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CHURCH & the LAW SEMINAR

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

(Power Point Presentation)

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Outline

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

Charities Going Against Government Policy

- 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

- 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

- 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

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

New Policy on Charities that Promote Racial Harmony

- The beneficiaries of such a charity are those people in the community-at-large.

- Such a charity must be focused on benefiting the community-at-large rather than narrower interests.

Other Forthcoming Policies

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

A Brief Comment on Tax Shelters and Overvaluation Schemes

Promoter

$ Comic Books

Donor

Charity

Comic books in exchange for tax receipt
Overvaluation Schemes

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?

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)

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)

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