CARTERS
BARRISTERS
SOLICITORS
TRADEMARK AGENTS

CHARITY LAW UPDATE

MARCH 2012

EDITOR: TERRANCE S. CARTER

Updating Charities and Not-For-Profit Organizations on recent legal developments and risk management considerations.

MARCH 2012

SECTIONS

Recent Publications and News Releases 1

In the Press 13

Recent Events and Presentations 14

Upcoming Events and Presentations 14

Contributors 15

Acknowledgements, Errata and other Miscellaneous Items 18

HIGHLIGHTS

2012 Federal Budget: Including New Rules and Sanctions for Charities Conducting Political Activities

CRA News

Statistics Canada Survey on Giving and Volunteering Released

Government of Ontario Releases 2012 Budget

Survey Shows More Canadians are Concerned about Charity Fraud

Office of the Commissioner of Lobbying Launches New Website

CRTC Releases Final Regulations Under Anti-Spam Legislation

Update on Bill C-11, the *Copyright Modernization Act*

Justice for Victims of Terrorism Act Receives Royal Assent

Directors' and Officers' Duties and Liabilities Under the CNCA and the ONCA

Bill C-10 Increases Sentencing for Sexual Offences under the *Criminal Code*

High Damage Award for Sexual Assault in the Workplace Upheld

Considerations When Drafting Restricted Charitable Purpose Trusts

New Bill S-7 Combating Terrorism Act

FATF Revises Recommendations on Combating Terrorist Financing

Get on Our Mailing List: To automatically receive the free monthly *Charity Law Update*, send an email to info@carters.ca with "Subscribe" in the subject line. Please feel free to forward this Update to anyone (internal or external to your organization) who may be interested in being put on our monthly mailing list.

RECENT PUBLICATIONS AND NEWS RELEASES

2012 Federal Budget: Including New Rules and Sanctions for Charities Conducting Political Activities

Ryan M. Prendergast, Theresa L.M Man, Karen J. Cooper and Terrance S. Carter.

On March 29, 2012, the Federal Government introduced the 2012 Federal Budget ("Budget 2012"). The Budget can be viewed online at: http://www.budget.gc.ca/2012/plan/toc-tdm-eng.html. While the 2011 Federal Budget had introduced extensive changes affecting registered charities, Canadian amateur athletic associations and other qualified donees, Budget 2012 focuses largely on measures dealing with the perceived lack of transparency and accountability concerning charities devoting their resources to political activates. However, Budget 2012 did not include any hoped for donation tax incentives, such as the charitable donation stretch credit that had been proposed by Imagine Canada. Some of the more important proposals affecting registered charities in Budget 2012 are summarized below.

Read More:
[PDF] http://www.carters.ca/pub/bulletin/charity/2012/chylb280.pdf
[WEB] http://www.carters.ca/pub/bulletin/charity/2012/chylb280.htm

CRA News

Non-Profit Organizations and Disposition of Property
Karen J. Cooper.

In a recent Advance Income Tax Ruling, CRA considered whether a non-profit organization would have to pay tax on capital gains resulting from the sale of the organization's property (document #2011-040074). The organization in question was a club, the main purpose of which was to provide dining, recreational or sporting facilities for its members. Under subsection 149(5) of the *Income Tax Act* (ITA), when such clubs are non-profit organizations under 149(1)(l) of the ITA, an *inter vivos* trust is deemed to be created. This deemed trust owns any property of the club, and the club's directors and/or officers are deemed to be the trustees having control of the trust property. Under subparagraph 149(5)(e)(ii), generally the trust has no income for income tax purposes, with the exception of taxable capital gains on the disposition of property, unless the property was used exclusively for and directly in the course of providing dining, recreational or sporting facilities provided by it for its members. With respect to the club in question, CRA ruled that the capital gain from the disposition of the club's

property is not included in the deemed trust's taxable income, because the property was used exclusively and directly in providing recreation facilities to its members.

Clergy Residence Deduction
Theresa L.M. Man.

CRA recently expressed its views with respect to taxpayer questions about the clergy residence deduction and whether a housing allowance from an employer should be included in determining the value of the deduction (document #2011-0413541E5). In order to be eligible for the clergy residence deduction under paragraph 8(1)(c) of the *Income Tax Act*, an individual must be a member of the clergy, a member of a religious order or a regular minister of a religious denomination; and the individual must also be in charge of, or ministering to, a diocese, parish or congregation, or engaged exclusively in full-time administrative service by appointment of a religious order or religious denomination.

CRA clarified that where an individual satisfies the above conditions and rents accommodations, the amount of the deduction is calculated regardless of whether the individual received a housing allowance. However, a housing allowance is a taxable benefit and should therefore be included in the individual's "remuneration for the year from the office or employment" for the purpose of computing the residence deduction.

CRA Revokes Charitable Registration of World Assembly of Muslim Youth
Karen J. Cooper.

Effective February 11, 2012, CRA revoked the charitable registration of World Assembly of Muslim Youth (WAMY), a Mississauga area charity. As a result of its audit and review of the organization's Registered Charity Information Returns, CRA concluded that WAMY was established to support the goals and operations of its parent organization located in Saudi Arabia, which has been alleged to support terrorism. More specifically, CRA alleged that WAMY shared a common director, contact information, and a bank account with the Benevolence International Fund in Canada (BIF-Canada) and provided funds to the Benevolence International Fund in the United States (BIF-USA). In 2002, BIF-Canada and BIF-USA were added to the Consolidated List of the United Nations Security Council's Al-Qaida and Taliban Sanctions Committee. The details of the revocation can be found on CRA's website: http://www.cra-arc.gc.ca/ebci/haip/srch/basicsearchresult-eng.action?s=revokedForCause&k=muslim+youth

Maintaining Non-Profit Status While Trying to Recover from a Loss Position
Theresa L.M. Man.

CRA recently responded to taxpayer questions relating to non-profit (NPO) status and the activities that an organization is permitted to undertake to recover from losses that have accumulated over several years (document #2011-0392841E5). The following is a summary of the taxpayer's questions and CRA's answers:

1. Can a member make a contribution to the NPO before the fiscal year-end to enable the NPO to pay its outstanding liabilities without the NPO being regarded as having a profit purpose?
   CRA was of the view that requiring higher member contributions in a particular year to reduce prior years' losses would not indicate a profit purpose. Improving a loss position is not the same as accumulating amounts in excess of an organization's needs for the purpose of generating investment income.

2. If a member provides a loan to the NPO to cover its outstanding liabilities, will the repayment of the loan or the payment of interest by the NPO mean that income of the NPO is available for the personal benefit of that member? Would generating income to cover the repayment of the loan in subsequent years mean that the NPO has a profit purpose?
   CRA was of the view that a member may provide such a loan without the repayment of the loan to that member being considered income that is "payable to" the member under paragraph 149(1)(l). However, it is a question of fact whether a member receives a payment in his or her capacity as a lender or in his or her capacity as a member of the NPO.

   Generating income to cover the interest expense on a loan does not necessarily indicate that an organization has a profit purpose. Interest on a debt that was incurred to meet a not-for-profit objective is an expense to be taken into account in determining whether an NPO has profits. However, the principal portion of a loan should be repaid out of member contributions and incidental profits. Generating material profits to repay the principal portion of a loan may indicate that NPO is operated in part for a profit purpose.

   Whether or not generating material profits in a particular year to offset prior years' losses indicates that an organization is operating in part for a profit purpose is a question of fact. Generating profits from a particular activity in order to offset prior years' losses related to that activity generally would not indicate a profit purpose.

3. Considering the NPO's overall mandate, can it assume the responsibilities of owning and leasing the property and use any net rental income to offset losses from other activities without losing its tax-exempt status?

   CRA was of the view that NPO's can earn a profit, as long as it is incidental and arises from activities directly connected to its not-for-profit objectives. Whether leasing activities are connected to the objectives of a particular NPO is a question of fact. Leasing space may be an activity directly connected to the NPO's not-for-profit objectives, and in this case, incidental profits from the leasing activities could be used to offset losses or expenses from other activities or to repay outstanding loans. However, whether profits are incidental is a question of fact; material profits may indicate that the organization is not operating exclusively for any purpose except profit even if the profits are used within the organization.

4. If the NPO embarks on fundraising activities to raise money toward the current year's operating expenses, or to cover the deficit, or for the purchase of equipment, would the NPO be viewed as having a profit purpose?

   CRA accepts that certain fundraising activities can be carried on directly by an NPO without jeopardizing its tax-exempt status. In particular, where an NPO raises funds through activities carried out by volunteers, especially activities involving the sale of donated goods or services, or involving games of chance, carrying out these activities will not generally indicate a profit purpose. However, the scope of the fundraising activities, especially by comparison with other activities, cannot be so significant that fundraising can be considered a purpose of the organization.

Statistics Canada Survey on Giving and Volunteering Released

Ryan M. Prendergast in *Charity Law Bulletin* No. 278, March 28, 2012.

On March 21, 2012, Statistics Canada released its report *Canada Survey of Giving, Volunteering and Participating: Caring Canadians, Involved Canadians: Tables Report, 2010* (the "Report"). As its title suggests, the Report addresses how Canadians support each other directly or by volunteering at or donating to charitable and non-profit organizations. The conclusions in the Report are based on data for the year 2010, as well as comparisons of data collected in the years 2007 and 2010. Interviews of participants were conducted from September 14, 2010 to December 10, 2010 regarding the preceding 12 month period. The Report is available online at http://www.statcan.gc.ca/bsolc/olc-cel/olc-cel?catno=89-649-XIE.

This *Charity Law Bulletin* provides a brief review of the findings of the Report. The Report provides important information for charities and non-profit organizations about the trends in giving and volunteering by Canadians.

Read More:
[PDF] http://www.carters.ca/pub/bulletin/charity/2012/chylb278.pdf
[WEB] http://www.carters.ca/pub/bulletin/charity/2012/chylb278.htm

Government of Ontario Releases 2012 Budget

Jacqueline M. Demczur.

On March 27, 2012, the Government of Ontario released the 2012 budget ("Ontario Budget") for the Province of Ontario. The Budget sets out the Government's priorities with regards to spending for the upcoming fiscal year. The Budget references the requirement under the *Ontario Lottery and Gaming Corporation Act, 1999* that net Provincial revenue generated from lotteries, the Ontario Lottery and Gaming Corporation, operated casinos, slot facilities and commercial casinos is to provide funding for charitable and not-for-profit organizations. However, the Budget does not specifically state what portion of the said revenue will be directed to charities and not-for-profit organizations. It may be that the funding of charities and not-for-profit organizations may occur indirectly through the direct allocation of, among other things, $91 million to host municipalities of lottery facilities for local infrastructure and service costs, as well as $10 million to support Ontario's high-performance amateur athletes.

In relation to not-for-profit organizations, the Government plans to promote healthy living and support better management of chronic medical conditions by setting up a panel of advocates, healthcare leaders, non-profit organizations and industry partners to set up a Childhood Obesity Strategy that will reduce childhood obesity by 20 percent over five years. To reduce the size of the Ontario Public Service, the government also plans to explore opportunities for replacing government delivered services with those provided by not-for-profits or private-sector organizations.

A copy of the Budget is available online at:
http://www.fin.gov.on.ca/en/budget/ontariobudgets/2012/papers_all.html.

Survey Shows More Canadians are Concerned about Charity Fraud

Terrance S. Carter.

An online survey conducted by CanadaHelps and Capital One over February 13-15, 2012 indicates that while more Canadians are worried about fraudulent charities, a large proportion of them do not research a charity prior to making a donation. The study showed that 65% of the participants surveyed were

worried about donating to fraudulent charities. However, 41% of the survey participants responded that they did not research the charity's registration status, ask the solicitor for identification or visit the charity's website prior to making a donation. Instead, such individuals relied on the reputation and/or previous personal experience with the charity. In the event that their donation did not go to a legitimate cause, 52% of participants responded that they were unsure where to go for recourse. The survey also indicated an increase in online donations from 14% to 22% based on a similar study conducted in November 2009, also by CanadaHelps and Capital One. These results stress the importance of donors conducting the necessary due diligence prior to making a donation to ensure that their dollars go to their intended cause.

For more information on the survey, see http://www.capitalone.ca/about-us/news/20120228/index.php.

Office of the Commissioner of Lobbying Launches New Website

Nancy E. Claridge.

The Office of the Commissioner of Lobbying of Canada launched their new website on February 29, 2012 and boasts improved navigation of their site to help users find information more easily. In addition, their site is fully compliant with Web Content Accessibility Guidelines (WCAG) 2.0.

Their site contains new documents and sections where you can now find speeches, presentations and parliamentary committee appearances by the Commissioner. An RSS (Really Simple Syndication) feed feature has also been implemented for readers to subscribe to sections, such as news releases, Reports on Investigation, and proactive disclosure reports when new information is posted to these pages.

The new website can be found at: http://ocl-cal.gc.ca/eic/site/012.nsf/eng/home.

CRTC Releases Final Regulations Under Anti-Spam Legislation

Ryan M. Prendergast.

On March 7, 2012, the Canadian Radio-television and Telecommunications Commission ("CRTC") registered the final form of its regulations under Bill C-28 (the "Anti-Spam Legislation"), referred to as the Electronic Commerce Protection Regulations. The Regulations were also published in the *Canada Gazette*, Part II, Vol. 146, No. 7 on March 28, 2012. *Charity Law Bulletin* No. 257, dated August 18, 2011 available at http://www.carters.ca/pub/bulletin/charity/2011/chylb257.htm, reported on the draft regulations released by Industry Canada and the CRTC concerning the Anti-Spam Legislation.

After consultation with individuals and representatives from various sectors in relation to the draft regulations, the Electronic Commerce Protection Regulations have been slightly amended. The

regulations previously required that the unsubscribe mechanism required by the Anti-Spam Legislation allow the receiver to withdraw his or her consent to receive a "commercial electronic message" in no more than "two clicks" or another method of "equivalent efficiency". The amendments to the regulations include the requirement that the unsubscribe mechanism be able to be "readily performed" only, without mandating how many clicks are necessary. In addition, the regulations have also been amended so that a request for express consent for the purposes of sending a "commercial electronic message" can be obtained orally, as opposed to being strictly in writing.

The draft regulations proposed by Industry Canada have not yet been revised. Once Industry Canada releases its regulations in final form, it is expected that the Anti-spam Legislation will come into force shortly thereafter. Charities and non-profit organizations that may be affected by the Anti-spam legislation should continue to follow the progress of its coming into force.

The Electronic Commerce Protection Regulations can be found online at: http://www.crtc.gc.ca/eng/archive/2012/2012-183.htm

Update on Bill C-11, the *Copyright Modernization Act*

Colin J. Thurston.

Bill C-11, *An Act to amend the Copyright Act (Copyright Modernization Act)*, received Second Reading and was referred to Committee, after having been introduced in the House of Commons on September 29, 2011. In the February 2012 *Charity Law Update*, it was anticipated that Bill C-11 would move swiftly through Committee hearings, with the Committee aiming to conclude its review of the bill by the end of March. Earlier this month, well ahead of schedule, the Committee reported back to the House of Commons on Bill C-11 on March 15, 2012.

The bill was returned to the House largely unchanged. As noted in February's *Charity Law Update*, the bill would add several new rights and exceptions to the *Copyright Act*, including:

- Updating rights and protections of copyright owners to better address the challenges and opportunities of the Internet, so as to be in line with international standards;
- Permitting businesses, educators and libraries to make greater use of copyright material in digital form;
- Allowing educators and students to make greater use of copyright material;

Of importance to many charities and not-for-profits, the proposed amendments which would expand the fair dealing provisions of the *Copyright Act* to allow organizations to make certain uses of copyrighted works for

educational purposes, without infringing copyright, were left unchanged by the Committee. While the scope of permitted use under this amendment will not be clear until it is tested by the Courts, organizations which engage in educational activities will welcome the inclusion of "education" as a categorical exception to copyright infringement under the fair dealing provision. However, to the disappointment of some opponents of the bill, many of the provisions which favour the interests of copyright owners, such as the proposed "digital lock" provisions, were also left intact by the Committee.

Charities and not-for-profits should continue to monitor the progress of Bill C-11 as it moves quickly towards reforming copyright law in Canada.

Justice for Victims of Terrorism Act Receives Royal Assent

Terrance S. Carter and Nancy E. Claridge in *Anti-terrorism & Charity Law Alert* No. 29, March 28, 2012.

The federal government has passed the controversial Bill C-10, commonly referred to as the *Safe Streets and Communities Act*, exceeding the government's original plan to pass the Bill in the first 100 sittings days of Parliament. Bill C-10 introduces significant new forms of potential liability for charities that are carrying on operations in conflict zones or may be carrying out programs that may be perceived to have ties to terrorist organizations. This *Anti-terrorism and Charity Law Alert* will provide a brief review of the new Bill.

Read More:
[PDF] http://www.carters.ca/pub/alert/ATCLA/ATCLA29.pdf

Directors' and Officers' Duties and Liabilities Under the CNCA and the ONCA

A paper prepared by Terrance S. Carter and Ryan M. Prendergast for the Emerging Issues in Directors' and Officers' Liability 2012, a continuing professional development program hosted by the Law Society of Upper Canada in Toronto, Ontario, on March 1, 2012.

Individuals who volunteer as directors and officers of not-for-profit ("NFP") corporations are no doubt aware that volunteering as such can attract civil liability. Specifically, directors and officers in Canada face an array of duties and obligations at common law and under statute, the successful fulfillment of which is critical in order to avoid personal liability as well as for the well being of the organization. In this regard, the key aspect of directors' and officers' duties and liabilities under statute has become particularly relevant with the recent proclamation of the *Canada Not-for-profit Corporations Act* ("CNCA") and soon to be proclaimed Ontario *Not-for-Profit Corporations Act* ("ONCA") (collectively referred to as "NFP legislation"). The purpose of this paper is to provide an overview of directors' and officers' duties and liabilities under the CNCA and the ONCA. In this regard, this paper complements

our paper originally prepared and presented for the Law Society of Upper Canada in March 2011, which had been updated and revised for the Association for Research on Nonprofit Organizations and Voluntary Action (ARNOVA) in November 2011 (attached hereto for reference purposes as Appendix A), entitled *Directors' and Officers' Duties & Liabilities of Charities and Not-for-Profit Organizations in Ontario*.

This paper begins with a brief historical background of the NFP legislation. Next, the standard of care for directors and officers of NFP corporations is addressed, followed by an overview of directors' and officers' duties under the NFP legislation. The paper then provides an overview of liabilities, together with the statutory protections available under the NFP legislation to assist directors and officers in complying with their duties and avoiding liability. Since legislators of the CNCA and ONCA have closely modelled the NFP legislation on the for-profit corporate statutes, the *Canada Business Corporations Act* ("CBCA") and Ontario *Business Corporations Act* ("OBCA"), respectively, comparisons to provisions in these statutes will be made as well as to case law where relevant in order to provide some context concerning how the NFP legislation may be applied and how the courts may interpret their provisions.

Read More:
[PDF] http://www.carters.ca/pub/article/charity/2012/tsc0301.pdf

Bill C-10 Increases Sentencing for Sexual Offences under the *Criminal Code*

Mervyn F. White.

Bill C-10, also known as the *Safe Streets and Communities Act* received Royal Assent on March 13, 2012, although it has not yet been proclaimed in force. There are five parts to Bill C-10. An analysis of Part I can be found in *Anti-terrorism and Charity Law Alert* No. 29, available at http://www.carters.ca/pub/alert/ATCLA/ATCLA29.pdf. Part II Sentencing of Bill C-10 amends the *Criminal Code* to: increase or impose mandatory minimum penalties, and increase maximum penalties, for certain sexual offences with respect to children; create offences of making sexually explicit material available to a child and of agreeing or arranging to commit a sexual offence against a child; expand the list of specified conditions that may be added to prohibition and recognizance orders to include prohibitions concerning contact with a person under the age of 16 and use of the Internet or any other digital network; and to expand the list of enumerated offences that may give rise to such orders and prohibitions.

In this regard, the punishments under sections 151, 152, 153, 155, 163.1, 170, 171, 172.1, 173, and 271 of the *Criminal Code* for sexual interference, sexual touching, sexual exploitation, incest, child pornography, parent or guardian procuring sexual activity, householder permitting sexual activity, luring a child, indecent acts – exposure, and sexual assault, respectively, have been increased.

Charities and not-for-profit organizations that have individuals working with children need to be aware of the increased penalties surrounding child sexual offences that are now found under the *Criminal Code*.

For more information, see Bill C-10 Part II:
http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=5465759&File=35.

High Damage Award for Sexual Assault in the Workplace Upheld

Barry W. Kwasniewski in *Charity Law Bulletin* No. 279, March 27, 2012.

The Ontario Court of Appeal recently released its decision in *M.B. v 2014052 Ontario Ltd. (Deluxe Windows of Canada)*, upholding a Superior Court of Justice decision in which the jury awarded the plaintiff $468,969.18. The appeal was brought by the defendant, Mickey Weig, who was found liable for assault and battery, and the damages arising therefrom, for repeatedly sexually assaulting the plaintiff, who was an employee under his direct supervision. Though only Weig appealed the verdict, both the employer, Deluxe Windows of Canada (Deluxe), and Weig were held jointly and severally liable for the damage award. Deluxe was held vicariously liable for Weig's acts. While this case involved employment in the for-profit business sector, the principles relating to liability for workplace violence and harassment also apply to not-for-profits and charities.

Read More:
[PDF] http://www.carters.ca/pub/bulletin/charity/2012/chylb279.pdf
[WEB] http://www.carters.ca/pub/bulletin/charity/2012/chylb279.htm

Considerations When Drafting Restricted Charitable Purpose Trusts

By Terrance S. Carter. Reproduced with permission from *Estates Trusts & Pensions Journal*, Vol. 30, No. 4, September 2011.

This article will highlight some of the more common issues that lawyers should be aware of when drafting the provisions of a testamentary or *inter vivos* restricted charitable purpose trust. As always, lawyers must take the time to tailor the restricted charitable purpose trust to fit the factual context and needs of the particular donor or charitable client as the case may be.

The key element of both testamentary and *inter vivos* restricted charitable purpose trusts is the establishment of the restriction, whether the restriction is with regards to the use or with regards to the time during which the charitable gift is to be applied. If a charity accepts a gift subject to a restricted charitable purpose trust, the charity is legally bound by those restrictions. This form of gift, whether the charity understands it or not, establishes a special purpose charitable trust within the charity itself and the charity, as trustee, is subject to the legal regime governing such trusts. Common types of restricted charitable purpose trusts include endowments, long term funds, scholarship funds, building funds, as well as donor advised funds that are often placed with community foundations, to name a few examples.

As donors become more sophisticated with their giving and demand greater accountability from charities, the use of restricted charitable purpose trusts is becoming a more frequent fundraising vehicle, particularly for donors making large gifts to charities. Many charities in Canada, though, do not fully appreciate the legal implications of accepting restricted charitable purpose trusts. Failing to honour the restrictions imposed by such trusts could expose the charity, and its directors or trustees, to liability for breach of trust. As well, failure to comply with the restrictions has the potential to erode donor confidence and undermine the credibility of the recipient charity as well as the charitable sector in general.

Read More:
[PDF] http://www.carters.ca/pub/article/charity/2011/ETPJ30-4_Carter.pdf

New Bill S-7 Combating Terrorism Act

Nancy E. Claridge.

On February 15, 2012, the government introduced Bill S-7 (short title: *Combating Terrorism Act*) in the Senate, which Bill aims to amend the *Criminal Code*, the *Canada Evidence Act* and the *Security of Information Act*.

If approved, this Bill would replace sections 83.28 to 83.3 of the *Criminal Code* to provide for an investigative hearing for the purpose of gathering information for an investigation of a terrorism offence and allow for the imposition of a recognizance with conditions on a person to prevent them from carrying out a terrorist activity. The *Criminal Code* would also be amended to create offences of leaving or attempting to leave Canada to commit certain terrorism offences.

This amendment would allow a peace officer to apply for a court order for the "gathering of information" from a person if the judge is satisfied that a terrorism offence has been or will be committed and there are reasonable grounds to believe that a person has direct and material information

that relates to a terrorism offence, or that may reveal the whereabouts of an individual who the peace officer suspects may commit a terrorism offence, and reasonable attempts have been made to obtain the information from that person. Such a court order would compel the person to answer questions and produce "things", notwithstanding that answering the question or producing "the thing" may tend to incriminate the person or subject the person to any proceeding or penalty.

The Bill would also amend the *Canada Evidence Act* to allow the Federal Court to order that applications to it with respect to the disclosure of sensitive or potentially injurious information be made public and to allow it to order that hearings related to those applications be heard in private. As well, the Bill would amend the *Security of Information Act* to increase, in certain cases, the maximum penalty for harbouring a person who committed an offence under that Act.

The Bill has passed Second Reading in the Senate and was referred to the Special Senate Committee on Certain Government Bills on March 8, 2012. The Committee has begun consideration of a draft agenda.

To follow the status of Bill S-7:
http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5385776

To follow the Special Senate Committee meetings:
http://www.parl.gc.ca/sencommitteebusiness/CommitteeHome.aspx?parl=41&ses=1&Language=E&comm_id=612

FATF Revises Recommendations on Combating Terrorist Financing

Nancy E. Claridge and Terrance S. Carter in *Anti-terrorism & Charity Law Alert* No. 30, March 29, 2012.

The Financial Action Task Force ("FATF"), an inter-governmental body established in 1989 with the mandate to develop and promote national and international policies to combat money laundering, terrorist financing and the proliferation of weapons of mass destruction, recently announced revisions to its recommendations on international standards on combating money laundering and the financing of terrorism (the "Recommendations"). The revisions to the Recommendations are the result of more than two years of consultations with governments and the private sector. This *Anti-terrorism and Charity Law Alert* will provide a brief review of the revisions to the Recommendations.

Read More:
[PDF] http://www.carters.ca/pub/alert/ATCLA/ATCLA30.pdf

IN THE PRESS

Review of Donation Tax Incentives May Stray To Other Issues by Terrance S. Carter.
Canadian Fundraising & Philanthropy, Vol. 22, No. 4, February 29, 2012.
Hilborn eNews, March 1, 2012.
[Link] http://www.charityinfo.ca/articles/Review-of-donation-tax-incentives-may-stray-to-other-issues

What Charities and Not-for-Profits Can Learn from Recent Trade-Mark Disputes by Colin J. Thurston and Terrance S. Carter.
Charitable Thoughts, Vol. 15, No. 2, *March 2012*, OBA Charity and Not-for-Profit Law Section.
[Link] http://www.oba.org/en/pdf/sec_news_cha_mar12_tra_thu.pdf

Hard Look at Donation Tax Incentives by Terrance S. Carter.
The Lawyers Weekly, Vol. 31, No. 40, March 2, 2012.
[Link] http://www.carters.ca/news/2012/tsc0302.pdf

Dealing with New Member Rights and Discipline Requirements under the CNCA and ONCA by Terrance S. Carter.
FORUM, March 2012, Quarter 1, Canadian Society of Association Executives (CSAE) Trilium Chapter.
[Link] http://mediaedge.imirus.com/Mpowered/book/vforum12/i1/p1

Charity Law 2011 – Year in Review by Terrance S. Carter.
IJCSL, Vol. X, Issue I, February 2012, Columbus School of Law.
[Link] http://www.iccsl.org/pubs/12-01_IJCSL.pdf

Considerations When Drafting Restricted Charitable Purpose Trusts by Terrance S. Carter.
Estates, Trusts & Pensions Journal, Vol. 30, No. 4, September 2011.
[Link] http://www.carters.ca/pub/article/charity/2011/ETPJ30-4_Carter.pdf

RECENT EVENTS AND PRESENTATIONS

Insight 10th Annual Business Law and Practice Conference held in Toronto, Ontario, included a presentation by Terrance S. Carter entitled "Getting Ready for the New *Ontario Not-for-Profit Corporations Act* (ONCA)" on February 29, 2012.

Emerging Issues in Directors' and Officers' Liability 2012, a continuing professional development program hosted by the Law Society of Upper Canada in Toronto, Ontario, on March 1, 2012, included a presentation by Terrance S. Carter entitled "Directors' and Officers' Duties and Liabilities under the CNCA and ONCA."
[Paper] http://www.carters.ca/pub/article/charity/2012/tsc0301.pdf

Ontario - New York Legal Summit included a panel presentation with Terrance S. Carter in Buffalo, New York on March 29, 2012, on "Charities Law: The Tricky Legal Environment of Crossing Borders."
Details available at http://www.cba.org/pd/details_en.aspx?id=ON_12NEW0328C

UPCOMING EVENTS AND PRESENTATIONS

CAGP-ACPDP 2012 Annual National Conference being held in Victoria, B.C. will include the following presentations on April 19, 2012:
"Essential Charity Law Update" by Terrance S. Carter; and
"Donor Rights & Remedies" by Theresa L.M. Man.
Details available at http://www.cagp-acpdp.org/en/education/2012conf.aspx.

The 2012 National Charity Law Symposium a joint program of the Canadian Bar Association's and the Ontario Bar Association's Charity and Not-For-Profit Law Sections being held in Toronto, Ontario, on May 4, 2012, will bring together leading experts from across Canada to speak about the latest developments in this rapidly changing area. Terrance S. Carter is co-chair of the symposium, and Karen J. Cooper will be presenting "New Eligibility Requirements for Directors, Officers and Staff of Registered Charities."
Details available at http://www.cba.org/pd/details_en.aspx?id=NA_CHAR12.

American Bar Association Section of Taxation 2012 May Meeting being held in Washington, D.C., will include Terrance S. Carter in the breakfast roundtable discussions of the Exempt Organization Subcommittee on Religious Organizations on May 11, 2012.
Details available at https://meetings.abanet.org/meeting/tax/MAY12/.

CONTRIBUTORS

Editor: Terrance S. Carter
Assistant Editor: Nancy E. Claridge

Terrance S. Carter – Managing Partner of Carters, Mr. Carter practices in the area of charity and not-for-profit law, is counsel to Fasken Martineau DuMoulin LLP on charitable matters, is a member of the Technical Issues Group of Canada Revenue Agency's (CRA) Charities Directorate representing the Canadian Bar Association (CBA), a past member of CRA's Charity Advisory Committee, Past Chair of the CBA National Charities and Not-for-Profit Section, and is recognized as a leading expert by *Lexpert* and *The Best Lawyers in Canada*. He is also consulting editor of *Charities Legislation and Commentary* (LexisNexis Butterworths, 2010), and editor of www.charitylaw.ca, www.churchlaw.ca and www.antiterrorismlaw.ca.

Nancy E. Claridge – Called to the Ontario Bar in 2006, Ms. Claridge is a partner with Carters practicing in the areas of charity, anti-terrorism, real estate, corporate and commercial law, and wills and estates, in addition to being the firm's research lawyer and assistant editor of *Charity Law Update*. After obtaining a Masters degree, she spent several years developing legal databases for LexisNexis Canada, before attending Osgoode Hall Law School where she was a Senior Editor of the *Osgoode Hall Law Journal*, Editor-in-Chief of the *Obiter Dicta* newspaper, and was awarded the Dean's Gold Key Award and Student Honour Award.

Karen J. Cooper – A partner with the firm, Ms. Cooper is recognized as a leading expert by *Lexpert and Best Lawyers* practicing charity and not-for-profit law with an emphasis on tax issues at Carters' Ottawa office, having formerly been a Senior Rulings Officer with the Income Tax Rulings Directorate of Canada Revenue Agency, as well as former counsel for the Department of Justice in tax litigation. Ms. Cooper also has considerable teaching experience, including as part-time professor at the University of Ottawa, Faculty of Common Law, and is a contributing author to The Management of Charitable and Not-for-Profit Organizations in Canada (LexisNexis Butterworths).

Jacqueline M. Demczur – A partner with the firm, Ms. Demczur has been recognized as a leading expert in charity and not-for-profit law by *Lexpert.* Her practice includes incorporation, corporate restructuring, and legal risk management reviews, as well as wills, estate planning and estate administration. She is a contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and has written numerous articles on charity and not-for-profit issues for the *Lawyers Weekly*, *The Philanthropist* and *Charity Law Bulletin*, among others. Ms. Demczur is also a regular speaker at the annual *Church & Charity Law*™ Seminar.

Christine Kellowan – Christine graduated from Osgoode Hall Law School with a Juris Doctor. Prior to attending law school, Christine graduated from York University's Faculty of Arts with a B.A. (Hons.) in Political Science, *summa cum laude*. While in law school, Christine was a Senior Contributing Editor for The Court and a volunteer with Pro Bono Students Canada. Before articling with Carters, Christine gained legal experience working in the Compliance Division at the Ontario's Independent System Operator of the electricity market. She also interned at a Toronto law firm and the National Legal Institute in Mongolia.

Barry W. Kwasniewski - Mr. Kwasniewski joined Carters' Ottawa office in October 2008 to practice in the areas of employment law, charity related litigation, and risk management. Called to the Ontario Bar in 1990, Barry has a wide range of litigation experience, including in commercial disputes, personal injury, long-term disability, employment, insurance defence, and professional liability. Barry is a volunteer lawyer at Reach Canada, is on the Board of directors of the Vista Centre, and has assisted in several United Way campaigns.

Theresa L.M. Man – A partner with Carters, Ms. Man practices charity and not-for-profit law and is recognized as a leading expert by Lexpert and Best Lawyers. She is an Executive Member of both the Charity and Not-for-Profit Sections of the Ontario Bar Association (OBA) and the Canadian Bar Association (CBA). In addition to being a frequent speaker at the annual *Church & Charity Law*™ Seminar, seminars hosted by the CBA and the OBA, Ms. Man has also written articles for numerous publications, including *The Lawyers Weekly*, *The Philanthropist*, *Planned Giving Pulse*, *International Journal of Civil Society Law*, *The Bottom Line*, *Canadian Fundraiser*, and *Charity Law Bulletin.*

Ryan Prendergast – Ryan was called to the Ontario Bar in 2010 and joined Carters to practice in the areas of charity and not-for-profit law, corporate and commercial law, and human rights law. A graduate of the University of Ottawa, Faculty of Law, Ryan was a student caseworker for the Criminal Division at the University of Ottawa Community Legal Aid Clinic, completed a research project for Ecology Ottawa on municipal by-laws, and worked for the Crown Attorney's Office in Toronto as a summer student. During his articles, Ryan acquired experience in charity and not-for-profit law, and contributed to several *Charity Law Bulletins* and other publications.

Michelle Thériault – A graduate of the University of Ottawa, Faculty of Law, 2011, Michelle has an Honours Bachelor of Social Sciences degree in Criminology (*summa cum laude*) from the University of Ottawa, and worked in the charitable sector as a social worker from 2002 to 2008. During law school, Michelle was a caseworker in Community Legal Education, a division leader in Criminal Law at the Legal Aid Clinic, a Research Assistant, and she co-established and sat on the Steering Committee of the University of Ottawa branch of the Law Union, a group for students interested in social justice. Currently, Michelle is on the Board of Directors for the John Howard Society of Ontario.

Colin Thurston – Colin was called to the Ontario Bar in 2011 and joined Carters to practice in the area of intellectual property. A graduate of Queen's University, Faculty of Law, Colin volunteered at the Queen's Legal Aid clinic throughout his three years at Queen's and his responsibilities grew from hands-on legal research, writing, and litigation, to supervision and training of his fellow law students, to input on clinic operations from a policy level. Colin has gained litigation experience before numerous courts and tribunals and received numerous awards recognizing his work, including the Sabbath Prize in Wills and Estate Planning from Queen's University, Faculty of Law.

Kristen D. van Arnhem – Kristen graduated from the University of Ottawa, Faculty of Law, in 2011 on the Dean's List of Honour for ranking in the top ten percent of her class. Prior to attending law school, Kristen graduated with Distinction from the University of Guelph with an Honours Bachelor of Arts in Sociology. She has participated in two international law school exchanges in Australia and Puerto Rico. Before articling with Carters, Kristen gained legal experience as a summer student working for a family law firm in Guelph. Kristen has volunteered with Ottawa's Supervised Access Program, Legal Aid Clinic in Ottawa, and was a note taker for students with disabilities.

Mervyn F. White – A partner with Carters, Mr. White acts as litigation counsel to individuals, as well as to churches, charities, not-for-profit organizations, businesses and corporations, in areas of the law including charity and not-for-profit law, human rights complaints, and risk management assessments relating to insurance law and human rights. Mr. White is a contributing author to *The Lawyers Weekly*, *Charity Law Bulletin* and *Church Law Bulletin*, and a speaker for organizations such as Canadian Fundraiser, the Association of Fundraising Professionals, and the Christian Legal Intervention Academy.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

Links not Working: If the above links do not work from your mail program, simply copy the link text and paste it into the address field of your internet browser.

Get on Our E-Mailing List: If you would like to be added to our electronic mailing list and receive regular updates when new materials are added to our site, send an email to info@carters.ca with "Subscribe" in the subject line. Feel free to forward this email to anyone (internal or external to your organization) who might be interested.

To be Removed: If you wish to be removed from our mailing list, please reply to this message with Remove in the subject line.

Privacy: We at Carters know how important your privacy is to you. Our relationship with you is founded on trust and we are committed to maintaining that trust. Personal information is collected solely for the purposes of establishing and maintaining client lists; representing our clients; and to establish and maintain mailing lists for the distribution of publications as an information service. Your personal information will never be sold to or shared with another party or organization. For more information, please refer to our Privacy Policy at http://www.carters.ca/privacy.pdf.

Copyright: All materials from Carters are copyrighted and all rights are reserved. Please contact us for permission to reproduce any of our materials. All rights reserved.

Disclaimer: This is a summary of current legal issues provided as an information service by Carters Professional Corporation. It is current only as of the date of the summary and does not reflect subsequent changes in the law. The summary is distributed with the understanding that it does not constitute legal advice or establish the solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation.

CARTERS PROFESSIONAL CORPORATION
SOCIÉTÉ PROFESSIONNELLE CARTERS

PARTNERS:
Terrance S. Carter B.A., LL.B. tcarter@carters.ca
(Counsel to Fasken Martineau DuMoulin LLP)
Jane Burke-Robertson B.Soc.Sci., LL.B. janebr@carters.ca
Mervyn F. White B.A., LL.B. mwhite@carters.ca
Karen Cooper B.Soc.Sci., LL.B., LL.L., TEP kcooper@carters.ca
Theresa L.M. Man B.Sc., M.Mus., LL.B., LL.M. tman@carters.ca
Jacqueline M. Demczur B.A., LL.B. jdemczur@carters.ca
Esther S.J. Oh B.A., LL.B. estheroh@carters.ca
Nancy E. Claridge B.A., M.A., LL.B. nclaridge@carters.ca
ASSOCIATES:
Jennifer M. Leddy B.A., LL.B. jleddy@carters.ca
Barry W. Kwasniewski B.B.A., LL.B. bwk@carters.ca
Ryan Prendergast B.A., LL.B. rprendergast@carters.ca
Colin J. Thurston B.A., J.D. cthurston@carters.ca
COUNSEL:
Bruce W. Long B.A., LL.B. blong@carters.ca

211 Broadway, P.O. Box 440
Orangeville, Ontario, Canada L9W 1K4
Tel: (519) 942-0001
Fax: (519) 942-0300

117 Centrepointe Drive, Suite 124
Ottawa, Ontario, Canada K2G 5X3
Tel: (613) 235-4774
Fax: (613) 235-9838

2 Robert Speck Parkway, Suite 750
Mississauga, Ontario, Canada, L4Z 1H8
Tel: (905) 306-2791
Fax: (905) 306-3434

TD Canada Trust Tower
161 Bay Street, 27th Floor, PO Box 508
Toronto, Ontario, Canada M5J 2S1
Tel: 416-675-3766
Fax: 416-576-3765

DISCLAIMER: This is a summary of current legal issues provided as an information service by Carters Professional Corporation. It is current only as of the date of the summary and does not reflect subsequent changes in the law. The summary is distributed with the understanding that it does not constitute legal advice or establish a solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation. © 2012 Carters Professional Corporation