



The Charities Directorate in 2010

2010 National Charity Law Symposium
April 30, 2010



Canada Revenue
Agency

Agence du revenu
du Canada

Canada

Today's presentation

- New changes to the Disbursement Quota (DQ)
- Charities Directorate's strategic direction
- Update on tax shelters / false receipting
- Compliance issues

The amended DQ

- The federal Budget of March 2010 reformed the disbursement quota formula.
- Among other changes, the Budget repealed the “charitable expenditure rule”, removing the 80% spending requirement (the 3.5% spending requirement on investment property remains).
- The government indicated in the Budget that:
“recent legislative and administrative initiatives have strengthened the Canada Revenue Agency’s ability to ensure that a charity’s fundraising and other practices are appropriate.”

Regulating in a reformed DQ world

- The fundamentals of charity law remain the same. For example, charities must still:
 - Be constituted and operated for exclusively charitable purposes
 - Carry out their own charitable activities and / or make gifts to qualified donees
 - Act in the interest of public benefit and not confer inappropriate private benefit
 - Operate in accordance with legislative parameters in terms of allowable political activities, related business activities, etc.
 - File their T3010B information returns and financial statements on time

Regulating in a reformed DQ world

- Will some charities now be more inclined to simply accumulate funds rather than expend them on charitable programs?
- The vast majority of charities seek to do good work with their resources, not invest for the sake of investing.
- The Budget also strengthened anti-avoidance measures in order to encourage expenditures on charitable activities. The Act now provides for sanctioning of charities that make transfers simply to avoid or delay charitable expenditures.

Regulating in a reformed DQ world

Filing Implications

- T3010B Registered Charity Information Return still required within 6 months of fiscal year end.
- Does not impact completion of the T3010B for fiscal years ending before March 4, 2010.
- Proposed changes will affect completion of T3010B for fiscal years ending after March 3, 2010.
 - Continue to file the same T3010B, but fill it out following the special instructions provided in the package mailed by CRA.
- Charities must still allocate expenditures between its administrative, fundraising, and charitable activities on the T3010B.

DQ changes and the fundraising guidance

- The reform of the DQ does not greatly affect the fundraising guidance – the fundraising ratio, for example, is an independent calculation.
- A charity must still avoid prohibited activities:
 - Fundraising cannot be a purpose
 - All private benefit must be appropriate
 - No deceptive or misleading fundraising
- As before, where a charity is using more of its resources for fundraising than for charitable programs, fundraising may be viewed as a collateral non charitable purpose.

Fundraising guidance implementation review

- We are currently carrying out the one-year review to address issues identified through the implementation.
- Some external and internal feedback has been received:
 - Are there circumstances in which a charity should not fundraise?
 - What happens to the fundraising ratio when a donor's gift arrives via a private foundation?
 - How to report sponsorship revenue?

The Charities Directorate's Strategic Direction Exercise

- The 2000 Voluntary Sector Initiative (VSI) set the strategic direction for the charities program over the last ten years.
- 69 of the VSI's 75 recommendations were accepted and implemented.
- We are now set to embark on a strategic review that will help to establish the direction of the program for the years ahead.

The Charities Directorate's strategic direction – questions

- We now have the opportunity to assess the trends in the environment, to look for opportunities, and to explore the future possibilities:
 - **What is the best way to carry out our core business**
 - **How do we optimize relationships (internally, within CRA, with our clients, other stakeholders and partners)?**
 - **How do we communicate to support our strategic goals (to internal and external audiences)?**
 - **How to manage the perception of the regulator (by the sector, stakeholders, the media, the public)?**

The Charities Directorate's strategic direction – findings

Sector Issues:

- Growth of the sector
- Sector challenges:
 - Volunteerism
 - Funding
 - Increased demand for services

Growth of the Sector (2000 – 2008)

- Number of registered charities up by 6%
- Total revenue up 83% (\$182 billion in 2008)
- Government remains largest funder for sector, up 126% (\$122 billion in 2008)
- Portion of sector revenue from government has increased from 54% to 67%
- Long term investments up from \$18 to \$52 billion

Challenges for the Sector

Volunteerism

- Volunteer participation rate dropping (currently 80% of all volunteer hours are given by only 9% of the population)
- Sustainable funding
 - Competition in sector
 - Social enterprise
 - Innovative fundraising activities (mobile giving)
- Increased demand for social services

Compliance update – tax shelters

- Discouraging participation in tax shelter schemes has been a priority for the CRA over the past decade.
- The CRA continues to audit tax shelter gifting arrangements.
- Every audit completed to date has resulted in a reassessment of tax, plus interest for individuals who claimed a charitable donation tax credit; in many cases the CRA has denied the gift completely.
- Charities involved may face revocation.

Compliance update – tax shelters

- The scope of the problem is significant; the CRA estimates that since 2003 there has been approximately:
 - 172,300 participants
 - \$5.4 billion in claimed donations
- The Charities Directorate has revoked 35 charities and RCAAAs for participating in tax shelter schemes.
- 2006 to 2009 saw participation drop by 80% to 10,800 individuals and the amount of “donations” drop by 76% to \$284 million.

Compliance update – false receipting

- The CRA has discovered that tax receipts are being sold, sometimes by people employed by the charity, and often when the charity is unaware.
- False receipting is a significant problem;
 - 100,000-135,000 donors reassessed since 2005.
 - The amount reassessed to date is about \$290 million.
- The CRA encourages charities to be diligent in safeguarding the charity's receipts and to report any suspected fraud immediately to the CRA.
- In select cases, the CRA asks donors to provide proof of payment.

Audits and revocations

- A short breakdown of our audit activity for the fiscal year 2009 to 2010:
 - Total number of audits: 794
 - Total revocations for cause: 41
 - Of these, 26 were related to false receipting or tax shelters
- The large majority of revocations still occur either because of failure to file the T3010B within the appropriate timeframe, or voluntary revocation.

Compliance issues

- Several issues tend to recur during the course of charity audits, including:
 - Receipting:
 - Absence of critical information
 - Issuing receipts for services
 - Determining fair market value
 - Books and records
 - Incomplete, or sometimes missing entirely
- Charities that do not file their financial statements with their annual information return will have their registration revoked.

Thank you.

Client Services – general inquiries
1-800-267-2384
1-888-892-5667

Charities Information on the Web
WWW.CRA.GC.CA/CHARITIES

Charities Electronic Mailing List
To connect, follow the Outreach and
Communications link on main page