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# The 2003 Annual CHURCH & the LAW SEMINAR

November 12, 2003

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## New Directions at CCRA and in the Court Affecting Churches and Charities

(Power Point Presentation)

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## Outline

- n Can charities go against Government policy?
- n Can charities undertake public awareness campaigns?
- n What kinds of business activity can charities engage in?
- n New policies on ...
  - Ethnocultural charities
  - Charities fighting racial discrimination
  - Others
- n Comments on tax shelters and overvaluation schemes

## Charities Going Against Government Policy

- n The case of *Canadian Magen David Adom* and the Green Line: what constitutes a policy pronouncement by Government?
  - ⇒ “Act of Parliament, regulation, or some equally compelling public pronouncement specifically on the issue”

## The Federal Court of Appeal’s View on Political Purposes

- n The case of *Action by Christians for the Abolition of Torture* and the new CCRA guidelines on charities’ political activities.
  - The *Action by Christians* decision does not alter the new, more liberal rules on public awareness campaigns

## Business Activities and the Destination of Funds Test

- n The case of *Earth Fund v. M.N.R.*
  - The “destination-of-funds test” does not apply in Canadian law – i.e., a charity can undertake a business activity under the Income Tax Act only if there is some logical connectedness (other than money) between the business activity and the organization’s charitable objectives.
    - » Exception: business activities run by volunteers
    - » Exception: Private foundations

## New Policy on Ethnocultural Charities

- n The genesis of sound policy = dialogue between the regulator and the sector.

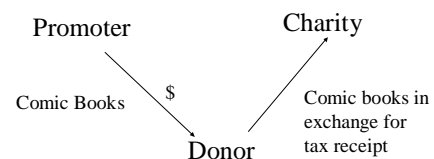
## New Policy on Charities that Promote Racial Harmony

- n The beneficiaries of such a charity are those people in the **community-at-large**
- n Such a charity must be focused on benefiting the community-at-large rather than narrower interests.

## Other Forthcoming Policies

- n ...on the promotion of sport as a charitable purpose
- n ...on the need to meet a public-benefit test to qualify as a charity
- n ...on the decision-making process within CCRA

## A Brief Comment on Tax Shelters and Overvaluation Schemes



## Overvaluation Schemes

### <sup>n</sup> Main Techniques

- a) Buy low/donate high
- b) Donor receives at FMV
- c) Cash and debt to charity

§ PLEASE BE WARY OF THESE SCHEMES

## Which Way Is the Wind Blowing?

### <sup>n</sup> Some service improvements already:

- Re-designed CCRA web-site
- Short-term compliance initiatives (spec. with regard to deceptive fund-raising)
- New policies and guidelines to fill in gaps in regulation
- Simplified reporting

## Which Way Is the Wind Blowing? (2)

### <sup>n</sup> Service improvements to come:

- Increases in transparency
- Increases in educational activities
- Increased partnerships in training
- Compliance capacity building
- Charities Advisory Committee
- Annual report

## Which Way Is the Wind Blowing? (3)

### <sup>n</sup> Service improvements to come:

- CCRA audit and enforcement programme:
  - ⌘ A continuum of interventions
- Appeals
  - ⌘ Quick, inexpensive and impartial internal reconsideration
  - ⌘ Bifurcated system of appeals with some going to the Tax Court
- Leadership role