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# Fundraising by registered charities

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## Guidance

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CG-013

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This guidance updates and replaces the previous version of Guidance CPS-028, Fundraising by Registered Charities.



For more information, watch our recorded webinar [Updated fundraising guidance](#).

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## On this page

- [A. Introduction](#)
- [B. Summary](#)
- [C. Application and jurisdiction](#)
- [D. What is fundraising?](#)
- [E. Definitions](#)
- [F. When is fundraising not acceptable?](#)
- [G. Evaluating a charity's fundraising](#)
- [H. Factors that may influence the CRA's evaluation of a charity's fundraising](#)
- [Appendix A – Examples of fundraising activities](#)
- [Appendix B – Allocating fundraising expenditures](#)
- [Appendix C – Best practices](#)
- [Appendix D – Questions and answers](#)
- [Footnotes](#)

## A. Introduction

1. The Canada Revenue Agency (CRA (Canada Revenue Agency)) recognizes that registered charities in Canada often depend on donations to carry out their charitable activities, and that appropriate fundraising activities are often necessary for the sustainability of the charitable sector. For many charities, this means that a portion of their resources (including time, property, and money) will be used for fundraising to support their charitable work. While recognizing the necessity of fundraising, the CRA (Canada Revenue Agency) expects charities to be transparent and conduct all fundraising within acceptable legal parameters.

2. This guidance outlines the legal principles that relate to fundraising issues that are connected to federal (CRA (Canada Revenue Agency)) regulation of charities registered under the Income Tax Act, the policies and practices the CRA (Canada Revenue Agency) uses when it assesses fundraising in applications for registration or in audits of existing registered charities, and how fundraising expenditures should be allocated for the purposes of completing Form T3010, Registered Charity Information Return.

## B. Summary

3. All charities registered under the Income Tax Act are required by law to devote their resources to exclusively charitable purposes and activities. Although a charity can use some of its resources for fundraising to support the charitable activities that further its charitable purposes, it is the CRA (Canada Revenue Agency)'s position that fundraising is not a charitable purpose in itself or a charitable activity that directly furthers a charitable purpose.

4. As a general rule, fundraising is any activity that includes a solicitation of present or future donations of cash or gifts in kind, whether the solicitation is explicit or implied.

5. Fundraising by registered charities must be conducted within legal parameters. Fundraising is acceptable provided it is not:

- a purpose of the charity (a collateral, non-charitable purpose)
- delivering a more than incidental private benefit (a benefit that is not necessary, reasonable, or proportionate in relation to the resulting public benefit)
- illegal or contrary to public policy
- deceptive
- an unrelated business

6. When evaluating a charity's fundraising activities, the CRA (Canada Revenue Agency) will consider a range of indicators and factors, including the following:

- resources devoted to fundraising relative to resources devoted to charitable programs
- fundraising without an identifiable use or need for the proceeds
- the charity's fundraising expenses to fundraising revenue ratio
- inappropriate purchasing or staffing practices, including:

- purchases of fundraising merchandise or services that do not increase fundraising revenue
- paying more than fair market value for fundraising merchandise or services
- sole source or not-at-arm's length contracts with suppliers or service providers
- activities where most of the gross revenues go to contracted non-charitable parties
- commission-based fundraiser remuneration or payment of fundraisers based on the amount or number of donations
- misrepresentations in fundraising solicitations or in disclosure about fundraising costs, revenues or practices
- fundraising initiatives or arrangements that are not well documented
- the size of the charity
- causes with limited appeal
- donor development programs
- involvement in gaming activities

7. Charities that engage in unacceptable fundraising cannot be registered under the Income Tax Act because they are not constituted and operated exclusively for charitable purposes and devoting their resources to charitable activities. A registered charity that engages in unacceptable fundraising is liable to sanctions or the revocation of its registration.

## C. Application and jurisdiction

8. This guidance applies to all organizations applying for charitable registration, and to all registered charities.

9. The document deals only with fundraising issues that are connected to federal (CRA (Canada Revenue Agency)) regulation of charities registered under the Income Tax Act, and does not address provincial obligations. <sup>1</sup> Charities, whether registered under the Income Tax Act or not, are subject to provincial and territorial requirements with respect to fundraising and other aspects of their operations. For more information, see Provincial and territorial government information for charities.

10. In its role as the regulator of charitable registration under the Income Tax Act, the CRA (Canada Revenue Agency) ensures that applicants for registration, and registered charities, meet all associated legal requirements. These legal requirements are based on the provisions of the Income Tax Act, and the common law (case law or court decisions).

11. An organization must meet a number of general requirements to qualify for registration under the Income Tax Act, including the requirement that its purposes be exclusively charitable and define the scope of the activities engaged in by the organization, and that all of the organization's resources be devoted to these activities. <sup>2</sup>

12. The Income Tax Act does not define what is charitable at law. <sup>3</sup> The CRA (Canada Revenue Agency) must therefore rely on the common law definition. To be charitable at common law, a purpose must:

- fall within one or more of four broad categories (also called “heads”) of charitable purposes (also called “objects”):
  - a. relief of poverty
  - b. advancement of education
  - c. advancement of religion
  - d. certain other purposes beneficial to the community in a way the law regards as charitable<sup>4</sup>
- deliver a public benefit<sup>5</sup>

13. According to the common law, charitable activities are those that directly further a charitable purpose. <sup>6</sup> The CRA (Canada Revenue Agency)’s position is that fundraising is not a charitable purpose, because it does not fall within one of the four categories of charitable purposes, nor is fundraising a charitable activity that directly furthers a charitable purpose. <sup>7</sup>

14. However, the CRA (Canada Revenue Agency) recognizes that registered charities in Canada often depend on donations to carry out their charitable activities and that reasonable fundraising expenditures are often necessary to sustain charities. At the same time, all fundraising must be conducted within legal parameters. Fundraising that exceeds these boundaries or parameters is not acceptable.

15. An organization carrying out unacceptable fundraising will not be considered by the CRA (Canada Revenue Agency) to be constituted and operated exclusively for charitable purposes and devoting its resources to charitable activities. <sup>8</sup> This may result in denial of charitable registration or compliance measures – including sanctions or the revocation of registered charitable status. <sup>9</sup>

16. This guidance provides general advice only. Individual cases will be decided based on the facts of each specific situation.

## D. What is fundraising?

17. As a general rule, fundraising is any activity that includes a solicitation of present or future donations of cash or gifts in kind, or the sale of goods or services to raise funds, whether explicit or implied.

### Example

A charity places a loose-change collection box with the charity’s name printed on it in a public area. If the charity includes a sign that reads “please give” or has volunteers ask passers-by for donations, the activity includes an explicit solicitation of support. If the charity simply

provides the box with the charity's name, the activity includes an implicit solicitation of support.

18. Fundraising activities can be carried out by the registered charity (board members, directors, members, staff, or volunteers), or by anyone acting on its behalf (under a contractual agreement), and include:

- direct activities, such as:
  - face to face canvassing, telemarketing, major gift work with individuals, and direct mail
  - internet or media campaigns (for example, electronic mail, online publications, websites, television, or radio)
  - printed information, advertisements or publications (for example, newspapers, flyers, brochures, and magazines)
  - events (for example, sports tournaments, runs, walks, auctions, dinners, galas, concerts, and travel or trekking adventures)
  - sales of goods or services
  - donor stewardship, and membership or corporate sponsorship programs
- indirect or related activities, such as:
  - researching and developing fundraising strategies and plans or prospective donors
  - recruiting and training development officers
  - hiring fundraisers
  - donor recognition programs

19. For a more detailed description of examples of activities the CRA (Canada Revenue Agency) considers to be fundraising, see Appendix A.

20. In this guidance, fundraising does not include seeking grants, gifts, contributions, or other funding from other charities or governments or recruiting volunteers to carry out the general operations of the charity or related business activities. For information about related business activities, go to Policy statement CPS-019, What is a related business?

21. 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 can decide what it considers a separate activity as long as it can reasonably be treated as independent from other activities.

## Example

A health-related charity may have a month-long campaign that consists partly of distributing information about preventing a disease and partly of raising funds for its work. It may treat each of these initiatives as separate activities, or it may group all the initiatives during the campaign as a single activity.

22. As a general rule, the expenses for a fundraising activity are reported on line 5020 of the Form T3010, Registered Charity Information Return. For information on allocating fundraising expenditures on Form T3010, see [Appendix B](#).

## E. Definitions

23. In this guidance, the following definitions apply:

### **Ancillary and incidental**

24. The [CRA \(Canada Revenue Agency\)](#) generally interprets ancillary and incidental to mean subordinate or secondary to, and supporting of, the charity's purposes, and of relatively modest size.

### **Cause-related marketing/social marketing ventures**

25. [Cause-related marketing](#) or social marketing ventures are fundraising activities in which a charity partners or collaborates with a business or other non-charitable organization to promote a good or service of the non-charitable organization on the basis that a portion of the revenues will be paid to the charity.

### **Disclosure**

26. Disclosure means sharing information about a charity's fundraising and/or finances.

### **Resources**

27. The term resource(s) is not defined in the Income Tax Act, but the [CRA \(Canada Revenue Agency\)](#) considers it to include everything the charity can use to further its purposes, including financial assets, staff, volunteers, directors, time, property <sup>10</sup>, premises, facilities, and equipment.

### **Third party fundraiser**

28. Third party fundraisers are individuals or organizations that a charity retains to carry out the charity's fundraising activities on its behalf.

### **Volunteers**

29. Volunteers are unpaid individuals assisting in campaigns, events, or other fundraising, either by soliciting donations or by directly or indirectly helping to obtain donations. They do not include those involved in a fundraising campaign, event, or activity as participants or attendees. For example, individuals who seek contributions from others tied to their participation in, or completion of, a marathon or like event are considered participants, not volunteers.

## F. When is fundraising not acceptable?

30. Fundraising by registered charities must be conducted within legal parameters. Fundraising is acceptable unless it:

- is a purpose of the charity (a collateral non-charitable purpose)
- delivers a more than incidental private benefit (a benefit that is not necessary, reasonable, or proportionate in relation to the resulting public benefit)
- is illegal or contrary to public policy
- is deceptive
- is an unrelated business

31. Charities that engage in unacceptable fundraising cannot be registered under the Income Tax Act because they are not constituted and operated exclusively for charitable purposes, or they are not devoting their resources to charitable purposes and activities. <sup>11</sup>

## **Fundraising that is a purpose of the charity**

32. Registered charities cannot have fundraising as a collateral purpose. <sup>12</sup> Where fundraising is a focus of the organization – being more than ancillary and incidental – it may be a collateral non-charitable purpose in and of itself.

## **Fundraising that delivers a more than incidental private benefit**

33. Registered charities cannot engage in fundraising activities that result in an unacceptable or undue private benefit. <sup>13</sup>

34. In most cases, a private benefit is any benefit provided to a person or organization that is not a charitable beneficiary, or a benefit to a charitable beneficiary that exceeds the bounds of charity. For more information, go to [Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test](#).

35. While charities cannot be established for the purpose of delivering private benefits, some private benefit can acceptably result when a charity carries out activities that further its charitable purpose(s) or when it engages in administrative/management practices, including fundraising.

36. As a general rule, an acceptable private benefit is one that is incidental to the achievement of a charitable purpose. A private benefit will usually be incidental where it is necessary, reasonable, and proportionate to the public benefit achieved.

37. Necessary means legitimately and justifiably resulting from:

- an action that directly contributes to achieving a charitable purpose
- a required step in an action taken only to achieve a charitable purpose
- a required consequence or by-product of an action taken only to achieve a charitable purpose
- the operation of a “related business” as defined in paragraph 149.1(1) of the Income Tax Act

38. Reasonable means:

- related to the need and no more than is necessary to achieve the purpose
- fairly and rationally incurred (objectively defensible/fair market value)

39. Proportionate to the public benefit achieved means the public benefit is predominant, being larger and more significant than the private benefit. While it is reasonable to expect a cost for the work involved in fundraising, it is also reasonable to expect such costs to be proportionate to the funds expected to be raised, and/or used, for charitable purposes.

40. If any of the above three criteria is not met, the charity is likely providing an unacceptable private benefit.

## Fundraising that is illegal or contrary to public policy

41. Registered charities cannot engage in fundraising activities that are illegal or are contrary to public policy. <sup>14</sup>

### Illegal fundraising activities

42. Examples of illegal fundraising activities are those that are criminally fraudulent, <sup>15</sup> or violate federal or provincial statutes governing charitable fundraising, charitable gaming, the use of charitable property, or consumer protection. Included in this category is fundraising that involves issuing improper donation receipts, which is contrary to the Income Tax Act. <sup>16</sup>

43. Illegal fundraising includes any fundraising activities that facilitate terrorism by supporting, directly or indirectly, any entity that is a listed entity as defined in subsection 83.01(1) of the Criminal Code, or any other entity (person, group, trust, partnership, or fund, or an unincorporated association or organization) that engages in or supports terrorist activities. To learn how to identify vulnerabilities to terrorist abuse, go to [Checklist for charities on avoiding terrorist abuse](#) or [Charities in the international context](#).

44. The [CRA \(Canada Revenue Agency\)](#) takes the position that fundraising is not acceptable not only where the fundraising activity is itself illegal, <sup>17</sup> but also where it is associated with illegal conduct. This could occur where a charity knows, or ought to have known, that it is furthering illicit practices or transactions. For example, where a charity is involved with an abusive gifting tax shelter scheme marketed to multiple donors, it may be facilitating or advancing wrongful conduct by others. This may be grounds for revocation or other sanctions.

45. Illegal fundraising is unacceptable whether it is carried on by the charity itself, or by a third party on behalf of the charity. Charities should ensure that third parties raising funds on their behalf comply with all applicable laws.

## Fundraising activities that are contrary to public policy



46. Registered charities, or third parties acting on their behalf, are not permitted to engage in conduct that is contrary to public policy. In the charitable context, fundraising activities can be contrary to public policy if they:

- a. fail to comply with “legislation or some equally compelling public pronouncement” evidencing public policy. <sup>18</sup> For example, making a fundraising solicitation that does not comply with Canadian Radio-television and Telecommunications Commission directives or telemarketing rules, or other established government policy, may be considered contrary to public policy. Certain fundraising solicitations that are misleading may be in contravention of public policy as evidenced by provincial consumer protection legislation or the federal Competition Act
- b. result in harm to the public interest. Fundraising contracts between charities and third party fundraisers have been determined to be harmful to the public interest where:
  - o associated costs are not reasonable, justifiable, or “proportionate to the amount of money raised for charitable purposes,” <sup>19</sup> based on society’s “fundamental interest in ensuring that monies from the general public for which deductions create a loss in tax revenue will go to benefit the intended beneficiary;” <sup>20</sup>
  - o they result in misrepresentation to the public about whether donated amounts go to a charitable purpose or to pay the fundraising company collecting them <sup>21</sup>

47. On this basis, contracts which provided third-party fundraisers with 70% or more of all funds raised, without this information being disclosed to the public, have been held by the courts to be contrary to the public interest, and thus contrary to public policy.

48. The same principles would apply where the fundraising is carried on by the charity itself, if:

- associated costs are not reasonable, justifiable, or proportionate to the amount of money raised for charitable purposes
- there is a misrepresentation to the public about whether donated amounts go to a charitable purpose or to pay fundraising costs

## Fundraising that is deceptive

49. Registered charities cannot engage in fundraising practices that deceive the public.

50. Deceptive fundraising practices can cause significant harm by misleading donors or potential donors and by impairing the fundraising efforts of other charities, whether the conduct is intentional or negligent. Deceptive fundraising practices have a negative impact on public trust and on the integrity of the tax regime governing registered charities.

51. As a rule, the CRA (Canada Revenue Agency) takes the position that the negative impact of deceptive fundraising practices outweighs the public benefit of the charitable work supported by a charity's fundraising. <sup>22</sup> Registered charities engaging in such practices are unlikely to be considered to be delivering the necessary public benefit, and risk compliance measures, including

sanctions and the revocation of registered status. A registered charity should ensure that all representations made by it, and by those acting on its behalf, are truthful, accurate, complete, and timely. For example, registered charities must not misrepresent:

- which charity will receive the donation
- the geographic area in which the charity operates, and the amount or type of work it undertakes
- whether they have hired third-party fundraisers, and how those fundraisers are compensated
- the percentage of funds raised that will go to charitable work. Claims that 100% of the money raised by a third party will go to the charity, or that 100% of money raised by the charity conducting its own fundraising will be used for charitable activities by the charity, must always be made with care. Commonly, a charity has at least some expenses for its fundraising activities and may be required to pay substantial fees to any third-party fundraiser it employs. As these expenditures ultimately reduce the charity's fundraising revenue, this type of claim could be considered to be deceptive

52. The federal Competition Act prohibits deceptive telemarketing and false and misleading representations by charities or the third-party fundraisers they retain. Provincial consumer protection legislation may contain provisions relevant to various forms of fundraising. Fundraising practices that contravene such legislation may also be considered to be illegal and/or contrary to public policy (see above).

## **Fundraising that is an unrelated business**

53. Business activities that registered charities may carry on are restricted, even if all the proceeds are used for charitable programs. Carrying on a business usually means the continuous or regular operation of a commercial activity with the intention to earn a profit.

54. Most fundraising activities occur too infrequently to be considered to be carrying on a business, but if a charity does sell goods or services on a regular basis, or undertakes regular fundraising activities such as social, entertainment, or sporting events, it must ensure it is only carrying on a related business. A related business is one that is:

- operated substantially by volunteers
- linked and subordinate to a charity's purposes

55. Linked means that the business has a direct connection to a charity's purpose in one of the four ways described in [Policy statement CPS-019, What is a related business?](#) Subordinate means that the business is subservient to a charitable purpose.

56. If a business activity that is not operated substantially by volunteers is linked, but not subordinate, it will likely form a collateral non-charitable purpose, as described above. If a business activity that is not operated substantially by volunteers is subordinate, but not linked, it would be fundraising that is an unrelated business and prohibited in and of itself.

## Example

A charity is registered to protect the environment by preserving a particular piece of environmentally sensitive wetland. To help fundraise, the charity decides to open a small coffee shop in a nearby city. The coffee shop will be run entirely by paid staff, and will only receive a minor portion of the charity's attention and resources.

In this case, the business activity is likely to be subordinate, but not linked to the charity's purposes in one of the four ways described in [CPS-019](#). The business activity is likely an unrelated business and a form of unacceptable fundraising.

57. For more information on related businesses, go to [Policy statement CPS-019, What is a related business?](#)

## G. Evaluating a charity's fundraising

58. There are certain indicators that will generally be considered to be evidence of unacceptable fundraising. The following are examples of some of the indicators the [CRA \(Canada Revenue Agency\)](#) will examine when evaluating a charity's fundraising activities.

### Resources devoted to fundraising are disproportionate to resources devoted to charitable activities

59. Where the resources devoted to fundraising exceed the resources devoted to charitable activities, this is a **strong** indicator that fundraising has become a collateral non-charitable purpose or that the charity is delivering a more than incidental private benefit. This may happen whether fundraising is done internally through staff or externally through a contractual arrangement.

60. Merely showing that the costs of fundraising are at reasonable or at market rates will not alleviate concerns. Regardless of the cost of fundraising, a registered charity must devote its resources to charitable activities. If a charity's total resources devoted to fundraising exceed those devoted to charitable activities, it is unlikely that this legal requirement will be met.

61. If a charity makes substantial use of non-financial resources, such as volunteers, a purely financial analysis of its operations may not accurately represent the use of its resources for charitable activities. In such a case, a charity should document the use of its non-financial resources, so that it can show it is in compliance with the requirements of the Income Tax Act.

## Example 1

A charity has a large number of volunteers who carry out its charitable activities on a day-to-day basis. The charity's cash income is relatively low, and it uses most of this money for its fundraising, management and administration, and political activities.

The charity's financial reporting on its Form T3010 will show relatively little spending on charitable programs. However, assuming the charity documents the use of its volunteers, such as by recording the number of volunteers helping the charity, how many hours they worked, and the activities they carried out, the charity will still likely be considered by the CRA (Canada Revenue Agency) to be devoting its resources appropriately.

### **Example 2**

A charity has a large number of volunteers who only carry out fundraising activities. The charity's cash income is relatively low, but it spends 100% of this money on its charitable activities.

The charity's financial reporting on its Form T3010 will appear to show it is devoting its resources entirely to its charitable activities. However, an audit or other review by the CRA (Canada Revenue Agency) will likely show that the charity is devoting a disproportionate amount of its total resources to fundraising.

62. A charity should be able to demonstrate that its use of non-financial resources is reasonable and effective.

## **Fundraising without an identifiable use or need for the proceeds**

63. Registered charities can only raise funds that are necessary to fulfill their mandates. Fundraising activities should not be undertaken simply because the charity has the opportunity to raise additional funds. There must be an identified use or need for the money. Depending on a charity's particular circumstances, an identified use or need could include funds required for current and ongoing charitable (and other acceptable) activities or funds to be maintained as reserves. However, when a charity has sufficient income for its identified uses or needs, the need for new fundraising may be questionable.

64. Canadian law requires that a registered charity be established and operated for charitable purposes and devote its resources to charitable activities. <sup>23</sup> While the CRA (Canada Revenue Agency) recognizes that charities can, and often should, maintain reserves, fundraising that results in an unjustified level of reserves may indicate that the charity is failing to meet this requirement. <sup>24</sup>

65. In addition, fundraising without an identified use or need for the proceeds can be an indicator that fundraising has become a collateral purpose of the charity. It may also indicate the delivery of an unacceptable private benefit.

66. A charity that initiates new fundraising activities should be able to show it has considered:

- the ability of current revenues and reserves to meet existing and reasonably projected organizational needs
- specific plans for the additional funds to be raised and the capacity of the charity to implement these plans

67. Finally, every charity is responsible for ensuring that its fundraising appeals do not misrepresent the charity's financial position. For example, a charity with apparently unjustified reserves that launches a fundraising appeal giving the impression that the charity is in urgent need of funds could be carrying out a fundraising activity that is misleading (contrary to public policy) or deceptive.

## **Inappropriate purchasing or staffing practices**

68. Indicators of a more than incidental private benefit include:

- the purchase of fundraising merchandise or services for unnecessary fundraising
- the purchase of fundraising merchandise or services that do not increase fundraising revenue
- paying more than fair market value for fundraising merchandise or services
- sole source or not-at-arm's length contracts for fundraising merchandise or services, without justification and independent verification the contract is for no more than fair market value

69. These arrangements could also indicate fundraising that is contrary to public policy and/or deceptive.

70. For example, where the charity retains fundraising services (third party fundraisers or fundraising staff), or purchases gift incentives or other fundraising merchandise, it must be able to demonstrate that fundraising is required to support the charity's charitable programs, and that increased revenue will likely result from the services retained or from the distribution of the gifts or merchandise. Otherwise, the hiring or the purchases may raise concerns about the delivery of a more than incidental private benefit being delivered to the service providers, suppliers, or donors.

71. Similarly, if a charity enters into an arrangement for fundraising merchandise or services under which a supplier is paid more than fair market value, or a non-arm's length or sole source contract without first independently verifying that it is paying no more than fair market value, there may be a more than incidental private benefit resulting from the contract or arrangement that makes the fundraising unacceptable.

72. Where a charity's fundraising is carried on by staff, a charity must make sure the salary and benefits for any fundraising position do not exceed the fair market value of the services provided. If the salary and benefits exceed the fair market value of the services, this may be an indicator of the delivery of a more than incidental private benefit.

73. If arrangements of this nature are not documented and disclosed to the public, a charity could also be engaging in fundraising that is harmful to the public interest and therefore contrary to public policy, or deceptive.

## **Fundraising activities where most of the gross revenues go to contracted third parties**

74. If most of the gross revenues of a charity's fundraising activities go to a contracted person or an organization that is not also a charity, this may deliver a more than incidental private benefit. Such arrangements, particularly if not well-documented and/or disclosed, could also indicate that a fundraising activity is harmful to the public interest and therefore contrary to public policy and/or deceptive.

75. Where a high percentage of fundraising proceeds go to a non-charitable party or parties, the charity must show why the private benefit should be considered to be acceptable. Generally, the higher the percentage is, the greater the need for justification.

## **Commission-based remuneration or payment of fundraisers based on amount or number of donations**

76. If a charity provides remuneration for fundraising on the basis of results rather than effort, this may be an indicator of the delivery of a more than incidental private benefit. Such arrangements, particularly if not well-documented and/or disclosed, could also indicate that a fundraising activity is harmful to the public interest and therefore contrary to public policy and/or deceptive. <sup>25</sup>

77. Contracts providing for such remuneration can result in a windfall profit for the fundraiser, particularly when compensation is set at a high percentage and there are limited provisions governing how the work is to be undertaken or controlled over time. They could also be misleading to the public in terms of how their donations will be used.

## **Misrepresentations in fundraising solicitations or disclosure about fundraising costs, revenues, or practices**

78. A charity must be truthful and accurate in its solicitations and in its disclosure about its fundraising or finances to avoid the harm that results from deceiving the public or stakeholders (including donors). Members of the public must not be deceived or misled about fundraising costs, revenues, or practices, including the resources from fundraising that are ultimately available to a registered charity for its programs, services, or gifts to qualified donees. Failure to be truthful and accurate in solicitations and disclosures, with information not being provided in an accessible and timely manner, may be an indicator of fundraising that is illegal, contrary to public policy, or deceptive. <sup>26</sup>

79. Misrepresentations may:

- arise by failing to disclose information, thereby creating a false impression
- arise by failing to exercise adequate care in producing or disclosing information to the public or stakeholders
- result from the intentional or unintentional conduct of a charity

- result from a statement by the charity, or someone on its behalf, which is inaccurate or deceptive <sup>27</sup>
- occur prior to or during fundraising
- occur in a charity's reporting on its fundraising or financial performance after solicitation

80. Misrepresentation may occur even if a solicitation or representation was not illegal or fraudulent, provided there is sufficient harm caused. The harm caused by such misrepresentations includes deceiving current or prospective donors and impairing the fundraising efforts of other charities. The amount of harm associated with a misrepresentation will increase based on its frequency and the number of people to whom it is made. When the fundraising activity results in harm to the public interest, or sufficient harm to the public, it will generally be considered contrary to public policy or deceptive.

## Fundraising initiatives or arrangements that are not well documented

81. A charity must properly document its fundraising activities to ensure it can show all legal obligations are being met. The Income Tax Act requires charities to maintain proper books and records. <sup>28</sup> Failing to do so may conceal fundraising practices that deliver a more than incidental private benefit, are contrary to public policy, or deceptive.

## High fundraising expense ratio

82. In this guidance, a charity's fundraising ratio can serve as a self-assessment tool to see whether the CRA (Canada Revenue Agency) is likely to have questions or concerns about its fundraising activities. As a general rule, the higher a charity's fundraising ratio, the more likely it is that the CRA (Canada Revenue Agency) will seek additional justification for fundraising costs. A high fundraising ratio is an indicator that a charity may be engaged in fundraising that is not acceptable – forming a collateral non-charitable purpose, delivering a more than incidental private benefit, or being contrary to public policy or deceptive.

83. The fundraising ratio is a global calculation for a fiscal period, determined by dividing fundraising expenditures by fundraising revenue using the entries from the charity's Form T3010. To calculate the ratio:

- add the revenue amounts from lines 4500 (receipted donations) and 4630 (fundraising revenue not reported in 4500)
- divide the total expenditure amount on line 5020 (fundraising expenses) by the sum of lines 4500 and 4630

84. Note that the total amount reported on line 4500 is to be included, whether or not these amounts can be traced to a fundraising activity. All amounts for which a tax receipt is not issued, and that were generated as a direct result of fundraising expenses are reported on line 4630.

85. Generally, a charity's fundraising ratio is an indicator of how the CRA (Canada Revenue Agency) is likely to approach a charity's fundraising:

**a. ratio of costs to revenue over fiscal period – under 35%**

This ratio is unlikely to generate questions or concerns by the CRA (Canada Revenue Agency)

**b. ratio of costs to revenue over fiscal period – 35% and above**

The CRA (Canada Revenue Agency) 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 the CRA (Canada Revenue Agency) will be concerned the charity is engaged in fundraising that is not acceptable, requiring a more detailed assessment of expenditures.

**c. ratio of costs to revenue over fiscal period – above 70%**

This level will raise concerns with the CRA (Canada Revenue Agency). The charity must be able to provide an explanation and rationale for this level of expenditure to show that it is not engaged in unacceptable fundraising.

86. While the ratios above refer to a global ratio over a fiscal period, a high fundraising ratio for an individual event may, on its own, be an indicator of unacceptable fundraising where the event forms a collateral non-charitable purpose, delivers a more than incidental private benefit, or is contrary to public policy or deceptive.

87. The adoption of best practices for managing fundraising may decrease the risk of a charity engaging in fundraising that is not acceptable. Examples of best practices are listed in Appendix C.

## **H. Factors that may influence the CRA (Canada Revenue Agency)'s evaluation of a charity's fundraising**

88. The CRA (Canada Revenue Agency) recognizes that the charitable sector is very diverse and that fundraising effectiveness will vary among organizations. There may be justifiable reasons for a charity to have an increase in fundraising costs for a particular event or in a particular year, or specific justification for the delivery of a private benefit.

89. When examining a charity's fundraising activities, the CRA (Canada Revenue Agency) is prepared to take into account relevant case-specific factors that may affect a charity's fundraising. None of these factors permit a charity to carry out fundraising that is not acceptable as described in Section F, above, or otherwise exempt a charity from meeting the requirements of the Income Tax Act.

90. Examples of relevant case-specific factors include the following:

### **Small charities**



91. The size of a charity might have an impact on fundraising efficiency. The CRA (Canada Revenue Agency) generally considers that registered charities with revenues under \$100,000 have a small constituency. In these cases, the CRA (Canada Revenue Agency) will consider whether the fundraising costs are reasonable given the profile of the community the charity serves or with which it works, and whether the charity can demonstrate that costs are being adequately controlled.

## Causes with limited appeal

92. The CRA (Canada Revenue Agency) recognizes that charities that advance causes with limited appeal may encounter particular fundraising challenges. These charities could include, for example, those conducting research into the prevention and cure of a disease that is relatively unknown, or those with causes that are less popular with the general public, such as supporting the rehabilitation of violent offenders. The CRA (Canada Revenue Agency) may be prepared to accept some increased fundraising costs for these charities, provided the charity can show that those costs are a direct result of the nature of the cause that it advances and are appropriately controlled.

93. For example, if the fundraising ratio of a particular fundraising activity for a cause with limited appeal is slightly more than the industry norm, the CRA (Canada Revenue Agency) would be willing to consider the nature of the cause. Therefore, if a fundraising activity produces a ratio of 43% when charities normally have a ratio of 38% for the same activity, the CRA (Canada Revenue Agency) will consider the nature of the cause.

94. This does not mean, however, that a charity can simply choose fundraising activities that require it to spend a higher proportion of resources on fundraising, and limit its fundraising to these activities. A charity could be expected to demonstrate that:

- its cause has limited appeal among the general public
- its higher fundraising costs are a direct result of its cause
- other fundraising methods it has researched or attempted have led it to conclude that the fundraising activity is the most efficient and effective option for its cause
- the associated costs are being adequately controlled (for example, by ensuring that no more than fair market value is being paid for related services or materials)

## Donor development programs

95. Donor development programs are generally fundraising activities that could result in situations where financial returns are only realized in later years, such as donor acquisition and stewardship and planned giving campaigns. The CRA (Canada Revenue Agency) recognizes that donor development programs may represent long-term investments on the part of a charity.

96. CRA (Canada Revenue Agency) rules do not permit the attribution of fundraising expenditures to future years or the issuance of receipts for contributions pledged for future years. Because of this, fundraising ratios calculated within a calendar or fiscal year may not fully reflect a charity's operations.

97. Donor development programs can involve, but are not limited to, direct mail campaigns, telemarketing, and face-to-face solicitations by paid canvassers. Special events may also be a way of identifying potential donors. Returns from donor development programs are often not realized within the fiscal period in which the spending on development occurs. Donor development costs may decline over time as the charity, and its fundraising activities or donor base become more established. If they do not, a charity must be able to justify the related costs.

98. Provided a charity can demonstrate that it is paying no more than fair market value for any goods or services, maintaining its fundraising costs at a reasonable level, and otherwise operating within the legal parameters set out in this guidance, the CRA (Canada Revenue Agency) may be prepared to accept the higher costs associated with donor development programs.

## Gaming activities

99. Gaming activities, such as lotteries or bingos, are regulated by the provinces and territories. Legislation governing gaming activities commonly consider cost to revenue ratios of 70% or higher to be acceptable. The costs and revenues of these gaming activities are reported on a charity's Form T3010, and may result in a relatively high fundraising ratio. If a charity's gaming activities comply with all relevant provincial or territorial regulations, the CRA (Canada Revenue Agency) will generally be prepared to accept the higher cost ratios associated with these gaming activities.

100. However, gaming activities are still fundraising activities and, like all activities of registered charities, must comply with the requirements of the Income Tax Act. For example, a charity cannot engage in a gaming activity that amounts to carrying on an unrelated business.

## Appendix A – Examples of fundraising activities

### The sale of goods or services

101. The sale of goods or services by a charity is always fundraising unless:

- a. the provision of the good or service serves the charity's beneficiaries, directly furthers a charitable purpose, and is sold on a cost-recovery basis
- b. it is a related business

#### Example 1

A local community centre for seniors runs a fitness course and charges a fee to cover its costs. This is not fundraising.

#### Example 2

A youth group sells chocolate bars at a local shopping mall, and will use the money it makes to support a trip it is planning. This is fundraising.

102. If a charity offers a good or service as part of the solicitation message, to prompt a donation, this is a fundraising activity.

### **Example 1**

A charity sends key chains or address labels to members of the public to encourage them to donate as part of a direct mail campaign. This is fundraising.

### **Example 2**

A public television station offers its viewer a boxed DVD set of one of its popular series if they agree to make a donation of a certain size. This is fundraising.

## **Donor stewardship**

103. Donor stewardship occurs when a charity invests resources in relationships with past donors to solicit further donations. This could include providing donors with access to information, services, or privileges not available to others. The CRA (Canada Revenue Agency) considers these activities to be fundraising.

### **Example**

An arts charity invites only people who have given gifts above a certain amount to a private reception with the artists after a performance. The event is a fundraising activity.

## **Membership programs**

104. Some charities are membership-based. The CRA (Canada Revenue Agency) considers membership programs to be fundraising if membership is associated with material benefits beyond being eligible to vote at a general meeting and/or receive a newsletter.

105. Membership programs that require a donation to join, or where there is extensive use of donation incentives or premiums to promote joining as a member, are fundraising.

## **Cause-related marketing/social marketing ventures (collaboration with a non-charitable partner to sell goods and services)**

106. Often, most of the expenses incurred related to a cause-related or social marketing venture are paid by the non-charitable partner, and the contribution of the charity is its logo or other form of intellectual property. The CRA (Canada Revenue Agency) considers this to be fundraising.

### **Example 1**

A charity creates a page on its website to describe a partnership where a percentage of the sales of a restaurant on a certain day will be given to the charity and to tell people where and when they can participate. This is fundraising.

### **Example 2**

A charity includes a complimentary page of advertising in its regular publication to its members offering an affinity credit card from a particular company as part of an arrangement where the company pays the charity a percentage fee on transactions where the card is used. This is fundraising.

## **Planning or researching fundraising activities**

107. If a charity is planning or researching a fundraising activity, the CRA (Canada Revenue Agency) considers this to be a fundraising activity in itself.

### **Example**

A charity intends to carry out a door-to-door canvassing campaign. As part of its preparations for this campaign, the charity acquires data on the demographics of a city so it can target its solicitations to the neighbourhoods that are most likely to give. One of the charity's staff members is also responsible for organizing the shifts of volunteers who will be carrying out the canvassing. This is fundraising.

## **Donor recognition**

108. Donor recognition is the acknowledgement or thanking of a person who has made a gift. The CRA (Canada Revenue Agency) considers donor recognition to be associated with fundraising since it implies a solicitation for further support. The costs of gifts or other forms of acknowledgement to thank donors must be reported as fundraising expenses unless they are of nominal value. The CRA (Canada Revenue Agency) considers recognition with a per-donor cost of \$75 or 10% of the donation (whichever is less) as nominal. When donor recognition expenses are nominal and are not reported as fundraising expenses, they must be reported as administrative expenses.

## Example

If a charity sends a \$20 gift to donors who contributed more than \$200, the expense is administrative only.

If a charity sends a \$20 gift to donors who contributed less than \$200, the expense must be reported as fundraising, as the cost of the recognition for these gifts exceeds 10% of the donation amount.

## Appendix B – Allocating fundraising expenditures

109. Registered charities must report fundraising expenditures or costs on their Form T3010, Registered Charity Information Return.

110. As a general rule, fundraising expenditures are all the costs related to any fundraising activity (for example, the purchase of supplies and services, payment of salaries). Some fundraising activities may include content that is not related to fundraising. In such cases, the charity may be able to allocate some of the costs to charitable activities, management or administrative activities, or political activities.

111. During the course of an audit or other review, the onus is on the charity to explain and justify its allocation of resources. The following guidelines are designed to support a reasonable and consistent approach to allocating and reporting expenditures related to fundraising:

### 1. one hundred percent allocation to fundraising

112. Where an activity is exclusively, or almost exclusively, undertaken to fundraise, meaning that 90% or more of the activity was devoted to fundraising, a charity must allocate all the costs to fundraising. The other content, even if it may further a charitable purpose or support the administration of the charity, is considered to be ancillary and incidental to fundraising, and it is assumed that the event would not have been undertaken but for the fundraising component.

113. To determine if an activity is exclusively, or almost exclusively, undertaken to fundraise, a charity must separate fundraising content from other content, and assess the:

- proportion of charitable, fundraising, management/administrative, and political content within the activity
- resources devoted to charitable, fundraising, management/administrative, and political content (employee and volunteer time, financial, and property)
- prominence of the fundraising content in the activity

114. Characteristics associated with different types of content are set out below.

115. The CRA (Canada Revenue Agency) considers all of the costs associated with the following specific types of activities to be fundraising expenditures:

- any activity that involves selecting participants or targeting an audience based on their ability and/or likelihood to give
- activities with content related to gaming, such as lotteries and bingos
- disseminating information, such as generic branding (that is, activities focusing on the general promotion or marketing of the charity's name and logo, image, or past work), and activities that raise awareness about a charity's cause or work, whether or not conducted in conjunction with fundraising, unless the activity can be shown to further the charitable purpose (see Characteristics of charitable, fundraising, management/administrative, and political content)
- infomercials and telemarketing as defined and used for Canadian Radio-Television and Telecommunications purposes
- branding or promoting the charity through cause-related or social marketing
- activities that involve sports, including games, running, walking, cycling, and mountain climbing, where participants are encouraged or expected to raise pledges
- golf tournament and gala dinner fundraisers

## 2. no allocation of costs to fundraising

116. Where a charity can demonstrate that an activity would have been undertaken without the fundraising component, it may allocate 100% of the costs to charitable, management and administration, political activity, or other expenditures, as applicable. The fundraising content is considered to be ancillary and incidental to the other activity or activities.

117. To show that an activity would have been undertaken without the fundraising component, charities must satisfy the substantially all test. The CRA (Canada Revenue Agency) will consider that an activity would have been undertaken without the fundraising component if substantially all of the activity advances an objective or objectives other than fundraising. For the purposes of this test, substantially all is considered to be 90% or more. During the course of an audit or other review, the onus is always on the charity to show that an activity meets the substantially all test.

118. To determine if an activity meets the substantially all test, a charity must separate fundraising content from other content, and assess the:

- proportion of charitable, fundraising, management/administrative, and political content within the activity
- resources devoted to charitable, fundraising, management/administrative, and political content (employee and volunteer time, financial, and property)
- prominence of the fundraising content in the activity

119. Characteristics associated with different types of content are set out below.

### Example 1

The executive director of a charity gives a speech about a charity's research findings to a group of stakeholders with an interest in the research. The speech concludes with contact information and a brief invitation to learn more about the charity's work, or if audience members choose, make a donation. In this case, the substantially all test has been met and none of the costs of the speech (for example, the executive director's time and travel) have to be treated as fundraising expenditures.

### **Example 2**

A quarter-page solicitation for donations for a church project is included in a four-page leaflet for a church service along with staff contact information and the schedule of church services. In this case, the “substantially all test” has been met and none of the costs of the leaflet (staff time, paper, or printing) need to be attributed as fundraising expenditures.

### **Example 3**

Program staff and fundraising staff both work on an event. The fundraising staff earn a higher salary than the program staff. In this case, the resources used on the fundraising element of the event are more than 10% even though the time devoted to the fundraising element by the fundraising staff did not exceed 10% of the total time devoted to the project. In this situation the “substantially all test” is not met.

### **Example 4**

A charity broadcasts a television program or commercial featuring a repeated or continuing fundraising solicitation across the bottom part of screen. Based only on the time it appears and the space it uses, the solicitation may make up 10% or less of the content, but because of the prominence, it will be considered to represent more than 10% of the activity. In this situation the “substantially all test” is not met.

### **Example 5**

A charity's initial or home page on its website is used extensively to solicit donations or provide information on giving opportunities. Program and other information about the charity only appear after this material. The prominence of the fundraising materials relative to the other content means it will be considered to represent more than 10% of the activity. In this situation the “substantially all test” is not met.

## **Note**

For fundraising activities involving non-charitable partners, the charity should allocate whatever financial resources it contributes to the initiative as fundraising expenditures. It should do so even if the partner groups contribute more than 90% of the resources used for the activity.

### 3. pro-rated allocation of costs to fundraising and other expenditures

120. In some cases, a charity may be able to pro-rate the allocation of costs of an activity between fundraising expenditures and charitable, management/administration, or political activity expenditures, as applicable. Pro-rating is allowed only where a charity can establish that less than 90% of the total content of the activity advances fundraising. As noted above, if 90% or more of the total content advances fundraising, all expenditures must be allocated to fundraising.

121. To determine if it may pro-rate, a charity must separate fundraising content from other content, and evaluate:

- the proportion of charitable, fundraising, management/administrative, or political content within the activity
- the resources devoted to charitable, fundraising, management/administrative, or political content (employee and volunteer time, financial, and property)
- the prominence of the fundraising content in the activity

122. If a charity pro-rates expenditures between fundraising and any other category, the accounting must be reported on a reasonable and consistent basis. Reported fundraising expenses on a charity's Form T3010 may be recalculated by the CRA (Canada Revenue Agency) based on its assessment of the charity's actual fundraising costs. Where a charity knowingly or negligently understates its fundraising expenses on line 5020 of Form T3010 or elsewhere, this is taken into account in assessing whether the charity has acted reasonably. Inaccurate reporting is grounds for compliance action under the Income Tax Act.

123. Characteristics associated with different types of content are set out below.

### Characteristics of charitable, fundraising, management/administrative, and political content

#### Charitable content

124. Charitable content of an activity:

- will directly further the charity's charitable purposes
- does not include the provision of information about programs, services, or facilities of the charity in order to encourage donations
- focuses primarily on beneficiaries or potential beneficiaries of the charity's programs, services, or facilities, not current or prospective donors
- is not, as a rule, prepared and/or delivered by individuals or organizations whose skills and usual responsibilities are to fundraise

125. Raising awareness about a charity or a charity's programs is not, as a rule, a charitable activity. Similarly, simply raising awareness about an issue or problem that a charity seeks to address, such as poverty, environment, or health concerns, is not a charitable activity. <sup>29</sup> Providing or



disseminating information to the public may be a charitable activity, <sup>30</sup> but only when it elicits actions or behaviours that, if carried out by the public, would directly further a charitable purpose other than advancement of education. Activities that advance education have been held by the courts to be subject to particular requirements. <sup>31</sup>

126. To directly further a charitable purpose, an activity that provides information to the public must satisfy all the following criteria:

- content: The information provided:
  - enables the audience to take specific actions or adopt specific behaviors that will directly further a charitable purpose. This means that the information must be reasonably unbiased and factual and sufficiently detailed
  - encourages the audience to take the specific actions or adopt the specific behaviors described
- audience: The information targets an audience that can reasonably be expected to take action to directly further the purpose
- distribution: The information can reasonably be expected to reach the target audience. Simply making the information available to the public is not sufficient. There must be active dissemination to ensure audiences receive the information

127. For example, distributing detailed factual informational pamphlets to hikers entering a park or wildlife preserve explaining the importance of preserving ecosystem biodiversity, and asking hikers to behave responsibly in ways that are explained in the pamphlet in order to reduce damage to the ecosystem, would likely meet these requirements. On the other hand, posting factual information about the importance of preserving ecosystem biodiversity on an environmental charity's website is not enough.

128. Generally, the CRA (Canada Revenue Agency) expects an organization to take steps to make the provision of existing publicly available information its own activity <sup>32</sup> by having input into the content. For example, a charity may write its own content, or adapt or add to content created by others to meet its specific needs. Where an organization does not have input into the content, it should be able to explain why the re-circulation of otherwise available information should be considered to meet the own activities requirement. Examples of explanations could include the fact that the information is no longer in circulation, or is unavailable in the target area.

## **Fundraising content**

129. The fundraising content of an activity may include, for example:

- implied or explicit requests for donations of cash or gifts in kind
- information about how to make a donation, including planned giving
- information about existing or planned programs, services, or facilities to encourage donations
- the provision of goods or services, including entertainment, to persons other than beneficiaries, or that does not directly further the charity's charitable purpose

- activities such as sports, including games, running, walking, cycling, and mountain climbing, where participants are encouraged or expected to raise pledges
- advertising to promote events that involve fundraising
- the management and administration of fundraising activities, such as planning and research for future fundraising, overseeing and facilitating ongoing fundraising activities, or evaluating past fundraising events
- information about gift incentives, premiums, or other fundraising merchandise (regardless of their treatment for receipting purposes)

130. Fundraising content may, but need not, be prepared and/or delivered by:

- individuals (internal or external to the charity) or organizations whose skills and usual responsibilities are to fundraise
- third-party fundraisers, event planners, or other professionals hired to assist with the activity

## Management and administrative content

131. With the possible exception of an annual general meeting, it would be rare for a fundraising event to have a management or administrative component.

132. Management and administrative content will tend to relate to:

- arranging, holding, and reporting on meetings of the board of directors
- bookkeeping, accounting, auditing, personnel, and other administrative services
- purchasing supplies and equipment, and paying occupancy costs for administrative offices
- applying for grants or other types of government funding, and/or for gifts from other qualified donees (usually foundations)

133. The management and administration specifically of fundraising activities is considered to be fundraising content, and not management and administration.

## Political content

134. Political content of an activity typically fits the description of a political activity. See [Resources for charities about political activities](#).

## Examples of pro-rated allocation of costs

### Example 1

A charity is registered to provide performance therapy for autistic children. The charity organizes an annual concert performance by its beneficiaries that is part of its charitable activities. The activity is also a fundraiser for the charity, and tickets are priced so that the charity earns a profit.

The activity contains both charitable and fundraising content. The charity should make a reasonable effort to allocate the costs between the two categories. For example, a charity that set ticket prices so that earning a profit could be considered equally as important as providing a charitable benefit might assign 50% of the costs as a charitable expenditure, and the other 50% as fundraising.

### **Example 2**

A charity registered to protect the environment takes out a full-page advertisement in a newspaper. About 60% of the text and images are devoted to requesting donations from the public. The remaining 40% is devoted to providing specific information about the environmental issues and the benefits resulting from recycling activities, outlining concrete steps the public can take to participate in recycling activities and urging readers to take these steps, and referring readers to additional resources the charity provides to help them implement these steps.

The activity contains both charitable and fundraising content. The charity should allocate 60% of the costs of the advertisement to fundraising, and 40% as a charitable expenditure.

### **Example 3**

A charity is registered to relieve poverty. The charity organizes a march on Parliament Hill to call for a change in the law regarding Employment Insurance benefits and to fundraise for the charity. The march is a non-partisan political activity that falls within the charity's mandate and uses only the allowable amount of the charity's overall resources.

The charity devotes about 20% of the resources for the activity to call for donations and on fundraising merchandise. The activity contains both political and fundraising content. The charity should allocate 20% of the costs to fundraising, and 80% to political activities.

## **Appendix C – Best practices**

135. The adoption of best practices to manage fundraising may reduce the risk of a charity engaging in unacceptable fundraising.

### **Prudent planning processes**

136. As a rule, a registered charity's planned fundraising costs should be reasonable and proportionate to the type and scope of activity it needs to conduct to further its charitable purposes. Before undertaking fundraising, the registered charity should review:

- any regulatory obligations that apply to the type(s) of fundraising it is considering

- the costs and returns that can be expected based on the types and scope of fundraising it is considering undertaking
- other potential fundraising methods

137. Based on this review, the charity should select the best fundraising approach, taking into account its fundraising goals, projected fundraising costs, current resources, and projected expenditures on charitable activities.

## Adequate evaluation processes

138. At a minimum, a charity should evaluate its fundraising performance in the context of CRA (Canada Revenue Agency) guidance. In addition, the charity may develop its own criteria or gauge its achievements against external standards. Registered charities should strive to spend no more on fundraising than is required to support their charitable activities, and should review cost-effectiveness as well as outcomes in assessing performance.

139. The effort and cost of the evaluation measures should be proportionate to the risk of unacceptable conduct, given the type and scope of fundraising undertaken by the charity.

140. A number of organizations provide research and standards on various aspects of fundraising costs, such as salaries, return on investment associated with different types of fundraising, and typical cost ratios. Where a charity uses an external standard as evidence that its fundraising conduct has been reasonable, it should be able to show that applying the criteria is appropriate in its circumstances.

### Example

A charity that requires fundraising revenues of less than \$1,000,000 to support its programs hires a single fundraiser and pays that fundraiser a salary of \$200,000. The charity maintains that the salary is reasonable based on a salary survey of other charities. The survey the charity relies upon is a survey of larger charities with minimum fundraising revenues of \$10,000,000. In this circumstance, the survey would not be considered an appropriate criterion to establish that the charity's fundraising conduct has been reasonable.

## Appropriate procurement and staffing processes

141. The effort and resources devoted to the following best practices should be commensurate with the type and scope of fundraising undertaken by the charity:

- contacting organizations with a profile similar to the charity's to determine reasonable and appropriate costs and terms for the type and amount of fundraising to be undertaken
- soliciting bids from three or more potential suppliers

- issuing a request for proposal
- reviewing the provisions of contracts to ensure they are reasonable
- including provisions to terminate a contract if the third party acting on behalf of the charity does not act in compliance with the provisions of this guidance
- limiting the length of contracts, particularly when signing an initial contract

142. When hiring in-house staff for fundraising activities, a charity should:

- contact organizations with a profile similar to the charity's to determine reasonable compensation for the type and amount of fundraising to be undertaken
- base the compensation on a salary survey
- set compensation that is appropriate based on the remuneration received by other employees of the charity in light of the respective responsibilities and requirements of the positions

143. Important considerations for charities include the following:

- services should not be contracted out to non-charitable entities if they could be delivered as effectively and efficiently using the charity's own resources
- a charity should fully document procurement, negotiation, and approval of all contracts (see [Keeping complete and detailed records relating to fundraising activities](#))
- details of purchasing and hiring practices and processes should be disclosed to the public (see [Providing disclosures about fundraising costs, revenues, practices, and arrangements](#))

144. A charity should establish accountability processes for the supervision and evaluation of in-house fundraising personnel. A charity should be cautious of putting performance evaluations in place based solely or excessively on fundraising performance or results achieved (for example, bonuses or incentives exclusively tied to the number or amount of donations). <sup>33</sup>

## **Managing risks associated with hiring contracted (third-party) fundraisers**

145. If hiring a contracted fundraiser, a charity should:

- show that expenditures on the activity or activities represent an investment and will result in lower costs for subsequent activities
- demonstrate that it has taken appropriate steps to determine the fair market value for the goods or services supplied, and has adequate measures in place to control costs
- disclose costs so that the public or attendees are not misled about the use of their donations, entrance fees, or other contributions

146. If a contracted fundraiser's payment is based on the actual work performed rather than the amount of funds raised, this is more likely to result in incidental, and therefore acceptable, private benefit. For example, payments based on the number of calls completed or contacts made—regardless of whether a donation is received—and payments based on an hourly or weekly basis, at a fair market value for the work performed, are more likely to result in incidental, and therefore acceptable, private benefit.

147. The details surrounding such arrangements should also be disclosed to the public, to ensure donors are not misled about the use of their donations (see [Providing disclosure about fundraising costs, revenues, practices, and arrangements](#)).

## Ongoing management and supervision of fundraising

148. Whether fundraising is carried out by employees or contracted out to third parties, a charity's fundraising oversight measures should include:

- establishing and following fundraising policies that set out acceptable and unacceptable fundraising practices
- exercising adequate control over the scope of fundraising and the use of fundraising resources
- pre-approving fundraising solicitation scripts or other representations
- following up with donors to confirm what representations were made, fulfilling undertakings (such as donor requests for designation of funds to a specific purpose), and ensuring general satisfaction
- monitoring the receipting process regularly
- periodically conducting a financial analysis of the quantity of resources being devoted to fundraising in comparison with the resources being devoted to other aspects of the charity's work
- using internal audits to review expenditures and revenues
- exercising contractual rights to review or audit the financial and other records of the work done by any third party

149. Contracts and job descriptions that include fundraising responsibilities should provide the charity with all the authority necessary to adequately manage and supervise fundraising practices.

## Keeping complete and detailed records relating to fundraising activities

150. The more complete and detailed a charity's records related to fundraising are, the easier it will generally be for the charity to demonstrate to the [CRA \(Canada Revenue Agency\)](#) that its fundraising activities comply with the requirements of the Income Tax Act. To help show that it is meeting these requirements, a charity should have:

- minutes of board meetings or other meetings where decisions on a fundraising contract were made
- records of research to determine appropriate costs
- documentation on any procurement processes, appropriate for the size of the fundraising services being sought, undertaken before entering into the contract(s)
- written copies of any fundraising contract(s) entered into

## Providing disclosure about fundraising costs, revenues, practices, and arrangements

151. The CRA (Canada Revenue Agency) recommends that charities disclose all fundraising costs, revenues, practices, and arrangements so that members of the public—and, more specifically, donors or prospective donors—are not deceived or misled about the resources from fundraising that are ultimately available to a registered charity for its programs, services, or gifts to qualified donees.

152. The following measures could be evidence of a charity's commitment to disclosure:

- public disclosure of fundraising costs and revenues in financial information released by the charity
- adoption of policies requiring appropriate disclosure to donors and prospective donors to reduce the risk of their being misled
- training staff or volunteers making solicitations on appropriate and inappropriate fundraising representations
- pre-approving scripts and other solicitation materials to be used by staff, volunteers, or third parties in making representations on the charity's behalf
- including provisions in contracts with third parties specifying that misrepresentations must not be made when acting on behalf of the charity
- use of independent auditors and/or externally established standards to promote truthful, accurate, accessible, and timely disclosure of financial information

153. To be meaningful, disclosure must be accurate, accessible, and timely.

### Truthful and accurate

154. Disclosure should include all relevant information. Material should never be withheld to prejudice or preclude conclusions being drawn from the disclosure.

### Accessible

155. Generally, information should be made available to the general public, unless the charity's fundraising efforts are limited to a clearly and narrowly defined group. Where information is presented in a way that makes it obscure or difficult to find, or when requirements for obtaining it are not reasonable, it is not considered accessible. Depending on a charity's particular circumstances, distribution might include, for example, websites, annual reports, mailings, print and broadcast media, events, and through contacts made during solicitations.

### Timely

156. In addition to the information available on its annual Form T3010 and upon request, a charity may consider disclosing information before, during, and after a fundraising initiative to ensure donors and prospective donors can make informed decisions.

157. Registered charities should disclose the best information available at the time the information is disseminated, and strive to share updated information as soon as possible. If further information is pending, it is good practice to indicate that the information being disclosed is not final.

158. Before or during a fundraising initiative, a charity might disclose, for example:

- the estimated fundraising costs and revenues included in its annual budget
- whether the fundraising is being done by volunteers, employees, or third-party fundraisers
- the general terms and conditions of any third party fundraising contract entered into, including the method by which compensation is calculated (and/or actual amount of compensation)

159. After completing a fundraising drive, or when financial information for a fiscal period is released, the charity might disclose an accurate breakdown of:

- the costs and revenues for each specific fundraising activity
- whether any costs for the fundraising are being allocated to expenditure categories on the Form T3010 other than fundraising expenditures
- whether any costs are being underwritten, and accounted for, through an entity other than the registered charity

### **Cause-related or social marketing disclosure**

160. Cause-related or social marketing ventures are not subject to the best practices relating to disclosure set out above, provided that:

- more than 90% of the costs of the initiative are borne by a non-charitable partner
- all costs and revenues of the charity are adequately disclosed

161. Use of the charity's intellectual property (for example, its logo) does not need to be included when calculating the contribution of the charity to a cause-related or social marketing venture, if the charity or the partner publicly discloses:

- before or during the initiative:
  - any requirement for costs to be paid by the charity
  - the terms for the payment of any revenues to the charity
- during or after the initiative:
  - the amount of any costs paid by the charity
  - the amount of any revenues received by the charity, provided either as a total amount or as an amount or percentage from the sale of a good or service

## **Maintaining a reserve fund policy and ensuring that fundraising is for an identified use or need**

162. A reserve fund policy may assist a charity when planning, explaining, and justifying its approach to fundraising to donors and to the CRA (Canada Revenue Agency). It may help to ensure that a charity fundraises with an identifiable use or need, reducing the risk of failing to devote resources to charitable activities or engaging in fundraising that forms a collateral purpose. A transparent and publicly accessible policy may also help ensure that fundraising appeals are not misleading or deceptive by misrepresenting the charity's financial position and the extent or urgency of its need for funds.



163. The size of a justifiable reserve fund will depend on a charity's particular situation. For example, when establishing a reserve fund, the charity could show it has taken into account factors such as:

- its typical annual expenditures
- its size
- its long-term plans
- its donor base
- its projected revenue
- its current and projected economic conditions
- anticipated changes to the environment in which the charity operates
- contingencies
- known risks being faced

164. It is important that the policy be reviewed periodically to take into account the changing needs of the charity.

## Appendix D – Questions and answers

### **Q.1 Has the Canada Revenue Agency (CRA (Canada Revenue Agency)) changed its position on fundraising by charities?**

A.1 No. The CRA (Canada Revenue Agency) has not changed its position on fundraising by charities.

This guidance updates and replaces the previous version of Guidance CPS-028, Fundraising by registered charities. When CPS-028 was published in June 2009, the CRA (Canada Revenue Agency) invited charities to provide their feedback on the guidance during an initial implementation period. After reviewing the submitted comments, the CRA (Canada Revenue Agency) revised the guidance to clarify certain key concepts and make it more intuitive to use.

### **Q.2 What steps can the CRA (Canada Revenue Agency) take if an audit raises concerns about a charity's fundraising?**

A.2 Generally, the CRA (Canada Revenue Agency) uses a series of progressive compliance measures. In some cases of non-compliance, the CRA (Canada Revenue Agency) uses education letters or compliance agreements. The CRA (Canada Revenue Agency) can also impose a monetary penalty, suspend a charity's tax-receipting privileges, or revoke a charity's registered status. Although revocation is generally the last resort, the Income Tax Act allows revocation at any time—when it is appropriate to the circumstances.

### **Q.3 Our charity has hired a telemarketing firm to raise funds. When the firm contacts potential donors, it will convey information that will raise awareness of our cause. We consider this part of our efforts to advance our charitable purposes. Can we report a portion of the costs of the telemarketing initiative as a charitable expenditure?**

A.3 No. Generally, the CRA (Canada Revenue Agency) requires that all telemarketing costs to raise funds be reported as fundraising expenditures.

### Note

As a rule, raising awareness is not considered a charitable activity. For more information, see Characteristics of charitable, fundraising, management/administrative and political content.

**Q.4 Our charity regularly contracts with a third party fundraising company, and the charity's net proceeds are between 20% and 40% of the gross revenues. This has been a very easy way for us to raise operating funds every year. Is this acceptable?**

A.4 Though it will depend on the specific circumstances, the CRA (Canada Revenue Agency) will likely view this fundraising activity as:

- delivering an unacceptable private benefit
- contrary to public policy.

Some fundraising activities may reasonably have a lower net profit over the short term, such as fundraising activities aimed at donor acquisition. Fundraising activities that consistently provide the majority of the gross revenues to a third party professional fundraiser are likely unacceptable, even if they are a relatively easy or low-risk way for a charity to raise funds.

**Q.5 Our charity only has one fundraising event each year, which is its sole source of revenue. We sell tickets to the event. It is a well-supported event that is an established tradition in the community. Our costs for the event are generally around 45% of revenues generated from ticket sales each year. Will we have to change our fundraising activities?**

A.5 Not necessarily. Your charity must be able to provide an explanation and rationale for this level of expenditure to show that it is not engaged in unacceptable fundraising as described in Section F. When is fundraising not acceptable? and specifically that the event:

- is not a collateral purpose
- does not deliver an unacceptable private benefit
- is not contrary to public policy.

The fundraising ratio is only one indicator that will be assessed in the evaluation process.

The CRA (Canada Revenue Agency) will expect your charity to be able to demonstrate, overall, that:

- the resources devoted to fundraising are not disproportionate to the resources dedicated to charitable activities, and the funds raised are necessary to fulfill its charitable mandate
- any resulting private benefit is incidental to the achievement of a charitable purpose

- fundraising expenditures are reasonable, justifiable, or proportionate to the amount of money raised for charitable purposes
- there is no misrepresentation to the public about whether donated amounts go to a charitable purpose, or to pay for fundraising

The explanation and rationale could include, for instance:

- research conducted by the charity relating to the assessment and evaluation of other available fundraising options to demonstrate that the event is the best approach in the specific circumstances
- documentation relating to the sourcing and procurement of goods and services to ensure the charity is paying a fair price and that the private benefit is no more than incidental for the individuals and organizations involved in the event
- information relating to measures taken by the charity to monitor, manage, and control associated costs
- evidence of public disclosure by the charity of its fundraising costs and revenues
- financial records relating to the percentage of resources devoted to fundraising as compared to those dedicated to charitable activities

If the charity's fundraising is acceptable in all the circumstances, it could continue with the annual event even though costs are around 45% of revenues.

**Q.6 Our fundraising staff spends part of their time fundraising and part of their time seeking grants from governments and foundations. How should we report their salary expenditures?**

A.6 The salary costs related to the portion of time spent on fundraising should be reported as a fundraising expenditure. The portion spent applying for grants is to be reported as an administrative expenditure. The CRA (Canada Revenue Agency) will accept reasonable estimates of time spent on these distinct activities.

**Q.7 Our small charity only has one employee who handles all aspects of our administration and operations. Are we supposed to keep timesheets to satisfy the CRA (Canada Revenue Agency)'s new guidelines?**

A.7 There are no new reporting requirements associated with this guidance. The CRA (Canada Revenue Agency) still expects the charity to provide reasonable estimates of the portion of a salary that should be reported as a fundraising expenditure.

**Q.8 My charity is involved in a cause-related marketing campaign. Are the proceeds that my charity receives from the campaign considered fundraising revenue?**

A.8 Yes. Revenues from cause-related marketing should be reported on line 4630 of Form T3010, Registered Charity Information Return.

**Q.9 What if my charity has high costs because it is involved in a donor development drive in a particular fiscal period?**

A.9 The CRA (Canada Revenue Agency) recognizes that revenues from a donor development drive may not be realized in the same fiscal period as expenditures related to that drive, and will take this into consideration when examining a charity's activities. The CRA (Canada Revenue Agency) would expect donor development costs to generally decline over time as the charity and its fundraising activities become more established.

**Q.10 Our charity's purpose is to promote health, and we publish a four-page leaflet with the following goals:**

- to provide information about specific health risk factors
- to urge readers to take specific steps to reduce their risk
- to show readers where to find additional resources our charity provides to help them implement these steps

The last page of the leaflet briefly explains our charity's programs and invites readers to make a donation to support those programs.

**The leaflet is mailed to the general public as part of a direct mail campaign, without targeting a particular segment of the population. We pay no commission-based remuneration or compensation for donations collected. Can we report a portion of the costs as charitable expenses?**

A.10 Yes. The charity can report a portion of the costs as charitable expenses and a portion as fundraising expenses.

In the above situation, it would be reasonable to allocate 25% of the cost of the production of the leaflet and its distribution as a fundraising expense, and 75% as a charitable expense.

**Q.11 Local organizations or individuals sometimes hold a fundraising event on their own initiative, and donate the proceeds to our charity. We are not connected to these organizations, individuals, or events in any way, and often are unaware the events have even taken place until we receive the money.**

**Do we have to ensure that these local organizations and individuals comply with the fundraising guidance?**

A.11 No. This guidance does not apply to fundraising activities carried on by organizations that are not registered charities, or by individuals or organizations with whom/which a registered charity does not have a fundraising arrangement.

A charity must ensure that any individual or organization that carries out fundraising activities on its behalf complies with this guidance.

**Q.12 Our charity is recruiting volunteers specifically for an upcoming fundraising drive. Are the costs of this recruiting a fundraising expense?**

A.12 Yes. Since the volunteers are intended to work only on the fundraising drive, their recruitment is related to fundraising, and the costs must be allocated as a fundraising expense.

**Q.13 Our public foundation's staff members spend the vast majority of their time planning, carrying out, and evaluating fundraising activities to raise money to fund other registered charities as efficiently as we possibly can. Does this mean our foundation has fundraising as a purpose?**

A.13 No. It is true that the staff members of a public foundation may spend most of their time carrying out fundraising activities. However, under the Income Tax Act, a public foundation is constituted and operated primarily to fund qualified donees, which includes other registered charities. Creating and maintaining a fund or funds and disbursing monies to qualified donees are usually a public foundation's primary activities.

Assuming a public foundation meets all other requirements of the Income Tax Act, the CRA (Canada Revenue Agency) will consider it to be constituted and operating primarily to fund qualified donees, and not for the collateral non-charitable purpose of fundraising, so long as:

- funds disbursed to qualified donees typically exceed expenses related to fundraising, including compensation of staff
- the foundation spends no more on fundraising than is required

If these criteria are met, and the fundraising activities do not deliver a more than incidental private benefit, and are not illegal, contrary to public policy, or deceptive, fundraising by a public foundation will generally be acceptable.

#### Note

The general principles described above also apply to charitable organizations and private foundations that fund qualified donees.

**Q.14 Does the CRA (Canada Revenue Agency) ever calculate the fundraising ratio for each of a charity's individual fundraising events? Or is the calculation only made for the total of all fundraising activities for a fiscal period?**

A.14 When calculated using the entries on Form T3010, Registered Charity Information Return, the ratio is a global calculation for a fiscal period.

If the costs of a particular fundraising event are unreasonably and/or consistently high relative to the funds raised for charitable activities, the CRA (Canada Revenue Agency) may question whether this event constitutes acceptable fundraising.

The CRA (Canada Revenue Agency) recognizes that some individual fundraising activities are undertaken as donor acquisition or stewardship and may have a relatively high fundraising ratio, but ultimately enable the charity to maintain a lower fundraising ratio over time. In these cases, the activity must still comply with all the requirements of the Income Tax Act, such as remaining ancillary and incidental, providing only incidental private benefit, and not constituting an unrelated business.

**Q.15 What happens to the fundraising ratio when a donor's gift arrives via a private foundation?**

A.15 The fundraising ratio does not reflect donations received via private foundations. Since the gift is from another charity, it is recorded on line 4510 of Form T3010, Registered Charity Information Return, which is not included in the calculation of the ratio.

While the exclusion of these donations from the calculation has a negative effect on the charity's ratio, it should be remembered that the calculation of the ratio also includes **all** tax-receipted donations (line 4500 of the T3010), regardless of whether or not they were received as a result of a charity's fundraising efforts. This inclusion has a positive effect on the charity's ratio.

Most importantly, a charity's fundraising ratio is not a definitive evaluation of a charity's fundraising practices, but rather is one of various indicators that can give charities a very general sense of whether the CRA (Canada Revenue Agency) is likely to ask questions or raise concerns.

**Q.16 I own a fundraising/marketing company and am a director of a charity. As a director, can I hire my own company to carry out fundraising for the charity?**

A.16 No. Except in certain very limited circumstances, the CRA (Canada Revenue Agency) would almost certainly view such an arrangement as providing a more than incidental private benefit.

The only way this could potentially be acceptable under the Income Tax Act is if the hiring of a company owned by a director could be clearly justified. For example, the charity might be able to demonstrate it submitted a public tender for contracts, and an arm's length source determined the director's company was the best option. Or, the director's company might charge less than fair market value, so that neither the director nor anyone not at arm's length to the charity receives any private benefit.

However, directors and trustees of charities are subject to special considerations in addition to those imposed by the Income Tax Act. For example, directors and trustees must manage conflicts of interest. A conflict of interest is any situation where a director or trustee's personal interests, or interests owed to a third party, may, or may appear to, influence decision making. Provincial, territorial, and federal legislation may also affect the ability of a director/trustee to accept payment, in any form, for the performance of certain duties or responsibilities. Charities must be familiar with the responsibilities, known as fiduciary duties, upon directors/trustees, as well as relevant legislative requirements.

## Footnotes

- 1 While the regulation of most aspects of a charity's operations falls within provincial jurisdiction under sections 92(7) and 92(13) of The Constitution Act, 1867, section 91(3) empowered the federal government to establish the federal tax system. The federal Income Tax Act (Canada) exempts registered charities from tax on their income and entitles them to issue official tax receipts. As a result, administering the Income Tax Act encompasses the related regulation of registered charities. The CRA (Canada Revenue Agency) is responsible for administering the Income Tax Act and, therefore, for regulating registered charities in Canada.
- 2 Subsection 149.1 (1) of the Income Tax Act defines a charitable foundation as an entity which is operated exclusively for charitable purposes, and a charitable organization as an entity which devotes its resources to charitable activities. The Supreme Court of Canada in *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10 (*Vancouver Society*) established the requirements for registration as follows, per Iacobucci J for the majority at para. 159:

  1. the purposes of the organization must be charitable, and must define the scope of the activities engaged in by the organization
  2. all of the organization's resources must be devoted to these activities unless the organization falls within the specific exemptions of s. 149.1(6.1) or (6.2) relating to political activities
- 3 See the following definitions in the Income Tax Act: subsection 248(1) "registered charity"; subsection 149.1(1) "charitable foundation", "charitable organization", "private foundation", and "public foundation". These definitions use the terms charity and charitable but do not define them (for example, charitable foundations are to be "constituted and operated exclusively for charitable purposes" and charitable organizations' resources must be "devoted to charitable activities").
- 4 The four charitable purposes categories, commonly known as the four heads of charity, were outlined by Lord Macnaghten in *Commissioners for Special Purposes of the Income Tax Act v. Pemsel*, [1891] A.C. 531 (P.C.) (*Pemsel*). These purpose categories have been adopted in Canada. See, for example, *Vancouver Society*, supra note 2 at para. 159 per Iacobucci J.
- 5 See, for example, *Vancouver Society*, supra note 2 at paras. 147-148 per Iacobucci J.
- 6 *Vancouver Society* supra note 2 at para. 154 per Iacobucci J.

- 7 Vancouver Society, supra note 2 at para. 152 (fundraising activity not necessarily charitable) and at para. 154 per Iacobucci J. See also Ontario (Public Guardian and Trustee) v. AIDS Society for Children (Ontario), (2001) 39 E.T.R. (2d) 96, [2001] O.J. No. 2170 at para. 62 (Ontario (Public Guardian and Trustee) v. AIDS Society for Children (Ontario)) and Oxford Group v. IRC, [1949] 2 All ER 537 (fundraising purpose not charitable)
- 8 Vancouver Society, supra note 2 at paras. 154-159 per Iacobucci J.
- 9 See Income Tax Act, sections 149.1(1), (2), (3) & (4), 168(1), 188.1(1), (2) & (4), 188.2(1) & (2), and 248(1)
- 10 Section 248 of the Income Tax Act defines property as follows: "property" means property of any kind whatever whether real or personal or corporeal or incorporeal and, without restricting the generality of the foregoing, includes (a) a right of any kind whatever, a share or a chose in action, (b) unless a contrary intention is evident, money, (c) a timber resource property, and (d) the work in progress of a business that is a profession.
- 11 Vancouver Society, supra note 2 at paras. 154-159 per Iacobucci J.
- 12 See Keren Kayemeth Le Jisroel Ltd. v. IRC, [1931] 2 K.B. 465; on appeal [1932] A.C. 650; see also Vancouver Society, supra note 2 at paras. 154-159 per Iacobucci J.
- 13 The courts have held that otherwise charitable purposes or activities that result in a private benefit that is more than incidental to the resulting public benefit are not charitable. See, for example, Re Compton, [1945] Ch. 123; Hadaway v. Hadaway, [1955] 1 W.L.R. 16; IRC v. Oldham Training and Enterprise Council, [1996] BTC 539. In addition to the common law principles relating to private benefit, the provisions of the Income Tax Act with respect to registered charities include penalties for charities that confer an undue benefit [Income Tax Act, sections 188.1 (4) and (5)].



- 14 The courts have held that purposes or activities that are illegal (*Everywoman's Health Centre Society (1988) v. MR. MNR*, [1992] 2 F.C.A. 52 and *Earth Fund v. Canada (Minister of National Revenue – M.N.R.)*, [2002] F.C.J. No. 1769, 2002 F.C.A. 498 per Sharlow J.A. at paras. 15-16) or contrary to public policy (*Canadian Magen David Adam for Israel v. Canada (Minister of National Revenue – M.N.R.)*, (2002) 218 D.L.R. (4th) 718 (*Canadian Magen David Adam for Israel*); *Canada Trust Co. v. Ontario (Human Rights Commission)*, (1990) 74 OR. 481; *Ontario (Public Guardian and Trustee) v. AIDS Society for Children (Ontario)*, supra note 7), are not charitable.
- 15 The Court of Appeal for Ontario in *R. v. Adam Gour*, [2014] ONCA 51, at paras. 8 and 9 confirms that not disclosing important facts constitutes "other fraudulent means" in the offence of fraud as that term is explained in s. 380(1) of the Criminal Code. The Court goes on to state that not disclosing the handsome commissions that were being paid to the apparent "volunteers" constituted hiding a fundamental and essential element of the fundraiser-contributor relationship, and that this failure to disclose could mislead the reasonable contributor. The Court adds that not disclosing the status (volunteer v. employee) of a canvasser will not be relevant in every charitable fundraising context, but that in *R. v. Gour* there was extensive evidence that the appellant ran his team of canvassers in a manner intended to mislead the public.
- 16 In particular, see sections 168(1) (d) and 188.1 (7) – (10) of the Income Tax Act and Regulation 3501 of the Income Tax Regulations, which set out charities' obligations regarding receipts. See also *International Charity Association Network v. Canada*, 2008 TCC 3 (re: application to postpone suspension of receipt issuing privileges) and 2008 FCA 114 (re: application to defer publication of revocation notice) per Sharlow J.A. at paras. 3 and 4; and *Earth Fund v. Canada (Minister of National Revenue – M.N.R.)*, [2002] F.C.J. No. 1769, 2002 FCA 498 per Sharlow J.A. at paras. 15-16 (re: illegal activities in general).
- 17 See *International Charity Association Network v. Canada*, 2008 TCC 3
- 18 *Canadian Magen David Adam for Israel*, supra note 14 at para. 60 per Sharlow J.A. (Letourneau J.A. concurring)
- 19 *Innovative Gifting Inc. v. House of the Good Shepherd et al*, [2010] O.J. No. 2210 at para. 22, (2001) 39 E.T.R. (2d) 55 (*Innovative Gifting Inc.*)

- 20 Ontario (Public Guardian and Trustee) v. AIDS Society for Children (Ontario), supra note 7 at para. 54. See also Innovative Gifting Inc., supra note 19 at paras. 19-23; Public Guardian and Trustee (Ont.) v. National Society for Abused Women and Children et al, [2002] O.J. No.607 at paras. 7 and 25-26 (Public Guardian and Trustee (Ont.) v. National Society for Abused Women and Children) and Re Public Trustee and Toronto Humane Society, [1987] O.J. No. 534,(1987), 60 O.R. (2d) 235 per Anderson J. at p. 251
- 21 Ontario (Public Guardian and Trustee) v. AIDS Society for Children (Ontario), supra note 7 at paras. 51-56; Innovative Gifting Inc., supra note 19 at paras. 19-23; Public Guardian and Trustee (Ont.) v. National Society for Abused Women and Children, supra note 20 at paras. 25-27
- 22 The courts have held that any harm arising from fulfillment of a charitable purpose or purposes must be taken into account in evaluating whether there is a public benefit derived from the purpose. See National Anti-Vivisection Society v. IRC, [1948] A.C. 31 and Catholic Care (Diocese of Leeds) v Charity Commission for England and Wales, [2010] 4 All ER 1041, [2010] EWHC 520 (Ch). at para. 97. See also Vancouver Society, supra note 2 at paras. 152-159 and Guaranty Trust Co. of Canada v M.N.R., [1967] S.C.R. 133 on the relationship between purposes and activities under the Income Tax Act.
- 23 Subsection 149.1 (1) of the Income Tax Act defines a charitable foundation as an entity which is operated exclusively for charitable purposes, and a charitable organization as an entity which devotes its resources to charitable activities. The Supreme Court of Canada in Vancouver Society, supra note 2, established the requirements for registration as follows, per Iacobucci J for the majority at para. 159:
1. the purposes of the organization must be charitable, and must define the scope of the activities engaged in by the organization
  2. all of the organization's resources must be devoted to these activities unless the organization falls within the specific exemptions of s. 149.1(6.1) or (6.2) relating to political activities
- 24 Justifying a charity's level of reserves means being able to demonstrate, by reference to a charity's current position and future prospects, why holding a particular level of reserves is right for the charity at that time. For example, a charity might reasonably anticipate an economic downturn that will reduce its donation income in the next fiscal year, which it can make up for by spending part of its reserves on its charitable activities. For more information, see [Appendix C – Best Practices – Developing a reserve fund policy](#).

- 25 See also the Association of Fundraising Professional's Code of Ethical Principles and Standards, and Imagine Canada's Ethical Code Program.
- 26 See R. v. Gour, supra note 15
- 27 See R. v. Gour, supra note 15 at para. 9
- 28 Go to Books and Records.
- 29 A charitable activity is one that directly furthers a charitable purpose (Vancouver Society, supra note 2, per Iacobucci J for the majority at para. 154, 187 and 195). A charity may engage in limited non-charitable activities provided they are conducted within legal parameters, which include, but are not limited to, the requirements that they remain supportive of charitable activities and ancillary and incidental to charitable purposes, and do not deliver a non-incidental private benefit.
- 30 The provision or dissemination of information is not a charitable purpose. See D'aguair v. Guyana Commissioner of Inland Revenue, (1970) 49 A.T.C. 33, [1970] T.R. 31 P.C., which held that information provision is not a charitable purpose. It did not, however, conclude that it could never further a charitable purpose.
- 31 In regard to education, see Vancouver Society, supra note 2, and News to You Canada v. Minister of National Revenue, 2011 FCA 192
- 32 See Income Tax Act, s.149.1(1) – apart from making gifts to qualified donees, the Income Tax Act requires a registered charity to devote all its resources to charitable activities carried on by the organization itself. See also generally Vancouver Society, supra note 2 at para. 159
- 33 See the Association of Fundraising Professional's Code of Ethical Principles and Standards and Imagine Canada's Ethical Code Program's guidelines on performance-based compensation, such as bonuses.
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