

Some Top CRA Compliance Issues
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One of the most important things registered charities can do to manage their financial risks is to ensure that you comply with the requirements of the Canada Revenue Agency (CRA). In addition to imposing financial penalties, CRA can also suspend tax receipting privileges or even revoke your charitable status for failure to comply. That, along with the serious damage to your reputation which can result, can have a dramatic impact on your ability to raise funds.

By way of introduction to this topic, this article (which is based on a presentation by senior CRA staff) highlights some common areas of compliance difficulty. Future articles will discuss some of these specific CRA requirements in more depth. Because these difficulties are common, CRA is looking for opportunities to reduce the incidence of these problems, and to help charities avoid these common mistakes.

Here are several areas where issues are commonly seen by CRA:

- **Incorrect issuance of receipts** -- common problems of this type include failing to show all the fields of information that CRA requires on a receipt, or issuing receipts for incorrect amounts. Showing incorrect amounts is a particular concern, since these amounts are used by charities to calculate their charitable spending requirements, and by taxpayers to obtain charitable tax credits. Make sure that you understand: what types of donations are receiptable, and how to calculate receiptable amounts (for so-called "split receipting") when the donor receives something of value in return for their donation (e.g. a meal at a fundraising event, or a donation thank-you item).
- **Failure to file T3010** -- the T3010 is the annual filing that CRA requires from all registered charities. It is important to note that CRA takes a "zero tolerance" approach to non-filing. That is, CRA **will** revoke your charitable status if you don't file your T3010. To re-register, you'll need to go through the whole application process again, and pay a \$500 penalty. Even more troubling, you will be prevented from issuing tax receipts until re-registration is complete, and the names of revoked charities are posted by CRA on their website. The answer to this is simple: file your return every year. If you don't know how to complete parts of it, help is available, from CRA and others (see the end of this article), but be sure to file, even if all your questions aren't resolved.
- **Engaging in non-charitable activities** -- registered charities are required to devote **all** of their resources to fulfilling their charitable objects, with very limited exceptions. Just because an activity is "good", that doesn't mean that it is charitable, and it doesn't mean that it fulfills **your** charitable objects. So, if you are an environmental charity, you can't lend your office space to a local small business (unless it otherwise directly helps to fulfill your environmental goals). (Note that you can rent out temporarily-unused office space as a means of raising funds.)
- **Giving gifts to non-qualified donees** -- sometimes, a charity wants to give a donation to another organization. CRA requires that the other organization be a "qualified donee", which essentially means that it must also be a registered charity (or other organization that can issue a

tax receipt). So, you can't give a gift to a local hockey team, since that hockey team won't be a registered charity. Though it may seem to be a good thing to support other good causes, remember that your charity's reason for being is to advance **your own** good cause!

- **Failure to maintain “direction and control” over foreign activities** -- charities doing their good work in other countries face unique challenges. In addition to the great distances (that technology will never perfectly overcome), different legal frameworks, societal norms and cultures prevail. But, working in these conditions cannot be managed by simply funding foreign operators. Charities must, at all times, maintain proper direction and control over foreign activities. While this control may be exercised by the charity's own employees, more often, it is exercised through carefully constructed contractual arrangements, timely and detailed reporting, and appropriately detailed direction setting and giving. Charities' responsibilities for overseas activities begin, not end, with cutting a cheque!
- **Incurring excessive fundraising costs** -- fundraising, while a fact of life in our sector, is not in and of itself a charitable activity. CRA is concerned where an undue proportion of a charity's resources or activities are directed to fundraising. In particular, where a charity's fundraising expenses exceed 35% of its fundraising revenues (known as the "fundraising ratio"), CRA starts to consider that there may be excessive or inappropriate fundraising activities, and may investigate further. The first step in managing this risk is to ensure that your accounting processes produce accurate and appropriately detailed information so that you can produce a reliable fundraising ratio, and understand (and explain to CRA) why it is at the level it is. CRA also identifies in its fundraising guidelines a number of "best practices" that will help you manage these costs, and help CRA be assured that they are being well managed.
- **Engaging in political activities** -- charities **may** engage in political activities, but subject to some strict limitations. A couple of the more significant limits: you may only invest up to 10% of your resources in political activities, and you may **not** engage in partisan activities (that is, supporting or opposing a specific candidate for election) at all. Furthermore, any political activities must support your charitable objectives.
- **Inappropriate transactions with directors** -- directors of charities may not receive benefits by virtue of their position. Accordingly, any transaction with a director, or a director's business interests, is subject to greater scrutiny by the CRA. In particular, salaries or loans to directors, investments in directors' companies, and dealings with director's business interests are all closely scrutinized by the CRA. The best way of managing this is to set the expectation from the outset that directors will not benefit from their board service. Dealings with directors' businesses should always be well documented and at fair market value, and the director should declare a conflict of interest in all board dealings with such matters.

Don't forget that CRA is first and foremost a regulator, and it has those sanctions and penalties mentioned earlier that it can use to make these messages stick. Paying closer attention to these requirements will keep you on-side with the CRA. Doing so will also improve your charity's own financial reporting and accountability to stakeholders, and enhance your reputation in the highly competitive fundraising marketplace.

The good news is that CRA wants to promote and encourage compliance. It is increasing its outreach activities to the charitable sector in a bid to educate and encourage organizations to comply with its

requirements. Indeed, with CRA's financial support, Imagine Canada is working right now to release a comprehensive and user-friendly online resource to assist registered charities in meeting their CRA record-keeping, receipting and reporting obligations. Watch future articles and the Imagine Canada website for information on ***Charity Tax Tools***, coming soon!

Note: This post is provided as information only. Readers are cautioned not to act on information provided without seeking specific legal advice with respect to their unique circumstances.