
**COMMENTARY ON THE NEW T3010B
ANNUAL INFORMATION RETURN**

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A. INTRODUCTION

Canada Revenue Agency (“CRA”) has recently released online the new form T3010B, which is the new annual information return for registered charities that is to be used for fiscal periods ending on or after January 1, 2009. For fiscal periods ending on December 31, 2008 and earlier, the old T3010A is still to be used. Accompanying the new T3010B form are three slightly-revised attachments: T1235(09) – *Directors/Trustees and Like Officials Worksheet*; T1236(09) – *Qualified Donees Worksheet / Amounts Provided to Other Organizations*; and T1259(09) – *Capital Gains and Disbursement Quota Worksheet*. The CRA has also released T4033B – *Completing the Registered Charity Information Return*, which will assist charities in filling out and filing the new information return. These forms and publications are all available online on the CRA’s website.¹ The T3010B will also be available in print as of February 25, 2009.

This *Charity Law Bulletin* summarizes the various changes that have been made to the annual information return.

¹ <http://www.cra-arc.gc.ca/E/pbg/tf/t3010b/README.html>

B. BACKGROUND

Over the last two years, the CRA has consulted the charitable sector with the goal of providing better resources and support for charities to meet their legal requirements.² The new T3010B form was part of this initiative, and the CRA anticipates that the new form will assist smaller charities by reducing their filing burdens, while also assisting the general public to make better-informed decisions about donations by providing more information about registered charities. The T3010B form is also the CRA's response to many requests from registered charities to simplify the information return and reduce the filing burden for small charities that may have limited resources for addressing administrative requirements.

While the new form is anticipated to generally benefit smaller charities, the form is also designed to include additional information. In this regard, larger charities with broad operations will likely be filling in more information than they did in the previous form. This is quite apparent in the increased reporting requirements for charities engaged in foreign activities or receiving large foreign donations as discussed further below.

C. COMPARISON OF THE OLD AND NEW FORMS

1. Overall Structure of the Forms

With the old T3010A form, certain portions of the form were not required to be filled out if the question did not apply to the charity. These portions were scattered throughout the form and therefore it would not be unusual for numerous parts of the T3010A to be left blank.

The new T3010B has been restructured and is more streamlined than before. The nine sections found in the old T3010A have been converted into six sections, along with six schedules. On a practical level, this means that the new form actually consists of two parts. Sections A to F comprise the primary portion that must always be completed, while Schedules 1 to 6 relate to particular matters and only need to be completed if triggered by specific answers provided in the primary portion. Similarly, Form T1236(09) – *Qualified Donees Worksheet / Amounts Provided to Other Organizations* functions in the same way as these schedules, in that it is completed and attached only if triggered by a specific answer

² For example, see Terrance S. Carter, "Highlights of CRA'S Report on Small and Rural Charities", *Charity Law Bulletin* No. 149 (November 27, 2008), online: <http://www.carters.ca/pub/bulletin/charity/2008/chylb149.pdf>, and Terrance S. Carter, "CRA Releases Publication Outlining Important Changes for Registered Charities", *Charity Law Bulletin* No. 154 (January 22, 2009), online: <http://www.carters.ca/pub/bulletin/charity/2009/chylb154.pdf>.

in the primary portion. However, Form T1235(09) – *Directors/Trustees and Like Officials Worksheet* or a sheet with equivalent information must be attached.

The new T3010B form also includes a checklist that provides a clear indication of which portions of the information return are mandatory and which portions are not. In this regard, the checklist will act as a helpful safeguard to ensure that a charity’s information return is not missing any necessary documentation. For ease of reference, this checklist is reproduced below:

T3010B Registered Charity Information Return checklist

- Have you confirmed that all charity information included in the Form TF725, *Registered Charity Basic Information* sheet (BIS) is correct?
 - If any changes are required to any of the information displayed on the BIS, make the changes **directly** on the BIS.
- Have you attached Form TF725, *Registered Charity Basic Information* sheet (BIS)?
- Has the charity made any amendments to its governing documents during the fiscal period?
 - **If yes**, have you sent us an official copy of the amended governing documents in a separate envelope?
- Have you completed Schedule 1, *Foundations*, if required?
- Have you attached Form T1235(09), *Directors/Trustees and Like Officials Worksheet*?
- Have you attached Form T1236(09), *Qualified Donees Worksheet/Amounts Provided to Other Organizations*, if required?
- Have you completed Schedule 2, *Activities Outside Canada*, if required?
- Have you completed Schedule 3, *Compensation*, if required?
- Have you completed Schedule 4, *Confidential Data*, if required?
- Have you completed Schedule 5, *Non-Cash Gifts*, if required?
- Have you completed Schedule 6, *Detailed Financial Information*, if required?
- Have you attached a copy of the charity's financial statements?

2. Identification

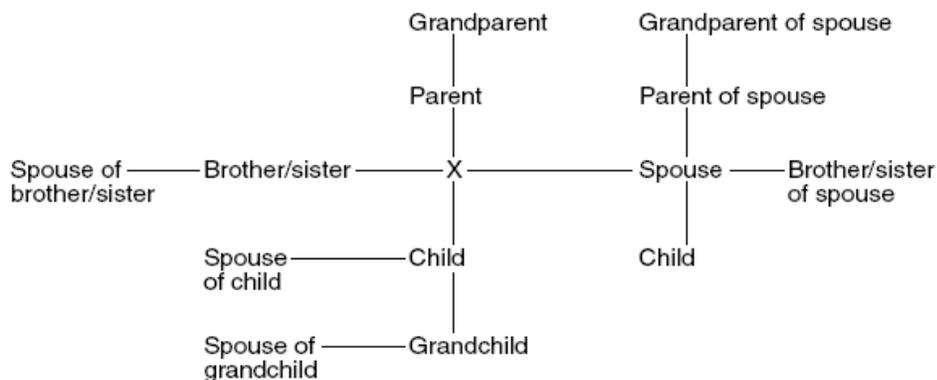
The previous multiple questions regarding identification of the charity in Section A, such as whether the charity was an internal division of another charity, has been reduced in the new form. The question about changes to governing documents has been moved to the checklist, and the CRA only asks whether or not the charity was “in a subordinate position to a parent organization”, and if so, it asks for the BN/registration number of the other charity. The CRA no longer asks if the charity amalgamated, merged or consolidated with another organization.

3. Directors/Trustees and Like Officials

Section B – Directors/Trustees and Like Officials remains essentially the same in the new form, but now expressly states that the CRA may share confidential information as permitted by law, such as sharing with certain other government departments and agencies. This is in accordance with Bill C-25, which amended the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.³ Bill C-25 permits the CRA to share information about directors and officers with the Canadian Security Intelligence Service (“CSIS”), the Royal Canadian Mounted Police (“RCMP”), as well as foreign governments and agencies.⁴ This new fact should be of concern to directors and officers of all charities, but particularly to charities that carry on activities outside of Canada.

Form T1235(09) – *Directors/Trustees and Like Officials Worksheet* or a sheet with equivalent information, which is a mandatory attachment, has been revised and is more informative and user-friendly. The form is now presented in a “landscape” layout, which provides more space to input data. Additional information on filling out the worksheet is now included in the T1235(09), such as an explanation and diagram of which related persons would be considered “non-arm’s length”. This diagram is reproduced below for ease of reference:

Non-arm's length relationships



³ *An Act to amend the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Income Tax Act and to make a consequential amendment to another Act* [“Bill C-25”], which received Royal Assent on December 14, 2006.

⁴ For more information, see Terrance S. Carter & Sean S. Carter, “New Anti-terrorist Financing Law Has Direct Impact for Charities”, *Anti-Terrorism and Charity Law Alert* No. 12 (January 24, 2007), online: <http://www.carters.ca/pub/alert/ATCLA/ATCLA12.pdf>. For detailed commentary on the effects of Canadian anti-terrorism legislation on charities, see Terrance S. Carter, “The Impact of Anti-terrorism Legislation On Charities in Canada: The Need for Balance” (Paper presented at the University of Iowa Provost’s Forum on International Affairs 2008: Counter-Terrorism and Civil Society, April 2008), online: <http://www.carters.ca/pub/article/charity/2008/tsc0419.pdf>.

4. Programs and General Information

Section C – Programs and General Information has been totally reworked and includes a number of questions that will trigger the requirement to complete a schedule or worksheet attachment. For example, additional information is required for charities that operate outside of Canada (Schedule 2), pay external fundraisers (Schedule 4 – which is confidential), pay compensation to employees (Schedule 3), or receive non-cash gifts (Schedule 5). The new form specifies clearly that charities must complete and attach T1236(09) – *Qualified Donees Worksheet / Amounts Provided to Other Organizations* if they have given gifts or transferred funds to qualified donees or other organizations.

For charities that carry on activities outside Canada, they will need to complete Schedule 2 – Activities Outside Canada. In this regard, Schedule 2 requires that the charity will need to indicate the name of the individuals or organizations that have received resources of the charity under an arrangement with the charity (such as a contract for services, an agency agreement, or joint venture agreement), the country where the activities were carried out and the dollar amount of the resources that were expended. This information about individuals or organizations carrying on activities outside of Canada is not confidential, and therefore might put those individuals or organizations at risk in some situations. As such, it may now be necessary in certain high-risk situations to disclose to recipient individuals or organizations carrying on activities outside of Canada that their identity will be disclosed in the public portion of the annual return of the charity.

As well, in order to address other provisions concerning donors under the *Income Tax Act*⁵, as amended by Bill C-25, an important addition to the new form includes a question to determine if the charity received a donation valued at \$10,000 or more from a donor who was not a resident in Canada and was not any of the following:

- a Canadian citizen;
- employed in Canada;
- carrying on business in Canada; or
- a person having disposed of taxable Canadian property.

If a donation was received in this regard, then the charity must provide information in Schedule 4 (which the CRA classifies as confidential data) concerning the donor as well as the amount donated.

⁵ R.S.C. 1985, c. 1 (5th supp.).

Charities will need to ensure that they have the requisite information from non-resident donors to satisfy the reporting requirements in Schedule 4. Obtaining this information from donors though, may be easier said than done, given the fact that in accordance with Bill C-25, the information can be shared with CSIS, the RCMP, as well as foreign governments and agencies.

5. Financial Information

Perhaps the most substantial difference between the old T3010A and the new T3010B form is Section D, which is a simplified and shorter section regarding the charity's financial information. In accordance with the *CRA Report on Small and Rural Charities*,⁶ one of the CRA's goals for the new T3010B was to reduce the filing burden for smaller charities. In order to benefit from these reduced filing requirements for financial information, the charity cannot have any of the following apply to it:

- The charity's revenue exceeds \$100,000.
- The amount of all assets (e.g., investments, rental properties) not used in charitable programs exceeds \$25,000.
- The charity has permission to accumulate funds during this fiscal period.
- The charity has spent or transferred enduring property during this fiscal period.

Permission to accumulate funds typically occurs when a charity wants to save funds for a major purchase, such as a building. Because it may be difficult for the charity to save these funds, as well as to meet its disbursement quota for charitable programs, the charity may apply to the CRA for permission to accumulate funds. Enduring property of a charity generally include ten-year gifts and gifts received by bequest or inheritance. For more information on these terms and their application to charities, charities are advised to refer to T4033B – *Completing the Registered Charity Information Return* and to seek further advice.

Charities that do not satisfy all the criteria listed above must instead complete Schedule 6, which is a much lengthier and more detailed financial information section similar to that of the old T3010A form.

⁶ *Supra* note 2.

6. Certification and Confidential Data

Section E and Section F dealing with Certification and Confidential Data remain essentially unchanged. The charity must provide its physical address and the address where its books and records are kept, as well as information about the individual who completed the form. The form must be signed by a director/trustee or like official of the charity who has authority to sign on behalf of the charity, which would normally require board authorization. As a result, it is generally recommended that the T3010B form be reviewed and approved by the board of the charity, particularly considering that some of the annual information return will contain information that CRA auditors will likely use in the future to determine whether the charity has been in compliance with CRA requirements.

7. Removed or Relocated Sections

Several sections in the T3010A form have either been converted into a schedule, or removed altogether. Questions relating to compensation of employees (Section D of the old form) have been relocated to the back of the new form as Schedule 3. A number of questions have also been revised, such as the requirement that charities now report the top ten (as opposed to top five) highest-compensated positions and their respective income amounts. The section regarding foundations in the old form (Section G) has also been converted into a schedule (Schedule 1).

The old form also included in Section F “Other Required Information”, which consisted of various miscellaneous financial questions. This section no longer exists in the new form, and the individual questions have generally been transferred to other parts. For example, a number of questions now appear under Schedule 6 of the new form (the financial information section for larger charities). This is indicative of further relief for smaller charities who are eligible to use the abbreviated financial information section in the new form.

D. CONCLUDING COMMENTS

With the exception of the question pertaining to donors of gifts over \$10,000 who are not resident in Canada and the requirement to name third party recipients of funds received outside Canada in accordance with the requirements of Bill C-25, the substance of the questions in the new T3010B form is not radically different from that of the old T3010A form. However, the reorganization and rewording of the form is more streamlined and therefore more user-friendly for charities. Most importantly, the simplified financial information sections will be a welcome development for eligible smaller charities.

Charities are advised to carefully review the new form, and in the course of doing so, to utilize T4033B – *Completing the Registered Charity Information Return* when preparing to file their information return. Charities are also reminded that the new form must be used by registered charities that have a fiscal period ending on or after January 1, 2009. Again, if the charity has a fiscal period ending prior to January 1, 2009, it is still required to use the old T3010A form.