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THE 2022  
***Carters Fall Charity &  
Not-for-Profit Law™ Webinar***  
Thursday, November 10<sup>th</sup>, 2022

**WELCOME**

Carters is pleased to welcome you to the **2022 Carters Fall Charity & Not-for-Profit Law Webinar™**, being held virtually this year in response to the preference of the vast majority of previous attendees.

The 2022 **Carters Fall Charity & Not-for-Profit Law Webinar** is designed to assist charities and not-for-profits in understanding developing trends in the law in order to reduce exposure to legal liability. The webinar also continues its tradition of serving the broader faith community, inclusive of churches and other religious organizations through seminars and webinars every year since 1994.

This webinar is eligible for **3.5 substantive hours** towards the annual **Law Society of Ontario (LSO) CPD** and **CPA Professional Development** requirements.

**ACKNOWLEDGEMENTS AND THANKS**

We gratefully acknowledge and thank **Sharmila Khare**, the new Director General, Charities Directorate, Canada Revenue Agency and **Bruce MacDonald**, President and CEO of Imagine Canada for their contributions as our guest speakers at this year's webinar, as well as the lawyers at Carters who have volunteered their time in preparing for this Webinar.

**FORMAT OF THE WEBINAR**

Presentations will be 20 minutes in length, including Q&A. The special presentations by our guest speakers, Sharmila Khare and Bruce MacDonald will be 30 and 25 minutes in length, respectively, including Q&A. Questions can be entered in the Question Box feature of the webinar. Unfortunately, not all questions can be answered due to time constraints.

**CARTERS RESOURCE MATERIALS**

Today's electronic handout package, including the PowerPoint presentations and various resource materials, are available online during the webinar and can be downloaded for your use. These materials, along with numerous other articles, Webinar materials, and newsletters of interest to churches and charities, including back issues of *Charity and NFP Law Bulletins*, *Church Law Bulletins*, and *Anti-terrorism and Charity Law Alerts* are available free of charge at our website at [www.carters.ca](http://www.carters.ca).

**CHARITY & NFP LAW UPDATE**

To receive the monthly *Charity & NFP Law Update*, please e-mail us at [info@carters.ca](mailto:info@carters.ca) with "mailing list" in the subject line. Alternatively, please click on the on the webinar event resources button to sign up to our [Mailing List](#) indicating your consent to receive firm newsletters and information about future seminars. You may access the October 2022 edition of the [Charity & NFP Law Update](#) through our website.

## WEBINAR SPONSORS

Carters would like to thank the following companies for their sponsorship of the Annual **Carters Fall Charity & Not-for-Profit Law Webinar™** that helps to underwrite costs associated with the Webinar, including contracting EventStream Production who are helping to ensure that the Webinar runs smoothly and professionally.

- **Adam & Miles LLP**, 416-502-2201, [www.adamsmiles.ca](http://www.adamsmiles.ca)
- **GMS Professional Corporation**, 905-919-3543, [www.gmscpa.ca](http://www.gmscpa.ca)
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- **Robertson Hall Insurance**, 1-800-640-0933, [churchinsurance@robertsonhall.com](mailto:churchinsurance@robertsonhall.com), [www.robertsonhall.com](http://www.robertsonhall.com)
- **Thomson Reuters**, 1-800-387-5164, <https://store.thomsonreuters.ca/en-ca/home>

## SECTOR RESOURCE MATERIALS

We are pleased to make resource materials from the following organizations available on the webinar platform.

- **Association of Fundraising Professionals (AFP)** Greater Toronto Chapter, <https://afptoronto.org/>
- **Canadian Association of Gift Planners (CAGP)**, <https://www.cagp-acpdp.org/>, and **CAGP Foundation**, <https://www.cagpfoundation.org/>
- **Canadian Centre for Christian Charities (CCCC)**, <https://www.cccc.org>
- **Imagine Canada**, <https://imaginecanada.ca/en>, and Advocacy Hub <https://imaginecanada.ca/en/public-policy>, and About Sector <https://imaginecanada.ca/en/About-the-sector>
- **ONN (Ontario Nonprofit Network)**, <https://theonnn.ca>, and <https://nonprofitresources.ca/>

## ABOUT CARTERS

**Carters Professional Corporation** is a law firm with expertise in the area of church, charity and other not-for-profits and is committed to assisting clients in avoiding legal problems before they occur through effective legal risk management advice, including assistance with:

- |  |  |
|--|--|
| • Charitable Registration                                      | • CRA Charity Audits and Appeals                                     |
| • Church, Charity and Not-For-Profit Incorporation             | • Director and Officer Liability                                     |
| • Corporate Maintenance and Filings                            | • Governance Policies and Advice                                     |
| • Donor Advised Funds  | • Investment Policies and Provincial Investment Laws                 |
| • Social Enterprise and Finance                                | • Fundraising and Gift Planning                                      |
| • Transition to Ontario <i>Not-For-Profit Corporations Act</i> | • Legal Risk Management Audits                                       |
| • Amalgamations and Mergers                                    | • Privacy Policies and Audits / Anti-Spam                            |
| • Dissolution and Wind-Up                                      | • Policies on Anti-Bribery, Anti-Terrorism and Anti-Money Laundering |
| • Membership Discipline and Disputes                           | • Human Rights Compliance and Litigation                             |
| • National and International Structures                        | • Investment Policies  |
| • Public Policy Dialogue and Development Activities            | • Religious Denominational Structures                                |
| • Endowment and Gift Agreements                                | • Vulnerable Person Policies   |
| • Gift Acceptance Policies                                     |  |

## **PROTECTION FROM REGULATORY OFFENCES FOR CHURCHES AND CHARITIES**

Churches and charities often face significant liability and financial challenges due to increasing enforcement of federal and provincial regulatory legislation dealing with such matters as water, working conditions and environmental issues. Carters is able to provide advice and assistance at all stages from an initial investigation through to a full defence at a trial. For more information, contact Sean Carter at Carters (1-877-942-0001).

## **EVALUATION**

We appreciate your evaluation and comments. Feel free to use the Feedback Evaluation form available at the end of the webinar or email your comments to [seminars@carters.ca](mailto:seminars@carters.ca). Complete the fillable pdf form and send by email as an attachment (In Adobe: File → Send File to [seminars@carters.ca](mailto:seminars@carters.ca)).

## **UPCOMING EVENTS IN 2023**

**2023 Winter Charity & Not-for-Profit Law Webinar™** will be held on Thursday, **March 2, 2023**. More details will be available in the New Year at [www.carters.ca](http://www.carters.ca).

2022  
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## **CARTERS OFFICE LOCATIONS**

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### **Toronto Office**

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Toronto, Ontario, Canada  
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## **GENERAL DISCLAIMER**

Please note the following Disclaimer that applies to all presentations: This handout is provided as an information service by Carters Professional Corporation. It is current only as of the date of the handout and does not reflect subsequent changes in the law. This handout is distributed with the understanding that it does not constitute legal advice or establish a solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation.

## SPEAKER BIOGRAPHIES



**Terrance S. Carter**, B.A., LL.B, TEP, Trademark Agent – Managing Partner of Carters, Mr. Carter practices in the area of charity and not-for-profit law, and is counsel to Fasken on charitable matters. Mr. Carter is a co-author of *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations* (Thomson Reuters), a co-editor of *Charities Legislation and Commentary* (LexisNexis, 2022), and co-author of *Branding and Copyright for Charities and Non-Profit Organizations* (2019 LexisNexis). He is recognized as a leading expert by *Lexpert*, *The Best Lawyers in Canada* and *Chambers and Partners*. Mr. Carter is a former member of CRA Advisory Committee on the Charitable Sector, and is a Past Chair of the Canadian Bar Association and Ontario Bar Association Charities and Not-for-Profit Law Sections.



**Jacqueline M. Demczur**, B.A., LL.B. – A partner with the firm, Ms. Demczur practices in charity and not-for-profit law, including incorporation, corporate restructuring, and legal risk management reviews. Ms. Demczur has been recognized as a leading expert in charity and not-for-profit law by *Lexpert* and *The Best Lawyers in Canada*. She is a contributing author to Industry Canada’s Primer for Directors of Not-For-Profit Corporations, and has written numerous articles on charity and not-for-profit issues for the *Lawyers Weekly*, *The Philanthropist* and *Charity & NFP Law Bulletin*, among others. Ms. Demczur is also a regular speaker at the annual Church & Charity Law Seminar™.



**Sharmila Khare** - Sharmila Khare was appointed to the position of Director General of the Charities Directorate on May 16, 2022. Prior to joining the Canada Revenue Agency, Sharmila worked with the Department of Finance, where she held progressively more senior positions including Advisor to the Executive Director at the World Bank and Chief of Charities. Sharmila holds a Combined Honours B.A. in Mathematics and Economics from Glendon College and a M.A. in Economics from McMaster University. She has completed additional graduate diplomas and certificates in public administration, public sector leadership and international development including a Non-Profit Management Certificate from Mount Royal University.



**Barry W. Kwasniewski**, B.B.A., LL.B. – Mr. Kwasniewski is a partner with the firm and joined Carters' Ottawa office in 2008 to practice in the areas of employment law, charity related litigation, and risk management. After practicing for many years as a litigation lawyer in Ottawa, Barry's focus is now on providing advice to charities and not-for-profits with respect to their employment and legal risk management issues. Barry has developed an expertise in insurance law, and has been retained by charities, not-for-profits and law firms to provide legal advice pertaining to insurance coverage matters.



**Theresa L.M. Man**, B.Sc., M.Mus., LL.B., LL.M. – A partner with Carters, Ms. Man practices in the area of charity and not-for-profit law, is ranked by *Lexpert*, *Best Lawyers in Canada*, and *Chambers and Partners*, and received the 2022 OBA AMS/John Hodgson Award of Excellence in Charity and Not-For-Profit Law. She is a co-author of *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations* published by Thomson Reuters. She is a former member of the Technical Issues Working Group of the CRA Charities Directorate, a member and former chair of the CBA Charities and Not-for-Profit Law Section and the OBA Charities and Not-for-Profit Law Section. Ms. Man has also written on charity and taxation issues for various publications.



**Bruce MacDonald** is President and CEO of Imagine Canada and has been in the business of “doing good” for over 30 years. Before joining Imagine Canada, Bruce spent 20 years at Big Brothers Big Sisters of Canada, serving as both Vice-President of Marketing and in the last 10 years of his tenure, as the organization’s CEO. Throughout his career, Bruce has led major change initiatives and developed long and innovative partnerships with corporations and other charities, always demonstrating a knack for innovation. Bruce holds a Bachelor of Commerce in Sports Administration and a Masters in Management in the Voluntary Sector. He’s also the proud holder of a world record in the Guinness Book of World Records for the world’s Longest Hot Wheels Track!



**[Ryan M. Prendergast](#)**, B.A., LL.B. - Mr. Prendergast joined Carters in 2010, becoming a partner in 2018, with a practice focus of providing corporate and tax advice to charities and non-profit organizations. Ryan has co-authored papers for the Law Society of Ontario, and has written articles for The Lawyers Weekly, Hilborn:ECS, Ontario Bar Association Charity & Not-for-Profit Law Section Newsletter, Charity & NFP Law Bulletins and publications on [www.carters.ca](http://www.carters.ca). Ryan has been a regular presenter at the annual Church & Charity Law Seminar™, Healthcare Philanthropy: Check-Up, Ontario Bar Association and Imagine Canada Sector Source. Ryan is recognized as a leading expert by *Lexpert* and *The Best Lawyers in Canada*.



**[Esther Shainblum](#)**, B.A., LL.B., LL.M., CRM – Ms. Shainblum practices at Carters Professional Corporation in the areas of charity and not for profit law, privacy law and health law. She has been ranked by *Chambers and Partners*. Ms. Shainblum was General Counsel and Chief Privacy Officer for Victorian Order of Nurses for Canada, a national, not-for-profit, charitable home and community care organization. Before joining VON Canada, Ms. Shainblum was the Senior Policy Advisor to the Ontario Minister of Health. Earlier in her career, Ms. Shainblum practiced health law and corporate/commercial law at McMillan Binch and spent a number of years working in policy development at Queen's Park.

### **ADDITIONAL LAWYERS AT CARTERS**



**[Sepal Bonni](#)**, B.Sc., M.Sc., J.D., Trademark Agent - Sepal Bonni is a registered trademark agent and practices in all aspects of brand protection. Her trademark practice includes domestic and foreign trademark prosecution, providing registrability opinions, assisting clients with the acquisition, management, protection, and enforcement of their domestic and international trademark portfolios, and representing clients in infringement, opposition, expungement, and domain name dispute proceedings. She also assists clients with trademark licensing, sponsorship, and co-branding agreements. Sepal also advises clients on copyright and technology law related issues.



**[Sean S. Carter](#)**, B.A., LL.B. – Sean Carter is a partner with Carters and the head of the litigation practice group at Carters. Sean has broad experience in civil litigation and joined Carters in 2012 after having articulated with and been an associate with Fasken (Toronto office) for three years. He is ranked as a leading expert by *The Best Lawyers in Canada*. Sean has published extensively, co-authoring several articles and papers on anti-terrorism law, including publications in The International Journal of Not-for-Profit Law, The Lawyers Weekly, Charity & NFP Law Bulletin and the Anti-Terrorism and Charity Law Alert, as well as presentations to the Law Society of Ontario and Ontario Bar Association CLE learning programs.



**[Nancy E. Claridge](#)**, B.A., M.A., LL.B. – Called to the Ontario Bar in 2006, Nancy Claridge is a partner with Carters practicing in the areas of corporate and commercial law, anti-terrorism, charity, real estate, and wills and estates, in addition to being the assistant editor of Charity & NFP Law Update. After obtaining a Master's degree, she spent several years developing legal databases for LexisNexis Canada, before attending Osgoode Hall Law School where she was a Senior Editor of the Osgoode Hall Law Journal, Editor-in-Chief of the *Obiter Dicta* newspaper, and was awarded the Dean's Gold Key Award and Student Honour Award. Nancy is recognized as a leading expert by *Lexpert*.



**[Adriel N. Clayton](#)**, B.A. (Hons), J.D. - Called to the Ontario Bar in 2014, Adriel Clayton manages Carters' knowledge management and research division, and practices in commercial leasing and real estate. Before joining Carters, Adriel practiced real estate, corporate/commercial and charity law in the GTA, where he focused on commercial leasing and refinancing transactions. Adriel worked for the City of Toronto negotiating, drafting and interpreting commercial leases and enforcing compliance. Adriel has provided in-depth research and writing for the *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations*.



**[Heidi N. LeBlanc](#)**, J.D. – Heidi is a litigation associate practicing out of Carters' Toronto office. Called to the Bar in 2016, Heidi has a broad range of civil and commercial litigation experience, including matters pertaining to breach of contract, construction related disputes, defamation, real estate claims, shareholders' disputes and directors'/officers' liability matters, estate disputes, and debt recovery. Her experience also includes litigating employment-related matters, including wrongful dismissal, sexual harassment, and human rights claims. Heidi has represented clients before all levels of court in Ontario, and specialized tribunals, including the Ontario Labour Relations Board and the Human Rights Tribunal of Ontario.



**[Jennifer M. Leddy](#)**, B.A., LL.B. – Ms. Leddy joined Carters' Ottawa office in 2009, becoming a partner in 2014, to practice charity and not-for-profit law following a career in both private practice and public policy. Ms. Leddy practiced with the Toronto office of Lang Michener prior to joining the staff of the Canadian Conference of Catholic Bishops (CCCCB). In 2005, she returned to private practice until she went to the Charities Directorate of the Canada Revenue Agency in 2008 as part of a one year Interchange program, to work on the proposed "Guidelines on the Meaning of Advancement of Religion as a Charitable Purpose." Ms. Leddy is recognized as a leading expert by *Lexpert*.



**[Esther S.J. Oh](#)**, B.A., LL.B. – A partner with Carters, Ms. Oh practices in charity and not-for-profit law, and is recognized as a leading expert in charity and not-for-profit law by *Lexpert* and *The Best Lawyers in Canada*. Ms. Oh has written numerous articles on charity and not-for-profit legal issues, including incorporation and risk management. Ms. Oh has written articles for *The Lawyer's Daily*, [www.carters.ca](http://www.carters.ca) and the *Charity & NFP Law Bulletin*. Ms. Oh is a regular speaker at the annual Church & Charity Law Seminar™ and has been an invited speaker to the Canadian Bar Association, Imagine Canada and various other organizations.



**[Martin U. Wissmath](#)**, B.A., J.D. – Called to the Ontario Bar in 2021, Martin joined Carters after finishing his articling year with the firm. In addition to his legal practice, he assists the firm's knowledge management and research division, providing in-depth support for informative publications and client files, covering a range of legal issues in charity and not-for-profit law. His practice focuses on employment law, privacy law, corporate and information technology law, as well as the developing fields of social enterprise and social finance. Martin provides clients with legal advice and services for their social-purpose business needs, including for-profit and not-for-profit organizations, online or off-line risk and compliance issues.



**[Lynne Westerhof](#)**, B.A., J.D. – Lynne is a charity and not-for-profit law associate whose practice focusses on tax law, charitable status applications, corporate governance matters, legal risk management, and counter-terrorism financing law as it applies to the provision of humanitarian aid. She articulated with Carters from 2021 to 2022 and joined the firm as an associate following her call to the Ontario Bar in June 2022. In addition to her work assisting charities and not-for-profits, Lynne assists with Carter's knowledge management, research, and publications division.



**[Cameron A. Axford](#)**, B.A., J.D., Student at Law - Cameron graduated from the University of Western Ontario in 2022 with a Juris Doctor. While studying at law school, he was involved with Pro Bono Students Canada in the Radio Pro Bono program and participated in the BLG/Cavalluzzo Labour Law Moot. Prior to law school, Cameron studied journalism at the University of Toronto and Centennial College, receiving a BA with High Distinction from the former. He has worked for a major Canadian daily newspaper as a writer. Cameron has experience doing volunteer work for social development programs in Nicaragua and in leadership roles in domestic philanthropic initiatives.

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## LIST OF POWERPOINTS

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- ◆ **Essential Charity & NFP Law Update**  
Esther Shainblum, B.A., LL.B., LL.M., CRM
- ◆ **Qualifying Disbursements: The New Regime for Charities**  
Theresa L.M. Man, B.Sc., M.Mus., LL.B., LL.M.
- ◆ **Wrongful Dismissal Claims: A Primer for Charities and Not-for-Profits**  
Barry W. Kwasniewski, B.B.A., LL.B.
- ◆ **Developing Trends in Charity and NFP Sector That You Need to Know**  
Bruce MacDonald, President & CEO, Imagine Canada (audio only)
- ◆ **Evolving Issues Under the ONCA**  
Ryan M. Prendergast, B.A., LL.B.
- ◆ **The ABCs of Gift Agreements**  
Jacqueline M. Demczur, B.A., LL.B.
- ◆ **Changes and Challenges with the Disbursement Quota for Charities**  
Terrance S. Carter, B.A., LL.B., TEP, Trademark Agent
- ◆ **How to Work Effectively with the Charities Directorate**  
Sharmila Khare, Director General, Charities Directorate, CRA

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# ESSENTIAL CHARITY & NFP LAW UPDATE

By Esther Shainblum, B.A., LL.B., LL.M., CRM

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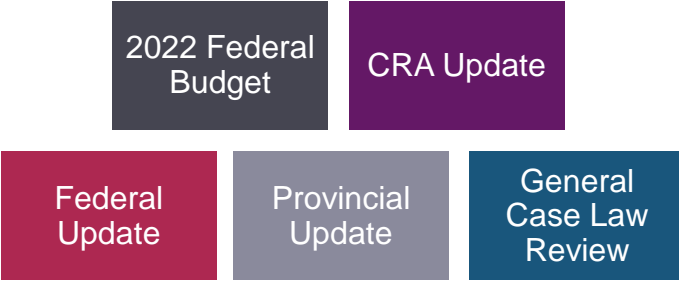
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 <p><b>CARTERS</b> BARRISTERS SOLICITORS TRADEMARK AGENTS</p>	<h2>Carters Fall Charity and Not-for-Profit Law™ Webinar</h2> <p><b>November 10, 2022</b></p>		
<h3>Essential Charity &amp; NFP Law Update</h3> <p><b>By Esther Shainblum, B.A., LL.B., LL.M., CRM</b> eshainblum@carters.ca 1-877-942-0001</p> <p>© 2022 Carters Professional Corporation</p> <table border="0"><tr><td data-bbox="259 833 645 882">CARTERS PROFESSIONAL CORPORATION TOLL FREE: 1-877-942-0001</td><td data-bbox="645 833 1209 882">Toronto Ottawa Orangeville <a href="http://www.carters.ca">www.carters.ca</a> <a href="http://www.charitylaw.ca">www.charitylaw.ca</a> <a href="http://www.churchlaw.ca">www.churchlaw.ca</a></td></tr></table>		CARTERS PROFESSIONAL CORPORATION TOLL FREE: 1-877-942-0001	Toronto Ottawa Orangeville <a href="http://www.carters.ca">www.carters.ca</a> <a href="http://www.charitylaw.ca">www.charitylaw.ca</a> <a href="http://www.churchlaw.ca">www.churchlaw.ca</a>
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## OVERVIEW



- All information in this PowerPoint is current as of November 8, 2022, but is subject to change
- To receive monthly updates on charity & not-for-profit law in Canada, sign up for the Carters e-newsletter by clicking on the “Subscribe to our Newsletter” button at [www.carters.ca](http://www.carters.ca)

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## A. 2022 FEDERAL BUDGET HIGHLIGHTS

- Federal Budget 2022 was tabled on April 7, 2022
  - Bill C-19 (*Budget Implementation Act, 2022, No. 1*) received Royal Assent on June 23, 2022
  - Additional Draft Legislation was released by the Department of Finance on August 9, 2022, which has now been introduced as Bill C-32 on November 4, 2022
- Budget 2022 proposed to amend the *Income Tax Act* (ITA) to allow charities to make “qualified disbursements to organizations that are not qualified donees”
- These changes were introduced by Bill C-19. For more information see Theresa L.M. Man’s presentation: “Qualifying Disbursements – The New Regime for Charities”
- While Bill C-19 did not repeal Bill S-216, the introduction of qualifying disbursements has, in effect, ended Bill S-216’s momentum but is intended to reflect “the spirit’ of Bill S-216

- Following a public consultation about the disbursement quota (DQ) held from August 6, 2021 – December 2, 2021, Budget 2022 proposed to increase the DQ rate from 3.5% to 5% for applicable property where the value of that property exceeds \$1 million
- As previewed in the August 9, 2022 Draft Legislation, a second budget implementation act - Bill C-32 – introduced in the House of Commons on November 4, 2022 included the increase to 5% for amounts over \$1 M starting January 1, 2023
- For more information, see the presentation by Terrance S. Carter, “Changes and Challenges with the Disbursement Quota”
- Budget 2022 also proposed to confirm the ability of CRA to carry out virtual audits and reviews of all licensees where the CRA deems it appropriate
  - This measure was also introduced in Bill C-32

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- Budget 2022 also proposed “to bring into force new regulations that extend AML/ATF [anti-money laundering and anti-terrorist financing] obligations to payment service providers and crowdfunding platforms”
  - These regulations were introduced soon after the release of Budget 2022, as explained in greater detail at slide 8
- Bill C-32 includes proposed changes originally announced in Budget 2021 that would amend subsection 150(1.1) and add subsection 150(1.2) to the ITA so that charities with internal trusts (such as endowments) may be required to file separate T3 information returns for these trusts if they do not fall under a list of exceptions in 150(1.2)
  - This change comes into effect for taxation years ending after December 30, 2023, which is a year later than the originally proposed date in the Draft Legislation
  - The exact effect of this legislation remains unclear, as it has been the CRA's long-term administrative policy not to require separate T3s for internal trusts of charities

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## B. CRA UPDATE

- On March 10, 2022, the CRA published its Report on the Charities Program 2020 to 2021 with several insights and statistics about the state of the charitable sector during the COVID-19 pandemic, including:
 

Over 85,000 charities were registered with the CRA as of 2020	As of March 31, 2021, charities received \$3 billion from the Canada Emergency Wage Subsidy	In the 2020/2021 fiscal year, the CRA received 1800 applications for registration as a charity
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- On October 26, 2022, the Minister of National Revenue announced new members for the Advisory Committee on the Charitable Sector
- Sharmila Khare has been appointed as the new Director General of the CRA. She will be providing further information about the CRA in her presentation, “How to Work Effectively with the Charities Directorate”

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## C. FEDERAL UPDATE

### 1. Corporate Update

- After pausing administrative dissolutions for corporations that are in default of filing their annual returns because of COVID-19, Corporations Canada resumed the practice on April 29, 2022
- Various amendments to the *Canada Not-for-Profit Corporations Act* (CNCA) and the *Canada Not-for-Profit Corporations Regulations* were brought into force on August 31 2022, including:
  - Bringing into force s 238 of CNCA re: custody of dissolved corporations' documents and records
  - Bringing into force s 279(1) and (2) re: inspection and making copies of certain corporate documents
  - Amendments to the regulations regarding time periods for which directors must keep and produce certain corporate documents

### 2. AML/ATF Update

- Amendments to regulations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* were published on April 27, 2022 but came into force on April 5, 2022. These extend Canada's AML/ATF legislative framework to crowdfunding platforms and certain payment service providers
  - These regulations now define a "crowdfunding platform" as including a website that is used to raise funds, and "crowdfunding platform services" as the provision and maintenance of a crowdfunding platform for use by other persons or entities to raise funds
  - Charities and NFPs should consider if these broad definitions could apply to their own fundraising platforms
- Leading NGOs and the Canadian Bar Association called on the Canadian government to amend AML/ATF laws to allow lifesaving humanitarian aid to go to Afghanistan

## 3. Privacy Update



- Bill C-27 completed first reading on June 16, 2022, and, if passed, will enact the *Consumer Privacy Protection Act* and other legislation to update Canada's federal private sector privacy legislation
- Bill C-27 does not apply to charities and NFPs except to the extent that they engage in "commercial activities", including sale, lease or barter of membership lists
- Would repeal schedule 1 of PIPEDA, leaving charities and not-for-profits without a framework for their handling of personal information

## D. PROVINCIAL UPDATE



### 1. Ontario

- Temporary relief for corporations under the *Corporations Act* ("OCA"), *Co-operative Corporations Act* ("CCA") and *Ontario Not-for-Profit Corporations Act, 2010* ("ONCA") enabling them to hold electronic directors' and members' meetings (regardless of contrary provisions in their constating documents) was further extended to September 30, 2023
- More than a year after the launch of the Ontario Business Registry (OBR) on October 19, 2021, not-for-profits in Ontario are still experiencing significant challenges when filing documents or otherwise using the OBR. This is a particular concern in light of the upcoming deadline to transition corporations into ONCA

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## 2. Saskatchewan

Saskatchewan's new *Non-profit Corporations Act, 2021*

- This Act and consequential amendments received Royal Assent on May 18, 2022
- When proclaimed into force, the legislation will replace the current *Non-profit Corporations Act, 1995*
- The legislation modernizes provisions to reflect current practices and reduce red tape, while emphasizing the use of modern technologies

## 3. Alberta


Alberta's new *Trustee Act*

- This Act will come onto force on February 1, 2023
- The Act includes a new provision regarding charitable trusts and the court's power to vary the trust or order sale of charitable trust property

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## E. CASE LAW



### 1. *Jim Crerar Charitable Trust (Re)*, 2022 BCSC 60 (January 14, 2022)

- Mr. Crerar established a trust to provide funds for legal representation to “any poor person” who had been wrongfully dismissed from their jobs, as a means of alleviating poverty
- The court found that the trust was not a valid charitable purpose trust because providing funds to initiate wrongful dismissal claims did not have “at its core the relief of poverty” and there was no evidence that it would benefit an important or sizable segment of the community
- Whether a purpose is “charitable” is fact-dependent and grounded in the common-law understanding of the components of the four heads of charity

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## 2. *County of Bruce v Office of the Public Guardian and Trustee, 2022 ONSC 0352 (Unreported) (January 31, 2022)*

- Bruce Krug left \$500,000 in his will to the County of Bruce “for the archives building for the storage and display of the archives of the county”
  - These requirements created a restricted purpose charitable trust
  - The will included a provision that if any beneficiaries refused to comply with the conditions attached to their gift, then that amount would lapse and fall into the residue of the estate
- In March 2018, the County used the majority of the funds to purchase a property adjacent to the County’s museum
- An application was brought seeking an order that the County breached the restricted purpose charitable trust when it used the funds to purchase the property

- The Court was critical of the County’s actions, including unlawfully closing meetings to the public and not disclosing relevant records to conceal its wrongdoing, and using trust funds to buy land for its own benefit instead of spending it on the archives building or on the storage and display of the archives of the County, contrary to the terms of the will
- The Court found that the County was in breach of trust
- This case is a reminder that charities and other qualified donees, such as municipalities, must comply with the terms of restricted gifts, when they receive such gifts, and that failure to do so may result in review by the Ontario Public Guardian and Trustee and/or the court

### 3. *Human Concern International v Canada*, 2022 FCA 41 (March 2, 2022)

- Human Concern International (“HCI”) had applied to the Tax Court of Canada (“TCC”) for a postponement of the one-year suspension of receipting privileges HCI had received from the CRA
- The TCC dismissed the application, so HCI applied to the Federal Court of Appeal (“FCA”)
- The FCA dismissed HCI’s appeal on the grounds that HCI had “not raised any error that would warrant this Court’s intervention”
- This case highlights that charities may face an uphill battle when requesting a court to postpone the application of a penalty, given the high threshold to prove that to do so would be “just and equitable”

### 4. *Mee et al v YMCA Properties Inc, et al*, 2022 ONSC 2621 (April 29, 2022)

- Several individuals and an incorporated organization, The Friends of Geneva Park, (collectively “Applicants”) brought an application to the court seeking a declaration that a piece of land (“Geneva Park”) was held in trust for the members and community of Geneva Park as beneficial owners because they had made donations and contributions to the charities that owned the property
- The court held that to conclude “that donating time and money to a charity could result in a trust relationship” would be “an absurd result” and “irrational precedent”
- This case confirms that providing donations and support to a charity does not provide entitlement or rights to the donors



## 5. *The Joseph Lebovic Charitable Foundation v Jewish Foundation of Greater Toronto, 2022 ONSC 4012 (July 11, 2022)*

- The Joseph Lebovic Charitable Foundation (“JLCF”) made donations to the Jewish Foundation of Greater Toronto (“JFGT”), which were held in a personalized donor advised fund (“DAF”)
- Mr. Lebovic provided advice to JFGT on how the money in the DAF should be spent but, in accordance with JFGT’s policy, such advice was not binding
- Upon his death, his brother brought a motion to prevent JFGT from spending 4% of the DAF contrary to his requests
- The court denied the motion, stating that there was no “serious issue to be tried”



- JFGT was not required to spend the donated money in the DAF according to the donor’s recommendations, because at law – unless restrictions are imposed at the time the gift is made – the donor cannot later direct how charitable gifts are spent by the charity
- This case is an important reminder to donors and charities, especially those with donor advised funds, that donors “divest themselves of all power and control over the property and transfer such control to the donee” when they make a gift to a charity unless there is a prior agreement in place which sets out specific restrictions attaching to the gift

## 6. *Birhane v Medhanie Alem Eritriean Orthodox Tewahdo Church, 2022 ONSC 5732 (October 11, 2022)*

- Members of the Medhanie Alem Eritrian Orthodox Tewahdo Church (“Church”), which was an NFP and registered charity, sought a court order requiring that a general membership meeting (“AGM”) and election of the board of directors of the Church take place, because no elections had been held since 2016, and no AGMs were held in 2019 or 2020
- The directors argued that the court had no jurisdiction to determine the issues because the Applicants were members of a voluntary religious association (*i.e.* an unincorporated congregation) and were not members of the Church (a not-for-profit corporation), because the only members were the three original incorporators

- The court rejected this argument as inconsistent with the previous governing statute and because the evidence clearly showed only one operating entity and the corporate records did not support the directors’ contention
- Accordingly, the court confirmed it did have jurisdiction to review these issues involving rights of members of a corporation governed by not-for-profit legislation
- This case affirms that incorporated religious organizations are required to comply with requirements set out in corporate legislation (such as the ONCA) and their own bylaws

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THE 2022  
*Carters Fall Charity &  
Not-for-Profit Law Webinar™*  
Thursday, November 10<sup>th</sup>, 2022

# QUALIFYING DISBURSEMENTS: THE NEW REGIME FOR CHARITIES

By Theresa L.M. Man, B.Sc., M.Mus, LL.B., LL.M.


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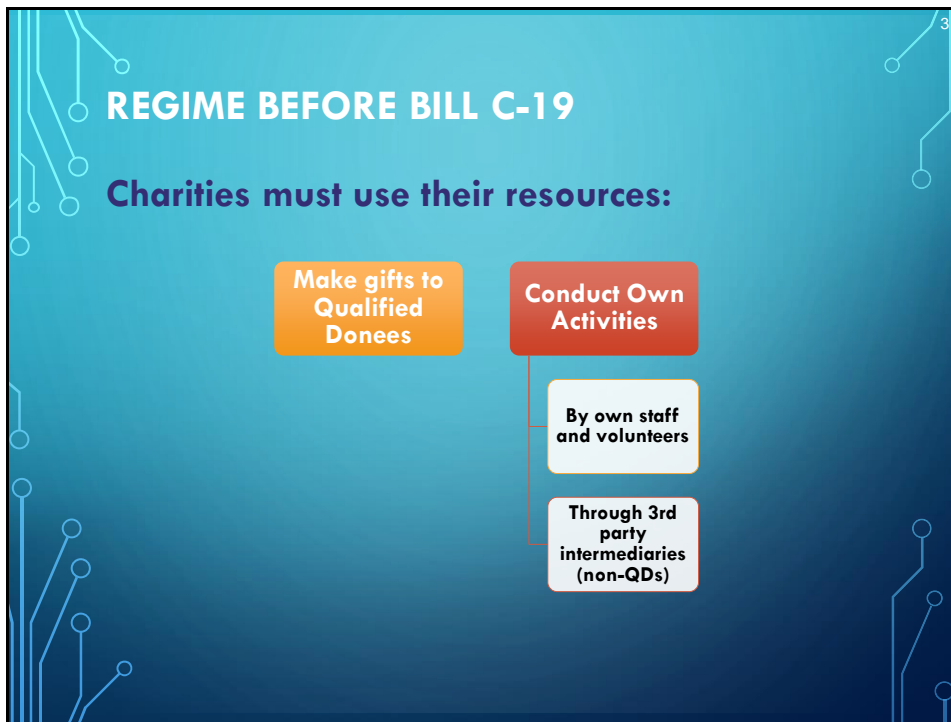
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<h3>Qualifying Disbursements: The New Regime for Charities</h3> <p>By Theresa L.M. Man, B.Sc., M.Mus., LL.B., LL.M. tman@carters.ca 1-877-942-0001</p> <p>© 2022 Carters Professional Corporation</p>	
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<h2>INTRODUCTION</h2>
<ul style="list-style-type: none"><li>• <b>Regime before Bill C-19</b> – Charities can make gifts to qualified donees and operate own activities</li><li>• <b>Efforts of Reform Bill S-216 - Effective And Accountable Charities Act</b> – to remove own activities test</li><li>• <b>New Regime Bill C-19 - Budget Implementation Act, 2022, No. 1</b> – Charities can make qualifying disbursements (QDB)</li><li>• See Charity &amp; NFP Law Bulletin No. 511 and 513 <a href="https://www.carters.ca/pub/bulletin/charity/2022/chylb511.pdf">https://www.carters.ca/pub/bulletin/charity/2022/chylb511.pdf</a> <a href="https://www.carters.ca/pub/bulletin/charity/2022/chylb513.pdf">https://www.carters.ca/pub/bulletin/charity/2022/chylb513.pdf</a></li></ul>



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- 1. Making Gifts to Qualified Donees (QDs)**
- “Qualified donee” is defined in *Income Tax Act* (ITA)
  - QDs in Canada
    - Registered Canadian charities
    - Registered Canadian amateur athletic associations
    - Registered Canadian national arts service organizations
    - Registered journalism organizations
    - Registered housing corporations resident in Canada constituted exclusively to provide low-cost housing for the aged
    - Registered municipal or public bodies performing a function of government in Canada
    - Registered Canadian municipalities
    - Her Majesty in right of Canada, provinces, and territories
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- QDs outside Canada
  - Registered universities outside Canada the student body of which ordinarily includes students from Canada
  - Registered charities outside Canada that have received a gift from the Government of Canada (the federal government or its agents) for 24 months from the date they received the gift where the charities are limited to those that pursue activities related to disaster relief or urgent humanitarian aid or in the national interest of Canada
  - United Nations and its agencies

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## 2. Own Activities Test & Direction and Control

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<b>See CRA guidances</b>	<p>Guidance CG-002 <i>Canadian Registered Charities Carrying Out Activities Outside of Canada</i> <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/guidance-002-canadian-registered-charities-carrying-activities-outside-canada.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/guidance-002-canadian-registered-charities-carrying-activities-outside-canada.html</a></p> <p>Guidance CG-004 <i>Using An Intermediary to Carry Out a Charity's Activities Within Canada</i> <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/using-intermediary-carry-a-charitys-activities-within-canada.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/using-intermediary-carry-a-charitys-activities-within-canada.html</a></p>
<b>ITA "Own Activities" test</b>	<p>Activities must be those of the charity that are directly under the charity's direction, control and supervision, and for which it can account for any funds expended</p>
<b>CRA "Direction and Control" policy</b>	<p>When working through an intermediary, a charity must direct and control the use of its resources</p>

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<b>Active involvement</b>	<p>A charity must be actively involved in programs to achieve its charitable purposes</p> <p>Can only make gifts to QDs</p> <p>Cannot carry out charitable purposes by simply giving monies, or “resources” to non-QDs</p>
<b>Ongoing involvement</b>	<p>How the activity will be carried on</p> <p>The overall goals of the activity</p> <p>The area or region where the activity will be carried on</p> <p>Who will benefit from the activity</p> <p>What goods and services the charity's money will buy</p> <p>When the activity will begin and end</p>
<b>Guidances regulate</b>	<p>How to conduct activities through intermediaries</p> <p>What to include in the written agreements with intermediaries</p> <p>How to maintain direction and control over intermediaries</p> <p>What books and records to obtain from intermediaries</p>

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<h3 style="color: blue;">Key concerns of regime of own activities AND direction and control</h3>	
<ul style="list-style-type: none"> <li>• <b>Creates legal fiction</b> – must structure everything that a charity does through a third party intermediary as activity of the charity itself</li> <li>• <b>Internationally outdated</b> - top-down approach to dictate how charitable activities are carried out does not reflect int'l development philosophy</li> <li>• <b>Impractical and unrealistic</b> - micro-management required of charities distracts charities from focusing on programs and ignores the benefit of a potential partner organization's local expertise in an international context</li> <li>• <b>High administrative costs</b> – high cost to complying with the CRA's onerous requirements, even where the charity is working with a trusted partner</li> <li>• <b>Obstructs indigenous communities</b> - paternalistic and patronizing relationship between charitable organizations and Indigenous communities that are not registered charities or other types of QDs</li> </ul>	

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**EFFORT OF REFORM: BILL S-216**

- *Effective And Accountable Charities Act*
- Predecessor Bill S-222 died on the Order Paper when Parliament was dissolved on August 15, 2021
- Bill S-216 Introduced in the Senate on November 24, 2021, passed through the Senate and received Second Reading in the House of Commons on May 16, 2022, but was supplanted by Bill C-19

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- Bill S-216 received broad-based support from the sector and charity lawyers
- Proposed changes to the ITA
  - Deletes “own activities” test from ITA
  - New “Resource Accountability” – Allows a charity to make resources available to non-QDs, provided that the charity takes “reasonable steps” to ensure that those resources are used exclusively for a charitable purpose
- Benefits of Bill S-216
  - Addressed all concerns under the previous regime
  - Principled approach, not prescriptive
  - Simple and easy to implement
  - “Reasonableness standard” that can be adjusted to fit different situations

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## NEW REGIME - BILL C-19

**Conduct Own Activities**

**Make Qualifying Disbursements**

	Making gifts	Otherwise making resources available
QDs	√	√
Non-QDs (Grantee Organizations)	√	√

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### Bill C-19, *Budget Implementation Act, 2022, No. 1*

- April 7, 2022 – Federal Budget 2022
- April 26, 2022 - Notice of Ways and Means Motion introduced
- April 28, 2022 – Bill C-19, *Budget Implementation Act, 2022, No 1*, received First Reading in the House of Commons, and received Royal Assent on June 23, 2022
- However, CRA has not issued any guidance on how the new regime would be administered

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## What does Bill C-19 do?

- A charity can use its resources to
  - Operate own activities
  - Make qualifying disbursements (“QDB”)
- Retained ITA own activities test and CRA direction and control mechanism – same rule as before
- Retained gifts to QDs – as a type of QDB
- Created new sub-types of QDB
  - Gifts to non-QDs (called “Grantee Organizations”)
  - Otherwise makes resources available to
    - QDs
    - Non-QDs (called “Grantee Organizations”)

- **New definition “grantee organization”** - includes a person, club, society, association or organization or prescribed entity but not a QD
- **New definition of “qualifying disbursement”** - a disbursement by a charity, by way of a gift or by otherwise making resources available,
  - (a) to a QD – but subject to new ITA ss. 149.1(6.001)
  - (b) to a grantee organization - if all requirements below are met
    - (i) the disbursement is in furtherance of a charitable purpose of the charity
    - (ii) the charity ensures that the disbursement is exclusively applied to charitable activities in furtherance of a charitable purpose of the charity
    - (iii) the charity maintains documentation sufficient to demonstrate;
      - (A) the purpose for which the disbursement is made, and
      - (B) that the disbursement is exclusively applied by the grantee organization to charitable activities in furtherance of a charitable purpose of the charity

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REGIME BEFORE BILL C-19		REGIME UNDER BILL C-19	
What can be done	Meet DQ	What can be done	Meet DQ
#1 Own Activities (CRA's direction and control policy)	Yes →	#1 Own Activities (CRA's direction and control policy)	Yes
#2 Gifts to QDs	Yes →	<b>#2 Qualifying Disbursements (QDB)</b>	
		(a) Gifts to QDs	Yes
		(b) Otherwise make resources available to QDs <b>NEW</b>	???
		(c) Gifts to non-QDs (called "Grantee Organizations") <b>NEW</b>	Yes
		(d) Otherwise make resources available to non-QDs (called "Grantee Organizations") <b>NEW</b>	???

Note - "DQ" means Disbursement Quota

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- **New ITA ss. 149.1(6.001)** - Disbursements of income of a charitable organization by way of gifts to a QD (other than to an associated charity) in excess of 50% of the charitable organization's income are not qualifying disbursements
  - **T3010 reporting** - A charity that makes over \$5,000 in qualifying disbursements to a grantee organization in a year must include a report on those disbursements in its T3010
  - **Directed gifts** - Expands the power of the CRA to revoke the registration of a registered charity if a gift was made "expressly or implicitly conditional" on the charity making a gift to another person, club, society, association or organization other than a QD (a power that is currently limited to registered Canadian amateur athletic associations and registered journalism organizations)
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## Questions and concerns of the regime in Bill C-19

- “Own activities test” legal fiction is not deleted
- Complicated system by adding QDB regime
- Introduces new concept of grant – potentially confusing terminology for “gifts” (to QDs) and grants (to non-QDs, also called “grantee organizations”)
- Potentially confusing to charities when to choose to make a gift to grantee organizations, and when to make resources available to grantee organizations
- Need to be careful that making resources available to QDs and grantee organizations may not meet the charities’ disbursement quota
- Unclear whether single purpose charities (to make gifts to QDs) can make QDBs
  - Because not possible to have the grantee organization to likewise make gifts to QDs
  - Not sure if purposes would need to be revised or expanded to permit QDBs

- Concerns with directed gifts
  - Does not permit charities to accept gifts made “expressly or implicitly conditional” on the charity making a gift to a non-QD
  - But this reflects current law that charities cannot be conduits
- Unclear rationale for onerous mandatory reporting in T3010 qualifying disbursements of \$5,000 or more to each non-QD – if act in conflict area, may need to ask CRA for permission not to make public that information
- Intent and application of new ITA ss. 149.1(6.001) is not clear
  - Charitable organizations currently cannot disburse more than 50% of their income as gifts to QDs, otherwise can be revoked
  - New ss. 149.1(6.001) provides that disbursements by a charitable organization by way of gift to qualified donees over 50% of its income are not qualifying disbursements – then what are they?

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## ENDING COMMENTS

- Lots of questions on the qualifying disbursement regime
- Stay tuned for CRA guidance
- Premature to structure using qualifying disbursements until there is clarity
- Own activity test and direction and control mechanism continue to be of concern

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**WRONGFUL DISMISSAL CLAIMS:  
A PRIMER FOR CHARITIES  
AND NOT-FOR-PROFITS**

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<h3>Wrongful Dismissal Claims: A Primer for Charities and Not-for-Profits</h3> <p><b>Barry W. Kwasniewski B.B.A., LL.B.</b> bwk@carters.ca 1-866-388-9596</p> <p>© 2022 Carters Professional Corporation</p> <table border="0"><tr><td data-bbox="259 833 645 872">CARTERS PROFESSIONAL CORPORATION TOLL FREE: 1-877-942-0001</td><td data-bbox="645 833 1209 872">Toronto Ottawa Orangeville <a href="http://www.carters.ca">www.carters.ca</a> <a href="http://www.charitylaw.ca">www.charitylaw.ca</a> <a href="http://www.churchlaw.ca">www.churchlaw.ca</a></td></tr></table>		CARTERS PROFESSIONAL CORPORATION TOLL FREE: 1-877-942-0001	Toronto Ottawa Orangeville <a href="http://www.carters.ca">www.carters.ca</a> <a href="http://www.charitylaw.ca">www.charitylaw.ca</a> <a href="http://www.churchlaw.ca">www.churchlaw.ca</a>
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### OVERVIEW OF TODAY'S TOPICS

- What does "wrongful dismissal" actually mean?
- Wrongful dismissal damages
- Dismissal with cause
- What is Constructive dismissal?
- How to deal with a wrongful dismissal claim
- Best employment termination practices

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## A. WHAT DOES WRONGFUL DISMISSAL ACTUALLY MEAN?

### 1. Basic Principles

- Most organizations that employ paid staff will likely have to terminate an employee at some point
  - This is essential to successful organizational management
- The relationship between employer and employee is contractual in nature
- Parties can negotiate the terms of the contract, including termination, subject to limits

### 2. Limits of Employment Contract Terms

- Terms of employment must be compatible with employment standards and other laws, including:
  - Ontario *Employment Standards Act, 2000* (ESA)
  - Ontario *Human Rights Code*
- Employment contracts cannot be in violation of the statutory standards



### 3. Employment Contract and Termination

- Many employment contracts lack termination clauses or are completely unwritten
- There is an implied term in employment contracts that:
  1. They are of indefinite duration
  2. They are subject to being terminated by the employer on a without cause basis by giving “reasonable notice” of termination or compensation in lieu of that notice
- Implied terms may be replaced with express written terms

### 4. What is Common Law Reasonable Notice?

- When an employer terminates a contract without just cause, providing reasonable notice or compensation in lieu of notice, the employer is considered to have breached the contract and “wrongfully dismissed” the employee
- Common law reasonable notice of termination can result in terminated employees being entitled to more than the prescribed statutory minimum found in the ESA

Length of Employment	Notice Required
Less than 3 months	None
3 months but less than 1 year	1 week
1 year but less than 3 years	2 weeks
3 years but less than 4 years	3 weeks
4 years but less than 5 years	4 weeks
5 years but less than 6 years	5 weeks
6 years but less than 7 years	6 weeks
7 years but less than 8 years	7 weeks
8 years or more	8 weeks

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- Also included in minimum ESA statutory requirements:
  1. Employment benefits during ESA notice period
  2. Severance pay, where the employer's payroll exceeds \$2.5 million annually, and the employee has completed at least five years of service
    - ESA severance pay must be paid by a monetary payout (not notice), and has an upper limit of 26 weeks, based on a formula in the statute
- "Guiding Principles" for reasonable notice were determined in *Paquette v. TeraGo Networks Inc.*

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*Paquette v.  
TeraGo  
Networks Inc.*

"a) An employee who is dismissed without reasonable advance notice of termination is entitled to damages for breach of contract based on the employment income the employee would have received during the reasonable notice period less any amounts received in mitigation of the loss.

b) The purpose of requiring reasonable notice is to give the dismissed employee an opportunity to find other employment.

c) The reasonableness of notice must be determined by reference to the facts of each particular case. In determining the length of notice, the court should consider, among other possible factors, the character of the employment, the length of service, the age of the employee and the availability of similar employment having regard to the experience, training and qualifications of the employee.

d) The factors are not exhaustive and what is a reasonable notice period will depend on the circumstances of the particular case. The jurisprudence on the factors from *Bardal v Globe and Mail* 1960 stresses that no one factor should be given disproportionate weight."

- See *Carters Charity and NFP Bulletin 485* January 28, 2021: <https://www.carters.ca/pub/bulletin/charity/2021/chylb485.pdf> and *Carters Charity and NFP Bulletin 392* October 25, 2016: <https://www.carters.ca/pub/bulletin/charity/2016/chylb392.pdf>

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- Common law reasonable notice is not determined by formula
  - The intention is to provide the dismissed employee with sufficient opportunity to seek out and secure comparable employment
  - There is a rough upper limit of 24 months, but some rare cases see awards exceeding this ceiling (see [Carters Charity and NFP Bulletin 485](#), January 28, 2021)

- Many employers use a rule of thumb of providing one month per year of service, to the upper limit of 24 months
  - This formula has been rejected by courts and is not acceptable in all cases
  - It is still used as a starting point to determine reasonable notice
  - Note that some awards by courts exceeded one month per year of service, especially in cases involving senior level employees (see [Carters Charity and NFP Bulletin 373](#), October 28, 2015)
- It is advisable to seek professional advice if concerned about providing appropriate reasonable notice

## B. WRONGFUL DISMISSAL DAMAGES

- Damages at common law payable to a terminated employee include more than just wages
- Courts consider all amounts and benefits which the employee would have received over the entire common law reasonable notice period, including:
  1. Bonuses or commissions
  2. Pension contributions
  3. RRSP contributions
  4. Vehicle and other allowances
  5. Health, dental and other group benefits
- Termination packages must be drafted with these other amounts considered

## 1. Punitive Damages

- Punitive damages may be awarded in cases where an employer treats an employee particularly harshly in the termination process
  - An example would be an employer falsely accusing the employee of misconduct and relying on those false allegations as grounds for termination
- Employers have the evidentiary burden of proof of just cause on the balance of probabilities

## C. DISMISSAL WITH CAUSE

- Several court rulings (starting with *Waksdale v. Swegon* (2020), see: <https://www.canlii.org/en/on/onca/doc/2020/2020onca391/2020onca391.html>) in Ontario have made it more difficult for employees to establish a case for dismissal with cause
  - To establish that dismissal with cause is appropriate, courts have found that the conduct of employee must fall within what is prescribed in ESA Regulation 288/01, being found guilty of “*wilful misconduct, disobedience or wilful neglect of duty that is not trivial and has not been condoned by the employer.*”
    - This is a high evidentiary bar, especially the element of willfulness
- *Waksdale* is an Ontario case and does not apply in other jurisdictions

## D. WHAT IS CONSTRUCTIVE DISMISSAL?

### 1. Basis of Constructive Dismissal?

- Constructive dismissal is found when an employee is not formally terminated, but a fundamental term or condition of employment has been altered, without notice, to the point where the employer demonstrates an intention to no longer be bound by the terms of the employment contract
- This can include:

1. A reduction in wages or benefits

2. A change in the manner or amount of compensation

3. Demotion or reduction of workplace responsibilities

4. Transfer to a new location

## 2. Minor Changes to the Terms and Conditions of Employment

- Minor changes to employment arrangement do not rise to the level of constructive dismissal
  - In assessing a claim, courts will look at both the explicit and implicit terms of employment and determine if changes substantially vary the conditions of employment
  - Employers have a right to alter employment terms for legitimate operational purposes
- It can be difficult to determine where a minor alteration becomes constructive dismissal
  - For more information, see [Charity Law Bulletin 233](#) November 29, 2010

## 3. Employer Misconduct

- Negative behavior on the part of the employer can lead to a finding of constructive dismissal
- Such behavior can include:

1. Harassment by the employer or ignoring allegations of workplace employee harassment

2. Acting in bad faith (imposing warrantless discipline, providing negative performance reviews without appropriate reasons)

3. Discriminating against an employee contrary to the *Human Rights Code* (see [link to HRC on disability](#) )

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## E. HOW TO DEAL WITH A WRONGFUL DISMISSAL CLAIM?

- 1 The organization may receive a demand letter. This should be brought to the attention of the Board of Directors immediately
- 2 The insurer must be informed before any response is made. If the organization has "Employment Practices Liability" coverage, the insurer should request to appoint legal defence counsel
- 3 A lawyer should be retained directly if the organization is not insured against employment claims

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## F. BEST EMPLOYMENT TERMINATION PRACTICES

- Seek legal advice at beginning of termination process
- Contact group benefits provider and discuss possible extension of benefits for terminated employee
- Comprehensive termination package must be given to terminated employee, with a minimum period of one week to respond
- Have employee sign full and final release if they are compensated above employment standards minimums
- Include non-disparagement clause in the Full and Final Release
- Review current employment contracts

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THE 2022  
*Carters Fall Charity &  
Not-for-Profit Law Webinar™*  
Thursday, November 10<sup>th</sup>, 2022

# EVOLVING ISSUES UNDER THE ONCA

By Ryan M. Prendergast, B.A., LL.B.

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## Carters Fall Charity and Not-for-Profit Law™ Webinar

November 10, 2022

### Evolving Issues under the ONCA

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#### A. ONCA IS FINALLY IN FORCE

- Ontario *Not-for-Profit Corporations Act, 2010* (“ONCA”) was proclaimed into force on October 19, 2021
- ONCA now applies to non-share capital membership corporations under Part III of *Ontario Corporations Act* (“OCA”)
- New online Ontario Business Registry (OBR) also launched on October 19, 2021
- This presentation does not cover special issues, e.g.
  - Special act corporations – they need special case-by-case review
  - Share capital social clubs under Part II of OCA – they will have 5 years to continue under the ONCA, the *Ontario Business Corporations Act* or the *Co-operative Corporations Act*

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## B. IMPLICATIONS OF THE ONCA

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- Automatic application of ONCA
  - ONCA applies to all Part III OCA corporations automatically upon proclamation

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- Effect of Doing Nothing
  - Corporation will not be dissolved BUT the following governing documents will continue to govern for 3 years even if inconsistent with ONCA, but will be deemed amended after 3 years of proclamation to comply with the ONCA - will result in uncertainty
    - Letters patent (“LP”)
    - Supplementary letters patent (“SLPs”)
    - By-laws
    - Special resolutions

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- Optional Transition Process
  - Can take transition process within 3 years of proclamation to make necessary changes to current governing documents:
    - Adopt Articles of Amendment
    - Adopt ONCA-compliant by-law
  - Prudent to go through the transition process
- End Result?
  - After the transition process, corporation will be governed by
    - LP & SLPs, as amended by Articles of Amendment
      - consider consolidating them in Restated Articles
    - ONCA-compliant by-law

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## C. EVOLVING ISSUES UNDER THE ONCA

### 1. Getting to Know You – Learning How to Use the Ontario Business Registry


- The new Ontario Business Registry (OBR) went live on the same day that the ONCA was proclaimed into force
- You must get a company key in order to access the OBR
  - Company keys are sent to the address on file with Service Ontario, so it is important to make sure this information is up to date
  - Company keys are being received fairly quickly now, and next day when delivered by email

- Why do we need a company key?
  - The company key must be inserted for articles of amendment, restated articles of incorporation, or other filings necessary to transition under the ONCA
  - With a company key and access to the OBR, filings under the *Corporations Information Act (Ontario)* can be made, such as Initial Return, Notice of Change or Annual Returns
- On May 15, 2021, Canada Revenue Agency stopped accepting Ontario corporations' annual returns
  - Registered charities that used to file their RC232, *Corporations Information Act Annual Return for Ontario Not-for-Profit Corporations* schedule with their T3010 can no longer do so and will need to do so directly through the OBR

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## 2. Change, Change, Change – Getting Articles and By-laws Compliant

- Not enough to just enact an ONCA-compliant by-law or update existing by-laws
- Historical letters patent and supplementary letters patent need to be amended to comply with new ONCA requirements – by Articles of Amendment
  - Set out the following in the articles:
    - Number of directors (no longer in the by-laws)
    - Number of membership classes and voting rights
  - Dissolution clause needs to comply with new rules in the ONCA (see #3 in this presentation)
  - Add additional special provisions if necessary



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- What if we're not ready to completely transition to articles of amendment?
  - Certain changes can be made, such as amendments to a not-for-profit corporation's corporate name or charitable purposes without having to become fully ONCA compliant
  - Keep in mind that articles of amendment that are submitted WILL have to set either a fixed number of directors or provide for a minimum and maximum number of directors
  - Section 207 of the ONCA providing a three year transition period will not be impacted by these changes
- Consider consolidation of all LP, SLP, and Articles of Amendment into Restated Articles of Incorporation
  - Needs to carefully consider how to consolidate
  - Provides a one-stop-shop document

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### 3. All Things Financial – How the ONCA impacts Not-for-profit Corporations

- The ONCA creates a new classification system for not-for-profit corporations
- Under the ONCA, all corporations are characterized as either Public Benefit Corporations (“PBCs”) or non-Public Benefit Corporations (“non-PBCs”)
- Whether a corporation is a PBC or a non-PBC has a number of implications, including the fact that PBCs are subject to stricter financial review requirements than non-PBCs

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- Who are PBCs?
  - Charitable corporations, i.e., having purposes recognized to be charitable at common law
  - Non-charitable corporations that receive more than \$10,000 (or another amount prescribed in the regulations) in a financial year in funding from the following sources:
    - Donations or gifts from persons who are not members, directors, officers or employees of the corporation
    - Grants or similar financial assistance from the federal, provincial or municipal government or government agency

– Charitable corporations are always PBCs

– Non-charitable corporations that hit the threshold in one financial year will become PBCs for the next financial year, starting at the first annual meeting of members in that financial year

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- Members are required to appoint by ordinary resolution an auditor or person to conduct a review engagement at each annual meeting
  - PBCs have higher thresholds for dispensing with appointing an auditor or person to conduct review engagement
- ONCA permits some corporations to conduct a review engagement rather than an audit in certain circumstances
  - Review engagements are more limited and are typically less expensive than an audit
  - Default is that audit is required unless the rules in section 76 of ONCA permit a review engagement or a waiver of both an audit and a review engagement (see next slides)

Type of Corp/Gross Annual Revenues (GAR)	Requirements for an Auditor	Audit/Review Engagement
Public Benefit Corporation (PBC) with GAR of \$100,000 or less (ss.76(1)(b))	May, by extraordinary resolution (80%), decide not to appoint an auditor	May dispense with both an audit and a review engagement by extraordinary resolution (80%)
More than \$100,000 but less than \$500,000 (ss.76(1)(a))	May dispense with an auditor and have someone else conduct a review engagement. This requires an extraordinary resolution (80%)	May elect to have a review engagement instead of an audit by extraordinary resolution (80%)
\$500,000 or more (by implication of ss.68(1))	An auditor must be appointed annually	Audit is required

Type of Corp/Gross Annual Revenues (GAR)		Requirements for an Auditor	Audit/Review Engagement
Non-PBC corporation with GAR of	\$500,000 or less in annual revenue (ss.76(2)(b))	May, by extraordinary resolution (80%), dispense with an auditor	May dispense with both an audit and a review engagement by extraordinary resolution (80%)
	More than \$500,000 in annual revenue (ss.76(2)(a))	May, by extraordinary resolution (80%), dispense with an auditor, and instead appoint a person to conduct a review engagement	May elect to have a review engagement instead of an audit by extraordinary resolution (80%)

#### 4. Giving It Away – Dissolution Clauses in the Articles

- On transition your PBC or non-PBC status will impact what happens to the assets of the corporation on dissolution and how this should be described in the articles

PBC {

- On dissolution of charitable PBCs → net assets must be distributed to a Canadian corporation that is a registered charity with similar purposes, or to the government
- On dissolution of non-charitable PBCs → net assets must be distributed to a PBC with similar purposes, to a Canadian corporation that is a registered charity with similar purposes, or to government

Non-PBC {

- Liquidation and dissolution of a non-PBC → Net assets must be distributed in accordance with the articles, or if the articles do not address that issue, then rateably to the members (PBCs cannot do this)

## 5. Hammer Time – How the ONCA impacts Membership Discipline

- The ONCA allows directors, members or committee to discipline members or terminate
  - Articles/by-laws must set out circumstances and the manner in which the power may be exercised
  - Must exercise power in “good faith” and fair & reasonable manner - 15 days’ notice of disciplinary action or termination with reasons, give member opportunity to be heard 5 days before termination/suspension implemented
  - ONCA specifically provides for member to apply for compliance or restraining order to challenge removal

- Articles/by-laws must set out circumstances and the manner in which the power may be exercised
- Important to note that the minimums required under the ONCA for membership discipline may not be sufficient in all circumstances
  - Consider that some not-for-profit corporations impacted by the ONCA may be special act corporations or may also be quasi-professional regulatory bodies
  - Procedural fairness and natural justice may require additional criteria and process



## 6. Who's in Charge Here? – How the ONCA impacts Directors and Officers

- There must be a minimum of 3 directors, regardless of whether the corporation is a registered charity
- Possible in articles to give a class/group of members exclusive right to elect one or more directors
- ONCA permits *ex officio* directors
- Members have the right to nominate candidates for election as directors from the floor at annual meetings
  - While not possible to prevent nominations from the floor, one option is to put procedures in place to require members to provide advance notice of any planned nominations – known as “advance notice by-law”

- Removal of Directors
  - Under the *Corporations Act* (Ontario), members could remove directors by a 2/3rds vote, but this amended in ONCA to majority vote
  - ONCA permits voting members to remove directors by ordinary resolution, except for *ex officio* directors
    - Only classes of members with the right to elect specific directors can remove those directors, or fill vacancies related to that director
- Unless prohibited in by-laws, directors have right to give the corporation a statement providing reasons for their resignation or opposing their removal by the members, which the corporation must circulate

## 7. Same as It Ever Was – Issues that Require PGT Consent

- Need to obtain consent from PGT under certain situations for charities
- Revisions to purposes
  - If a charitable corporation wants to update its purposes set out in the LP/SLPs, they must be amended by Articles of Amendment
  - Articles of Amendment form will **automatically** insert “after acquired” clause, regardless of the changes being made, unless the Public Guardian and Trustee (“PGT”) has provided written consent to waive it
  - This does not apply to non-charitable corporations

- Implications of having “after acquired” clause:
  - Funds and other property **acquired before** the Articles of Amendment can only be used for the purposes before the amendment (will include all income received from a Will, deed or other trust **made before** the Articles of Amendment became effective, regardless of when the funds or property are received by the charity)
  - Funds and other property **acquired after** the Articles of Amendment can only be used for the purposes as changed by the Articles of Amendment

- There may be situations where “after acquired” clause may not be appropriate
  - Such as updating old language in the purposes
  - Needs to write to PGT in advance to obtain their written consent to waive the after acquired clause
  - PGT will generally approve exclusion of the clause when there is no significant change to the purposes
  - File the consent with the Articles of Amendment
- Other situations where PGT’s consent is required
  - PGT’s consent is required to use the term “Foundation” in the corporate name
  - Use of the term “Charity” means purposes must be charitable
  - If the PGT has requested notification of any application for changes with respect to the corporation

## 8. Should I Stay or Should I Go? Moving Out of Ontario

- *Canada Not-for-Profit Corporations Act (CNCA)* became law in 2011
- Instead of preparing articles and new by-laws to comply with the ONCA, Ontario corporations may become a federal corporation
- See Bulletin 508 “Continuing Dilemma: Ontario Corporations Going Federal?” <https://www.carters.ca/pub/bulletin/charity/2022/chylb508.pdf>
- Rules in the CNCA are very similar to those in the ONCA
- Examples of key differences
  - ONCA generally has lower thresholds requiring audit/review engagement
  - ONCA corporations are subject to the PGT’s jurisdiction

- CNCA does not permit *ex officio* directors
- CNCA allows members in different classes (including non-voting members) veto class voting rights for certain fundamental changes
- CNCA corporations do not need to get PGT's approval for any corporate changes
- Examples of corporations that may be good candidates to go federal
  - Corporations that carry on activities in different provinces
  - Corporations that have members in different provinces and want to hold members' meetings in different provinces from time to time
  - Operational issues – umbrella organization, consistent operation of network of related corporations, etc.

## D. FINAL THOUGHTS



- ONCA is complicated
- The issues in this presentation are not comprehensive or meant to capture every key issue
- Issues will continue to evolve under the ONCA as more corporations transition and Service Ontario updates/improves the OBR
- Don't rush the transition process – consider the various implications of the ONCA to your governing documents, board and membership structure, and other issues

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# THE ABC OF GIFT AGREEMENTS

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<h3>The ABCs of Gift Agreements</h3> <p>By <b>Jacqueline M. Demczur, B.A., LL.B.</b> jdemczur@carters.ca 1-877-942-0001</p> <p>© 2022 Carters Professional Corporation</p> <table border="0"><tr><td data-bbox="264 827 645 872">CARTERS PROFESSIONAL CORPORATION TOLL FREE: 1-877-942-0001</td><td data-bbox="645 827 1213 872">Toronto Ottawa Orangeville <a href="http://www.carters.ca">www.carters.ca</a> <a href="http://www.charitylaw.ca">www.charitylaw.ca</a> <a href="http://www.churchlaw.ca">www.churchlaw.ca</a></td></tr></table>		CARTERS PROFESSIONAL CORPORATION TOLL FREE: 1-877-942-0001	Toronto Ottawa Orangeville <a href="http://www.carters.ca">www.carters.ca</a> <a href="http://www.charitylaw.ca">www.charitylaw.ca</a> <a href="http://www.churchlaw.ca">www.churchlaw.ca</a>
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### OVERVIEW OF TOPICS

- What is a gift?
- Why is a gift agreement necessary?
- What are the various types of gifts?
- What are the basic components of a gift agreement?
- What are some common drafting pitfalls to avoid?
- How does a charity manage a restricted gift?

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## A. WHAT IS A GIFT?

- A gift in law is “a voluntary transfer of property to another made gratuitously and without consideration”
- For a gift to be voluntary, a donor must have intent to make the gift and capacity to do so, *i.e.* not under duress or mentally incapable
- Property to be gifted must be transferred/delivered to intended donee with evidence of their acceptance
- No consideration back to the donor for making the gift - donor cannot retain control over the gifted property and must fully divest all rights to the donated property
- Excessive on-going control by donor over the gifted property may defeat or negate the gift

## B. WHY IS A GIFT AGREEMENT NECESSARY?

- A gift agreement is not legally required to make a gift
- However, it will show that there has been a gratuitous transfer of property to a charity intended as a gift
- A gift agreement will also help to evidence what the gift’s terms were – this can be helpful in ensuring a charity legally complied with those terms
- While sometimes used interchangeably with the term “gift agreement”, a “pledge agreement” is different:

- It is generally not enforceable at law

- However, it could be enforceable if there is consideration given to the donor or detrimental reliance by the charity can be shown

## C. WHAT ARE THE VARIOUS TYPES OF GIFTS?

### 1. Unrestricted vs. Restricted Gifts

- An unrestricted charitable gift is to be applied towards a charity's charitable purpose(s) and is not subject to any donor restriction
- A charity's board may therefore apply it to one or more of its purposes in whatever manner it deems appropriate – but cannot use it beyond its purposes
- This could involve: (1) disbursing all or part of the gift; (2) investing it over short or long term and only using income for an authorized purpose; or (3) internally restricting it for a specific designated purpose
- A charity beneficially owns all unrestricted gifts

- A restricted charitable gift is one which is subject to donor-imposed restrictions, which constrain how the charity may hold, manage and/or use the gift
- These restrictions result in the charity holding the gift in trust for the purpose, resulting in a separate restricted charitable purpose trust being created – in essence a "*charity within a charity*"
- Where a charity does not use a restricted gift to accomplish the purpose established by the donor, then this will result in a breach of trust
- A charity receiving restricted gifts must know: (1) what the donor restrictions are; (2) their legal implications; and (3) the need to comply with them



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## 2. Types of Restricted Charitable Gifts

- Restricted charitable purpose trusts can have:
  - Time restrictions
  - Use restrictions
  - Both time and use restrictions
- Two types of time-restricted gifts:
  - Endowments – capital is held permanently (“in perpetuity”), with income either used for a specific purpose or the charity’s general purposes
  - Long term funds – capital is held for fixed number of years and able to be expended at end of this period, with resulting income used for either a restricted purpose or the general purposes

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- Restricted use gifts:
  - Are gifts which obligate the charity to apply the capital and income for a specific purpose(s)
  - Unless there is a time restriction, this type of gift is usually expended as soon as is practical
  - Use restrictions can include: (1) a capital project or (2) an operational use
  - Either way the use restrictions imposed must be within the charity’s charitable purposes
  - Donors can also restrict how a gift’s charitable purpose is to be achieved but charity must ensure these restrictions are not contrary to public policy
- Often donors impose both time and use restrictions

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### 3. Other Types of Gifts

- Conditional gifts – charity become beneficial owner of the gift after the condition is fulfilled or when a condition subsequent either fails or occurs
- Testamentary gifts – gifts made by a Will following a donor's death which can include restrictions of time and use
- Precatory trusts (designated gifts) – a non-binding request by a donor for how a gift to be used
- Donor advised funds – a type of designated gift where a donor makes a gift and then provides ongoing but non-binding advice on its distribution
- Restricted gifts between charities – one charity makes a gift to another charity and imposes a restriction on its use

## D. WHAT ARE THE BASIC COMPONENTS OF A GIFT AGREEMENT?

### 1. Initial Considerations

- What does the donor actually want and what is the charity prepared to accept?
- Be careful with the term “endowment”

– Do the parties really want the gift to be an endowment, *i.e.* capital is held in **perpetuity??**

– Endowments can be difficult to administer and not easy to expend capital in the future

### 2. Thresholds

– Minimum amount required for a restricted gift?

– Will further contributions of capital be permitted and by whom?

### 3. Description of Restricted Purpose

- What is the restricted purpose(s) to be?
  - Time, use or both? Need to draft carefully based on how broad/narrow restrictions will be
- Will restricted purpose(s) be permanent or variable?
- If endowed, can capital be encroached upon?
- Generally advisable to provide the charity with ability to vary the restricted use purpose in the board's discretion, but donor may want to restrict

### 4. Assets to be Used to Make the Gift

- Need to describe gifted property – cash, shares, etc.
- With shares, need to properly value them and charity should reserve right to sell them at appropriate time

### 5. Naming and Other Rights

- What is the name of the restricted fund?
- Will other naming rights be provided to the donor depending on gift's quantum? If naming rights given, if/how can they be terminated?
- Confirm no taxable advantage from naming rights
- Does donor desire ongoing reports from the charity?

### 6. Donor-Advised Provisions

- Will donor be given right to provide charity with non-binding advice and, if so, on which issues?
- Charity must retain final decision making authority
- Too much control by donor will defeat the gift

## 7. Investment

- How will capital of the restricted fund be invested?
- Is the charity subject to the applicable *Trustee Act* or has it opted out?
- Incorporate charity's investment policy by reference into gift agreement, or will the donor impose their own desired investment restrictions on the gift?

## 8. Disbursement

- If no time restriction, charity should expend gift on a timely basis as is appropriate
- With a time restriction on capital, is all income to be expended or should a portion be added to capital?
- How to calculate income? Interest/dividend income (classic) or also realized capital gains (total return)?

## 9. Administration Fee

- Does charity wish to charge an administrative fee against income and/or capital of the fund?
- Can restrict amount of fee in the agreement or cross reference to a fee policy in place from time to time

## 10. Variation of Trust Terms

- Key is to remember that donor cannot vary terms of charitable purpose trust after its creation, although agreement can provide for non-binding advice
- Charity also cannot vary the terms (time, use or both) unless original gift agreement permits the same – usually where a restriction is impossible or impractical
- Ideally maximum flexibility in favour of charity should be set out in gift agreement, if possible

## 11. Change of Trustee

- Charity should be able to transfer fund to subsequent trustee provided it is a charity and will sign a deed of appointment as per applicable *Trustee Act*
- If there is a deed of appointment used, consider if need to record the transfer as a designated gift in the transferor charity's T3010

## 12. Return of the Gift

- Charity may wish to consider expressly reserving the right to refuse or even return a gift from a donor
- If so, need to set out the circumstances where this right might be exercised
- May want to do due diligence checks on major donors before gift to avoid reputational issues later

## 13. Administrative Amendments

- Charity should have ability to make minor amendments to the agreement in its sole discretion, although donor could add right to be consulted
- However, this provision cannot be drafted and then used as a way for the charity and donor to agree at a future date to change restricted terms of a gift/fund – to do so would be a breach of trust

## 14. Independent Professional Advice

- Charity should advise donor to seek independent legal and/or tax advice before signing gift agreement
- This should be confirmed in gift agreement itself to help reduce risk of gift being later challenged by donor's family due to allegations of undue influence

## E. WHAT ARE SOME COMMON DRAFTING PITFALLS TO AVOID?

### 1. Failure to Accurately Describe Restrictions

- Unrestricted or precatory vs. restricted
- Gift vs. pledge

### 2. Failure to Address Terms of an Endowment

- Is it really an endowment or something else?
- If endowed, charity cannot collapse the fund
- If endowed, is there a right for charity to encroach on capital and ability to vary the use purpose?
- Is there a requirement to retain a portion of income to “keep pace with inflation?”
- What portion of income is available for disbursement?

### 3. Forgetting to Consider Donor’s Rights

- Disgruntled relatives may attack a gift based on allegations of donor incapacity or undue influence
- Need to be very careful with potentially vulnerable donors due to age, infirmity or economic situation

### 4. By Contrast, Giving Too Much Control to Donor

- Donor imposing restrictions outside of charity’s charitable purposes
- Donor instructing the charity: (1) who is to benefit from the gift; or (2) which charities are to benefit
- Donor retaining the right to vary or approve a variation of the restriction(s) – not permitted at law
- Too much donor control could negate original gift

## 5. Incomplete Charity-Initiated Restricted Fund

- Charities can set up own restricted funds and solicit gifts from its donors and the general public
- However, there must be adequate terms of reference in place:

(1) What does “endowment” mean?

(2) Any ability to encroach on capital or vary restricted use purpose?

(3) How to deal with surplus funds raised?

- Lack of clarity could cause confusion and require the charity to apply to court for direction

## 6. Confusion in Investment Power

- Not clear which investment powers apply:

– Investment power in corporate documents? If not, look to Trustee Act in charity’s jurisdiction

– Is there a donor-imposed investment power?

## F. HOW DOES A CHARITY MANAGE A RESTRICTED GIFT?

- Ensure proper investment and delegation of investment decision making
- Avoid commingling restricted funds with general funds for investment purposes
- Separately track income allocation for restricted funds – use *Charities Accounting Act* regulations in Ontario
- Avoid borrowing from endowment funds
- Disburse income based on donor restrictions
- Keep up to date inventory of endowments and other restricted funds:

(1) need to have original source documents;

(2) identify deficiencies; and

(3) consider remediation options for any identified non-compliance

## RESOURCES

For more information:

- “Issues in Drafting Restricted Charitable Purpose Trusts”, Chapter 19, *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations*
- *Considerations When Drafting Restricted Charitable Purpose Trusts*, by Terrance Carter, June 12, 2017  
<https://www.carters.ca/pub/article/charity/2017/STEP-Drafting-Restricted-Charitable-Purpose-Trusts.pdf>

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# CHANGES AND CHALLENGES WITH THE DISBURSEMENT QUOTA FOR CHARITIES

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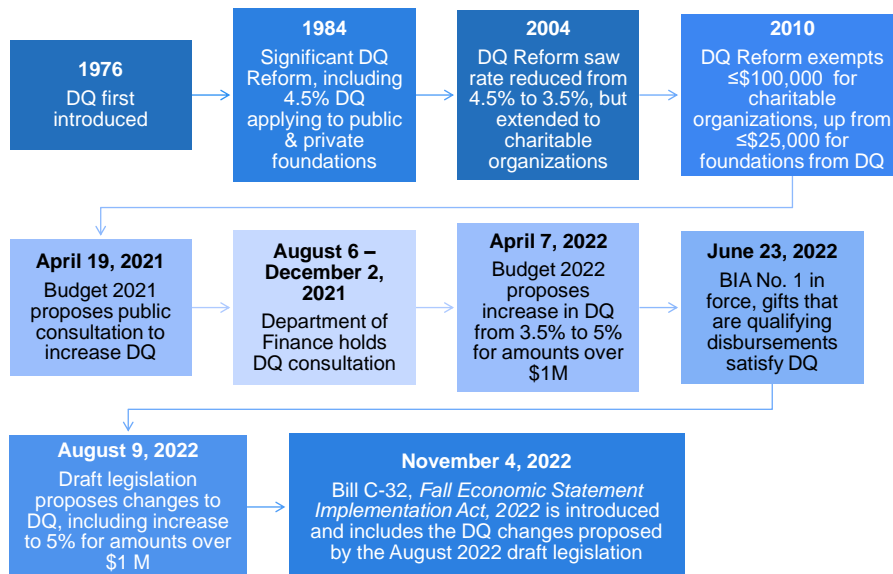
 <p>BARRISTERS SOLICITORS TRADEMARK AGENTS</p>	<h2>Carters Fall Charity and Not-for-Profit Law™ Webinar</h2> <p>November 10, 2022</p>
<h3>Changes and Challenges with the Disbursement Quota for Charities</h3> <p>By Terrance S. Carter, B.A., LL.B., TEP, Trademark Agent tcarter@carters.ca 1-877-942-0001</p> <p>© 2022 Carters Professional Corporation</p>	
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<h3>OVERVIEW</h3> <ul style="list-style-type: none"><li>What is the Disbursement Quota (“DQ”)?</li><li>What is the Current DQ Calculation up to December 31, 2022?</li><li>What will be New for the DQ in the Year Starting January 1, 2023?</li><li>What are the Challenges Posed by the DQ?</li><li>DQ Resource Materials</li></ul>	
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## A. WHAT IS THE DISBURSEMENT QUOTA (“DQ”)?

- The Disbursement Quota (“DQ”) has generally been to date the minimum amount that a charity must spend on its charitable activities or gifts to qualified donees (“QDs”) to ensure that charitable funds are used for charitable purposes and are not simply accumulated indefinitely by charities (see presentation by Theresa Man for list of QDs)
- A requirement under the *Income Tax Act* (“ITA”)
- Purpose of the DQ:
  - Limit excessive or undue capital accumulation
  - Ensure significant resources devoted to charitable purposes and activities
  - Administrative efficiency via increased transparency/disclosure

### Brief Timeline of the DQ



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## B. WHAT IS THE CURRENT DQ CALCULATION UP TO DECEMBER 31, 2022?

### 1. Review of the DQ Calculation

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graph TD
    A[Set out in subsection 149.1(1) of the ITA] --> B[3.5% DQ applies to property owned by the charity at any time in the preceding 24 months not used directly in charitable activities or administration]
    B --> C[Threshold amounts for the 3.5% DQ:  
• $100,000 (for charitable organizations)  
• $25,000 (for public and private foundations)]
    C --> D[Further details are set out in Income Tax Regulations 3701 and 3702]
  
```

- Also see CRA's "Disbursement Quota Calculation" <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/annual-spending-requirement-disbursement-quota/disbursement-quota-calculation.html>

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## 2. Review of Steps to Calculate DQ

### a) Determine the asset base for the DQ calculation

- The asset base consists of "all or a portion" of property (e.g. investments, land, buildings) owned by the charity that is not used directly in charitable activities or administration for the charity as a whole
  - Calculation applies for the preceding 24 months
- A charity may request permission to accumulate funds to make a major expenditure (e.g. buying a building) and, if approved, the accumulated amount can be excluded from the asset base (this provision is to be removed, see Slide 13)

### b) Average value over set number of valuation periods

- The value of a charity's asset base included in its DQ obligation is averaged over 2 to 8 valuation periods (chosen by the charity) which can only be changed with the CRA's written permission

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## c) Apply the 3.5% rate to averaged value of asset base

- The average value of property not used for charitable activities or administration of the charity for the 24 months before the beginning of the fiscal year is to be entered on line 5900 of the charity's T3010 Information Return
  - The applicable amount before the end of the fiscal period is entered on line 5910 in order to calculate the DQ obligations for the following fiscal year
- The DQ obligation for the current year is 3.5% of the amount on line 5900

**Line 5900 x 3.5% = DQ obligation for the year**

## 3. Meeting the DQ

- *Budget Implementation Act, No. 1, 2022 Bill C-19* ("BIA 1") received royal assent on June 23, 2022 and introduced a new regime of "qualifying disbursements" which can be made to either qualified donees or grantee organizations
  - A **Grantee Organization** includes a person, club, society, association or organization or prescribed entity, but does not include a qualified donee
  - A **Qualifying Disbursement** is a disbursement by a charity, by way of a gift or by otherwise making resources available to either a qualified donee or a grantee organization
  - See Theresa Man's presentation on Qualifying Disbursements for more details
- BIA 1 amended the ITA so that only "gifts made by [a charity] that are qualifying disbursements" will satisfy the DQ
  - See Slide 15 for further comments on this change

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## 4. Tracking DQ Shortfalls and Excesses

**DQ Excess**

**DQ Shortfall**

- Occurs when a charity spends more on charitable activities or gifts that are qualifying disbursements than its DQ for that year
  - See subsections 149.1 (20) and (21)
  - BIA 1 modified this section from “gifts ... to qualified donees” to “gifts ... that are qualifying disbursements”
- Excess can be carried forward for five years or carried back one year
- Note that as per subsection 149.1(6.001), introduced by BIA 1, disbursements of income of a charitable organization by way of gifts to a qualified donee (other than to a charity associated with the charitable organization) in excess of 50% of the charitable organization’s income for that year are not qualifying disbursements (can lead to revocation)

- Occurs when a charity spends less on charitable activities or gifts that are qualifying disbursements than its DQ for that year
- Shortfall can be met using excess from past five years or from next year
- Continuous shortfalls may lead to revocation of a charity’s registration

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## C. WHAT WILL BE NEW FOR THE DQ IN THE YEAR STARTING JANUARY 1, 2023?

### 1. 5% DQ for Amounts in Excess of \$1 Million

- Draft legislation was released by the Department of Finance on August 9, 2022, the contents of which were then included in Bill C-32, the *Fall Economic Statement Implementation Act, 2022*, which completed first reading in the House of Commons on November 4, 2022
  - The changes will apply to taxation years beginning on or after January 1, 2023
- The draft legislation proposes to increase the DQ rate from 3.5% to 5% for eligible property held by a charity in excess of \$1 million

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### Chart Showing Various DQ Scenarios as of January 1, 2023

Types of Charity and Value of Property* Held by the Charity	Current DQ Obligation	Proposed New DQ Obligation
Charitable Foundation with ≤\$25,000 of property	Nil	Nil
Charitable Organization with ≤\$100,000 of property	Nil	Nil
Charitable Foundation with >\$25,000 and ≤\$1,000,000 of property	3.5% of property	3.5% of property
Charitable Organization with >\$100,000 and ≤\$1,000,000 of property	3.5% of property	3.5% of property
Charitable Foundation with >\$1,000,000 of property	3.5% of property	\$35,000 + 5% of the amount of property which exceeds \$1 M
Charitable organization with >\$1,000,000 of property	3.5% of property	\$35,000 + 5% of the amount of property which exceeds \$1 M

\* "property" refers to "property owned by the charity in the preceding 24 months that is not used directly in charitable activities or administration as determined under sections 3701 and 3702 of the Regulations

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- ## 2. Administration and Management Expenses
- Bill C-32 proposes to add paragraph (d) to subsection 149.1(1.1) of the ITA to provide that administration and management expenditures are deemed not to satisfy the disbursement quota requirements
- ## 3. DQ Obligation Reduction
- Currently subsection 149.1(5) of the ITA allows the CRA to deem a specified amount expended by a charity to be an amount expended by a charity on its own charitable activities in satisfaction of the DQ
  - Bill C-32 proposes to amend 149.1(5) to allow the CRA to instead deem a charity's DQ obligation to be reduced upon application by the charity
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## 4. Other Proposed DQ Changes

- Bill C-32 also proposes to:

- Allow the CRA to release information pertaining to a charity's application to reduce its DQ obligation, under s. 241(3.2) of the ITA
- Repeal s 149.1(8) which currently allows charities to apply for permission to accumulate property
- Retroactively amend a typo in s. 149.1(4.1)(d) where reference is made to "qualified disbursements" instead of the correct "qualifying disbursements"

## D. WHAT ARE THE CHALLENGES POSED BY THE DQ?

### 1. Calculation of Funds Spent on Charitable versus Management & Administration Activities

- The CRA has not yet provided guidance about how charities should calculate which expenditures are used in administration & management of the charity
- Unanswered questions include:
  - Can amounts be allocated on a percentage basis, similar to fundraising expenses?
  - e.g. If an employee spends 90% of time engaged in carrying out charitable activities and 10% doing administrative work, is substantially all of the work charitable for purposes of the DQ, as is the case with fundraising expenses?



## 2. Determining what is an Eligible Qualifying Disbursement

- BIA 1 amended the ITA so that “gifts made by [a charity] that are qualifying disbursements” will satisfy the DQ
  - See, e.g., ss. 149.1(2)(b), (3)(b), and (4)(b)
  - Since qualifying disbursements are disbursements “by way of a gift or by otherwise making resources available” it does not appear that “making resources available” will satisfy the DQ as only gifts will count
  - However, if only gifts are counted towards the DQ, this will exclude “making resources available” to qualified donees and non qualified donees, including:



## 3. Risks of Low Interest Market Return

- For endowments or other funds with restrictions on how much capital can be expended, it may be difficult to meet a 5% DQ with only the income generated from the investment
- Difficulty meeting the DQ may prompt charities to possibly pursue riskier investments to obtain a higher rate of return
  - This might be contrary to their fiduciary obligations under provincial *Trustee Act* legislation
- Alternatively, charities may need to apply to court for an order granting permission to encroach on the capital or realized capital gains of an endowment
  - Unfortunately, court applications can be costly and time consuming and success is not guaranteed

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### 4. Compliance with Anti-Avoidance Rules

- Charities must comply with the following anti-avoidance rules when gifts to qualified donees are made between non-arm's length charities:

**Anti-Avoidance Rule**

- A charity that receives a gift from a non-arm's length charity must use 100% of the gift on its own charitable activities or gifts that are qualifying disbursements to qualified donees or grantee organizations with which it deals at arm's length in the fiscal period the gift was received or in the following fiscal period
  - Underlined sections reflect changes from BIA 1 to s. 149.1(4.1)(d)
- Failure to do so could result in a 110% tax on the unexpended amount or the revocation of the receiving charity's registered status

**Designated Gift**

- Alternatively, the donor charity may make a designated gift (a gift that is not counted in meeting the donor charity's own DQ obligation)
- The recipient charity does not have to spend 100% of the designated gift by the end of the next fiscal period

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- Even where charities are arm's length, charities must comply with a broader anti-avoidance rule:

**Anti-Avoidance Rule**

- A charity that enters into a transaction (which may include an inter-charity gift) where it "may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities" could face a 110% penalty or possibly revocation
  - See paragraph 149.1(4.1)(a) of the ITA
  - Note that this provision was not modified by BIA 1, but the concept of a "transaction" may now include qualifying disbursements
  - If an inter-charity transfer is involved, both charities are jointly and severally, or solitarily liable for the 110% penalty and risk revocation

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## 5. Importance of Properly Completing T3010

- Budget 2022 indicated that the CRA will “improve” the collection of information to better identify whether charities are meeting the DQ, as well as “information related to investments and donor-advised funds held by charities”, although it is not clear what that will entail
  - This suggests that the T3010 will be amended in the future to allow the CRA to collect this information
- With the renewed focus on the DQ, charities will want to ensure that they properly and fully complete the DQ portion of the T3010 and that they are, in fact, meeting their DQ obligation year by year

## E. DQ RESOURCE MATERIALS

- “The Disbursement Quota for Charities: Issues to Consider” *2022 Ottawa Region Charity & Not-for-Profit Law Seminar*, 17 February 2022
  - <https://www.carters.ca/pub/seminar/charity/2022/The-Disbursement-Quota-for-Charities-TCarter-2022-02-17.pdf>
- “Reminder for Charities to Take the Necessary Steps to Meet the DQ” *Charity & NFP Law Bulletin No. 507*, 24 February 2022
  - [https://www.carters.ca/index.php?page\\_id=456](https://www.carters.ca/index.php?page_id=456)
- “Disbursement Quota Reform: Stabilizing a Three-Legged Stool” *Perspectives on Tax Law & Policy*, vol 3, no 1, March 2022
  - <https://www.ctf.ca/CTFWEB/EN/NEWSLETTERS/PERSPECTIVES/2022/1/220106.aspx>
- “Bill C-19 is Amended to Simplify Funding to Non-Qualified Donees” *Charity & NFP Law Bulletin No. 513*, 28 June 2022
  - [https://www.carters.ca/index.php?page\\_id=503](https://www.carters.ca/index.php?page_id=503)
- “Draft Budget Implementation Legislation Will Increase DQ and Affect Trust Reporting” *Charity & NFP Law Bulletin No. 515*, 24 August 2022
  - [https://www.carters.ca/index.php?page\\_id=520](https://www.carters.ca/index.php?page_id=520)

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THE 2022  
*Carters Fall Charity &  
Not-for-Profit Law Webinar™*  
Thursday, November 10<sup>th</sup>, 2022

# HOW TO WORK EFFECTIVELY WITH THE CHARITIES DIRECTORATE

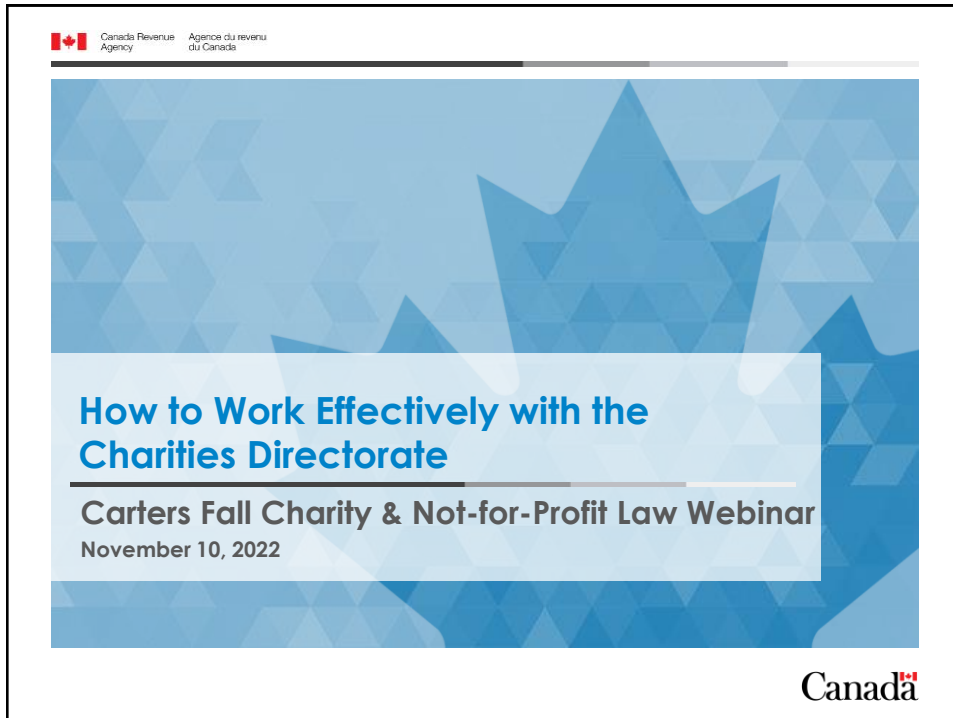
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Canada Revenue Agency / Agence du revenu du Canada

## How to Work Effectively with the Charities Directorate

Carters Fall Charity & Not-for-Profit Law Webinar  
November 10, 2022

Canada

## Objective

- The objective of today's presentation is to provide information and resources about the Charities Directorate to improve your interactions with the Directorate.
- The CRA has been listening to Canadians, changing how we work, and improving services with the goal to be **trusted, fair, and helpful by putting people first.**

## Outline

1. Introduction
2. Working with the Charities Directorate
  - Direct interactions
  - Indirect interactions
3. What's new and Looking Ahead
4. Conclusion

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## PART 1

### Introduction

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## Introduction

- The Charities Directorate is the area of the CRA that administers the sections of the Income Tax Act (ITA) related to the registration of charities.
- The Charities Directorate:
  - Registers charities under the ITA
  - Educates the public and charities on the requirements for registration
  - Protects the sector from terrorist financing abuse
  - Monitors the sector for compliance
  - Carries out compliance actions

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## Introduction

### A registered charity must:

- devote its resources (funds, personnel, and property) to charitable purposes and activities
- file an annual return within six months of its fiscal period-end
- meet its annual spending requirement
- keep adequate books and records in Canada, and make them available for review by the CRA on request
- make sure that official donation receipts are complete and accurate
- meet accountability requirements
- maintain its status as a legal entity (where applicable)

### Registered charities by designation



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## Introduction

### Service transformation

- In 2019, the CRA embarked on a service transformation journey with the following objectives:
  - ❑ **We are people-centric.** We understand people's needs and expectations for better programs and services.
  - ❑ **We are supportive.** We help people understand and meet their obligations and responsibilities, and use the resources available to them.
  - ❑ **We are innovative.** We embrace change and approach situations with a sense of curiosity and innovation.
  - ❑ **We are one team.** We collaborate toward a unified goal of providing successful programs and services for all.
  - ❑ **We are fair.** Our decisions are grounded in quality information, fairness, integrity and engagement.

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## Introduction

- As a result of the COVID-19 pandemic, the Charities Directorate transformed the way it does business to ensure continued services for charities by:
  - Setting up its employees to work remotely
  - Implementing a remote call centre
  - Encouraging the use of digital services
  - Converting paper-based workloads into an electronic format
  - Offering outreach and educational services
  - Engaging with stakeholders virtually

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## PART 2

### Working with the Charities Directorate

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## Introduction

- Charities interact with the Directorate, either directly or indirectly, as a result of several activities.

#### **Direct interactions:**

- Applying for registration
- Client services
- Compliance activities or interventions

#### **Indirect interactions:**

- Digital services (online portals)
  - Webpages
  - Electronic mailing list
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## DIRECT INTERACTIONS

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### Applying for registration

- To become a registered charity, an organization needs to complete the online form available in My Business Account (MyBA).
- The Charities Directorate has several helpful tips and checklists available online to help you with this process.
- We encourage all organizations to use the [Application checklist](#) available on our website.

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## Applying for registration

### How to reduce delays?

Make sure your application is complete:

- Answer all the questions on the application
- Include all required documents
- Provide all details and specific information requested
- 30-40% of applications are initially incomplete
- The primary issue 80% of the time is governing documents

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## Applying for registration

### What is required?

Governing documents

- **If incorporated** : create an application document checklist at [canada.ca/charities-registration](https://canada.ca/charities-registration) by clicking on « Apply for registration » followed by « Create an application document checklist »
- **If not incorporated** (e.g. Constitution, Trust) : go to [canada.ca/charities-registration](https://canada.ca/charities-registration) and click on « Set up your organization before applying for registration » followed by « What is a governing document? »

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## Applying for registration

### Tips when applying for registration

- Electronic delivery
  - Sign up for notifications and receive letters electronically.  
There are several advantages to this:
    - Receive and respond to CRA correspondence promptly and securely through My Business Account, eliminating postal delays and fees, and shortening processing times
    - Correspondence is stored on My Business Account, eliminating the risk of misplacing letters
    - Protect the environment by reducing our carbon footprint
  - Sending documents to CRA
    - Use the Submit Documents feature
    - No mail or processing delays
    - No need to mail or fax documents – received automatically

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## Client services

### Our client service representatives can:

- Assist clients seeking to apply for and maintain charitable registration
- Provide navigation guidance on the Charities and Giving webpages
- Educate on a variety of topics
- Assist with portal navigation and use
- Provide information on how your charity should properly issue official donation receipts
- Provide information on how to fill out the annual information return

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## Client services

### Our client service representatives can:

- Provide guidance on changing your charity's legal name, purposes, activities, and more
- Provide interpretation and technical advice

### Contact a representative Monday to Friday :

- By phone:  
1-800-267-2384
- By TTY service for people with a hearing or speech impairment:  
1-800-665-0354

[www.canada.ca/charities-giving](http://www.canada.ca/charities-giving)

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## Client services

### Communications and outreach

- Communications & Outreach  
[CHAROutreach.LPRA@cra-arc.gc.ca](mailto:CHAROutreach.LPRA@cra-arc.gc.ca)
- Web, Forms & Publications
  - “Report a problem”
  - Client Service

▼ Report a problem or mistake on this page

Please select all that apply:

- A link, button or video is not working
- It has a spelling mistake
- Information is missing
- Information is outdated or wrong
- Login error when trying to access an account (e.g. My Service Canada Account)
- GC Key access
- SecureKey Concierge (Banking Credential) access
- Personal Access Code (PAC) problems or EI Access Code (AC) problems
- Social Insurance Number (SIN) validation problems
- Other login error not in this list
- I can't find what I'm looking for
- Other issue not in this list

Submit

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## Compliance activities and interventions

- Some interventions in support of the core mandate of enforcing, encouraging, and assisting registered charities to comply with the requirements of the Income Tax Act are:
  - Educational interventions
    - outreach and education
    - letter writing campaigns
    - onsite/virtual visits like the Charities Education Program (CEP)
  - Audit interventions
    - office and field audits

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## Compliance activities and interventions

### Education first

- The Charities Directorate takes an education first approach to help registered charities follow the rules.
- These tools help charities comply:
  - Website
  - Outreach program
  - Client service
  - Reminder letters
  - Charities Education Program
  - Audit program

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## Compliance activities and interventions

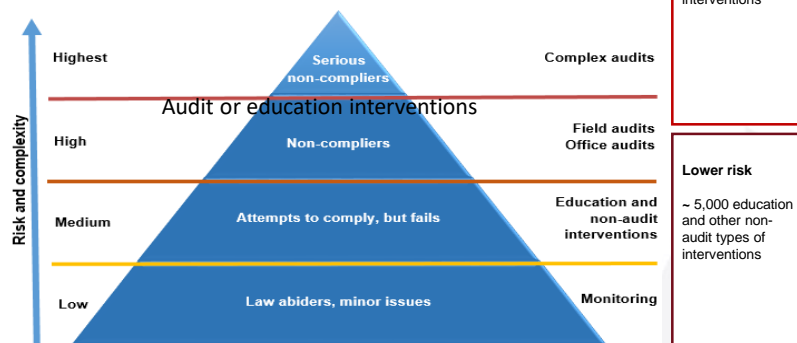
### Tips for maintaining registration:

- Only engage in allowable activities
- Keep adequate books and records
- Issue complete and accurate receipts
- Meet your disbursement quota
- File your annual return on time
- Maintain your status as a legal entity
- Inform us of any changes to your mode of operation or legal structure

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## Compliance activities and interventions

### Addressing non-compliance: a balanced approach



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## Compliance activities and interventions

### What might a charity receive after it has been audited?

- The facts will determine which of the following compliance outcomes will occur:
  - **education letter**
  - **compliance agreement**
  - **sanctions**
  - **revocation of registration**
  
- Only a very small proportion of audits result in serious consequences like sanctions or revocation

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## Compliance activities and interventions

### What recourse does a charity have after an audit?

- Filing an objection within 90 days
  
- If the charity disagrees with the CRA's Appeals Branch's decision about its objection, it has the right to appeal to the Federal Court of Appeal or the Tax Court of Canada

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## INDIRECT INTERACTIONS

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### Digital services (online portals)

- My Business Account (MyBA) is a secure online portal that allows charities to do the following tasks online:
  - apply to become a registered charity and view application status
  - complete and file your annual return and make adjustments
  - update information about your organization, including addresses, list of directors, representatives, and several post-registration amendments
  - upload supporting documents and correspond with the Charities Directorate
  - access payroll and GST accounts, file T4 slips, GST returns, and view your organization's account balance, transactions, and remitting requirements

[MyBA reference guide \(PDF\)](#)

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## Digital services (online portals)

### My Business Account

#### Registered charity

##### File

- [File a return](#)
- [Adjust a return](#)

##### Manage

- [Apply to be a registered charity or RCAA](#)
- [Update registered charity or RCAA information](#)
- [Manage address](#)
- [Manage language preference](#)

##### View

- [View expected and filed returns](#)
- [View program account details](#)
- [View application status](#)
- [View program account name](#)

##### Other

- [Request relief of penalties and interest](#) NEW

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## Digital services (online portals)

### Submitting documents

- Log in to the appropriate portal:
  - [My Business Account](#)
  - [Represent a Client](#)
- Select "Submit documents" and follow the instructions using your case or reference number, or
- Select the link "I do not have a case or reference number" and select the applicable task from the list.

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## Digital services (online portals)

### After documents are submitted

- When your documents are successfully submitted, you will receive a confirmation number and a reference number. Make sure to take note of these numbers and keep them in a safe place for future reference.
- Should you have additional documents to include that relate to the first submission, you can include them at any time using the case/reference number.
- Keep track of the version of the documents that you sent to the CRA.

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## Webpages

### Communications and Outreach

- Charities and giving webpages
- [Educational videos](#) and other communications products like infographics and social media
- Upcoming [charities information webinars](#)

**[Canada.ca/charities-giving](https://Canada.ca/charities-giving)**

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## Webpages

### [Checklists for charities - Canada.ca](#)

<b>Basic guidelines checklist</b> Maintaining charitable registration
<b>Activities checklist</b> Engaging in allowable activities
<b>Books and records checklist</b> Keeping adequate books and records
<b>Receipting checklist</b> Issuing complete and accurate donation receipts
<b>Spending requirement checklist</b> Meeting the disbursement quota
<b>T3010 checklist</b> Filing the annual information return
<b>Legal status checklist</b> Maintaining the charity's legal status
<b>Changes checklist</b> Changing the charity's mode of operation or legal structure
<b>GST/HST checklist</b> Guidelines to obligations and entitlements
<b>Terrorism checklist</b> Avoiding terrorist abuse

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## Electronic mailing list

### Charities and giving – What's new?

- When you subscribe to this electronic mailing list, we will email you when we add important information to the website, such as:
  - new webpages
  - guidance or advice on maintaining your registered status
  - general information for the charitable sector

[Electronic mailing list - Charities and giving - What's new - Canada.ca](#)

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## PART 3

### What's new and looking ahead

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## What's new?

### **Budget 2022**

- On April 7, 2022, Deputy Prime Minister and Minister of Finance Chrystia Freeland presented the 2022 Federal Budget
- The 2022 Federal Budget introduced two measures that will significantly impact the way charities operate:
  - a new way for charities to work with non-qualified donees
  - changes to the disbursement quota (DQ)

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## What's new?

### Service improvements:

- **Service standard** – we have raised our goal to make meaningful contact with an applicant for charitable status within 6 months of submitting a case, to **85%** of the time
- **Progress Tracker** – we introduced a new e-service which allows applicants to view information regarding the status of their pending application and gives the ability to track the progress of their application
- **C1/B1 outward facing enhancements** – we made significant updates to the online application form following feedback received from Canadian Bar Association related to difficulties accessing the online application on MyBA via Represent A Client (RAC)

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## What's new?

### Miscellaneous

- Office of the Taxpayers' Ombudsperson Review
  - In summer 2021, the Minister of National Revenue requested that the Taxpayers' Ombudsperson examine concerns raised by certain Muslim-led charities
  - In particular, the OTO review is focusing on concerns linked to the selection of audit files, the quality of the services offered and the efforts taken by the CRA to sensitize its employees to unconscious biases

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## Looking ahead

### Webinars – more to come!

- Recently: Completing your T3010 online: A walkthrough for charities
  - Visit our page [Charities information sessions and webinars - Canada.ca](#) for more information

**Sign up to our Electronic Mailing List to find out about upcoming webinars!**

**[Canada.ca/charities-whats-new](#)**

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## Looking ahead

### T3010 – Registered Charity Information Return

- Upcoming changes to the T3010, Registered Charities Information Return
  - reporting requirements related to making grants to non-qualified donees
  - improved data collection related to the DQ, investments, and donor-advised funds

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## Looking ahead

### **T3010 – Registered Charity Information Return**

- The Directorate is working to improve the completeness and accuracy of T3010 data, as well as timeliness of the data's availability
- We are considering ways to increase charity data integrity, which could include:
  - Modifying the T3010 form and guide
  - Providing additional/targeted education
  - Improving and encouraging digital filing

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## Looking ahead

### **Guidance products**

- A key priority over the next few months will be developing guidance to address the new granting rules for charities
- We aim to post draft guidance asking for feedback from the public
- Once we analyze this feedback, we will post a “final” version of the guidance, although all of our guidance products are evergreen

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## Looking ahead

### Guidance products cont'd

- We are working on updating or drafting various guidance products, including:
  - Guidance to address new disbursement quota rules
  - Updates to the related business guidance
  - Consolidated guidance on issuing receipts

### Webpages

- We continue to invest in and update our webpages to highlight tools that will assist organizations and expedite the application process:
  - Application document checklist
  - Guidance on how to draft charitable purposes

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## PART 4

### Conclusion

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## Conclusion

- We hope you found this presentation helpful
  - Not sure about the rules?
  - Want to make some changes?

### Contact a representative Monday to Friday :

- By phone:  
1-800-267-2384
- By TTY service for people with a hearing or speech impairment:  
1-800-665-0354

**[www.canada.ca/charities-giving](http://www.canada.ca/charities-giving)**

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## Helpful Resources

- [Contact us](#) – MyBA, mail, fax, or phone
- [Educational videos](#) and other communications products like infographics
- Upcoming [charities information webinars](#)
- [Electronic Mailing List](#)
- [Our Website](#) – [www.canada.ca/charities-giving](http://www.canada.ca/charities-giving)

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