



## Canadian Federal Election and Canadian Charities

By Mark Blumberg (September 8, 2008)

Canadian registered charities need to scrupulously avoid involvement with partisan political activity. In this brief note we cover CRA policy statement CPS-022 on political activity by charities and CRA's Advisory on Partisan Political Activities.

*The Income Tax Act* (the "Act") restricts Canadian registered charities in the type and quantity of political activity. The Charities Directorate of the Canada Revenue Agency in its policy statement entitled [Political Activities CPS - 022](#) has set out CRA's position on political activities by registered charities. Under the Act, a registered charity can be involved in non-partisan political activities as long as it devotes substantially all (generally 90% or more) of its resources to charitable activities. Any political activity has to help accomplish the charity's purposes and remain incidental (generally 10% or less) in scope. In CPS-022 what a layman would describe as 'political activities' could be either prohibited activities, allowable political activities or in fact charitable activities.

A registered charity CANNOT be involved in PARTISAN political activities. Charities should always keep this in mind. It is especially important to remember this during an election because the likelihood that a volunteer officer or paid staff person or a board member may step outside this requirement is greater. A political activity is considered partisan if it involves direct or indirect support of, or opposition to, a political party or candidate for public office. CRA has placed an Advisory on partisan political activities at <http://www.cra-arc.gc.ca/tx/chrts/plcy/dvsry-eng.html> I have reproduced the advisory below and if you don't have the time to read CPS-022 then at least look at the advisory.

The restriction on partisan political activities does not apply to non-profits that are NOT registered charities from either partisan or non-partisan political activities. After all, the federal incorporated non-profit political parties are certainly partisan, but clearly not registered charities.

## Summary of CPS-022 (Political Activities)

Here I provide a quick 15 point summary of CPS-022 (Political Activities):

1) Canadian charities have experience, expertise and ideas that they should communicate to government so that government can develop better public policy and deliver better programs. Some types of political activity are very beneficial and charities are encouraged within certain limits to be involved with certain political activities.

2) “In order to serve the public, the information charities give on public policy issues should be presented in an informative, accurate, and well-reasoned way to enable society to decide for itself what position to take.” [forget absolute freedom of speech to say any ridiculous, offensive, racist, anti-semitic thing - thankfully we don't have it for individuals in Canada and certainly not for charities in Canada. Furthermore, “well-reasoned” does not mean vetted by the “elites” but rather not false, inaccurate, or misleading]

3) The political activities that the charity carries out must be “connected and subordinate” to the charity’s purposes.

4) “A charity wishing to carry out activities that go beyond the limits permitted by the Act may establish a separate and distinct organization that will not be a registered charity and therefore not able to issue charitable receipts. No limitations are placed on the political activities of such a body; it has complete freedom within the law to support any cause it chooses. But the charity cannot fund that separate organization or make resources available to it for any otherwise impermissible political activity.”

5) For the purposes of CPS - 022, a charity’s activities can be divided into three separate types:

**prohibited activities** (partisan or illegal (ie. cash in brown bag for elected official) and therefore prohibited)

**political activities** (ok, but generally less than 10% of resources can be spent on this, with a little more for small charities)

**charitable activities** (the more the merrier)

6) Just because a charity and a political party have the same position on a matter does not mean that the charity has to be quiet with respect to the issue. “However, a charity in this situation must not directly or indirectly support the political party or candidate for public

office. This means that a charity may make the public aware of its position on an issue provided: it does not explicitly connect its views to any political party or candidate for public office; the issue is connected to its purposes; its views are based on a well-reasoned position; public awareness campaigns do not become the charity's primary activity."

7) "... a charity may provide information to its supporters or the public on how all the Members of Parliament or the legislature of a province, territory or municipal council voted on an issue connected with the charity's purpose. However, a charity must not single out the voting pattern on an issue of any one elected representative or political party."

8) CRA is quite generous in CPS-022 in considering certain matters "charitable activities" and not "political activities". Lots of examples are given and many matters for purposes of political expenditures are considered by CRA to fall within the "charitable activities" of the charity as either "education" or "public awareness" depending on how they are conducted.

9) According to CRA they presume an activity is "political" if a charity:

**explicitly communicates a call to political action** (i.e., encourages the public to contact an elected representative or public official and urges them to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country);

**explicitly communicates to the public that the law, policy, or decision of any level of government in Canada or a foreign country should be retained** (if the retention of the law, policy or decision is being reconsidered by a government), **opposed, or changed**; or

explicitly indicates in its **materials** (whether internal or external) that the intention of the activity is to incite, or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country.

10) The Income Tax Act's limits the amount of legal and non-partisan political activities in that "the Act requires that substantially all of its resources must be devoted to

charitable activities.” CRA takes the view when determining “substantially all” that the charity not only look to the charity’s financial assets but also staff, volunteers, directors, and its premises and equipment. CRA consider “substantially all” in this case to mean 90% or more. However, with smaller charities they will “exercise our discretion and not revoke the registration of smaller charities for the excessive use of their resources on political activities as long as they meet the following administrative guidelines: Registered charities with less than \$50,000 annual income in the previous year can devote up to 20% of their resources to political activities in the current year. Registered charities whose annual income in the previous year was between \$50,000 and \$100,000 can devote up to 15% of their resources to political activities in the current year. Registered charities whose annual income in the previous year was between \$100,000 and \$200,000 can devote up to 12% of their resources to political activities in the current year.”

11) In some cases, CRA may allow a charity to average out the political activities over the preceding two years to take into account “infrequent, short-term, one-of-a-kind political activities in excess of this amount ...”

12) Organizations need to keep records on political expenditures and if an activity is partly charitable and partly political, a reasonable allocation can be made between the two.

13) In terms of the disbursement quota, political activities, just like fundraising expenses and administration costs, are not considered charitable expenses. Some charities may run into disbursement quota problems if they cumulatively have too much fundraising, administration, and political expenses and not enough charitable activity expenses.

14) It is important that charities when filing their T3010 Charity Information Return accurately reflect their political activities. Remember that charities must file the T3010 within six (6) months of their fiscal year end. The vast majority of charities that lose their charitable registration it is the result of non-filing of their T3010.

15) Examples of prohibited, allowable political, and charitable activities, are provided along with explanations of each in CPS-022.

Also, remember that if you are undertaking political activities that the registration of lobbyists (federally, provincially or otherwise) is a separate issue to the Act and CRA constraints. You may wish to review the Federal or provincial lobbyist registration acts to check whether you and your organization are compliant. You may wish to review my article: [Lobbying and Canadian Charities: To register or not to register](#)

Lots of food for thought. It is really important to understand the distinctions in CPS-022 for two reasons: 1) failure to do so can result in a charity losing its charitable status; and 2) many charities can in fact do more allowable political activities than they currently do but they misunderstand CRA's views on this important topic and they think that CRA disapproves of all "political" activity which is clearly not the case.

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