22ND ANNUAL CHURCH & CHARITY LAW SEMINAR

Mississauga – November 12, 2015

Mysteries of the T3010: Focus on Special Issues

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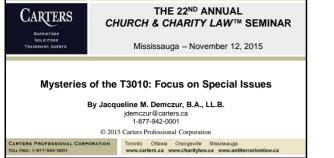
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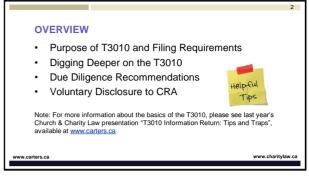
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A. PURPOSE OF T3010 AND FILING REQUIREMENTS
1. Purpose of T3010
Under *Income Tax Act* ("ITA"), all registered charities must file annual information return, of which the T3010 is the key document
T3010 has two main purposes:

Provide information to the public/donors, i.e. it is largely a public document through CRA's database
Ensure compliance with the ITA and CRA's policies, eq. gifts to non-qualified donees ("QDs"), foreign

activities, fundraising ratio, etc.

2. Filing Requirements

- Must file the Return no later than six months after end of fiscal period or risk revocation
- Suspension of receipting privileges also possible if fail to provide all of the required information, with suspension to continue until missing information provided
- Failure to fail T3010 is the most common reason that charities lose charitable status
- CRA will usually give a charity a chance to file late but only a very small "window"

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Failure to file T3010 or filing an incomplete one within seven months of deadline will normally result in CRA commencing revocation process
Having to re-register as a charity should be avoided if at

all possible, i.e. it is a brand new application, a charity's "old" objects will be viewed with 2015 "lenses", with no guarantee of re-registration

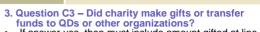
CRA can apply a \$500 late-filing penalty, which usually occurs as registration is revoked

 Upon revocation, a charity is no longer exempt from tax, cannot issue donation receipts and has to transfer property to "eligible donee" within one year period B. DIGGING DEEPER ON THE T3010
 Question A1 - Was charity in a subordinate position to a parent organization?
 CRA Guidance says answer "yes" if the charity is an internal branch/division of another charity or has

governing document determined by another organization
Charities often confused by this question and answer "yes" even when they are independent charities with own governing documents, i.e. given affiliation with a denomination, larger ministry, etc.

- Answering "yes" will be potential issue where "parent" a non-qualified donee ("QD")
- CRA-approved "association" with another charity is not subordination for purposes of this question

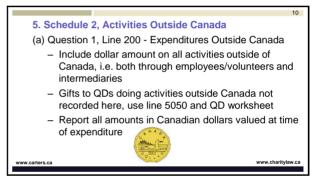
- Section C. Question C2 Describe all ongoing and 2 new programs the charity carried on in the fiscal
- period Programs include ones by employees and volunteers, as well as QDs and intermediaries
- Good time for Board to review programs vis a vis the charity's objects/purposes set out in letters patent or articles. with any "disconnect" fixed by updating the objects/purposes or ceasing any program(s) not authorized by the objects
- Object changes must be done in compliance with governing legislation as well as charity's own governing documents Will need CRA approval for new objects/purposes, but not
- new programs if they fall within existing objects Co-ordinate objects with their description in financial statements

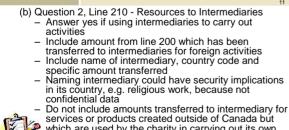


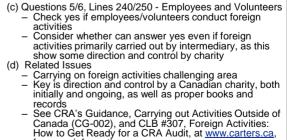
- If answer yes, then must include amount gifted at line 5050, complete Form 1236, QD Worksheet and ensure amounts at lines 4920, 4950 and 5050 accurately reflect the gifts
- Need to ensure that in completing QD worksheet that all organizations listed are, in fact, QDs, using CRA charities database
- As gifts to non-QDs are offside ITA, better course is to check QD status before making gifts
- Where problem detected, then charity should consider obtaining legal advice and possibly making voluntary disclosure to CRA

4. Question C4 – Carrying on, funding or providing resources for any activity outside Canada

- Broadly worded question which encompasses: Activities by charity's employees/volunteers
- O Activities through intermediaries (which are agents, contractors, etc. but not QDs)
- Requirement to provide resources to either of them for activities outside Canada
- If answer ves, must complete Schedule 2, Activities Outside Canada
- Unclear how to deal with situation where a charity funds a non-QD for activity in Canada







which are used by the charity in carrying out its own programs in Canada, although other tax issues may arise, e.g. HST

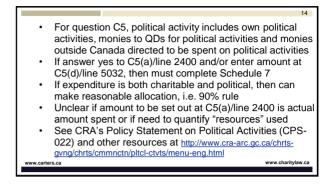
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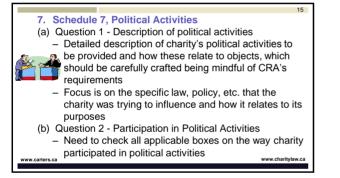
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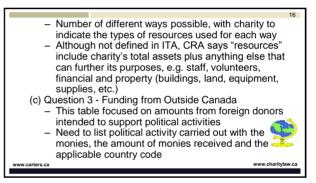
6. Question C5 – Political Activities

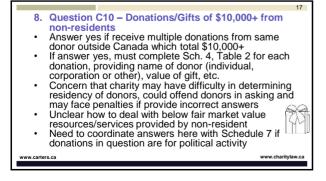
- Particular area of focus by CRA over last few years
- While basis rules regarding political activities have not significantly changed, charities engaged in political activities may be more vulnerable to audit
- Political activities undertaken by a charity fall into one of three categories
 - Charitable activities (e.g. advocacy)
 - Political activities (limited to 10% of resources)
 - Prohibited partisan activities
- Undertake political activities with caution!

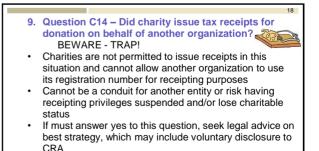
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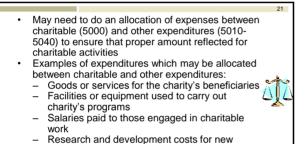
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- 10. Section D/Schedule 6 Financial Information
- Complete one or the other, not both
- Use Sch. 6 if gross revenue over \$100,000, if property not used in charitable activities/admin is \$25,000 or if charity does not have permission to accumulate property
 (a) Revenue
 - Addresses assets and liabilities of the charity, as well as its revenue, during fiscal period in question
 - Used information in financial statements to complete T3010, although complete transfer of numbers may not be possible
 - Certain line amounts are used to calculate the fundraising ratio

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- (b) Expenditures
 - Correctly transfer data from financial statements, which may need to be grouped differently in Schedule 6
 - All expenses first reported on lines 4800 to 4920
 Then must re-categorize them as either: charitable
 - activities (line 5000), admin (5010), fundraising (5020), political (5030) or other (5040)
 - Key is highest amount in line 5000 (charitable)
 - High amounts on lines 5010-5040 will raise flags



 Research and development costs for program(s)

(c) Fundraising Ratio Charities must report fundraising expenditures on T3010 Calculate charity's fundraising ratio and determine if onside of CG-013, *Fundraising by Registered Charities* Done by adding up lines 4500 (tax receipted gifts) and 4630 (non-tax receipted fundraising) and then dividing total by line 5020 (total fundraising expenditures) Ratio under 35% unlikely to raise questions by CRA If over 35%, see if any portion of line 4530 can be moved into line 4630 to lower ratio

- Another possibility may be adding sponsorship monies and income from cause related campaigns to line 4630
- Be sure to include <u>gross</u> fundraising revenue on line 4630, not net fundraising revenue after expenses
- Re-check allocation of fundraising expenditures to see if any can be explained and justified as charitable, admin or political activities
- Be aware of public nature of these amounts and possibility of bad press
- Consider possible voluntary disclosure to CRA if ratio
 particularly high but there is game plan to reduce it

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11. Section E - Certification

- Who may sign Section E of the T3010?
 Must be:
 - Director/trustee of the charity (needs to coordinate with names on last Directors Worksheet (form T1235) filed with T3010) or
 - Like official who has authority to sign on behalf of the charity (through applicable CRA Authorization form)
 - Signatory must certify the accuracy of the return
 - Serious offence under the ITA to provide false or

deceptive information

C. DUE DILIGENCE RECOMMENDATIONS

- 1.
- Preparation, Review and Approval of T3010 Do not leave completing T3010 until last minute and, once
- prepared, check accuracy and completeness Seek professional review of the draft T3010
- Board should review and, if satisfactory, approve T3010 at same time as financial statements
- Concern is the public nature of the T3010 (i.e. could go viral if problem identified) and its use as compliance tool by CRA (i.e. T3010 information will be used by CRA auditors in the future)
- Where Board aware of T3010 issue, then pro-active steps can be taken, e.g. legal advice, voluntary disclosure to CRA, public relations plan

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File all applicable schedules and forms with T3010 Also file financial statements with T3010 Should consist of balance sheet income statement and prepared notes at minimum Should accurately show different sources of revenue and the expenditures CRA recommends financial statements should be professionally audited if over \$250,000 However, if incorporated, then incorporating statute will have mandatory requirements for when audits must be performed

- Keep copies of entire return for your records
- Future electronic filing of T3010? Status update
- Consider reviewing past T3010s for potential errors based on issues raised in this presentation
- Where information in past T3010s needs to be corrected, then do so using the Registered Charity Adjustment Request (Form 1240) and file it with CRA
- Depending on issues identified in T3010, there may also be a need for the charity to make a voluntary disclosure to CRA

D. VOLUNTARY DISCLOSURE TO CRA

- CRA encourages charities to approach it to discuss noncompliance, with the objective on CRA's part to work with charities to resolve difficulties and get them "back on track'
- Process by which a charity takes the "initiative" and discloses any identified non-compliance to CRA, i.e. before it is found by CRA during an audit or other investigation
- Can be initiated first by a charity on a "no-name" basis, which can thereafter be followed by written disclosure

