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Overview

- Profile of charitable sector
- Overview of charities regulator
- Outreach and compliance programs
- Budget 2012 – political activities

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Canadian registered charities

- 86,062 registered charities in Canada (August 2014):
 - Charitable organizations (88%)
 - Public foundations (6%)
 - Private foundations (6%)
- Annually:
 - 4,000 applications
 - 2,000 registrations
 - 1,700 revocations
- 2012:
 - \$14.28 billion donations receipted
 - \$2.9 billion in foregone federal revenue
 - \$1 billion in foregone provincial/territorial revenue

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As of August 2014, there were 86,062 registered charities in Canada.

Each year, the Charities Directorate receives over 4,000 applications and we register and re-register over 2,000 charities.

2011-12 - 4,562 application / 2,124 registrations and re-registrations

2012-13 - 4,456 applications / 2,060 registrations and re-registrations

2013-14 - 4,403 applications / 1,881 registrations and re-registrations

In addition to registration, the Charities Directorate also revokes charitable status (failing to file, voluntary revocation, for cause, etc.)

Revocations

2011-2012 – 1977

2012-2013 – 1517

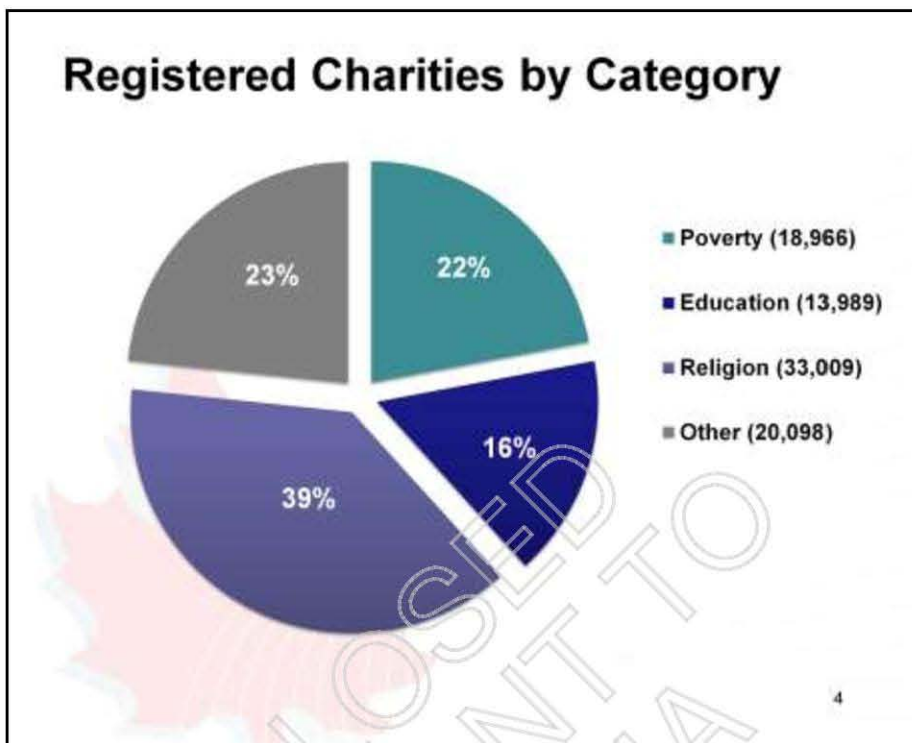
2013-2014 – 1664

Using the Government of Canada's Open Data, which is a set of government data that comes out annually, charities receipted over \$14.28 billion in donations for 2012 (<http://data.gc.ca/data/en/dataset/8a4fbee5-f2f0-4974-83bf-66644e93988c>).

Further, the federal assistance for charitable donations in 2012 exceeded \$2.9 billion. These include individuals and corporations claiming donation credits. (This information is part of the *Economic Action Plan 2013*, which responds to the report of the House of Commons Standing Committee on Finance on charitable donation tax incentives - <http://actionplan.gc.ca/en/initiative/charitable-donation-tax-incentives>).

Individuals also claimed over \$1 billion in provincial and territorial tax credits (in 2011-12). (This information is from the 'Charities' section of the 2011-12 Commissioner's Annual Reports to the Government of Provinces and Territories - http://infozone/english/r9999999/sa/sa01/tlr/tlr03/cnt01/chptr6-eng.html#h_7).

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As of August 2014, here is a breakdown of all registered charities by the four broad heads of charitable purposes [poverty, education, religion and other purposes beneficial to the community].

Note that the fourth general category of charitable purposes, *other purposes beneficial to the community*, is referred to by the courts as a “catch all”. As such, this category includes charities that operate in all areas other than *relief of poverty, advancement of religion, or advancement of education*.

Examples of charitable purposes under the fourth head would include animal welfare, community economic development, promotion of health, protection of the environment, protection of human rights, prevention of alcoholism and drug addiction, and relief of the aged.

CRA as Charities Regulator

- The Charities Directorate is responsible for the provisions of the *Income Tax Act* pertaining to the registration, education, monitoring and revocation/annulment of charities.
- Also regulates:
 - Registered Canadian Amateur Athletic Associations (RCAAs)
 - Registered National Arts Service Organizations (RNASOs)
 - Other listed qualified donees
 - Canadian municipalities
 - Prescribed universities
 - Public or municipal bodies performing a function of government
 - Low cost housing corporations for the aged
 - Certain foreign charitable organizations

CRA as Charities Regulator

- There are approximately 260 employees in the Charities Directorate located in Ottawa.
- In addition, there are 56 field auditors that carry out audits of charities across Canada.
- Functions
 - Registration
 - Education (outreach) and client service
 - Compliance
 - Policy
 - National security

Registration

- To qualify for registration as a charity, applicants must be operated on a non-profit basis and be constituted and operated for exclusively charitable purposes.
- As the *Income Tax Act* does not define the term “charitable”, the common law meaning applies.
- At common law, the courts have identified four general categories of charitable purposes:
 - Relief of poverty
 - Advancement of religion
 - Advancement of education
 - Other purposes beneficial to the community as a whole
- Charities must also pursue purposes for the benefit of the public.
 - Must further a purpose in a manner that does not provide a private benefit, beyond what is incidental and reasonable for delivering the public benefit.

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Maintaining Registration

- In order to maintain registered charitable status, charities must:
 - File an annual information return and financial statements
 - Continue to be operated for exclusively charitable purposes
 - Meet an annual disbursement quota requirement (generally 3.5% of investments not used on charitable activity or administration)
- The Act does permit a charity to engage in a limited amount of non-charitable activity:
 - Non-partisan political activities are allowable within prescribed limits (generally 10% of resources) – partisan political activities are never permitted
 - Reasonable administration and fundraising expenses are acceptable
 - Related business activities are permissible provided that they are related to the charity's objects or run substantially by volunteers

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Education and Support

- Information, guidance and advice on maintaining registered status is provided to charities through
 - Client service - call centre and written enquiries
 - Sector outreach
 - Webinars and webcasts
 - Electronic updates and newsletters
 - Charities and Giving website
- Public education program
 - Videos - *Giving to Charity 101; Making the connection; How do I choose the right charity?*
- Charities listings
 - Information on all registered charities appears on the CRA website
 - Website includes Charities Quick View - a graphical display of registered charity information

Compliance Program

- Audit coverage rate approximately 1% annually
- Files can be selected for audit based on risk profile, project focus, or as part of the random audit program
- We take an "education first" approach to compliance, using a range of tools and sanctions:
 - Education letter;
 - Compliance agreement;
 - Monetary penalties;
 - Suspension of receipting privileges; and
 - Revocation.

Compliance Program

- A number of charities are revoked each year for one of four reasons:
 - Voluntary
 - Failure to file
 - Loss of corporate status
 - As a result of an audit ("for cause")
- Revocations in 2013-14: 1,663 in total
 - 98% of all revocations were either
 - Voluntary (936 – 57%) or
 - For failing to file the annual information return (695 – 41%)
 - 9 charities (0.5%) were revoked for loss of corporate status
 - 23 charities (1.5%) were revoked as a result of an audit

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Audit Plan 2014-15

- A balanced audit program is developed each year; the 2014-15 audit plan includes 944 audits, broken down as follows:

High risk audits	431	46%
Qualified donee audits	140	15%
Random audits	125	13%
Restricted books and records audits	80	9%
Compliance agreement reviews	60	6%
Other (aggressive tax planning, excess corporate holdings)	36	4%
RCAAs audits	32	3%
Exploratory audits	20	2%
Political activities audits	20	2%

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Previous years had similar planned coverage:

2013-14 – 944

2012-13 – 866

2011-12 – 746

2010-11 – 846

2009-10 – 810

Audit Results 2013-14

- The following are the results from the 2013-14 audit program:

Education letter	513 files	61%
Compliance agreement	137 files	16.5%
Clean	112 files	13.5%
Notice of intent to revoke issued*	34 files	4%
Voluntary revocation	20 files	2.5%
Other (Part V audits, pre-registration audits, etc.)	13 files	1.5%
Annulment	6 files	.5%
Sanctions	5 files	.5%
Total (excluding political activities audits)	840 files	100%

*If the charity has filed a notice objection or appeal to the Notice, its registration may not have been revoked

Revocation Process

- In cases of serious non-compliance, revocation of registered status may be the appropriate outcome of an audit
- Prior to formal revocation, a number of steps are followed:
 - After audit, concerns are outlined in administrative fairness letter (AFL), in accordance with rules of natural justice
 - Charity given an opportunity to make written representations
 - If concerns not alleviated, CRA proposes revocation in Notice of intent to revoke (ITR)
- Registration is formally revoked when a Notice of Revocation is published in the *Canada Gazette*
 - Until publication, s. 241 protects all information regarding the audit results, including AFL and ITR
- Appeal rights to Appeals Branch (CRA) and FCA

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Budget 2012

- Recognition that charities make a valuable contribution to development of public policy
- Concerns raised by the government

"Recently, concerns have been raised that some charities may not be respecting the rules regarding political activities. There have also been calls for greater public transparency related to the political activities of charities, including the extent to which they may be funded by foreign sources."
- Government provided funding over five years to CRA to implement administrative measures relating to charities and political activities
 - Increased transparency/reporting
 - Increased educational activities
 - Increased compliance activities
- Funding profile – \$13M over five years

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2012-13 – 4.1M

2013-14 – 2.5M

2014-15 – 2.6M

2015-16 – 2.1M

2016-17 – 1.7M

Political Activities – General Rules

- Registered charities must
 - Be constituted for charitable purposes
 - Devote substantially all of their resources to charitable activities (90%)
- The *Income Tax Act* allows charities to carry out political activities within certain parameters
 - Limited amount
 - Non-partisan
 - Connected to charitable purposes
- A political activity is one that seeks to retain/oppose the law/policy of any government by
 - Communicating a public call to action,
 - Communicating to the public that the law/policy should be retained/opposed, or
 - Indicating in its materials that the intent is to put pressure on elected representative/public official

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Budget 2012 Implementation – Reporting and Education

- *Charity Annual Information Return (T3010)* amended
- New schedule on political activities, requiring disclosure of
 - Description of political activities and link to charitable purpose
 - Means and resources used to conduct political activities
 - Details of foreign funding for political activities
- Educational activities have included:
 - Detailed political activities resources on website, including self-assessment tool and FAQs
 - Speaker's kit
 - Updated webinar/webcast
 - 3-part video series

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Budget 2012 Implementation - Compliance

- New compliance team established at HQ working with auditors in field
- Charity files screened from six possible sources (to date):
 - T3010 self-reporting
 - Registration letters with caution about political activities
 - Complaints from public / referrals from CRA
 - Media analysis
 - Referrals from within Charities Directorate
 - Related files / research
- Self-reporting by charities is the primary source of possible review of political activities
 - Annually, approximately 600 charities report having carried on political activities

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Budget 2012 Implementation - Compliance

- After screening, determination made as to whether further action required, including:
 - No further action required
 - Transfer to regular audit program
 - Letter to correct T3010 reporting error
 - Reminder letter
 - Possible restricted audit
 - Possible full audit
- Over a four year timeframe, 60 of the estimated 3,700 charity audits that CRA will conduct will be focused on political activities (less than 2%)

2012-13 – 10 audits	2013-14 – 20 audits
2014-15 – 20 audits	2015-16 – 10 audits

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Political Activities – Audit Selection

- File selection is undertaken by compliance team and approved by Director General
- Charities are selected for audit if possible non-compliance has been identified
 - Audits allow CRA to confirm compliance with rules
- Audit selection will then aim to ensure balance and representativeness of sector
- Two main criteria:
 - Charities from all four broad types of charity; and
 - Charities from across Canada.
- Currently, there are 52 files in various stages of the audit process
 - All four types of charities included
- While the files are selected for review of political activities, in the case of full audits, all activities of charities are reviewed for compliance

Political Activities Audits - Findings

- To date, we have found a range of non-compliance, from minor and non-intentional to serious and wide-ranging
 - Inadequate reporting and tracking of political activities
 - Partisan political activities
 - Some excessive political activities
- Have also noted a number of other, more serious non-compliance issues
 - Conducting non-charitable activities
 - Lack of direction and control
 - Gifting to non-qualified donees
 - Receipting issues
 - Inadequate books and records
- While respecting the confidentiality provisions of ITA, Charities Directorate has reported on its activities – *Charities Program Update 2014*

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Annex – Possible Screening Results

Screening finding	Screening decision	Possible Outcomes
Both the regular charitable activities and political activities appear to have non-compliance issues.	Possible full audit	Revocation, sanctions, compliance agreement, education letter.
The regular activities appear charitable but there appears to be non-compliance issues with the political activities.	Possible focused political activities audit	Revocation, sanctions, compliance agreement, education letter.
The regular activities appear charitable and the political activities appear to have minor issues or be increasing or changing.	Office review / monitoring	Reminder letter, with reference to obtain more information from our web/ information sessions as necessary.
It is apparent that the organization does not engage in political activities, yet answered "yes" on line 2400 and/or placed an amount on line 5030 of their return.	T3010 reporting error letters	Letter, asking them to contact us to have the error corrected.
No issues have been identified with the political activities, but potential problems with an organization's objects and/or regular activities.	Transfer to regular audit	Transfer to another section of the Compliance Division.
No issues have been identified with the political activities and objects/activities.	No action	No action