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

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What's New at the Charities Directorate

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What's New at the Charities Directorate
 Cathy Hawara, Director General, Charities Directorate
 Charity & Not-for-Profit Law Seminar – February 16, 2011

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

Today's presentation

- Auditor General's Report
- Changes to the Disbursement Quota (DQ)
- Charities Directorate's strategic direction
- Compliance update
- New guidance posted on web site and upcoming guidance consultation

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Auditor General's Report

- The objective of the audit was to determine whether the Canada Revenue Agency has processes designed to increase compliance with the charities provisions of the *Income Tax Act*.

"Canadians donate billions of dollars to Canada's 85,000 registered charities each year. We are pleased to note that the Agency is doing a good job administering the Income Tax Act as it relates to these charities."

Sheila Fraser
 Auditor General of Canada

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Scope of the Audit

- The Audit focused on three areas
 - Registered Charities – Review the activities that the Agency undertakes to register, monitor, and review registered charities;
 - Tax Shelter Gifting Arrangements – Examine how the Agency identifies, monitors, and reviews tax shelters that use the charities provisions of the Act; and
 - Communications – Review how the Agency communicates the obligations, under the Act, of registered charities and entitlements of their donors.

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Findings

- The application process for registration is thorough
- Many charities file their returns late, but most file once reminded
- Because of methodology, random audits may not produce reliable measures of compliance
- More detailed internal guidance is required on the application of sanctions
- The process for monitoring the disposition of a revoked charity's assets is informal
- CRA communicates well with charities and donors
- CRA has made progress in reducing taxpayers' participation in tax shelters and we should stay on top of this issue.

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What we will do

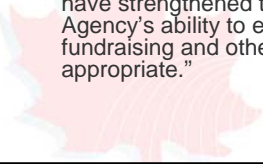
- Evaluate the current process for dealing with late-filed returns.
- Develop a revised random audit sampling plan.
- Continue to evaluate the effectiveness of our use of compliance agreements and assess our use of other compliance tools, such as intermediate sanctions.
- Provide further guidance on the application of sanctions and continue to make improvements to our processes.
- Implement a centralized process to monitor the disposition of assets upon revocation.

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The Amended DQ

- The federal Budget of March 2010 reformed the disbursement quota formula.
- The Budget repealed the “charitable expenditure rule”, removing the 80% spending requirement (the 3.5% spending requirement on investment property remains).
- The government indicated in the Budget that:

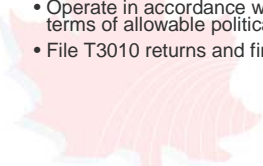
“recent legislative and administrative initiatives have strengthened the Canada Revenue Agency’s ability to ensure that a charity’s fundraising and other practices are appropriate.”



Regulating in a reformed DQ world

The fundamentals of charity law remain the same. Charities must still:

- Be constituted and operated exclusively for charitable purposes
- Carry out their own charitable activities and/or make gifts to qualified donees
- Act in the interest of public benefit and not confer inappropriate private benefit
- Operate in accordance with legislative parameters in terms of allowable political activities, etc.
- File T3010 returns and financial statements on time



Regulating in a reformed DQ world

- Will some charities now be more inclined to simply accumulate funds rather than expend them on charitable programs?
- The vast majority of charities seek to do good work with their resources, not invest for the sake of investing.
- The Budget also strengthened anti-avoidance measures in order to encourage expenditures on charitable activities. In addition to existing sanctions, the Act now provides for sanctioning of charities that make transfers simply to avoid or delay charitable expenditures.



Regulating in a reformed DQ world

- Filing implications
 - Form T3010 *Registered Charity Information Return* still required within 6 months of fiscal year end.
 - Budget changes affect completion of T3010 for fiscal years ending on or after March 4, 2010.
 - Charities with fiscal periods ending from **January 1, 2009, to March 3, 2010, inclusive** should use form T3010B (09).
 - Charities with fiscal periods ending **on or after March 4, 2010**, that have not already filed, should use form T3010-1.
- Charities must still allocate expenditures between their administrative, fundraising, and charitable activities on the T3010.

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Regulating in a reformed DQ world

- We are currently assessing what additional guidance might be required in order to:
 - clarify the reformed DQ regime
 - emphasize existing principles
- If you have questions or concerns related to the application of the DQ reforms, please send comments to:
Reforme_2010_Reform@cra-arc.gc.ca

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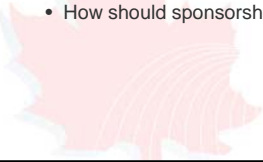
DQ changes and Fundraising

- The DQ calculation was and continues to be a separate consideration from fundraising.
- A charity must still avoid prohibited activities:
 - Fundraising cannot be a purpose
 - All private benefit must be appropriate
 - No deceptive or misleading fundraising
- Where a charity is using more of its resources for fundraising than for charitable programs, fundraising may be viewed as a collateral non-charitable purpose.

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Fundraising guidance implementation review

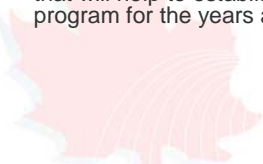
- Post-implementation review of Fundraising guidance has been initiated.
- Some external and internal feedback received; for example:
 - Are there circumstances in which a charity should not fundraise?
 - What happens to the fundraising ratio when a donor's gift arrives via a private foundation?
 - How should sponsorship revenue be reported?



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Charities Directorate's Strategic Directions Exercise

- The 2000 Voluntary Sector Initiative (VSI) set the strategic direction for the charities program over the last ten years.
- 69 of the VSI's 75 recommendations were accepted and implemented.
- We have now embarked on a strategic review that will help to establish the direction of the program for the years ahead.



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Strategic Directions – Questions

- We began by assessing the trends in the environment to look for opportunities, and to explore future possibilities:
 - What is the best way to carry out our core business?
 - How do we maximize the use of modern technology when delivering our programs?
 - How do we communicate most effectively with the charitable sector?



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Strategic Directions – Findings

- Growth of the sector
- Sector challenges:
 - Volunteerism
 - Funding
 - Increased demand for services

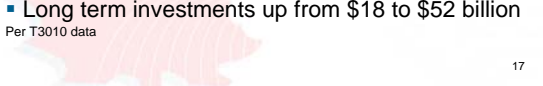


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Growth of the Sector (2000 – 2008)

- Number of registered charities up by 6%
 - Religious charities up by 2.2%
- Total revenue up 83% (\$182 billion in 2008)
 - Received donations for religious charities up by 27% (2003-2008)
- Government remains largest funder for sector, up 126% (\$122 billion in 2008)
 - Government funding for religious charities up by 50%
- Portion of sector revenue from government has increased from 54% to 67%
- Long term investments up from \$18 to \$52 billion

Per T3010 data



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Challenges for the Sector

- Volunteerism
 - Volunteer participation rate dropping (currently 80% of all volunteer hours are given by only 9% of the population)
- Sustainable funding
 - Competition in sector
 - Innovative fundraising activities (mobile giving)
- Increased demand for social services



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Strategic Questions

- How will sector issues affect the regulatory function of the Charities Directorate?
- What is the anticipated impact of recent policy and legislative changes?
- How do we serve small, medium, and large charities and ensure that their voices are represented in consultations?
- What challenges are associated with an increasingly diverse sector?
- How can we support greater accountability in the sector?

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Compliance update – tax shelters

- Discouraging participation in tax shelter schemes has been a priority for the CRA over the past decade.
- The CRA continues to audit tax shelter gifting arrangements.
- Every audit completed to date has resulted in a reassessment of tax, plus interest, for individuals who claimed a charitable donation tax credit. In many cases the CRA has denied the gift completely.
- Charities involved may face revocation.

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Compliance update – tax shelters

- The scope of the problem is significant; the CRA estimates that since 2003 there has been approximately:
 - 172,300 participants
 - \$5.4 billion in claimed donations
- 2006 to 2009 saw participation drop by 80%, to 10,800 individuals, and the amount of "donations" drop by 76%, to \$284 million.

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Compliance update – false receipting

- The CRA has discovered that tax receipts are being sold, sometimes by people employed by the charity, and often when the charity is unaware.
- False receipting is a significant problem;
 - 100,000-135,000 donors reassessed since 2005.
 - The amount reassessed to date is about \$290 million.
- The CRA encourages charities to be diligent in safeguarding the charity's receipts and to report any suspected fraud immediately to the CRA.
- In select cases, the CRA asks donors to provide proof of payment.

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Audits and revocations

- A short breakdown of our audit activity for the fiscal year 2009-10:
 - Total number of audits: 719
 - Total revocations for cause: 41
- The large majority of revocations still occur either because of failure to file the T3010 within the appropriate timeframe, or voluntary revocation.

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Compliance issues

- Our audits reveal several recurring issues:
 - Receipting:
 - Absence of required information
 - Issuing receipts for services
 - Valuation of non-cash gifts
 - Books and records
 - Incomplete, or sometimes missing entirely
- CRA will be intensifying its compliance action to ensure that all charities provide their financial statements with their annual information return

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New and upcoming guidance

Recent guidance publications include:

- Upholding Human Rights and Charitable Registration
- Canadian Registered Charities Carrying On Activities Outside of Canada

We will soon be launching consultations for the following guidance documents:

- Arts Organizations and Charitable Registration
- Animal Welfare and Charitable Registration
- Protection of the Environment as a Charitable Activity

We have also started working on a guidance on the Promotion of Health

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Priorities for 2010 – 2011 and beyond

- Implementing the recommendations contained in the Auditor General's Report
- Continuing with our Strategic Directions Exercise to identify priorities
- Aggressively combating abusive tax shelter schemes and false receipting
- Ensuring that we continue to provide quality and timely service

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Thank you!

Client Services – general inquiries
1-800-267-2384
1-888-892-5667

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

Charities Electronic Mailing List
To connect, follow the Outreach and Communications link on main page
Budget 2010 Reform email
Reforme_2010_Reform@cra-arc.gc.ca

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