

Release of the Consultation Panel Report on the public consultations on charities and political activity

May 3, 2017

**Canada Revenue Agency
MEDIA LINES**

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BACKGROUND

In late 2016, the Government held extensive online and in-person consultations with the public and charitable sector on the rules governing charities' involvement in political activities. Over the consultation period, the Canada Revenue Agency (CRA) received almost 20,000 submissions from charities and individuals, and met with 167 representatives from the charitable sector.

A Consultation Panel, composed of five individuals with expertise in the regulatory issues facing charities, was formed and tasked with reviewing the consultation feedback and presenting recommendations to the Minister of National Revenue in early 2017. Those recommendations are now included in a Panel Report which was delivered to the Minister on March 30, 2017.

KEY MESSAGES

- Charities play a key role in Canadian society and provide valuable services to Canadians.
- That is why the government is committed to ensuring that charities are able to contribute to public debate and the development of public policy.
- The government took immediate action on this front. On January 20, 2016, the Minister of National Revenue announced the winding down of the political activities audit program, given that the CRA's review of registered charities' involvement in political activities since 2012 showed substantial compliance with the rules in place.
- Also, in response to the commitments in her mandate letter, the Minister of National Revenue announced on September 27, 2016, consultations with charities and the public to clarify the rules governing registered charities' involvement in political activities. The Consultation Panel she established was tasked with making recommendations on administrative changes the CRA could implement to clarify the guidance, information, and resources it provides to registered charities on the rules governing political activities.
- The CRA thanks the Consultation Panel for its report, the analysis of the responses received through the consultations and its recommendations.

- To meet the needs of the sector, the government is taking immediate action on one of the recommendations. The Minister of National Revenue has asked the CRA to suspend all action in relation to the remaining audits and objections which were part of the political activities audit program.
- Only those charities who are part of the political activities audit program and whose audits/objections are currently active are impacted by the suspension.
- For greater clarity, audits that are already closed will not be impacted by the suspension.
- The political activities rules in the *Income Tax Act* remain in force and charities must continue to comply with all the legal requirements for registration, including these rules.
- This suspension will be in effect until the government officially responds to the Panel's report.

If pressed on which charities are being audited:

- The CRA is bound by the privacy provisions in s. 241 of the *Income Tax Act* and as such, cannot comment further on who is being audited or at what stage audits are at.

General messages on charities:

- Charities play a key role in Canadian society and provide valuable services to Canadians.
- The Government is committed to responding to the needs of this sector and to ensuring they are allowed to bring their vast experience into public debate and the formulation of public policy.
- The CRA regularly consults with representatives of the charitable sector through meetings, surveys, focus groups and other methods to make sure its programs keep pace with the evolving needs of registered charities.
- As a world-class tax and benefits administrator, the CRA constantly seeks to improve its services, and welcomes the views of stakeholders.

Specific messages — release of Panel Report

- During the consultation process, registered charities and members of the public devoted their time to making their voices heard. The CRA acknowledges and appreciates the efforts of all participants.
- The CRA thanks the Consultation Panel for its attentive analysis of the responses received through the consultations and for its recommendations.

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- These recommendations include suggestions for changes to the CRA's administration of the existing legislation.
- The recommendations also include suggestions for changes to the legislation itself. Accordingly, the Minister of National Revenue has shared the report with her colleague, the Minister of Finance.
- The CRA is carefully reviewing the Report to help inform its future regulation of charities under the *Income Tax Act*.
- The recommendations brought forward by the consultation process and by the Panel will help the Government better understand the challenges and needs of the charitable sector when contributing to public policy debate.

<i>Prepared by:</i> Katherine de Vos, Public Affairs Advisor, Public Affairs Branch 613-957-8518	<i>In consultation with:</i> Claudia Sita and Emile Leitch, Technical Policy Advisors, Legislative Policy and Regulatory Affairs Branch 613-670-9747 613-670-9583	<i>Approved by:</i>
<i>Designated Spokesperson:</i> Media Relations, Headquarters		

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May 3, 2017

**Release of the Panel Report following consultations
on the political activities of charities**

QUESTIONS AND ANSWERS

Q.1 What was the purpose of the public consultations?

A.1 As part of her mandate letter, the Minister of National Revenue announced on September 27, 2016, consultations with charities and the public to clarify the rules governing registered charities' involvement in political activities.

The consultations sought to better understand the needs of charities and identify changes that are needed to the CRA's administrative guidance and educational resources to assist charities to better understand the rules.

Q.2 How were the consultations carried out?

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- **Online consultations** open to all charities and the public were held from September 27 to December 14, 2016. The CRA received almost 20,000 submissions.
- **In-person consultations**, moderated by an external facilitator, were held in seven cities from November 29 to December 13, 2016, and attended by 167 representatives from the charitable sector. The consultations took place in Winnipeg, Calgary, Vancouver, Montreal, Halifax, Toronto, and Ottawa.
- **A Consultation Panel** on the political activities of charities was created to review feedback and make recommendations.

Q.3 Who is on the Consultation Panel?

A.3 The Consultation Panel consists of five individuals with expertise in the regulatory issues facing charities. They represent various stakeholder perspectives, including those of frontline charitable organizations and foundations as well as sector consultants and legal advisors. The Panel members are:

Marlene Deboisbriand (Boys & Girls Clubs of Canada) (Panel Chair)

Peter Robinson (David Suzuki Foundation)

Kevin McCort (Vancouver Foundation)

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Susan Manwaring (Miller Thomson)

Shari Austin (Shari Austin & Company).

A brief biography of each Panel member can be found in the following News Release of September 27, 2016: Minister Lebouthillier announces consultations with charities to clarify the rules for their participation in political activities.

Q. 4 What was the purpose of the Consultation Panel?

A. 4 The Consultation Panel was appointed to review the feedback from the online and in-person consultations. The Panel was responsible for identifying and analyzing the common themes raised during the consultations, and making recommendations to the Minister of National Revenue on changes the CRA could implement to clarify the guidance, information and resources it provides to registered charities on the rules governing political activities.

Q. 5 The Panel Report makes recommendations for both administrative changes by the CRA and for legislative change. Do you intend to accept both types of changes?

A. 5 The CRA is carefully reviewing the Report to help inform its future administration of the regulation of charities under the *Income Tax Act*.

The recommendations for legislative change fall under the responsibility of the Minister of Finance. The Minister of National Revenue has provided her colleague with a copy of the report.

Q. 6 The Minister received the Panel's report at the end of March. Why did it take so long to make it public?

A. 6 Since the Minister received the Panel's report in late March, the CRA has taken time to begin carefully reviewing and assessing the recommendations. A preliminary assessment of one of the recommendations has led to the Minister's decision with respect to the announced suspension. The government's review and analysis of all the recommendations will continue.

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Q.7 What other comments can the CRA provide on the content of the Panel Report?

A.7 The CRA takes this process seriously, and will continue to carefully consider the recommendations in the Panel Report.

As stated publicly in the news release, Minister Lebouthillier has asked the CRA to suspend all action in relation to the remaining audits and objections which were part of the political activities audit program. This suspension will be in effect until the Government officially responds to the Panel's report.

Only those charities who are part of the political activities audit program and whose audits/objections are currently active are impacted by the suspension.

The political activities rules in the *Income Tax Act* remain in force and charities must continue to comply with all the legal requirements for registration, including these rules.

Q.8 Will the CRA delay or stop its remaining audits under the political activities audit program?

A.8 Minister Lebouthillier has asked the CRA to suspend all action in relation to the remaining audits and objections which were part of the political activities audit program. This suspension will be in effect until the Government officially responds to the Panel's report.

Audits that are part of the regular charities audit program are not affected by the suspension. All issues of non-compliance will continue to be addressed by the CRA in these audits.

Q.9 How will the suspension impact audits that are closed?

A.9 Audits that are closed (i.e., no longer under objection) will not be impacted by the suspension, including those audits which resulted in revocation.

The CRA audits charities to ensure their compliance with the current legislative and regulatory framework. Where the CRA finds non-compliance issues at the audit stage, it takes an education first approach and works with the charity to help it comply with the existing rules. Only in cases of serious non-compliance with the rules does the CRA propose to revoke a charity's registration. Generally in such instances, revocation is held in abeyance while the charity exhausts its objection and appeal rights.

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This same approach was followed in the case of the political activities audits. The CRA applied and enforced existing rules, and exercised its discretion in accordance with the law that continues to be in place.

Q. 10 Does this mean that the CRA is no longer enforcing the existing rules, as they apply to certain charities?

A. 10 The political activities rules in the *Income Tax Act* remain in force and charities must continue to comply with all the legal requirements for registration, including these rules.

This suspension only applies for political activities under audit as part of the political activities audit program and will remain in effect until the government officially responds to the Panel's report.

Q.11 How will the suspension impact applications for registration?

A. 11 The suspension will not extend to the CRA's consideration of applications for registration.

Where the CRA identifies concerns with an applicant's proposed or current political activities, it will address these concerns directly with the applicant, in accordance with its normal procedures.

Q.12 When does the government expect the suspension to come to an end?

A.12 The Government is carefully reviewing the Panel's report to help inform its regulation of charities going forward. This suspension will be in effect until the government officially responds to the Panel's report.

The political activities rules in the *Income Tax Act* remain in force and charities must continue to comply with all the legal requirements for registration, including these rules.

Q.13 Why is the government taking action on this issue at this time?

A.13 Charities play a key role in Canadian society and provide valuable services to Canadians. That is why the government is committed to ensuring that charities are able to contribute to public debate and the development of public policy.

The panel recommended that decisions relating to political activities in the remaining political activities audits be suspended.

The Minister of National Revenue has accepted this recommendation 000414

and has asked the CRA to suspend all action in relation to the remaining audits and objections which were part of the political activities audit program.

Q.14 How many of the 54 political activity audits are impacted by this suspension? How many decisions to revoke will be suspended?

A.14 To date, 49 audits have been completed and there remain 5 open audits. In these 5 cases, the audit work is complete and the CRA has communicated the results to charities.

With respect to the completed audits, in 7 cases, the CRA has proposed to revoke the charity's registered status. In such cases, a charity has the right to object to the proposed revocation with the Appeals Branch of the CRA.

Only 12 of the original 54 audits are impacted by the suspension. This includes any open audits and files under objection.

Q.15 Is suspending action on some charities but not others that may have already been revoked as part of the political activities audit program fair?

A.15 We are carefully reviewing the recommendations of the Panel, which reflect the views of charities who participated in the recent consultations. The Minister has accepted the Panel's recommendation that decisions relating to political activities in the remaining political activities audits be suspended. Accordingly, the Minister has asked the CRA to suspend actions on open files until the Government officially responds to the recommendations.

Q.16 Can we expect to see similar direction to CRA officials on other issues?

A.16 The CRA will not speculate on policy changes and modifications in other files under its purview at this time.

Q.17 When can we expect legislative changes/When will the Department of Finance announce amendments to the ITA?

A.17 The Government is carefully reviewing the Panel's report to help inform its regulation of charities going forward. The Report also contains suggestions for changes to the *Income Tax Act*. As a result, Minister Lebouthillier has shared the report with her colleague, the Minister of Finance.

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As legislative changes to the *Income Tax Act* fall under the responsibility of the Minister of Finance, we are not able to provide further details.

Q.18 What is the difference between political activities and political purpose?

A.18 A political purpose is any overarching aim or goal to change a law, or support or oppose a political party or candidate for public office.

A political activity is steps or actions taken by a charity to change a law, in a non-partisan way, that only to serve its charitable purpose (for example, to relieve poverty or protect the environment).

For example, if a charity devoted all its financial and staff resources on mobilizing the public, with petitions and social media campaigns, to pressure the provincial government to raise the minimum wage, it would very likely have a political purpose. However, if the charity only devoted around 10% of its resources to mobilizing the public on this same issue, in a non-partisan way, and used its remaining 90% of resources on providing direct assistance to the needy, it would very likely be carrying out a political activity.

Q.19 Can you provide the names of the charities that were involved in the political activities audit program?

A.19 Section 241 of the *Income Tax Act* does not allow us to share confidential taxpayer information, including information about charities under audit.

Q.20 Are the political activities rules still applicable during the suspension of the audit period?

A.20 The political activities rules in the *Income Tax Act* remain in force and charities must continue to comply with all the legal requirements for registration, including these rules.

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