

Registered Charities and the *Income Tax Act*

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You can reach the Charities Division at the following telephone numbers:

- 954-0410 for local Ottawa calls (English)
- 954-6215 for local Ottawa calls (bilingual)
- 1-800-267-2384 for toll-free, long distance calls (English)
- 1-888-892-5667 for toll-free, long distance calls (bilingual)
- 1-800-665-0354 for toll-free service for hearing impaired people.

The Division's fax numbers are (613) 952-6020 and (613) 946-2423.

You can get copies of all forms, pamphlets, information circulars, and interpretation bulletins referred to in this guide from the Charities Division or from any of the tax services offices. See the order form printed at the back of this guide.

To contact a tax services office, see the telephone listings in the Government of Canada section of the telephone book.

## Internet Access

If you have access, you can find many of our publications at [www.ccr-aadrc.gc.ca/charities](http://www.ccr-aadrc.gc.ca/charities) on the Internet.

## Your opinion counts!

If you have any comments or suggestions that would help us improve this guide, we would like to hear from you. Please send your comments to:

Charities Division  
Canada Customs and Revenue Agency  
Ottawa ON K1A 0L5

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## Introduction

This guide will help registered charities comply with the rules found in the *Income Tax Act* that apply to their registered status. We have tried to simplify the rules. For official purposes, you may want to consult the Act directly.

## Maintaining a charity's registered status

A charity will keep its registration if it complies with the requirements of the *Income Tax Act*. In particular, it must:

- devote its resources to charitable purposes and activities;
- not pay, or otherwise make available, its income to any of its members (it can however pay reasonable salaries or reimburse reasonable out-of-pocket expenses);
- issue official donation receipts in accordance with the *Income Tax Act* and the *Income Tax Regulations*;
- keep proper books and records, and provide these and other relevant information to us as required by the Act;
- file an annual information return on time;
- meet its disbursement quota; and
- not try to meet its disbursement quota by exchanging gifts with other registered charities.

In addition, some requirements vary for different types of charities. (The next section explains the different types.)

### Charitable organizations and public foundations must:

- only carry on related business activities.

### Private foundations must:

- not carry on any type of business activities.

### Public foundations and private foundations must:

- not acquire control of other corporations. "Control" occurs when the foundation owns 50% or more of a corporation's issued share capital, having full voting rights under all circumstances. However, the Act allows an exception: if a foundation has not bought more than 5% of these shares and is given a bloc of shares that brings up its total holding to more than 50%, it will not be considered to have acquired control of the corporation; or
- not acquire debts other than those related to current operating expenses, the purchase and sale of investments, or the administration of charitable activities.

## What is the difference between a charitable organization and a charitable foundation?

When registering a charity, we designate it as a "charitable organization," a "public foundation," or a "private foundation," depending on its structure, its source of funding, and the way it operates.

### Charitable organization

A registered charity is designated as a "charitable organization" if:

- (a) it devotes its resources mainly to charitable activities carried on by itself;
- (b) more than 50% of its directors/trustees deal with each other and with each of the other directors/trustees at arm's length (see page 5 for a definition of "arm's length"); and
- (c) not more than 50% of the funds that the charity has received have come from one person or organization, or from a group of people or organizations that do not deal with each other at arm's length. However, some organizations are excepted, so that large gifts from them do not affect the charity's designation. The excepted organizations are:
  - the federal government,
  - a provincial government,
  - a municipality,
  - another registered charity that is not a "private foundation," or
  - a club, society, or association that the Act treats as a non-profit organization.

### Public foundation

A registered charity is a "public foundation" if:

- (a) it is constituted and operated exclusively for charitable purposes;
- (b) it is a corporation or a trust; and
- (c) it gives more than 50% of its income annually to qualified donees, usually other registered charities (see page 5 for a list of qualified donees).

A "public foundation" must also meet conditions (b) and (c) for charitable organizations, i.e., people at arm's length to each other must form a majority of its board of directors/trustees and its funding must come from various sources. The essential difference between a "charitable organization" and a "public foundation" is that charitable organizations focus on carrying out charitable activities, while public foundations focus on raising funds to support operating charities.

## Private foundation

A registered charity is a “private foundation” if:

- it is constituted and operated exclusively for charitable purposes;
- it is a corporation or trust; and
- it is not a “charitable organization” or a “public foundation.”

An entity is designated as a “private foundation” rather than a “charitable organization” or a “public foundation” because of the extent to which those who fund or control it are not operating at arm’s length (see below).

## A charity’s re-designation

If a charity disagrees with our designation, or later feels that the designation should be changed, the charity can submit Form T2095, *Registered Charities: Application for Re-Designation*.

If we agree with the charity’s request for re-designation, we will advise the charity of its new designation by registered mail. In most cases, the charity’s new designation will take effect at the beginning of its next fiscal period.

If we refuse a request for re-designation, the charity can appeal the refusal to re-designate to the Federal Court of Appeal.

## Under what circumstances can we designate a private foundation as public at the time of registration?

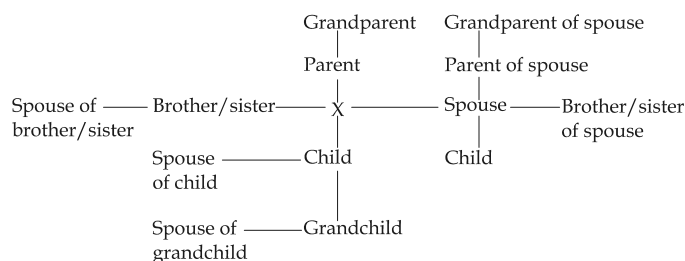
If a charity that would normally be designated as a “private foundation” proposes to carry on a business which directly accomplishes its charitable goals through the delivery of charitable services, we can re-designate it as a “public foundation” in specific circumstances. The charity must first satisfy us that it has tried to change its directors/trustees and/or its source of funding. If this proves impossible, the charity can ask, in writing, that we re-designate it as a “public foundation.”

## What is arm’s length?

**At arm’s length** is a tax concept describing a relationship in which the parties act independently of each other. The opposite, **not at arm’s length**, covers people acting in concert without separate interests.

Not at arm’s length also includes individuals who are related to each other by blood, marriage, adoption, common-law relationships, or close business ties. The chart below provides a quick guide to the people to whom an individual (marked “X” on the chart) is defined as being related by blood, marriage, or adoption. These are the people whom “X” is considered not to deal at arm’s length with. Generally, in determining arm’s length relationships, common-law spouses are treated in the same way as legally married spouses. Also, adopted children or children born outside a marriage are generally treated in the same way as natural children of a married couple.

## Non-arm’s length relationships



Directors/trustees are not at arm’s length if they are linked with **any** of the other directors/trustees. For example, let’s consider a five-member board of directors, two of whom are married to each other, while the other three members have no links either to the married couple or among themselves.

Mr. Martin Mrs. Martin  
Mr. Smith Ms. Jones Mr. Green

We have underlined the names of the two non-arm’s-length members. But suppose we add Mr. Green’s daughter to the board. Even though the two Greens have no ties with the Martins, the number of non-arm’s-length directors/trustees rises to four.

Mr. Martin Mrs. Martin Mr. Smith  
Ms. Jones Mr. Green Ms. Green

You will find general information on this subject in Interpretation Bulletin IT-419, *Meaning of Arm’s Length*.

## What are qualified donees?

If a registered charity prefers to transfer gifts to other organizations rather than use them on its own programs, it can only transfer such gifts to “qualified donees.” Under the *Income Tax Act*, “qualified donees” are:

- registered charities;
- registered Canadian amateur athletic associations;
- registered national arts service organizations;
- housing corporations resident in Canada constituted exclusively to provide low-cost housing for the aged;
- the United Nations and its agencies;
- universities outside Canada listed in Schedule VIII of the *Income Tax Regulations*;
- charitable organizations outside Canada to which Her Majesty in right of Canada (the federal government or its agents) has made a gift during the charity’s fiscal period or in the 12 months immediately preceding the period;
- municipalities in Canada; and
- Her Majesty in right of Canada or in right of a province (that is, the federal government, a provincial government, or their agents).

## Sending funds to another charity – Associated charities

On occasion a charitable organization will want to send substantial amounts to another charity. Usually, giving to other charities rather than carrying on one's own programs would affect the designation of a charitable organization. Exceptionally, a charitable organization can transfer such funds to another charity, without effecting its designation, if the other charity is "associated" with it, and both charities have applied to us for associated status.

### How do charities apply for designation as associated charities?

Registered charities who want designation as associated charities must complete Form T3011, *Registered Charities: Application for Designation as Associated Charities*. For more information, see Information Circular 77-6, *Registered Charities: Designation as Associated Charities*.

We will approve a designation as associated charities if we are satisfied that the charitable aim or activity of each of the registered charities is substantially the same. If the charities' aims or activities are different, they can still become associated in order to undertake a joint project. In the latter case, they should explain on the application how the project will operate and what each of the registered charities will do to achieve the common goal.

A charitable foundation that is granted associated status with another registered charity cannot be re-designated as a charitable organization solely on the basis of such associated status.

## Receiving gifts and issuing official donation receipts

### What is a gift?

A gift is defined as a voluntary transfer of property without valuable consideration. To qualify as a gift, **all three** of the following conditions must be met:

- Some property, either in the form of cash or a gift-in-kind, is transferred by a donor to a registered charity. (A gift-in-kind involves property other than cash, such as equipment, shares, or land.)
- The property is given voluntarily. The donor must not be obliged to part with the property, for instance as the result of a larger contract or a court order.
- The donor is transferring the property to the charity without expecting anything in return. No benefit of any kind may be provided to the donor or to anyone designated by the donor as a result of a gift.

### What payments do NOT qualify as gifts?

Some payments to registered charities do not usually qualify as gifts:

- the payment of a basic fee for admission to an event or to a program (e.g., fees for day-care or nursery school facilities);
- the payment of membership fees that convey the right to attend events, receive literature, receive services, or be eligible for entitlements of any kind (e.g., free access to facilities the public has to pay for). However, membership fees are considered as gifts if they confer no more than the right to vote at a meeting and to receive reports of the charity's activities, unless such reports are otherwise available for a fee;
- any portion of the purchase price of a lottery ticket or other chance to win a prize, even though the lottery proceeds benefit one or more charities;
- the payment of tuition fees (except as permitted by Information Circular 75-23, *Tuition Fees and Charitable Donations Paid to Privately Supported Secular and Religious Schools*);
- contributions of services (i.e., time, skills, effort). Contributions of services are not property and do not qualify. However, a charity can pay for services rendered and later accept the return of all or a portion of the payment as a gift, provided it is returned voluntarily;
- a payment from a business for which the business receives a material advantage such as promotion or advertising in return. For taxation purposes, the business may be able to claim the contribution as an advertising expense;
- a gift subject to a direction by the donor that the charity transfer the funds to a specified person or family. In such an instance, the donor has made a gift to the person or family and not to the charity; and
- a gift subject to a direction by the donor that the charity give the funds to a non-qualified donee.

For more information on gifts, refer to the list of interpretation bulletins at the back of this guide.

### Can a charity return a gift to a donor?

In most cases, a registered charity cannot return a donor's gift. At law, a gift transfers ownership of the money or other gifted property from the donor to the charity. Once the transfer is made, the charity's governing documents oblige it to use the gift in carrying out its charitable purposes.

A charity may have among its purposes the provision of assistance to other registered charities. If so, it can try to retain the goodwill of donors seeking the return of their gifts by offering to transfer the gifted property to another charity.

However, a charity is occasionally obliged by law to return gifts to donors. This can happen, for instance, when a charity asks the public to contribute to a special project (such as helping a particular group of people or building a new hospital wing), and later events make it impossible to

carry out the project (the people die before the charity can mount its relief effort or the provincial government closes the hospital). Under common-law, ownership of the gifted property can revert to the donors if the project becomes impossible to fulfill.

When a charity is seeking funds for a special project, we recommend that the charity clearly advise potential donors what it will do with the money in the event that the project cannot be carried out or more money is collected than the project requires. The charity could state, for example, that it will apply any unused donations to its other programs.

The return of gifts to donors falls more appropriately under trust law than the *Income Tax Act* and is ultimately a matter for a court to decide. However, we strongly suggest that the charity, or its legal counsel, contact the Charities Division if it appears that the charity may have to return gifts to donors.

## Is a charity required to issue an official donation receipt for every gift it receives?

No. However, we advise charities to make potential donors aware of any circumstances in which they will not issue a receipt. Donors cannot claim a charitable tax credit or deduction unless they have a receipt.

## What information should appear on an official donation receipt?

An official donation receipt must include, in a manner that cannot be readily altered, at least the following information:

- a statement that it is an official receipt for income tax purposes;
- the charity's BN (Business Number)/Registration number, name and address in Canada as recorded with our Charities Division;
- the serial number of the receipt;
- the place or locality where the receipt was issued;
- if it is a cash donation, the day on which or **the year** during which the charity received the donation;
- if the donation is a gift other than cash, i.e., a gift-in-kind:
  - the day on which the charity received the donation,
  - a brief description of the gift, and
  - the name and address of the appraiser of the property if an appraisal was completed;
- the day on which the charity issued the receipt (if that day differs from the date on which the charity received the donation);
- the name and address of the donor including, in the case of an individual, the first name and initial;
- the amount of a cash donation, or if the donation is a gift other than cash, the amount that is the fair market value of the gift at the time it was made; and

- the signature of the individual(s) authorized by the charity to issue receipts.

In preparing official donation receipts, a registered charity must indicate the year in which it actually received a gift. If a gift is dated, mailed, and postmarked in one year and received in the next year, the charity can issue a receipt indicating the year appearing on the postmark as the date it received the gift.

A charity must keep on file a copy of all official receipts that it issues.

If the charity operates in Quebec or has accepted a gift from a donor resident in Quebec, it can issue two official donation receipts for a single gift provided they contain identical information, i.e., they must have the same serial number. When it is not possible for a registered charity located outside Quebec to issue a second receipt which bears the same serial number, it can advise donors that it is acceptable to submit a photocopy of the original receipt when filing their Quebec income tax returns.

## Can receipts have a facsimile signature?

Receipts can have a facsimile signature if they are:

- imprinted distinctly (usually by a commercial printer) with the name, address, and BN/Registration number of the charity; and
- serially numbered by a printing press or numbering machine.

In addition, all unused receipt forms must be kept at the charity's Canadian address.

## How can a charity correct printed receipts?

A charity can use a stamp that clearly shows a change of name, address, or BN/Registration number if it wants to use its remaining stock of official donation receipts before ordering a new supply. Make sure that the incorrect information is crossed out, either by the stamp or by hand.

## Can a charity issue computer-generated receipts?

A registered charity can issue electronic official donation receipts as long as they are readable and the reliability of the computer data entries is sufficiently protected. Protection against unauthorized changes to the data entries is the key security concern. An ideal computer system should incorporate user authentication (user-identifications validated by passwords) with access controls to restrict entry to and modification of donor contribution records. We recommend that donor records be stored on non-erasable media, such as CD-ROMs, micro-fiche, or printouts, with copies kept off-site for recovery purposes. The following precautions are also acceptable:

- Access to the donor records is protected by physical security. That is, the computer donor files are stored on diskettes or removable disks to which access is controlled by lock and key. Alternatively, a separate computer system, which is accessible only by authorized personnel, contains the records.

- Donor records are retained on erasable media such as disks or tapes. Because these media are susceptible to accidental erasure or disk crashes, regular copies of data are made and one set of these copies is retained away from the original system.

When electronically-kept records are changed from one format to another, the record-keeper is responsible for ensuring that the change does not result in the loss, destruction, or alteration of the information.

A registered charity is required by law to keep adequate books and records (see page 9). If it fails to adequately safeguard and maintain records in a readable and reliable manner, it could be considered to have failed to meet this requirement.

A computer-stored copy of an official donation receipt (soft copy) will be considered a “duplicate” for purposes of the *Income Tax Act* if the following conditions are met:

- it contains all the necessary information required on the contents of receipts as described above; and
- a charity can, at any time, print a copy of the receipt without inputting any new data required on receipts.

It is not necessary that the computer-stored copy carry a signature, for example, an electronic signature, to be considered a duplicate for purposes of the Act.

### How can a charity replace a lost or spoiled receipt?

To replace a lost receipt, a charity can issue a replacement which must contain all required information plus a notation to the effect that it “cancels and replaces receipt No. (insert the serial number of the lost receipt).” The charity’s copy of the lost receipt must be retained and marked “cancelled.”

In the case of a spoiled receipt, all copies must be retained by the charity and marked “cancelled.” The charity can then issue another receipt.

### What are the special provisions relating to non-qualifying securities and loanbacks?

The special provisions governing non-qualifying securities affect the conditions under which a tax receipt may be issued for a particular class of gifts. The loanback provisions directly affect some donors, but not charities. We recognize that these are complex provisions, and if necessary, we recommend that charities seek advice from their legal or accounting experts.

#### What is a non-qualifying security (NQS)?

The securities that fall into the class of NQSs are those that:

- are not listed on the Alberta, Montreal, Toronto, Vancouver, or Winnipeg stock exchanges, or on one of the foreign exchanges identified in Regulation 3201 of the *Income Tax Regulations*; and
- (if they are shares) are shares in a company with which the donor does not deal at arm’s length, or (if they are another type of security) are obligations such as debts

owed to the donor by a company with which the donor does not deal at arm’s length. These rules also cover certain other non-arm’s length transactions.

Some NQSs do not attract the new provisions, and a charity would treat gifts of them as it would any other gift. NQSs are “excepted” from the provisions if they meet all three of the following conditions:

- the security is in the form of a share;
- the charity receiving the gift is a charitable organization or a public foundation, as opposed to a private foundation; and
- the donor deals at arm’s length with the charity, and with each director, trustee, officer, and similar official of the charity. This condition is not satisfied if the same person is both a donor and a director.

Most charities will probably have to consider the NQS provisions only when one of their directors gives them an unlisted security.

### What does a charity do if a donor gives it a NQS?

The charity does not issue a tax receipt right away, but should find out what the fair market value of the NQS is. A clock starts running from the time the charity is given the NQS. Over the next five years, one of two things can happen:

1. the charity can sell or otherwise dispose of the NQS.

Once this happens, the charity can issue a tax receipt to the donor showing as the date of the gift the day it sells or disposes of the NQS. It issues the receipt for the lower of two amounts: the fair market value of the NQS when the charity was first given the security; or the amount the charity is able to obtain when it sells or otherwise disposes of the NQS. Different rules apply if the charity obtains another NQS for the first one.

2. the NQS ceases to be a NQS.

For example, a private company goes public and its formerly unlisted shares are now traded on a stock exchange.

If this happens, the charity can issue a tax receipt to the donor, showing as the date of the gift the day the NQS ceased to be a NQS. The amount shown on the receipt is the lower of two amounts: the fair market value of the NQS when the charity received the gift; or its fair market value when it ceased to be a NQS.

If neither of these two events occurs during the five-year period, the charity cannot issue a tax receipt of any kind.

The provisions apply to gifts of NQSs made after July 1997. They are to apply to gifts made by both corporations and individuals.

### What is a loanback?

Two situations trigger the loanback provisions. Within five years of a donor making a regular gift to a charity—i.e., one that does not call into play the NQS provisions—the charity:



- acquires a NQS from the donor, or of the donor; or
- allows a donor (or a non-arm's length person to the donor) who is not at arm's length to the charity, to use the charity's property within certain time frames. However, donors can use property that the charity uses to deliver its programs (e.g., a hospital's emergency department) without the loanback provisions affecting them.

### How are donors affected?

The charity issues a tax receipt for the regular gift in the usual way. However, when donors claim this gift on their tax returns, they have to reduce the amount they can claim by the amount the charity gave them to acquire the NQS or by the fair market value of the charity's property that they were allowed to use.

The provisions apply to regular gifts made after July 1997, or to situations where the donor begins to use the charity's property after July 1997. They affect gifts made by both corporations and individuals.

## Books and records

A registered charity must keep adequate books and records in either English or French, at a Canadian address it has on file with us, so that we can verify official donation receipts issued, as well as its income and expenditures. A charity must also keep information that we can use to determine whether its activities continue to be charitable. This additional information will vary from charity to charity but could include, for example, copies of minutes of meetings, correspondence, publicity brochures, or advertisements.

The charity should retain its books and records as follows:

- duplicates of receipts must be retained for a minimum of two years from the end of the calendar year in which the donations were made;
- books and records, together with the accounts and vouchers, containing the summaries of the year-to-year transactions of the charity, must be held for a minimum of six years from the end of the fiscal period to which they relate. When a registered charity loses its registration, the books and records must be retained for a minimum of two years after the date the registration is revoked;
- the following must be kept as long as the charity remains registered and for two years after the registration is revoked:
  - all records of any donations received by a registered charity that are subject to a direction by the donor that the property given be held by the charity for a period of not less than 10 years;
  - minutes of meetings of the executive;
  - minutes of meetings of the members; and
  - all governing documents and by-laws.

Books and records may be destroyed at an earlier time than outlined above if the Minister gives written permission for their disposal.

For more information, see Information Circular 78-10R, *Books and Records Retention/Destruction*.

## What information does a registered charity need to give us?

### Filing annual returns

Every registered charity must file a completed annual return (Form T3010, *Registered Charity Information Return*) and financial statements within six months from the end of each fiscal period.

We mail an annual return to each registered charity around the end of its fiscal period. (**Note:** Have you notified us of any recent changes of address?) However, it is the charity's responsibility to file a return whether or not it receives a blank return package. You can obtain copies of the return package from us or from any tax services office.

A charity can lose its registration if it does not file an annual return. Although we send notices to remind charities to file these returns, we do not grant extensions.

## What information about a registered charity can we provide to the public?

The information a charity provides on the public portion of its annual return is available to the public. Other information a charity provides on or with the return is confidential and for our use only.

We may also provide to any person the following information relating to a charity that at any time was a registered charity:

- a copy of the charity's governing documents, including its statement of purpose;
- any information provided in prescribed form to the Minister by a charity upon applying for registration under the *Income Tax Act*;
- the names of the persons who at any time were the charity's directors and the periods during which they were its directors;
- a copy of the notification of the charity's registration, including any conditions and warnings; and
- when the registration of the charity has been revoked, a copy of any letter sent by or on behalf of the Minister to the charity relating to the grounds for revocation.

The public can also view a listing of all Canadian registered charities on the Internet. The listing is also available on

paper or in disk format. Requests for paper or disk copies should be addressed to the Charities Division at the address indicated on the inside cover. Aggregate data on the charitable sector, based on computer compilations of the T3010 returns, can be obtained for a fee.

## Change of fiscal period

The law requires a charity to obtain our permission before it changes its fiscal period, since such changes may affect the charity's obligations under the *Income Tax Act*. A charity that wants to change its fiscal period from that on record with us must advise us in writing indicating the reason for the change and the effective date of the change. If the change results in a period which extends beyond 12 months, a charity may have to file two separate annual returns. For example, if a charity's fiscal period end is December 31 and it wants to change it to March 31, the charity would have to file a 12-month return covering January to December plus a three-month return for the January-March period.

## Change of name and address

A registered charity that changes its name must submit the documents to the Charities Division showing that the name has been legally changed. Examples of such documents are:

- in the case of a corporate entity, a copy of the supplementary letters patent or certificate of amendment bearing the seal, stamp, or signature of the federal or provincial authority approving the new name; and
- in the case of an unincorporated entity (such as an entity established by a constitution or trust deed), a copy of a resolution or written agreement, signed by two directors/trustees of the charity, indicating the new name, and showing the effective date of the change of name.

A registered charity that changes its address or telephone number should promptly advise us. This allows us to communicate with charities and provide services such as the mailing of the annual information return and other publications.

A registered charity must ensure that official donation receipts are issued in its name and address as recorded with us. Receipts that a charity issues showing any other name or address may be rejected when donors claim them on their income tax returns.

## Changes to the charity's purposes, activities, or operations

If an organization introduces objects that do not qualify as charitable, it is placing its status as a registered charity in danger. By consulting with us first, the charity can avoid the need to further amend its objects.

A charity that wants to undertake programs and activities that are different from those previously described to us, should make sure that they are within the scope of the charity's stated purposes. If the programs or activities differ from those we reviewed, they may not be charitable. We recommend that you check with us beforehand. If the

charity actually undertakes programs that are not charitable, its registration can be revoked.

In addition, certain changes can affect the charity's designation. The charity should advise us if:

- it receives a large donation that would result in more than half its funding coming from a single source;
- it will be changing from an operational charity to one that uses more than half its income to fund other charities; or
- half or more of its directors/trustees are now not at arm's length to each other.

## How can a registered charity use its resources?

To qualify for and maintain its registered status under the *Income Tax Act*, a charity must be created for charitable purposes and devote substantially all its resources to charitable activities. Here are some specific areas of interest.

## Ancillary and incidental non-partisan political activities

Under the *Income Tax Act*, a registered charity can undertake political activities as long as:

- it devotes substantially all its resources to charitable activities; and
- the political activities are non-partisan and help accomplish the charity's purposes.

For more information on political activities, see Information Circular 87-1, *Registered Charities – Ancillary and Incidental Political Activities*.

## Related business activities

"Charitable organizations" and "public foundations" can carry on **related** businesses that accomplish or promote their charitable objects. They can carry on any other business activities if substantially all of the staff involved in these activities are volunteers. (By "substantially all," we mean at least 90% of the staff.) "Private foundations" **cannot** carry on **any** business activities. For more information, you can contact the Charities Division.

## Charitable activities outside Canada

Registered charities can conduct charitable activities outside Canada if these are their own charitable activities. They can also transfer funds to foreign organizations if these organizations are qualified donees.

To carry on its own activities abroad, a registered charity can use volunteers or employees posted in other countries or it can retain the services of an agent or contractor. If it uses an agent or contractor, there should be, as a first step, a written agreement between the charity and the agent or contractor to define the responsibilities of both parties and

to ensure that the charity retains control over the activities carried out by the agent or contractor on its behalf.

In such an arrangement, the agent must keep its funds separate from those it receives from the charity, so that the charity's role in any particular project can be recognized as the charity's own activity. Both parties must keep books and records that can demonstrate the charity effectively supervises and controls the work carried out by its agent.

A registered charity may also carry on a charitable project outside Canada jointly with another organization. In order for a charity to be considered to be carrying on "its own" activities, it must share responsibility and control in long-term planning, day-to-day decision-making, and financial commitments that are at least proportional to the level of funding it provides to the project.

For more information about charitable activities outside Canada, you can contact the Charities Division.

## How much money must a registered charity spend to meet its "disbursement quota"?

A registered charity must spend a specific amount each year on charitable activities carried on by it, or as gifts to qualified donees. This amount varies according to a charity's designation and is called its "disbursement quota." The purpose of the disbursement quota is:

- to ensure that most of a charity's funds are used to further its charitable purposes and activities;
- to discourage charities from accumulating excessive funds; and
- to keep other expenses at a reasonable level.

To meet its disbursement quota, a registered charity must take into account only monies spent **directly** on charitable activities or on gifts to qualified donees. Such amounts include paying the salaries of persons performing actual charitable work (e.g., teaching, or caring for the sick), buying equipment used in charitable activities, and gifting funds to other registered charities. It should **not** include amounts spent on non-partisan political activities, nor amounts paid for activities that support charitable objectives, but do not directly accomplish them, such as management and administrative activities and fund-raising activities.

## How to calculate the charity's disbursement quota

### Disbursement quota for charitable organizations

Each year, a charitable organization must spend amounts that are at least equal to:

- (1) 80% of the amounts for which it issued official donation receipts in its immediately preceding year, less:

- gifts of capital received by way of bequest or inheritance;
- gifts received subject to a written trust or direction that the property given be held by the charity for a period of not less than 10 years (see page 12); and
- gifts from other registered charities; **and**

- (2) 80% of the amounts that:

- were either gifts of capital received by way of bequest or inheritance after 1992, or 10-year gifts, whenever they were received;
- were previously excluded from the charity's disbursement quota, as described in (1) above; and
- were spent by the charity in the year.

### Disbursement quota for public foundations

Each year, a public foundation must spend amounts that are at least equal to:

- (1) 80% of the amounts for which it issued receipts in its immediately preceding fiscal year, less:

- gifts of capital received by way of bequest or inheritance;
- gifts received subject to a written trust or direction that the property given be held by the charity for a period of not less than 10 years; and
- gifts from other charities; **and**

- (2) 80% of the amounts that:

- were either gifts of capital received by way of bequest or inheritance after 1992, or 10-year gifts, whenever they were received;
- were previously excluded from the charity's disbursement quota, as described in (1) above; and
- were spent by the charity in the year;

- (3) 80% of all amounts received from other registered charities during its immediately preceding fiscal year, less any "specified gifts" (see page 12); **and**

- (4) 4.5% of the average value of any assets the foundation owned over the previous 24 months that were not used directly in charitable activities or in the administration of the foundation, calculated in the prescribed manner, **less** 100% of any amounts used in calculating (1), (2) and (3) above.

### Disbursement quota for private foundations

The disbursement quota for a private foundation is the same as that for a public foundation (as detailed above) except that a private foundation must spend 100% of all amounts received from other registered charities during its immediately preceding year, less any "specified gifts."

The schedules and guide accompanying Form T3010, *Registered Charity Information Return*, provide further information to assist a charity in calculating its disbursement quota.

#### Note

A registered charity's disbursement quota is essentially based on its previous year's financial situation. A charity should therefore keep its disbursement quota in mind when budgeting for its coming fiscal year. This will keep difficulties to a minimum.

## Provisions to help a charity meet its disbursement quota

### Creating endowment funds – Gifts subject to a direction that they be held for 10 years or more

Registered charities can receive gifts that are subject to a donor's written trust or direction that they be held by the charity for 10 years or more. These gifts are excluded from the disbursement quota. Obtaining gifts with a 10-year direction is useful when a registered charity wants to accumulate a capital fund, with the intention, for example, of using only the interest income to grant scholarships. As well, investments or other property later substituted for the original 10-year gift are also excluded from the disbursement quota. However, when 10-year gifts are spent, they must be included in calculating the disbursement quota.

#### Example

I hereby give \*\*\* to ABC Charity under the specific instruction that this gift or any property substituted therefor be held by ABC Charity for a period of (10 years or more).

\_\_\_\_\_  
(Signature of donor)

Name of donor

\_\_\_\_\_  
Date

This type of direction can be on a separate document or printed on the official donation receipt, a copy of which the charity will provide to the donor. However, in either case, the donor must sign the direction to make it valid. The direction must also accompany the gift; it cannot be added at a later date.

### Transferring large amounts to other charities

To facilitate the transfer of gifts from one charity to another without affecting the disbursement quota, the *Income Tax Act* provides for the mechanism of a "specified gift." A registered charity that makes a gift to another registered charity can choose to label the gift as a "specified gift." If the recipient charity is a charitable foundation, the asset or amount given will not increase its disbursement quota. (A charitable organization would not benefit from receiving a "specified gift" as it does not have to include gifts from other registered charities in its disbursement quota calculation.) However, the donor charity cannot use the "specified gift" to satisfy its own disbursement quota. A gift becomes a "specified gift" if the donor charity identifies it as such in its information return for the year.

## Accumulating property for large-scale projects

To allow charities to postpone their disbursement quota and accumulate funds for a large project, accumulation of property is a special provision that helps a registered charity to temporarily accumulate funds to make a major expenditure, such as the purchase of a building or costly equipment, which cannot be financed out of current revenue.

The provision has the effect of enabling a charity to apply the funds toward meeting its disbursement quota while it is still accumulating them rather than when they are actually spent.

If it wants to use the accumulation provision, the charity must apply in writing to us for permission. The letter must specify the purpose for which the charity wants to accumulate funds, the amount required, as well as the length of time the charity will need to accumulate the funds.

Once we approve the accumulation, the funds the charity sets aside will still go to meet the current year's disbursement quota—even though they are not actually spent on charitable programs. However, in the year the charity in fact uses the funds, that expense will not reduce the charity's disbursement quota.

If a charity does not spend the full accumulated amount before the end of the agreed time-period, provisions in the Act have the effect of forcing the charity to spend the remaining money on its charitable programs within the following year.

### Spending too much

A disbursement excess is created when a charity spends more on charitable activities or by way of gifts to qualified donees than it is required to by its disbursement quota for that year. A charity can apply a disbursement excess from one year against a disbursement shortfall occurring in the immediately preceding fiscal period. If necessary, a charity can also draw on a disbursement excess for up to five of its following fiscal periods to help it meet its disbursement quota.

### Spending too little

If a charity spends less on charitable activities or by way of gifts to qualified donees than its disbursement quota for that year, it has a disbursement shortfall. A charity can draw on previous years' disbursement excesses to cover a shortfall. If no excesses are available to draw on, the charity can try to spend enough the following year to create an excess that will make up for the shortfall. **Please note that continuous shortfalls can lead to revocation of the charity's registration.**

### Permission to reduce disbursement quota

A charity can apply to reduce its disbursement quota for a particular year by completing Form T2094, *Registered Charities: Application to Reduce Disbursement Quota*.

We will approve such a request only in exceptional circumstances. The circumstances should be specific, unforeseen and outside the charity's control. We will not approve this request if the charity can meet its disbursement quota for the current filing period by applying disbursement excesses from previous years.

## Revocation of a charity's registration

### Revocation procedures

Where we have grounds to propose revoking a charity's registration, the charity will be given an opportunity to respond to our concerns before we make a final decision.

Where we have issued a notice of proposed revocation to a charity for not filing the required annual Form T3010, *Registered Charity Information Return*, the charity will have 30 days to file the missing return.

A registered charity can also apply in writing to have its registration revoked, for example, when it is winding up its operations ("voluntary revocation").

Revocation takes effect when we publish a notice, naming the charity, in the *Canada Gazette*. Such publication occurs:

- immediately after we mail the notice of proposed revocation to a charity that requested revocation (voluntary revocation); or
- in any other case, not earlier than 30 days after we mail the notice of proposed revocation.

A charity can appeal the notice of proposed revocation of registration to the Federal Court of Appeal. It must file its appeal within 30 days from the date we issued this notice.

### Consequences of revocation

On revocation of a charity's registration:

- the charity is no longer exempt from tax, unless it qualifies as a non-profit organization;
- it cannot issue official donation receipts; and
- it may be subject to a tax equivalent to the full value of its remaining assets (revocation tax).

### Other penalties

#### Revocation tax

When a charity's registration is revoked, it may have to pay a tax on or before the day ("payment day") that is one year after the date its revocation takes effect. The amount of this tax is equal to the fair market value of the charity's assets as they were 120 days ("valuation day") before we mailed the notice of proposed revocation **plus** the amount of receipted donations and gifts from other charities it received after the valuation day, **less**:

- (1) all amounts it transfers to a qualified donee between the valuation day and the payment day ("the winding-up period");

- (2) all amounts it spends on charitable activities in the winding-up period;
- (3) all amounts it spends on reasonable expenses in the winding-up period; and
- (4) all amounts it spends in the winding-up period on any debts outstanding on the valuation day.

On or before the payment day, the charity must file Form T2046, *Tax Return Where Registration of a Charity is Revoked*, whether or not any tax is payable.

An individual, corporation, or other person (other than a qualified donee) can be jointly and individually subject to the revocation tax with a charity on funds or assets such person received from the charity after its valuation day. However, this tax does not apply to amounts received by such a person from the charity that were not:

- amounts made in respect of payments in (1), (2), (3), or (4) above; or
- amounts for which the person gave consideration or benefit to the charity in return for the funds and assets.

### Tax on non-qualified investments

A non-qualified investment is a debt, share, or a right to acquire a share held by a private foundation that is issued by persons not dealing at arm's length with that foundation. If a non-qualified investment does not yield a minimum rate of return, the issuer or borrower is liable for a tax equal to the amount of the shortfall. The tax payable can be calculated by completing Form T2140, *Part V Tax Return – Tax on Non-Qualified Investments of a Registered Charity*.

### Tax on transfer of property

A charitable foundation is subject to a special 25% tax on property it transfers when:

- the foundation transfers property that has a net value of more than 50% of its assets to one or more charitable organizations in one or more transactions; **and**
- it could reasonably be considered that the main purpose of the transfer is to reduce the foundation's disbursement quota.

A charitable organization shares a tax liability with a charitable foundation where the organization co-operated with the foundation in attempting to reduce the foundation's disbursement quota. The tax the organization is subject to will not exceed the net value of the property that it received from the foundation.

### Tax in respect of disposition of certain properties

A charity that disposes of a gift of cultural property within five years of receiving it, to an institution or public authority that is not designated under the *Cultural Property Export and Import Act*, either generally or for a specified purpose related to that object, is liable to pay a tax equal to 30% of the fair market value of the object. The five-year minimum retention period during which cultural property

must be held is increased to 10 years for disposition of cultural property made after February 23, 1998.

Similarly, if a charity that disposes or changes the use of a property described in paragraph 110.1(1)(d) of the *Income Tax Act*, or in the definition “total ecological gifts” in subsection 118.1(1) of the Act, without the authorization of the Minister of the Environment, is liable to pay a tax equal to 50% of the fair market value of the property at the time of the disposition or change.

The tax payable can be calculated by completing Form T913, *Part XI.2 Tax Return – Tax for the Disposition of Certain Properties*.

## How does a revoked charity apply for re-registration?

If a charity’s registration is revoked, it can apply for re-registration if it meets all the current registration requirements.

To apply for re-registration, the organization should submit a completed Form T2050, *Application to Register a Charity Under the Income Tax Act*, together with all the documents and information requested on the form. For more information, see the guide T4063, *Registering a Charity for Income Tax Purposes*.

## Audits of registered charities

Each year, we audit a number of registered charities to ensure that they are complying with the requirements of the *Income Tax Act*. The following methods are those most frequently used to select a registered charity for audit:

- random selection;
- to review compliance with specific legal obligations under the Act;
- to follow-up on possible non-compliance or complaints; and
- to confirm that assets have been distributed after revocation of registered status.

If the charity is selected for audit, we will contact the organization’s representative in advance to arrange a mutually convenient date to begin the audit. Once the audit is completed and reviewed, we will formally advise the charity of the audit results. For more information, see the brochure T4118, *Auditing Charities*.

## Are registered charities subject to other federal and provincial requirements?

### Goods and Services Tax (GST)/ Harmonized Sales Tax (HST)

Registering for GST/HST is not the same as registering as a charity for income tax purposes. For example, a registered charity will be either a “charity” or a “public institution” for the purposes of GST/HST. There are simplified rules for charities under GST/HST that do not apply to public institutions, such as universities, hospitals, or school authorities. If you have questions about the rules that apply to the organization, please contact your tax services office or your local ministère du Revenu du Québec office, if you are located in Quebec.

The following explanation applies to all registered charities.

An organization does not have to register for GST/HST if it is in its first fiscal year.

In addition, an organization will not have to register for GST/HST if its gross revenue (revenue from all sources) was \$250,000 or less in either of its two previous years. If the organization’s gross revenue exceeds \$250,000, it will only be required to register if its sales of taxable goods and services are greater than \$50,000 in the current fiscal quarter, or over the four previous fiscal quarters. Sales of capital property are not included in this total.

If the organization provides taxable goods and services, it can register voluntarily for GST/HST, even if its total taxable sales are below the \$50,000 and \$250,000 limits explained above.

Most goods and services provided in Canada are taxable at a rate of 7%, or 15% in the harmonized provinces. GST/HST registrants must charge and remit this tax on their taxable sales. In turn, they can claim input tax credits for GST/HST they pay on purchases used to provide their taxable goods and services.

Some items, such as wheelchairs and other medical devices, are zero-rated (taxable at 0%). The organization will not pay GST/HST when it buys zero-rated goods or services. Also, it will not charge GST/HST when it provides zero-rated goods or services to its clients. However, if the organization is registered for GST/HST, it can claim an input tax credit for any GST/HST paid on purchases used to provide zero-rated goods and services.

Many goods and services provided by registered charities are exempt. This means no GST/HST is charged. An organization cannot claim input tax credits for any GST/HST paid on purchases used to provide exempt goods and services. However, it may claim a partial rebate for the tax it pays that cannot be claimed as an input tax credit. An organization does not have to register for GST/HST to claim this rebate.

For more information, see the guide RC4082E, *GST/HST Information for Charities*.

## Other federal and provincial requirements

A registered charity can also be subject to federal or provincial legislation other than the *Income Tax Act* and *Excise Tax Act*, that relates to its operations, organizational structure, or property.

For example, if a charity is federally or provincially incorporated, it must meet certain requirements under the incorporating law. These could include the filing of reports or annual returns with the appropriate incorporating authority and other requirements relating to the charity's organizational structure or its buildings or land. For more information, you can contact the government department that issued the charity's certificate of incorporation, letters patent, memorandum of association, or other incorporating document.

As well, depending on where a charity is located, there may be provincial or municipal standards for organizations such as nursing homes, hospitals, school boards, housing projects, and day-care centres. There may also be provincial laws or municipal by-laws that require a charity to apply for licenses in connection with various aspects of its activities such as fund-raising.

To find out how a charity might be affected by legislation other than the *Income Tax Act*, contact the appropriate government authority.

If the charity intends to operate in the province of Quebec or intends to issue receipts to residents of Quebec for Quebec provincial income tax purposes, the charity must also be formally registered with the ministère du Revenu du Québec. For more information, please contact the ministère at (418) 659-6500.

## Registered national arts service organizations

The *Income Tax Act* defines a registered national arts service organization as one which:

- the Department of Canadian Heritage has designated as a national arts service organization;
- has, as its only purpose and function, the promotion of arts in Canada on a nation-wide basis;
- resides in Canada and was formed or created in Canada; **and**
- we have registered as a national arts service organization.

Registered national arts service organizations are subject to the same requirements and benefits as charitable organizations under the Act. Therefore, the information in this guide about the requirements for a charitable organization also applies to registered national arts service organizations. Privileges include the ability to issue official donation receipts for income tax purposes and exemption from paying income tax. Obligations include the filing of an annual return and satisfying the disbursement quota.





## Order form

Please check (✓) the boxes for the publications you need. Print your name and address in the space provided below, then send the order form to the Charities Division or a tax services office.

Name \_\_\_\_\_

Address \_\_\_\_\_

City and province \_\_\_\_\_ Postal code \_\_\_\_\_

### Information Circulars

- 75-23 *Tuition Fees and Charitable Donations Paid to Privately Supported Secular and Religious Schools*
- 77-6 *Registered Charities: Designation as Associated Charities*
- 78-10 *Books and Records Retention/Destruction*
- 84-3 *Gifts in Right of Canada*
- 87-1 *Registered Charities-Ancillary and Incidental Political Activities*

### Interpretation Bulletins

- IT-110 *Gifts and Official Donation Receipts*
- IT-111 *Annuities Purchased From Charitable Organizations*
- IT-226 *Gifts to a Charity of a Residual Interest in Real Property or an Equitable Interest in a Trust*
- IT-244 *Gifts by Individuals of Life Insurance Policies as Charitable Donations*
- IT-288 *Gifts of Capital Properties to a Charity and Others*
- IT-297 *Gifts in Kind to Charity and Others*
- IT-419 *Meaning of Arm's Length*
- IT-496 *Non-Profit Organizations*
- IT-504 *Visual Artists and Writers*

### Other Publications

- P113 *Gifts and Income Tax*
- RC4142 *Tax Advantages of Donating to Charity*
- T4063 *Registering a Charity for Income Tax Purposes*
- T4118 *Auditing Charities*

### Forms

- T913 *Part XI.2 Tax Return – Tax for the Disposition of Certain Properties*
- T2046 *Tax Return Where Registration of a Charity is Revoked*
- T2050 *Application to Register a Charity Under the Income Tax Act*
- T2094 *Registered Charities: Application to Reduce Disbursement Quota*
- T2095 *Registered Charities: Application for Re-Designation*
- T2140 *Part V Tax Return – Tax on Non-Qualified Investments of a Registered Charity*
- T3010 *Registered Charity Information Return*
- T3011 *Registered Charities: Application for Designation as Associated Charities*

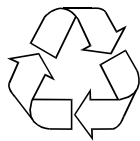
### New Publications

- RC4106 *Registered Charities: Operating Outside Canada*
- RC4107 *Registered Charities: Education, Advocacy, and Political Activities*
- RC4143 *Registered Charities: Community Economic Development Programs*





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