

Measure	Yes	No	Not Sure	N/A	For More Information
<b>1 Filing Your T3010 Registered Charity Information Return</b>					
a.	You have checked that you are a registered charity on the CRA's Charities Listing				<a href="http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a> CRA's Charities Listing
b.	You know the date of your fiscal year end				See previous T3010 or CRA listing at <a href="http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a>
c.	You know when to file your T3010				
d.	You know who is responsible for filing the T3010 in your organization				
e.	You always file your T3010 on time				
f.	You are up to date with your T3010 filings				
g.	CRA has your correct contact information				See CRA listing <a href="http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a>  On the Form TF725, <i>Registered Charity Basic Information Sheet (BIS)</i> , which is the same form with pre-printed labels attached, make sure that you file that form and verify all the information on the form. In addition to updating your contact information you should also update your program areas on the TF725.

Measure	Yes	No	Not Sure	N/A	For More Information
<b>2 Ensuring Your T3010 is Correct and Complete</b>					
a. You are using the correct form					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/menu-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/menu-eng.html</a> You might want to try the QuickPrep T3010 form at <a href="http://www.charityfocus.ca">www.charityfocus.ca</a>
b. You complete all required information on the T3010					View CRA's page on the T3010 <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/menu-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/menu-eng.html</a>
c. You attach all required documentation when you file your T3010 such as financial statements					See CRA checklist on pg. 3 in the T3010 guide at <a href="http://www.cra-arc.gc.ca/E/pub/tg/t4033/README.html">http://www.cra-arc.gc.ca/E/pub/tg/t4033/README.html</a>
d. If you are having trouble with the T3010 you have checked CRA resources or called the CRA or obtained professional advice					See <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/menu-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/menu-eng.html</a>
e. You have checked that you have not made some of the most common mistakes with the T3010					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/mstksb-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/mstksb-eng.html</a>
f. You had your lawyer, accountant and/or board members check the T3010 before it was filed					This is not required but it is a good practice to increase the likelihood of the T3010 being accurate. Changes in the 2012 Federal Budget allow CRA to suspend receiving privileges of a charity if their T3010 filing is incomplete.
g. After filing the T3010 you have checked your T3010 online at the CRA website to ensure accuracy					This is a best practice for larger organizations. See CRA Charities Listing at <a href="http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">http://www.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a> Also <a href="http://www.charityfocus.ca">www.charityfocus.ca</a>
<b>3 Ensuring Your Donation Receipts Are Correct</b>					
a. You only provide official donation receipts for "gifts" when appropriate					See definition of "gift" <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/glsry-eng.html#gift">http://www.cra-arc.gc.ca/chrts-gvng/chrts/glsry-eng.html#gift</a> . See also P113 Gifts and Income Tax <a href="http://www.cra-arc.gc.ca/E/pub/tg/p113/README.html">http://www.cra-arc.gc.ca/E/pub/tg/p113/README.html</a>
b. You only provide receipts for donations to your organization (you do not act as a conduit or lend your registration to another organization such as non-profit or foreign charity)					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html</a> or <a href="http://www.globalphilanthropy.ca/index.php/blog/comments/cras_new_guidance_for_canadian_registered_charities_carrying_out_activities/">http://www.globalphilanthropy.ca/index.php/blog/comments/cras_new_guidance_for_canadian_registered_charities_carrying_out_activities/</a>
c. You understand the "split receipting" rules and ensure that any "advantage" is subtracted from the amount of the donation to determine the eligible amount of the official donation receipt					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/rcpts/splt-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtngrtrn/rcpts/splt-eng.html</a> Example of split receipting – someone pays \$100 to go to gala dinner, you subtract advantage (food, door prizes etc) and issue receipt for donation minus advantage.

Measure		Yes	No	Not Sure	N/A	For More Information
d.	You understand that the definition of "advantage" or benefit is what a donor may receive in return for his or her donation (for example, a meal, tickets to a show), and it must be taken into consideration when determining the eligible amount of a gift for receipting purposes					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dtrmnfmv-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dtrmnfmv-eng.html</a>
e.	You understand that advantage is very broad and some of the many possible advantages include property (for example, cash, non-cash gifts also called gifts-in-kind), the use of or enjoyment of property; the provision of services; and other benefits including but not limited to assumption of debt by charity, sponsorship, non-recourse loans, etc.					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/glssry-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/glssry-eng.html</a>
f.	All mandatory fields are included on your receipts					You can review CRA's checklist <i>Issuing complete and accurate donation receipts</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/rcpts-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/rcpts-eng.html</a> or review CRA's sample receipts. <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/pbs/rcpts-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/pbs/rcpts-eng.html</a>
g.	You always ensure that you have the correct donor on the receipt					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-010-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-010-eng.html</a>
h.	You understand the definition of fair market value namely: <ul style="list-style-type: none"> <li>Fair market value is normally the highest price, expressed in dollars, that property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other</li> </ul>					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dtrmnfmv-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dtrmnfmv-eng.html</a>  <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/glssry-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/glssry-eng.html</a>
i.	You understand that in certain circumstances under the deemed fair market value rules a charity must issue a receipt for the lesser of fair market value or the cost to the donor					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dmdfmv-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dmdfmv-eng.html</a>
j.	You understand that if either the fair market value of a gift in kind or an advantage cannot be determined, an official donation receipt cannot be issued					
k.	You understand that the onus is on the charity to determine fair market value and that a charity cannot rely on a donor's valuation or view of fair market value					

Measure	Yes	No	Not Sure	N/A	For More Information
<p>I. You are aware of the transactions that generally do not qualify as gifts and therefore no tax receipt is issued? For example:</p> <ul style="list-style-type: none"> <li>• A court ordered transfer of property to a charity;</li> <li>• The payment of a basic fee for admission to an event or to a program;</li> <li>• The payment of 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;</li> <li>• A payment for a lottery ticket or other chance to win a prize;</li> <li>• The purchase of goods or services from a charity;</li> <li>• A donation for which the fair market value of the advantage or consideration provided to the donor exceeds 80% of the value of the donation;</li> <li>• A gift in kind for which the fair market value cannot be determined;</li> <li>• Donations provided in exchange for advertising/sponsorship;</li> <li>• Gifts of services (for example: donated time, labour);</li> <li>• Gifts or promises (for example: gift certificates donated by the issuer, hotel accommodation);</li> <li>• Pledges;</li> <li>• Loans of property;</li> <li>• Use of a timeshare; and</li> <li>• The lease of premises.</li> </ul>					<p>For more information on receipting and Canadian charities see:  <a href="http://www.canadiancharitylaw.ca/blog/category/receipting_by_charities">http://www.canadiancharitylaw.ca/blog/category/receipting_by_charities</a></p> <p>Check out the free Blumbergs' Receipting Kit with information on receipting and relevant CRA policies:  <a href="http://www.canadiancharitylaw.ca/blog/blumbergs_2013_receipting_kit_for_canadian_registered_charities">http://www.canadiancharitylaw.ca/blog/blumbergs_2013_receipting_kit_for_canadian_registered_charities</a></p>
<b>4 Religious School Tuition Receipts</b>					
<p>a. If your charity is a religious school and is issuing receipts for the religious portion of tuition, it is in compliance with CRA's circular IC 75-23</p>					<p><a href="http://www.cra-arc.gc.ca/E/pub/tp/ic75-23/ic75-23-e.txt">http://www.cra-arc.gc.ca/E/pub/tp/ic75-23/ic75-23-e.txt</a></p>
<b>5 Fraudulent Tax Receipts</b>					
<p>a. Your charity locks away your receipting book or uses a secure password on any computer or program that produces official donation receipts</p>					
<p>b. Your charity maintains tight controls over who can issue receipts in order to avoid the issuance of fraudulent or improper tax receipts</p>					

Measure	Yes	No	Not Sure	N/A	For More Information
<b>6 Charity Gifting Tax Shelters</b>					
a. Your charity avoids any involvement with "abusive tax shelter gifting arrangements" which offer that people can make money on a charitable donation					For information on what are abusive tax shelters see: <a href="http://www.cra-arc.gc.ca/chrts-gvng/dnrs/rcpts/dntn6-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/dnrs/rcpts/dntn6-eng.html</a> For information on the scope of the problem see: <a href="http://news.gc.ca/web/article-en.do?mthd=index&amp;ctr.page=1&amp;nid=808689">http://news.gc.ca/web/article-en.do?mthd=index&amp;ctr.page=1&amp;nid=808689</a>
<b>7 Acting Outside Legal Objects</b>					
a. You periodically review the legal objects in your charity's letters patent/articles of incorporation, trust deed or constitution to ensure all the activities of your charity are within your legal objects					
b. If activities are outside the scope of your objects you have discontinued those activities or decided to modify your objects					
c. If you are modifying your legal objects you have first obtained CRA's approval for the changes (by submitting the new proposed objects and a detailed description of activities to CRA) and secondly provided CRA with a copy of the supplementary letters patent or articles of amendment after they have been changed					See CRA's guidelines on charitable purposes <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/mdl/menu-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/mdl/menu-eng.html</a>
d. If you are a Federal non-profit Corporation under the <i>Canada Corporations Act</i> (CCA) you have moved ("continued") from the old act to the new CNCA which includes a review of the appropriateness of your objects. If you are an Ontario non-profit Corporation under the <i>Ontario Corporations Act</i> you have a plan to bring your corporation into compliance with the new Ontario act (ONCA) which may come into force in 2016 or later.					<a href="http://www.canadiancharitylaw.ca/blog/category/ccl_new_canada_not-for-profit_corporations_act_federal_corporations">http://www.canadiancharitylaw.ca/blog/category/ccl_new_canada_not-for-profit_corporations_act_federal_corporations</a>  See sections below on the new non-profit corporate acts.
<b>8 Non-Charitable Activities</b>					
a. The charitable purposes recognized by CRA are: <ul style="list-style-type: none"> <li>The relief of poverty;</li> <li>The advancement of education;</li> <li>The advancement of religion, or</li> <li>Other purposes beneficial to the community in a way the law regards as charitable.</li> </ul>					See CRA Checklist <i>Engaging in Allowable Charitable Activities</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/ctvts-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/ctvts-eng.html</a>
b. You only conduct non-charitable activities such as fundraising, administration, political, business, and social activities within the limits prescribed by law					Other acceptable activities permitted within certain limits <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtnq/ctvts/thr-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtnq/ctvts/thr-eng.html</a>

Measure	Yes	No	Not Sure	N/A	For More Information
<b>9</b>	<b>Avoiding Gifts to Non-Qualified Donees</b>				
a.					See the CRA's <i>Guidance for Canadian Registered Charities Carrying out Activities Outside Canada</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html</a> or CRA's <i>Guidance Using an Intermediary to Carry Out Charitable Activities within Canada</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html?rss">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/ntrmdry-eng.html?rss</a> <a href="http://www.globalphilanthropy.ca">http://www.globalphilanthropy.ca</a>
b.					For a definition see <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/qlfdns-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/qlfdns-eng.html</a>
c.					
d.					See <a href="http://www.globalphilanthropy.ca/images/uploads/Structured_Arrangement_versus_Conduit_for_Canadian_Charities_and_Foreign_Activities.pdf">http://www.globalphilanthropy.ca/images/uploads/Structured_Arrangement_versus_Conduit_for_Canadian_Charities_and_Foreign_Activities.pdf</a> . Also see the CRA's <i>Guidance for Canadian Registered Charities Carrying out Activities Outside Canada</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html</a>
e.					See the CRA's <i>Guidance for Canadian Registered Charities Carrying out Activities Outside Canada</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html</a>  Or  <a href="http://www.globalphilanthropy.ca/blog/cras_new_guidance_for_canadian_registered_charities_carrying_out_activities">http://www.globalphilanthropy.ca/blog/cras_new_guidance_for_canadian_registered_charities_carrying_out_activities</a>
f.					
g.					
h.					
i.					
j.					
k.					
l.					
m.					

Measure	Yes	No	Not Sure	N/A	For More Information
<b>10 Fundraising Costs and Practices</b>					
a.					CRA's Guidance <i>Fundraising by Registered Charities</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html</a> For additional information on Canadian charities and fundraising see: <a href="http://www.canadiancharitylaw.ca/index.php/blog/category/fundraising_guidance_for_registered_charities/">http://www.canadiancharitylaw.ca/index.php/blog/category/fundraising_guidance_for_registered_charities/</a>
b.					CRA's Guidance <i>Fundraising by Registered Charities</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html</a>
c.					None of the indicators of concern apply to your charity, such as:
					1. Sole-source fundraising contracts without proof of fair market value.
					2. Non-arm's length fundraising contracts without proof of fair market value.
					3. Fundraising initiatives or arrangements that are not well-documented.
					4. Fundraising merchandise purchases that are not at arm's length, not at fair market value, or not purchased to increase fundraising revenue.
					5. Activities where most of the gross revenues go to contracted non-charitable parties.
					6. Commission-based fundraiser remuneration or payment of fundraisers based on amount or number of donations.
					7. Total resources devoted to fundraising exceeding total resources devoted to program activities.
					8. Misrepresentations in fundraising solicitations or in disclosures about fundraising or financial performance.
d.					You appropriately allocate fundraising expenditures according to the CRA's Guidance <i>Fundraising by Registered Charities</i>

Measure		Yes	No	Not Sure	N/A	For More Information
e.	You know your charity's ratios of cost to revenue, and the ratios are in line with CRA expectations					
f.	You provide adequate disclosure and transparency of fundraising activities and costs					
g.	You are following best practices as outlined in the CRA's Guidance <i>Fundraising by Registered Charities</i> , including:					
	1. Prudent planning processes					
	2. Appropriate procurement processes					
	3. Good staffing processes					
	4. Ongoing management and supervision of fundraising practice					
	5. Adequate evaluation processes					
	6. Use made of volunteer time and volunteered services or resources					
7. Disclosure of fundraising costs, revenues, and practice (including cause-related or social marketing arrangements)						
h.	You are taking steps to reduce your fundraising costs if they are high					
i.	When third parties, whether paid fundraisers or volunteers, are conducting fundraising on behalf of your charity you have an appropriate written agreement with such third party					
j.	If you have reserves and are fundraising you have a reserves policy which discusses the factors used by the charity to decide on what is appropriate reserve					
<b>11 Failure to Meet Disbursement Quota</b>						
a.	You understand that changes in the March 2010 Federal budget removed part of the disbursement quota, namely the 80/20 expenditure rule. Now charitable organizations will need to expend on charitable activities 3.5 per cent of all assets not currently used in charitable programs or administration, if these assets exceed \$100,000 for charitable organizations or \$25,000 for public or private foundations. This for example covers reserves, endowments, investment, buildings owned by a charity but not used in charitable programs or administration.					<p>See CRA's note on disbursement quota reform at <a href="http://www.cra-arc.gc.ca/gncy/bdgt/2010/chrt-eng.html">http://www.cra-arc.gc.ca/gncy/bdgt/2010/chrt-eng.html</a></p> <p>Also see article "Canadian Budget 2010 announces disbursement quota reform for Canadian charities" at <a href="http://www.globalphilanthropy.ca/index.php/blog/comments/budget_2010_disbursement_quota_changes_and_anti-avoidance_provisions/">http://www.globalphilanthropy.ca/index.php/blog/comments/budget_2010_disbursement_quota_changes_and_anti-avoidance_provisions/</a></p>





# CANADIAN CHARITY LEGAL CHECKLIST

by Mark Blumberg, January 2015

[www.canadiancharitylaw.ca](http://www.canadiancharitylaw.ca)

Measure		Yes	No	Not Sure	N/A	For More Information
b.	You review your <i>Registered Charity Information Return Summary</i> received from CRA after filing your T3010					
c.	Do you have surplus in your disbursement quota?					

Measure	Yes	No	Not Sure	N/A	For More Information
<b>12 Political Activities</b>					
a.					<p>CRA's Policy Statement on Political Activities (CPS-022) <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html</a> recently updated to reflect changes in the 2012 Federal Budget.</p> <p>The CRA has in 2013 placed certain resources for charities relating to political activities at <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/menu-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/menu-eng.html</a></p> <p>Here are some additional resources on political activities:</p> <p>Here is a 20 minute presentation on why political activities are important:  <a href="http://maytree.com/fgi/five-good-ideas-about-registered-charities-and-political-activities.html">http://maytree.com/fgi/five-good-ideas-about-registered-charities-and-political-activities.html</a></p>
b.					<p>You understand that CRA presumes an activity to be political if the activity:</p> <ol style="list-style-type: none"> <li>1) 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);</li> <li>2) 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;</li> <li>3) 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</li> <li>4) involves making a gift to another qualified donee to support political activities.</li> </ol> <p>CRA's Policy Statement on Political Activities (CPS-022) <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html</a></p> <p>For further information on Canadian charities and political activities see Blumbergs directory on political activities:  <a href="http://www.canadiancharitylaw.ca/blog/category/political_activities_and_canadian_charities">http://www.canadiancharitylaw.ca/blog/category/political_activities_and_canadian_charities</a></p> <p>See also CRA's <i>Upholding Human Rights and Charitable Registration</i> <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/hmn-rghs-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/hmn-rghs-eng.html</a></p>

Measure		Yes	No	Not Sure	N/A	For More Information
c.	If your organization engages in political activities:					CRA's Policy Statement on Political Activities (CPS-022) <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html</a>
	1. Those political activities are reported on the T3010					See changes to the reporting requirements for charities that conduct political activities <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/rcntchns-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/rcntchns-eng.html</a> See my concerns about how some charities fail to report political activities: <a href="http://www.globalphilanthropy.ca/blog/how_accurate_are_the_t3010_registered_charity_information_returns/">http://www.globalphilanthropy.ca/blog/how_accurate_are_the_t3010_registered_charity_information_returns/</a>
	2. Those activities are connected and subordinate to your legal objects					Your legal objects are in your articles of incorporation (or letters patent), articles of amendment (or supplementary letters patent) or if you are a trust in your trust deed or if you are an unincorporated association in your constitution
	3. The political activities are non-partisan					See CRA's note on "What is a partisan political activity?" at <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/prtsnctvts-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-ctvts/prtsnctvts-eng.html</a>  See Political Parties use of charity's premises: <a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-007-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-007-eng.html</a>
	4. The political information or views are not false, inaccurate or misleading					
	5. Your percentage of resources spent on political activities is 10% or less or as outlined in CPS-022 for smaller charities					
	6. You have a disbursement quota excess even after conducting political activities					
<b>13 Unrelated Business Activities</b>						
a.	You have read CPS-019 <i>What is a Related Business</i> on the CRA website					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-019-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-019-eng.html</a>
b.	If your charity is carrying on a business (i.e. activity commercial in nature), then:					
	1. Are all goods donated?					
	2. Are the business activities conducted infrequently?					
	3. Are business activities related business (i.e. 90% volunteers) or linked AND subordinate to charity's purpose?					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-019-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-019-eng.html</a>

Measure		Yes	No	Not Sure	N/A	For More Information
c.	If your charity is conducting business activities in order to advance community economic development then you have read CRA's bulletin <i>Community Economic Development Activities and Charitable Registration (CG-014)</i>					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/cmtycnmcdvpmt-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/cmtycnmcdvpmt-eng.html</a>
<b>14 Transactions with Directors</b>						
a.	If your charity operates in Ontario, it does not have any transactions with directors or pay any amounts to directors except for reimbursement of reasonable out-of-pocket expenses related to the work of the charity, unless authorized by court order					See "5. Duty to Act Gratuitously" at <a href="http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charbullet/bullet3.asp">http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charbullet/bullet3.asp</a>
b.	If your charity operates in Canada, but outside of Ontario, it is careful about any transactions that it enters into with directors to ensure that there is no undue private benefit or conflicts of interest					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/csp/csp-d10-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/csp/csp-d10-eng.html</a>
<b>15 Employment Issues</b>						
a.	Your "independent contractors" really are independent contractors and not employees					See CRA publication <i>Employee or Self-employed?</i> <a href="http://www.cra-arc.gc.ca/E/pub/tg/rc4110/">http://www.cra-arc.gc.ca/E/pub/tg/rc4110/</a>
b.	Your charity is deducting appropriate amounts of CPP, EI, and income tax and remitting them to CRA					
c.	You have agreements with all employees and independent contractors that cover off at least termination, confidentiality and intellectual property					
d.	Compensation is appropriate and no greater than fair market value					See <a href="#">How does a Canadian charity determine appropriate compensation for an executive of the charity?</a>
<b>16 Keeping Adequate Books and Records</b>						
a.	Your charity maintains adequate books and records as defined by CRA					<a href="#">CRA's Books and Records Checklist</a>
b.	You keep records in either English or French					
c.	You keep records for at least the prescribed period of time for each record					<a href="http://www.cra-arc.gc.ca/E/pub/tp/ic78-10r5/README.html">http://www.cra-arc.gc.ca/E/pub/tp/ic78-10r5/README.html</a>
d.	You keep books and records at an address in Canada that is on file with CRA					
e.	You maintain copies or backups of all key documents at a separate site					
f.	Electronic documents are backed up regularly and also stored off site					

Measure		Yes	No	Not Sure	N/A	For More Information
g.	You have easy access to governing documents (incorporating documents, constitution, trust document), bylaws, financial statements, copies of official donation receipts, copies of T3010, written agreements, board and staff meeting minutes, annual reports, ledgers, bank statements, expense accounts, inventories, payroll records, promotional materials, and fundraising materials					
h.	You keep source documents (e.g. invoices, vouchers, work orders, delivery slips, purchase orders, and bank deposit slips)					
<b>17</b>	<b>Maintaining Legal Status and the New Federal and Ontario corporate acts</b>					
a.	Do you know whether you are a corporation?					Many organizations that are registered charities may be unincorporated associations or trusts. You might want to consider incorporating and having CRA transfer over your charity number to the new corporation but incorporating is not required
b.	If you are a corporation, are you a Federal non-profit or an Ontario or other provincial non-profit?					<p>Check out your letters patent (articles of incorporation) for this information, but if you don't have these, then try searching the free Industry Canada database to at least eliminate the possibility you are a federal corporation.</p> <p><a href="https://www.ic.gc.ca/app/scr/cc/CorporationsCanada/fdrlCrpSrch.html?locale=en_CA">https://www.ic.gc.ca/app/scr/cc/CorporationsCanada/fdrlCrpSrch.html?locale=en_CA</a></p> <p>or a list from Blumberg Segal LLP of Ontario corporations:  <a href="http://www.canadiancharitylaw.ca/blog/list_of_ontario_non_profit_corporations_revealed_for_the_first_time">http://www.canadiancharitylaw.ca/blog/list_of_ontario_non_profit_corporations_revealed_for_the_first_time</a></p> <p>Some organizations that are trusts or unincorporated associations will not be affected by either the CNCA or ONCA.</p>
c.	If you are a Federal non-profit Corporation under the Canada Corporations Act (CCA) you have continued from the old Canada Corporations Act to the new CNCA or you will be dissolved by Industry Canada					See Blumbergs <i>CNCA Suitcase</i> : <a href="http://www.globalphilanthropy.ca/index.php/blog/comments/new_cnca_suitcase_for_documents_relating_to_canada_not-for-profit_corporati/">http://www.globalphilanthropy.ca/index.php/blog/comments/new_cnca_suitcase_for_documents_relating_to_canada_not-for-profit_corporati/</a>
d.	Your charity files necessary corporate returns					

Measure		Yes	No	Not Sure	N/A	For More Information
e.	If you are an Ontario non-profit Corporation under the Ontario Corporations Act you have a plan to bring your corporation into compliance with the new Ontario act targeted to be brought into force in 2016					If you are an Ontario corporation, you may want to consider continuing into the Federal jurisdiction under the Canada Not-for-profit Corporations Act (CNCA). Here is an article on the ONCA at the Ontario Trillium Foundation website: <a href="http://www.scribd.com/doc/124033018/Opportunity-Knocks">http://www.scribd.com/doc/124033018/Opportunity-Knocks</a>
f.	Do you have copies of the letters patent, supplementary letters patent and by-laws for the organization?					If you are a Federal corporation you can request copies of articles and by-laws from Industry Canada.  If you are an Ontario corporation you can request the letters patent and supplementary letters patent from the Ontario government. They will provide you with a microfiche. The Ontario government does not keep copies of the by-laws.  Also, if you are a registered charity, the Canada Revenue Agency may have copies of some of these documents, but they could be outdated.
g.	Are the objects/purposes of your organization up-to-date and relevant for the current work of your non-profit?					In some cases, it may make sense to update the organization's objects as part of the corporate changes. It is important to remember that all registered charities will need to ask CRA for pre-approval of these revised objects, which can take months, so this is an example of something that you may wish to start sooner rather than later.
h.	Do you have a copy of your most recent by-law?					Federal – for most organizations it is best to start with a new by-law based on the Industry Canada model by-law or something similar to that.  Ontario - until you are able to review the Ontario government's draft default by-law, it probably does not make much sense to start making revisions to your existing by-law or begin drafting a new by-law.
i.	Do you know who your members are and do you have an updated list?					If there is more than one membership class, do you know the attributes of each class? (ie name, notice, vote, etc)? Members are like shareholders in a for-profit company, except that members don't own the corporation, they control it. Under both the ONCA and CNCA members will have more rights. In some cases non-voting members will even get to vote. Because of this, your organization may wish to clarify who will be the members in the future.
j.	Does the organization want to maintain its current name or change its name?					If you want to change your name you will need to have a NUANS search prepared

Measure		Yes	No	Not Sure	N/A	For More Information
k.	Do you have a current list of directors and officers?					
l.	What address do you want to use for your corporation under the new act?					
m.	Are you up-to-date in the corporate filings for your organization?					If not, you may want to do arrears in filings.
<b>18 Provincial Charitable Registration</b>						
a.	For charities operating in Ontario, you have made necessary filings with the Ontario Public Guardian and Trustee					<a href="http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charities/">http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charities/</a>
b.	For charities fundraising in Alberta, you have registered with the Alberta government under the <i>Charitable Fundraising Act</i> , if required					<a href="http://www.servicealberta.ca/661.cfm">http://www.servicealberta.ca/661.cfm</a>
c.	For charities operating in Quebec, or providing receipts to Quebec residents, you have made necessary filings with Revenu Quebec					<a href="http://www.globalphilanthropy.ca/index.php/blog/canadian_charities_operating_in_quebec_or_issuing_receipts_to_quebec_reside/">http://www.globalphilanthropy.ca/index.php/blog/canadian_charities_operating_in_quebec_or_issuing_receipts_to_quebec_reside/</a>
d.	If you operate in other provinces or issue receipts to residents in other provinces you are aware of the provincial regulations and have complied with them					
<b>19 Internal Financial Controls</b>						
a.	Your charity is aware of the many ways that some entities may try to take advantage of the charity, including for fraud, money laundering, terrorism, private benefit, etc.					
b.	You have adequate internal financial controls in place to prevent misuse of charitable assets					<i>CC8 - Internal Financial Controls for Charities</i> (UK Charity Commission) <a href="http://www.charity-commission.gov.uk/Publications/cc8.aspx">http://www.charity-commission.gov.uk/Publications/cc8.aspx</a>
c.	You are aware of financial management resources for Canadian charities					<i>Understanding Financial Responsibilities of Canadian Charities</i> <a href="http://www.canadiancharitylaw.ca/index.php/blog/comments/understanding_financial_responsibilities_of_canadian_charities/">http://www.canadiancharitylaw.ca/index.php/blog/comments/understanding_financial_responsibilities_of_canadian_charities/</a>
d.	You assist your partners and intermediary, if necessary, with basic financial management					<i>Building Capacity through Financial Management: A Practical Guide</i> <a href="http://policy-practice.oxfam.org.uk/publications/building-capacity-through-financial-management-a-practical-guide-115411">http://policy-practice.oxfam.org.uk/publications/building-capacity-through-financial-management-a-practical-guide-115411</a>

Measure		Yes	No	Not Sure	N/A	For More Information
<b>20</b>	<b>Basic Risk Management</b>					
a.	Your charity is aware of its governance risks, operational risks, financial risks, external risks, and the importance of complying with the law					<a href="http://www.charitycommission.gov.uk/Publications/cc26.aspx">http://www.charitycommission.gov.uk/Publications/cc26.aspx</a>
b.	Your charity has assessed and analyzed the risk that it faces and has an informal or formal risk management plan which considers what risks will be assumed, what will be eliminated, how to reduce risk associated with certain activities and transference of risk by insurance or outsourcing					
c.	Your charity avoids any involvement either directly or indirectly with criminal enterprises or terrorism					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/vtb-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/vtb-eng.html</a>
d.	If your charity deals with children or vulnerable adults, it has policies and procedures to prevent abuse of beneficiaries and such policies and procedures are being enforced					
e.	Your charity maintains appropriate insurance coverage					
f.	You attempt to ensure that your directors and officers are appropriate and are not "ineligible individuals" under the <i>Income Tax Act</i> (Canada)					<a href="http://www.canadiancharitylaw.ca/index.php/blog/comments/presentation-to-the-law-society-annual-estate-and-trust-summit/">http://www.canadiancharitylaw.ca/index.php/blog/comments/presentation-to-the-law-society-annual-estate-and-trust-summit/</a>
<b>21</b>	<b>Governance</b>					
a.	Your board of directors is aware of its basic responsibilities					
b.	You run an effective and efficient charity					You might find this UK publication helpful <i>CC10 - Hallmarks of an Effective Charity</i> <a href="http://www.charity-commission.gov.uk/Publications/cc10.aspx">http://www.charity-commission.gov.uk/Publications/cc10.aspx</a>
c.	Is your non-profit's governance structure appropriate?					If your current board is ineffective and uncooperative, it would be useful to consider looking into governance training and advice so that the new board can be more successful, strategic and effective.
<b>22</b>	<b>Other</b>					
a.	If your charity has accepted a gift with a restriction, such restriction is complied with					
b.	Whenever entering into a major agreement between the charity and a third party, the charity understands the content of the agreement and if necessary obtains appropriate professional advice					





# CANADIAN CHARITY LEGAL CHECKLIST

by Mark Blumberg, January 2015  
[www.canadiancharitylaw.ca](http://www.canadiancharitylaw.ca)

Measure		Yes	No	Not Sure	N/A	For More Information
c.	You occasionally check the CRA website for new developments					<a href="http://www.cra-arc.gc.ca/chrts-gvng/chrts/menu-eng.html">http://www.cra-arc.gc.ca/chrts-gvng/chrts/menu-eng.html</a>
d.	You are aware of various resources for charities					For example, <a href="http://www.canadiancharitylaw.ca">http://www.canadiancharitylaw.ca</a>
e.	You are signed up to the CRA's free e-mail newsletter					<a href="http://www.cra-arc.gc.ca/esrvc-srvce/mlst/sbscrbchrts-eng.html">http://www.cra-arc.gc.ca/esrvc-srvce/mlst/sbscrbchrts-eng.html</a>
f.	You are signed up to non-profit and private sector providers of news and legal information					For example, Mark Blumberg's <a href="http://www.CanadianCharityLaw.ca">http://www.CanadianCharityLaw.ca</a> newsletters at <a href="http://www.canadiancharitylaw.ca/index.php/pages/subscribe/">http://www.canadiancharitylaw.ca/index.php/pages/subscribe/</a>
g.	Your charity obtains appropriate professional advice (from lawyers, accountants, insurance agents etc) when required					

*This Charity Legal Checklist was prepared by Mark Blumberg, a lawyer at Blumberg Segal LLP in Toronto. To find out more about legal services that Blumbergs provides to Canadian charities and non-profits please visit <http://www.canadiancharitylaw.ca> or <http://www.globalphilanthropy.ca>.*

*This Canadian Charity Legal Checklist is for information purposes only. It is not intended to be or provide legal advice. You should not act or abstain from acting based upon such information without first consulting a legal professional.*

*If you found the Checklist helpful then let us know. Also if you have any suggestions for improvement they are always appreciated.*