

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

OCTOBER 2003 ISSUE

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NEW PUBLICATIONS

New CCRA Policy Statement on Political Activities

by Terrance S. Carter and Suzanne White in Charity Law Bulletin No. 25, October 31, 2003.

This *Charity Law Bulletin* (“Bulletin”) provides a brief summary of the *Political Activities Policy Statement*, CPS-022 issued by the Canadian Customs and Revenue Agency (CCRA) on September 2, 2003 (“Policy Statement”). The *Bulletin* is not meant to constitute either a detailed review or an analysis of the *Policy Statement* or the resources and documents available on the matter of political activities, since to do so would be beyond the scope of a brief overview. Instead, the *Bulletin* summarizes some of the more important aspects of the new *Policy Statement* and directs charities to resources available from CCRA that may be of assistance in addressing questions on this issue. The *Policy Statement* can be found on the CCRA website at www.ccra-adrc.gc.ca/tax/charities/policy/cps/cps-022-e.html.

Read More:

[PDF] www.carters.ca/pub/bulletin/charity/2003/chylb25.pdf

[WEB] www.carters.ca/pub/bulletin/charity/2003/chylb25.htm

Compliance Audit Can be a Useful Tool for Board and Executive

by Don Bourgeois in Canadian FundRaiser, Vol 13 No. 17, Sept 15, 2003.

“Audit” is a word that usually brings anxiety and fear into the minds of many directors, officers and staff. In the last few years, the word had been used increasingly in both the business world and the charitable/nonprofit sector, often in negative terms.

There are several types of audits, a few of which have been the subject of earlier columns. The word “audit” usually causes most people to think of financial audits conducted by accountants. The typical audit is intended to determine whether or not the financial statements set out accurately the financial position and financial activity of an organization during a period of time. A forensic audit, on the other hand, attempts to find out what happened and why, and is more time-consuming and expensive.

Read More:

[Link] www.canadianfundraiser.com/newsletter/article.cfm?ArticleID=894

Donor-Restricted Charitable Gifts: A Practical Overview Revisited II (Part 1)

by Terrance S. Carter in The Philanthropist, Vol. 18, September 2003.

Since the presentation on which this article is based, there has been considerable public recognition of the importance of donor-restricted charitable gifts. This increased recognition has occurred because of a realization that with the new generation of philanthropists, a different approach to charitable giving which recognizes the importance of accommodating the donor's wishes as well as the expectations of the charity, is emerging.

Read More:

[PDF] www.carters.ca/news/2003/Philanth/vol18no1.pdf

IN THE PRESS

Law Times Focus on Trusts & Estates Law features advice from Terrance S. Carter of Carter & Associates on the New Definition of 'Gift' by the Canada Customs and Revenue Agency and 'Split Receipting'. Law Times Vol.14 No.36, October 27, 2003.

Terrance Carter's article titled "Case comment: Christian Brothers decision exposes charitable trust assets to tort creditors", The Philanthropist (2001) No. 28, was quoted by the **British Columbia Law Institute Committee on the Modernization of the Trustee Act** in its report on "Creditor Access to the Assets of a Purpose Trust", which adopted his recommendation for legislative change.

British Columbia Law Institute

www.bcli.org

Creditor Access to the Assets of a Purpose Trust

www.bcli.org/pages/projects/trustee/CreditorPurpose.pdf

RECENT EVENTS AND PRESENTATION MATERIALS

Carter & Associates is pleased to announce that Jane Burke-Robertson, B.Soc.Sci., LL.B., has joined the firm as counsel on charitable and not-for-profit matters. Jane is a noted author in the area of charity and not-for-profit law and has co-authored a book entitled "Non-Share Capital Corporation" which is a primary resource book used in Canada (October, 2003).

[CV] www.carters.ca/lawyers/janebr.html

"Key Legal Responsibilities of Charities in Planned Giving" presented by Terrance S. Carter to the **Canadian Cancer Society** in Ottawa (October 8, 2003).

[PDF] www.carters.ca/pub/seminar/charity/2003/tsc1008.pdf

[WEB] www.carters.ca/pub/seminar/charity/2003/tsc1008.htm

"Selected Tax Aspects of Planned Giving" presented by M. Elena Hoffstein of the affiliated law firm of Fasken, Martineau, DuMoulin LLP to the **Canadian Cancer Society** in Ottawa (October 8, 2003).

[PDF] www.carters.ca/pub/seminar/charity/2003/meh1008.pdf

[WEB] www.carters.ca/pub/seminar/charity/2003/meh1008.htm

UPCOMING EVENTS AND PRESENTATIONS

Criminal Code amendments regarding hate propaganda (Bill C-250) as they affect churches and religious charities, will be discussed by Bruce W. Long as part of his presentation at "The 2003 Annual Church & the Law(tm) Seminar".

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.

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

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

"Recent Changes to the Income Tax Act and Policies Relating to Charities and Charitable Gifts" 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 at Osgoode Hall in Toronto.

[Flyer] <http://ecom.lsuc.on.ca/pdf/flyers/estatesandtrusts.pdf>

"Recent Changes Under The Income Tax Act and Related Policies Affecting Charities" to be presented by Terrance S. Carter for the **Ottawa Chapter of the Canadian Association of Gift Planners** on November 26, 2003.

Mark Wong will be speaking at the **Ontario Bar Association Charity and Not-for-Profit Law section on privacy matters and charities**, November 27, 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



Suzanne E. White – Articling with Carter & Associates, Ms. White has a Law degree from the University of Windsor and was also a Student Editor at the Canadian American Research Centre for Law & Policy. During that time, she has regularly assisted on articles posted to www.charitylaw.ca and the Charity Law Bulletin. After being called to the Bar in August 2004, Ms. White will be returning to Carter & Associates to practice in the area of Charity & Not-for-Profit Law as well as General Litigation.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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