

## Accountability for the use of resources for political activities

- The *Income Tax Act* requires a charity to keep books and records that show it continues to qualify for registration as a charity.
    - This means that a charity must keep books and records that demonstrate that any political activities it carries out comply with the Act.
    - A charity's books and records can include, but are not limited to, invoices, ledgers, records of volunteer hours worked, contracts, and minutes of board meetings.
  - The Canada Revenue Agency recognizes that charities may use different methods to track the use of their resources, but a charity must always be able to show which resources are used, how they have been used, and for what activity. For example, a charity might examine and track the following types of resources devoted to political activities:
    - Financial resources – All financial expenditures, including salary and other human resource costs;
    - Capital assets – The percentage of use of building and office space, the percentage or amount of proceeds or withdrawals from the charity's investments that are spent on political activities; and
    - Volunteer time and donated resources – The percentage of volunteer hours or number of volunteers, and the percentage or amount of donated resources that are devoted to carrying out the charity's political activities.
  - The onus is always on the charity to account for its use of resources.
  - A charity should use a reasonable and consistent method to calculate its expenditures on, or use of resources devoted to, political activities.
  - For more information on what kinds of records a charity needs to keep, and for how long, see [Guide RC4409, Keeping Records](#).
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## Changes to compliance and reporting requirements

In 2012, the Government of Canada introduced measures that affect registered charities and political activities.

### Gifts intended to support a qualified donee's political activities

- Under the *Income Tax Act*, gifts from a registered charity to a qualified donee that are made to support the recipient's political activities must now be reported as a political activity. (A qualified donee is an organization that can issue a receipt to a donor, which can be used to reduce the donor's Canadian income tax.)

### When is a gift from a charity to another qualified donee a political activity?

- A gift from a charity to another qualified donee is a political activity if it can reasonably be considered that a purpose of the gift is to support the political activities of the qualified donee.
- If the donor charity intends the gift to support the recipient's political activities, then the gift is to be considered a political activity by the donor charity, regardless of the ultimate use of the gift.
- This rule applies to gifts made to qualified donees after June 29, 2012.

## Sanction

- Under the *Income Tax Act*, a charity that exceeds the limits for political activities or engages in partisan political activities may have its registration suspended for one year.

- During a suspension, a charity may not issue official donation receipts or receive gifts from other registered charities.
- Charities who engage in serious non-compliance with the rules governing political activities continue to face possible revocation of their registered status.

## Reporting requirements

Form T3010, *Registered Charity Information Return*, has been updated to reflect the changes:

- Section C5 of Form T3010 allows for the reporting of:
  - gifts to qualified donees intended to support political activities; and
  - funding received from outside Canada, that the donor directed the charity to use for political activities.
- Schedule 7, *Political Activities*, is to be completed if a charity reported conducting political activities in Section C5. The schedule collects information on:
  - the type of political activities carried out and how these relate to the charity's charitable purposes, as well as the methods and type of resources used; and
  - the amount, the political activity, and the country of origin for any foreign funding that the charity was directed to use for political activities.
- Form T3010 (13) must be used for fiscal periods ending **on or after January 1, 2013**.
- Form T1236, *Qualified Donees Worksheet / Amounts Provided to Other Organizations*, allows for reporting of specific gifts to qualified donees for their political activities.

### Note

For Form T3010 reporting purposes, a charity is responsible for reporting gifts to qualified donees, whether for a political activity or not, but it is not responsible for tracking the recipient's use of the gift.

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## Representations to government as a charitable activity

### Criteria for representations to be considered charitable

- Given their unique perspectives and expertise, it is recognized that charities make a valuable contribution to the development of public policy in Canada.
- The provisions of the *Income Tax Act* related to political activities are not meant to restrict the contribution of charities to public policy. Therefore, if a charity makes a representation to an elected representative or public official, with or without an invitation, this will generally be considered as a charitable activity. For more information, see section 7.3 of [Policy Statement CPS-022, Political Activities](#).
- Representations to elected representatives or public officials must:
  - only be undertaken as an activity that is subordinate to a charity's charitable purposes;
  - relate to an issue that is connected to the charity's purposes;
  - be well-reasoned; and
  - not contain information that the charity knows or ought to know is false, inaccurate, or misleading.
- If making representations becomes a charity's sole or primary activity, the Canada Revenue Agency (CRA) would likely conclude that the charity had adopted either a collateral, non-charitable purpose or a political purpose. The charity could then be subject to compliance measures, including suspension of its tax-receipting privileges, or revocation of its charitable status.

- If a charity made a representation that was not connected to its charitable purposes, the CRA would also likely conclude that this was not an acceptable use of resources. For example, if a charity were registered with the sole charitable purpose of advancing education by providing scholarships, yet made representation to a government calling for a reduction in general sales taxes, the CRA would not consider this representation to be connected to its charitable purposes.
- Finally, a representation must always be non-partisan. It must never include any direct or indirect support or opposition to a candidate or political party.

### What kinds of representations might be considered charitable?

- Whether a representation meets all the criteria described in section 7.3 of Policy Statement CPS-022, *Political Activities*, will always depend on the specific facts of the individual case. Examples of representations that, depending on the circumstances, might meet all the criteria include:
  - a meeting at a member of Parliament's office where a charity delivers an oral argument urging the member to support legislation that is related to the charity's charitable purpose;
  - a presentation delivered to a public official at a charity's headquarters to explain the charity's findings on a public policy issue that relates to the charity's purposes and call for a government policy to be changed;
  - an appearance before a parliamentary committee to speak about a charity's experiences in its field of operations and to urge the committee to support/amend proposed legislation; or
  - a presentation at a municipal government town hall meeting to provide a charity's views on the benefits to its programs of proposed changes to a municipal bylaw and call for the changes to be implemented.

### Releasing the text of a representation

- Releasing the text of a representation before or after delivering it to the elected representative or public official will be considered a charitable activity provided that the entire text is released and there is no explicit [call to political action](#) either in the text or in any reference to the text.
- The charity may issue the entire representation to the public by press release; its Web site; or explaining in a newsletter that it intends to make, or has made, the representation and is willing to distribute the information to anyone who wants a copy.
- In all cases, the **entire** representation should be made available.
- Should a charity make an explicit call to political action in any part of this representation or in reference to it, the activities could be regarded as political activities and, as a result, all resources and expenditures associated with these activities could be considered to have been devoted to a political activity.

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### Distinguishing between charitable and political activities

- Given that the term **charitable** is not defined in the *Income Tax Act*, the common law meaning of the term is applied in determining what qualifies as charitable for purposes of registration. The courts have identified four categories of charitable purposes. For an organization to be registered as a charity, its purposes have to fall within one or more of the following categories:
  - relief of poverty
  - advancement of education
  - advancement of religion
  - certain other purposes that benefit the community in a way the courts have said is charitable

- A charitable activity is an activity that furthers a charitable purpose.
- An activity is presumed to be political if a charity:
  - - explicitly communicates a call to political action (that is, encourages the public to contact an elected representative or public official and urges them to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country);
    - explicitly communicates to the public that the law, policy, or decision of any level of government in Canada or a foreign country should be retained (if the retention of the law, policy, or decision is being reconsidered by a government), opposed, or changed;
    - explicitly indicates in its materials (whether internal or external) that the intention of the activity is to incite, or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country; or
    - makes a gift to another [qualified donee](#) to support political activities.
- The Canada Revenue Agency will consider an activity that meets any of the four definitions in the list above to be a political activity, however beneficial the results of the activity might be, or how sincere the intentions or beliefs of the charity.
- Representations made to elected representatives or public officials that meet certain criteria can be considered charitable activities, even if they contain an explicit recommendation to change a law, policy, or decision of any level of government. See sections 7.3 and 7.3.1 of [Policy Statement CPS-022, Political Activities](#).

### **Example**

A charity is registered to relieve poverty by helping refugees settling in a particular city. Besides providing temporary housing and employment training, the charity also helps the refugees apply for government social programs. The charity helps with translation, completing application forms, and providing legal representation.

The charity's activities are likely charitable, because they directly further a charitable purpose and are not seeking to retain, change, or oppose a law, policy, or decision of any level of government.

But the charity learns that many refugees are not applying for the government social programs they are entitled to because the application forms are not available in the language spoken by most of the refugees. So the charity starts publishing articles on its Web site, distributing messages through social media, and creating petitions that publicly call for the government to translate the relevant forms.

In this case, because the charity is explicitly seeking to change a government policy or decision, it is carrying out a political activity in addition to its regular charitable activities. The political activity would be acceptable as long as the charity continues to meet all the requirements of the *Income Tax Act* (that is, the charity devotes only a limited amount of resources to the activity—generally no more than 10%, it remains non-partisan, and is connected and subordinate to the charity's exclusively charitable purposes).

- Representatives of a charity, such as employees, directors, members, or volunteers, may be involved with an election, political campaign, or any other political activity in their own capacity as individuals, whether during an election period or not.
- However, the charity's resources (for example, office space, supplies, phone, photocopier, computer, publications) must never be used to support that individual's personal political activities.
- The Canada Revenue Agency suggests that charities consider developing a policy and/or guideline to make sure that there is a clear and explicit understanding regarding the use of a charity's resources for political activities. Such a policy or guideline would address the distinction between a representative's personal political activities and a charity's political activities.
- Representatives of a charity can publicly voice their views on political issues, but must not use events or functions organized by a charity, the charity's publications, or any of the charity's other resources as a platform to voice their political views.
- In situations outside charity functions and publications, representatives of a charity, particularly leaders, who want to speak and/or write in their individual capacity are encouraged to indicate that their comments are personal rather than the views of the charity.
- This is particularly important in the case of social media, where it may be difficult to tell whether a representative's messages represent his or her personal views, or a charity's political activities.

### **Example**

A director of a charity is attending a political party's national convention as a supporter of that party.

Although the director can participate as an individual and supporter, she must not use any of the charity's resources to attend the convention, such as by having the charity pay or reimburse her for airfare or accommodations. She must also be careful not to present herself as officially or unofficially representing the charity at the convention, or use her position with the charity to suggest that the charity endorses a candidate or political party.