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CLIP

We realize the potential of
not-for-profit organizations


Understanding CRA's Fundraising Guidance and More

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 Government of Canada / Gouvernement du Canada

Canada

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made possible by a financial contribution from
the Canada Revenue Agency




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Who We Are – Capacity Builders

- Capacity Builders is a division of the Ontario Community Support Association (OCSA) and it runs the **Charity Law Information Program (CLIP)**
- **CLIP provides training, workshops, and webinars to Canadian charities to enhance their understanding of their legal, ethical, and governance obligations**
- <http://www.capacitybuilders.ca/clip>
- CLIP Communiqué – sign up for free
- (416) 256 – 3010 x 232 or 1-877-484-3030
- clip@capacitybuilders.ca
- The Charities Directorate of CRA has provided funding for CLIP

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Who We Are – Blumbergs

- Blumberg Segal LLP is a law firm based in Toronto, Ontario
- Mark Blumberg is a partner at Blumbergs who focuses on Canadian non-profit and charity law
- Mark assists charities from across Canada with Canadian and international operations and foreign charities fundraising in Canada
- www.canadiancharitylaw.ca and www.globalphilanthropy.ca
- Free Canadian Charity Law Newsletter. Sign up at: <http://www.canadiancharitylaw.ca/index/php/pages/subscribe>
- (416) 361 – 1982 or Toll Free 1-866-961-1982
- mark@blumbergs.ca
- www.twitter.com/canadiancharity

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Charities Directorate of CRA

- Regulates registered charities
- Based in Ottawa
- Website: <http://www.cra.gc.ca/charities>
- E-mail list: <http://www.cra-arc.gc.ca/esrvc-srvce/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)
- Through Charities Partnership and Outreach Program (CPOP) supporting charities conducting educational work on legal and *Income Tax Act* compliance.

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Introduction

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

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Charity Law Basics

- Registered charities are regulated by Charities Directorate of the Canada Revenue Agency (CRA) under the *Income Tax Act* (Canada)
- Registered charities fall under both federal and provincial jurisdiction
- Non-profits and charities are both tax exempt
- *Income Tax Act* – concept of “registered charity” can issue “official donation receipt” with income tax savings for donor
- Benefits, restrictions and obligations of being a registered charities

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Variety of Charities

Every charity is different:

- Objects
- Areas of charitable work
- Risk tolerance
- Public profile
- Donors and level of government support
- Independent vs. affiliated
- Resources
- Values and knowledge
- Local vs. international activities

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What is a Registered Charity?

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What is a Registered Charity?

- 1) Purposes must be exclusively and legally **charitable**
(4 heads of charity – relief of poverty, advancement of education; advancement of religion; and other purposes beneficial to the community in a way the law regards as charitable)
- 2) Must be established for the benefit of the public or a sufficient segment of the public (**Public Benefit**)
- 3) Apply to Charities Directorate of CRA for registered charity status and be accepted. (**Registered**)

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Definitions

Legal – binding minimum rules and regulations


Ethical – higher standard than legal – ‘applied ethics’ – trying to achieve moral and ethical outcomes in real-life situations consistent with our values and standards.

Risk management - identification, assessment, and prioritization of risk (loss or adverse event) followed by coordinated and economical application of resources to minimize, monitor, and control the probability and/or impact of unfortunate events. (Wikipedia)

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Maintaining Charitable Status

- Conduct allowable charitable activities and avoid prohibited activities
- Keep adequate books and records
- Properly issue official donation receipts
- Meet annual spending requirement (disbursement quota)
- File T3010 Registered Charity Information Return
- Maintain status as a legal entity
- Inform CRA of certain changes

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Some Top Legal Compliance Concerns for Canadian Registered Charities

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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
- For 2009 fiscal years and after file T3010B
- Form is mailed with labels to charity
Form can also be downloaded from:
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rtrn/flngb-eng.html>

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Consequences for Failing to File

- Revocation of charitable status within months
- Cannot issue receipts
- Lose benefits of registered status
- Revocation tax if not re-registered within 1 year
- May not be able to re-register
- \$500 penalty

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2. Mistakes with T3010B

- 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 T3010B
Go to <http://www.capacitybuilders.ca/clip> for a list including our Annotated T3010B
- CRA has a fillable T3010B form

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Problems with T3010B

- Using wrong form – T3010A for 2008
– T3010B for 2009 and later
- Not providing all information
- Not providing accurate information
- Not providing all schedules
- Not providing financial statements
- Not providing date of birth of directors

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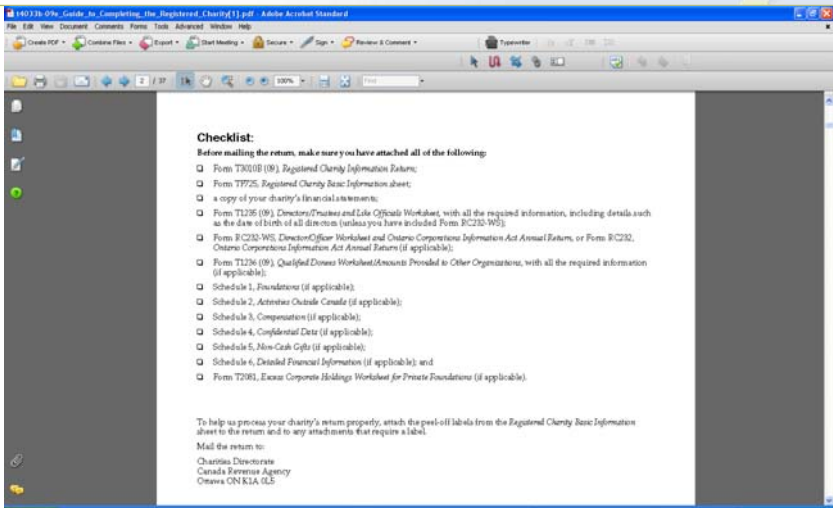


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Checklist - Form T3010B




Checklist:
Before mailing the return, make sure you have attached all of the following:

- Form T3010B (09), Registered Charity Information Return;
- Form T7725, Registered Charity Basic Information sheet;
- a copy of your charity's financial statements;
- Form T1235 (09), Directors/Trustees and Life Officials Worksheet, with all the required information, including details such as the date of birth of all directors (unless you have included Form RC232-WS);
- Form RC232-WS, Director/Officer Worksheet and Ontario Corporations Information Act Annual Return, or Form RC232, Ontario Corporations Information Act Annual Return (if applicable);
- Form T1234 (09), Qualified Donee Worksheet/Amounts Provided to Other Organizations, with all the required information (if applicable);
- Schedule 1, Foundations (if applicable);
- Schedule 2, Activities Outside Canada (if applicable);
- Schedule 3, Compensation (if applicable);
- Schedule 4, Confidential Data (if applicable);
- Schedule 5, Non-Cash Gifts (if applicable);
- Schedule 6, Detailed Financial Information (if applicable); and
- Form T2983, Excess Corporate Holdings Worksheet for Private Foundations (if applicable).


To help us process your charity's return properly, attach the peel-off labels from the Registered Charity Basic Information sheet to the return and to any attachments that require a label.

Mail the return to:
Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

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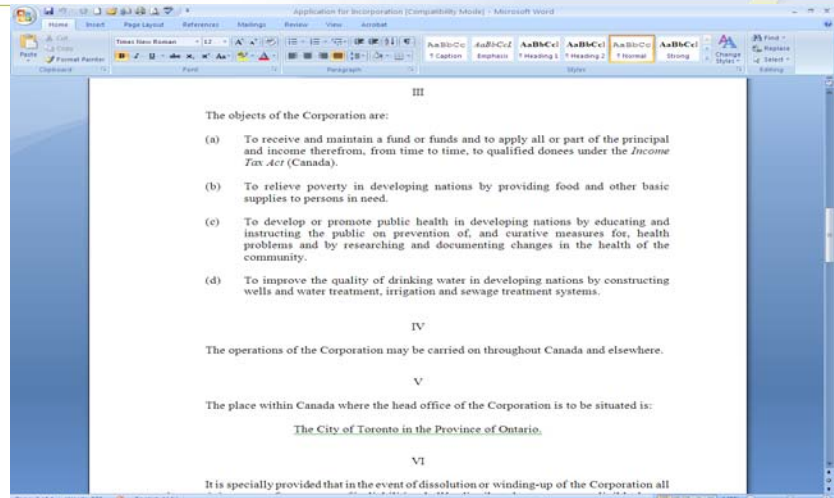
3. Acting Outside Legal Objects

- Charities in Canada have legal objects in their founding documents (e.g. Letters Patent, Trust deed etc)
- Charities must not act outside of these legal objects.

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Check Your Letters Patent/Articles of Incorporation



The screenshot shows a Microsoft Word document titled "Application for Incorporation (Compatibility Mode) - Microsoft Word". The document content is as follows:

III

The objects of the Corporation are:

- (a) To receive and maintain a fund or funds and to apply all or part of the principal and income therefrom, from time to time, to qualified donees under the *Income Tax Act* (Canada).
- (b) To relieve poverty in developing nations by providing food and other basic supplies to persons in need.
- (c) To develop or promote public health in developing nations by educating and instructing the public on prevention of, and curative measures for, health problems and by researching and documenting changes in the health of the community.
- (d) To improve the quality of drinking water in developing nations by constructing wells and water treatment, irrigation and sewage treatment systems.

IV

The operations of the Corporation may be carried on throughout Canada and elsewhere.

V


The place within Canada where the head office of the Corporation is to be situated is:

The City of Toronto in the Province of Ontario.

VI

It is specially provided that in the event of dissolution or winding-up of the Corporation all

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4. Non-Charitable Activities

- A registered charity must devote its resources (funds, personnel, and property) to **charitable activities** (the work that advances the charitable purposes).
- Certain non-charitable activities are allowed within limits like administration, fundraising, related business, social and political.

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5. Gifts to Non-Qualified Donees


Charities need “direction and control” over funds and resources.

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)

Canadian Registered Charities Carrying Out Activities Outside Canada
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html>

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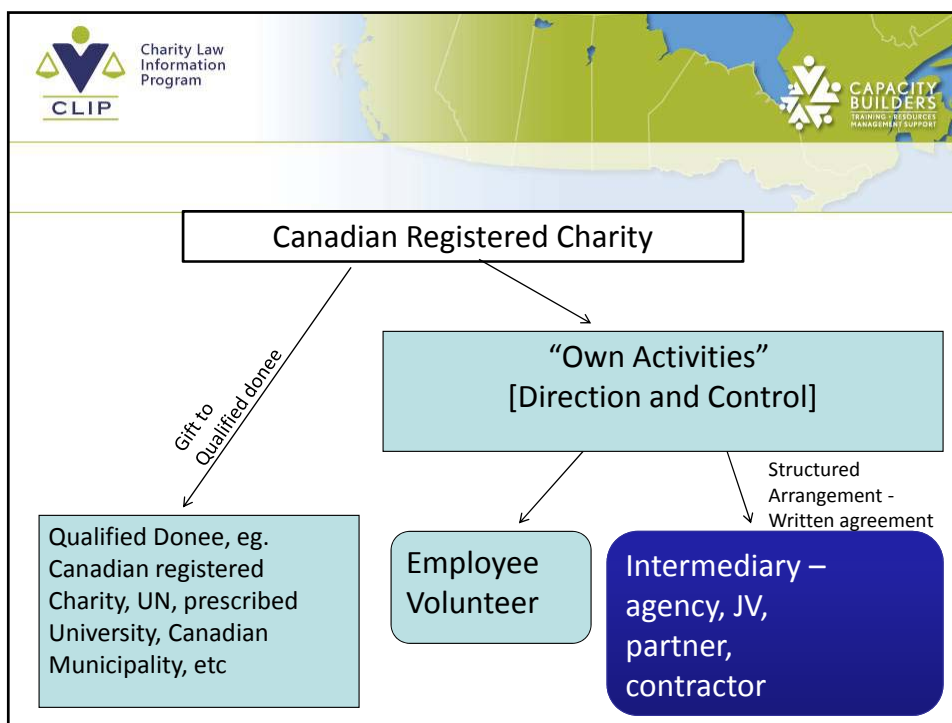


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Gifts to Non-Qualified Donees

- Charities cannot gift to a non-qualified donee (such as Canadian non-profit or foreign charity)
- Charities cannot be “conduit”
- (Gifts to non-qualified donees = 105% penalty on the amount of the gift and second infraction 110% penalty and greater chance of revocation)

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“Own Activities” or “Direction And Control”


When working with non-qualified donees should 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

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6. 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

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7. Failing to Keep Adequate Books and Records

A Canadian registered charity **must** keep *adequate* books and records, preferably in either English or French, in Canada, at address on file with CRA.


CRA must be able to:

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

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Why We Need Adequate Books and Records

- Help with charity audits and can result in suspension of receipting privileges, or the loss of its registered status
- Knowing where expenses go and revenues come from
- Needed for issuing official donation receipts
- Help with decision making
- Makes it easier for you to complete filings
- Information on current and past financial position of charity
- Stakeholders may require

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Examples of Books and Records

- 1) Do you have **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**.
- 2) Do you have **source documents**? e.g.. **invoices**, vouchers, work orders, delivery slips, purchase orders, and **bank deposit slips**.

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8. Failure to Meet Disbursement Quota

- The Disbursement Quota (DQ) is the amount that a registered charity must spend each year on its charitable activities or as gifts to qualified donees
- Used to be 80% of receipted donations plus 3.5% of assets not used in charitable activities
 - 2010 Budget removed 80% expenditure requirement

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Disbursement Quota

- Each year, registered charities must spend on charitable activities 3.5% of the average value of any assets the registered charity owned over the previous 24 months that were not used directly in charitable activities or in the administration of the registered charity, that exceeded \$100,000 for charitable organizations and \$25,000 for foundations
- E.g. 3.5% of endowments, investments, reserve fund, building owned by charity not used by charity at the moment for charitable activities

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9. Political Activities

“A registered charity may pursue political activities to retain, oppose, or change the law, policy, or decision of any level of government inside or outside Canada provided the activities are non-partisan, related to its charitable purposes, and limited in extent.” (see T3010B)

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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 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>

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An Activity can be...

- Prohibited activities (illegal and/or partisan political)
- Allowable political activities
- Charitable activities:
 - Public awareness campaigns
 - Communicating with an elected representative or public official
 - Education

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10. 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

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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).

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Business Activities


For more guidance, see CRA's CPS-019 "What is a Related Business?"

- Penalties for unrelated business: 5% (1st infraction) on gross unrelated business revenue
- Earned in a taxation year
- 2nd infraction: 100% penalty on that revenue and suspension* of tax-receiving privileges

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11. 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 generally cannot be consultants or employees of charity unless court ordered.
- In other provinces, more scrutiny of salaries, loans to directors, investments in companies of directors, transactions with businesses owned by directors, etc...

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12. Mishandling of Audit

- CRA has an obligation to audit registered charities to spot whether they are complying with the *Income Tax Act*
- Charities must assist with audit

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Tips for Handling an Audit Properly

1. Respond quickly
2. Be cooperative and polite
3. Use your time wisely before the audit
4. Choose carefully which charity officer or employee represents the charity with CRA
5. The lawyer is generally best kept in the background
6. Have your records up-to-date

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Tips for Handling an Audit Properly (cont.)

7. Answer questions at the audit truthfully and only if you know the answer
8. Providing documents – don't dump documents on CRA, remember solicitor- client privilege
9. Copying of documents – provide copies, keep originals, know what you have provided to CRA
10. Preliminary discussions and findings – take notes

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13. Changes/Approvals

- For how to advise CRA of changes to the name, address, contact person, legal status, purpose, activities, and bylaws of a registered charity
See <http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/chngs/menu-eng.html>
- For requests that require approval such as how to request a fiscal period end change, re-designation, associated status, permission to accumulate funds, or disbursement quota reduction
See <http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rqsts/menu-eng.html>

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14. Other Concerns Discussed Today

- Fundraising
- Receipting
- Tax Shelter Donation Schemes and Receipting Fraud


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15. Other Non-ITA Legal Concerns

- Breaching contractual relationships
- Abuse of children and beneficiaries
- Criminal gangs, money laundering and terrorism
- Fraud against charities, misuse of charitable assets
- Failure to respect donor restrictions (breach of trust)
- Safety of staff and volunteers


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Charity Law Problem Solving

- Understand basic framework and definitions
- See CRA site for information
- See other sources of information, internet, e-mail newsletters (e.g. www.capacitybuilders.ca/clip, www.canadiancharitylaw.ca)
- Seminars and webinars
- Bolster board with diversity, skills, knowledge, passion, resources, active educational program
- Call CRA if you need
- Have charity lawyer on retainer or hire as needed

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Why Have a Fundraising Guidance?

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Canadian Views on Fundraising

- 77% of Canadians trust charities (Ipsos Reid/Muttart)
- Some charity subsectors are trusted more than others
- 60% feel it is appropriate to have some of the funds raised go towards the charities' operating expenses, as long as they are reasonable!
- 58% say "charities spend too much money on fundraising"

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Canadian Views on Fundraising

“Canadians continue to place great importance on the information charities provide to the public. Almost all Canadians think it is important (very or somewhat) for charities to provide information on how they use donations (98%), information about the programs and services the charities deliver (98%), information about charities’ fundraising costs (97%), and information about the impact of charities’ work on Canadians (96%).”

Talking About Charities 2008 - Canadians’ Opinions On Charities And Issues Affecting Charities,47
Ipsos Reid/The Muttart Foundation



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Do We Need Minimum Legal Standards?

- Yes – 85,000 charities – if even 1% are aggressive, problematic etc then 850 charities
- Voluntary standards are very important and useful – but they are not the answer to bad apples and wilful misconduct
- Voluntary standards without extensive educational efforts and/or monitoring enforcement may be “window dressing”

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Why Have a Guidance?

- There are some charities doing things they should not be doing
- Public, media and charities have been demanding it for years.
- It makes little sense not regulating such an important part of the work of charities.
- Do we want to know what the Charities Directorate (regulator of registered charities) thinks about appropriate fundraising or do we want that information held by a few “high priests”?

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Fundraising by Registered Charities

CRA’s Guidance on Fundraising (CPS-028):
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-028-eng.html>

CRA’s Additional Information on CPS-028
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-028-ddn-eng.html>

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Ideas for Understanding the Guidance

Focus on the simple parts. Then tackle allocation etc.

Read the bigger font version:
http://www.globalphilanthropy.ca/images/uploads/Guidance_on_Fundraising_from_CRA.pdf

Also consolidated bigger font version of the Guidance from CLIP with Guidance and additional information spliced together in one continuous document
http://www.capacitybuilders.ca/files/resources/CRA_Fundraising_Guidance_1259599283.pdf


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CRA Fundraising Guidance

- Consultation draft in 2008
- Published guidance on June 11, 2009 (“Guidance”)
- Is fundraising and charitable sector simple?
- If not, can we expect that thoughtful regulation will be simple?
- Most of the Guidance is very straightforward, a couple of issues are complicated like allocation of expenses and amount of disclosure

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CRA Guidance for Fundraising

- Prohibited fundraising conduct (illegal, main purpose, too much private benefit, misleading or deceptive)
- Disclosure and transparency
- Indicators of concern
- Best practices
- Apportioning expenses between fundraising and non-fundraising expenses (eg. Charitable, administrative etc.)⁵³



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1. Introduction

- “While recognizing the necessity of fundraising, the CRA expects charities to be transparent and to not devote excessive amounts of time and/or resources to fundraising as opposed to fulfilling their charitable purposes.”
- “It also confirms to the public that fundraising expenditures are appropriate and in fact necessary for the sustainability of the sector.”

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2. Jurisdiction

- S. 92(7) and 92(13) of *The Constitution Act, 1867*, regulation of most aspects of charities' operations falls within provincial jurisdiction.
- S. 91(3) - federal government is empowered to establish the federal tax system.
- Registered charities exempt from tax on their income and can issue official tax receipts.
- Guidance provides CRA's best advice as to how to comply with the *Income Tax Act*

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3. Scope

- Guidance does not deal with whether fundraising activities of a charity amounts to the carrying on of a business
 - See [Policy Statement CPS-019, What is a Related Business?](#) and [Policy Commentary CPC-002, Related Business](#)
- Guidance does not deal with fundraising to support terrorism
 - See CRA checklist on terrorism: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/vtb-eng.html>

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4. Fundraising and Charitable Purposes

- Fundraising (whether undertaken as a purpose or activity) is not in-and-of-itself charitable.
- Direct costs of fundraising cannot usually be reported as charitable expenditures on a charity's annual Form T3010.
- Can allocate between fundraising, charitable and other non-fundraising expenses for purposes of the T3010 reporting.

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5. What is Fundraising?


As a general rule, fundraising is any activity that:

- includes a **solicitation of support** for cash or in-kind donations (including sales of goods or services to raise funds);
- is part of the research and **planning** for future solicitations of support; or
- is related to a solicitation of support (efforts to **raise the profile of a charity, donor stewardship, donor recognition, etc.**).

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Why Does Definition Matter?


If it is “fundraising”:

- Guidance applies to it
- Include in ratios
- May affect types of revenue diversification considered

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Fundraising Includes ...


Fundraising includes:

- Activities carried out by the registered charity, or someone acting on its behalf.
- Activities in which receipt issued and activities in which no receipt issued

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Is Donor Stewardship a Solicitation of Support?

Donor stewardship occurs when a charity invests resources in relationships with past donors to prompt additional gifts. This could include providing donors with access to information, services, or privileges not available to others. These activities are considered solicitations of support.

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Donor Recognition is Fundraising

- Donor recognition is fundraising and must be reported as such unless de minimus (per-donor cost of \$75 or 10% of the donation (whichever is less).
- When nominal and not reported as fundraising then report as administrative expenses.

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Includes In-Kind and Sale of Goods

“A solicitation of support includes requests by the registered charity, or someone acting on its behalf, for financial or in-kind donations. It also includes the marketing and sale of goods or services not within the charity’s own charitable programs, but sold specifically to fundraise. This applies even where no donation receipt is issued for the transaction.”

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Excluded from “Fundraising”

- Fundraising does not include requests for funding from government or from other registered charities, or the operation of a related business as defined in the *Income Tax Act*.
- Recruitment of volunteers is not considered a solicitation of support.

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Sale of Goods/Services

- ***Sale of goods or services are solicitation of support except when:***
 - The provision of the good or service serves the charity’s beneficiaries, directly fulfills a charitable purpose, and is sold on a cost-recovery basis, or
 - Is a related business as defined in the *Income Tax Act*.
[Policy Statement CPS-019, What is a Related Business?](#)

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6. Definitions

- a. Ancillary and incidental purpose
- b. Arm’s length / non-arm’s length
- c. Cause-related marketing / social marketing
- d. Disclosure
- e. Fundraising activity – external or internal
- f. Resource(s) – includes staff, volunteers, directors, premises, and equipment.

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Ancillary and Incidental Purpose

“To be ancillary, a purpose must be subordinate or secondary to other purposes. To be incidental, a purpose must arise out of, or depend on, the other purposes and be relatively modest in size.”

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Arm's Length vs. Non-Arm's Length

- **At arm's length** describes a relationship in which parties are acting independently of each other
- **Non-arm's length** includes individuals who are related to each other by blood, marriage, adoption, and common-law relationships. Non-arm's length also covers people acting in concert without separate interests, such as those with close business ties

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Cause-Related Marketing

“Cause-related marketing (sometimes called social marketing) is a venture with a non-charitable partner to promote the sale of items or services on the basis that a portion of the revenues will be directed to a charity or charities.”

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Disclosure

“For the purposes of this guidance, disclosure means sharing of information about a charity's fundraising and/or finances.”

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Fundraising Activities

“For the purposes of this guidance, a fundraising activity may be a single action, such as an advertisement published in a newspaper, or a series of related actions, such as a capital campaign to fund a new building. The charity may decide what it considers a separate activity so long as it can reasonably be treated as discrete from other activities.”

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Definition of Resources

The term **resources** is not defined in the *Income Tax Act*, but the CRA considers it to include the total of a charity's financial assets, as well as everything the charity can use to further its purposes, such as its staff, volunteers, directors, premises, and equipment.

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7. Prohibited Fundraising Conduct


Prohibited fundraising conduct includes:

- Is illegal or contrary to public policy
- Is a main or independent purpose of the charity
- Results in more than an incidental or proportionate private benefit to individuals or corporations, and
- Is misleading or deceptive

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7a) Illegal or Contrary to Public Policy

- Criminally fraudulent
- Violate federal or provincial statutes governing charitable fundraising, charitable gaming use of charitable property or consumer protection
- “Illegal fundraising is prohibited whether it is carried on by the charity itself or it is carried on by a third party on behalf of the charity. Charities should ensure that third parties raising funds on their behalf are complying with all applicable laws.”

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Tax Shelters

- “In particular, fundraising that includes the issuance of improper donation receipts is contrary to the *Income Tax Act* and can lead to revocation.”
- “The CRA takes the position that fundraising is not acceptable even where the fundraising activity is not in itself illegal, but is associated with illegal conduct. This is the case where a charity knows, or ought to have known, that it is furthering illicit practices or transactions.”

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Contrary to Public Policy

- Charities cannot engage in conduct that is contrary to public interest
- If fundraising results in “incontestable harm to the public interest” then contrary to public policy
- E.g. Misrepresentation about whether donated funds going to telemarketer or charity (*PGT v. Aids Society for Children* (Ontario) [2001] O.J. No. 2170)

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7b) Conduct that is Main Purpose

- Fundraising cannot be main purpose
- Fundraising cannot be collateral purpose (more time, resources and effort on fundraising than charitable purposes)
- Fundraising can be ancillary and incidental
- What about Parallel Foundation? – they fundraise and then give funds to hospital or university etc. - main purpose is providing funds to another registered charity, not fundraising, even though it may take up almost all the time and efforts of the Parallel Foundation.

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7c) Disproportionate Private Benefit

- “Any private benefit to individuals or corporations is only acceptable as an incidental and proportionate by-product of the activity undertaken to fulfill a charitable purpose.”
- Is benefit exceeding fair market value?

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7d) Deceptive Conduct

- Causes harm
- Even when misrepresentation is not illegal or fraudulent
- Irrespective of whether intentional or negligent
- “Ensure representations made by it, and those acting on its behalf, are fair, truthful, accurate, and complete.”

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Examples of Misrepresentation

- Which charity will receive the donation
- The geographic area in which the charity operates, and the amount and type of its work
- The percentage of funds raised that will go to charitable work

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8. Evaluation of Fundraising Activities

- **Fundraising revenues** include Lines 4500 (receipted) and 4630 (fundraising) of the charity's annual Form T3010
- **Fundraising expenditures** include amounts reported on Line 5020 of the charity's annual Form T3010. All expenses determined to be fundraising expenses in accordance with this guidance should be reported on line 5020

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Ratios and CRA's Approach

- Ratios are one element, recognize diversity in sector
- Reasons for higher fundraising cost with event or year
- CRA will also look to
 - The size of the charity
 - Causes with limited appeal
 - Donor acquisition and planned giving campaigns
- In addition Best Practices and Indicators of concern

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Ratios and CRA's Approach

“Fundraising ratios alone are not determinative in assessing whether a charity’s fundraising complies with the requirements of the guidelines in this guidance. However, these ratio ranges give charities a way to generally gauge their performance and understand the circumstances where the CRA is likely to raise questions or concerns.”

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Fundraising Ratio of Costs to Revenues


Ratio of costs to revenues over fiscal period for all fundraising activities

- Under 35%
 - *Unlikely* to generate questions or concerns.
- 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 that there will be concerns and a need for a more *detailed assessment of expenditures*.
- 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 in compliance; *otherwise, it will not be acceptable*.

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Indicators of Concern

- Sole-source fundraising contracts
- Non-arm's length fundraising contracts
- Fundraising initiatives that are not well-documented
- Fundraising merchandise purchases that are not at arm's length, not at fair market value, or not purchased to increase fundraising revenue.
- Most of the gross revenues for non-charitable parties.
- Commission-based fundraiser remuneration
- Misrepresentations in fundraising solicitations or in disclosures about fundraising or financial performance

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Best Practices for Fundraising

- a. Prudent planning processes
- b. Appropriate procurement processes
- c. Good staffing processes
- d. Ongoing management and supervision of fundraising practice
- e. Adequate evaluation processes
- f. Use made of volunteer time and volunteered services or resources
- g. Disclosure of fundraising costs, revenues, and practice (including cause-related or social marketing arrangements)

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8. Allocation of Expenditures

- The most complicated part of the Guidance
- Trying to achieve consistency in reporting

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8. Allocation of Expenditures

- All expenditures should be allocated to one or more of:
 - Charitable expenditures
 - Fundraising
 - Management and administration
 - Political activity
 - Other expenditures as applicable

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Why Allocate?

- Activity can relate to many objectives
- Ratios, public perception and disclosure
- T3010 and disbursement quota
- “Fundraising expenditures include all costs related to any activity that includes a solicitation of support, or that is undertaken as part of the planning and preparation for future solicitations of support.” [whether or not it included a solicitation of support]

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Tests to Allocate to Non-Fundraising

- Would activity have been undertaken without the solicitation of support?


This can be shown by satisfying either:

- A. Substantially All Test** (90% non-fundraising objective)
- B. Four Part Test** (main objective, emotive, audience, commissions)

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Substantially All Test

- Substantially all = 90% - advancing objective other than fundraising
- “Generally, this determination will be based on proportion of the fundraising content to the rest of an activity, as well as the resources devoted to it. However, the prominence of the fundraising content in the activity must also be considered.”
- If test satisfied then charity may report all the expenditures of the activity on its Form T3010 as non-fundraising

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Four Part Test Simplified

- If the event is more than 10% fundraising (meaning it fails the “substantially all test” and less than 51% fundraising, it may be possible to allocate 11 – 50% to activities other than fundraising (e.g. charitable) on the T3010
- This can be done if none of the following apply:
 - Ongoing or repeated requests, emotive requests, gift incentives, donor premiums, or other fundraising merchandise
 - Audience selected because of their ability to give
 - Commission-based compensation used

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Exception – Multiple Purposes

- Revenues are raised based on the charity's work with its beneficiaries
 - E.g. sale of goods from the operation of a sheltered workshop involving persons with disabilities
- Event featuring its beneficiaries or to foster their skills or well-being, such as a concert performance by autistic children or an endurance race to build the stamina of cancer survivors

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Raising Awareness/Telemarketers

Note: The CRA generally does **not** consider raising awareness of a charity's mandate or work, when it is carried on in conjunction with fundraising through non-charitable third parties (such as for-profit telemarketing, direct mail or canvassing companies), to qualify for the exception. So, charities must allocate costs for such activities to fundraising expenditures.

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Questions on Allocation

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Questions on Allocation and Ratio

- Is it an expenditure? Yes or No
- Is it fundraising expenditure? Yes or No (charitable, social, business, political, core cost)
- Does it meet substantially all test? – if yes then 0% included in fundraising
- Does it meet 4 Part Test? – if yes then allocate between fundraising and charitable etc.
- If not meeting 4 Part Test then is it exception or allocate 100% to fundraising?

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Questions on Allocation and Ratio (cont.)

- What are your total fundraising expenditures?
- What are your total fundraising revenues?
- What is the ratio of expenditures to revenue?
- Is the ratio high (ie. over 35%)?
- What are doing to reduce ratio?
- Is your board and senior staff aware of ratio?
- Are you disclosing to public accurately ratio?

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Frequently Asked Questions

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Frequently Asked Questions

- Are government funding and foundation funds included in fundraising revenue?
 - No
- Is funding from corporations and non-profit (non charity) included in fundraising cost/revenue?
 - Generally, yes
- Does this Guidance apply to non-profits that are not registered charities?
 - No

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Frequently Asked Questions

- Do you need to track staff time by the minute?
 - No
- Can pledges (non-enforceable) be counted as revenue?
 - No
- If a foundation fundraises for a charitable organization is the main purpose of the foundation then fundraising?
 - No

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Frequently Asked Questions

- If our charity has one fundraising event that lost money will we lose our charitable status?
 - Generally no. CRA is looking at all events in a year together and all relevant surrounding circumstances.
- Is there an exemption for small charities under \$100,000 in revenue as discussed in the draft in 2008?
 - No, the guidance applies to all charities but it is specifically pointed out that small charities may have particular difficulty in meeting the ratios because of size.
- Who do I go to ask questions about the Guidance?
 - First read the document. Then try CRA (1-800-267-2384), other knowledgeable fundraising professionals, legal professionals who are knowledgeable about the guidance. 101




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General Questions for Fundraisers and Charities

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Questions for Follow-Up

- Have you read the CRA Guidance on Fundraising and do you understand it?
- Have you provided a copy of the Guidance to your board of directors and senior staff?
- Is your board of directors aware of the policy and its implications?
- Are any of your activities prohibited?
- Do any of the indicators of concern apply to your charity?

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Questions for Follow-Up (cont.)

- What are your charity's ratios of cost to revenue?
- Are your charity's ratios in line with CRA expectations?
- What steps are you taking to reduce your fundraising costs?
- What steps are you taking to be more transparent and provide more disclosure?
- What steps are you taking to enhance best practices?
- Do you report regularly to your board about compliance with the Guidance?

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Ontario Public Guardian and Trustee


Charitable Fundraising: Tips for Directors and Trustees

<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charbullet/bulletin-8.asp>

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Ontario Public Guardian and Trustee

“The courts have stated that fundraising costs must be reasonable in relation to the amount of funds raised.”

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Duty to Account

“Directors and trustees of charities are responsible as fiduciaries to the public for all donated funds. This includes all of the funds collected by commercial fundraisers. A charity should keep detailed records and ensure it receives a full and complete accounting from any commercial fundraisers it uses.”

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Director Liability

“The Public Guardian and Trustee can require a charity to account for donations and related expenses of a fundraising campaign and can require information about fundraising appeals. If the Public Guardian and Trustee has serious concerns about fundraising expenses the charity may be asked to pass its accounts before the court. Directors and trustees can be personally liable for fundraising costs that are found to be unreasonable.”

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PGT: Factors to Consider with Contract


Appendix A: Factors to Consider Before Signing a Fundraising Contract

- Has the fundraiser provided references from other charities for which similar campaigns have been conducted? Were those charities satisfied with the results that were achieved?
- Are the fees and charges reasonable? If potential donors were aware of the fees and charges associated with a donation, would they still make the donation?
- Does the fundraiser subscribe to a code of ethics?
- Are the terms of the contract clear and well understood?

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PGT: Factors to Consider with Contract (cont.)

- Are acceptable fundraising methods specified in the contract? Are the fundraising methods consistent with the written fundraising plan?
- Will the fundraising campaign generate sufficient revenue to allow the charity to engage in activities related to its charitable purpose?
- Are canvassers required to provide accurate information to potential donors about the proportion of the donation that will be used for charitable purposes?

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PGT: Factors to Consider with Contract (cont.)

- Are canvassers required to identify themselves as commercial fundraisers? Are they prohibited from representing themselves as employees or volunteers of the charity?
- Will fundraisers provide donors with receipts? Is the fundraiser required to keep receipt books secure and safe? If the charity is not registered under the *Income Tax Act*, will canvassers make this fact clear to donors?

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PGT Factors

- Will the donor list remain the exclusive property of the charity?
- Will the donation bank account remain under the sole control of the charity?
- How will fees and charges be calculated? If there is a disagreement, how will it be resolved?

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PGT Factors

- Will the fundraiser provide a full accounting for expenses and funds received? Will the fundraiser provide periodic accountings to enable the charity to monitor the performance of the campaign? Will receipts and vouchers be provided to document all disbursements?
- When does the contract terminate? Are there any penalties for terminating the contract early if the charity is not satisfied with the services that are provided?

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Special Purpose Fundraising

- Raising funds for special purpose
- Only use funds for that purpose
- Good idea to have alternative purpose, if original purpose cannot be carried out or surplus funds
- Communicate purpose and alternative to potential donors
- Otherwise may need to return funds or apply to court
- Keep record of fundraising campaign and purpose

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Evaluation

- Your feedback is important to the Charity Law information Program (CLIP)
- Please complete the Evaluation Form and add any comments that will help improve our program
- If you have any additional feedback contact clip@capacitybuilders.ca
- Thank you for your participation today!

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We realize the potential of
not-for-profit organizations

The Dos and Don'ts of Charitable Receipting for Canadian Registered Charities

Mark Blumberg mark@blumbergs.ca

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Government of Canada / Gouvernement du Canada
Canada


Production of this workshop and materials was made possible by a financial contribution from the Canada Revenue Agency



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Introduction

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

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Charity Law Basics

- Registered charities are regulated by Charities Directorate of the Canada Revenue Agency (CRA)
- Registered charities fall under both federal and provincial jurisdiction
- Non-profits and charities are both tax exempt
- *Income Tax Act* – concept of “registered charity” can issue “official donation receipt” with income tax savings for donor
- Benefits and restrictions on registered charities

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Maintaining Charitable Status

- Conduct allowable charitable activities and avoid prohibited activities
- Keep adequate books and records
- **Properly issue official donation receipts**
- Meet annual spending requirement (disbursement quota)
- File T3010 Registered Charity Information Return
- Maintain status as a legal entity
- Inform CRA of certain changes

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Receipting

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Why Receipt?

- Can offset federal and provincial income tax
Exact amount depends on which province, which marginal bracket a person is in that year and the type of property (e.g. appreciated marketable securities)
- Can carry forward for next five years
- Can donate up to 75% of your net income each year.

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Does a Charity Have to Issue Receipts?

- No
- But make donors aware of policies (minimum donations, when receipts will or will not be issued, gift acceptance policies, etc.)
- Individuals require “official donation receipt” to reduce personal income tax when they file their personal return each year so let them know if no receipt will be issued
- If in doubt, DON'T RECEIPT

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When Should a Receipt be Issued?

- No requirement to issue receipt and no requirement as to when
- If charity will issue receipt CRA recommends it be done by end of February for previous year so that donor has time to prepare tax return
- With gifts in kind (non-cash) need separate receipt for each donation
- For cash gifts, e.g. monthly donors, can issue cumulative gift for year

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How Much is a Donation Receipt for?

- What is the “eligible amount of a gift” for official donation receipting purposes
- If the donor has received an “advantage” in return for his or her donation then the “value” of the “advantage” must be subtracted from the value of the “gift”.

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What is a “Gift”?

Charities can only issue receipts for a “gift”.


A “gift” is a:

1. **Voluntary** – given of free will (not compelled, not court ordered, etc)
2. **Transfer** – from donor to charity/qualified donee (complete transfer)
3. **Property** – cash or gifts in kinds (not services)
4. **Financial Sacrifice** on the part of the donor (donative intent – advantage must be less than 80% of amount unless Minister agrees)

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Mandatory Elements on Official Donation Receipts

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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

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Mandatory Elements of Receipts (cont.)

- 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 (<http://www.cra.gc.ca/charities>)

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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)


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Sample Official Donation Receipts



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When Not to Issue a Receipt ...

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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”)

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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 (e.g. concert)
- Payment for program (e.g. daycare)

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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

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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

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Services are not Property

- Cannot issue receipt for gift of services to charity, unless check exchange:
- “If a charity pays a service provider for services rendered and the service provider then chooses to donate the money back, the charity can issue a receipt for the monetary donation (this is often referred to as a cheque exchange). In such circumstances, two distinct transactions **must** take place:
 - A person provides a service to a charity and is paid for that service, and
 - That same person makes a voluntary gift of property to the charity.”

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/gfts/srvcs-eng.html>

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Rent-Free Space is not Property

- One of the criteria for a gift is that there be a voluntary transfer of **property**
- With rent free space or accommodation, no property is being transferred—instead, use of the building is being provided. Since no property is transferred, no “gift” is made. A tax receipt for the value of the loan of property cannot be issued

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Rent-Free Space is not Property

- Although the loan of property does not constitute a gift, a charity may pay rent on a property to an individual and later accept a gift of all or part of the payment, as long as the gift is voluntary. The charity may then issue a receipt for tax purposes. The donor would have to report the income earned but would be able to claim the tax relief associated with the gift

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Split Receipting

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Split Receipting

- New legislative idea – from 2002
- Pre-2002 – if donor received any advantage, then no receipt
- Now donors can receive some advantage eg. concerts, golf tournament, gala dinners, etc.
- Charity must determine the eligible amount of that gift for receipting purposes in order to issue an official donation receipt
- Eligible amount is gift minus advantage
- <http://www.cra-arc.gc.ca/E/pub/tp/itnews-26/itnews-26-e.pdf>

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Advantage is Broad


Possible advantages include:

- Property (for example, cash, non-cash gifts)
- The use of or enjoyment of property
- The provision of services
- Other benefits (for example, assumption of debt by donee, sponsorship)

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Determining FMV of Advantage

- Advantage = what donor *may* receive in return for his or her donation (for example, food at gala dinner)
- Must be deducted when determining the eligible amount of a gift for receipting purposes
- Similar but different to determining fair market value of a gift in kind (non-cash gift)
- While only donations of *property* can be receipted as gifts in kind, the fair market value of any type of advantage (for example services, accommodation, meals) must be used to reduce the eligible amount of a gift for receipting purposes

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Is There Donative Intent?


If advantage is

- 80% or less of the fair market value of the donation, then a receipt may be issued for the difference
- Greater than 80% of the value of the donation, no gift is deemed to have been made (no donative intent), and a receipt cannot be issued

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If “Nominal” Value of Advantage

If advantage is the lesser of \$75 and 10% of the value of the donation, it is considered nominal (“de minimis”) and it need not be deducted from the eligible amount of the gift for receipting purposes

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If Value of Advantage Cannot be Determined

If the FMV of the advantage cannot be determined, a receipt cannot be issued

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Working Out the Receipt

- Is advantage 80% or less of the fair market value of the donation?
- Is advantage nominal in which case do not need to deduct from amount of receipt?

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Examples Showing “Nominal” and “Advantage Threshold”

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Example 1

- Individual donates \$500 to a charity and receives a theatre ticket worth \$90 from the charity.
- **Nominal threshold:** 10% of \$500 is \$50. Therefore the advantage must be \$50 or less to be considered nominal.
- **Advantage threshold:** 80% of \$500 is \$400. Therefore the advantage must be less than \$400 for a receipt to be issued.
- This example is not nominal, and must be deducted from the value of the gift, but advantage does not exceed 80% value so a receipt can be issued. Eligible amount for which a receipt can be issued is **\$500 - \$90 = \$410.**

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Example 2

- Individual donates \$300 to a charity and receives a TV set worth \$250 from the charity.
- **Nominal threshold:** 10% of \$300 is \$30. Therefore the advantage must be \$30 or less to be considered nominal. As well advantage over \$75.
- **Advantage threshold:** 80% of \$300 is \$240. Therefore the advantage must be less than \$240 for a receipt to be issued.
- In this example advantage is not nominal and exceeds 80% value so a receipt cannot be issued.

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Example 3

- Individual donates \$500 to a charity and receives a pen worth \$4.95 from the charity.
- **Nominal threshold:** 10% of \$500 is \$50. Therefore the advantage must be \$50 or less to be considered nominal.
- **Advantage threshold:** 80% of \$500 is \$400. Therefore the advantage must be less than \$400 for a receipt to be issued. \$4.95 is less than \$400.
- In this example advantage is nominal and therefore \$4.95 is not deducted from the value of the gift, and advantage does not exceed 80% value so a receipt can be issued. Eligible amount of receipt is **\$500**.

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More Information on Split Receipting

Income Tax – Technical News No. 26 Dec. 24, 2002

- Fundraising dinners
- Charity auctions
- Lotteries
- Concerts, shows and sporting events
- Golf tournaments
- Membership fees
- Charitable annuities
- Mortgaged property

<http://www.cra-arc.gc.ca/E/pub/tp/itnews-26/itnews-26->

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Receipting and Golf Tournaments

- **Green fees** are calculated at the rate (group or individual) normally charged to non-members playing the course at the time of the event. However, no amount is allocated to members where members are not normally required to pay green fees
- **Cart rentals** are valued at their regular cost
- **Meals** are valued at the price (group or individual rates) that would be charged if the meals were purchased separately at the course

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

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Receipting and Golf Tournaments

- **Complimentary items** are valued at the amount that would have to be paid to acquire the merchandise at the donating retail outlet or the outlet from which the merchandise was obtained
- **Door and achievement prizes** are valued at the retail value of all such prizes, totalled, and allocated pro rata to all attendees
- **Hole in one prizes** can be excluded. The CRA accepts that for any particular participant the value of the chance to win the prize is nominal

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/fndrsng-eng.html> 153




Celebrities at Events

“The attendance of celebrities at fundraising events will not be viewed as an advantage per se. However, any incremental amount paid for the right to participate in an activity (for example, dinner, golf) with a particular individual will not be viewed as a gift.”

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

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Meals at Events


- Fair market value of a meal at fundraising dinner is cost of a comparable meal provided by a comparable facility
- If meal at restaurant, then price regular customer would pay
- If meal at banquet facility then use group or banquet rates
- If meal donated to charity, it is still advantage and does not change amount of advantage

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/fndrsng-eng.htm>

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Lottery Tickets


“It is the view of the Canada Revenue Agency (CRA) that no part of the cost of a lottery ticket is a gift. Therefore, a lottery ticket is not eligible for an official donation receipt.”

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/fndrsng-eng.htm>

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Receipting of Membership Fees

“Whether or not there is an eligible amount associated with the payment of membership fees or other amount to a registered charity of which an individual is a member will be determined on the basis of whether the membership fee or other amount exceeds the amount of the advantage. If the amount of the advantage is 80% or less of the payment to the charity, a tax receipt may be issued for the eligible amount.”

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Receipting of Membership Fees


Generally not advantage:

- Recognition as a donor in the charity's newsletter;
- A subscription to the charity's quarterly newsletter (otherwise available free of charge)
- The right to attend annual meetings
- A monthly calendar of performances (otherwise available free of charge)
- An advance invitation to certain performances
- An invitation to dress rehearsals (open to the general public)

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Receipting of Membership Fees


Must deduct as advantage from membership fees paid for various items including but not limited to:

- Complimentary items of value provided to member
- A discount on products or services offered by charity
- Parking vouchers
- Burial plot discounts

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Split Receipting and Concerts, Shows

“Where the amount of the advantage (including the usual and current ticket price) is 80% or less of the actual ticket price, a tax receipt may be issued for the difference. If there is no reasonably comparable event, then no portion of the ticket price can be viewed as an eligible amount for receipting purposes.”

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/fndrsng-eng.htm>

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Fair Market Value (FMV)

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Why is FMV Important?

- For valuing gift in kind (non-cash) gift (“eligible amount of a gift”)
- For valuing any advantages received
- If you cannot determine fair market value of either gift or advantage then cannot issue receipt
- Onus on charity to determine – major consequences for mistakes.

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What is Fair Market Value?

“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*.”

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What is Fair Market Value?

- What is “open and unrestricted market”?
- What is “knowledgeable”?
- What is “informed”?
- What is “prudent”?
- What is “acting independently of each other”?

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FMV and Taxes

- The fair market value of an item does not include taxes paid on purchasing the item
- If you pay \$100 plus \$13 HST then the FMV is \$100 for purposes of the receipt
- Why? Person who owns item and sells it does not get to keep the taxes – just passes it on the government

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-006-eng.html>

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Deemed Fair Market Value (Deemed FMV)

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What is “Deemed” FMV?


In certain circumstances receipt for a gift in kind (non-cash gift) must be issued for the lesser of

- The gift's fair market value and
- Its cost to the donor (or in the case of capital property, its adjusted cost base) immediately before the gift is made

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When is “Deemed” FMV Used?

For gifts after December 5, 2003 use deemed FMV if any applies:

- 1) The gift received by the charity was initially acquired by the donor as part of a **tax shelter arrangement**, or
- 2) The gift was **acquired less than three years** before the time of donation **for any reason**, or
- 3) The gift was acquired less than **ten years before** the time of donation, **with one of the main purposes** being to **gift the property to a qualified donee** (for example, a registered charity)

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Exemption from Deemed FMV

- Gifts made as a consequence of a taxpayer's death
- Gifts of inventory
- Gifts of real property situated in Canada
- Gifts of certified cultural property ([special valuation procedures](#) apply)
- Gifts of certain publicly-traded securities

If exempt, then just use regular FMV

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dmdfmv-eng.html>¹⁶⁹



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Deemed Fair Market Value

If a donor attempts to avoid the limitations described under the "[Deemed fair market value](#)", with the acquisition or disposition of a property before gifting it, the eligible amount of the gift is deemed to be nil. This rule applies to gifts made after July 17, 2005.

Gifts and Income Tax P113(E) Rev. 09

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Deemed Fair Market Value

Important Note: If the property was donated within ten years of acquisition or was acquired through a tax shelter arrangement, the "[deemed fair market value rule](http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dmdfmv-eng.html)" may also apply.

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dmdfmv-eng.html>

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Example of Deemed Fair Market Value


- Person buys piece of art for \$500
- Six months later piece of art is valued at \$1000
- As gift within 3 years so only issue tax receipt for \$500
- If donor does not advise charity of deemed FMV issue then receipt should be for zero

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dmdfmv-eng.html>

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Gifts In Kind (Non-Cash Gifts)

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Gifts In Kind

- Why accept gifts in kind?
- Can your charity 1) use it or 2) easily sell it?
- Gifts in kind can create significant legal and ethical issues
- In many cases best to decline offer of gifts in kind

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Gifts In Kind

- Is gift-in-kind donation for mission?
- Is product appropriate?
- Do you have policies on gift-in-kind donations?
- What “fees” are being charged for gifts-in-kind?
- What disclosure of valuation, source, and use is made in your financial statements?

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Appraisal

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Appraisal and Gifts In Kind

- If under only one gift under \$1000 then someone affiliated from charity with sufficient knowledge may determine value
- If over \$1000 then CRA recommends that professional appraisal by third party who is knowledgeable about specific marketplace and not associated with either charity or donor
- If appraisal include name and address of appraiser on the official donation receipt

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Appraisal and Gifts In Kind

- May need more than one appraisal
- Responsibility of charity to determine FMV
- Many cases of courts not accepting exaggerated appraisals
- Gifts under \$1000 without valuation – still keep supporting documents.

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General

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Correcting or Replacing Receipts

- To replace a **lost** receipt, a registered charity can issue a replacement, which must contain all the required information plus the serial number of the lost receipt. The replacement receipt should also state that it “cancels and replaces the lost receipt.” The charity's copy of the lost receipt should be kept and marked “cancelled”
- For a **spoiled** receipt, a registered charity can issue a new receipt but must keep the original copies (both the donor's and charity's) marked "cancelled”

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Computer Generated Receipts

- Can be used – must be legible and protected from tampering
- Password protect computer
- Keep copy of non-erasable media (CD-ROM, print out)
- Hard copy must be printable upon request
- Can be sent by e-mail but must be read/print only and non-editable

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Services

- Services are not gifts (not transfer of property)
- Services included time, skills or efforts
- Can use cheque exchange, do not just mark invoice “paid”

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Gift Certificates

- A gift certificate is “a certificate having a stated monetary value that entitles the recipient to purchase goods and/or services in the establishment of the issuer”
- Charities can issue an official donation receipt when the donor is
 - a) Not the issuer of the gift certificate, **and**
 - b) Has obtained the gift certificate for valuable consideration either from the issuer or other third party
- Cannot issue official donation receipt to issuer of gift certificate because it is promise to pay

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Gifts by Business from Inventory

- A registered charity can issue an official donation receipt to a business for the market value of a gift out of inventory
- The charity's responsibilities are
 - Determining that it has in fact received a gift
 - Determining the value of the gift
- If sponsorship, then no official donation receipt

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How Does Business Treat Donations?


“It is the Canada Revenue Agency's responsibility to ensure that businesses comply with the provisions of the *Income Tax Act*, not the charity's. If asked, the charity may advise a business of the tax implications as follows:

- The business can, of course, deduct the cost of acquiring or producing the item given to the charity from its income

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How Does Business Treat Donations? (cont.)


- If the business does make a true gift out of inventory, it must add the fair market value of the item to its income per subparagraph 69(1)(b)(ii) of the *Income Tax Act*, and then claim a charitable tax deduction.
- If the business obtains a material benefit from the transaction, it can probably write off the cost as a business expense.”

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-018-eng.html>

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Pledges

- Charities cannot issue official donation receipts for a pledge or promise to pay because it is not a gift
- If donor honours pledge then a receipt can be issued
- Generally pledges not enforceable, sometimes they are

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Name of Donor

- Can receipt be issued in a name other than the “donor”?
- Question of fact whether property donated from one individual to a registered charity is the property of that individual and/or another
- Can be trustee or agent
- Where cheque written on an account held jointly by spouses charity can issue the official donation receipt in either or both names, regardless of who signed

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Name of Donor (cont.)

- Cheque from a corporation and is subsequently asked to issue the official donation receipt in the name of an individual who controls the corporation, obtain evidence to show that the individual is the true donor
- Other circumstances – charity can request written declaration as to the identity of the true donor from the party providing the donation

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Can Address on Receipt be a P.O. Box?

- Paragraph 3501(1)(a) refers to an address "as recorded with the Minister".
- If CRA has POB on record then it can be used on a receipt
- Sometimes when frequent changes to address better to use POB
- Also sometimes safety concerns (e.g. shelters)

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Misuse of Receipting

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How Big of a Problem is Inappropriate Receipting?

- For some abuses we know and others not
- May find OECD *Report on Abuse of Charities for Money Laundering and Tax Evasion* interesting
<http://www.oecd.org/dataoecd/30/20/42232037.pdf>

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Top 5 Audit Findings


- 1. **Incorrect issuance of donation receipts**
- 2. **Books and Records are often inadequate or deficient**
- 3. **Gifts to non-qualified donees**
- 4. **Failure to maintain direction and control**
- 5. **Failure to file T3010**

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Focus Shift

- Since 2007, the Charities Directorate has been focussing its audit and compliance resources on two major issues:
 - ❖ Addressing the participation by registered charities in facilitating **tax shelter** arrangements
 - and
 - ❖ Combating the issuance of **fraudulent donation receipts.**

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Two Main Concerns

1. Abusive charity gifting tax shelters
2. Fraudulent issuance of receipts

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Abusive Gifting Tax Shelter Arrangements

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Abusive Gifting Tax Shelters

- People can donate to registered charities in Canada and get an official donation receipt which is very valuable and can be costly to the tax system
- Usually “investor” or “donor” is told that the tax benefits and deductions arising from the scheme will equal or exceed the costs of entering into the arrangement or the property
- Promoters and “charities” cannot, through various games and tricks, abuse the tax system to issue whatever receipt they wish

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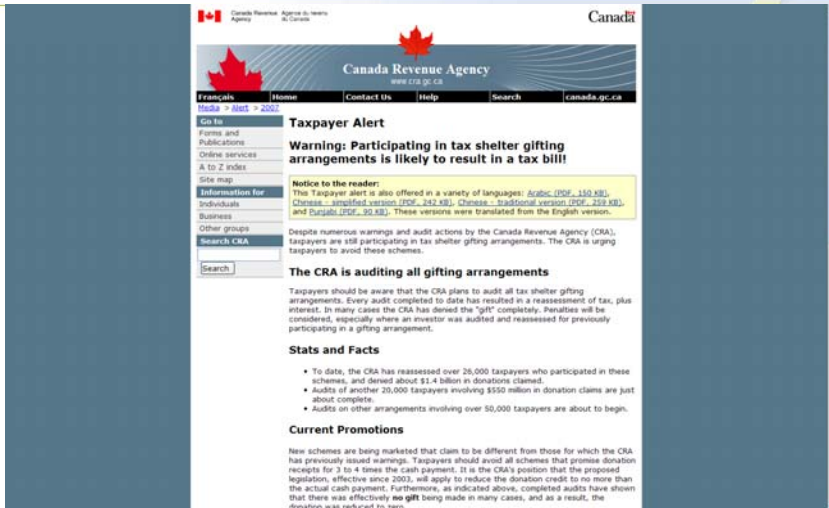


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CRA Taxpayer Alerts on Tax Shelter Gifting



Canada Revenue Agency
www.cra.gc.ca

Taxpayer Alert

Warning: Participating in tax shelter gifting arrangements is likely to result in a tax bill!

Notice to the reader:
This Taxpayer alert is also offered in a variety of languages: Arabic (PDF - 150 KB), Chinese - simplified version (PDF - 202 KB), Chinese - traditional version (PDF - 205 KB), and Punjabi (PDF - 50 KB). These versions were translated from the English version.

Despite numerous warnings and audit actions by the Canada Revenue Agency (CRA), taxpayers are still participating in tax shelter gifting arrangements. The CRA is urging taxpayers to avoid these schemes.

The CRA is auditing all gifting arrangements

Taxpayers should be aware that the CRA plans to audit all tax shelter gifting arrangements. Where audit completed to date has resulted in a reassessment of tax, plus interest. In many cases the CRA has denied the “gift” completely. Penalties will be considered, especially where an investor was audited and reassessed for previously participating in a gifting arrangement.


Stats and Facts

- To date, the CRA has reassessed over 20,000 taxpayers who participated in these schemes, and denied about \$1.4 billion in donations claimed.
- Audits of another 20,000 taxpayers involving \$550 million in donation claims are just about complete.
- Audits on other arrangements involving over 50,000 taxpayers are about to begin.


Current Promotions

New schemes are being marketed that claim to be different from those for which the CRA has previously issued warnings. Taxpayers should avoid all schemes that promise donation receipts for 3 to 4 times the cash payment. It is the CRA's position that the proposed legislation, effective since 2003, will apply to reduce the donation credit to no more than the actual cash payment. Furthermore, as indicated above, completed audits have shown that there was effectively no gift being made in many cases, and as a result, the donation was reduced to zero.

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Tax Shelter Gifting – Charity Concerns

1. Undermine public confidence in charities
2. Depletes tax revenues needed for basic services, many of which are delivered by charities
3. They are often illegal or fraudulent, usually unethical
4. Your donor will be audited (175,000 donors are currently being audited)
5. Determining the correct amount for the donation receipt

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Tax Shelter Gifting – Charity Concerns (cont.)

6. Disbursement quota problems
7. Fundraising by using commissions may violate codes of ethics
8. Tax Shelter Identification Numbers – is not CRA approval
9. You don't want to be considered a promoter
10. Lawsuits

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Tax Shelter Gifting – Charity Concerns (cont.)

11. Questionable legal opinions
12. Civil penalties
13. Professional advisors
14. Advanced tax rulings from CRA usually not applicable
15. CRA's fundraising guidelines

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Slides from CRA's Presentation “Compliance Overview – Major Non-Compliance Issues”

For a full copy of the presentation see:
http://www.globalphilanthropy.ca/index.php/blog/comments/cra_presentation_major_non-compliance_issues_by_danie_huppe-cranford_for_ic/

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Definition

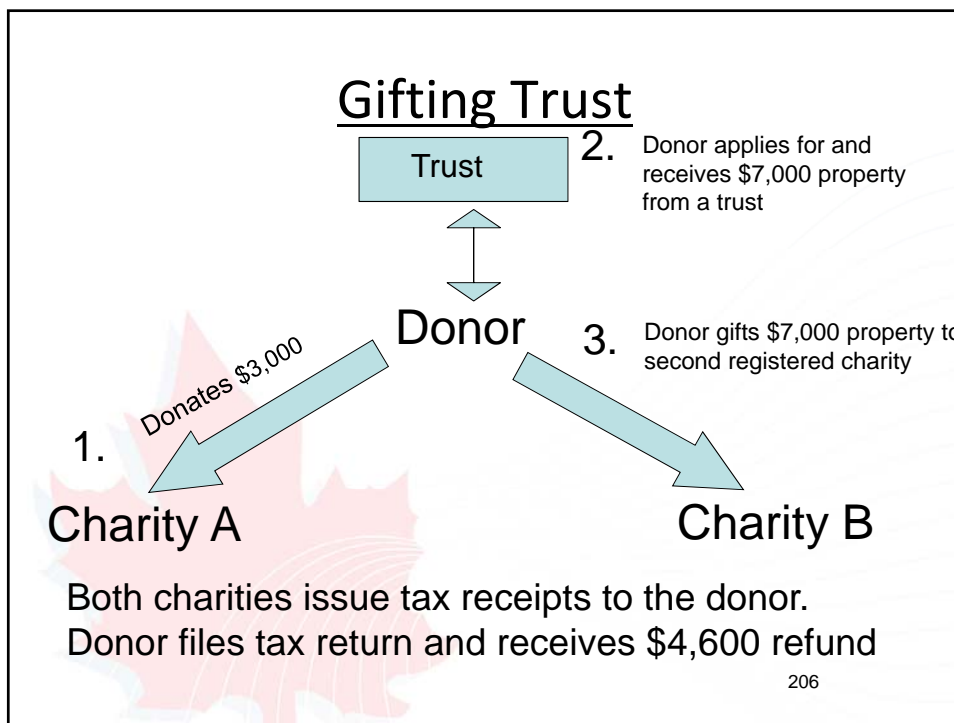
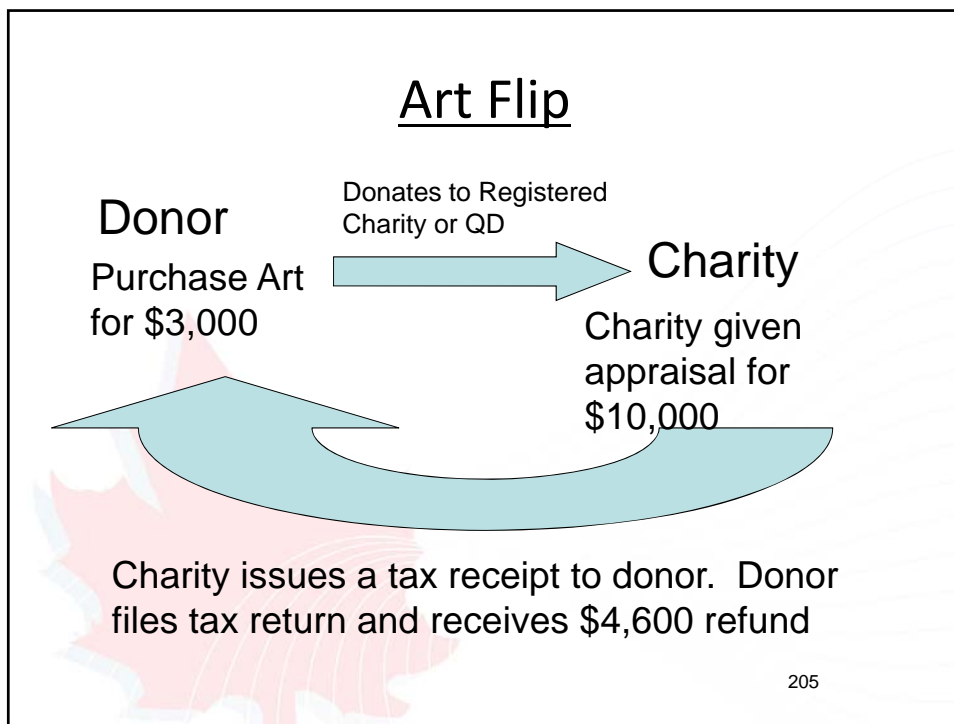
- Under the *Income Tax Act*, a tax shelter includes any gifting arrangement:
 1. for which a promoter represents that an investor can claim deductions or credits which equal or exceed the cost of the property or
 2. for which a person will incur a limited recourse amount (debt).
- These arrangements are generally promoted promising participants tax receipts reflecting a value many times greater than what participants are out-of-pocket
- Tax Shelters have to obtain identification numbers in order for CRA to track these arrangements and identify their participants

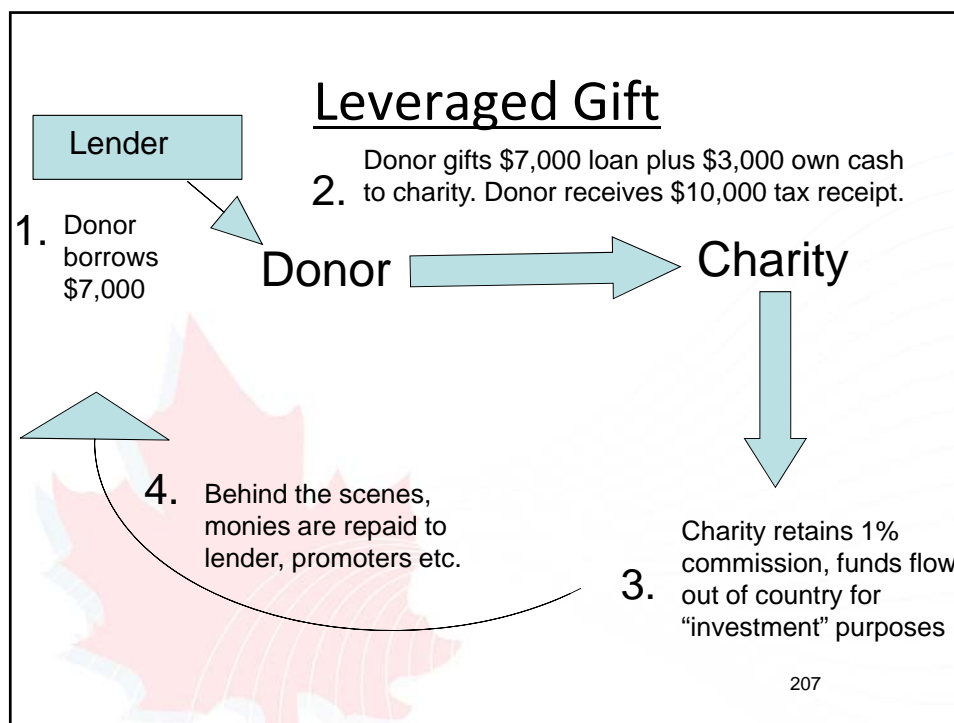
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TAX SHELTERS

- There are generally 3 types of tax shelter schemes involving charities and /or RCAAAs:
 - **Buy low, donate high**, where an individual buys property for \$3,000, then donates the property at a “fair market value” of \$10,000, and receives a \$10,000 receipt
 - **Gifting trust arrangements**, where an individual donates \$3,000 cash to a charity, receives property with a purported fair market value of \$7,000 from a trust which is also donated to charity, and receives a donation receipt of \$10,000
 - **Leveraged cash donations**, where an individual borrows \$8,000 (from an organization involved in the scheme) to donate to a charity and donates \$2,000 out of pocket to the charity for a \$10,000 donation receipt

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SCOPE OF THE PROBLEM

- Since 2003, despite the introduction of legislation to combat such arrangements, tax shelter schemes have continued to draw in investors. It is estimated that there are approximately:
 - 161,500 donors;
 - \$5.15 billion in donations;
 - 75 registered charities/RCAAA; and
 - 30 donation arrangements

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SCOPE OF THE PROBLEM

- Abuse of the charitable tax incentive
 - Intent of the legislation is to allow registered charities and RCAAs to receipt reflecting the value of the property received
 - Most of the money/property involved:
 - is paid out to promoters and related companies,
 - simply doesn't exist,
 - or is grossly overvalued.
 - Proportionately little money is actually retained by the charity/RCAA – generally 1%²⁰⁹

SCOPE OF THE PROBLEM

- Participation by Charities and RCAAs:
 - Charities and RCAAs are happy to receive the 1% - tax receipts cost them very little
 - Don't give consideration to the effects of their activity on the tax base
 - Believe the often incredible claims of the promoters as to what is done with the donated money and property
 - No accountability for the funds/property²¹⁰

Example

- Example: A Montreal-area foundation
- Registered in 2004 to grant scholarships to students in post-secondary institutions
- Became involved in a tax shelter arrangement
- Issued tax receipts for \$10,000,000 and retained approximately 1% (\$100,000)
- Issued one scholarship for \$10,000

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CRA APPROACH Promoters & Donors

- Aggressive Tax Planning Division is currently proceeding with the re-assessment of tens of thousands of participants for hundreds of Millions of dollars
- Third-party penalties will be considered against promoters of these arrangements and other third-parties
- Possibility of Criminal charges

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CRA APPROACH

Registered Charities

- Charities Directorate auditing all charities and RCAAs participating in tax shelter arrangements
 - Includes organizations seeking registration or re-registration whereby applicants appear to be seeking registration to participate in arrangements
- Revocation and/or financial penalties will be considered in all cases
 - 27 audits on-going
 - 60 audits completed with 38 charities/RCAA revoked & 6 applicants denied registration
- Publicizing compliance actions (e.g., through a press release)

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CRA APPROACH

Registered Charities

- **Egregious Cases**

- Revocation published within 30 days of Notice of Intent to Revoke issued
 - Charities required to obtain a Stay from Federal Court of Appeal to prevent CRA from publicizing revocation
- Taxpayer Alerts and Fact Sheets are posted on CRA's Web site
- Public information sessions

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Promising Results

- When comparing 2007 and 2008
- **2008 statistics have shown a 58% reduction in number of donors involved in tax shelters as well as a reduction of 51% in the amounts donated through these arrangements**

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CLIP



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2009 Update – further decline

2008:

Number of “Donors”/Investors: 17,301 donors;

Amount of “donations” \$484,150,482

Number of schemes: 9

2009:

Number of “Donors”/Investors: 10,813 donors

Amount of “donations”: \$285,946,839

Number of schemes: 7

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TRENDS in TAX SHELTERS & FALSE RECEIPTING

- Go West
- Affordability
- The Moribund
- Technology


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Tax Shelters

- “If it sounds too good to be true, it probably is.”
- There are consequences
- Almost all schemes market themselves as being “different” from other schemes that CRA has warned about and promising that they are safe
- The CRA audits all charity gifting arrangements

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Is This an Abusive Tax Scheme?

1. Person donates \$100 to charity, receives no benefit and charity issues \$100 tax receipt.
2. Person donates \$100 to charity and receives \$10,000 tax receipt.
3. Person buys pharmaceuticals in India as part of a scheme for \$100, pharmaceuticals donated to charity and valued for purposes of tax receipt, at \$10,000, and tax receipt issued for \$10,000.

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Fraudulent Tax Receipts

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Fraudulent Tax Receipts

- Tax receipts are sold for a small percentage of their face value
- No donation, or small donation, to charity
- No complicated scheme
- Keep tight control over receipts
- Advise CRA of any concerns

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SCOPE OF THE PROBLEM

- In 2004 CRA received information from an informant regarding the sale of fraudulent receipts.
- This information led to the Charities Directorate uncovering numerous other individuals and organizations involved in the same fraudulent activity primarily centered in the Southern Ontario Region.
- The schemes generally involve a charitable tax receipt being sold for 10% of the receipts face value.
- In most cases the CRA finds that the charity is complicit in these arrangements, however, this fraud may or may not be carried on with the knowledge of the particular registered charity e.g., receipts being created sold entirely by a tax preparer.

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SCOPE OF THE PROBLEM

- **False Receipting:**
- Between 100,000-135,000 donors have been involved between 2004 and 2009 with
- Hundreds of Millions in donations.

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Statistics

- Since 2004, the Charities Directorate has screened over 165 files for audit.
- 135 audits completed – 70 revoked for cause.
- Numerous cases referred to CRA Enforcement for the potential laying of Criminal charges.
 - Some prosecutions already completed.
- Charities Directorate is currently working with other areas of the CRA to potentially identify additional cases.

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CanAfrica International Foundation

- Audit conducted for FPE 2002-2005
- Charity reported \$2,203,364 as receipts on 2004 T3010
- CRA seized records showing Charity issued **\$21,555,427** in receipts to 3,700 donors in 2004
- Estimated \$38,127,696 in false receipts issued – (low)
- One of directors - Ambrose Danso-Dapaah issued receipts
- File referred to Enforcement
- Charity revoked September 8, 2007
- Director pled guilty on December 15, 2008 to one count of fraud over \$5,000. Sentenced to 51 months in jail.

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Consequences for Improper Receipts

- Incomplete or incorrect information: Penalty equal to 5% of the eligible amount stated on the receipt. Penalty increases to 10% for a repeat infraction within 5 years
- If no gift or deliberately false information then charity is liable to a penalty equal to 125% of the eligible amount stated on the receipt where the total penalty does not exceed \$25,000
- When penalty over \$25,000 the charity gets penalty equal to 125% and the suspension of tax-receipting privileges
- Can also have registration revoked

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Suspensions and Revocation

- CRA may give notice to a registered charity that its tax-receiving privileges have been suspended
- A suspension is for one year from the day that is seven days after the notice is mailed
- If your charity is revoked you cannot issue receipts

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Receipting Related Issues

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Can a Charity Return a Gift?

- Generally not
- Once charity owns property, charity has to use it for charitable purposes
- Can transfer gift to another registered charity
- If condition not fulfilled (condition precedent, condition subsequent)
- Speak to CRA and Public Guardian before returning gift

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Can a Charity Return a Gift? (cont.)


Avoid issue by:

- Have gift acceptance policy
- Carefully consider gift before accepting
- Generally do not issue official donation receipt until you are sure that no conditions remaining
- Obtain legal advice about complicated donor arrangements
- Make sure with restricted gifts such as special project or disaster that public is notified what will happen if too much or too little funds or no longer practical to do project

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Auctions

- Can issue receipt for some items donated for sale at an auction but must be “property” (not services), fair market value of the property must be determined before a receipt can be issued
- **Generally successful bidder gets no receipt for purchase**
- Can issue official donation receipt if:
 - Fair market value can be determined
 - Value of item posted before the start of the auction
 - Successful bidder pays more than FMV and
 - The item bidder receives does not exceed 80% of the purchase price

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Donation Received Before Registration

- Where a registered charity's objects and activities are charitable throughout the year, the charity may issue official donation receipts for all cash gifts it received in the calendar year during which it was registered
- A registered charity cannot issue an official donation receipt for a gift-in-kind received prior to the charity's effective date of registration

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Donation or Sponsorship?

- **Purpose:** Is one of the purposes of the donation to obtain recognition?
- **Source:** Is the donation from an individual or a business? Generally nil value when individual unless their name “indelibly associated” with a company or product. Is the use of donor’s name a valuable benefit to the donor?
- **Contracting:** Is there a contract (a written or unwritten understanding concerning the benefits the donor will receive in return for the donation)? Does it indicate that the donor expects and receives an economic benefit in return for the donation?

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Donation or Sponsorship?

- **Valuation:** Can the value of the exposure (promotion, advertising, sponsorship) be determined? How much is the equivalent exposure worth? See split receipting. [If the advantage is not more than 80% of the value of the payment a charity may issue a receipt for the difference](#)
- **Token recognition or not? Naming.** Is simply being named as a donor necessarily a benefit (e.g., newsletters, plaques, cards)? If a benefit, does it have value

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Anonymous Gifts


A donor can make an anonymous gift (name does not appear on donation receipt) if:

- The donor establishes an agency or trust agreement to make the anonymous gift
- The donor appoints an agent for the purpose of making a gift on behalf of the donor
- The agent agrees to hold the funds in trust for the donor

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Anonymous Gifts (cont.)


- The donor directs the agent to make a gift to a registered charity on the donor's behalf
- The agent agrees to direct the registered charity to issue a receipt in the amount of the gift in the name of the agent in trust
- The agent agrees to deliver the receipt to the donor for the purpose of establishing the details of the donation

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/gfts/nnym-eng.html>

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Volunteer Expenses

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Volunteer Expenses


- A charity can reimburse a volunteer for the expenses incurred on behalf of the charity and later accept the return of the payment as a gift, provided that the amount is returned voluntarily
- Best to do cheque exchange – keep proper financial records
- Should have written direction from volunteer if issuing official donation receipt in lieu of reimbursement

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-012-eng.html>
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cpc/cpc-025-eng.html>

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Volunteer Expenses – Travel


To determine whether travel expenses could be a gift, certain factors are taken into consideration, including:

- Whether the expenses are incurred voluntarily or whether the volunteer was compelled to assume them
If compelled, then not a gift
- Whether the consideration accruing to the volunteer negates donative intent (*i.e.*, intention to give)
If volunteer to work for a few days and then takes a 3 week vacation after the trip would negate donative intent and no receipt issued

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Volunteer Expenses – Travel (cont.)

- Whether the amenities that are being provided to the volunteer that works for the charity are reasonable, are provided in the context of the work with the charity, and are priced at market rates or lower
Does volunteer book at economy rate and accommodations are modest? Are amenities provided to the volunteer reasonable and the purpose of the travel relates to the charity's work?

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Third Party Fundraiser

- CPC – 026 Third-party fundraisers for the benefit of a particular registered charity
- Can be volunteer or paid third party
- Very big difference between volunteer and paid
- Do not casually farm out or relinquish receipting function
- Maintain control over funds and receipting

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Third Party Fundraiser (cont.)


“If the charity does not run the event substantially by itself, through its own employees or volunteers, it should:

- Put in place a written agreement setting out the modalities of the fundraising arrangement
- Ensure that official donation receipts are only issued to donors for the eligible amount of the gift
- Ensure that official donation receipts are signed by an authorized individual in conformity with ss. 3501(1)(i), 3501(2), 3501(3) and 3502 of the *Income Tax Regulations* ...

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Third Party Fundraiser (cont.)

- Be able to provide to the Canada Revenue Agency a full accounting of the monies or that portion of the monies donated to it, and the receipts that were issued in return
- Be able to account to the Canada Revenue Agency for the amount of the advantage received by the participants as a result of their participation in the fundraising event.”

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Third Party Events with Volunteers

- Many charities have third party events with volunteers
- Engages volunteers and volunteers raise funds
- Importance of low cost fundraising
- Risk management for these events
- For information on Third Party events with paid contractors see CRA Fundraising Guidance

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Documentation for Third Party Events

- Application for event
- Agreement between charity and third party fundraiser

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Third Party Fundraising Issues

- Roles and Responsibilities
- Financial responsibility
- Budget
- Insurance and Liability
- Use of logos and TM of charity
- Issuance of receipts
- Indemnity
- Use of professional fundraiser
- Compliance with laws
- Permits

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Third Party Fundraising Issues (cont.)

- Marketing and promotional material approval
- Prohibited conduct: e.g. commissions; behaviour that is counter to the mission; nuisance to the public; events which may be misleading or deceptive; partisan political activities
- Restrictions on type of solicitation – e.g. direct solicitation (including but not limited to door-to-door canvassing, telemarketing or internet)
- Restrictions on who may be solicited – current sponsors, national corporations etc. – prior approval?
- Other restrictions from gift acceptance policy

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Third Party Fundraising Issues (cont.)

- Remittances of funds to charity
- Reporting to charity – donor list, advantages etc.
- Exclusivity of event to charity (not joint event)
- Right of cancellation by charity
- Reporting of complaints by organizers
- Right to use photos taken at event
- Recognition
- Non-Assignment
- Term

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Ecological Gifts

- Gift of land, including a covenant or an easement, or, in the case of land in Quebec, a real servitude
- Land must be certified by the Minister of the Environment or a person designated by the Minister to be ecologically sensitive land whose conservation and protection is important to preserving Canada's environmental heritage
- Recipient is Federal, Provincial or Municipal government or certain registered charities that have been approved by the Minister of the Environment
- See Registered Charity Newsletter 22, 24

<http://www.cws-scf.ec.gc.ca/egp-pde/>

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Certified Cultural Property Gifts


- Cultural property certified by the Canadian Cultural Property Export Review Board to be of "outstanding significance and national importance" to Canada and for which the Board has issued a tax certificate for the fair market value.
- Certified cultural property can include art, archival material, decorative arts, musical instruments, military objects, technological objects, etc.
- Can get favourable tax treatment if certified

<http://www.pch.gc.ca/pgm/bcm-mcp/desgntn/index-eng.cfm>

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Religious School Tuition Receipts

- If religious schools (either exclusively religious or dual (secular or religious)) are issuing tax receipts, they must ensure that they are only issuing receipts for religious portion of tuition, which, in the case of dual capacity schools, is based on the calculation set out in IC 75-23.
- Concern regarding inflated receipts

<http://www.cra-arc.gc.ca/E/pub/tp/ic75-23/ic75-23-e.txt>

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Terrorist Financing

- Process in which both legitimately and illegally obtained funds are used to finance the activities of terrorist organizations
- See CRA Checklist for Charities on Avoiding Terrorist Abuse:
<http://www.cra-arc.gc.ca/chrts-gvng/chrts/chcklsts/vtb-eng.html>

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Who Handles Receipting in Your Charity?

- Who collects information?
- Who prepares receipts?
- Who signs receipts?
- Who makes sure they are stored appropriately?

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Avoiding Improper Receipting

- Know the rules for proper receipting
- Make sure other volunteers etc involved with receipting also know
- Ensure receipts have all mandatory fields
- Have good governance and bring board into receipting discussion
- Have gift acceptance policy and follow through

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Avoiding Improper Receipting (cont.)

- Be careful with gifts-in-kind and inflated valuations
- Stay alert and avoid abusive gifting tax shelters and fraud
- Have good controls over who prepares and signs receipts
- Have adequate books and records
- Obtain legal advice when necessary or call CRA

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Evaluation

- Your feedback is important to the Charity Law Information Program
- Please complete the Evaluation Form and add any comments that will help improve our program
- If you have any additional feedback contact clip@capacitybuilders.ca
- Thank you for your participation today!

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