

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

2004 BUDGET ISSUE

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NEW PUBLICATIONS

March 2004 Federal Budget Rewrites Tax Rules For Charities

by Terrance S. Carter and Theresa L.M. Man in *Charity Law Bulletin No.41, March 30, 2004.*

The Federal Budget announced on March 23, 2004, (the "2004 Budget") represents a major initiative by the Federal Government in rewriting the tax rules concerning the taxation and administration of charities. The 2004 Budget reflects to a large extent the proposals of the Voluntary Sector Initiative's Joint Regulatory Table contained in its report of March 2003 "Strengthening Canada's Charitable Sector: Regulatory Reform", particularly as it relates to intermediate taxes and sanctions. The 2004 Budget also rectifies a number of technical problems regarding disbursement quotas involving charities, most of which were identified in submissions by the Charities and Not-for-Profit Law Section of the Canadian Bar Association over the last three years.

Read More:

[PDF] www.carters.ca/pub/bulletin/charity/2004/chylb41.pdf

[WEB] www.carters.ca/pub/bulletin/charity/2004/chylb41.htm

February 27, 2004, Revised Draft Amendments to the *Income Tax Act* Affecting Charities

by Theresa L.M. Man and Terrance S. Carter in *Charity Law Bulletin No.40 March 29, 2004.*

On February 27, 2004, the Department of Finance (the "Department") released Revised Draft Technical Amendments to the *Income Tax Act* (the "Act") (the "February 2004 Amendments") that will impact how charities operate. Only those proposed amendments that affect charities are summarized in this article. The February 2004 Amendments constitute a consolidation of and further amendment to previously proposed technical amendments introduced by the Department on December 20, 2002 (the "December 2002 Amendments") and on December 5, 2003 (the "December 2003 Amendments") at 6 p.m. The effect of these changes on the December 2002 Amendments and December 2003 Amendments have also been summarized in greater detail in an article by the authors entitled "Recent Changes to the *Income Tax Act* and Policies Relating to Charities and Charitable Gifts".

Read More:

[PDF] www.carters.ca/pub/bulletin/charity/2004/chylb40.pdf

[WEB] www.carters.ca/pub/bulletin/charity/2004/chylb40.htm

Criminal Code Amendments Bill C-250 (Hate Propaganda)

by Bruce W. Long (Counsel) in Church Law Bulletin No. 2, March 11, 2004.

A Private Members' Bill was introduced in 2002 to the House of Commons as Bill C-250, *An Act to amend the Criminal Code (hate propaganda)*. Bill C-250 was given third reading on September 17, 2003. The Bill died in December 2003, but was re-introduced into the House of Commons on February 2, 2004, and received second reading in the Senate on February 20, 2004. Bill C-250 seeks to add sexual orientation as an "identifiable group" which will receive additional protection from hate propaganda. This *Church Law Bulletin* comments on Bill C-250 from the standpoint of its impact on churches and religious charities in Canada.

Read More:

[PDF] www.carters.ca/pub/bulletin/church/2004/chchlb02.pdf

[WEB] www.carters.ca/pub/bulletin/church/2004/chchlb02.htm

Recent Changes to the *Income Tax Act* and Policies Relating to Charities & Charitable Gifts

prepared by Terrance S. Carter for the Society of Trust and Estate Practitioners (STEPS), March 4, 2004.

[Paper] www.carters.ca/pub/article/charity/2004/tsc0304.pdf

Donor-Restricted Charitable Gifts: A Practical Overview Revisited II - Part II

by Terrance S. Carter for The Philanthropist Vol 18 No. 2 December 2003 now available.

[PDF] www.carters.ca/news/2003/Philanth/vol18no2.pdf

The Law of Charitable and Not-for-Profit Organizations: Third Edition

by Donald J. Bourgeois for Butterworths. Chapter 2 now available.

[PDF] www.carters.ca/pub/book/2002/LCNPOch2.pdf

IN THE PRESS

Mervyn F. White appeared on **Listen Up TV** to discuss the issues surrounding Bill C-250 (Hate Propaganda) and religious freedom of speech Thursday March 11, 2004.

Corporate Brief, a legalworks publication of CCH reproduced *Charity Law Bulletin* No. 34 titled "Policy Based Governance - What Works and What Doesn't" by Donald J. Bourgeois (No. 115, March 2004). View this article at www.carters.ca/news/2004/cch/djbmar04.pdf.

Canadian Fundraiser eNews included a link to *Charity Law Bulletin* No. 35 by Mervyn F. White, Bruce W. Long and Shen Goh calling it "13 due diligence tips to avoid criminal negligence charges under the government's new Bill C-45" (Vol. 14 No. 5, March 16, 2004). View this article at www.canadianfundraiser.com/newsletter/current_Issue.cfm?IssueID=99.

"Policies permit board to delegate operations, retain control" by Donald J. Bourgeois was published in **Canadian Fundraiser eNews** (Vol. 14 No. 5, March 16, 2004). View this article at www.canadianfundraiser.com/newsletter/article.cfm?ArticleID=1047.

CharityVillage.com reproduces *Charity Law Bulletin* No. 34 titled "Policy Based Governance - What Works and What Doesn't" by Donald J. Bourgeois (March 2004). View this article at www.charityvillage.com/cv/research/rbod12.html.

RECENT EVENTS AND PRESENTATION MATERIALS

Jane Burke-Roberston was recently appointed agent of the **Attorney General of Canada** and outside counsel to the Corporate Law Policy Directorate of Industry Canada to provide legal advice on the reform of the Canada Corporations Act effective March 12, 2004. Ms. Burke-Roberston is in practice in Ottawa and acts as counsel to Carter & Associates.

Terrance S. Carter was recently appointed by the **Minister of National Revenue**, for a four year term, to the Charities Advisory Committee, established in March 2004 as a vehicle through which the charitable sector can provide advice, assistance, and feedback to the Canada Revenue Agency (CRA) on matters related to the regulation and administration of charities under the *Income Tax Act*. See the Press Release at www.cca-adrc.gc.ca/newsroom/releases/2004/mar/0329ottawa-e.html.

Terrance S. Carter and M. Elena Hoffstein from our affiliated firm, Fasken Martineau DuMoulin, ranked as two of the most frequently recommended practitioners in the field of charities and not-for-profits across Canada by **LEXPERT**. See the rankings at www.lexpert.ca/directory/ratings.php?area=B4.

Terrance S. Carter has also been recently appointed by the **Canadian Bar Association** to the Technical Issues Committee of the Charities Directorate, Canada Revenue Agency, to provide a forum for discussion on technical issues pertaining to charities and the *Income Tax Act*.

Terrance S. Carter has been asked to serve on the **Uniform Law Conference of Canada** - Working Group on Charitable Fundraising studying the possibility of uniform fundraising legislation in Canada.

"Recent Changes to the *Income Tax Act* and Policies Relating to Charities and Charitable Gifts" presented by Terrance S. Carter for the **Society of Trust and Estate Practitioners (STEPS)** in Toronto (March 4, 2004).

[PDF] www.carters.ca/pub/seminar/charity/2004/tsc0304.pdf

[WEB] www.carters.ca/pub/seminar/charity/2004/tsc0304.htm

[Paper] www.carters.ca/pub/article/charity/2004/tsc0304.pdf

Churchlaw.ca launched as a new site as well as the release of the new *Church Law Bulletin* newsletter with an issue on Bill C-250 (see above). Go to www.churchlaw.ca for more information.

UPCOMING EVENTS AND PRESENTATIONS

2nd National Symposium on Charity Law (April 14, 2004) "What's New and What's Coming", being held in Toronto by the Canadian Bar Association (CBA), Ontario Bar Association (OBA) and the Canadian Association of Gift Planners (CAGP), is Co-Chaired by Terrance S. Carter with talks from Carter & Associates lawyers on;

"Extra Provincial Corporate and Fundraising Compliance for Charities"
by Jacqueline M. Connor and Esther S.J. Oh,

"Board Governance - When Does It Become Director's Negligence"
by Donald J. Bourgeois (counsel to Carter & Associates),

"Reform of the Canada Corporations Act"
by Jane Burke-Roberston (counsel to Carter & Associates), and

"Avoiding Wasting Assets II - Intellectual Property Protection for Charities"
by Terrance S. Carter.

More details at the CBA website

[WEB] www.cba.org/CBA/CLE/cle00/charities.asp.

"Looking a Gift Horse in the Mouth: Legal Liabilities in Fundraising" to be presented by Terrance S. Carter at the **11th National CAGP Conference in Toronto** (April 15, 2004).

More details at the CAGP website

[Link] www.cagp-acpdp.org/ancon_frame.htm.

Law & Church Leadership, a one day symposium co-sponsored by The Evangelical Fellowship of Canada and Christian Legal Fellowship to be held in Moncton on May 14, 2004 with Carter & Associates lawyers presenting on the following topics;

"Privacy Legislation" by Mervyn F. White,

"Bill C-250 (Hate Propaganda)" by Bruce W. Long,

"Same Sex Marriage" by Terrance S. Carter and Mervyn F. White,

"Changes under the *Income Tax Act*" by Terrance S. Carter,

"Investigating Sexual Abuse" by Bruce W. Long, and

"Bill C-45" by Mervyn F. White and Bruce W. Long.

More details available on the EFC and CLF websites.

EFC - www.evangelicalfellowship.ca/calendar/event_viewer.asp?Event_ID=172

CLF - www.christianlegalfellowship.org/lawchurchevent.htm

Fundraising Day 2004 being held in Toronto by the Association of Fundraising Professionals (AFP) on May 26, 2004, will feature a presentation by Terrance S. Carter entitled "Looking a Gift Horse in the Mouth: Avoiding Legal Liability in Charitable Fundraising".

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.



Jane Burke-Robertson – Counsel to Carter & Associates in the area of Charity and Not-for-Profit Law, Ms. Burke-Robertson is agent of the Attorney General of Canada and outside counsel to the Corporate Law Policy Directorate of Industry Canada to provide legal advice on the reform of the *Canada Corporations Act* effective March 12, 2004, as well as co-author of *Non-Share Capital Corporations* published by Carswell and contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*.



Bruce W. Long – Counsel to Carter & Associates, Mr. Long practices out of his office in London, Ontario, on Hearings, Tribunals, Inquests and Enforcement Matters, and is the former Regional Director of Crown Attorneys for South-western Ontario and Assistant Deputy Attorney General (Acting), as well as the author of "Prosecutors Handbook" published by the Attorney General of Ontario.



Mervyn F. White – Practices primarily in litigation and dispute resolution 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 *Charity Law Bulletin* and *Church Law Bulletin*, and a regular speaker at the annual *Church & the Law™* Seminar and guest speaker for organizations such as the Association of Fundraising Professionals, and the Christian Legal Intervention Academy.



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™* Seminar.



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*TM Seminar and has also written on various legal topics for *The Lawyers Weekly*, *Chinese Christian Herald Crusades*, *Charity Law Bulletin* and www.charitylaw.ca.



Esther S.J. Oh – Practices primarily in Charity and Not-for-Profit Law, as well as in Immigration Law. Ms. Oh is also a frequent contributor to www.charitylaw.ca and the *Charity Law Bulletin*, and has spoken at the annual *Church & the Law*TM Seminar as well as at the Canadian Bar Association/Ontario Bar Association's 2nd National Symposium on Charity Law.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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