
ASSOCIATION OF FUNDRAISING PROFESSIONALS
Fundraising Day

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What's New at Canada Revenue Agency?
(Current as of May 25, 2009)

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2. 2008 Federal Budget

- The February 26, 2008 Federal Budget proposed a number of measures that will impact registered charities
- Bill C-50, an act to implement certain provisions of the 2008 Budget, received Royal Assent on June 18, 2008, and includes some, but not all of the 2008 Budget's provisions dealing with charities
- Bill C-10 that received Royal Assent on March 12, 2009 included provisions from the 2008 Budget dealing with changes to excess business holding rules affecting private foundations

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Included in Bill C-50 (June 18, 2008)

- Provisions to extend the capital gains tax exemption to donations of unlisted securities that are exchanged for publicly traded securities before being gifted to a registered charity on or after February 26, 2008, within 30 days of the exchange

Included in Bill C-10 (March 12, 2009)

- The 2008 Budget's measures to amend the excess business holding rules that were enacted in December 2007, by:
 - Exempting certain unlisted shares that were held on March 18, 2007 from the divestiture requirements, subject to certain exceptions

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- New rules with respect to shares held on March 18, 2007 by “non arm’s-length” trusts
- Extending anti-avoidance provisions to address certain inappropriate uses of trusts
- Introducing concept of “substituted shares”
 - “Substituted shares” are shares acquired in a corporate reorganization in exchange for other shares
 - “Substituted shares” will be treated the same as the shares for which they were exchanged for purposes of applying the exemption from the excess business holding rules
- See CBL #135 “Federal Budget 2008 Highlights for Charities at <http://www.carters.ca/pub/bulletin/charity/2008/chv1b135.pdf>

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3. 2009 Federal Budget

- On January 27, 2009, the federal government released its annual budget
- Bill C-10 was introduced on January 27, 2009, to implement the proposed changes contained in the 2009 federal budget
- Bill C-10 received Royal Assent on March 12, 2009
- In the lead up to the Budget, Imagine Canada submitted a brief on behalf of the charitable sector to Finance (“the Brief”)

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- The Brief put forward the following three key stimulative measures to assist Canada’s vulnerable populations and the charitable and non-profit sector that supports them:
 - i. Maintain direct funding through federal grants and contributions agreements
 - ii. Earmark federal infrastructure funding for community and social services, arts and culture, sports and recreation and green retrofit initiatives
 - iii. Provide a time-limited enhanced tax credit measure to stimulate giving

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- The sector expressed disappointment that, while the Budget provided for various grants, contributions, and earmarks that will benefit charities and non-profits, it did not establish any new tax incentives that might stimulate giving
- Also contained in Bill C-10 were the changes to the excess business holdings rules affecting private foundations that were contained in the 2008 federal budget (see above at slide 5)

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4. CRA Rulings on Flow-through Shares

- CRA released a number of advance income tax rulings approving the donation of flow-through shares (February 6, 2008 ruling (2007-0242361R3), May 14, 2008 ruling (2007-0232271R3), and July 23, 2008 (2008-0281941R3 and 2008-0269281R3))
- However, there is need for caution in valuing flow-through shares for receipting purposes and many of these structures are no longer available as a result of the market collapse

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5. Supreme Court of Canada Decision on CRA's Access to Donor Information

- The SCC released its judgment on July 31, 2008 in *Redeemer Foundation v. Canada (Minister of National Revenue)*, upholding the Federal Court of Appeal's decision
- The appellant Foundation, a registered charity, operated a forgivable loan program that financed the education of students at an affiliated college
- CRA requested donor information, which the Foundation ultimately refused to provide

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- The SCC held that CRA was not required to obtain prior judicial authorization for the requested donor information, as the Minister was entitled to it under paragraph 230(2)(a) and subsection 231(1) of the ITA, which set out book and record keeping requirements for inspection, audit, and examination purposes
- As well, the information was requested for a legitimate purpose, which was to investigate the validity of the charity's loan program
- The lesson to be learned from this decision is that donors need to be made aware that their identity can be sought on demand by CRA from a charity at any time

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6. Donating the Temporary Use of a Cottage is not a Gift

- In a technical interpretation dated November 12, 2008, CRA confirmed its position that the gratuitous loan of property, including money or a cottage, is not a gift for purposes of sections 110.1 and 118.1 of the ITA since a loan does not constitute a transfer of property
- However, it is possible for a charity to pay rent or interest on a loan of property and later accept the return of all or a portion of the payment as a gift, provided the return of the funds is voluntary

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7. Split-receipting for Cemetery Plots

- CRA issued technical interpretation dated November 24, 2008, which deals with the issuance of charitable donation receipts in a situation where a member-donor is entitled to pay less for a cemetery plot than a non-member
- CRA stated that in applying the proposed split-receipting amendments, the “eligible amount” of the gift will be reduced by the value of the “advantage” provided to the members, which would include the right to purchase a cemetery plot at a discount

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8. Taxpayer Jailed for Providing False Donation Tax Receipts

- In December 2008, Ambrose Danso Dapaah was sentenced to 51 months in jail after pleading guilty of fraud related to providing false donation tax receipts
- CRA’s news release indicated that Dapaah helped his clients claim over \$21 million in false charitable donations, which resulted in approximately \$6 million in non-refundable tax credits

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- He accomplished this by providing fictitious or overstated charitable donations receipts from several charities, including one of which he was the president, CanAfrica International Foundation (“CIF”)
- CRA noted that individuals who have not filed returns for previous years or have not reported all of their income because of such donation receipts can still voluntarily correct their tax affairs

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9. Federal Court of Appeal Decides Operating a Hostel is Not Charitable

- In a December 2008 decision, the Federal Court of Appeal upheld the Minister of National Revenue’s (the “Minister”) decision to revoke the charitable status of Hostelling International Canada – Ontario East Region
- The organization had been registered as a charity since 1973 for the purpose of promoting education by providing affordable accommodation to youth in order to encourage them to have a greater knowledge and appreciation of the world

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- As a result of a CRA audit of the organization, the Minister issued a notice of intention to revoke the charitable status of the organization in 2006, which was confirmed by the Minister in January 2008 after reviewing the organization’s objection
- The Minister took the position that operating a hostel is an unrelated business activity, and as such the organization failed to devote all of its resources to charitable activities
- In upholding the Minister’s decision, the Court rejected the hostel’s argument that facilitating travel by providing low-cost accommodation is a charitable activity that promotes the advancement of education

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- The Court held that simply providing an opportunity for people to educate themselves by making available tourist accommodation is not sufficient for the activity to be charitable
- Although the organization argued that the Minister should have annulled its charitable status, instead of revoking it, the Court noted that the power of the Minister to annul the charitable status of an organization is a discretionary one and it was open for the Minister to proceed with a revocation in this case

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10. Gifts of Marketable Securities – Enduring Property?

- In a technical interpretation dated January 15, 2009, CRA considered whether the donation of marketable securities to a charity may be characterized as a gift of enduring property and, if so, would the charity be prevented from disposing of the marketable securities and maintaining the substitute property as enduring property
- CRA confirmed that gifts of marketable securities will qualify as enduring property if the donor provides written direction at the time of the donation that the securities are to be held by the charity for ten years or longer

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11. Gift of Capital Property by Will

- In a technical interpretation dated February 4, 2009, regarding gifts of capital property by will, CRA confirmed that proposed subsections 118.1(5.4) and (6) contained in Bill C-10 will override the application of paragraph 70(5)(a) of the ITA
- As such, where a Canadian resident dies making a bequest of a capital property by his will to a registered charity and the FMV of the capital property immediately before the individual's death exceeds its ACB, the legal representative can designate an amount between the FMV and ACB which will be deemed to be the individual's disposition of property

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12. Directed Gift to Municipality

- In a technical interpretation dated March 16, 2009, CRA indicated that donations can be received by a municipality in Canada on behalf of an organization which operates under the authority of the municipality (e.g., a committee established by a municipal bylaw) provided the municipality retains discretion as to how the donated funds are to be spent
- However, if the municipality is merely collecting funds from donors on behalf of the non-profit organization and the latter is legally or otherwise entitled to the property so transferred, the municipality is not in receipt of a gift and cannot issue a donation receipt

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C. NEW POLICIES, PUBLICATIONS AND GUIDELINES FROM CRA

1. CRA Proposed Policy on Fundraising by Registered Charities
 - a) Introduction
 - On March 31, 2008, CRA released its proposed policy on fundraising
 - On June 26, 2008, CRA released a 30-page background information document explaining the proposed policy
 - Final form of policy expected at end of May, 2009

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- The policy was developed in response to a growing demand for the media and the general public for more accountability from charities on their fundraising activities
- The policy provides information on the current treatment of fundraising under the ITA and under common law provides guidance on:
 - Distinguishing between fundraising and other expenditures
 - Allocating expenditures for the purpose of reporting them on the T3010
 - Dealing with activities that have more than one purpose
 - Understanding how CRA assesses what is acceptable fundraising activity, what may preclude registration or what may result in a sanction, penalty or revocation

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- CRA has advised that the policy, once released, does not represent a new policy position of CRA but simply a confirmation of their existing policy
- As such, the policy will have impact on current audits, not just future audits
- The policy is intended to provide general guidelines only
- The policy applies to all registered charities
- Applies to both receipted and non receipted fundraising
- Charities must still meet other obligations, such as disbursement quota
- The policy is based on principles established by caselaw that fundraising must be a means-to-an-end, rather than an end-in-itself

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- b) Fundraising and Charitable Purposes**
- All registered charities are required by law to have exclusively charitable purposes
 - The ITA does not define what is charitable
 - Courts have determined that fundraising is not charitable in-and-of-itself
 - Therefore, direct fundraising costs generally cannot be reported as charitable expenditures
 - Fundraising activities which are appended to activities primarily directed at achieving a charitable purpose can be allocated between charitable and fundraising for purposes of reporting

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- c) What is Fundraising**
- As a general rule, fundraising is any activity that:
 - Includes a solicitation of support for cash or in-kind donations (solicitations of support include sales of goods or services to raise funds)
 - Is part of the research and planning for future solicitations of support; or
 - Is related to solicitation of support (efforts to raise the profile of a charity, donor stewardship, donor recognition, etc.)
 - Fundraising includes activities carried out by the registered charity, or someone acting on its behalf

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d) Prohibited Conduct

- **Two prohibited fundraising activities not dealt with in this policy**
 - To fundraise as an unrelated business
 - To fundraise, or otherwise make its resources available, to support terrorism
- **The following prohibited conduct related to fundraising activities are the principal grounds for revocation of a registered charity’s status, imposition of sanctions or other compliance actions, or for denial of charitable registration**

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- i. Conduct that is illegal or contrary to public policy**
- ii. Conduct that is a main, or independent purpose of the charity**
- iii. Conduct that results in more than an incidental or proportionate private benefit to individuals or corporations**
- iv. Conduct that is deceptive**

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e) Allocation of Fundraising Expenses

- **In general, charities are to report on their T3010A return (as well as the new T3010B for year ends after January 1, 2009) as fundraising expenditures all costs related to any activity that includes a solicitation of support or is undertaken as part of the planning and preparation for future solicitations of support, unless it can be demonstrated that the activity would have been undertaken without the solicitation of support**
- **Does not include asking for funding from governments**

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- A fundraising activity can be
 - A single action (e.g. an advertisement published in a newspaper) or a series of related actions (e.g. a capital campaign)
 - An external activity (e.g. telemarketing, direct mail, putting on events, distributing information through the media or a charity's own publications) or an internal activity (e.g. prospect research or hiring fundraisers)
 - An internal activity, such as hiring fundraisers, and fundraising activities carried out by staff or volunteers

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- A "solicitation of support" is any statement or representation made for the purpose of seeking a voluntary donation, regardless of whether or not a donation receipt is issued – includes:
 - Costs associated with acknowledgement or thanking donors, unless the value and cost of the recognition is nominal and its purpose is merely to acknowledge the gift
 - Costs associated with stewardship initiatives - i.e. when a charity invests resources in relationships with past donors in the expectation or hope that they will make additional gifts - e.g. where a donor receives access to information, services, or privileges not generally available to the public

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- Research and planning for future solicitations of support
- Goods and services to prompt or reward a donation
- Sale of goods and services other than to serve the charity's beneficiaries and is not fulfilling its objects
- A membership program for people to join as a member upon making a donation, or where there is extensive use of donation incentives or premiums to promote joining as a member

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- In order to demonstrate that an activity would have been undertaken without the solicitation of support, a charity must demonstrate that it meets either Test A (the “Substantially All Test”) or Test B (the “Four Part Test”)
- Test A: Substantially All Test – where substantially all of the resources are devoted to the activity to advance an objective other than fundraising

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- Test A (Substantially All Test)
 - “Substantially all” is considered 90% or more
 - “Resources” includes the total of a charity’s financial assets and everything the charity can use to further its purposes (e.g. its staff, volunteers, directors, premises, and equipment)
 - Amount of resources devoted to an activity is determined by the content, prominence given to the material, and costs associated with carrying out the activity

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- Test B: Four Part Test – where the answers to all of the following questions is “no”
 - i. Was the main objective of the activity fundraising?
 - ii. Did the activity include ongoing or repeated requests, emotive requests, gift incentives, donor premiums, or other fundraising merchandise?
 - iii. Was the audience for the activity selected because of their ability to give? and
 - iv. Was commission-based remuneration or compensation derived from the number or amount of donations used?

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- **Test B (Four Part Test)**
 - The background document provides extensive explanation on each part of the **Four Part Test**
 - Specifically, **Part 1 of the Four Part Test** involves two assessment criteria, with the second criteria in turn involving four further criteria
 - As well, **Part 2 of the Four Part Test** involves three aspects of an activity
 - As such, the **Four Part Test** can be very challenging to work through

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- **Where Test A (Substantially All Test) is met, all costs for the activity may be allocated as non-fundraising expenditures on the T3010 return**
- **Where Test B (Four Part Test) is met, a portion of the costs for the activity may be allocated on the T3010 return as non-fundraising expenditures and a portion as fundraising expenditures**
- **Evaluation of fundraising activities**
 - Fundraising revenues include amounts reported in T3010 on line 4500 (receipted income) and line 4630 (all other income from fundraising)

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- Fundraising expenditures include amounts reported on line 5020 as fundraising expenses
- “Resources” are not defined in the *Income Tax Act*
- CRA considers “resources” to include all financial assets plus all other assets which can be used to further the charity’s purposes
- e.g. staff, volunteers, directors, premises, equipment, supplies

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- Where input costs related to each objective will be discrete (e.g. different staff persons within a charity prepare different parts of a publication), these costs can be reported as separate costs in accordance with how they are allocated by the charity in its bookkeeping
- Where costs will not be discrete (e.g. the costs of printing or mailing are for all the materials regardless of its objective), these costs should be allocated in proportion to the amount of content devoted to each objective

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f) Fundraising Ratio and Approach of CRA

- Fundraising ratio is used as an “initial tool” based upon a ratio of fundraising costs to fundraising revenue on an annual basis (not based on the 80/20 disbursement quota)
- The ratio will place a charity in one of three categories
 - Under 35%: Unlikely to generate questions or concerns by CRA
 - 35% and above: The higher the ratio, the more likely there will be concerns
 - Above 70%: This level will raise concerns and is rarely acceptable. The charity must be able to provide an explanation and rationale to show that it is in compliance

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- CRA assessment of a charity’s fundraising will take into consideration the following factors:
 - The size of the charity which may have an impact on fundraising efficiency
 - Causes with limited appeal which could create particular fundraising challenges
 - Donor acquisition and planned giving campaigns which could result in situations where the financial returns are only realized in later years

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g) Factors in Evaluating Fundraising Activity

- The policy indicates that the fundraising ratio is only an initial tool in assessing the acceptability of a charity's fundraising and CRA will examine the charity's fundraising conduct before concluding whether a charity's fundraising is or is not acceptable
- Factors include
 - Best practice conduct that decreases the risk of CRA finding that there is unacceptable fundraising
 - Conduct or indicator that increases the risk of CRA finding that there is unacceptable fundraising

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- Conduct considered as decreasing the risk of CRA finding that there is unacceptable fundraising
 - Prudent planning processes
 - Appropriate procurement processes
 - Good staffing processes
 - Ongoing management and supervision of fundraising practice
 - Adequate evaluation processes
 - Use made of volunteer time and volunteered services or resources
 - Disclosure of fundraising costs, revenues and practice (including cause-related or social marketing arrangements)

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- Conduct or indicators that could cause CRA to further review a charity's fundraising activities
 - Sole-sourced fundraising contracts without proof of fair market value
 - Non-arm's length fundraising contracts without proof of fair market value
 - Fundraising initiatives or arrangements that are not well-documented
 - Fundraising merchandise purchases that are not at arms length, not at fair market value, or not purchased to increase fundraising revenue

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- Activities where most of the gross revenues go to contracted non-charitable parties
- Commission-based fundraiser remuneration or payment of fundraisers based on amount or number of donations
- Total resources devoted to fundraising exceeding total resources devoted to program activities
- Misrepresentations in fundraising solicitations or disclosures about fundraising or financial performance
- Each of the above types of conduct or indicators is explained in detail in the background document

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- h) Commentary**
- Many of the requirements, determinative factors and criteria contained in the policy and background document are open to subjective interpretation and accordingly, there may be inconsistencies in the administration of the policy and audit of charities
 - The evaluation ratio is based on fundraising costs and revenue on an annual basis, but does not take into account the fact that the nature of fundraising activities of charities varies widely, depending on their objects, structure and resources, etc. – perhaps a rolling average approach would be more appropriate

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- The policy and background document are complicated and may be difficult for registered charities to understand and comply with
- The evaluation ratio used is different from the disbursement quota under the ITA – the proposed policy should explain how the elements in the ratio relate to the calculation of disbursement quota
- Greater focus will be required on disclosure of fundraising costs, revenues and practices
- Total resources devoted to fundraising should not exceed total resources devoted to programs activities

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2. New Annual Information Return

- In February 2009, CRA released the new Registered Charity Information Return package, which includes the following Forms:
 - T3010B (09), Registered Charity Information Return
 - T1235 (09), Directors/Trustees and Like Officials Worksheet
 - T1236 (09), Qualified Donees Worksheet/Amounts Provided to Other Organizations
- New T3010B is to be used when filing annual information returns for fiscal periods ending on or after January 1, 2009, only

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- For fiscal periods ending on or before December 31, 2008, registered charities must continue to use Form T3010A (05), with accompanying Forms T1235 and T1236
- The new T3010B is now comprised of a simple core form with topic-related schedules
- Concerns about new T3010B
 - Confidential disclosure to CRA of non-resident donors of donations over \$10,000
 - Public disclosure of intermediaries outside of Canada
- See CBL #158 “Commentary on the New T3010B Annual Information Return” at <http://www.carters.ca/pub/bulletin/charity/2009/chylb158.pdf>

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3. CRA Revocations/Annulments Regarding Involving Tax Shelters

- Through its various news releases, CRA has been sending a strong reminder to registered charities that it is reviewing all tax shelter-related donation arrangements and that it plans to audit every participating charity, promoter, and investor
- The following are some organizations that had their registered status revoked due in part to their participation in a donation tax shelter:

– Francis Jude Wilson Foundation	– The Phoenix Community Works Foundation
– Canadian Amateur Football Association	– Choson Kallah Fund of Toronto
– ICAN	– Universal Aide Society
– The Banyan Tree Foundation	– The Children’s Emergency Foundation
– Millennium Charity Foundation	

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4. CRA News Release on Enforcing Legal Compliance of Taxpayers

- On April 3, 2009, CRA a news release “The CRA takes action to enforce tax laws,” which summarizes the activities that CRA conducts to ensure that taxpayers (both individuals and corporations) are complying with tax laws. These measures are intended to address “tax cheating” and correct honest mistakes
- In relation to donations, the news release indicates that CRA reassessed over 20,000 individuals who had participated in one or more of 20 unacceptable tax shelter gifting arrangements

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5. CRA Releases Policy Commentary on Requests for Disbursement Quota Relief

- On April 6, 2009, the CRA released a Policy Commentary to clarify the procedure for applications for disbursement quota relief
- A charity may apply for relief from its disbursement quota requirements. If granted, the relief would be applicable to the particular tax year only
- The following are the relevant considerations mentioned in the policy commentary applicable to applying for relief from disbursement quota requirements:

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- A charity may apply a disbursement excess from one year to offset shortfalls in its disbursement
- The excess may be applied in the year before the year of the shortfall and in the five years immediately following
- The charity must use all disbursement excesses from previous years before relief will be granted
- The charity must be unable to meet the disbursement quota due to unforeseen circumstances that are beyond the charity’s control

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- The charity must demonstrate that it is incapable of making up any part of the disbursement shortfall in the following tax year
- Therefore, all of the charity's information returns must be filed before any requests are considered, and relief will not be granted in advance or anticipation of a shortfall

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6. CRA News Release on Auditing Charities to Enforce Compliance

- On April 14, 2009, CRA issued a news release entitled "Protecting the money given to charity," which summarizes the activities CRA conducts to ensure that charities are complying with tax laws
- Last year, CRA audited 845 charities, of which the charitable status of 38 charities were revoked for serious infractions of the law, while many others were revoked because of their failure to file the annual information return

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- The news release explains that a charity's charitable status might be revoked if the audit identifies serious instances of non-compliance, which include:
 - Having significant non-charitable activity
 - Directing private benefits towards directors and/or related persons
 - Issuing tax receipts in excess of actual gifts received or directing them to specific persons
 - Failing to spend sufficient amounts on charitable activities;
 - Having gaps in or non-existent books and records
 - Not exercising control and/or direction over the expenditure of funds

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7. Checklist on Avoiding Terrorist Abuse

- On April 16, 2009, CRA released the Checklist on Avoiding Terrorist Abuse intended to help registered charities focus on areas that might expose them to the risk of being abused by terrorists or other criminals
- The House of Commons Subcommittee on the Review of the *Anti-Terrorism Act* recommended that CRA consult with the charitable sector to develop “made in Canada” best practice guidelines that incorporate general policies and checklists that could be administered by applicants and registered charities in carrying out their due diligence assessments

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- The checklist is comprised of a number of questions to ask and provide a number of links to websites and international guidelines for more information
- Concerns about the usefulness of the checklist:
 - Not sufficient context for charities
 - Potential undue sense of simplicity
 - Continued delegation to foreign governments & quasi-governmental bodies
 - Excessive nature of recommendations
- See ATCLA #17 “CRA’s New Anti-Terrorism Checklist – A Step in the Right Direction” at <http://www.carters.ca/pub/alert/ATCLA/ATCLA17.pdf>

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8. CRA Releases Q&A on the Treatment of Enduring Property and Disbursement Quota

- On April 22, 2009, the CRA released a Q&A to answer questions regarding a charity’s ability to encroach on the capital of its endowment fund in order to meet its disbursement quota
- The Q&A provides clarification on a number of issues in this regard, such as the circumstances under which a charity may encroach on its enduring property, how ten-year gifts are required to be tracked, and the impact on the charity’s disbursement quota if it encroaches on its enduring property

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9. CRA Releases Guidelines for Sports and Charitable Registration

- On April 30, 2009, CRA released the final form of guidelines on sports to clarify the ways in which organizations carrying out activities that include sport can potentially qualify for charitable registration
- Although the promotion of sport is not recognized as charitable, there are circumstances in which sports activities can be used to further a charitable purpose

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• For an organization to be registered, the sport activities an organization pursues should:

- Relate to and support its wholly charitable purpose(s) and be a reasonable way to achieve them, such as:
 - Promotion of health
 - Advancement of education
 - Advancement of religion
 - Relieving conditions associated with disabilities
- Be incidental in nature

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- Whether or not a sports activity will be acceptable will depend on the facts of each case and the charitable purpose to be achieved
- See CBL #143 “Sports and Charitable Registration” at <http://www.carters.ca/pub/bulletin/charity/2008/chv1b143.pdf>

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10. CRA Proposed Guidance on the Protection of Human Rights and Charitable Registration

- On May 8, 2009, CRA released a draft guidance, for consultation, regarding human rights charities
- CRA will accept comments regarding the draft guidance until July 31, 2009
- The guidance will be used to determine if an organization established to protect human rights can be registered as a charity

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- According to the guidance, “protecting human rights” refers to activities that seek to encourage, support, and uphold human rights that have been secured by law, internationally or domestically, such as the Canadian *Charter of Rights and Freedoms*, or U.N. Conventions. It does not include advocating for the establishment of new legal rights
- The guidance indicates that CRA recognizes that the protection of human rights can further all four heads of charity

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- Human rights charities often work outside existing legal and political structures and must ensure that their purposes are not political in nature, which is not charitable
- For example, an acceptable purpose would be to investigate and report violations of specified human rights instruments
- On the other hand, an unacceptable purpose would be to focus on one particular country, and pressure its legislature or government to sign an international human rights convention

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11. Pending CRA Guidance on Advancement of Religion as a Charitable Purpose (Taken from a slide presentation by Terry de March of CRA) on April 29, 2009

a) Definition of Religion

- No precise definition of religion in the case law
- Case law does, however, identify three key attributes of religion:
 - Faith in a “higher unseen power”, such as God, a Supreme Being or Entity, that exists outside our bodies and lives

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- Worship
- Comprehensive or particular system of doctrines, observances and practices

b) Advancement of Religion

- Advancement involves promoting and manifesting doctrines, observances, and practices
- It involves both sustaining and increasing religious belief
- Advancement is not limited to faith and worship but may be done in a wide variety of ways that further a religious purpose

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- A religion must be advanced and as such the key attributes of religion must to some degree be manifest in the organization
- Advancing religion may be done through separate organizations
- Advancing religion may focus on one or two tenets of religion
- Ulterior aim concerns
- Collateral purpose concerns

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c) Public Benefit

- **Two components:**
 - i. Identifiable benefit; and**
 - ii. Benefit to the public or section of the public**
- **Advancement of religion is a presumed benefit unless evidence rebuts the presumption**
- **Some reasons for the presumption**
 - Religion provides a moral framework for living
 - Builds social capital and cohesion

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- Provides rites of passage, services to needy and vulnerable
- Encourages service to others
- **Examples where benefit may be rebutted**
 - Significant private benefit
 - Evidence that organization incited hatred or violence against other groups
 - Evidence of actual physical or mental harm to adherents

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- **Simple disagreement with or unpopularity of a religion's beliefs or practices would not be enough to rebut the presumption of public benefit**
- **Celebration of a religious rite in public confers sufficient public benefit**
- **Where access is restricted to members, indirect benefit flows from adherents practicing their religion in the wider world**
- **Religious orders can provide criteria for membership**
- **Fees for services should not restrict access**

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d) Private Benefit

- Private benefit is acceptable only if it arises directly through pursuit of the charitable purpose, is incidental to the pursuit of that purpose, and is reasonable in the circumstances
- Does not include benefits people receive as adherents (e.g. worship services, incidental social activities)

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- Understood that salaries need to be paid
- Questionable benefits: generous salaries, luxurious living expenses, travel, self promotion of leader
- However, needs of retired religious leaders or members of religious orders is a charitable purpose

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12. Pending CRA Guidance on Foreign Activities

- A proposed new CRA guidance on foreign activities is expected to be posted on the CRA website in late May or early June, 2009
- It is expected that the guidance will consolidate and better organize CRA's existing guidance position on foreign activities from various CRA sources into one document
- However, it is not expected that the guidance will provide for any significant new developments

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