
CRA RELEASES PUBLICATION OUTLINING IMPORTANT CHANGES FOR REGISTERED CHARITIES

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A. INTRODUCTION

In light of the many regulatory obligations that registered charities are required to meet, Canada Revenue Agency's ("CRA") Charities Directorate has recently released a publication entitled "What's the Scoop? – Important Changes for Registered Charities"¹, which highlights a number of important changes that registered charities need to be aware of. In this regard, over the past two years, CRA has engaged in consultations with the charitable sector and developed new tools and resources to provide registered charities with enhanced support services, and CRA promises a number of new products for 2009, which are also briefly described in this *Charity Law Bulletin*.

B. IMPORTANT CHANGES FOR REGISTERED CHARITIES

1. New Form T3010B, Registered Charity Information Return for fiscal periods ending on or after January 1, 2009 only

CRA reminds charities that in January 2009, it is releasing the new Form T3010B(09), *Registered Charity Information Return* ("the new Form").² CRA anticipates that the new Form will reduce the

¹ For more detailed information about any of the topics in this notice, see the Charities Directorate branch of CRA's Web site at: www.cra.gc.ca/charities.

² For more information, see Charities Directorate, Canada Revenue Agency, "The Canada Revenue Agency Introduces a New Registered Charity Information Return for Fiscal Periods Ending On or After January 1, 2009", in *Charity Law Update*, November 2008 at p. 2, online: <http://www.carters.ca/pub/update/charity/08/nov08.pdf>.

filing burden for smaller charities and help the public make informed donor decisions by providing them with more information about registered charities. CRA indicates that these changes reflect its commitment to the successful execution of the Small and Rural Charities Initiative, which will be discussed in more detail later in this *Charity Law Bulletin*.

In addition to the new Form, CRA lists the following forms to be used by charities for fiscal periods ending on or after January 1, 2009 only:

- ♦ T1235(09), *Directors/Trustees and Like Officials Worksheet*
- ♦ T1236(09), *Qualified Donees Worksheet / Amounts Provided to Other Organizations*

CRA explains that for fiscal periods ending on or before December 31, 2008, Form T3010A(05), with accompanying worksheets T1235 and T1236 must be used.

The new Form was developed as a result of the many requests from charities to simplify the return. CRA indicates that there was a sense that the filing burden on smaller organizations, in particular, was excessive in light of their limited volunteer base and resources for administrative activities. In this regard, the new Form eliminates detailed financial information for many smaller charities. In addition, the new Form has been divided into a simple core form and topic-related schedules. On the other hand, larger charities will be required to provide additional information to CRA and the public. Therefore, while CRA anticipates that small charities will have less paperwork to complete, other charities may have to provide more information than was required on previous returns.

The new return package will be mailed at the end of the charity's first fiscal period ending on or after January 1, 2009. Along with the new Form, CRA states that (for most charities) the new *Registered Charity Information Return* package³ will consist of the following forms:

- ♦ TF725, *Registered Charity Basic Information sheet*
- ♦ T1235(09), *Directors/Trustees and Like Officials Worksheet*
- ♦ T1236(09), *Qualified Donees Worksheet / Amounts Provided to Other Organizations*

³ Guide T4033B(09), *Completing the Registered Charity Information Return*, will be available on CRA's Web site at: www.cra.gc.ca/charities.

Private foundations will also receive Form T2081, *Excess Corporate Holdings Worksheet for Private Foundations*. Private foundations that hold more than 2% of the issued and outstanding shares of any class of shares of a corporation at any time during their first fiscal periods beginning after March 18, 2007, must complete the worksheet.⁴

Registered charities incorporated, continued or amalgamated in Ontario and subject to the *Corporation Act* (Ontario)⁵ will also receive Form RC232—WS, *Director/Officer Worksheet and Ontario Corporations Information Act Annual Return*.

2. Where to Find Guide T4033

Although in previous years, CRA mailed Guide T4033 (“the Guide”) to registered charities as part of their *Registered Charity Information Return* packages (including the T3010A), it will no longer be doing so. The Guide is available online at: www.cra.gc.ca/tx/chrts/formspubs/menu-eng.html or by request to the Charities Directorate, Client Service Section at 1-800-267-2384. CRA indicates that the *Registered Charity Information Return* (Form T3010A(05) or Form T3010B(09)) and related schedules will, however, continue to be printed and mailed to all charities.

3. Disbursement Quota – registered charities designated as charitable organizations

On November 28, 2008, CRA published a reminder indicating that the 3.5% disbursement quota will apply to charitable organizations registered before March 23, 2004, for their fiscal period beginning on or after January 1, 2009.

All registered charities are required to expend a portion of its assets annually in accordance with a disbursement quota, which is a prescribed amount that registered charities must disburse each year in order to maintain their charitable registration. The purpose of the disbursement quota is “to ensure that most of a charity’s funds are used to further its charitable purposes and activities; to discourage charities from accumulating excessive funds; and to keep other expenses at a reasonable level.” Having a good understanding of the disbursement quota rules is important not only for charities, but also for donors and their advisors. The source of the gift, the nature of the proposed recipient charity, the nature

⁴ More information about the new rules for private foundations can be found in Guide T2082, *Excess Corporation Holdings Regime for Private Foundations*, available online at: www.cra.gc.ca/E/pub/tg/t2082/README.html.

⁵ R.S.O. 1990, c. C.38.

of the property gifted, and restrictions that may be imposed on the gift by the donor will all have a bearing on the disbursement quota consequences of the gift.

For more information on the 3.5% disbursement quota and how it is calculated, see Theresa L.M. Man, “Calculation of 3.5% Disbursement Quota”, in *Charity Law Bulletin No. 150* (December 18, 2008), online: <http://www.carters.ca/pub/bulletin/charity/2008/chylb150.pdf>.

4. Registered Charities Incorporated in Ontario and Subject to the *Corporations Act* (Ontario)

CRA reports that, on behalf of the Province, it will collect Ontario *Corporations Information Act*⁶ Annual Return information from registered charities incorporated, continued or amalgamated in Ontario and subject to the *Corporations Act* (Ontario) (“OCA”).

In addition to federal filing obligations with CRA, currently, charities that are subject to the OCA are required to file an Ontario *Corporations Information Act Annual Return* with the Province of Ontario.

CRA indicates that beginning in 2009, those charities incorporated, continued or amalgamated in Ontario and subject to the OCA will receive and have the option to file Form RC232-WS, *Director/Officer Worksheet and Ontario Corporations Information Act Annual Return*, with their Form T3010, *Registered Charity Information Return*. All information collected on behalf of the Province will be transmitted to the Government of Ontario, for the purpose of recording the information on the public record maintained by the Province.

5. New Fundraising Policy Guidelines

CRA reminds that charities that engage in fundraising should watch for CRA’s policy on fundraising, which it expects to have posted on its Web site within the next month or so.⁷ CRA clarifies that the policy will explain CRA’s approach to assessing whether a charity’s fundraising is in compliance with

⁶ R.S.O. 1990, c. C.39.

⁷ For more information, see the Proposed Policy and the Backgrounder, available on CRA’s website at: <http://www.cra-arc.gc.ca/tax/charities/consultations/fundraising-e.html> and : <http://www.cra-arc.gc.ca/tx/chrts/cnslttns/fndrsng-eng.html> respectively. See also, Theresa L.M. Man “Be Careful What You Ask For: CRA Proposed Policy on Fundraising”, in *Charity Law Bulletin No. 142* (August 5, 2008), online: <http://www.carters.ca/pub/bulletin/charity/2008/chylb142.pdf>.

the requirements of the *Income Tax Act (Canada)*⁸. In addition, the policy will provide suggestions for best practices in managing compliance related fundraising issues.

6. Update on Small and Rural Charities Initiative

CRA recognizes the challenges that small and rural charities face as a result of their limitations with respect to resources and volunteers. In order to assist such charities, CRA launched the small and rural charities initiative that began with a series of consultations between CRA and small and rural charities in October 2007, which ultimately led to the development of a joint action plan.⁹ CRA updates that it is currently acting on the priority of recommendations of the joint action plan.¹⁰ CRA indicates that as some of the recommendations are broad or may require additional study and effort over a number of years, it may only accomplish some aspects of the recommendations in the particular year indicated on the joint action plan. In addition, CRA is developing a new Web page to let charities follow its progress on its implementation of recommendations.

C. CONCLUDING COMMENTS

In light of the complex and evolving nature of the obligations and entitlements that charities need to be aware of, CRA has provided some helpful information and reminders concerning important changes for registered charities in its “What’s the Scoop? – Important Changes for Registered Charities”. However, keeping abreast of all these initiatives and changes in regulatory requirements from CRA is becoming an ever challenging task, particularly for sector volunteers.

⁸ R.S.C. 1985, c. 1 (5th Supp.).

⁹ For more information, see Terrance S. Carter, “Highlights of CRA’s Report on Small and Rural Charities”, in *Charity Law Bulletin No. 149* (November 27, 2008), online: <http://www.carters.ca/pub/bulletin/charity/2008/chylb149.pdf>.

¹⁰ The joint action plan with the timeline for each recommendation can be found in the *Small and Rural Charities: Making a difference for Canadians* report on CRA’s Web site at www.cra.gc.ca/E/pub/tg/rc4457/README.html.