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**IMAGINE CANADA**

**2011 NONPROFIT RISK MANAGEMENT CONFERENCE**

**November 8, 2011**

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**Identifying the Top Legal and Risk  
Management Challenges of 2012 and Beyond**

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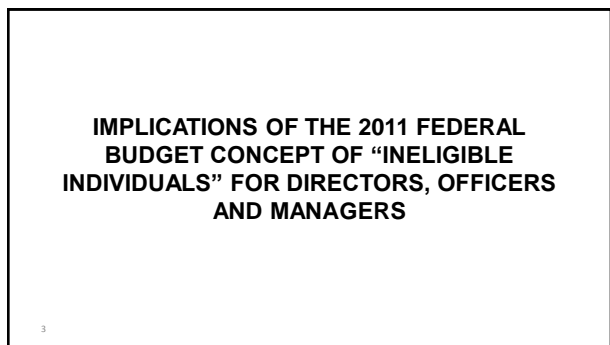
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## A. FEDERAL BUDGET 2011 - BACKGROUND

- The 2011 Federal Budget ("Budget") was initially introduced on March 22, 2011 but died on the order paper with the vote of non-confidence
- It was reintroduced and tabled on June 6, 2011 and was passed on June 7, 2011
- The June 2011 Budget is the same as the March 2011 Budget with a few changes

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- The Budget contains significant changes to the regulation of charities and other qualified donees
- The effective date of the Budget proposals is to be the later of January 1, 2012 and the date of Royal Assent for the enacting legislation
- For more information on the Budget see Charity Law Bulletin #245 and #253 at <http://www.carters.ca/pub/bulletin/charity/2011/chylb245.pdf>

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## B. NEW GOVERNANCE REGIME FOR REGISTERED CHARITIES AND REGISTERED CANADIAN AMATEUR ATHLETIC ASSOCIATIONS (RCAAAS)

- The Budget identifies a concern by CRA that there is a recurring problem with applications for charitable status being submitted by individuals who have been involved with other charities and RCAAAs that have had their status revoked for serious non-compliance
- Currently CRA does not have the ability to refuse to register or revoke the status of a registered charity or RCAAA based upon any of these grounds

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- The Budget gives CRA the discretion to refuse or to revoke the registration of a charity or a RCAA or to suspend its authority to issue official donation receipts if a member of the board of directors, a trustee, officer or equivalent official, or any individual who otherwise controls or manages the operation of the charity or RCAA:
  - Has been found guilty of a criminal offence in Canada or similar offence outside of Canada relating to financial dishonesty (including tax evasion, theft or fraud), or any other criminal offence that is relevant to the operation of the organization, for which he or she has not received a pardon (“relevant criminal offence”)

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- Has been found guilty of an offence in Canada within the past five years (other than a “relevant criminal offence”), or similar offence committed outside Canada within the past five years relating to financial dishonesty (including offences under charitable fundraising legislation, convictions for misrepresentation under consumer protection legislation or convictions under securities legislation) or any other offence that is relevant to the operation of the charity or RCAA (“relevant offence”)

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- Has been a member of the board of directors, a trustee, officer or equivalent official, or an individual who otherwise controlled or managed the operation of a charity or RCAA during a period in which the organization engaged in serious non-compliance for which its registration has been revoked within the past five years
- Has been at any time a promoter of a gifting arrangement or other tax shelter in which a charity or RCAA participated and the registration the charity or RCAA has been revoked within the past five years for reasons that included or were related to its participation

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- All of these individuals are described in the Budget as "ineligible individuals"
- The Budget states that CRA will look at the "particular circumstances" of a charity or RCAA but does not state what those circumstances are
- The budget does state that CRA will take into account whether "appropriate safeguards have been instituted to address any potential concerns"
  - However, there is no explanation of what these safeguards might be
  - Other board members will want to know what safeguards to take

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- The practical question that arises is what sort of due diligence will a charity or a RCAA be required to undertake to ensure that an "ineligible individual" does not become involved or continue to be involved as a board member, trustee, officer or equivalent official, or one who controls or manages the organization
- Although the Budget states that a charity or a RCAA will not be required to conduct background checks, the issue that charities will need to address is whether a questionnaire is necessary and if so, how frequent is a questionnaire to be used, how broad should the questions be and to whom should it apply?

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**COMPLYING WITH CRA'S NEW  
FUNDRAISING GUIDANCE  
(REVISED 2011)**

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## A. INTRODUCTION

- On June 11, 2009, CRA introduced Guidance (CPS-028): Fundraising by Registered Charities
- The charitable sector was asked to provide feedback on this Guidance and as a result CRA has recognized the need to make the Guidance more practical
- CRA's review of the Guidance has resulted in a new draft Fundraising Guidance
- However, the Guidance is not yet available for distribution
- This presentation consists of a preview of the new Guidance that will be released in the near future
- The new Guidance is a significant improvement but is a longer document at 38 pages compared to 31 pages

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- It will be essential to read the whole document, including Appendices A to D
- Although improved, the new Guidance is a complex document and will therefore require careful reading
- CRA has advised that the Guidance does not represent a new policy position of CRA but rather provides information on the current treatment of fundraising under the *Income Tax Act* ("ITA") and common law
- The Guidance is intended to provide general advice only and is based on principles established by caselaw that fundraising must be a means-to-an-end, rather than an end-in-itself

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## B. WHAT IS FUNDRAISING?

- In general, fundraising is any activity that includes solicitation of present or future donations of cash or gifts in kind, whether the solicitation is explicit or implied
- Includes activities carried out internally by the charity itself, such as volunteers and staff, or externally by anyone acting on its behalf, such as telemarketing contractors
- May include single action, such as an advertisement, or series of related actions, such as a capital campaign

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- Includes direct activities, such as face-to-face canvassing, or indirect/related activities, such as researching and developing fundraising strategies and plans
- For the purpose of the Guidance, fundraising will not include (i.e. to be excluded from revenue and expenses):
  - Seeking grants, gifts, contributions, or other funding from other charities or government
  - Recruiting volunteers (except for fundraising volunteers)
  - Related business activities

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- Examples of fundraising activities
  - The sale of goods or services
  - Donor stewardship
  - Membership programs
  - Cause-related marketing/social marketing ventures
  - Planning and research for fundraising activities
  - Donor recognition

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### C. WHEN IS FUNDRAISING NOT ACCEPTABLE?

- The following conduct will be prohibited and will be grounds for revocation of a registered charity's status, imposition of sanctions or other compliance actions, or denial of charitable registration
  - Fundraising that is a purpose of the charity (a collateral non-charitable purpose)
  - Fundraising that delivers more than an incidental private benefit
  - Fundraising that is illegal or contrary to public policy
  - Fundraising that is deceptive
  - Fundraising that is an unrelated business

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## D. ALLOCATING FUNDRAISING EXPENDITURES

- Registered charities must report fundraising expenditures (all costs related to any fundraising activity) on their annual T3010
- Where some fundraising activities include content that is not related to fundraising, some of these costs may be able to be allocated to charitable activities, management or administrative activities, or political activities
- Onus is on the charity to explain and justify the allocation

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- The following are CRA's guidelines for allocation:
  - 100% allocation to fundraising
    - Where 90% or more of the activity was devoted to fundraising, a charity will have to allocate all of the costs to fundraising
    - The remaining content is considered to be ancillary and incidental to fundraising
    - To determine if an activity is exclusively (or almost exclusively) undertaken to fundraise, separate the fundraising content from the other content and assess proportions, resources devoted to and prominence given to charitable, fundraising, management/administrative, and political content

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- No allocation of costs to fundraising
  - Where it can be demonstrated that an activity would have been undertaken without the fundraising component, then 100% of the costs will be allocated to the applicable expenditure (ex: charitable, administrative)
- Pro-rated allocation of costs
  - May be able to pro-rate the allocation of costs of an activity between fundraising expenditures and charitable, management/administrative, and political activity expenditures
  - But must be able to establish that less than 90% of the total content of the activity advances fundraising

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## E. EVALUATING A CHARITY'S FUNDRAISING

- The following are examples of some of the indicators that will generally be considered by CRA to be evidence of unacceptable fundraising:
  - Resources devoted to fundraising are disproportionate to resources devoted to charitable activities
  - Fundraising without an identifiable use or need for the proceeds
  - Inappropriate purchasing or staffing practices
  - Activities where most of the gross revenues go to contracted non-charitable parties
  - Commission-based fundraiser remuneration or payment of fundraisers based on amount or number of donations

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- A charity's fundraising ratio can serve as a general self-assessment tool, although it's not determinative on its own
  - The fundraising ratio is the ratio of fundraising costs to fundraising revenue calculated on an annual basis
  - It is a global calculation for a fiscal period but a high fundraising ratio for an individual event may be an indicator of unacceptable fundraising
  - It is totally distinct from the 3.5% disbursement quota, although elements of it overlap in the ratio

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- Fundraising revenues will include amounts reported in the T3010 on line 4500 (receipted donations, regardless of whether these amounts can be traced to fundraising activity) and line 4630 (all amounts for which a tax receipt was not issued and that were generated as a direct result of fundraising expenses)
- Fundraising expenditures will include amounts reported on line 5020 as fundraising expenses in accordance with the Guidance

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- The fundraising ratio will place a charity into one of three categories:
  - Under 35%: unlikely to generate questions or concerns by CRA
  - 35% and above: CRA will examine the average ratio over recent years to determine if there is a trend of high fundraising costs requiring a more detailed assessment of expenditures
  - Above 70%: this level will raise concerns with CRA. The charity must be able to provide an explanation and rationale for this level of expenditure, otherwise it will not be acceptable
- See logic chart on next page (not by CRA)

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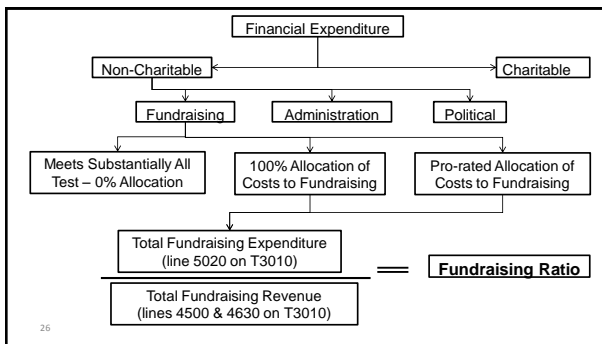
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## F. FACTORS THAT MAY INFLUENCE CRA'S EVALUATION OF A CHARITY'S FUNDRAISING

- CRA will look at a number of factors to evaluate a charitable fundraising activity that involves high fundraising costs
- Examples of relevant case-specific factors include the following:
  - The size of the charity, which may have an impact on fundraising efficiency (i.e. revenues under \$100,000)
  - Causes with limited appeal which could create particular fundraising challenges

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- Donor development programs where fundraising activities could result in financial returns only being realized in future years (long-term investments)
- Gaming activities, such as lotteries or bingos, where it's commonly considered acceptable to have cost to revenue ratios of 70% or higher

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**G. BEST PRACTICES FOR MANAGING FUNDRAISING**

- Adopting best practices may decrease the risk of CRA finding that a charity is engaging in unacceptable fundraising
- All best practices are recommended, but purely voluntary
- The Guidance described the following best practices in further detail:
  - Prudent planning processes
  - Adequate evaluation processes

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- Appropriate procurement and staffing processes
- Managing risks associated with hiring contracted (third party) fundraisers
- Ongoing management and supervision of fundraising
- Keeping complete and detailed records relating to fundraising activities
- Reserve fund policy and ensuring that fundraising is for an identified use or need

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- Providing disclosures about fundraising costs, revenues, practices and arrangements
  - Disclosure must be accurate, accessible, and timely
  - Some evidence of a charity's commitment to disclosure include:
    - Public disclosure of fundraising costs and revenues in financial information released
    - Adopt disclosure policies
  - A charity may need to consider disclosing information before, during, and after a fundraising initiative

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## WORKING WITH INTERMEDIARIES INSIDE AND OUTSIDE OF CANADA

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### A. CRA GUIDANCE ON CHARITIES CARRYING OUT ACTIVITIES OUTSIDE CANADA

- July 8, 2010, CRA released Guidance entitled *Canadian Registered Charities Carrying out Activities Outside of Canada* ("Guidance") available at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html>
- Updates and replaces the previous CRA publication on foreign activities entitled *Registered Charities: Operating Outside Canada* RC4106
- Failure to comply with the provisions of the Guidance constitutes one of the most common ways in which a charity can be sanctioned or lose its charitable status

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- Two means available under the ITA by which a registered charity can pursue its charitable purposes
  - a) The charity can make gifts to qualified donees (“QD”) (generally other registered charities)
  - b) 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 (referred to as the “own activities test”)

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- Generally not permissible for a registered charity to carry out its charitable purposes by merely giving money or resources to an organization that is not a QD
  - A gift to a QD is a transfer of money or any other property to a QD, without consideration
- The simplest way to carry out activities outside Canada is for a charity to make a gift to a QD that has the experience and capacity in the foreign country to carry out the activity

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- QDs include the following organizations:
  - Canadian registered charities and registered Canadian amateur athletic associations
  - Registered Canadian national arts service organizations
  - Housing corporations resident in Canada and exempt from tax under Part I of the ITA by paragraph 149(1)(i)
  - Municipalities in Canada
  - Municipal or public bodies performing a function of government in Canada

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- Prescribed universities outside Canada
- The United Nations and its agencies
- Provincial and federal governments
- Charitable organizations outside Canada to which Her Majesty in right of Canada (the federal government or its agents) has made a gift during the taxpayer's taxation year, or the 12 months immediately preceding that taxation year
  - i.e. The Aga Khan Foundation
  - i.e. The Bill Clinton Foundation

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### B. "OWN ACTIVITIES" TEST

- The key consideration that a charity must have when carrying on activities abroad is whether it meets the "own activities" test
- The test as described in the Guidance is as follows:
  - Apart from making gifts to QDs, the ITA requires a registered charity to devote all of its resources to charitable activities carried on by the organization itself *[emphasis added]*

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- In this regard, charities cannot simply act as a passive funding body or conduit for a non-qualified donee
  - A conduit is a registered charity that receives donations from Canadians, issues tax receipts, and funnels money without direction to an organization to which a Canadian taxpayer could not make a gift and acquire tax relief
- A charity must direct and control the use of its resources to meet the test and CRA recommends that the charity enter into a written agreement with any intermediary that it works with

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- There are four types of agreements that CRA will generally find acceptable, if put in writing:
  - An agency agreement
  - A joint venture agreement
  - A co-operative participant agreement
  - A contract for service
- There are pros and cons to each of these agreements
- Failure to use and then carefully follow one of these agreements on a CRA audit can result in sanctions or even revocation

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- The Guidance sets out 6 measures which CRA recommends that charities adopt to direct and control the use of the charity's resources
  - Create a written agreement (save and except for transfer of \$1,000 or less), and implement its terms
  - Communicate a clear, complete and detailed description of the activity to the intermediary
  - Monitor and supervise the activity

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- Provide clear, complete and detailed instructions to the intermediary on an ongoing basis
- For agency relationships, segregate funds, books, records
- Make periodic transfers of resources based on demonstrated performance

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### C. NEW CRA POLICY ON WORKING WITH AN INTERMEDIARY WITHIN CANADA

- On June 20, 2011, CRA released Guidance CG-004, *Using an Intermediary to Carry out a Charity's Activities within Canada*
- The Guidance assists charities or applicants for charitable status who are or intend on conducting charitable activities through an intermediary within Canada
- Developed to complement Guidance CG-002, *Canadian Registered Charities Carrying out Activities Outside of Canada* (as discussed above)

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- The Guidance clarifies that CRA's administrative guidance concerning operating through intermediaries outside Canada applies equally within Canada as well
- The Guidance is available at: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html>
- There is new information contained in the Guidance on factors that CRA will consider in determining if a charity is acting as a conduit
  - A conduit is defined as an organization that accepts donations for which it typically issues tax-deductible receipts and then funnels the money, without maintaining direction and control, to a non-qualified donee

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- CRA states that they will look at certain criteria in determining whether or not a charity is conducting itself as a conduit:
  - Does the charity have any evidence that it exercises ongoing direction and control over the use of all of its resources?
  - Does the charity keep adequate books and records at a Canadian address it has on file with CRA?
  - Does the charity receive goods and services of proportionate value for any money or other resources it sends to a non-qualified donee?

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– Does the charity need permission from a non-qualified donee to undertake activities or approval of how to carry out those activities?

- Additionally, there is new information on reporting expenditures on activities carried out through intermediaries
  - The Guidance confirms that all funds expended on the charity's own activities, whether it is through the charity's own staff or through an intermediary, will go towards meeting the charity's disbursement quota

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– The following may be reported as charitable expenditures on the charity's T3010:

- The costs of goods transferred to an intermediary to provide eligible beneficiaries with charitable relief;
- Payments for buying goods and services to provide eligible beneficiaries with charitable relief;
- Purchase or maintenance of facilities, equipment, and other items used directly in the charity's charitable activities;

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- Fees, licenses, and memberships that are necessary to deliver the charity's charitable activities; and
- Salaries paid to those that directly provide charitable relief to eligible beneficiaries

– However, it is important to point out that when a charity is working jointly with other organizations, it must be able to account for all charitable and other expenditures the intermediary has spent on its behalf

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## NEW CHALLENGES INVOLVING INTER-CHARITY TRANSFERS

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### A. BACKGROUND TO NEW INTER-CHARITY TRANSFER PROVISIONS

- The new inter-charity transfer provisions came into existence as a result of reform to the disbursement quota (DQ) that occurred in the 2010 federal Budget
- In order to understand the new inter-charity transfer provisions, it is essential to first understand the context and implications of the DQ reform
- However, the resulting inter-charity transfer provisions described below are not well understood by the sector

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### B. PRE 2010 BUDGET DQ RULES

- Prior to the 2010 federal Budget, a charity had to spend each year on charitable activities (including gifts to other charities) an amount that was equal to:
  - 80% of donations received in previous year
  - 80% of gifts from other registered charities (100% for private foundations)
  - 3.5% of value of property not used in charitable activities or administration (for amounts over \$25,000) – i.e. investment assets
- Failure to meet DQ was and continues to be grounds for revocation

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### C. OVERVIEW OF DQ REFORM RULES

- Repealed 80% DQ and related concepts
  - Enduring property (including 10-year gifts)
  - Capital gains pool
  - Specified gifts
- However, the 3.5% DQ remains
- Increased threshold for 3.5% DQ to \$100,000 for charitable organizations (but remains at \$25,000 for foundations)
- DQ reform effective for taxation years ending on or after March 4, 2010

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### NEW ANTI-AVOIDANCE AND INTER-CHARITY TRANSFER PROVISIONS

- Expanded anti-avoidance provisions for undue delay or avoidance (para. 149.1(4.1)(a + b))
  - Registered charity status can be revoked if a registered charity has entered into a transaction (including a gift to another registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities
    - The charitable status of the recipient charity can also be revoked

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- The charity entering into the transaction is also liable to a penalty equal to 110% of the amount of expenditure avoided or delayed (ss.188.1(11))
- In the case of a gift to another registered charity, both charities will be jointly and severally, or solidarily liable (ss.188.1(11))
- Not clear what entering into a “transaction” means
  - Does it include the transfer of an existing endowment between charities?

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- Does it include an inter-charity transfer subject to time restrictions?
- Does it include the acceptance by a charity of an endowment from a donor?
- Does it include a charity internally setting aside funds for future expenditure?
- Also, not clear what “avoid or delay unduly” an expenditure means

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- Inter-charity anti-avoidance provisions (para. 149.1(4.1)(d))
  - Registered charity received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those taxation years, an amount that is less than the fair market value of the property on charitable activities carried on by it or by way of gifts made to qualified donees with which it deals at arm's length

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- The charity is also liable to a penalty equal to 110% of the amount of by which the fair market value of the property exceeds the total of such amounts expended (ss. 188.1(12))
- However, if the donor charity chooses to make the gift a “designated gift” to the non-arm's length receiving charity, the anti-avoidance rule with respect to expending an amount equal to the FMV of the property received from a non-arm's length charity will not apply

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- The designation is made by the donor charity on Form T1236 with its T3010
- If donor charity elects the gift to be a "designated gift" in its T3010
  - No 100% expenditure requirement on recipient charity applies
  - However, donor charity cannot use the gift to meet its own 3.5% DQ
  - But if recipient charity does not use the gift in its activities or administration or does not gift such property to another qualified donee, then it will become subject to the 3.5% DQ

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- The inter-charity anti-avoidance provisions in effect creates a new 100% expenditure requirement
- Not clear whether the requirement to "expend an amount" includes using the property in question for a charitable activity
- Introduction of the concept of "arm's length" charities has introduced uncertainty with regards to inter-charity transfers, i.e. charities with similar objects, overlapping boards, or overlapping membership
- The option of using designated gifts can only be used with transfers of property between non-arm's length charities, not transfers between any charity

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**REDUCING RISKS FROM THE DISCIPLINE  
AND  
EXPULSION OF MEMBERS**

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## A. INTRODUCTION

- Often charities and non-profit organizations (collectively "organizations") will want the ability to discipline or expel members
- However, organizations may not have always thought through what is involved in doing so or what the consequences are of improperly undertaking discipline or expulsion of members
- This part of the presentation looks at how to identify the risks associated with incorrectly disciplining and expelling members and what steps can be taken to reduce those risks

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## B. THE CONTEXT

- This issue will generally be a factor for open membership organizations as opposed to closed membership
- Differing levels of conduct expectation for members may exist depending upon the nature of the organization
  - Higher levels of conduct expectations
    - Quasi professional associations
    - Religious organizations and denominations
  - Lower levels of conduct expectations
    - Trade associations
    - Special interest group organizations

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- Common by-law and policy provision concerning discipline or expulsion of members
  - The incorporation by reference of conduct and discipline provisions from a parent body outside of Canada that may not comply with Canadian laws
  - Discipline or expulsion for cause; i.e., violation of a code of conduct
  - Expulsion without cause based on a prescribed percentage vote by the directors and/or members

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- Lack of or incomplete procedural safeguards
- Lack of or incomplete appeal process
- Lack of or incomplete coordination between membership application form and discipline process
- Lack of or incomplete coordination between discipline process and privacy policy or no privacy policy at all

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### C. WHAT ARE THE LEGAL RISKS

#### 1. Possible Liability for Invasion of Privacy

- Developing trend in the law to protect individual privacy interests; i.e., the member's reputation is alleged to have been damaged by actual or perceived intrusion into the private affairs of the member
- Liability for breach of privacy policy of the organization and/or violation of PIPEAA
- Could result in legal action against the organization and possibly the directors

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#### 2. Liability for Discrimination

- Failure to clearly define terminology that is used in codes of conduct for discipline; i.e., prohibition of "inappropriate sexual conduct"
- Breach of Ontario Human Rights Code; i.e., discrimination based on gender orientation or age
  - Can code of conduct be justified as a bonafide occupational requirement
  - Does code of conduct create a poisoned work environment

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- Failure to apply code of conduct on a consistent basis; i.e., a religious organization disciplining a member for prohibited same sex relationship under its code of conduct but failing to discipline for adulterous relationships also prohibited under its code of conduct

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### 3. Liability for Lack of Due Process

- Failure to have established a due diligence procedure for disciplining members
- Failure to follow due diligence discipline procedure set out in the organization by-laws or policies
- Due diligence procedure included in the by-laws or policies of the organization not containing sufficient details in order to avoid an arbitrary and inconsistent discipline process

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### 4. Liability for Lack of Natural Justice

- The common law imposes principles of natural justice that need to be reflected in discipline process
- In general terms, principles of natural justice mean that the member is entitled to receive:
  - Timely notification of the alleged offending conduct
  - An opportunity to know the case to be met
  - A reasonable opportunity to respond to the allegations, either in writing or at a hearing
  - An unbiased and impartial body of decision makers
  - Timely notification of the decision with written reasons

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5. Enhanced Membership Rights Under Applicable Corporate Legislation Concerning Discipline
- Both the *Canada Not-for-Profit Corporations Act* ("CNCA") and the *Ontario Not-for-Profit Corporations Act* ("ONCA") provide that the right to discipline a member must set out the circumstances and the manner in which that power may be exercised
  - The ONCA also requires that termination of membership must be done in good faith and in a fair and reasonable manner as defined in the Act
  - Under the ONCA, the aggrieved member can also apply to court to seek relief

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#### D. PRACTICAL STEPS TO AVOID RISKS FROM DISCIPLINE OR EXPULSION OF MEMBERS

1. Need to ask if it is actually necessary for the organization to discipline its members
  - Some organizations, like trade associations or common interest group associations, may not need discipline procedures because conduct expectations may not be a significant factor for membership
  - For these organizations, expulsion from membership without cause based upon a percentage vote of directors and/or the members may be sufficient or expiry of one year term of membership

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2. Granting of membership should be stated as being in the sole discretion of the board of directors
3. If an organization needs to be able to discipline a member, then the organization may also want to have membership qualification requirements that will permit the organization to screen out potentially problematic prospective members in advance
4. With an organization where denial of admission to membership may have an economic impact (i.e., with a quasi professional body or religious denomination), then it may be necessary to grant procedural due diligence and apply principles of natural justice to the application process of becoming a member

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5. A membership code of conduct should only be utilized when it serves a practical purpose for the organization
6. A membership code of conduct needs to be reviewed by legal counsel to ensure that it does not violate the Ontario Human Rights Code
7. Discipline process needs to be in writing and be as detailed as possible
8. Discipline process should be in a policy of the organization, or in its general operating by-law and a written copy be given to all prospective members

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9. Discipline procedures need to reflect the principles of natural justice referred to above
10. Members should agree in writing to be subject to the discipline process as part of their membership application form
11. Publication of any aspect of the discipline process, including names, need to be carefully undertaken in organization with legal counsel, and disclosed and agreed to by the members in the membership application process

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12. The privacy policy of the organization needs to be revised to reflect the discipline process
13. Essential that a written record be maintained of all aspects of the discipline process in order to be available for future reference by the organization if necessary, on a court application
14. Obtain written confirmation with insurers for the organization that its insurance coverage protects against claims arising out of damages associated with discipline action and procedures

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