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# **THE OTTAWA REGION CHARITY LAW SEMINAR**

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## **CRA Guidelines on Advancement of Religion as a Charitable Purpose**

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**By Neil Cochrane, Manager**  
Strategic and Legislative Policy Section  
Charities Directorate, Canada Revenue Agency




**Carters Professional Corporation / Société professionnelle Carters**  
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Ottawa (613) 235-4774  
Mississauga (905) 306-2791  
Orangeville (519) 942-0001

**Toll Free: 1-877-942-0001**

**www.charitylaw.ca** 








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By: Neil Cochrane – Strategic & Legislative Policy Section – Charities Directorate

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 Canada Revenue Agency  Agence du revenu du Canada 

## INTRODUCTION

- CRA preparing guidelines to clarify the legal and administrative requirements for registration under the advancement of religion head of charity
- Guidelines intended to further transparency and consistency and be a useful reference point for:
  - Applicant organizations
  - Charities seeking to maintain registration
  - CRA officials reviewing applications for charitable registration and operations of existing registered religious charities

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## ELEMENTS OF GUIDELINES

- General Requirements for Charitable Registration
- General Principles Relating to the Advancement of Religion
- Definition of Religion
- Meaning of “Advancement”
- Examples of Advancement of Religion
- Public Benefit
- Private Benefit
- Other Belief Systems

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## General Requirements for Registration

- Exclusively religious purposes; activities must be directed to furtherance of religious purposes
- Public benefit; private benefit must be incidental and reasonable
- Political purposes are prohibited; partisan political activity prohibited
- Non-partisan political activities allowed within limits
- Illegal activities prohibited as are those contrary to public policy
- Prohibition on funding or otherwise facilitating terrorism
- Maintain control and direction of resources (foreign activities)

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### **General Principles Relating to Advancement of Religion**

- Not everything done in the name of religion necessarily advances religion within the meaning of charity law
- The purpose must actually advance a religion and be for the benefit of the public
- CRA assesses the nature of beliefs but not their truth, value or worth
- Once it is decided that the purposes are of a religious nature, no distinction is drawn between one religion and another

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### **Definition of Religion**

- No precise definition of religion in the case law
- Case law does, however, identify three key attributes of religion:
  - Faith in a “higher unseen power”, such as God, a Supreme Being or Entity, that exists outside our bodies and lives
  - Worship
  - Comprehensive or particular system of doctrines, observances and practices

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### **Worship**

- Worship expresses belief in God, the Supreme Being or Entity by reverence or veneration
- According to the common law, it includes at least some of the following characteristics: “submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer or intercession”
- The concept is broad enough to include a range of religious observances and practices such as ceremonies, rituals, rites or practices directed or inspired by God, the Supreme Being or Entity

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### **Examples of Worship/Reverence**

- Regular services
- Chants, songs, hymns
- Prayers, petitions, meditation, reflection, contemplation
- Symbols, offering of flowers or incense
- Homilies, sermons
- Reading from or study of sacred texts
- Dramatic presentations
- Liturgical dance
- Rites of passage
- Respectful gestures – bowing, kneeling, prostration
- Recitation of creeds, statements of faith
- Some would also include service of others

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### Particular or Comprehensive System of Faith

- The cases suggest the need for established doctrine, practice and observances
- The components of a particular or comprehensive system of faith
  - Canons of belief, creeds, statements of faith,
  - Moral codes, normative codes, codes of behaviour
  - Sacred texts, official teachings, commentaries
  - Forms of worship, ritual, regular services or celebrations
  - A form of clergy, ministerial, religious leadership
  - Community or collective identity

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### “Advancement” of Religion

- Advancement involves promoting and manifesting doctrines, observances, and practices
- It involves both sustaining and increasing religious belief
- Advancement is not limited to faith and worship but may be done in a wide variety of ways that further a religious purpose
- A religion must be advanced. The key attributes of religion must to some degree be manifest in the organization

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### Indicia that a religion is being advanced

- Indicia of faith and practice include at least some of the following:
  - Clear religious objects in the governing documents
  - Statements of faith; codes of behavior
  - Links to other religious organizations
  - Leaving assets to another faith-based organization on dissolution
  - Structure of the organization (members, directors, staff)
  - Elements of worship incorporated into activities
  - Faith-based resources, publications
  - Public mission and value statements that express religious beliefs on website and/or official letterhead

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### Advancement of Religion

- Advancing religion through separate organizations
  - Focus on different pastoral issues (e.g. the homeless) or demographics (e.g. youth ministry)
  - Stewardship/liability reasons
  - Indicia of faith and practice must be present
- Focus on one or two tenets of religion
  - May be done but the more narrow the focus the greater the scrutiny of the connection between the activities and stated religious purpose
  - Single issue sometimes conflated with single tenet
  - Indicia of faith and practice must be present

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## **Advancement of Religion**

### ▪ **Ulterior Aims**

- A religion is not advanced if the religious purposes are unstated or unconnected to the stated purpose in the founding documents
- The fact that an activity may be undertaken for religious purposes and separately for non-religious purposes does not mean that it necessarily loses its religious character. The applicant or charity would, however, have to establish that the activity is genuinely pursued in furtherance of a stated religious purpose.

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## **Advancement of Religion**

### ▪ **Collateral Purpose**

- When an activity is or becomes a substantial focus, it may indicate that the charity has adopted an unstated non-charitable collateral purpose
- The activity becomes an end in itself rather than a means to an end

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## **Examples of Ways Religion May be Advanced**

- Houses of worship
- Religious cemeteries
- Preaching, proselytising, evangelizing
- Religious communications, broadcasting
- Religious arts (e.g. theatre, music, art)
- Religious education, study of sacred texts

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## **Examples of Ways Religion May be Advanced (cont'd)**

- Religious seminaries
- Pastoral care of sick, elderly, prisoners, victims of violence, chaplaincy services
- Faith based service, outreach and support of the poor and vulnerable
- Ecumenical and Interfaith dialogues and activities
- Religious camps, retreats, pilgrimages

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## Examples of Religious Purposes/Objects

- To advance and teach the religious doctrines, observances and practices associated with the X faith by establishing, maintaining and supporting a house of worship
- To advance and teach the religious doctrines, observances and practices of the X faith by establishing and operating a camp which promotes the X faith
- To advance and promote the religious doctrines, observances and practices of the X faith that require outreach and support of the poor and vulnerable by establishing and operating a food bank and shelter for the homeless

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## Public Benefit

- Two components:
  - 1) identifiable benefit; and
  - 2) benefit to the public or section of the public
- Advancement of religion is a presumed benefit unless evidence rebuts the presumption
- Some reasons for the presumption
  - Religion provides a moral framework for living
  - Builds social capital and cohesion
  - Provides rites of passage, services to needy and vulnerable
  - Encourages service to others

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## Public Benefit

- Examples where benefit may be rebutted
  - Significant private benefit
  - Evidence that organization incited hatred or violence against other groups
  - Evidence of actual physical or mental harm to adherents
- Simple disagreement with or unpopularity of a religion's beliefs or practices would not be enough to rebut the presumption of public benefit

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## Public Benefit

- Celebration of a religious rite in public confers sufficient public benefit
- Where access is restricted to members, indirect benefit flows from adherents practicing their religion in the wider world
- Religious orders can provide criteria for membership
- Fees for services should not restrict access

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## **Private Benefit**

- Private benefit is acceptable only if it arises directly through pursuit of the charitable purpose, is incidental to the pursuit of that purpose, and is reasonable in the circumstances
- Does not include benefits people receive as adherents (e.g. worship services, incidental social activities)
- Understood that salaries need to be paid
- Questionable benefits: generous salaries, luxurious living expenses, travel, self promotion of leader
- Needs of retired religious leaders or members of religious orders is a charitable purpose

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**Thank You**

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