

**Pitfalls & Penance**  
**Compliance & the CRA**

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**Overview**

The mandate of the Charities Directorate is to enhance compliance with provisions of the legislation (ITA) administered by the Canada Revenue Agency (CRA) and to encourage and assist charities to comply with the requirements of the legislation through a balanced program of education, service and responsible enforcement.

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**Modernizing Regulation**

- Elements of a modern regulatory system
  - Improved service to enhance transparency and accessibility of information about charity practices and regulatory decision-making
  - Introduction of an enforcement continuum to fully support voluntary compliance through client-centred service, while identifying and forcefully responding to practices that break the public trust
  - Modern system of reconsideration to ensure fair and impartial review of regulatory decisions
  - Enhanced focus on partnership and co-operation to promote public confidence in the role of charities in Canadian society

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## The Income Tax Act and Charities

Basic requirements of registration:

- Be established and operated for charitable purposes
- Operate on a non-profit basis – and not for private gain
- Devote sufficient resources to your own charitable activities or by making gifts to “Qualified Donees”

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## Common Non-Compliance Issues (And Suggestions)

### 1. Non-charitable purposes/activities

- Consult the CRA before modifying programs

### 2. Gifts to non-qualified donees

- Control the use of your charity's money. When in doubt, call us.

### 3. Official receipts

- How much and what for?

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## Common Non-Compliance Issues (And Suggestions)

### 4. Political activities

- Fulfil your mandate, but observe the limits. Avoid partisan politics.

### 5. File your Return

- Complete, Accurate and on Time

- Many compliance issues can be avoided by being diligent at the “front end”

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## Why Us? (The CRA is popping by for tea)

### Audit Selection -Triggers:

- T3010 Information (we do look)
  - Third party information/complaints/media (How you present yourself)
  - Areas of concern (Audit Focus)
  - Audit of a related organization
  - Random Selection
- CRA will contact asking for mutually convenient time to start the audit

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## Compliance Approach (The sky isn't falling)

### Our approach:

- First and foremost, facilitating voluntary compliance
- Assisting clients to comply whenever possible
- Enforcing compliance where necessary
- Audit program is primary means of assessing, monitoring and enforcing compliance.

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## Audits Process and Expectations

- We encourage mutual co-operation throughout the course of an audit
- We will inspect the charity's books and records
- We will also inspect the charity's activities – which may involve a tour of the premises
- We analyse the information obtained
- We provide results of analysis
- Charity is given an opportunity to respond

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## Compliance Tools (Scalpels and Hammers)

General approach for audit program:

- Education
- Compliance Agreements
- Sanctions
- Revocation of Charity's Registration

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## Education – Before and After

- It is a Directorate priority to educate charities as a means of improving compliance.
- Education through seminars, posting written advice on website, and offering advice during an audit.
- Education is also primary goal of an audit. An audit may result in an "education letter" which explains the rules to a charity but does not otherwise adversely affect charity's registration.

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## Compliance Agreements

An audit may result in a compliance agreement depending on the issues identified during the audit. For instance an agreement would be the likely tool where a charity:

- Was unaware of legal requirements
- Thought it was meeting the requirement, but made an error in calculation or interpretation of the law.
- Lacked adequate internal control mechanisms to ensure policies implemented by staff

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## Compliance Agreement (Process)

Negotiated between the registered charity and CRA

The agreement will:

- Outline non-compliance issues and remedial actions that the charity has agreed to undertake to come onside
- Include paragraph outlining which sanctions would otherwise apply (if agreement fails)
- Requires signature of a representative from the charity and from the Directorate
- Set out the timeframe for charity to make necessary changes as outlined in agreement

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## After the Agreement

- There is a compulsory review, which depending on nature and seriousness of issues, may result in one of:
  - Office audit
  - Review by audit advisor
  - Follow-up by on-site audit

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## Sanctions

- Graduated educative approach
- (1) education letter, and/or (2) Compliance Agreement may have already been implemented
- We anticipate penalties and/or suspensions levied in cases where an agreement could not be reached or where agreement was breached. Or where (1) and (2) were not appropriate
- May be applied directly in cases of serious non compliance

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## Application of Sanctions

In those cases where sanctions will be applied:

- A sanction assessment letter is prepared by auditor
- The letter will outline alternative process for making payment to eligible donee
- There will also be information on the appeals process

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## Revocation

- When all other compliance methods fail to achieve the desired results the final tool available to the Directorate is revocation
- While generally only used as a last resort, the law does allow us to use revocation earlier, where appropriate to the circumstances.

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## Staying On-side

- Diligence up-front – know the rules and requirements
- When in doubt, contact us – by phone, letter or web-site
- Treat compliance issues seriously – Education is our first approach, but not our last
- File your T3010

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## Reference Material

- Registered Charities and the Income Tax Act  
English version  
<http://www.cra-arc.gc.ca/E/pub/tq/rc4108/rc4108eq.html>  
French version  
<http://www.cra-arc.gc.ca/F/pub/tq/rc4108/rc4108fq.html>
- Auditing Charities pamphlet  
English version  
<http://www.cra-arc.gc.ca/E/pub/tq/t4118/t4118-e.pdf>  
French version  
<http://www.cra-arc.gc.ca/F/pub/tq/t4118/t4118-f.pdf>

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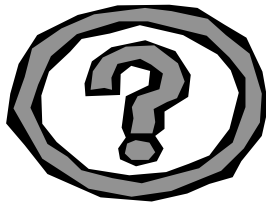
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