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Top Ten Compliance Issues for Canadian Registered Charities

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Introduction

- Legal information not legal advice
- Views expressed are my own
- Questions during and at end
- Logistics and timing

1. Failure to File T3010

- Canadian Registered Charities must file their T3010 Registered Charity Information Return every year
- Within six months of the end of the charity's fiscal period
- Transparency tool
- Form is mailed with labels to charity – also can download form from:
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rtrn/flngb-eng.html>
- 600 charities lose registered charity status for failure to file
- May be difficult to be re-registered

2. Mistakes with T3010

- T3010 must be the correct form, accurate and complete including schedules and financial statements otherwise may be returned or considered incomplete
- Lots of help on internet with T3010
- CRA has fillable T3010 or CharityFocus.ca T3010 Quickprep
- Budget 2012 – suspension for not properly completing T3010

3. Incorrect Receipts

- Charities are not required to issue receipts
- But if you issue receipts, make sure you do it properly
- Some receipts:
 - Lack required information (mandatory elements)
 - Have mistakes
 - Include improper fair market value (FMV)

What is a “Gift”

Charities can only issue receipts for a gift.

A gift must be:

1. **Voluntary** – given of free will (not compelled)
2. **Transferred** – from donor to charity/qualified donee
3. **Property** – cash or gifts in kinds (not services)
4. **Donative Intent** on the part of the donor (advantage must be less than 80% of amount unless Minister agrees)

Don't Issue a Receipt When...

- You cannot determine the value of the donation or the benefit
- Donation of services (donated time, labour, skills) to charity or loans of property, use of a timeshare or lease of premises
- Donation is intended for another organization that is not a registered charity or qualified donee (“lending registration”)

Don't Issue a Receipt When...

- Tuition (except IC 75-23 - private religious schools)
- Business advertising expenses/sponsorship
- Gifts of promises (for example, gift certificates donated by the issuer, hotel accommodation) or pledges
- Payment of basic fee for event (eg. concert)
- Payment for program (eg. daycare)

Don't Issue a Receipt When...

- Membership fees that convey the right to attend events, receive literature, receive services, or be eligible for entitlements of any material value that exceeds 80% of the value of the payment
- Lottery tickets
- Purchase of goods or services from charity
- Donation for which the fair market value of the advantage or consideration provided to the donor exceeds 80% of the value of the donation

Don't Issue a Receipt When...

- Funds or gift in kind from another qualified donee (for example Canadian private foundation gifts or transfers funds to registered Canadian charitable organization)
- Cannot determine the name of the true donor
- Gift directed to specific person or family unless charity has already decided that person or family is recipient of its charitable program and charity has full discretion to reallocate and person or family is arms-length from donor

Mandatory Elements of Receipts

For gifts of cash: (Regulation 3501 of the *Income Tax Act*)

- A statement that it is an official receipt for income tax purposes;
- The name and address of the charity as on file with the CRA;
- The charity's registration number;
- The serial number of the receipt;
- The place or locality where the receipt was issued;
- The day or year the donation was received;

Mandatory Elements of Receipts

- The day on which the receipt was issued if it differs from the day of donation;
- The full name and address of the donor;
- The amount of the gift;
- The value and description of any advantage received by the donor (under proposed legislation);
- The signature of an individual authorized by the charity to acknowledge donations; and
- The name and Web site address of the Canadian Revenue Agency (www.cra.gc.ca/charities)

Mandatory Elements for Gifts in Kind

For non-cash gifts (gifts in kind), these additional elements:

- The day on which the donation was received (if not already indicated);
- A brief description of the property transferred to the charity;
- The name and address of the appraiser (if property was appraised); and
- In place of the amount of the gift mentioned above, the deemed fair market value of the property (under proposed legislation).

Sample Official Donation Receipts

Charities and Giving - Sample official donation receipts - Windows Internet Explorer

http://www.cra-arc.gc.ca/tx/chrts/pbs/smples-eng.html#sample1

sample official donation receipts CRA

File Edit View Favorites Tools Help

Google sample official donation receipts CRA Search

Charities and Giving - Sample official donation receipts

Home Feeds (1) Print Page Tools

Canada Revenue Agency
www.cra.gc.ca

Français Home Contact Us Help Search canada.gc.ca

Sample official donation receipts

Sample # 1 - Cash gift (no advantage)

Receipt # 0001

Charity name	Canadian charity address	Charity BN/Registration #
Date donation received: _____		Donated by: _____ (First name, initial, last name)
		Address: _____
Eligible amount of gift for tax purposes: _____		
	Date receipt issued: _____	
	Location issued: _____	
	Authorized signature: _____	

For information on all registered charities in Canada under the *Income Tax Act* please visit:

Canada Revenue Agency www.cra.gc.ca/charities

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Internet 100% 12:17 AM

4. Acting Outside Legal Objects

Charities in Canada have legal objects in their founding documents (eg. Letters Patent, Trust deed etc)

Charities must not act outside of these legal objects.

Federal and Ontario incorporated charities – continuance under new corporate act is good time to update objects.

5. Gifts to Non-Qualified Donees

Charities need “direction and control” over funds and resources of your charity.

Charities conduct activities in two ways:

1. By gifting to “qualified donees”; or
2. By carrying on its own charitable activities.

*employees and volunteers

*using intermediaries who are not qualified donees (in Canada or abroad).

CRA's Guidance

- **Guidance on Canadian Registered Charities Carrying Out Activities Outside Canada**

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html>

- **Using an Intermediary to Carry out a Charity's Activities within Canada**

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html>

Canadian Registered Charity

*Gift to
Qualified donee*

**“Own Activities”
[Direction and Control]**

Qualified Donee, eg.
Canadian registered
Charity, UN, prescribed
Foreign Universities,
Canadian Municipalities,
RCAAA, etc.

**Employee
Volunteer**

Structured
Arrangement - Written
agreement, etc.

**Intermediary –
agency, JV,
partner,
contractor**

“Own Activities” or “Direction And Control”

When not working with qualified donee or own staff need to have:

- Due Diligence of Intermediary (investigate)
- Written agreement
- Detailed description of activities
- Monitoring and Supervision
- Ongoing Instruction for changes
- Periodic Transfers
- Separate Activities and Funds
- Books and Records showing above

6. Fundraising Costs and Practice

- Fundraising is important for charities but it is not a charitable activity
- Lots of media and donor concern about costs and practices
- CRA Guidance on Fundraising recently updated

Fundraising by Registered Charities

CRA's Guidance on Fundraising (CG-013):

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html>

My page on the fundraising guidance:

<http://tinyurl.com/8x99n2j>

PDF Version of Guidance

http://www.globalphilanthropy.ca/images/uploads/CRA_Fundraising_Guidance_April_20, 2012_-_final.pdf

CRA Fundraising Guidance

- Consultation draft in 2008
- Published guidance on June 11, 2009
- Revised guidance in April 2012 (“Guidance”)

Summary –indicators and factors

7. When evaluating a charity's fundraising activities, the CRA will consider a range of indicators and factors, including the following:

- resources devoted to fundraising relative to resources devoted to charitable programs;
- fundraising without an identifiable use or need for the proceeds;
- the charity's fundraising expenses to fundraising revenue ratio;

Summary –indicators and factors

- inappropriate purchasing or staffing practices, including purchases of fundraising merchandise or services that do not increase fundraising revenue, paying more than fair market value for fundraising merchandise or services, and sole source or not-at-arm's length contracts with suppliers or service providers;
- activities where most of the gross revenues go to contracted non-charitable parties;
- commission-based fundraiser remuneration or payment of fundraisers based on the amount or number of donations;

Summary –indicators and factors

- misrepresentations in fundraising solicitations or in disclosure about fundraising costs, revenues or practices;
- fundraising initiative or arrangements that are not well documented; and
- the size of the charity, causes with limited appeal, donor development programs, and involvement in gaming activities.

Fundraising Ratio

- **Ratio of costs to revenue over fiscal period – under 35%**
This ratio is unlikely to generate questions or concerns by the CRA.
- **Ratio of costs to revenue over fiscal period – 35% and above**
The CRA will examine the average ratio over recent years to determine if there is a trend of high fundraising costs. The higher the ratio, the more likely it is the CRA will be concerned the charity is engaged in fundraising that is not acceptable, requiring a more detailed assessment of expenditures.
- **Ratio of costs to revenue over fiscal period – above 70%**
This level will raise concerns with the CRA. The charity must be able to provide an explanation and rationale for this level of expenditure to show that it is not engaged in unacceptable fundraising.

Exclusions from fundraising

Fundraising does not include:

seeking grants, gifts, contributions, or other funding from other charities or government,

recruiting volunteers to carry out the general operations of the charity,

or related business activities. (See [CPS-019, What is a Related Business?](#))

Allocation – how much is fundraising

If 10% FR	If 10-90% FR	If 90% -100% FR
Activity would have been undertaken without fundraising		Exclusively, or almost exclusively to fundraise -if content to assist charitable or admin they are incidental and ancillary
Allocate nothing to FR	Pro-rated allocation to fundraising and other (charitable, admin, political, etc)	Allocate 100% to fundraising
Report 0	Report %	Report 100%

Reserve Fund Policy

The size of a justifiable reserve fund will depend on a charity's particular situation. For example, when establishing a reserve fund, the charity could show it has taken into account factors such as:

its typical annual expenditures; its size; its long-term plans; its donor base; its projected revenue; its current and projected economic conditions; anticipated changes to the environment in which the charity operates; contingencies; and known risks being faced.

- Review policy periodically to take into account the changing needs of the charity.

7. Political Activities

- Cannot have political purpose (object); only political activities
- No illegal or partisan political activities
- Political activities must be “connected and subordinate” to purpose (legal objects)
- Comply with “10% rule” and disbursement quota restrictions (political work on not charitable and only if DQ room)
- Informative, accurate, and well-reasoned (not false, inaccurate, or misleading)
- **Read CRA Policy Statement on Political Activities (CPS-022)**
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>

8. Failing to Keep Adequate Books and Records

A Canadian registered charity **must** keep *adequate* books and records, **preferably** in either English or French.

CRA must be able to:

- Verify revenues, including all charitable donations received;
- Verify that resources are spent on charitable programs; and
- Verify that the charity's purposes and activities continue to be charitable.

9. Unrelated Business Activities

Income Tax Act prohibits “unrelated business activities” by all charities

Charitable organizations and public foundations are permitted to engage in “related business activities” but private foundations may not engage in any business activity

“Carrying on business” - activity is commercial in nature (derive revenue and provisions of goods and services, intention to earn profit) and continuous

What is a Related Business?

There are two kinds of related businesses that a registered charity can conduct:

1. Businesses that are linked to a charity's purpose and subordinate to that purpose (for example, a hospital parking lot, church gift shop); and
2. Businesses that are run substantially (90%) by volunteers (for example, coffee shop run by volunteers).

For more guidance, see CRA's [CPS-019 "What is a Related Business?"](#)

10. Transactions with Directors

In Ontario, the Public Guardian and Trustee takes the position that directors of charities can only be reimbursed for reasonable out of pocket expenses – directors cannot be consultants or employees of charity.

In other provinces, more scrutiny of salaries, loans to directors, investments in companies of directors, transactions with businesses owned by directors, etc...

11. Employment Issues

- Employee vs. Independent contractor - see CRA publication *Employee or Self-employed?*: <http://www.cra-arc.gc.ca/E/pub/tg/rc4110/>
- Withholding source deductions (CPP, EI, Income Tax)
- Remitting source deductions
- Proper employment agreements
- Excessive compensation / private benefit

Charities Directorate of CRA

- Regulates registered charities
- Based in Ottawa
- Website: www.cra.gc.ca/charities
- E-mail list: <http://www.cra-arc.gc.ca/esrvcsrvce/mlst/sbscrbchrts-eng.html>
- Webinars: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/wbnrs/menu-eng.html>
- Telephone: 1-800-267-2384 (English)
1-888-892-5667 (Bilingual)

Questions and Thank you!

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