
THE OTTAWA REGION Charity & Not-for-Profit Law Seminar

Ottawa – February 18, 2010

CRA Update, including “What to Do if Your Charity Is Offside”

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**Canada Revenue Agency:
Charities Directorate Update**
Cathy Hawara, Director General

Charity & Not-for-Profit Law Seminar – February 18, 2010

Today's Presentation

- What is the role of the Charities Directorate?
- Review of recent developments:
 - Disbursement Quota (DQ)
 - Revised Annual Information Return -T3010B
 - New guidance posted on Web site
 - Enhanced service
 - Web site enhancements
 - Compliance activity
 - SARC progress
- Going offside – four common mistakes
- What is upcoming for 2010?

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What is the role of the Charities Directorate?

- The Charities Directorate is the section of the Canada Revenue Agency responsible for the administration of provisions of the Income Tax Act relating to registered charities.
- What we do:
 - Educate through a variety of means, including charities information sessions, publications and our Web site
 - Process applications for registered charity status
 - Monitor annual information returns
 - Ensure compliance through audits and, where necessary, apply sanctions
 - Educate the public on donating wisely to charities through direct mail and Web site information

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Review of 2008-2009: What's new with the Disbursement Quota?

- 3.5% of property not used in charitable activities or administration now applies to DQ calculation of all charities (for fiscal periods starting in 2009)
- However, all charities (including foundations) with less than \$25,000 of property not used in charitable activities or administration are not subject to 3.5% component of the DQ
- Charitable organizations should keep track of their investments, i.e. which are enduring property and which are not, and manage investments in order to meet this requirement.

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What is the T3010B?

- Revised annual information return with simplified core section, and separate schedules for:
 - Foreign activities
 - Revenues over \$100,000
 - Compensation of directors
- Intended to make filing easier for small charities
- Note that all charities filing for a fiscal period ending in 2009 must file the T3010B form – the older T3010A form will be rejected

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What new guidance has been released?

- New guidance in 2009:
 - Fundraising
 - Research
 - Sports
 - Human rights (draft)
 - Foreign activities (draft)
- Guidance currently under development:
 - Advancement of religion
 - Protection of the environment
 - Promotion of the arts
 - Alternative medicine

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Enhanced service

- In 2008-09, 4,585 applications for charitable status were resolved – a 25% increase in productivity over the previous two years.
- That pace has continued in the current fiscal year
- This resulted in a reduction of about 60% in the inventory of applications, from a peak last fiscal year of 3,223 to about 1,300 currently.
- The total inventory of written enquiries in our Client Service Section has been reduced by about 90%.

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Enhancements to our Web site

- Webinars introduced – interactive presentations similar to a Charities Information Session (Roadshow)
- Samples of a completed T3010B posted online for reference purposes
- Many forms are now available for download in a saveable PDF format

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Compliance activity

- Completed a total of 851 audits in fiscal year 2008-09
 - 48 charities were revoked “for cause” (this excludes charities revoked for failure to file the annual information return)
 - The majority of audits resulted in no change, or education or compliance agreements (about 89%)
- Continued to review and audit charities involved in tax shelters. Issued warnings to those involved and where necessary, revoked registration.

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What is the status of the CRA's review of tax shelters?

- Since 2007 the CRA has revoked 33 charities for participating in tax shelters.
- These charities were responsible for the issuance of between \$2 and \$3 billion of tax receipts.
- The CRA continues to audit tax shelters and post warnings about participating in tax shelters on its Web site.

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What SARC recommendations have been implemented?

- The Small and Rural Charities initiative has led to many changes:
 - SARC-specific Web pages, including updates on the progress in implementing the recommendations;
 - the development of a virtual resource manual for charities (maintaining charitable registration);
 - the development of a toolbox for directors, officers, and volunteers;
 - the publication of samples of a return, a financial statement, and worksheets; and
 - the posting of new web pages for the webinars and webcasts.
- \$3.1 million was announced in April 2009 to assist with education and information programs for small and rural charities.

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Four common mistakes charities make ... and what to do about them

- Some of the most common errors include:
 - Not meeting the disbursement quota requirement
 - Gifting to a non-qualified donee
 - Giving a receipt in exchange for a service
 - Carrying out non-charitable activities

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Mistake #1 – not meeting the disbursement quota (DQ)

- Many of the DQ issues that we see are due to reporting errors on the T3010.
- If a charity does not meet its DQ:
 - Verify numbers on the T3010
 - Use past disbursement excesses to offset any current shortfall
 - Carry forward the shortfall and spend more the following year
 - Consider special provisions in the Act that can help, such as permission to accumulate funds

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Not meeting the DQ (continued)

- After taking all possible preventative measures, if a charity still cannot meet its DQ for two or more consecutive years it should consider:
 - Changing procedures, policies or purposes
 - Developing a plan to meet the DQ and to make up for any past shortfalls

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Mistake #2 – gifting to non-qualified donees

- The Act only allows charities to gift money or other property to “qualified donees”.
- With the best intentions, charities sometimes make gifts to non-qualified donees, e.g. to a foreign charity doing good work, or a visiting pastor.
- However, this violates the Act, and the charity could be revoked. The charity should:
 - Take all reasonable steps to recover the money
 - Cease providing gifts to non-qualified donees
 - Review our documents on allowable activities for charities (checklists, foreign activity guidance, etc.)

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Mistake #3 – giving a receipt in exchange for a service

- Charities can only issue tax receipts when property is transferred to them, e.g. cash, a car, stocks, etc.
- If someone donates their skill, time, and effort, there is no actual transfer of property – no receipt may be issued.
- If a charity has issued a receipt for a service:
 - Advise the recipient of the error and cancel the receipt (fax details to your local Tax Services Office)
 - In the future, use cheque exchanges (pay for the service, service provider can then voluntarily donate the payment back and a receipt may be issued)

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Mistake #4 – carrying on a non-charitable activity

- Charities will sometimes add a new activity without consulting the Charities Directorate; the activity may not further a charitable purpose.
- Before undertaking a new activity:
 - Consider contacting the Charities Directorate to ensure the activity is charitable
 - Review the charity's formal purposes to confirm the activity falls within its mandate
 - Amend the charity's purposes, if necessary
- If an activity does not further a charitable purpose:
 - Stop carrying on the activity immediately
 - Take any appropriate, legal measures to recover funds spent or committed

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What if the Charities Directorate discovers a mistake?

- If the Charities Directorate discovers an honest mistake, the most common result is education.
- However, under the Act, the Charities Directorate can apply sanctions where it feels they are warranted, up to and including revocation of charitable status.
- As a rule, the Charities Directorate will take steps to ensure that the non-compliance does not reoccur.

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What are our current priorities in the Charities Directorate?

- The Charities Directorate's major priorities include continuing to reduce:
 - inventories of written inquiries
 - delays in resolving applications
- And continuing to:
 - implement the recommendations of the Small and Rural Charities initiative
 - take actions against charities wilfully engaging in abusive tax receipting practices

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What is upcoming for 2010?

- The Charities Directorate will take more active steps to ensure that charities provide financial statements with their annual T3010 information return.
- The Act requires charities to keep books and records of their financial information, and provide these documents to the Minister upon request.
- A charity's financial statements do not have to be prepared by an accountant or other professional, although larger charities will likely benefit from this service.

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What are the priorities for 2010-2011?

- We are currently developing our priorities for next year.
- We still;
 - need to focus on improving the level of service we provide to charities
 - need to work hard to prevent abusive tax receipting practices
 - need to consult and work more than ever with charities to ensure that we create the right regulatory environment

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Thank you.

Client Services – general inquiries
1-800-267-2384 (English)
1-888-892-5667 (bilingual)

Charities Information on the Web
WWW.CRA.GC.CA/CHARITIES

Charities Electronic Mailing List
To connect, follow the Outreach and
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