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Annual Estates and Trusts Summit**

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Essential Charity Law Update

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OVERVIEW OF SELECTED TOPICS

- A. 2013 Federal Budget Highlights
- B. Other Federal Initiatives
- C. Highlights of Recent CRA Publications
- D. Corporate Law Update
- E. Other Provincial Initiatives
- F. Selected Case Law

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A. 2013 FEDERAL BUDGET HIGHLIGHTS

- Introduction of Temporary Donation Tax Credit for “First-Time Donors”
- Early Collection of Amounts Owning from Donation Tax Shelters
- Extension of Reassessment Period for Donors to Registered Tax Shelters
- New Rules Concerning Collection of GST/HST on Paid Parking Affecting Charities
- Amalgamation of the Department of Foreign Affairs and International Trade with CIDA

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B. OTHER FEDERAL INITIATIVES

- Bill C-48, *Technical Tax Amendments Act, 2012*
 - Split receipting rules
 - Definition of charitable organization and public foundation
 - Revocation for gift to non-qualified donee
 - Determination of fair market value of gifted property
- Bill S-7, *Combating Terrorism Act*
- Bill S-14, *Fighting Foreign Corruption Act*
 - Amends the definition of “business” to remove “for profit” requirement
 - Repeals the “facilitation payment” exemption

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C. HIGHLIGHTS OF RECENT CRA PUBLICATIONS

- CRA Guidance on How to Draft Purposes for Charitable Registration
- CRA Guidance on Purposes and Activities Benefiting Youth
- CRA Guidance on Foreign Activities Changes Rules on Capital Property in a Foreign Country
- CRA Resources for Charities Concerning Political Activities
- Modifications Made to CRA Policy Statement on Political Activities
- Registration Requirements for Qualified Donees

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D. CORPORATE UPDATE

- *Canada Not-for-profit Corporations Act (CNCA)* Update
 - Only 2,100 of 17,000 federal corporations continued as of October 31, 2013
 - May possibly need to collapse multiple membership structure as part of continuance process
- *Ontario Not-for-profit Corporations Act (ONCA)* Update
 - Timing of proclamation
 - Amendments proposed by Bill 85

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- Ontario Social Enterprise Strategy Announced
 - No legislation introduced as of yet
- BC Approves Regulation for Community Contribution Companies
 - Regulation came into force on July 29, 2013
- Nova Scotia Passes Community Interest Companies Act
 - Act not yet proclaimed

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E. OTHER PROVINCIAL INITIATIVES

- Proposed *Employer Health Tax Act* Amendments May Impact Charities
- Proposed Payday Lending Amendments in Ontario
 - Amendments might have caught charities that engage in microfinance lending, but the amendments are now expected to exempt charities

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F. SELECTED CASE LAW (IN CHRONOLOGICAL ORDER)

- Court Upholds Termination for Misapplying Charitable Funds
 - *English v. Travel Centres Canada*
- Court Intervenes in Membership Dispute to Remove Directors
 - *Pal et al v. Chaterjee et al*
- Court Intervenes in Church Dispute to Ensure Fairness in Membership Admission
 - *Diaferia et al v. Elliott*

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- Federal Court of Appeal Decision in Prescient
 - *Prescient Foundation v. Minister of National Revenue*
- Appeal in *Guindon v The Queen*
 - Third party penalty (s. 163.2 of the *Income Tax Act*) against lawyer for charity
- Ontario Human Rights Tribunal Rules that Atheism is a Creed/Religion
 - *R.C. v. District School Board of Niagara*
- Applications to Delay Revocation of Charitable Property
 - *Chabad v. Minister of National Revenue*

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