
20TH ANNUAL CHURCH AND CHARITY LAW SEMINAR

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The Regulator's Perspective: Steering Clear of Compliance Concerns

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**The Regulator's Perspective:
Steering Clear of Compliance Concerns**

Church and Charity Law Seminar
November 14, 2013

Seminar Outline

1. Understanding the Regulator
2. Our Approach to Compliance
3. Common Compliance Issues
4. Steering Clear of Compliance Concerns

2

**Understanding the Regulator
- Legal framework**

- Two sources of law:
 1. Income Tax Act - outlines requirements and obligations of charitable registration
 2. Court decisions - determines what purposes and activities are charitable
- Canada Revenue Agency's interpretation of the law expressed through policy guidance

3

Understanding the Regulator - Broad stakeholder interests

- Charitable sector
 - Diverse range of entities
- Public
 - Donors, taxpayers/Canadians
- Professionals/ Intermediaries
 - Lawyers, accountants, fundraisers

4

Our Approach to Compliance - Compliance continuum

- Facilitating voluntary compliance
 - Education - website, guidance products, webinars
 - Client services, including telephone support
- Assisting compliance
 - Application review and advice
 - Annual information return follow-up
- Enforcing compliance
 - Field audits and litigation (outcomes - education letters, compliance agreements, sanctions, revocation)

5

Our Approach to Compliance - Charities audit program

- Audit Program
 - Approximately 1% of charities audited each year
- Types of Audits
 - Office Audits - conducted out of headquarters
 - Field Audits - conducted at the charity's premises

6

Our Approach to Compliance

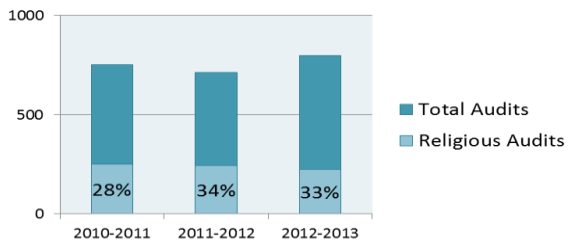
- How are charities selected for audit?

- Random audits
- High risk files
- Audit projects to review specific issues or concerns
- Compliance agreement follow-ups
- Exploratory audits

7

Our Approach to Compliance

Religious charities selected for audit

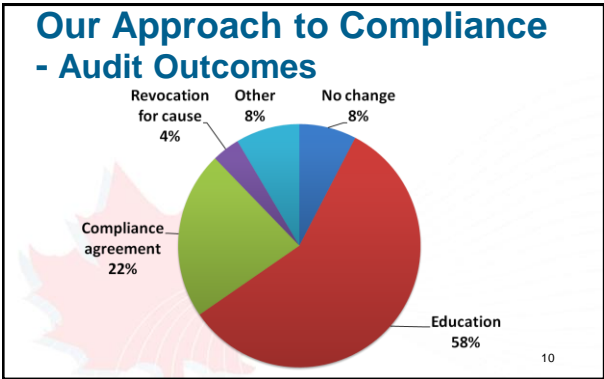


Our Approach to Compliance

- Educate first

- Provide opportunity to correct compliance issue
- Consider whether non-compliance is intentional or unintentional
- Utilize compliance agreements
- Apply sanctions or revocation where warranted

9



- ### Common Compliance Issues - Receipting issues
- Improper receipts - important elements missing;
 - Receipting for services - not permitted;
 - Not properly establishing fair market value;
 - Inadequate books and records to verify receipts, revenue and expenditures
- 11

- ### Common Compliance Issues - Religious tuition fees
- Schools that are registered charities may issue receipts for religious tuition fees if they:
 - Teach religion exclusively; or
 - Operate in a dual secular/religious capacity
 - Receipts may be issued for the religious portion of tuition fees
 - See IC 75-23 for more information
- 12

Common Compliance Issues - Gifts to non-qualified donees

- Registered charities may only use their resources in two ways:
 - By carrying on their own charitable programs; or
 - By making gifts to **qualified donees**
- Gifting to non-qualified donees is a serious issue

13

Common Compliance Issues - Direction and control

- A charity that operates through an intermediary must maintain **direction and control** over its resources
- A properly structured agreement helps demonstrate direction and control
- Even when agreement exists, charities sometimes fail to properly implement and monitor

14

Common Compliance Issues - Political activities

- Charities cannot have political purposes
- A charity may carry out a limited amount of political activity provided they are:
 - Connected to the charity's purpose
 - Subordinate to the charitable purpose
 - Non-partisan in nature

15

Steering Clear of Compliance Concerns

- Establish internal controls and policies for receipting and expenditures
- Ensure direction and control by:
 - Written agreements
 - Monitoring and supervising
 - Clear and complete instructions
 - Separation of funds

16

Steering Clear of Compliance Concerns

- Client service
 - Call centre, written enquiries
- Website
 - Guidance products, information on operating a registered charity
- Sector outreach
 - Information sessions, webinars, electronic updates and newsletters

17

Thank you!

Client Services - General Inquiries
1-800-267-2384

Charities Information on the Web:
www.cra.gc.ca/charities

Charities Electronic Mailing List:
To connect, go to our Website main page,
bottom right, and click on "Email list sign-up"

18
