

## **NEW CRA GUIDE ON CHARITABLE WORK AND ETHNOCULTURAL GROUPS**

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### **A. INTRODUCTION**

Canada Revenue Agency (“CRA”) has released a new guide to help ethnocultural organizations that want to apply for charitable status. The purpose of the guide, entitled *Charitable Work and Ethnocultural Groups – Information on registering as a charity* (the “Guide”), is to “put important general information together in one place”. The Guide is intended to complement the more detailed information contained in CRA’s Policy Statement CPS-023, *Applicants Assisting Ethnocultural Communities*. In the same way, this Bulletin is intended to complement the information contained in *Charity Law Bulletin No. 74* which summarizes the earlier Policy Statement CPS-023.<sup>1</sup>

This Bulletin is not intended to be an exhaustive review of the Guide’s entire contents but instead only focuses on some of the new issues raised by the CRA since releasing Policy Statement CPS-023 on June 30, 2005. As such, readers should consult the Guide itself for more information, which may be found on CRA’s website at: <http://www.cra-arc.gc.ca/tax/charities/policy/ethno-e.html>. Similarly, CRA’s Policy Statement CPS-023, *Applicants Assisting Ethnocultural Communities*, can be found on CRA’s website at: <http://www.cra-arc.gc.ca/tax/charities/policy/cps/cps-023-e.html>. It should be noted that, although the Guide states that it is written specifically to assist ethnocultural groups, its contents provide general guidance that will be of assistance to all charities.

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<sup>1</sup> Available online at <http://www.carters.ca/pub/bulletin/charity/2005/chylb74.pdf>.

## B. ETHNOCULTURAL GROUPS AND “THE ADVANCEMENT OF RELIGION”

Much of the Guide is dedicated to summarizing information compiled from other CRA documents. The Guide discusses the role of the Charities Directorate, the steps involved in applying for charitable status, and the requirements an organization must meet in order to qualify as “charitable”. The Guide reiterates much of what is discussed in Policy Statement CPS-023, such as the definition of “Ethnocultural”, the Public Benefit test, and examples of ethnocultural group activities that could qualify as charitable under each of the four heads of charity (the relief of poverty, the advancement of education, the advancement of religion, and other purposes that benefit the community). Many of the examples provided by the Guide under each heading are already listed in Policy Statement CPS-023.

However, the Guide does provide some further guidance on the “advancement of religion” head of charity. Unlike the other three heads of charity, “advancement of religion” was only briefly discussed in the final draft of Policy Statement CPS-023.<sup>2</sup> The Guide reiterates that “it is a charitable purpose for an organization to teach the religious tenets, doctrines, practices, or culture associated with a specific faith or religion” but added that “the religious beliefs or practices must not be subversive or immoral”. The Guide also states that “teaching ethics or morals is not enough to qualify as a charity in the advancement-of-religion category”. The Guide provides the example of “a Web site that states the opinions of an individual or group about what they think is right or wrong” as something that does not qualify as advancement of religion. The Guide explains that “[t]here has to be a spiritual element to the teachings and the religious activities have to serve the public good”.

This new development in the CRA’s policy on advancing religion raises some concerns and is reminiscent of a previous draft of Policy Statement CPS-023. That earlier draft listed the “pursuit of purposes that are more secular than theological” as an unacceptable charitable object under advancement of religion. As discussed in the paper *Advancing Religion as a Head of Charity: What Are the Boundaries?*<sup>3</sup> by the author, the earlier draft policy statement suggested a narrowing of the definition of advancement of religion at common law by stating that,

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<sup>2</sup> An early draft of the Policy contained a lengthier discussion on the topic of advancement of religion but was amended for reasons discussed in this Bulletin.

<sup>3</sup> Available online at [http://www.carters.ca/pub/article/church/2006/advrel\\_oct06.pdf](http://www.carters.ca/pub/article/church/2006/advrel_oct06.pdf).

[R]eligion cannot serve as a foundation or a cause to which a purpose can conveniently be related. If the group's purposes are more secular than theological, it does not qualify as advancing religion. For example, opposing abortion and promoting or opposing same-sex marriage, while in keeping with the values of some religious believers and religions, cannot be considered charitable purposes in the advancement of religion category.<sup>4</sup>

Several groups expressed concern that these sections of the draft policy statement could be interpreted to mean that activities undertaken for the purpose of advancing religion, but which could also be viewed by some as having a secular purpose, would be characterized by CRA as not fitting within the category of activities that advance religion. As discussed in the *Advancing Religion* paper reference above:

The previous draft of [the] policy could have had the effect of narrowing the scope within which religion could be advanced and, therefore, might have resulted in a narrowing of the activities and ventures that current religious charities could undertake. It could also have provided an obstacle for new religious charities attempting to qualify for charitable status under the ITA.<sup>5</sup>

In response to expressed concerns, the CRA amended the draft policy statement by deleting the reference to “secular versus theological” and the abortion and same-sex marriage examples. However, it appears that the CRA has not completely abandoned its somewhat narrow interpretation of advancement of religion. The same concerns that arose from the comments contained in the draft policy could re-emerge as a result of the comments now found in the Guide, particularly if they are used by the CRA to deny charitable status to organizations that carry on activities for the purpose of advancing religion, but which could also be viewed by some as having a secular purpose.

In that regard, it is interesting to note that the Guide does provide some examples of ethnocultural group activities that could qualify as the advancement of religion, but again in a narrow, traditional context that does not reflect the breadth of what advancement of religion fully encompasses. Those examples provided in the Guide include:

- ◆ Teaching a religion;
- ◆ Running a religious school;
- ◆ Establishing a mosque, church, temple, or other place of worship for religious uses; and,
- ◆ Repairing a place of worship.

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<sup>4</sup> *Ibid.* at 40.

<sup>5</sup> *Ibid.* at 41.

### C. OTHER RULES THAT AFFECT ETHNOCULTURAL GROUPS

Some additional information found in the Guide which may be of particular interest to charities is briefly discussed below.

#### 1. Social or Cultural Events

A group's social events or cultural celebrations, such as "banquets, picnics, and Canada Day celebrations", are **not** considered charitable purposes by the CRA.

The Guide provides that charities can carry on social activities "to help achieve its charitable purposes and to help raise funds". However, the Guide also explains that if a charity is charging admission to such an event, they can only write a charitable donation receipt for the portion of the ticket that was a gift. For example, if a ticket to an event costs \$100, and the food and entertainment at the event is worth \$75, the charity can only write a charitable donation receipt for the eligible amount of \$25.

#### 2. Limits on who receives services

The Guide states that a registered charity does not have to allow everyone in the community to access its services. However, the services must still be available to anyone whose needs are within the charity's official purposes.

#### 3. Political activities and social advocacy

The Guide informs charities that they cannot:

- ◆ Engage in any political activities to support a political party or a candidate for a political party;
- ◆ Try to influence public opinion on a broad social question; or,
- ◆ Advocate for a change in law or policy.

However, a charity is permitted spend up to 10% of its resources on non partisan political activities that help to accomplish the charity's purpose in accordance with the CRA's Policy on *Political Activities*

(CPS-022)<sup>6</sup>, which was discussed in *Church Law Bulletin* No. 15<sup>7</sup>. The Guide provides the following examples of “acceptable social advocacy activities for an ethnocultural group”:

- ♦ advocating for disadvantaged individuals to help them to gain access to a service to which they are entitled;
- ♦ having a representative on a government advisory panel;
- ♦ distributing research to the media and to politicians; and,
- ♦ speaking publicly about the difficulties that members of a community are having, if the speaker's statements are based on research.

#### **D. TEN REASONS FOR AN UNSUCCESSFUL APPLICATION**

The Guide concludes with a list of the ten most common reasons why an application for charitable status will not be successful, and they are worth repeating here:

1. The organization has one or more purposes that are not charitable.
2. The application does not have enough information about the organization's activities.
3. The organization's activities do not support the organization's purpose. For example, an organization states as its purpose that it will relieve poverty by running a food bank for the poor. In the activity section of the application there is no mention of a food bank, and it appears that the organization is operating a school instead.
4. The application does not include a clear statement that the organization's activities are open to everyone.
5. The organization does not seem to have the operational capacity (such things as people, structures, and materials) to carry out its activities in Canada or outside Canada.
6. The application lacks financial information, as well as details to support the organization's purpose and activities.
7. The organization's focus is on social or cultural activities.
8. The application does not include supporting documents such as Web addresses, brochures, booklets, newspaper articles, or course content for classes offered that would provide information about the organization's current activities.

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<sup>6</sup> Available online at <http://www.cra-arc.gc.ca/tax/charities/policy/cps/cps-022-e.html>.

<sup>7</sup> Available online at <http://www.carters.ca/pub/bulletin/church/2005/chchlb15.pdf>.

9. The organization seems to be devoting too many resources to political activities.
10. The application does not include any copy of an agreement with representatives who are supposed to help the organization to carry out its activities outside Canada.

## E. CONCLUSION

Overall, the Guide provides charities with useful information and constitutes a helpful compilation of relevant information for ethnocultural organizations that want to apply for charitable status. However, as discussed above, the Guide's discussion of advancement of religion may be cause for concern. It is unclear whether the CRA's statements are intended to apply to only organizations that have no religious basis for the moral issues they promote, or whether they will also apply to religious organizations with deeply held religious beliefs on matters that could also be characterized as political or social issues (such as opposing euthanasia or same sex marriage). As such, until the CRA provides further clarity on the issue, this policy and its implementation will need to be carefully followed.