

- **Charities**
- **Policies and guidance**

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Guidance

Fundraising by Registered Charities

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1. Introduction

The Canada Revenue Agency (CRA) recognizes that registered charities in Canada often depend on charitable donations and other sources of revenue to carry out their charitable works. For many charities, this means that a proportion of their resources will be used for fundraising to support their charitable work. While recognizing the necessity of fundraising, the CRA expects charities to be transparent and to not devote excessive amounts of time and/or resources to fundraising as opposed to fulfilling their charitable purposes.

This document replaces Policy Statement CPS-001, *Applicants that are Established to Hold Periodic Fundraisers*, and provides information for registered charities on the current treatment of fundraising under the *Income Tax Act* and under common law. This guidance offers direction on issues such as the following:

- distinguishing between fundraising and other expenditures;
- allocating expenditures for the purposes of reporting them on Form T3010, *Registered Charity Information Return*;
- dealing with activities that have more than one purpose; and
- understanding how the CRA assesses what is acceptable fundraising activity, what may preclude registration, or what may result in a sanction, penalty, or revocation.

The document outlines policies and practices that the CRA uses when it reviews annual information returns filed by registered charities and explains the CRA's views on issues relevant to fundraising expenditures. This information should help to ensure that registered charities are aware of the CRA's perspective on fundraising in general and the appropriate treatment of fundraising expenditures. The CRA's auditors use this guidance as a tool when they review Form T3010, or visit a registered charity for an audit. It also confirms to the public that fundraising expenditures are appropriate and in fact necessary for the sustainability of the sector.

2. Application and Jurisdiction

This guidance applies to **all** registered charities.

Under section 91(3) of *The Constitution Act, 1867*, the federal government is empowered to establish the federal tax system. The *Income Tax Act* (Canada) exempts registered charities from tax on their income and entitles them to issue official tax receipts. The CRA is responsible for administering the *Income Tax Act* and, therefore, for regulating registered charities in Canada.

Since the *Income Tax Act* does not contain a definition of “charity,” eligibility for registration is based on meeting the common law meaning of the term and compliance with the *Income Tax Act*. Although common law requires that registered charities have exclusively charitable purposes, and the *Income Tax Act* requires a registered charity to devote all of its resources to charitable purposes and activities, it is permissible for a charity to use some resources for fundraising without breaching common law or statutory rules.

Under sections 92(7) and 92(13) of the Canadian constitution, the regulation of most aspects of charities' operations falls within provincial jurisdiction. This guidance deals only with issues related to the **federal regulation of fundraising by charities registered under the *Income Tax Act***, as derived from the authority described above, and is not intended to address the various provincial obligations. Charities, whether federally registered or not, are subject to provincial requirements with respect to fundraising and other aspects of their operations.

This guidance provides **general advice only**. Individual cases will be decided based on the facts of a specific situation.

Note: This guidance does not relieve charities from having to meet all other requirements of the *Income Tax Act*, including, for example, the obligation to meet the [disbursement quota](#).

3. Scope

This document does not address whether the activity of a charity amounts to the carrying on of a business. The CRA publishes specific policy guidance on this topic, and registered charities should refer to [Policy Statement CPS-019, What is a Related Business?](#) and [Policy Commentary CPC-002, Related business](#), to make sure that any commercial or trading activities they carry out do not constitute an unrelated business.

In addition, this guidance does not address fundraising to support terrorism. Registered charities that do so are subject to immediate revocation of their registration and other penalties. See [Registered Charities Newsletter No. 12](#), and [Registered Charities Newsletter No. 20](#) for additional information. The CRA Web site also has information for [charities working in an international context](#).

4. Fundraising and charitable purposes

All registered charities are required by law to have exclusively charitable purposes, which are set out in the charity's [governing documents](#). The CRA's position is that fundraising (whether undertaken as a purpose or activity) is not in-and-of-itself charitable. [\[Footnote 1\]](#)

5. 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 a 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.

6. Definitions

For the purposes of this guidance, the following definitions apply:

- a. [Ancillary and incidental purpose](#)
- b. [Arm's length / non-arm's length](#)
- c. [Cause-related marketing / social marketing](#)
- d. [Disclosure](#)
- e. [Fundraising activity](#)
- f. [Resource\(s\)](#)

7. Prohibited fundraising conduct

Certain types of prohibited conduct related to fundraising may result in the revocation of a registered charity's status, imposition of compliance measures, or denial of charitable registration. This would include fundraising conduct that:

- a. is [illegal or contrary to public policy](#);
- b. is a [main or independent purpose](#) of the charity;
- c. results in more than an [incidental or proportionate private benefit to individuals](#) or corporations; and
- d. is misleading or [deceptive](#).

8. Allocation of fundraising expenditures

Registered charities must report fundraising expenditures on their annual Form T3010. As a general rule, fundraising expenditures include all costs related to any activity that includes a solicitation of support, or that is undertaken as part of the planning and preparation for future solicitations of support. This applies unless it can be

demonstrated that the activity would have been undertaken whether or not it included a solicitation of support.

For purposes of reporting on fundraising expenditures, solicitations of support do not include asking for government funding. A solicitation of support includes requests by the registered charity, or someone acting on its behalf, for financial or in-kind donations. It also includes the marketing and sale of goods or services not within the charity's own charitable programs, but sold specifically to fundraise. This applies even where no donation receipt is issued for the transaction.

To show that an activity would have been undertaken without the solicitation of support, charities must satisfy test A **or** B below:

A. Substantially All Test

An activity would have been undertaken without a solicitation of support if substantially all of the activity advances an objective other than fundraising. For the purposes of this test, **substantially all** is considered to be 90% or more.

Generally, this determination will be based on the proportion of the fundraising content to the rest of an activity, as well as the resources devoted to it. However, the prominence of the fundraising content in the activity must also be considered.

If this test is satisfied, the charity may report all the expenditures of the activity on its Form T3010 under charitable expenditures, management and administration, political activity, or other expenditures as applicable.

B. Four Part Test

If the substantially all test is not met, a charity can still show that the activity would have been undertaken without the solicitation of support if the answer to all of the following questions is “no”:

1. Was the main objective of the activity fundraising?

2. Did the activity include ongoing or repeated requests, emotive requests, gift incentives, donor premiums, or other fundraising merchandise?
3. Was the audience for the activity selected because of their ability to give?
4. Was commission-based remuneration or compensation derived from the number or amount of donations?

When the answer to all four questions above is “no”, the charity may allocate a portion of the costs as non-fundraising expenditures and a portion as fundraising expenditures on its annual Form T3010.

If any of the answers to the four questions above is “yes”, all costs must be reported as fundraising expenditures, unless the exception below applies.

Exception

Even if an activity would not have been undertaken without the solicitation of support, charities may still be allowed to allocate a portion of the costs other than to fundraising, if the activity furthers one of the charity's purposes. The CRA recognizes that, in certain circumstances, an event or activity may serve multiple purposes—for example, as a way to advance its charitable programs and to raise funds for the charity. [Examples](#).

The CRA only considers that an event or activity could advance an organization's charitable programming when it is designed to prompt an action (other than the giving of a donation or other financial support) or a change in behaviour. The event or activity should also reach a significant portion of the charity's stakeholders other than its current or prospective donors, or clearly exhibit greater emphasis on helping beneficiaries than on obtaining financial support.

Note: The CRA generally does **not** consider raising awareness of a charity's mandate or work, when it is carried on in conjunction with fundraising through non-charitable third parties (such as for-profit telemarketing, direct mail or canvassing companies), to qualify for the exception. So, charities must allocate costs for such activities to fundraising expenditures.

9. Evaluation of fundraising activities

For the purposes of this assessment fundraising revenues and expenditures are:

- **Fundraising revenues** include amounts reported on Lines 4500 and 4630 of the charity's annual Form T3010. All amounts for which a charitable tax receipt is issued must be reported on line 4500. All other revenue generated as a direct result of fundraising expenses must be reported on line 4630.
- **Fundraising expenditures** include amounts reported on Line 5020 of the charity's annual Form T3010. All expenses determined to be fundraising expenses in accordance with this guidance should be reported on line 5020.

Fundraising Ratios and the CRA's Approach

The CRA recognizes that the charitable sector is very diverse and that fundraising effectiveness will vary between organizations. There can be good reasons for a charity to incur higher fundraising costs for a particular event or in a particular year. As a result, a range of factors will be considered in the course of a CRA review. One of the factors that the CRA will consider is the ratio of fundraising costs to fundraising revenue. The following table provides some general guidance in terms of where the CRA may seek additional information or justification for fundraising costs.

Fundraising ratios alone are not determinative in assessing whether a charity's fundraising complies with the requirements of the guidelines in this guidance. However, these ratio ranges give charities a way to generally gauge their performance and understand the circumstances where the CRA is likely to raise questions or concerns.

Ratio of costs to revenue over fiscal period	CRA Approach
Under 35%	Unlikely to generate questions or concerns.
35% and above	The CRA will examine the average ratio over recent years to determine if there is a trend of high fundraising costs. The higher the ratio, the more likely it is that there will be concerns and a need for a more detailed assessment of expenditures.
Above 70%	This level will raise concerns with the CRA. The charity must be able to provide an explanation and rationale for this level of expenditure to show that it is in compliance; otherwise, it will not be acceptable.

In addition to considering where a charity falls within the ratio ranges, the CRA will look to the factors described in paragraphs 10 and 11 below, when it considers a charity's fundraising activities. In addition, the CRA's assessment of a charity's fundraising will take into consideration the following factors:

- a. The size of the charity (which might have an impact on fundraising efficiency).
- b. Causes with limited appeal (which could create particular fundraising challenges).
- c. Donor acquisition and planned giving campaigns (which could result in situations where the financial returns are only realized in later years).

10. Best practices

The following is a list of best practices considered to decrease the risk of unacceptable fundraising.

Note: These are **indicators only**. Their applicability and utility will depend on a number of factors, including the size of the particular fundraising event.

- a. Prudent planning processes.
- b. Appropriate procurement processes.
- c. Good staffing processes.
- d. Ongoing management and supervision of fundraising practice.
- e. Adequate evaluation processes.
- f. Use made of volunteer time and volunteered services or resources.
- g. Disclosure of fundraising costs, revenues, and practice (including cause-related or social marketing arrangements).

11. Areas of concern that could lead to further review

The following is a list of indicators that could cause the CRA to further review a registered charity's fundraising activities.

- a. Sole-source fundraising contracts without proof of fair market value.
- b. Non-arm's length fundraising contracts without proof of fair market value.
- c. Fundraising initiatives or arrangements that are not well-documented.
- d. Fundraising merchandise purchases that are not at arm's length, not at fair market value, or not purchased to increase fundraising revenue.
- e. Activities where most of the gross revenues go to contracted non-charitable parties.
- f. Commission-based fundraiser remuneration or payment of fundraisers based on amount or number of donations.
- g. Total resources devoted to fundraising exceeding total resources devoted to program activities.
- h. Misrepresentations in fundraising solicitations or in disclosures about fundraising or financial performance.

12. Questions and answers

1. Has the Canada Revenue Agency (CRA) changed its position on fundraising by charities?

No. The CRA has not changed its position on fundraising by charities.

This guidance updates and replaces Policy Statement CPS-001, *Applicants that are Established to Hold Periodic Fundraisers*, and provides more detailed information on the current treatment of fundraising under the *Income Tax Act* and under common law. The guidelines ensure that registered charities are aware of the CRA's perspective on fundraising in general, and the appropriate reporting of fundraising expenditures.

2. What steps can the CRA take if an audit raises concerns about a charity's fundraising?

Generally, the CRA uses a series of progressive compliance measures. In some cases of non-compliance, the CRA uses education letters or compliance agreements. The CRA can also impose a monetary penalty, suspend a charity's tax-receipting privileges, or revoke a charity's registered status. Although revocation is generally the last resort, the *Income Tax Act* allows revocation at any time—when it is appropriate to the circumstances.

3. What is the relationship between the disbursement quota requirements and the fundraising guidance grid?

Meeting the disbursement quota is a mandatory obligation. The grid is an indicator for charities and CRA auditors that there may be concerns about a charity's fundraising activities.

4. Our charity has hired a telemarketing firm to raise funds. However, when the firm contacts potential donors it will convey information that will raise awareness of our cause. We consider this part of our efforts to advance our charitable purposes. Can we report a portion of the costs of the telemarketing initiative as a charitable expenditure?

No. All fundraising requires a certain amount of communication about the cause for which the funds are being raised. If the communication is undertaken for the purpose of fundraising, then all costs are to be reported as fundraising expenditures. Generally, the CRA requires that all telemarketing costs to raise funds be reported as fundraising expenditures.

5. Are costs and revenues associated with the carrying on of a related business considered fundraising?

No, these costs and revenues are not considered fundraising. However, you should be familiar with the definition of a related business and the restrictions on operating businesses that apply to registered charities. For more information, please consult [Policy Statement CPS-019, What is a related business?](#).

6. How does the CRA regulate fundraising activities such as lotteries or charitable gaming?

Most aspects of lotteries and gaming are regulated by the provinces and territories rather than the CRA. Therefore, if a charity is in compliance with provincial or territorial regulations regarding costs, revenues, and returns for lotteries and charitable gaming, the CRA will generally not examine these aspects of a charity's fundraising activities.

7. Our fundraising staff spends part of their time fundraising and part of their time seeking grants from governments and foundations. How should we report their salary expenditures?

The salary costs related to the portion of time spent on fundraising should be reported as a fundraising expenditure. The portion spent applying for grants is to be reported as an administrative expenditure. The CRA will accept reasonable estimates of time spent on these distinct activities.

8. Our small charity only has one employee who handles all aspects of our administration and operations. Are we supposed to keep timesheets to satisfy the CRA's new guidelines?

There are no new reporting requirements associated with this guidance. As before, the CRA expects the charity to provide reasonable estimates of the portion of a salary that should be reported as a fundraising expenditure.

9. Our charity only has one fundraising event each year. We sell tickets to the event. It is a well-supported event that is an established tradition in the community. Our costs for the event are generally around 50% of revenues generated from ticket sales each year. Will we have to change our fundraising activities?

Not necessarily. The CRA will expect your charity to be able to demonstrate that it has taken reasonable steps to ensure that the costs spent on the event are no more than necessary.

For example, this could include pricing of goods and services from several suppliers to ensure the charity is paying a fair price and that there is no undue benefit to the individuals and organizations involved in the event. If the charity takes these steps and is able to continue to meet its annual disbursement quota, it could continue with the annual event notwithstanding that costs are around 50% of revenues.

10. My charity is involved in a cause-related marketing campaign, where the non-charitable business is bearing 95% of the cost of the campaign. Are the proceeds that my charity receives from the campaign considered fundraising revenue?

Yes. Revenues from cause-related marketing should be reported on line 4630 of the T3010.

11. What if my charity has high costs because it is involved in a donor development drive in a particular fiscal period?

The CRA recognizes that revenues from a donor development drive may not be realized in the same fiscal period as expenditures related to that drive and will take this into consideration when examining a charity's activities. However, the CRA would expect donor development costs to generally decline over time as the charity and its fundraising activities become more established.

12. Our charity has the purpose of promoting health, and publishes a four-page leaflet with the following goals:

- to provide information about specific health risk factors;
- to urge readers to take specific steps to reduce their risk; and
- to show readers where to find additional resources our charity provides to help them implement these steps.

The last page of the leaflet briefly explains our charity's programs and invites readers to make a donation to support those programs.

The leaflet is mailed to the general public as part of a direct mail campaign, without targeting a particular segment of the population. We pay no commission based remuneration or

compensation for donations collected. Can we report a portion of the costs as charitable expenses?

As described, the activity appears to meet the four-part test:

- the main objective is to prompt readers to take actions that can directly further the charitable purpose of promoting health;
- the leaflet does not include repeated requests or emotive requests for donations;
- the audience was not selected based on their ability to give; and
- there is no commission-based remuneration or compensation.

The charity can therefore show that the activity would have been undertaken without the solicitation of support, and can report a portion of the costs as charitable expenses.

In the above situation, an allocation of 25% of the cost of the production of the leaflet and its distribution as a fundraising expense, and 75% as a charitable expense would be reasonable.

Footnotes

[Footnote 1]

See *Oxford Group v. IRC* [1949] 2 All ER 537 (fundraising purpose not charitable) and *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10 at para. 152 (fundraising activity not necessarily charitable).

Additional information on Guidance CPS-028, Fundraising by Registered Charities

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-028-ddn-eng.html>

The following information provides more detail about specific sections of the Canada Revenue Agency's [Guidance CPS-028, Fundraising by Registered Charities](#).

5. 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 a solicitation of support (for example, efforts to raise profile of charity, donor stewardship, or donor recognition).

Fundraising does not include requests for funding from government or from other registered charities, or the operation of a related business as defined in the *Income Tax Act*.

Recruitment of volunteers is not considered a solicitation of support.

Fundraising includes activities carried out by the registered charity, or someone acting on its behalf.

In circumstances where a receipt is issued for any part of a transaction, the activity is deemed to be a solicitation of support and therefore the costs associated with the entire activity must automatically be allocated to fundraising expenditures.

When should costs associated with donor recognition be reported as fundraising?

Donor recognition is the acknowledgement or thanking of a person who has made a gift. The costs of gifts or other forms of acknowledgement to thank donors must be reported as fundraising expenses unless they are of nominal value. The CRA considers recognition with a per-donor cost of \$75 or 10% of the donation (whichever is less) as nominal. When donor recognition expenses are nominal and are not reported as fundraising expenses, they must nevertheless still be reported as administrative expenses.

Examples

Publishing a list of donors who gave \$1,000.00 to a charity in a newspaper may be an administrative expense only, provided the cost per name was less than \$75.00, as \$75.00 is the lesser amount between 10% of the donation (\$100.00) and \$75.00.

A charity sends a gift to donors that cost the charity \$20.00 each. If the charity only sends the gifts to donors who contribute \$200.00 or more, the expense is administrative only.

However, if \$20.00 gifts are sent to donors who contributed less than \$200.00, these must be reported as fundraising expenses, as the cost of the recognition for these gifts exceeds 10% of the donation amount.

Is donor stewardship a solicitation of support?

Donor stewardship occurs when a charity invests resources in relationships with past donors to prompt additional gifts. This could include providing donors with access to information, services, or privileges not available to others. These activities are considered solicitations of support.

Example

An arts charity invites only people who have given gifts above a certain amount to a private reception with the artists after a performance. The event is considered to be a solicitation of support.

When is the sale of goods or services a solicitation of support?

The sale of goods or services by a registered charity is always a solicitation of support except where:

- a. the provision of the good or service serves the charity's beneficiaries, directly fulfills a charitable purpose, and is sold on a cost-recovery basis, or
- b. it is a related business as defined in the *Income Tax Act*. For more information on the meaning of related business, please refer to [Policy Statement CPS-019, What is a Related Business?](#).

Example 1

A local community centre for seniors runs a fitness course and charges a fee to cover its costs. This is not a solicitation of support.

Example 2

A youth group sells chocolate bars at a local shopping mall and will use the money it makes to support a trip it is planning. This is considered a solicitation of support and treated as fundraising. The costs for the chocolate bars and costs related to promotion and distribution are fundraising expenses and the revenue received from the sale is treated as fundraising revenue.

Example 3

A church group runs a yard sale to help pay for some renovations to its building. This is considered a solicitation of support and treated as fundraising.

Where a charity offers a good or service as part of the solicitation message, to prompt a donation, this is considered to be a solicitation of support.

Example 1

A charity sends key chains or address labels to members of the public to encourage them to donate as part of a direct mail campaign. This is considered a solicitation of support. The costs are to be reported as fundraising expenses.

Example 2

A public television station offers its viewer a boxed DVD set of one of its popular series if they agree to make a donation of a certain size. This is considered a solicitation of support.

When are membership programs considered to be fundraising?

Some charities are membership-based. Membership programs can be considered a solicitation of support if membership is associated with substantive benefits beyond being eligible to vote at a general meeting and/or receive a newsletter.

Example

Membership programs that require a donation to join, or where there is extensive use of donation incentives or premiums to promote joining as a member, are considered to be fundraising. Costs associated with these membership programs are considered fundraising expenditures.

Collaboration with third parties to sell goods and services

Sometimes a charity will partner or collaborate with a business or other non-charity to offer a good or service on the basis that a portion of the proceeds will be paid to the charity. Often, most or all of the expenses incurred related to this type of initiative are paid by the third party.

Where the charity incurs costs related to such initiatives, they are considered fundraising expenditures.

Example 1

A charity creates a page on its Web site to describe a partnership where a percentage of the sales of a restaurant on a certain day will

be given to the charity and to tell people where and when they can participate. The cost of that page of the Web site should be treated as fundraising.

Example 2

A charity includes a complimentary page of advertising in its regular publication to its members offering an affinity credit card from a particular company as part of an arrangement where the company pays the charity a percentage fee on transactions where the card is used. The cost of the advertisement is considered a fundraising expense.

6. Definitions

a) Ancillary and incidental purpose

To be ancillary, a purpose must be subordinate or secondary to other purposes.

To be incidental, a purpose must arise out of, or depend on, the other purposes and be relatively modest in size.

b) Arm's length / non-arm's length

At arm's length describes a relationship in which parties are acting independently of each other. **Non-arm's length** includes individuals who are related to each other by blood, marriage, adoption, and common-law relationships. Non-arm's length also covers people acting in concert without separate interests, such as those with close business ties.

c) Cause-related marketing / social marketing

Cause-related marketing (sometimes called social marketing) is a venture with a non-charitable partner to promote the sale of items or

services on the basis that a portion of the revenues will be directed to a charity or charities.

d) Disclosure

For the purposes of this guidance, disclosure means sharing of information about a charity's fundraising and/or finances.

e) Fundraising activity

For the purposes of this guidance, a fundraising activity may be a single action, such as an advertisement published in a newspaper, or a series of related actions, such as a capital campaign to fund a new building. The charity may decide what it considers a separate activity so long as it can reasonably be treated as discrete from other activities.

Example

A health charity may have a month-long **awareness** campaign that consists partly of distributing information about preventing a disease and partly of raising funds for its work. It may treat each of these initiatives as separate activities, or it may group all the initiatives during the campaign as a single activity. The decision will affect what the charity must enter on line 5020 of its annual Form T3010, *Registered Charity Information Return*.

Fundraising activities may be external activities, such as soliciting donations through telemarketing, direct mail, or door-to-door canvassing, putting on events, or distributing information through the media or a charity's own publications.

Fundraising activities may also be internal, such as researching prospective donors or hiring fundraisers, and includes activities carried out by contract, staff, or volunteers.

f) Resource(s)

The term **resources** is not defined in the *Income Tax Act*, but the CRA considers it to include the total of a charity's financial assets, as well as everything the charity can use to further its purposes, such as its staff, volunteers, directors, premises, and equipment.

7. Prohibited fundraising conduct

a) Conduct that is illegal or contrary to public policy

Fundraising activities that are illegal or contrary to public policy are prohibited and may result in revocation of registered charity status. [\[Footnote 1\]](#)

Provisions of the Income Tax Act

Examples of illegal fundraising activities are activities that are criminally fraudulent, or violate federal or provincial statutes governing charitable fundraising, charitable gaming, the use of charitable property, or consumer protection.

Illegal fundraising is prohibited whether it is carried on by the charity itself or it is carried on by a third party on behalf of the charity. Charities should ensure that third parties raising funds on their behalf are complying with all applicable laws.

In particular, fundraising that includes the issuance of improper donation receipts is contrary to the *Income Tax Act* and can lead to revocation. [\[Footnote 2\]](#) The CRA takes the position that fundraising is not acceptable even where the fundraising activity is not in itself illegal, but is associated with illegal conduct. This is the case where a

charity knows, or ought to have known, that it is furthering illicit practices or transactions.

For example, where a charity fails to exercise adequate care to ensure the integrity of a third-party tax shelter scheme marketed to multiple donors, it may be facilitating or advancing wrongful conduct by others. This may be grounds for revocation or other sanctions. [[Footnote 3](#)]

Under section 230 of the *Income Tax Act*, registered charities are required to keep books and records to allow amounts deductible, or subject to be collected, to be determined, and to verify donations to the charity for amounts eligible for deductions or credits under the *Income Tax Act*.

Public policy

Registered charities, or third parties acting on their behalf, are not permitted to engage in conduct that is contrary to public policy. Fundraising activities can be contrary to public policy if they result in incontestable harm to the public interest or if they do not comply with government rules, directives, and regulations.

The courts have held that fundraising contracts can be harmful to the public interest if they result in misrepresentation to the public about whether donated amounts go to the charity or to pay the fundraising company collecting them (*Ontario Public Guardian and Trustee*) v. *Aids Society for Children* (Ontario), [2001] O.J. No. 2170 (QL).

Making a fundraising solicitation that does not comply with Canadian Radio-television and Telecommunications Commission directives, the Commission's telemarketing rules, or other established government policy may also be considered contrary to public policy.

b) Conduct that is a main or independent purpose of the charity

Although fundraising may sometimes be stated as a charity's ancillary and incidental purpose, registered charities cannot have fundraising as a main or independent purpose, even if secondary. [[Footnote 4](#)] A

main or independent purpose of a charity is often described as a **collateral** purpose. When more of a charity's time, effort, and other resources are devoted to its fundraising rather than to carrying out its broader charitable purposes, this is a strong indication that fundraising is a collateral purpose.

Registered charities can only raise funds that are necessary to fulfill their mandate. Fundraising activities are sometimes undertaken by registered charities in hopes of generating extra resources, without first determining what charitable work needs to be achieved and what resources are needed to do that work.

Foundations are generally established to fund qualified donees, which includes charitable organizations. The *Income Tax Act*'s definition of **charitable purposes** includes the disbursement of funds to qualified donees. Thus, whereas charitable organizations engage directly in the delivery of charitable activities, foundations whose purposes include funding qualified donees also engage in charitable activities by disbursing funds to qualified donees.

c) Conduct that results in more than an incidental or proportionate private benefit to individuals or corporations

[\[Footnote 5\]](#)

Fundraising activities that result in more than an incidental or proportionate private benefit are prohibited and may result in revocation of registered charity status.

Although charities cannot be established to confer private benefits, some private benefit may arise in the course of pursuing charitable purposes. Any private benefit to individuals or corporations is only acceptable as an incidental and proportionate by-product of the activity undertaken to fulfill a charitable purpose.

Private benefit is generally incidental and proportionate where the amount or percentage of gain to individuals or corporations is not excessive relative to the benefit to the public. As well, private benefit must be necessary to be considered incidental. Please refer to "Factors

Negating Charitable Registration - Existence of a Private Benefit" in Guide RC4143, Registered Charities: Community Economic Development Programs.

Example 1

Registered charities sometimes enter into fundraising contracts that provide commissions or a percentage of the proceeds from solicitations. Where these arrangements result in a third party enjoying a benefit exceeding fair market value for the work it does, the private benefit will not be incidental.

Example 2

Registered charities sometimes purchase merchandise to offer as gift incentives or donor premiums during fundraising activities. Charities should satisfy themselves that any private benefit associated with such purchases is incidental. To qualify as incidental, private benefit must be necessary. In determining if a private benefit is necessary, the CRA may consider whether the charity is dealing at arm's length with the supplier and whether it can be shown that distributing the item increases the net amount or number of donations.

d) Conduct that is deceptive

Deceptive fundraising practices cause harm by deceiving donors or potential donors and by impairing the fundraising efforts of other charities. Because of this harm, fundraising activities involving misrepresentations are prohibited even when the misrepresentation is not illegal or fraudulent. There is significant harm associated with a deceptive or misleading statement, regardless of whether the charity's conduct is intentional or negligent. A registered charity should ensure representations made by it, and those acting on its behalf, are fair, truthful, accurate, and complete. [\[Footnote 6\]](#)

Misrepresentations have a negative impact on public trust and the integrity of the tax regime governing registered charities. The CRA takes the position that this negative impact outweighs the public

benefit of the charitable work supported through a charity's fundraising. For example:

Registered charities must not misrepresent:

- which charity will receive the donation;
- the geographic area in which the charity operates, and the amount and type of its work; or
- the percentage of funds raised that will go to charitable work.

8. Allocation of fundraising expenditures

a) Substantially all test

Generally, the "substantially all" determination will be based on the proportion of the fundraising content to the rest of an activity. For the purposes of this test, **substantially all** is considered 90% or more. However, in some cases the prominence of the fundraising content in the activity, as well as the resources devoted to it, must be considered.

Example 1

The executive director of a charity gives a speech about a charity's research findings to a group of stakeholders with an interest in the research. The speech concludes with contact information and a brief invitation to learn more about the charity's work or, if audience members choose, make a donation. In this case, the substantially-all test has been met and none of the costs of the speech (for example, the executive director's time and travel) have to be treated as fundraising expenditures.

Example 2

A 1/4-page solicitation for donations for a church project is included in a four-page leaflet for a church service along with staff contact information and the schedule of church services. In this case, the "substantially all test" has been met and none of the costs of the

leaflet (staff time, paper, or printing) need to be attributed as fundraising expenditures.

Sometimes the proportion of costs spent on the fundraising content is relevant in determining whether the activity would have been undertaken without a solicitation of support. Where the resources spent on the fundraising component of an activity exceed 10% of the total cost of the activity, the CRA considers that the activity would not have been undertaken without a solicitation of support and the "substantially all test" is not met.

Example 3

Program staff and fundraising staff both work on an event. The fundraising staff working on the project earn a higher salary than the program staff. In this case, the resources used on the fundraising element of the event are more than 10% even though the time devoted to the fundraising element by the fundraising staff did not exceed 10% of the total time devoted to the project. In this situation the "substantially all test" is not met.

Sometimes the prominence of the fundraising content is relevant in determining whether the activity would have been undertaken without a solicitation of support.

Example 4

A charity broadcasts a television program or commercial featuring a repeated or continuing fundraising solicitation across the bottom part of screen. Based only on the time it appears and the space it uses, the solicitation may make up 10% or less of the content, but because of the prominence it will be considered to represent more than 10% of the activity. In this situation the "substantially all test" is not met.

Example 5

A charity's Web site has 10 pages, but the initial page is used extensively to solicit donations or provide information on giving opportunities. Program and other information about the charity only appear after this material. The prominence of the fundraising materials

relative to the other content represents more than 10% of the activity. In this situation the “substantially all test” is not met.

Note

For fundraising activities involving non-charitable partners, the charity should allocate whatever resources it contributes to the initiative as fundraising expenditures. It should do so even if the partner groups contribute more than 90% of the resources used for the activity.

b) Four-part test

To assist in determining whether or not a particular activity should be reported as fundraising, the CRA has developed four key questions that a charity should ask itself. If the charity can answer **no** to all four questions, the activity is not considered to be fundraising.

1. Was the main objective of the activity fundraising?
2. Did the activity include ongoing or repeated requests, emotive requests, gift incentives, donor premiums, or other fundraising merchandise?
3. Was the audience selected because of their ability to give?
4. Was commission-based remuneration or compensation derived from the number or amount of donations?

Following are additional details and examples that might be useful in considering responses to the four-part test.

Question 1: Was the main objective of the activity fundraising?

A. *Do the resources devoted to the fundraising component of the activity indicate that the main objective is fundraising?*

Generally, if the largest portion of the resources devoted to an activity relate to fundraising, the main objective of the activity is fundraising, even if some resources are used for other objectives.

As set out in the substantially all test, the amount of resources devoted to an activity is determined by the content and the costs associated with carrying out the activity.

Where the main objective of the activity is fundraising, as a general rule all the costs for the activity must be allocated as fundraising expenditures. **Exceptions** to this general rule are discussed below.

B. Does the nature of the activity indicate that the main objective is fundraising?

A free **public service announcement** (PSA) is generally not considered to have fundraising as its main objective.

A paid **advertisement** is usually considered to have fundraising as its main objective. However, if the content of a paid advertisement focuses primarily on aspects of the charity's work other than fundraising—such as promotion of the charity's programs or services to beneficiaries or potential beneficiaries—it will not be considered to have fundraising as its main objective.

An **infomercial** as defined and used for Canadian Radio-television and Telecommunications Commission (CRTC) purposes, is considered to be predominantly fundraising.

The CRA considers **telemarketing** as defined and used for CRTC purposes as predominantly fundraising.

Certain undertakings are always considered to be fundraising, such as:

- activities with content related to **charitable gaming**; and
- activities with content related to **products or services being sold as a fundraiser** by or on behalf of the charity.

Content: Sometimes considered to be fundraising

The content of certain initiatives that are carried out to fulfill a charity's purposes may be hard to separate from a charity's fundraising activity. In such initiatives, the CRA looks for the following

features to see if there is a distinct objective other than fundraising, and to assess how much of the content relates to that objective:

i. Advancing the programs, services, or facilities offered by the charity

Generally, an activity whose main objective is to advance the programs, services, or facilities offered by the charity will provide information or content that furthers the operation of the programs, services, or facilities other than through obtaining donations. As well, such an activity will focus primarily on beneficiaries or potential beneficiaries of those programs, services, or facilities.

Example 1

A charity for disabled adults sells tickets for a performance in which its beneficiaries participate for therapeutic reasons. The charity produces materials to promote the event to the public (including, but not limited to, its beneficiaries). The production costs associated with the event may be treated as charitable program expenditures (assuming other aspects of the four-part test are satisfied). Costs associated with promoting the event to the public would be treated as fundraising. If tickets are free, none of the costs would be considered fundraising.

Example 2

A leaflet promotes participation in a community health centre program and is distributed door-to-door in the centre's catchment area. Costs for the resources devoted to promoting the centre's programs are considered charitable expenditures, since they further the group's charitable purposes.

Where a charity profiles its programs, services, or facilities in order to encourage donations, related expenditures are treated as fundraising.

ii. Raising awareness of an issue

An activity intended to raise awareness of an issue among the general public, or a segment of the public, may be considered to advance a charity's programs, services, or facilities if it falls within the charity's mandate to bring the issue to the public's attention. This can be

because the charity includes raising awareness of a particular issue in its purposes or because it has expertise on a matter of public concern.

Example

A charity purchases a newspaper advertisement to make the public aware of the findings of a research report on a public policy issue. In the text of the advertisement, a fifth of the ad space includes a message saying that further research is planned and giving contact information for those who would like to contribute. The main objective of the activity is to increase public awareness, not to fundraise.

iii. Providing useful knowledge to the public or the charity's stakeholders about the charity's work or an issue related to that work

As part of its work, a charity may occasionally seek to engage the public or its stakeholders in ways other than informing them of its programs, services, or facilities. To do so, it may undertake activities whose main objective is to prompt an action or change a behaviour related to its mandate. To be considered as prompting an action or changing a behaviour related to a charity's mandate, the activity must have a specific connection to the organization's charitable purpose(s) and be directed at beneficiaries or potential beneficiaries. The activity should focus on particular conduct relevant to the audience and not just provide information about the general operation of the charity (for example, profiling its past achievements or current work and its value).

Example 1

A charity mandated to work for the prevention of cancer might publish information explaining the benefits of regular testing. This would not be considered fundraising.

Example 2

A community health centre might promote a change in behaviour by providing information on the importance of exercise or the value of a healthy diet. This would not be considered fundraising.

iv. Being transparent and accountable for its practices by providing information about its structure, operations, or performance to the public or its stakeholders

A charity may, as a regular practice, publicly release documentation about its performance—for example, an annual report, financial statements, or other information. As part of this process, it may devote a small portion of this material to acknowledgement of donors and/or to highlighting its need for ongoing support. Because this acknowledgement and/or appeal are part of a broader effort by the charity to be transparent and accountable, the main objective of the activity is not considered to be fundraising.

Generic branding (that is, activities focusing on the general promotion or marketing of the charity's name and logo, image or past work) that occurs outside the charity's reporting to the public as part of its transparency and accountability efforts is usually considered fundraising because it tends to be accompanied by an explicit request for contributions or to be undertaken to prepare for a future request.

Branding or promoting the charity through cause-related marketing is considered fundraising, and any costs the registered charity incurs with such initiatives are considered fundraising expenditures.

Question 2: Did the activity include ongoing or repeated requests, emotive requests, gift incentives, donor premiums, or other fundraising merchandise?

A. Are solicitations ongoing or repeated?

Frequently repeated or ongoing solicitations of support within an activity are a trait of fundraising. Frequency is assessed in relation to the duration or scope of the activity. An ongoing request does not have to occur throughout the activity, but can be a repeated or prolonged request. If ongoing or repeated requests are used, as a general rule, the entire activity will be considered fundraising.

Normally, in activities that would be undertaken without a solicitation of support, solicitations will be balanced with the other content of the activity, and will not be given more prominence.

B. Are requests emotive?

An emotive request is information that appeals primarily to emotion. Messages or content giving more prominence to the circumstances or hardship of beneficiaries or potential beneficiaries of the charity's work than to the work itself are considered emotive. Telethons are usually considered fundraising because of their reliance on emotive appeals. If a charity uses an emotive appeal, the activity will be considered fundraising.

C. Are gift incentives, premiums, or other fundraising merchandise offered?

The availability of any gift incentive, premium, or other merchandise to donors or prospective donors, regardless of its treatment for receipting purposes, will, as a general rule, result in the activity being considered fundraising.

Question 3: Was the audience selected because of their ability to give?

Audiences selected based on the likelihood of support may lead to an activity being considered fundraising.

Example 1

A health charity purchases a donor list from another health charity, and approaches those on the list to make an appeal for members, volunteers, and financial support. Since the list was acquired because of the donation history of the contacts on the list and the likelihood of their having an affinity with a second health charity, the appeal is considered fundraising.

Example 2

A charity canvasses only a specific part of a city because the residents in that neighbourhood are wealthier than those in other areas of the

city, even though its programming is offered on a city-wide basis. The targeting of the audience means the activity is fundraising.

If the audience for an activity consists exclusively of beneficiaries or potential beneficiaries of the charity's work or a significant number of the charity's stakeholders other than donors, then—unless there are other indicators of fundraising—it is considered to have been chosen for a reason other than fundraising.

Where a medium is chosen for an activity because it attracts an affluent audience rather than those with a clear interest in a charity's programming, the activity is considered to be fundraising.

Question 4: Was commission-based remuneration or compensation derived from the number or amount of donations?

How a charity calculates payment for an activity also indicates whether or not the activity is fundraising. If payment of commissions or other compensation is tied to the amount or number of donations, the whole activity is considered fundraising.

However, if compensation is tied to work completed (rather than to success in obtaining contributions), and there is a main objective other than fundraising, the activity will not necessarily be considered to be wholly fundraising.

Example

A community health centre sends a direct mail distribution about its programs and services to all members of the public residing in a geographically defined area (the catchment area of the health centre). If the activity's main objective was to share information on programs and services, and payment for the activity was not tied to fundraising success, then the direct mail distribution would not necessarily be considered wholly a fundraising activity, even though it might have a fundraising element.

Exceptions to allocation of fundraising expenditures

The CRA recognizes that, in certain circumstances, an event or activity may serve multiple purposes—for example, as a way to advance a charity's programs and a means of raising funds for the charity. This might be where:

- the charity promotes an event or activity where revenues are raised based on the charity's work with its beneficiaries, such as the sale of goods from the operation of a sheltered workshop involving persons with disabilities;
- the charity mounts an event or activity featuring its beneficiaries for treatment purposes or to foster their skills or well-being, such as a concert performance by autistic children or an endurance race to build the stamina of cancer survivors; or
- the charity ties a fundraising appeal to a political activity allowed under the *Income Tax Act* (i.e., non-partisan and to which less than 10% of the charity's resources are devoted), such as mounting a public awareness campaign about a policy issue.

The CRA considers that an event or activity advances a charity's charitable purpose(s) where it can be shown to prompt a change in behaviour or an action other than the giving of a donation or other financial support. The event or activity should also reach a significant portion of the charity's stakeholders other than its current or prospective donors, or clearly exhibit greater emphasis on helping beneficiaries than on obtaining financial support.

Reported fundraising expenses on a charity's Form T3010 may be recalculated by the CRA based on its assessment of the charity's actual fundraising costs. Where a charity knowingly or negligently understates its fundraising expenses, this is taken into account in assessing whether the charity has acted reasonably. Inaccurate reporting is also grounds for compliance action under the *Income Tax Act*.[\[Footnote 7\]](#) It should be noted that this assessment of fundraising is separate and independent of the requirement that registered charities satisfy the disbursement quota set out in the *Income Tax Act*.

9. Evaluation of fundraising activities

Additional factors the CRA may consider in assessing fundraising.

a) The size of the charity (which might have an impact on fundraising efficiency)

The size of a charity might have an impact on fundraising efficiency. The CRA generally considers that registered charities with revenues under \$100,000 have a small constituency. In these cases the CRA will consider whether the fundraising costs are reasonable given the profile of the community the charity serves or with which it works, and whether the charity can demonstrate that costs are being adequately controlled.

b) Causes with limited appeal (which could create particular fundraising challenges)

The CRA recognizes that charities that advance causes with limited appeal may encounter particular fundraising challenges. These charities could include those conducting research into the prevention and cure of an emerging disease, that is relatively unknown, and charities with causes that are less popular with the general public, such as those supporting the rehabilitation of violent offenders. The CRA may be prepared to accept some higher costs for these charities, provided these can be shown to be reasonable given the nature of the cause that the charity advances and that it can demonstrate costs are being adequately controlled.

c) Donor acquisition and planned giving campaigns (which could result in situations where the financial returns are only realized in later years)

Donor acquisition and planned giving campaigns could result in situations where financial returns are only realized in later years. The CRA recognizes that the cost of donor development represents a long-term investment on the part of a charity. Provided a charity can demonstrate that it has adopted recommended best practices (see below) for fundraising to control and reduce costs, the CRA may be prepared to accept the higher costs associated with donor development solicitations.

Donor development includes, but is not limited to, direct mail campaigns, telemarketing, and face-to-face solicitations by paid canvassers. Special events may also be a way of identifying potential donors. Returns from donor development are often not realized within the fiscal period in which the spending on development occurs. However, donor development costs should, generally, decline over time as the charity and its fundraising activities become more established.

CRA rules do not permit the attribution of fundraising expenditures to future years, or the issuance of receipts for contributions pledged for future years. Because of this, the CRA recognizes that revenue-to-cost ratios calculated within a calendar or fiscal year may not fully reflect a charity's operations.

10. Indicators of best practices

a) Prudent planning processes

A registered charity's fundraising planning costs should be reasonable and proportionate to the types and scope of activity it intends to carry out. Before undertaking fundraising, the registered charity should:

- familiarize itself with any regulatory obligations for the type(s) of fundraising it is considering; and
- research costs and returns that can be expected based on the types and scope of fundraising being undertaken, and investigate other potential fundraising methods.

Based on this research, the charity should select the best fundraising approach or approaches for its fundraising goals, resources, and the expected ratio of net proceeds.

b) Appropriate procurement processes

A registered charity should undertake a reasonable process, in light of its resources and the size of the contract, to identify and select a supplier to provide the required goods or services at a cost reflecting no more than the fair market value. This may include:

- researching fundraising methods and procurement options that could meet the charity's needs (see point a), above);
- contacting organizations with a profile similar to the charity's to determine reasonable and appropriate costs and terms for the type and amount of fundraising to be undertaken;
- soliciting bids from three or more potential suppliers;
- issuing a request for proposal;
- holding a competitive bidding and tendering process;
- carefully reviewing all terms of contracts to ensure they are reasonable;
- including provisions to terminate a contract if the third party acting on behalf of the charity does not act in compliance with the provisions of this guidance; and
- limiting the length of contracts, particularly when signing an initial contract.

Important considerations

- A charity should always ensure any benefit paid to a non-arm's length party is reasonable consideration for the goods or services provided.
- Services should not be contracted out to non-charitable entities if they could be delivered as effectively and efficiently using the charity's own resources.
- The amount of fundraising activity undertaken under the contract or by the charity should never constitute a collateral purpose.
- A charity should fully document procurement, negotiation, and approval of contracts.

c) Good staffing processes

Where fundraising activity is carried on as a staff function, the charity should make adequate effort to ensure that compensation paid does not result in employees receiving excessive benefits. The salary and/or benefits for any fundraising position should never exceed the fair market value for the services provided.

Determining fair market value may involve:

- contacting organizations with a profile similar to the charity's to determine reasonable compensation for the type and amount of fundraising to be undertaken;
- basing the compensation on a salary survey; and
- setting compensation that is appropriate based on the remuneration received by other employees of the charity in light of the respective responsibilities and requirements of the positions.

A charity should establish accountability processes for the supervision and evaluation of in-house fundraising personnel. A charity should avoid performance evaluation based solely or excessively on fundraising performance or results achieved (for example, bonuses or incentives exclusively tied to the number or amount of donations).

d) Ongoing management and supervision of fundraising practice

The charity should take reasonable steps to manage its fundraising on an ongoing basis. For example, the charity should ensure that:

- all conduct meets the charity's regulatory obligations (regardless of whether the fundraising is conducted by in-house personnel or by an external party);
- it exercises adequate control over the scope of fundraising and the use of fundraising resources; and
- all fundraising practice complies with its policies.

Contracts and job descriptions that include fundraising responsibilities should provide the charity with all the authority necessary to adequately manage and supervise fundraising practices. Whether fundraising is carried out as an employee function or contracted out to third parties, a charity's fundraising oversight measures should include:

- establishing fundraising policies setting out acceptable and prohibited fundraising practices;
- pre-approving fundraising solicitation scripts or other representations;
- monitoring the receipting process regularly;
- periodically conducting financial analysis of the quantity of resources being devoted to fundraising in comparison with the resources being devoted to other aspects of the charity's work;
- using internal audits to review expenditures and revenues;
- exercising contractual rights to review or audit the financial and other records of the work done by any third party;
- following up with donors to confirm what representations were made, fulfilment of undertakings (such as donor requests for designation of funds to a specific purpose), and general satisfaction.

e) Adequate evaluation processes

At a minimum, a charity should be assessing its fundraising performance in the context of CRA guidance. In addition, the charity may develop its own criteria or may gauge its achievements against external standards. Registered charities should strive to spend no more on fundraising than is required, and should review cost-effectiveness as well as outcomes in assessing performance.

The effort and cost of the evaluation measures should be proportionate to the risk of unacceptable conduct, given the type and scope of fundraising undertaken by the charity.

A number of organizations provide research and standards on various aspects of fundraising costs—such as salaries, return on investment associated with different types of fundraising, and typical cost ratios.

Where a charity uses an external standard as evidence that its fundraising conduct has been reasonable, it should be able to show that applying the criteria is appropriate in its circumstances.

Example

A charity that requires fundraising revenues of less than \$1,000,000 to adequately support its programs hires a single fundraiser and pays that fundraiser a salary of \$200,000. The charity maintains that the salary is reasonable based on a salary survey of other charities. The survey the charity relies upon is a survey of larger charities with minimum fundraising revenues of \$10,000,000. In this circumstance the survey would not be considered an appropriate criterion to establish that the charity's fundraising conduct has been reasonable.

f) Use made of volunteer time and volunteered services or resources

Contributions of volunteers and voluntary contributions of resources may reduce the costs of fundraising and are not apparent from a financial analysis of the activities. Use of volunteers and voluntary contributions demonstrates a commitment to minimizing the expenditures associated with fundraising activities and may be taken into consideration when assessing a charity's fundraising activities.

For purposes of this guidance, volunteers are defined as unpaid individuals assisting in campaigns, events, or other fundraising, either by soliciting donations or by directly or indirectly assisting in obtaining donations, but do not include those involved in a fundraising campaign, event, or activity through their own participation or attendance. Individuals who seek contributions from others tied to their participation in, or completion of, a marathon or like event are considered participants, not volunteers. Voluntary contributions of resources are contributions of services or facilities for which issuance of tax receipts is not permitted.

g) Disclosure of fundraising costs, revenues, and practice (including cause-related or social marketing arrangements)

It is good practice for charities to disclose as much as possible about their operations, including the costs they incur to raise funds to support their work.

Required disclosures

All registered charities must complete and submit an annual Form T3010 with certain mandatory information on their fundraising and finances. Failure to file an information return or filing of an incomplete return is a breach of the *Income Tax Act*. The information filed on the public portion of the return is posted, as submitted, on the CRA Web site.

Depending on their legal structure and the jurisdiction in which they are constituted, some registered charities are subject to additional financial reporting obligations and/or auditing requirements. This financial and audit information may be available to all or some of the charity's members, one or more regulatory bodies, and the public.

Funding bodies, including governments that provide money and/or resources to registered charities may impose additional reporting obligations. Charities receiving public monies may also be subject to government audits. Again, information prepared as part of these processes may be publicly available.

Additional disclosures

When assessing fundraising conduct, the CRA does examine what information is publicly disclosed by a registered charity or information that is otherwise publicly available. The CRA expects charities to provide complete disclosure of all fundraising costs and revenues so that members of the public—and, more specifically, donors or prospective donors—are not deceived or misled about the amount of resources from fundraising that is ultimately available to a registered charity for its programs, services, or gifts to qualified donees.

The amount and type of the disclosure necessary to protect the public from being deceived or misled varies from charity to charity. It

depends on a number of factors, including how and from whom the charity solicits contributions. For instance, the disclosure needed to address the risk posed by a charity soliciting contributions from the public is generally greater than for a charity only seeking donations from its membership. Similarly, the higher the costs for a fundraising activity, the more there is a need for disclosure in order to ensure that donors are not inadvertently mislead. The CRA looks for an amount of disclosure that is appropriate in light of the fundraising being undertaken.

The following specific measures are indicators of a charity's commitment to disclosure:

- the extent of public disclosure of fundraising costs and revenues in financial information released by the charity, including but not limited to its annual Form T3010;
- adoption of policies requiring appropriate disclosures to donors and prospective donors to reduce the risk of inadvertently misleading them;
- training staff or volunteers making solicitations on appropriate and inappropriate fundraising representations;
- pre-approving scripts and other solicitation materials to be used by staff, volunteers, or third parties in making representations on its behalf;
- including provisions in contracts with third parties specifying that misrepresentations must not be made when acting on behalf of the charity; and
- use of independent auditors and/or externally established standards to promote full, accurate, and consistent disclosure of financial performance.

To be meaningful, disclosure must be accessible and accurate.

Accessible

Generally, information must be made available to, at a minimum, donors and prospective donors to be considered accessible. Disclosure to prospective donors usually means disclosure to the public, unless

the charity's fundraising efforts are limited to a clearly and narrowly defined group.

The methods chosen and how the charity uses them are taken into account in assessing the extent of the charity's commitment to transparency about its fundraising and finances.

In most cases, distributing information on a Web site is the most cost-effective way for a charity to provide information to a wide audience. Other common distribution methods used by charities include annual reports, mailings, print and broadcast media, events, and through contacts made during solicitations.

Where information is presented in a way that makes it obscure or difficult to find, or when requirements for obtaining it are not reasonable, it is not considered accessible.

Disclosure should include all relevant information. Material should never be withheld to prejudice or preclude conclusions being drawn from the disclosure. For instance, reporting net fundraising revenues without reporting on fundraising expenditures is not considered making information fully accessible.

Accurate

It may not always be possible for charities to disclose precise and full information on their fundraising during the course of a campaign, event, or activity because, among other considerations, cost to revenue ratios will vary over time. Registered charities should always disclose the best information available at the time the information is disseminated, and should strive to share updated information as soon as possible. If further information is pending, it is good practice to indicate that the information being disclosed is not final.

Disclosure content

In addition to the information available on its Form T3010, a charity may consider disclosing information before, during and after a fundraising initiative.

Before or during a campaign, a charity might disclose:

- the estimated fundraising costs and revenues included in its annual budget;
- any revision of budgeted fundraising costs and revenues based on actual performance;
- whether the fundraising is being done by volunteers, employees, or third-party fundraisers;
- whether the fundraiser or the fundraising company is receiving commissions on donations or other payments based on the number or amount of donations;
- the general terms and conditions of any fundraising contract entered into, including the method by which compensation is calculated (and/or actual amount of compensation), anticipated costs and revenues provided for in the agreement, and any requirement in the agreement for the charity to bear expenditures incurred during the fundraising; and
- if the fundraising is being done internally, how performance of fundraisers is assessed and how they are compensated.

After completion of a fundraising campaign or when financial information for a fiscal period is released, the charity might disclose:

- the costs and revenues for specific types of fundraising or campaigns within a fiscal period;
- whether any costs for the fundraising are being allocated to expenditure categories on the Form T3010 other than fundraising expenditures;
- whether any costs are being underwritten, and accounted for, through an entity other than the registered charity; and
- the breakdown of consolidated fundraising costs and revenues included in financial statements.

Cause-related marketing disclosures

Cause-related ventures are not subject to this guidance provided that more than 90% of the costs of the initiative are borne by a non-charitable partner and all costs and revenues of the charity are adequately disclosed.

In calculating the contribution of the charity to such an arrangement, the CRA takes the position that use of the charity's intellectual

property does not need to be included if the charity or the partner discloses to the public the terms of the arrangement, including:

Before or during the initiative:

- any requirement for costs to be paid by the charity; and
- the terms for the payment of any revenues to the charity;

During or after the initiative:

- the amount of any costs paid by the charity; and
- the amount of any revenues received by the charity, provided either as a total amount or as an amount or percentage from the sale of a good or service.

11. Areas of concern that could lead to further review

a) Sole-source fundraising contracts without proof of fair market value

A sole-source contract is a contract entered into where only one party was given an opportunity to make a proposal to the charity. Sole-source contracts for fundraising may lead to an excessive or disproportionate private benefit, which would make the fundraising unacceptable. Any private benefit associated with a charity's operations must be a minor and incidental by-product of its work. If a charity enters into a sole-source contract for fundraising services, it should be able to demonstrate that it paid no more than fair market value. Generally, this will show that the charity is acting reasonably in entering into the contract, and will address any concerns that the private benefit arising from the arrangement is excessive or disproportionate. However, other considerations related to the amount or percentage of public benefit may also apply. See [Conduct that results in more than an incidental or proportionate private benefit to individuals and corporations.](#)

b) Non-arm's length fundraising contracts without proof of fair market value

If a charity enters into a non-arm's length contract for fundraising services or supplies without determining the fair market value of the work to be undertaken, there may be an undue benefit associated with the contract that makes the fundraising unacceptable.

The sanction provisions of the *Income Tax Act* with respect to registered charities include a penalty related to a charity conferring an undue benefit on any person. [Footnote 8] If the charity enters into a non-arm's length contract for fundraising services or supplies, it should be able to demonstrate the amounts paid either reflect or are less than the fair market value. Generally, this will show the charity is acting reasonably in entering into the contract, and will address any concerns that there is an undue benefit arising from the arrangement. However, other considerations, such as whether the arrangement is necessary to fulfill the charity's purposes, may also apply. See Conduct that results in more than an incidental or proportionate private benefit to individuals and corporations.

c) Fundraising initiatives or arrangements that are not well documented

A charity must properly document its fundraising activities to ensure all its resources are being used for charitable purposes and that other regulatory obligations are being met. To show that it is retaining control of its fundraising, the charity should have:

- minutes of board meetings or other meetings where decisions on a fundraising contract were made;
- records of research to determine appropriate costs;
- documentation on any procurement processes, appropriate for the size of the fundraising services being sought, undertaken before entering into the contract(s); and
- written copies of any fundraising contract(s) entered into.

d) Fundraising merchandise purchases that are not at arm's length, not at fair market value, or not purchased to increase fundraising revenue

Where the charity purchases gift incentives, donor premiums, or other fundraising merchandise, it must be able to demonstrate that increased revenue will result directly from the distribution of such gifts or premiums. Otherwise, the purchase of such gifts or premiums may be unnecessary and may raise concerns of a private benefit accruing to the supplier of these items.

The private benefit associated with producing fundraising merchandise is inevitably quite remote from the public benefit the charity exists to pursue. It is therefore difficult to characterize any private benefit associated with producing these items as truly necessary to fulfilling the charity's purpose(s). See [Conduct that results in more than an incidental or proportionate private benefit to individuals and corporations.](#)

If a charity enters into a non-arm's length contract for fundraising merchandise without determining the fair market value of the work to be undertaken, there may be an undue benefit associated with the contract that makes the fundraising unacceptable.

The charity must be able to demonstrate that it paid no more than fair market value for such services. However, even where a charity can show that costs reflect fair market value, it may not satisfy the requirement that the arrangement not give rise to a disproportionate or excessive private benefit. As well as not exceeding fair market value, transactions that have private benefit associated with them are only acceptable as a minor and incidental by-product of a charity's work.

e) Activities where most of the gross revenues go to contracted non-charitable parties

If most of the gross revenues of a charity's fundraising activities go to contracted non-charitable parties, there may be an excessive or disproportionate private benefit that makes the fundraising unacceptable.

Where a high percentage of fundraising proceeds go to a non-charitable party or parties, the charity must show that it has taken steps to determine the fair market value for the good or service supplied, and that it has taken adequate measures to control costs. Generally, the larger the cost, either in absolute terms or as a proportion of the charity's resources, the more attention the charity should pay to the issue.

Charities can manage this risk in various ways, such as:

- showing that expenditures on the activity or activities represent an investment and will result in lower costs for subsequent activities;
- using volunteers or obtaining non-receipted contributions of services, facilities, or equipment that enhance the activity and are not reflected in the financial reporting of the initiative; and
- disclosing costs so that the public or attendees are not misled about the use of their donations, entrance fees, or other contributions.

In such cases, the charity should be able to demonstrate that it is taking steps to lower its fundraising costs over time. It should also be able to document how and when it intends to achieve a more reasonable return.

f) Commission-based fundraiser remuneration or payment of fundraisers based on amount or number of donations

If a charity provides remuneration for fundraising on the basis of results rather than effort, then there may be a disproportionate or excessive private benefit included in the remuneration that makes it unacceptable.

Where the fundraising arrangement includes commission-based remuneration or other compensation based on the number or amount of donations raised, the charity should satisfy itself that such provisions would not result in disproportionate or excessive private benefit. It is possible that contracts providing for such fees can result in a windfall profit for the fundraiser, particularly when the compensation is set at a high percentage and there are limited or no additional provisions governing how the work is undertaken.

Profits related to effort (for example, devotion of time and resources) rather than fundraising success are less likely to give rise to disproportionate or excessive private benefit. For example, payments which compensate fundraisers based on calls completed or contacts made—regardless of whether a donation is received—or on a periodic (for example, hourly or weekly) basis, at a fair market value for the work entailed, are not generally considered to result in disproportionate or excessive private benefit.

g) Total resources devoted to fundraising exceeding total resources devoted to program activities

If the total amount of resources devoted to fundraising exceeds the total amount of resources devoted to program activities, fundraising may have become a collateral purpose of a charity. This issue may arise regardless of whether fundraising is done through staff or a contractual arrangement.

A charity may make substantial use of non-financial resources, such as volunteers, in fulfilling its charitable purposes. If the charity documents the use of such resources, it can show that a purely financial analysis of its operations does not accurately represent a fair picture of the resources devoted to charitable and fundraising activities.

However, a charity should also be able to demonstrate that its use of non-financial resources is a reasonable and effective way to advance its mandate. Fundraising revenues should primarily be used to support the charity's operations, not fundraising itself. Where use of financial resources is heavily skewed to fundraising functions, and other

operations are carried on primarily with non-financial resources, the fundraising may be an end-in-itself, not a means-to-an-end.

Market conditions may sometimes account for discrepancies in costs of different functions. Where this is the case, charities should be able to provide evidence to demonstrate that the costs of particular functions are reasonable. Merely showing that costs of fundraising are at market rates is not sufficient.

h) Misrepresentations in fundraising solicitations or in disclosures about fundraising or financial performance

A charity must be truthful in its solicitations and its disclosures about its fundraising or finances to avoid the harm that results from deceiving the public or stakeholders (including donors). When the harm entailed in the fulfilment of an organization or foundation's purposes outweighs its benefit to the public, the purpose(s) are not charitable.

Misrepresentations may:

- result from the intentional conduct of a charity;
- arise through failure to exercise adequate care in producing or delivering information to the public or stakeholders;
- occur prior to or during fundraising;
- occur in a charity's reporting on its fundraising or financial performance after solicitation;
- result from a statement by the charity, or someone on its behalf, which is inaccurate or deceptive; or
- result from an omission of information that creates a false impression.

This issue may arise even if a solicitation or representation was not illegal or fraudulent, provided there is sufficient harm caused. The harm caused by such misrepresentations includes deception of current or prospective donors and impairment of the fundraising efforts of other charities. The amount of harm associated with a misrepresentation will increase based on its frequency and the number of people to whom it is made.

Footnotes

[Footnote 1]

The courts have held that purposes or activities that are illegal (*Everywoman's Health Centre Society* (1988) *v. MNR* [1992] F.C. 52) or are contrary to public policy (*Canadian Magen David Adom for Israel v. Canada (Minister of National Revenue - M.N.R.* (2002) 218 DLR (4TH) 718; *Canada Trust Co. v. Ontario (Human Rights Commission)* (1990) 74 O.R. 481; *Ontario (Public Guardian and Trustee) v. AIDS Society for Children (Ontario)* (2001), 39 E.T.R. (2d) 96) are not charitable.

[Footnote 2]

In particular, see section 168.1(4)(d) of the *Income Tax Act* and Regulation 3501 of the *Income Tax Regulations*, which set out charities' obligations regarding issuance of receipts.

[Footnote 3]

See *International Charity Association Network v. Canada*, 2008 TCC 3.

[Footnote 4]

See *Keren Kayemeth Le Jisroel Ltd. v. IRC* [1931] 2 K.B. 465; on appeal [1932] A.C. 560; see also *Vancouver Society of Immigrant and Visible Minority Women v. MNR* [1999] 1 S.C.R. 10 [Vancouver Society] at para. 192.

[Footnote 5]

The courts have held that purposes or activities that result in a private benefit that is more than incidental to the public benefit of an endeavour, which would otherwise be charitable, make it not charitable. See *Re Compton* [1945] Ch. 123; *Hadaway v. Hadaway* [1955] 1 W.L.R. 16; *IRC v. Oldham Training and Enterprise Council* [1996] BTC 539.

[Footnote 6]

The courts have held that any harm arising from fulfilment of a charitable purpose or purposes must be taken into account in evaluating whether there is a public benefit derived from the purpose. See *National Anti-Vivisection Society v. IRC* [1948 A.C. 31]; see also *Vancouver Society and Guaranty Trust Co. of Canada v MNR* [1967] S.C.R. 133 [Guaranty Trust] on the relationship between purposes and activities under the *Income Tax Act*.

[Footnote 7]

Income Tax Act, section 168 (1) (c)

[Footnote 8]

Income Tax Act, sections 188.1 (4) and 188.1(5)