 <p>BARRISTERS SOLICITORS TRADEMARK AGENTS</p>	<p><b>11<sup>th</sup> Annual CSAE Trillium Chapter Summer Summit</b></p> <p>Collingwood – July 7, 2016</p>
<p><b>Considerations in Drafting a Books and Records Policy</b></p> <p>By <b>Terrance S. Carter and Theresa L.M. Man</b> tcarter@carters.ca and tman@carters.ca 1-877-942-0001</p> <p>© 2016 Carters Professional Corporation</p>	
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<p><b>OVERVIEW</b></p>	
<p><b>Preliminary questions</b></p>	
<ul style="list-style-type: none"><li>• Why keep books and records?</li><li>• What happens if fail to keep books and records?</li><li>• Why have a books and records policy?</li></ul>	
<p><b>Rules about books and records</b></p>	
<ul style="list-style-type: none"><li>• What are books and records?</li><li>• How long to keep records?</li><li>• Where to keep records?</li><li>• What language to keep records in?</li><li>• Who keeps records, who has access?</li><li>• How and when to destroy records?</li></ul>	
<p><b>Developing a books and records policy</b></p>	
<ul style="list-style-type: none"><li>• General considerations</li><li>• Key areas to include in a policy</li><li>• What to do after having developed a policy?</li></ul>	
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- Will focus on requirements under corporate legislation and *Income Tax Act* (“ITA”)
- Will cover both non-profit organizations (NPOs) under paragraph 149(1)(l) of the ITA and registered charities
- Will not cover bookkeeping or accounting issues
- This handout is meant to be a helpful reference tool for a complicated topic

**WHY KEEP RECORDS?**

**Of course, if he maintained proper records, he wouldn't have to keep re-inventing it!**



## A. WHY KEEP BOOKS AND RECORDS

### 1. Meet *Income Tax Act* and CRA Requirements

- NPOs and registered charities are required to keep books and records
- Most other qualified donees are also required to keep books and records including registered (ss 230(2) ITA) – e.g., Canadian amateur athletic associations; national arts service organizations; housing corporations; municipalities and municipalities or public bodies performing a function of government in Canada; prescribed universities outside Canada
- However, Her Majesty in right of Canada or a province and the United Nations and its agencies are not required to keep books and records

### Relevant CRA publications

- Webpage *Keeping Records*  
<http://www.cra-arc.gc.ca/tx/bsnss/tpcs/kprc/menu-eng.html>
- IC78-10R5, *Books and Records Retention/Destruction* (June 2010)  
<http://www.cra-arc.gc.ca/E/pub/tp/ic78-10r5/ic78-10r5-10e.html>
- IC05-1R1, *Electronic Record Keeping* (June 2010)  
<http://www.cra-arc.gc.ca/E/pub/tp/ic05-1r1/ic05-1r1-e.html>
- *Registered Charities Newsletter No. 26* (Winter 2006)  
<http://www.cra-arc.gc.ca/E/pub/tg/charitiesnews-26/README.html>
- Webpage for charities *Books and Records*  
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/bks-eng.html>
- Webpage for charities *Keeping adequate books and records*  
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/bks-eng.html>

## 2. Meet Corporate Legislation Requirements

- There are specific records keeping requirements in incorporating legislation
- Detailed requirements in each statute are different
- *Canada Not-for-profit Corporations Act (CNCA)* – Part 4
- *Ontario Corporations Act (OCA)* – sections 229-304
- *Ontario Not-for-Profit Corporations Act (ONCA)* – Part X

## 3. Meet Other Statutory Requirements

- There may be other specific records keeping requirements in other legislation, for example
  - *Employment Insurance Act*
  - *Canada Pension Plan*
  - *Excise Tax Act*
  - *Freedom of Information and Protection of Privacy Act*

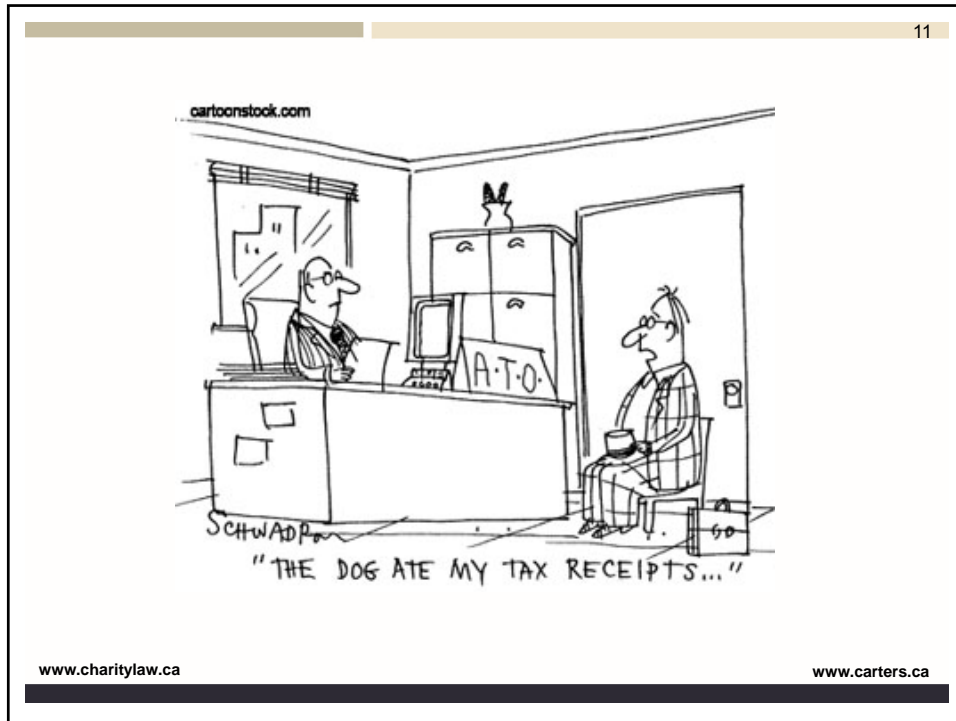
## 4. Meet Other Requirements

- There may be other specific records keeping requirements that an organization has to maintain – e.g., funders, certification bodies, umbrella organizations

### 5. Good Governance and Administration

- Maintain corporate history
- Discharge directors' and officers' duties
- Comply with donor's restrictions
- Ensure operational efficiency
- Mitigate risks
- Assist future planning
- Manage donor and public relations
- Prepare for legal challenges, e.g., CRA audits, law suits, insurance claims





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### B. WHAT HAPPENS IF FAIL TO KEEP BOOKS AND RECORDS

- Failure to keep adequate books and records under ITA
  - CRA can specify what books and records must be kept – CRA can issue a formal requirement to provide information or documents of the specified records
  - QDs receipting privileges can be suspended
  - QD status can be revoked
  - QDs and NPOs may be prosecuted by CRA for an offence or subject to a compliance order to provide the information by a judge
  - Other ITA provisions to address those who destroy or alter books and records to evade tax or make false or deceptive entries in books and records

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- Failure to keep books and records under other legislation may be an offence, for example
  - CNCA - general offence for contravening the CNCA or its regulations and every person (including any director or officer of a corporation) who does so can be fined up to \$5,000 and/or imprisoned for up to six months
- Other governance or administration risks, e.g.,
  - Losing membership/chapter or certification/licensee status
  - Unable to provide adequate evidence to defend a law suit
  - Poor donor relations
  - Affect insurance coverage (e.g., if occurrence based insurance policy)

### C. WHY HAVE A BOOKS AND RECORDS POLICY?

- Ensures legal compliance and risk management
  - Ensures compliance with legislative, regulatory, contractual and legal requirements on records retention and destruction
  - Coordinates the compliance with the various requirements – to ensure nothing is missed
  - Ensures compliance with donor restrictions
  - Evidences due diligence as a defence in the event of litigation
  - Avoid surprises and unexpected costs

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- Enhances effective operational management
  - Provides staff and/or volunteers with guidelines when and how to keep, retain or destroy records
  - Ensures consistency in administration of policies and procedures
  - Protects sensitive information by ensuring records are managed and disposed of appropriately
  - Avoids risks associated with the inadvertent or inappropriate destruction of information
  - Avoids risk associated with cyber attack
  - Avoids case-by-case subjective scenarios
  - Promotes credibility of the organization
  - Encourages cost effectiveness as it relates to records management

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**WHAT ARE BOOKS AND RECORDS?**

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## D. WHAT ARE BOOKS AND RECORDS – IN GENERAL

- Records “kept in the course of regularly conducted business” or the “ordinary course of doing business”
- In general, there are three types of books and records
  - Governance records
  - Financial records
  - Operational records



### 1. Governance Records

- Constatting documents – constitution, articles of incorporation, letters patent, trust deed, and all amendments
- By-laws and all amendments
- Board and members’ meeting minutes
- Directors, officers and members registers
- Membership records
- Various registrations – e.g. business names, extra-provincial registrations
- Corporate and other government filings
- Charitable status registration

## 2. Financial Records

- Accounting records, e.g. financial statements, journals, ledgers, payroll records, bank statements, accountant working papers
- Source documents, e.g. emails, memos, invoices, receipts, bank deposit slips
- Donation related records, e.g. solicitations, donation envelopes, duplicate donation receipts, pledges, thank you letters, endowment agreements, donor's directions
- Investments
- Annual reports, audit records
- T3010s and CRA's Information Return Summary
- CRA previous audits, rulings, letters
- Tax registrations, e.g. GST, HST, provincial sales tax

## 3. Operational Records

- Varies depending on type of organization, examples include:
  - Real property title documents
  - Trademark, patent, copyright registrations
  - Insurance policies and related documents
  - Personnel and volunteers
  - Contracts, MOUs, affiliation agreements
  - Correspondence (including emails)
  - Stewardship, fundraising and donor relations
  - Policies and procedures
  - Photos

## E. WHAT ARE BOOKS AND RECORDS - UNDER ITA

- CRA requires NPOs and registered charities to keep adequate books and records (including source documents) so that CRA can verify revenue, expenditures, resources spent on activities
- ITA contains detailed requirements on what constitutes books and records – this section explains these specific requirements
- ITA refers to books as “books of account,” but does not define them
- Section 5800 of the *Income Tax Regulations* (“ITA Regulations”) clarifies that books of account include general ledgers or other books of final entry summarizing the year to year transactions of the organization

- “Records” are broadly defined to include
  - an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and any other thing *containing information*, whether in writing or in any other form
- The key words here are “containing information” because ITA further sets out what kind of information NPOs, registered charities, and QDs’ books and records must contain

- Additional records are identified in ITA Regulation 5800
  - Incorporated NPOs
    - Meeting minutes of directors and shareholders
  - Registered charities, RCAAAs, and registered national arts organizations
    - Meeting minutes of members and executives
    - Governing documents and by-laws

### 1. CRA's General Administrative Requirements

- CRA does not stipulate what specific books and records must be kept because the onus is on the taxpayer to demonstrate its entitlement to benefits or exemptions under the ITA and that it otherwise complies with Canada's tax law
- Records must be
  - Reliable, complete, correct, and substantiated
  - Made available to CRA officials
  - Kept, maintained, retained, safeguarded, and backed up by the taxpayer (responsibility cannot be delegated to third parties)

- Books and records may include
  - Source documents such as invoices, receipts, contracts, delivery slips, deposit slips, bank and credit card statements, tax returns, correspondence
  - Accounting and other financial documents, e.g. working papers, financial statements, tax returns
  - Appointment books, logbooks, agreements, guarantees, and cancelled cheques

## 2. What Must NPOs' Books and Records Contain?

- An NPO's books and records must contain information to determine "the taxes payable under [the ITA]...or the taxes or other amounts that should have been deducted, withheld or collected"
- An NPO is exempt from income tax under paragraph 149(1)(l) of the ITA if all of the following are met
  - it is not a charity
  - it is organized and operated exclusively for social welfare, civic improvement, pleasure, recreation or any other purpose except profit
  - it does not distribute or otherwise make available for the personal benefit of its members any of its income

- For those NPOs that file a Form T1044, *Non-Profit Organization (NPO) Information Return*, CRA requires detailed books and records to verify the following
  - Amounts reported, e.g. membership dues, grants received, gifts, sales, payments to members, royalties
  - NPO’s activities, the location of activities carried on outside of Canada (if any), and a copy of its mission statement (if filing for the first time)
- In 2009 CRA auditors reviewed a random sample of NPOs and found a “significant portion” did not meet at least one of the requirements

- Accordingly, it is very important for NPOs to keep books and records that contain information to demonstrate compliance with the ITA, e.g.
  - Copies of governing documents which indicate its purposes are not charitable
  - Proposed operating budgets that demonstrate an intention to not generate profits, i.e., zero-budgeting as much as possible
  - Other documentation to show any profits earned were unanticipated, incidental, and arose from activities carried out in support of its non-profit purposes

### 3. What Must Books and Records of Registered Charities and QDs Contain?

- The books and records of registered charities and other QDs must contain specific information under ss 230(2) of the ITA
  - Information related to any grounds for revocation
  - Duplicate receipts
  - Information to support the verification of donation tax credits and deductions

#### a) Information related to any grounds for revocation

- QDs' books and records must contain "information in such form as will enable [CRA] to determine whether there are any grounds for the revocation of its registration" – very broad language in the ITA
- QDs can be revoked for different reasons depending on the type of QD and if a registered charity, its designation as a charitable organization, public foundation, or private foundation, e.g.
  - ceasing to comply with the requirements for registration, improper or false receipting, unrelated business, ineligible individuals, failing to file an information return, excessive or prohibited political activities

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- Prudent for QDs to keep a vast array of supporting documents as part of their books and records in order to be able to demonstrate the absence of any grounds for CRA to revoke its registration
- This is important because the onus is on the QD to show it meets the specific requirements of its registration under ITA
- A lack of documentation makes it easier for CRA to conclude the organization no longer meets the requirements of its particular registration

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- Examples of supporting documents
  - Expense accounts
  - Staff meeting minutes
  - Investment agreements
  - Promotional and fundraising materials
  - Copies of press releases, blogs, website archives
  - Proof of degree conferring powers from an appropriate educational authority
  - Contracts for services
  - Progress reports from partners delivering charitable programs and services outside Canada

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**b) Duplicate receipts**

- Paragraph 230(2)(b) of the ITA requires QDs to keep “a duplicate of each receipt containing prescribed information for a donation received by it”
- ITA Regulation 3501 sets out the prescribed content of official receipts and content varies depending on the type of QD issuing the receipt

**c) Information to support the verification of donation tax credits and deductions**

- Paragraph 230(1)(c) requires QDs to keep “other information in such form as will enable [CRA] to verify the donations to it for which a deduction or tax credit is available under” the ITA
- Examples of supporting documents include
  - Appraisals relating to the determination of fair market value of gifts in kind and advantages
  - Agreements to authenticate restricted and estate gifts
  - Certification of eligible recipient status from Environment Canada to receive ecological gifts

## F. HOW TO KEEP RECORDS

### 1. General Considerations

- Records must be kept safe
  - Protect from:
    - Fire, flood, mold, deterioration
    - Misfiling, loss, mishandling, tampering
  - Fire-proof safe, fire-proof room, off-site location
- Separate permanent and working files
- Privacy and confidentiality concerns
- Filing system
- Organized and consistent system



- Duplicate essential records and store in separate locations
  - What records must you be able to produce if you need to?
  - These should be duplicated and copies stored in a different location
  - Sometimes these duplicates are recorded copies of documents, or digital copies

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"We back up our data on sticky notes because sticky notes never crash."

- Off-site storage
  - There are off-site records storage facilities
  - Think about volume, cost, distance
  - In more rural areas there may be creative solutions
    - Sharing space with another organization
    - Historical societies, museums, banks
  - If key documents are kept by the corporate lawyer
    - the organization should keep photocopies at its office and need to update the applicable records with the lawyer

- Convenience of accessing records
  - Permanent storage of records that you do not use on a regular basis
  - Can you get to your records when you need to?
  - How will you find the records?
- Security issues
- What if former treasurer refuses to relinquish records?
  - Organization remains responsible
  - Possibly taking legal action

## 2. Electronic Records

- Paper vs. electronic – general considerations
  - Establish system for transferring electronic records
  - How will you access electronic records in the future?
  - Research legal aspects of electronic records and ensure compliance
  - How can you ensure electronic records will be permissible in a legal case?
  - What to do with emails?
- Some legislation contain rules on keeping electronic records
- Will briefly mention CNCA/ONCA, more detail on ITA
- OCA is silent

- CNCA Part 17
  - “Electronic document” generally means “any form of representation of information or of concepts fixed in any medium in or by electronic, optical or other similar means and that can be read or perceived by a person or by any means”
  - Use of electronic documents is optional
  - Has specific rules on how to use electronic signatures in certain documents
- ONCA – these matters are to be governed by regulations, but regulations have not been released

- ITA contains extensive rules
  - Can keep electronic records, but subject to the same rules for paper records
  - Records can be “kept electronically” if retained in “an electronically readable format” (ss 230(4.1) ITA)
    - “Kept electronically” means “information is created, processed, maintained and stored electronically”
    - “Electronically readable format” means “information supported by a system capable of producing an accessible and useable copy”
    - Accessible = able to be accessed by CRA
    - Useable = compatible with CRA systems & software

- Generally means must keep both the computer data files and the computer program or software application used with the files, in a format that can be installed and run on a standard computer system
- Books and records (including source documents) that originate in paper format must be kept - except where an acceptable imaging is in place
- Books and records that are created and maintained in electronic format must be kept in an electronically readable format, even if the organization has paper printouts of the electronic records
- Source documents initially created, transmitted, or received electronically must be kept in an electronically readable format

- Electronic records must relate back to the supporting source documents for audit purposes i.e., it must have an “audit trail”
- What if computer crashed?
  - Organization remains responsible
  - Get computer experts to retrieve data
  - Retrieve backup files/data
  - Reconstruct from paper records

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- Although not legally required, CRA recommends the following due diligence practices
  - Backup information recorded on rewritable media, such as computer hard disks, floppy disks, CDs, DVDs, tapes, or cartridges – so that they can still be accessed if the original records were accidentally lost, deleted, or erased
  - Store the media containing the information in an environment that is free from hazards that could affect the media (hazards may include magnetic fields, direct light, excessive moisture, and temperature extremes)
  - Follow the suggested procedures of the media manufacturer when backing up records in a different medium and pay particular attention to the suggested shelf life of the medium

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*Blazek*

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- Cloud computing and electronic books & records
  - You are probably cloud computing if you use programs and services such as Microsoft OneDrive, Microsoft Office Online, Google Drive, Apple iCloud, Dropbox, and Gmail to carry out your activities
  - CRA requires that electronic records comply with national standards set by the Canadian General Standards Board
  - Additional requirements include secure storage, offsite back up, audit trails, establishing procedures to prevent overwriting, allowing periodic testing, and controlling access to electronic records

## G. WHERE TO KEEP RECORDS

- Some legislation contain rules on where records may be kept
- Will briefly mention CNCA/OCA/ONCA, more detail on ITA
- CNCA
  - Generally records must be kept at the registered office or at any other place in Canada designated by the directors
  - If accounting records are kept outside Canada, accounting records adequate to enable the directors to ascertain the financial position of the corporation with reasonable accuracy on a quarterly basis must be kept at the registered office or any other place in Canada designated by the directors



- However, subject to the ITA, the *Excise Tax Act*, the *Customs Act* and any other Act administered by CRA, a corporation may keep its corporate records and accounting records outside Canada if both of following are complied with
  - the records are available for inspection, by means of any technology, during regular office hours at the registered office or any other place in Canada designated by the directors
  - the corporation provides the technical assistance to facilitate an inspection referred to above

- OCA – records must be kept at the head office in Ontario
- ONCA –
  - Generally records must be kept at the registered office or at any other place in Ontario designated by the directors
  - However, resolutions and minutes of meetings of directors and committees of directors, as well as accounting records, must be kept at the registered office or at any other place (but not necessarily in Ontario) designated by the directors

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- However, subject to federal and Ontario tax statutes or any other Act, a corporation may keep its records described at a place outside Ontario if both of following are complied with
  - records are available for inspection, by means of any technology, during regular office hours at the registered office
  - the corporation provides the technical assistance to facilitate an inspection of the records

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- ITA contains rules which will trump the rules in the CNCA and ONCA in order to maintain tax status
  - NPOs, registered charities, and most QDs must keep their books and records in Canada
    - registered charities and most QDs must keep their books and records at an address in Canada recorded with CRA
  - CRA has authority to designate where NPOs, registered charities, and most QDs must keep their records
  - Prescribed universities outside Canada, registered foreign charitable organizations, and Canadian municipalities do not have to keep books and records in Canada

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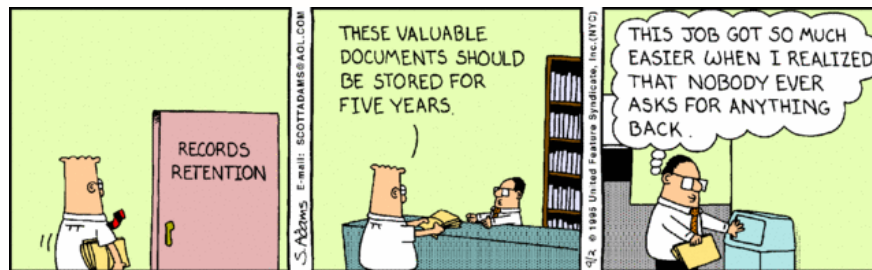
- While CRA permits electronic record keeping, it does not permit electronic records to be kept outside Canada, even if they can be accessed within Canada
  - Exemption - NPOs can request CRA's permission to keep their records outside of Canada
- CRA will not grant permission to registered charities, RCAAAs, municipalities or public bodies performing a function of government, and housing corporations to keep their records outside of Canada

- Organizations that conduct e-commerce activities, keep electronic records, or cloud compute should verify the location of their servers and take steps to comply with CRA's server requirement
- Registered charities utilizing third party intermediaries to engage in activities outside of Canada should ensure they maintain adequate original books and records in Canada
- See CRA Guidance GC-002 on *Canadian Registered Charities Carrying Out Activities Outside Canada*

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html>

## H. WHAT LANGUAGE MUST YOUR BOOKS AND RECORDS BE KEPT IN

- CRA suggests, but does not state, that books and records should be kept in English or French and translated from a third language
- CRA may consider exceptions if translation requirements impose a “significant burden”
- Although ITA does not require books and records to be kept in French or English, some NPOs and QDs will be required to keep their books and records in French or English if they are GST/HST registrants or claim a rebate or refund



## I. HOW LONG TO KEEP RECORDS

- Some legislation contain rules on how long records must be kept
- Will briefly mention CNCA/OCA/ONCA, more detail on ITA
- CNCA and ONCA
  - Accounting records must be kept for 6 years after the end of financial year to which the records relate unless other statutes require longer retention period
  - Other corporate records are to be maintained permanently
- OCA – permanently

- ITA has detailed requirements
  - Depends on the organization's status under the ITA, the type of book or record, and whether the organization is incorporated
  - Regulation 5800 and s. 230 set out the retention periods for keeping records
    - Same period for paper and electronic records (ss 230(4.1))
    - Books and records related to an appeal or objection must be kept until the process is resolved or appeal rights exhausted (ss 230(6))
    - CRA can also demand a taxpayer retain certain books and records and supporting documents for a specific period (ss 230(7))

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- NPOs and registered charities must complete Form T137, *Request for Destruction of Records* and obtain the Minister’s permission to dispose of books and records outside the retention period
- Organizations should retain key books and records beyond these periods for a mix of reasons, e.g. to
  - Demonstrate due diligence in the event the organization or one of its donors is audited
  - Defend a lawsuit or support an insurance claim
  - Preserve organizational memory
  - Establish a paper trail to show directors’ decisions were in line with restricted charitable purpose trusts
  - Ensure compliance with donors’ intent and gift restrictions

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**Retention Periods for NPOs’ Books and Records**

TYPE OF BOOK OR RECORD	UNINCORPORATED NPO	INCORPORATED NPO	RECOMMENDED RETENTION PERIOD
Governing documents	6 years after end of year ceased to exist	2 years after dissolution	10 years after end of year ceased to exist or 5 years after dissolution
General ledger or book of final entry			
Minutes			
Supporting status under ITA			
Information returns	6 years after end of tax year related or year ceased to exist	6 years after end of tax year related or 2 years after dissolution	10 years after end of tax year related or ceased to exist or 5 years after dissolution

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**Retention Periods for QDs' Books and Records**

TYPE OF BOOK OR RECORD	REGISTERED CHARITY, RCAA, & RNASO	OTHER QDS	RECOMMENDED RETENTION PERIOD
Governing documents	2 years after revocation or corporate dissolution	2 years after corporate dissolution or 6 years from end of tax year ceased to exist	10 years after revocation or 5 years after corporate dissolution
Minutes	2 years after revocation or corporate dissolution	2 years after corporate dissolution or 6 years after ceased to exist	5 years after corporate dissolution or revocation or 10 years after ceased to exist
General ledger or book of final entry	2 years after revocation or corporate dissolution or 6 years after ceased to exist	2 years after corporate dissolution or 6 years after ceased to exist	5 years after corporate dissolution or revocation or 10 years after ceased to exist
Duplicate receipts	2 years after year gift made	2 years after year gift made	5 years after year gift made

**Retention Periods for QDs' Books and Records**

TYPE OF BOOK OR RECORD	REGISTERED CHARITY (INCLUDING RCAA & RNASO) & OTHER QDS	RECOMMENDED RETENTION PERIOD
Supporting status under ITA	2 years after corporate dissolution or 6 years after ceased to exist	5 years after corporate dissolution or 10 years after ceased to exist
Verification of donation tax credits and deductions	6 years after end of tax year related or 2 years after revocation or dissolution	10 years after tax year related or 5 years after revocation or dissolution or indefinitely for certain gifts and endowments
Information returns	6 years after end of tax year related or 2 years after revocation or dissolution	10 years after tax year related or 5 years after revocation or dissolution

- Other considerations may also affect how long to keep records
  - Limitation periods that a law suit can be commenced
  - Third party requirements, e.g. umbrella organization
  - Other statutory requirements, e.g. special records retention requirements for “public bodies” under the *Ontario Archives and Recordkeeping Act, 2006* (e.g. Ontario ministries, commissions)

## J. WHO KEEPS RECORDS, WHO HAS ACCESS

- Kept by the organization
  - By whom?
  - Who has access?
  - Filing system
  - Privacy and confidentiality concerns
- Corporate legislation gives certain rights to members to have access to certain corporate records, e.g., minutes of members’ meetings



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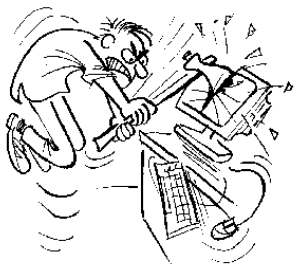
- Use of third party service providers
  - If an organization hires a third party to keep or maintain its records, the organization is still responsible for meeting all requirements
- Third parties include bookkeepers, accountants, internet transaction managers, and application service providers
- Selection considerations
  - Check references, e.g. regarding the provider's care for client records
  - Include contractual terms concerning ownership, retention, back-up, security and privacy, confidentiality and safeguards over records
  - Periodically check compliance with these terms by inspecting the provider's policies, procedures, processes, systems and facilities

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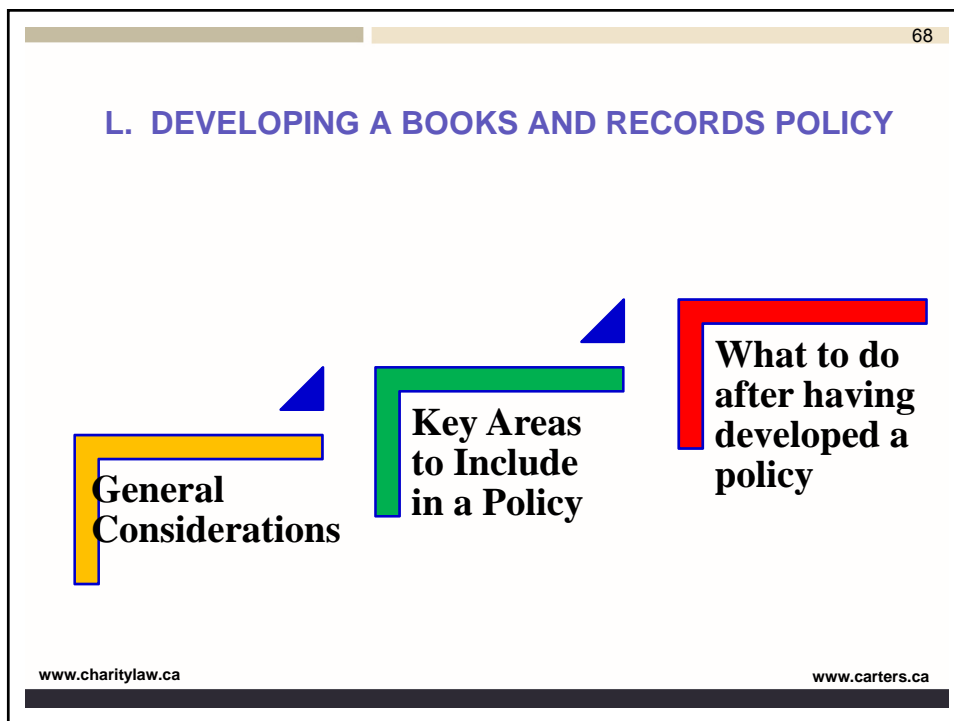
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### K. HOW AND WHEN TO DESTROY RECORDS

- Develop a plan for destroying old records
- Adhere to retention schedule - Do you destroy all records after the retention period?
- How to destroy records - possible issues to consider
  - Privacy and confidentiality
  - Permanent destruction
  - Security - no unintended access by third parties

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### 1. General Considerations

- Review requirements on what books and records are required to be kept
- Gather all records and categorize them in a logical manner
  - What if records were lost?
  - What if the treasurer refuses to return the records?
- Review applicable maintenance and retention requirements for each type of records

- Risk assessment questions – for example
  - What happens if we don't keep this record and we need it?
  - What happens if we keep something we shouldn't have?
  - What are the risks to not keeping records properly?
- Needs to strike balance
  - To retain full and accurate records
  - To avoid perpetually retaining an ever-increasing number of records and comply with applicable legislation

- Develop a written policy, instead of relying on tradition or practice
- Drafting issues
  - Organize the policy into sections by topics
  - Outline step-by-step procedures for staff and volunteers to follow
  - User-friendly and practical language
- Circulate draft policy to board, staff, IT, etc. for comments and input
- Seek legal advice



## 2. Key Areas to Include in a Policy

- Each organization is different, no one-size fits all policy
- Each policy needs to be developed and customized to the needs and circumstances of the organization
- Below are examples of key areas to be addressed in a books and records policy
- State the purpose of policy
  - Ensures legal compliance and risk management
  - Enhances effective operational management
  - What is the organization trying to achieve by having the policy?

- Define the scope of the policy
  - Cover all matters relating to records management, retention and destruction or only one of these areas?
  - Cover all types of records or only certain types of records (e.g. governance, financial, accounting)?
  - Cover all formats of records or only certain formats (e.g. paper, electronic)?
- Define responsibility roles
  - Who is responsible to ensure compliance with policy?
  - Assign duties for various areas of compliance – e.g., undertaking periodic inventory of records, tracking retention periods, destroying records

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- Define key principles followed, e.g.
  - Ensure records are kept or disposed in compliance with legal, fiscal, audit, operational, privacy and archival responsibilities and requirements
  - Ensure records kept are of reasonably good quality, accurate, reliable and authentic and can be audited as required
  - Ensure records are maintained securely in order to protect personal, confidential and privileged information from unauthorized access
  - Adhere to records retention schedule to organize and govern the life cycle of records
  - Ensure new, replacement and updated records and information-management processes/systems are designed and implemented with this policy in mind

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- Address records management issues, e.g.
  - What records to keep (and why)
  - How to keep records – paper, electronic, language
  - Where to keep records –
    - in office storage filing cabinets and storage room, off-site storage, duplicate backup storage, server location
    - May be different treatment for different types of records
  - Are there certain records that require special treatment – accounting, human resources
  - Issues regarding electronic records
  - Who keeps records, who has access
  - Consider security issues

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- Address records retention issues, e.g.,
  - How long to keep records
  - Would there be exceptions
- Address records destruction issues, e.g.,
  - How and when to destroy records
  - Who would be in charge
  - Is there an approval or double-checking process before a record is destroyed
  - Consider security issues
  - Have a system for disposal of various types of records – paper records, electronic record, hard drives containing data

- Address litigation or investigation hold issues
  - Certain circumstances may supersede policies authorizing destruction of records, including the authority granted in the retention schedule
  - For example, if a record is related to actual or pending litigation, government investigation, CRA audit or appeal, those records should not be destroyed without the expressed permission of the board
  - Define what would trigger the start and end of the hold period and the process involved

- Retention schedule
  - Set out a records retention schedule to the policy
  - Usually in a table format
  - Ensure the maintenance of, improvements and updates to, the retention schedule are to be done in collaboration with content owners to ensure that the schedule meets relevant legislative and other requirements

### 3. What to do after having developed a policy

- Approval by the board of directors
- Thorough implementation
- Staff and volunteer training
- Coordinate with other departments of the organization to ensure consistent implementation
- Regular review, evaluation to reflect current law and practice of the organization
- Have one person or a committee responsible for constant monitoring
- Contact CRA for general guidance - not legally binding on CRA and may not address the specific facts of your situation
- Obtain legal advice that can be relied upon



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