

## Canada Revenue Agency – Speaker's Notes

### Powerpoint Presentation: Introduction to political activities and registered charities

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#### Slide 1 – Introduction to Political activities and registered charities

- This presentation explains the *Income Tax Act*'s basic rules for registered charities that carry out political activities.
- Political activities and charitable registration can be a challenging topic. This presentation focuses on introducing the fundamental requirements for what is and what isn't allowed.
- By the end of the presentation, participants should better understand what a political activity is, the difference between political and charitable activities, what kinds of political activities are allowed and what kinds are not allowed, and the general extent to which charities can carry out political activities.

#### Slide 2 - Background

- Charities are registered and regulated under the *Income Tax Act*, at the federal level, by the Canada Revenue Agency (the CRA).
- The Charities Directorate is the area of the CRA that is responsible for administering the provisions of the *Income Tax Act* that relate to charities.
- The *Income Tax Act* allows charities to be registered. With registration come certain advantages, such as being exempt from income tax and being able to issue income tax receipts to donors.
- However, along with these advantages come a number of restrictions and requirements on how a charity can use its resources, including limits on the use of resources for political activities.
- Not observing these limits can have serious consequences for a charity, up to and including losing its charitable status.
- These requirements and restrictions are explained in detail in the CRA's policy on political activities, Policy Statement CPS-022, *Political Activities*, which is available on the CRA website.

### Slide 3 – Can a charity carry out political activities?

- Charities in Canada are uniquely positioned to contribute to the development of public policy. Front-line experience in their field of operations gives them valuable insight that can help inform public debate and government decision-making.
- Considering this, the *Income Tax Act* permits any charity to carry out a limited amount of non-partisan political activity in support of its charitable purposes. For those charities that choose to become involved in political activities, the law is clear: charitable purposes must always come first.
- There is, of course, much more detail to add to each of these points, and we will cover this in the rest of this presentation.

### Slide 4 – Charities must always be non-partisan

- Partisan political activities are never allowed. In other words, a charity must always be non-partisan, or politically neutral.
- The definition of a partisan political activity is very broad. It is any activity of any nature that directly or indirectly supports or opposes any candidate or political party.
- It doesn't matter whether it is a Canadian political party or candidate or a political party or candidate of another country.
- A charity might in some cases feel it is carrying out a charitable activity if it believes the intention behind, or the result of, its partisan political activity is good.
- But, any use of a charity's resources for partisan political activities is always unacceptable.
- The safest route is for a charity to avoid linking or connecting its political activities to any political party or candidate. For example, a charity might discuss the benefits of changing a law and then call for support from the public to change the law. This would be a non-partisan political activity.
- But, if a charity singled out a political party or candidate, offering criticism or support because that party or candidate disagreed or agreed with changing the law, then the charity might be considered to be supporting or opposing that political party or candidate—the charity is at risk of carrying out a partisan political activity.
- Examples of partisan political activities include:
  - endorsing a candidate (a charity must never suggest it supports a particular candidate for any election)
  - suggesting people vote for a particular candidate or party, directly or indirectly (this could include, for example, a charity that publishes a pamphlet during an election period in which it highlights the successes of the political party that has been in power, therefore implying that party is better than the opposing political parties, so people should vote for that party)
  - using a charity's website to post or hyperlink to statements made by a third party that support or oppose a candidate or political party (for example, publishing comments that support or criticize a political party or candidate would be partisan, as would providing links that direct a reader to a third party's supportive or critical comments).

### Slide 5 – Political activities must always be connected

- A charity's political activities must also be connected.
- Connected, sometimes called **ancillary**, means a political activity relates to and supports a charitable purpose, and is a reasonable way to achieve that purpose.
- For example, a charity that relieves poverty by operating a food bank might urge members of the public to contact their members of provincial Parliament to call for an increase in the minimum wage, which the charity believes will help lift people that use its food bank out of poverty.
- But, that same charity could not devote its resources to calling for a new defence policy for Canada, because this does not relate to its charitable purpose of relieving poverty by operating a food bank.

### Slide 6 – Political activities must always be subordinate

- The *Income Tax Act* puts two limits on the amount of political activities a charity carries out.
- The first limit is that the political activities must be **incidental**. That is, political activities can never be a purpose for a charity, the reason why it exists or has been formed. They must always be a relatively minor or secondary activity in comparison to the charity's charitable purposes and activities.
- While this might be seen as a kind of qualitative measurement, the *Income Tax Act* also puts a quantitative limit on a charity's political activities.
- A charity must devote substantially all of its resources to charitable activities if it wants to carry out political activities.
- The CRA typically interprets substantially all to mean 90% or more. A charity that meets this requirement is allowed to devote any remaining resources to political activities that are non-partisan, connected, and subordinate.
- The term **resources** is not defined in the *Income Tax Act*, but we consider it to include all of a charity's assets, including its financial assets as well as everything the charity can use to further its purposes, such as its staff, volunteers, directors, premises, and equipment.
- For example, a charity is registered to advance education by providing scholarships. It also carries out the political activity of organizing public pressure on the provincial government to make university tuition free for students from low-income families.
- To carry out this political activity, the charity might use a number of methods that consume only a relatively small amount of resources, such as posting notices on its website, distributing social media messages, or having volunteers distribute leaflets and petitions.
- Depending on the facts of the case, the charity could well devote very few resources to this political activity, and therefore meet the **substantially all** requirement. But, if the charity puts too much emphasis on these political activities, compared to distributing scholarships, it would not meet the subordinate test.
- For example, if the charity's involvement in political activities caused it to delay processing applications for scholarships or distributing scholarships, or if the charity gave out fewer scholarships than it planned, these might be signs that its political activities have become too

important for the organization, and are therefore no longer subordinate to its charitable purposes.

### **Slide 7 – What is a political activity?**

- The CRA's explanation of what it considers to be a political activity is described in section 6.2 of the policy on political activities, Policy Statement CPS-022.
- Often when political activities are discussed in the media or other venues, they are described in very broad and vague terms.
- For example, a newspaper article might state that charities in Canada carry out advocacy, lobbying, or political activities without necessarily defining what those terms mean.
- But, for the CRA, an activity that fits the description of any of the four types of political activities in Policy Statement CPS-022 is typically a political activity.
- This slide shows the first type of political activity—a charity must explicitly communicate a call to action, which means encouraging the public to contact an elected representative or public official to try to retain, change, or oppose a law, policy, or decision of any government.
- The first part of the sentence refers to laws, policies, or decisions. This means, in short, that political activities involve much more than just trying to change the law.
- Political activities also include actions aimed at government policies (for example, a municipal government's policies on land use within its city's boundaries) and government decisions (for example, a decision by the federal government on which company it will buy certain supplies and equipment from).
- And, a political activity includes more than just seeking to make a change. It also includes attempts to retain (for example, making sure a law, policy, or decision remains in force) or oppose (that is, trying to eliminate an existing law, policy, or decision, or trying to make sure one is not passed).
- Finally, political activities are not restricted to activities involving the Canadian government. A charity is carrying out a political activity if it is seeking to influence the government of any foreign country, or if it is seeking to influence any level of government, whether municipal, provincial/territorial, or federal.
- Returning to this first type of political activity, an example could be a charity that is registered with the charitable purpose of helping refugees who have just arrived in Canada. The charity may organize a march on Parliament Hill, where a director makes a speech and calls on members of the public to contact their members of Parliament to urge legislative reform related to refugee status. This would be a call to political action that is seeking to change legislation in Canada at the federal level.

### Slide 8 – What is a political activity? (cont.)

- The second type of political activity is an explicit communication to the public that a law, policy, or decision of any level of any government should be retained, changed, or opposed.
- This kind of communication could take many forms, such as articles posted on a charity's website, a message distributed through an electronic newsletter, an advertisement in a print newspaper, or comments made through social media sites like Facebook and Twitter.
- For example, a charity, registered to promote public safety, learns that the provincial government is considering raising the speed limit on all major highways by 10 kilometres an hour.
- The charity begins a campaign to communicate to the public that this decision should be opposed, by distributing leaflets, posting flyers, and taking out ads in the local newspapers.
- The CRA would consider this a political activity.

### Slide 9 – What is a political activity? (cont.)

- The third type is an activity where a charity indicates in any of its materials that the intent of the activity is to incite, or organize to put pressure on, an elected representative or public official to retain, change, or oppose a law, policy, or decision of government.
- The CRA uses a very broad definition of the term **materials**. Materials can include internal or external publications, documents, messages, or any other records. For example, a charity might indicate the intent of an activity is to pressure the Prime Minister to change a law in a publicly distributed newsletter or in an email sent internally between two directors of the charity. Either would make the activity a political activity.
- Note that the actual nature of the activity itself has no bearing on this type of political activity. An activity could appear to be entirely non-political in nature. But, if any external or internal material explicitly indicates the intent of the activity is to incite, or organize to put pressure on, a government to retain, change, or oppose a law, policy, or decision, then the activity becomes a political activity.
- For example, a charity is registered to promote health by helping people with high blood pressure. The charity posts articles on its website warning of the dangers of too much salt. These articles appear to be merely an effort to inform Canadians about how to make their diets healthier. But, the minutes of a meeting of the directors of the charity say the intent of posting these articles is to incite readers to contact their members of Parliament to change the regulations dealing with salt levels in food. In this case, the activity is a political activity.

### Slide 10 – What is a political activity? (cont.)

- Finally, political activities also include gifts from a registered charity to another qualified donee that are made to support the recipient's political activities.
- Note that the definition of **qualified donee** is very specific and it can be found on the CRA website. In summary, a qualified donee is an organization that can issue a receipt to a donor that can be used to reduce the donor's Canadian income tax.
- Registered Canadian charities make up the majority of qualified donees, but there are other kinds of organizations that are also qualified donees, including registered Canadian municipalities, Her Majesty in right of a province or Canada, the United Nations, and a few other types of organizations.

### Slide 11 – What is a charitable activity?

- Under Canadian law, a charitable activity is generally an activity that directly furthers a purpose that the courts have recognized is charitable.
- The words **activity** and **purpose** are important terms for the CRA.
- Generally, a purpose is an aim or goal of an organization. An activity is how it accomplishes that aim or goal, or the steps it takes to accomplish it.
- A charitable purpose is a purpose that falls under one of the four categories of charitable purposes identified by the courts: relief of poverty, advancement of education, advancement of religion, and a fourth category that includes charitable purposes such as to relieve conditions associated with aging, to protect the environment, and to promote health.
- To be registered as a charity under the *Income Tax Act*, an organization must have only charitable purposes.
- To pick a relatively straightforward example, a food bank might be registered as a charity. Its charitable purpose would likely be something along the lines of to relieve poverty by distributing food to those in need.
- Its charitable activities would probably be leasing or renting a building, collecting donations of money and food, recruiting volunteers and hiring staff, and distributing the food to those in need.

### Slide 12 – Can a political activity ever be considered a charitable activity?

- A political activity is typically any activity that meets the definition of a political activity in the CRA's policy on political activities, Policy Statement CPS-022.
- Some charities have argued that because an activity that meets the definition of a political activity will have a highly beneficial result, or is particularly necessary or urgent, it must be charitable rather than political.

- However, the CRA typically considers any activity that fits the description of any of the four types of political activities to be a political activity, however beneficial the results of the activity might be or how sincere the beliefs of the charity are.
- For example, a charity is registered to provide relief of the conditions associated with aging, by offering services and facilities aimed at seniors who need help. The charity learns that the city plans to cut bus service, and these cuts will eliminate a number of routes many seniors depend on to travel within the city. The charity undertakes a political activity to put public pressure on city council to reverse the cuts.
- The charity might very reasonably see their political activity to try to reverse the decision as one that is critical to the health and lives of seniors. They might therefore assume that this activity would not be a political activity, falling within the limits set in the *Income Tax Act*, but rather an activity that ultimately protects people's lives and health, meaning that it therefore must be charitable.
- However, although the activity is clearly connected to the charity's purpose, it is not charitable because it meets the description of a political activity. The use of the charity's resources for this political activity has to fall within the limits set in the *Income Tax Act*.

### Slide 13 Representations to government

- If a charity decides not to engage the public, and instead makes a representation only to government (that is, an elected representative or public official), this is generally considered charitable and not political.
- This allows charities to provide their experience and expertise directly to public officials and elected representatives, as long as representations to government remain a minor focus of the charity and support its charitable purposes.
- As an example, let's return to the charity from the previous slide that sought to reverse cuts to bus service that would affect seniors. If that charity made a representation directly to the mayor or to city council, explaining the expected effect of the cuts and telling them to reverse the cuts, this representation would likely be considered a charitable activity rather than a political activity.
- With that in mind, note that there are still criteria that a charity has to meet for its representations to be considered charitable.
- These criteria include the requirement that a charity's representations remain connected and subordinate to its charitable purposes, which means they must be a relatively minor activity carried out only in support of its charitable purposes.
- For example, a charity that advances education by offering scholarships could not begin devoting all of its resources to making representations to the provincial government calling for a reduction in sales taxes.
- Examples of when a representation might meet the criteria in section 7.3 of the CRA's policy on political activities, Policy Statement CPS-022, and therefore be considered charitable might include:

- a meeting at a member of Parliament's office where the charity delivers an oral argument urging the M.P. to introduce a private member's bill that is related to its charitable purpose;
- a presentation delivered to a public official at the charity's headquarters building to explain the charity's findings on a public policy issue that relates to the charity's purposes and to call for a particular government policy to be cancelled;
- an appearance before a parliamentary committee to speak about the charity's experiences in its field of operations and to urge the committee to approve proposed legislation; or
- a presentation at a municipal government town hall meeting to give the charity's views on the benefits to its programs of proposed changes to a municipal government policy and to call for those changes to be implemented.
- Whether a representation meets all the criteria to be considered charitable will always depend on the specific facts of the individual case.

#### **Slide 14 – Accountability for resources devoted to political activities**

- See Guide RC4409, *Keeping Records*, on the CRA website for more information on what kinds of records a charity needs to keep and for how long.
- There are no special books and records requirements that apply to political activities, but a charity must keep books and records that show that any political activities it carried out comply with the provisions of the *Income Tax Act*. For example, a charity could examine and track:
  - Financial resources: all financial expenditures, including salary and other human resource costs
  - Capital assets: the percentage of use of building and office space and the percentage or amount of proceeds or withdrawals from the charity's investments that are spent on political activities
  - Volunteer time and donated resources: the percentage of volunteer hours or the number of volunteers and the percentage or amount of donated resources that are devoted to carrying out the charity's political activities
- The CRA recognizes that it can be challenging for a charity to analyze and track all the various types of its resources and how they are used.
- Although a charity is generally free to find the best way to track its use of resources, the method the charity uses to calculate its expenditures on, or use of resources for, political activities should be reasonable and applied consistently throughout the year.
- The onus is always on the charity to account for its use of resources.
- A charity's books and records can include invoices, ledgers, and records of volunteer hours worked, contracts, and minutes of board meetings.

### **Slide 15 – What if a charity does not observe the limits on political activities?**

- If a charity is not complying with the requirements of the *Income Tax Act*, the CRA generally takes an education first approach.
- The CRA's preference is to help charities understand the requirements.
- For example, the CRA might address an issue of non-compliance by first making sure the charity understands the rules and requirements for political activities.
- A written compliance agreement might be put in place where, for example, a charity commits to change its activities.
- But, with all this in mind, in some cases revoking a charity's registration may be the first action the CRA takes.
- The 2012 federal budget also provided an intermediate sanction for charities that carry out political activities in violation of the *Income Tax Act*. This sanction takes the form of a temporary suspension of the charity's qualified donee status, which means the charity would no longer be able to issue official donation receipts or receive gifts from other registered charities.

### **Slide 16 – For more information from the CRA**

- This concludes the presentation.
- If you would like more information on today's topic, please visit the CRA website.
- You can also call 1-800-267-2384 if you have questions about registered charities.