funds and to have unused funds returned if the charity is not satisfied with the reporting, progress, or outcome of an activity. The paragraph states that when a charity has unused money transferred back to it by the intermediary, this will help show that the charity is maintaining control over its own resources.

f) Separate Activities and Funds

The Proposed Guidance points out the importance of a charity being able to distinguish between its activities and those of its intermediary when carrying on activities through an intermediary: “A

²³ *Supra* note 1 at para 78.

charity cannot simply pay the expenses an intermediary incurs to carry on the intermediary's own activity. Doing so draws into question whether the activity is that of the charity."²⁴ CRA also confirms the position in the Current Policy that for certain types of arrangements, such as agency relationships, the charity's funds should be segregated.

7. Funding From CIDA and Other Government Programs

Some charities undertake projects that receive funding from the Canadian International Development Agency (CIDA). The Proposed Guidance points out, however, that not all of CIDA funded activities will be considered to be charitable. The participating charity must, therefore, ensure that the project meets its own charitable purposes. In this regard, CRA recommends contacting the Charities Directorate in situations of uncertainty regarding CIDA-funded projects. This section in the Proposed Guidance is very similar to that of the Current Policy.

8. Keeping Books and Records in Canada

The Proposed Guidance reminds charities that they must keep adequate books and records in Canada, in either English or French, failing which, the charity could be subject to sanctions under the Act, including the loss of charitable status. As well, the books and records must allow CRA to verify that charitable funds are either being spent on its own activities or are being gifted to a qualified donee. However, CRA does acknowledge that in some situations, i.e. war, famine, natural disasters, it may be difficult or impossible to obtain the required records. In these situations, the charity must demonstrate that it made all reasonable efforts to obtain the necessary records. Even after doing so, the charity must still show "when, how, and in what amounts funds were transferred to staff or intermediaries."²⁵

The Proposed Guidance then goes on to explain what the requirements are for books and records with regards to agency, contracts for services and joint venture arrangements.

a) Agents

The Proposed Guidance points out that where a charity is carrying on its own activities through an agent, the agent is required to keep the funds, property, books and records of the charity apart from

²⁴ *Supra* note 1 at para 83.

²⁵ *Supra* note 1 at para 92.

those of the agent. The agent's records should include progress reports and documentation of funds received and expenditures made on behalf of the charity.

If local laws prohibit the transfer of source documentation to Canada, copies should be forwarded regularly to the charity and the original documentation should be available for inspection at the place the books and records are kept. Upon completion of each activity, the charity should obtain a final comprehensive report detailing all the work that has been done on its behalf, along with supporting documentary evidence, such as invoices and receipts, as well as photographs and other documenting media.²⁶

b) Contractors

The Proposed Guidance explains that charities should obtain regular financial and progress reports from their contractors. These reports should include a description of the funds received from the charity and the expenses that the contractor has incurred in carrying out an activity. When the project is completed, the charity should obtain a, "final comprehensive report" with supporting documentary evidence, such as invoices, photographs and receipts. However, with a contractual relationship, one wonders why it should be necessary to require the contractor to produce copies of invoices and receipts after the completion of the project, since such a requirement is not a regular part of a contractual relationship.

c) Joint Ventures

With regards to joint ventures, the Proposed Guidance explains that the charity must ensure that it regularly receives full and complete updates on all financial information relating to the entire venture. The charity needs to show how its contribution ties in with the overall project and how its resources have been devoted to its charitable objects. There is a noticeable absence of any guidelines with books and records for agreements surrounding co-operative participants in the Proposed Guidance.

²⁶ *Supra* note 1 at para 95.

9. Foreign Activities and a Charity's Disbursement Quota

The Proposed Guidance confirms that the disbursement quota is not affected by whether the charity is carrying on its own activities or not. The disbursement quota applies to charitable organizations operating outside of Canada in the same way that it applies to those operating in Canada. However, CRA does mention that calculating the disbursement quota could be difficult when working jointly or in partnership with another organization and states that “[O]ne acceptable approach is to adjust the charity’s contribution downwards to reflect the overhead costs of the project or program as a whole.”²⁷

An example given by CRA is a situation where the Canadian charity contributes to a project that spends 90% of its funds on charitable work and 10% on overhead and administration. CRA’s position is that the Canadian charity can apply 90% of its contribution towards meeting its disbursement quota obligation.

10. Appendices

The Proposed Policy contains several important Appendices. Each one deals with a different specific situation.

Appendix A - Applications for Charitable Registration to Provide Disaster Relief

The first appendix deals with the situation of a group attempting to organize and register in the wake of a disaster in order to provide disaster relief. CRA acknowledges the timely nature of the work the organization is attempting to do and priority is typically assigned to these files. CRA, warns, however, that before the organization can be registered, they must still meet the same requirements as all other groups seeking to receive charitable status. CRA encourages groups that wish to help in international disaster situations to consider working with well-established, experienced relief organizations, instead of attempting to start a new charity and having to deal with all the difficulties associated with the registration process. This statement is good advice. Many well-intentioned people inadvertently get in the way of disaster relief. The immediate aftermath of a disaster is not the time to start learning about and dealing with the complexities of creating a new charitable organization to operate in the international context.

²⁷ *Supra* note 2 at p. 11.

Appendix B - Capacity Building.

Appendix B deals with the situation in which a charity is helping a community to develop the abilities and resources necessary for the community to become more self-sufficient. CRA states that charities may need to help with these problems “in a holistic fashion, rather than simply dealing with one of a community’s problems in isolation. For example, a charity trying to relieve poverty with micro-loans might discover that the residents of a particular community require improved health care, and to learn basic business skills, before they can benefit from the micro-loans.”²⁸ This approach reflects a practical understanding by CRA of the broad extent and application of capacity building that allows charities to help communities in dealing with the larger underlying root causes of many of the problems that communities in the developing world are confronted with.

Appendix C - Additional guidelines for joint ventures

The Proposed Guidance lists some factors that will be considered when determining whether or not a charity meets the “own activities test” when working through joint ventures. These factors are the same as the additional guidelines for joint ventures contained in the Current Policy. They are reproduced below for ease of reference:

- the presence of members of the Canadian charity on the governing body of the joint venture;
- the presence in the field of members of the Canadian charity;
- joint control by the Canadian charity over the hiring and firing of personnel involved in the venture;
- joint ownership by the Canadian charity of foreign assets and property;
- input by the Canadian charity into the venture’s initiation and follow-through, including the charity’s ability to direct or modify the venture and to establish deadlines or other performance benchmarks;
- signature of Canadian charity on loans, contracts, and other agreements arising from the venture;

²⁸ *Supra* note 1 at para 107.

- review and approval of the venture’s budget by the Canadian charity, availability of an independent audit of the venture and the option to discontinue funding;
- authorship of such things as procedures manuals, training guides, standards of conduct, etc., by the Canadian charity; and
- on-site identification of the venture as being the work, at least in part, of the Canadian charity.

Appendix D - Transferring Property to a Non-Qualified Donee

In some situations, a charity may wish to transfer real or capital property to a non-qualified donee. The difficulty many charities may encounter is that the Act prohibits gifting of money or resources to non-qualified donees.

In the Proposed Guidance, CRA acknowledges that in some countries, foreign ownership of real property is not allowed. In these situations, a title-holding arrangement with a local charity or governmental body could be used as long as the arrangement restricts the use of the property to the exclusively charitable purposes of the charity. However, CRA does not explain what such an arrangement would include. Another exception to the general rule prohibiting transfer of assets is with regards to development projects. CRA recognizes that charities may have no interest in operating the facilities after their construction. The Proposed Guidance gives an example of a charity building a school in a foreign country, the potential problem identified in this situation is that buildings can be used for a variety of purposes. The government may decide to use it as a military training base. The Proposed Guidance explains the onus on charities in this context:

“Charities should make all reasonable efforts to make sure any facilities constructed as part of development work are not misused. Depending on the circumstances, it may be possible to turn the property over to a government body, municipality, or non-profit organization established to provide benefits to the community at large.”²⁹

Appendix E - Checklist of the Elements of a Written Agreement

Appendix E is a checklist that CRA has developed charities to use in helping make sure that the agreements they enter into contain the “minimum elements necessary” for compliance with the Act. CRA reminds the reader that the relationship between the charity and intermediaries will be judged not

²⁹ *Supra* note 1 at para 116.

only on their agreements, but also on the charity's ability to "show that they direct and control their activities through active, ongoing, sustained relationships."³⁰

C. CONCLUDING COMMENTS

As explained above, the Proposed Guidance contains many significant improvements over the Current Policy by better reflecting the world that charities now operate in since the Current Policy was released in 2000. As such, the Proposed Guidance constitutes a welcome and much needed update in direction from CRA. It also clarifies much of the ambiguous wording that was previously contained in the Current Policy. As well, the Proposed Guidance will provide a useful resource tool, since it refers the reader to other relevant CRA documents that discuss in more detail specific issues that Canadian charities operating in the international context may face.

However, there are still some areas of practical concern evident in the Proposed Guidance that continue to be a challenge, such as the burdensome requirement that an intermediary must produce receipts, invoices and vouchers at the end of a charitable program, particularly when the charitable program involves utilization of contractors. As well, since the requirements for working with a non-qualified donee is the same inside and outside of Canada, it might have been better if the Proposed Guidance had been entitled, "Working With Non-Qualified Donees", instead of restricting comments to the context of working only with non-qualified donees outside of Canada. Despite these few deficiencies, the Proposed Guidance is a welcome improvement over the Current Policy and as such should be carefully studied by charities and their advisors.

³⁰ *Supra* note 1 at para 120.