

---

# 21<sup>ST</sup> ANNUAL CHURCH & CHARITY LAW SEMINAR

Mississauga – November 13, 2014

---

## CRA Perspective on the Operations of Religious Charities

---

By Cathy Hawara, LL.B.

[www.cra.gc.ca/charities](http://www.cra.gc.ca/charities)  
1-800-267-2384


© 2014 Carters Professional Corporation

**CARTERS**

Carters Professional Corporation / Société professionnelle Carters  
Barristers · Solicitors · Trade-mark Agents / Avocats et agents de marques de commerce  
[www.carters.ca](http://www.carters.ca)   [www.charitylaw.ca](http://www.charitylaw.ca)   [www.antiterrorismlaw.ca](http://www.antiterrorismlaw.ca)

Toronto · Ottawa  
Mississauga · Orangeville  
Toll Free: 1-877-942-0001

---



**CRA's Perspective on the Operations of Religious Charities**  
 Church and Charity Law Seminar  
 November 13, 2014

Canada Revenue Agency / Agence du revenu du Canada **Canada**

---

---

---

---

---

---

---

---

**Outline of Today's Presentation**

- General requirements related to a religious charity
- Funding foreign head bodies
- Conducting activities outside Canada – capital projects
- T3010 reporting issues: recent observations




---

---

---

---

---

---

---

---

**General Requirements to Operate a Religious Charity**

- The CRA makes decisions relating to eligibility for registration as a charity based on the requirements of the *Income Tax Act* and relevant court decisions (common law).
- If an organization wishes to register a charity to advance religion, its stated purpose should clearly indicate:
  - The particular religion it is advancing
  - The means of advancing that religion
  - The intended beneficiaries

3

---

---

---

---

---

---

---

---

**Key Attributes of Religion**

In order to be considered a religion at common law, an organization must typically demonstrate **three** key attributes:

- Faith in a higher unseen power
- Worship/reverence
- Comprehensive system of doctrines/observances



4

---

---

---

---

---

---

---

---

**Advancement of Religion**

- Involves manifesting, promoting, sustaining and increasing belief in its **three** key attributes
- Charities that advance religion can carry on a wide variety of activities
- There must be a clear connection between a charity's activities and the religion's key attributes

5

---

---

---

---

---

---

---

---

**Activities that advance religion could include:**

- Establishing and operating a place of worship
- Religious education
- Preparing and distributing worship resources
- Various forms of ministry
- Religious cemeteries
- Religious communications, broadcasting
- Religious arts (for example, theatre, music, art)
- Organizing and leading pilgrimages to holy sites and sacred places of remembrance
- Religious camps
- Performing marriage and funeral rites

6

---

---

---

---

---

---

---

---

**Religious Camps**

- In order for religious camps to advance religion in the charitable sense:
  - There needs to be a sufficient religious component to the programs to establish that the camps exist for the purpose of advancing religion.
  - Religious camps cannot devote an excessive amount of resources to non-charitable activities, such as sports or other recreational or social activities that do not directly advance religion.

7

---

---

---

---

---

---

---

---

**Performing Religious Rites  
(same-sex marriage legislation)**

- In 2005, the *Income Tax Act* was amended to include a provision to ensure that religious charities that do not perform same-sex marriages could retain their charitable registration.
- If a charity has been established with purposes that advance religion as well as other purposes (for example, to relieve poverty), and the CRA has coded the charity under the relief of poverty heading rather than the advancement of religion, the protection would still apply.

8

---

---

---

---

---

---

---

---

**Advancing Religion through Activities that  
may Appear to be "Secular"**

- Feeding the poor
- Caring for the sick
- Providing aid to the homeless
- Other humanitarian work or outreach activities

9

---

---

---

---

---

---

---

---

**Advancing Religion through Activities that may Appear to be “Secular” (cont’d)**

If a charity wants to conduct seemingly “secular” activities to further a purpose that advances religion, it must show that:

- The activities are clearly and materially connected to the doctrines of its religion;
- The activities are a reasonable means of advancing that doctrine;
- The activities are being undertaken as a component of the advancement of the religion as a whole; and
- The public is able to make the link between the activity and the religion being advanced.

10

---



---



---



---



---



---



---

**Private Benefit**

- Private benefit is allowed only to the extent that it is incidental to the broader public benefit inherent in advancing religion
- This means that any private benefit must be necessary, reasonable, and proportionate to the resulting public benefit

11

---



---



---



---



---



---



---

**Private Benefit (cont’d)**

**Examples of expenses that may give rise to compliance concerns:**

- Salaries that exceed fair market value
- Use of charitable property for personal purposes (i.e. payments for personal expenses)
- Travel unrelated to furthering charitable purposes
- Promotion of books, videos and other media written or created by the staff or religious leader, over and above what is needed to achieve the charitable purposes of the organization

12

---



---



---



---



---



---



---

**Funding Foreign Head Bodies**

- A charity may not simply gift funds to a non-qualified donee, even if that non-qualified donee is the charity's head body
- However, it is acceptable for a charity to purchase goods and services from the head body or pay for services rendered on its behalf

13

---

---

---

---

---

---

---

**Funding Foreign Head Bodies (cont'd)**

A head body might provide a Canadian charity with any of the following resources/services:

- Training
- Accounting services
- Religious material for distribution
- Use of a name, trademark, or copyright material

14

---

---

---

---

---

---

---

**Conducting Activities Outside Canada - Capital Projects**

**Examples:**

- Building hospitals or schools
- Constructing housing projects



15

---

---

---

---

---

---

---

**Transferring Ownership of Property to a Non-Qualified Donee**

**When is it Acceptable?**

- The country in which the charity is operating does not permit foreign ownership of capital property; or
- The capital property is transferred only as part of a development project to relieve poverty by helping a community to become self-sufficient; or
- The charity can show that it has made every reasonable effort to gift the capital property to another qualified donee, and has made an effort to sell the capital property for its fair market value, but has not been successful.

16

---

---

---

---

---

---

---

---

**T3010 Reporting Issues  
Recent Observations**

- Making Gifts to Qualified-Donees – **Lines 2000 and 5050**
- Reporting Political Activities – **Lines 2400 and 5030**

17

---

---

---

---

---

---

---

---

**T3010 Reporting Issues  
Recent Observations - Qualified Donees**

**Line 2000** – Did the charity make gifts or transfer funds to qualified donees or other organizations?

➤ Many religious organizations responded “yes”

**Line 5050** – Total amounts gifted to qualified donees

➤ Many that answered “yes” on line 2000 left this field blank

18

---

---

---

---

---

---

---

---

**T3010 Reporting Issues  
Recent Observations – Political Activities**

**Line 2400** – A high proportion of religious charities reported that they did not carry out political activities

**Line 5030** – A large number of religious charities that responded “no” on line 2400, reported spending funds on political activities

19

---

---

---

---

---

---

---

---

**Reminder: New Reporting Requirements -  
Budget 2012**

**Line 2400** – A charity must report political activities, including funds transferred to other charities or qualified donees that were intended for political activities

If a charity carried on any political activities during the year, it must complete Schedule 7

**Line 5030** – Report total expenditures on political activities, inside or outside Canada

20

---

---

---

---

---

---

---

---

**Reminder: New Reporting Requirements  
- Budget 2012 (cont'd)**

Any amounts received from outside Canada that were directed to be spent on political activities must be reported on **lines 5032**, and the charity must complete **Table 3 of Schedule 7**, to report:

- The political activity the funds were intended to support
- The amount received from each foreign country
- The corresponding country code

21

---

---

---

---

---

---

---

---



**Political Activities Rules**

Political Activities:

- Must further an organization's charitable purpose
- Must be non-partisan
- Must be incidental to the charity's purposes

22

---



---



---



---



---



---



---

**Political Activities**

**Definition:**

Are activities that try to retain, change, or oppose a law or policy in Canada or any other countries

**Examples:**

- Letter writing campaigns;
- Petitions;
- Rallies or protest marches; and
- Publishing material calling for changes to policy or laws



23

---



---



---



---



---



---



---

**Political Activities (cont'd)**

Resources for charities about political activities

Guidance CPS-022, *Political Activities*

24

---



---



---



---



---



---



---

**T3010 Common Errors**

- Incomplete or incorrect information
  - Reporting
    - Revenues/Expenditures – Totals must add up
    - Inputting/omission errors – Be careful of the numbers keyed
  - Financial information
    - Fill out Section D or Schedule 6, not both
    - Include accurate financial statements
- Insufficient documentation
  - Maintain adequate books and records
- Timeliness
  - File early or on time

25

---

---

---

---

---

---

---

**Thank you!**

Client Services – general inquiries  
**1-800-267-2384**

Charities Information on the Web  
**[www.cra.gc.ca/charities](http://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**

---

---

---

---

---

---

---