

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

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NEW PUBLICATIONS

New CCRA Guidelines on Split-Receipting

by Theresa L. M. Man and Terrance S. Carter in *Charity Law Bulletin No. 23, July 31, 2003.*

On December 24, 2002, Canada Customs and Revenue Agency (“CCRA”) released Income Tax Technical News No. 26 that contained proposed new guidelines on split-receipting to explain CCRA’s new administrative policy in relation to “*determining whether there is a gift in situations other than where there is an outright transfer of property for no consideration*”. Technical News No. 26 also dealt with a number of common gifting situations. Existing interpretation bulletins and publications of CCRA will be revised in order to reflect the new administrative guidelines. Although interested parties were permitted to provide comments on the proposed guidelines until March 31, 2003, CCRA indicated that the proposed guidelines may be followed in the interim. This Charity Law Bulletin provides a summary of the new guidelines adopted by CCRA as set out in Technical News No. 26.

Read More:

[PDF] www.carters.ca/pub/bulletin/charity/2003/chylb23.pdf

[WEB] www.carters.ca/pub/bulletin/charity/2003/chylb23.htm

Combating the Abuse of Non-Profit Organizations: Summary and Commentary

by Terrance S. Carter and Benjamin S. Hutchinson in *Anti-terrorism and Charity Law Alert No. 3, August, 2003.*

The Financial Action Task Force on Money Laundering (hereinafter referred to as the ‘FATF’), like so many other supra-national policy-making institutions, maintains an ambiguous, yet substantial law-shaping role with respect to the Canadian legal system and those operating under its umbrella. This independent intergovernmental body was originally convened at the 1989 Paris G-7 Summit with a mandate of combating the laundering of drug money through the establishment and promotion of anti-money laundering policies. Since September 11, 2001, the FATF has expanded this mandate to include the development of financial policy in order to prevent and obstruct those who would use the international financial system for purposes of advancing terrorists objectives.

Read More:

[PDF] www.carters.ca/pub/alert/atcla/atcla03.pdf

Charities and Compliance with Anti-Terrorism Legislation: The Shadow Of The Law

by Terrance S. Carter, August, 2003.

This paper examines Canada's recent legislative initiatives to combat terrorism and their impact on Canadian charities, as well as on those who advise them. Charities may understandably ask why they should be concerned with this new area of the law. While anti-terrorism legislation may be relevant for criminal and immigration lawyers, how could this legislation be relevant to charities? This paper intends to demonstrate that recent anti-terrorism legislation does directly affect many Canadian charities in relation to their activities both inside and outside Canada.

Read More:

[PDF] www.carters.ca/pub/article/charity/2003/terror0803.pdf

Legal Risk Management Checklist for Not-For-Profit Organizations (non-charities)

by Terrance S. Carte and Jacqueline M. Connor, August, 2003.

The operations of not-for-profit organizations have become complex and the possibility of litigation occurring as a result of their operations is greater than ever before. The exposure of not-for-profit organizations to liability goes further than the loss of the assets themselves and/or the insolvency or winding up of the not-for-profit. Directors of not-for-profit organizations may also face possible legal action against them personally by members, third parties and governmental authorities for breach of their fiduciary duties as directors. Given the increased risk to both not-for-profit organizations and their directors, there is an increasing need to protect their assets from lawsuits and creditors on a pro-active basis. While the risks are in some respects not as extensive as those faced by charities (which risks are outlined in a separate checklist), not-for-profit organizations that are not charities still face many of the same risks as those that are charities.

Read More:

[PDF] www.carters.ca/pub/checklst/nonprofit.pdf

Charities Law, 2003/2004 Edition

by Maria Elena Hoffstein, Terrance S. Carter, and Adam M. Parachin.

Terrance S. Carter of Carter & Associates along with Maria Elena Hoffstein and Adam M. Parachin from the affiliated law firm of Fasken Martineau DuMoulin LLP are Consulting Editors of "Charities Law, 2003/2004 Edition", a one-stop source for researching key Federal and Ontario statutes applicable to charities. Copies can be obtained through Butterworths at www.lexisnexis.ca/bookstore/bookinfo.php?pid=605

Read More:

[PDF] www.carters.ca/news/2003/newbook.pdf

Legal Risk Management Checklist for Charities

by Terrance S. Carte and Jacqueline M. Connor, August, 2003.

The operations of charities have become complex and the possibility of litigation against charities occurring as a result of their operations is greater than ever before. The exposure of charities organizations to liability goes further than the loss of the charitable assets and/or the insolvency or winding up a charity. Directors of charities organizations may also face possible legal action against them personally by donors, members, third parties and governmental authorities for breach of their fiduciary duties or even breach of trust in failing to adequately protect or apply the assets of a charity. Given the increased risk to both charities and their directors, there is an increasing need to protect charitable assets from lawsuits and creditors on a pro-active basis.

Read More:

[PDF] www.carters.ca/pub/checklst/charity.pdf

The Law of Charitable and Not-for-Profit Organizations - 3rd Edition

by Donald J. Bourgeois.

This book provides an overview of the laws governing charitable and not-for-profit organizations. Copies can be obtained through Butterworths at www.butterworths.ca/book.asp?bookid=12

IN THE PRESS

“Good-Governance in Meeting the Duties of Directors of Charities and Not-For-Profits” by Terrance S. Carter and Theresa L.M. Man was published in the **Canadian Association E-zine**, July 2003.

[link] www.axi.ca/tca/Jul2003/guestarticle_2.shtml

RECENT EVENTS AND PRESENTATION MATERIALS

"Charities and Compliance with Anti-Terrorism Legislation: The Shadow Of The Law" presented by Terrance S. Carter at the **ONTARIO JUSTICE EDUCATION NETWORK: SUMMER LAW INSTITUTE** in Toronto, AUGUST 27 - 28, 2003.

[Paper] www.carters.ca/pub/article/charity/2003/terror0803.pdf

[Presentation] www.carters.ca/pub/seminar/charity/2003/TSC0827.pdf

UPCOMING EVENTS AND PRESENTATIONS

The 2003 Annual Church & the Law(tm) Seminar to be held on Wednesday, November 12th, 2003. Held every year since 1994, The Annual Church & The Law(tm) Seminar is designed to provide churches & religious charities with practical information on current legal issues in order to assist them in avoiding unnecessary exposure to legal liability. While the topics presented are directed at churches & religious charities, they also have general application to non-religious charities and not-for-profit organizations. More than 560 people attended the 2002 Church & The Law(tm) Seminar (<http://www.carters.ca/pub/seminar/chrchlaw/2002/index.html>).

Register NOW!

[PDF] www.carters.ca/pub/seminar/chrchlaw/2003/brochure.pdf

[WEB] www.carters.ca/pub/seminar/chrchlaw/2003/brochure.htm

"Employment Issues for Non-Profit Organizations" to be presented by Mark J. Wong of Carter & Associates on September 17th, 2003 for the non-profit communities of Peel, Halton and Toronto. This Presentation is sponsored by the **United Way of Peel Region** and is to be held at 5170 Dixie Road, Suite 300 in Mississauga, Ontario. For more information contact Ken Auden at 905-602-3622 or kauden@unitedwaypeel.org.

"Recent Initiatives by CBA National Charity and Not-For-Profit Law Section with CCRA and Finance" to be presented by Terrance S. Carter at an **Ontario Bar Association Luncheon** of the Charity and Not-For-Profit Law Section on Thursday, September 25, 2003.

Registration and details at www.cbao.org/includes/eventdetail.asp?code=03CHA0925T.

"Good Governance" to be presented by Donald J. Bourgeois at the Manulife Sports Centre in Rim Park, Waterloo, on Saturday, October 4th, 2003. This event is part of an all day workshop put on by the **Volunteer Centre for Kitchener Region** designed primarily for volunteer board directors and senior staff members of charities and not-for-profit organizations. For more information visit www.k-wvolcentre.on.ca.

Registration and details at www.k-wvolcentre.on.ca/VAC%20board%20governance.PDF

"Recent Changes under the Income Tax Act Affecting Charities" to be presented by Terrance S. Carter at the **Law Society of Upper Canada's 6th Annual Estates and Trusts Forum** being held on November 19th & 20th, 2003.

CONTRIBUTORS



Terrance S. Carter – Practices primarily in the area of Charity and Not-for-Profit Law, Mr. Carter is member of the Charities Advisory Committee and the Technical Issues Committee advising Canada Revenue Agency, as well as a consulting editor of *Charities Law, 2003/2004 Ed.* published by Butterworths, contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and editor of www.carters.ca, www.charitylaw.ca and www.antiterrorism.ca.



Donald J. Bourgeois – Counsel to Carter & Associates in the area of Charity and Not-for-Profit Law, governance and fundraising, Mr. Bourgeois is author of *The Law of Charitable and Not-for-Profit Organizations, 1st, 2nd and 3rd Editions*, the *Charities and Not-for-Profit Fundraising Handbook*, *Charities and Not-for-Profit Administration and Governance Handbook* and *Public Law in Canada* published by Butterworth.



M. Elena Hoffstein – From the affiliated firm, Fasken Martineau DuMoulin LLP - Toronto office, Ms. Hoffstein practices in the area of Charity and Not-for-Profit Law and has been ranked by LEXPERT as one of the most frequently recommended Toronto private client practitioners and as one of the top 500 lawyers in Canada. Ms. Hoffstein was also a consulting editor of *Charities Law, 2003/2004 Ed.* published by Butterworths



Jacqueline M. Connor – Practices in Charity and Not-for-Profit Law, including Incorporation and Corporate Restructuring, 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 *Charity Law Bulletin*. Ms. Connor is also a regular speaker at the annual Church & the Law™.



Theresa L. M. Man – Practices in charity and not-for-profit, real estate, corporate and commercial law, with particular expertise surrounding tax issues. Mrs. Man is a regular speaker at the annual *Church & the Law™* Seminar and has also written on various legal topics for *The Lawyers Weekly*, *Chinese Christian Herald Crusades*, *Charity Law Bulletin* and www.charitylaw.ca.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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