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## BE CHARITABLE DURING THE ELECTION CAMPAIGN: THE DO'S AND DON'T'S FOR CHARITIES

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*By Jennifer M. Leddy and Ryan M. Prendergast\**

### A. INTRODUCTION

Canada is now in the midst of a federal election. Charities, like other individuals and organizations, will be interested in the platforms of political parties and candidates and how they impact on their charitable activities. Some will also wish to inform the candidates and parties about various issues of concern to them, and others may be asked to host all candidates meetings.

Charities must always be very careful not to participate in partisan political activities but this is especially important at election time. According to the *Income Tax Act* and the Advisory on Political Activities,<sup>1</sup> that was issued by the Canada Revenue Agency (CRA) on September 24, 2007, partisan political activity involves “direct or indirect support of, or opposition to, any political party or candidate for public office.”

The following are some Do's and Don'ts for charities, particularly around election time – see the CRA Advisory for more detail.

#### 1. DON'TS

- ◆ **Don't** make a gift of a charity's funds to a political party that supports the charity's views
- ◆ **Don't** make public statements endorsing or denouncing a candidate or political party
- ◆ **Don't** invite candidates to speak at different events in a manner that favours a candidate or political party or host an all candidates meeting in a partisan manner

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<sup>1</sup> Available at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/dvsry-eng.html>.

- ◆ **Don't** publish voting records of only selected candidates or parties on an issue
- ◆ **Don't** post signs in support of, or in opposition to a particular candidate or political party
- ◆ **Don't** explicitly connect the charity's position on an issue to the position taken on the same issue by a candidate or political party. Simply having a position on a topic that is similar to the position of a political party is not partisan. Many charities, particularly religious organizations, have had positions on certain issues long before these issues became "politicized." The key is not to clearly link their position to that of the political party.

## 2. DO'S

- ◆ **Do** make it clear that you are assisting a candidate or party in your personal capacity if you are an employee, member or leader of a charity and refrain from partisan comments at charity functions
- ◆ **Do** post information on candidates and political parties on the charity's website, provided that it is connected and subordinate to the charity's purpose, reflects the position taken with regard to all political parties and candidates, no political party or candidate is singled out favourably or unfavourably, and there is no explicit direction of how to vote

Charging fair market value rent to a political party for occasional meetings in a charity's facilities is permitted so long as equal access and opportunity are given to all political parties. However, this is a grey area and prolonged association with one party may lead to the conclusion that the charity favours that party.

During this election period, charities must be particularly mindful of CRA's cautionary words in the Advisory that "during election campaigns CRA steps up monitoring of activities of registered charities and will take appropriate measures if a registered charity undertakes partisan political activities....Charities engaging in partisan political activities risk being deregistered." In this regard, given the well publicized use of social media in the past US election, and the increased use of social media in the current election compared to previous Canadian elections, volunteers or staff of the charity who operate a charity's social media "face" should be familiar with these rules and take them into consideration when making public statements by the charity through social media. Given CRA's lack of guidance in the Advisory concerning the use of social media during an election, it would be prudent for charities to be mindful that an action such as "liking" a candidate's position on a platform like Facebook could inadvertently connect the charity's position to that of a politician.

Charities can engage in non-partisan political activities within certain limits allowed by law. For more information on the allowable political activities for charities, please see The Parameters of Political Activities for Registered Charities, April 28, 2010, in *Charity Law Bulletin* No. 206.<sup>2</sup>

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<sup>2</sup> Available at <http://www.carters.ca/pub/bulletin/charity/2010/chylb206.pdf>.