



Top 68 CRA Reasons for Denying your Canadian Registered Charity Application

By Mark Blumberg and Helene Mersky (January 8, 2018)

We requested from CRA under the Access to Information and Privacy system copies of standard letters and scripts that the CRA uses in the Charities Directorate. We received a treasure trove of documents. One of the documents provided was "Sample Paragraphs for AFLs". These are sample paragraphs that CRA would use in their administrative fairness letters (or AFL) to charity applicants when they are expressing their concerns about a charity application that is unlikely to qualify for registration.

CRA explains the role of the AFL in their [Charities Program Update – 2013](#)

Each year, the Charities Directorate receives approximately 4,000 applications for registration as a charity.

We assess every application individually, on its own merit, to determine if the organization is eligible for charitable registration. We make decisions on these applications based on common law, the Income Tax Act and its regulations, and CRA policy.

When it appears that an applicant is unlikely to qualify for registration, we send an administrative fairness letter outlining our observations and concerns. If the applicant does not respond to the letter within 60 days, we will confirm that its registration has been refused. If the applicant responds, we will consider the new information submitted when making our decision.

The full document is reproduced on the next page and it contains 68 reasons for refusal of a charity application with a brief explanation of each concern.

To find out more about legal services that Blumbergs provides to Canadian charities and non-profits please visit www.canadiancharitylaw.ca, www.globalphilanthropy.ca, www.smartgiving.ca, or www.charitydata.ca

This article is for information purposes only. It is not intended to be legal advice. You should not act or abstain from acting based upon such information without first consulting a legal professional.

Sample Paragraphs for AFLs

Put your cursor over a title on the table and hold down “Ctrl” while you click to jump to a particular topic.

1. Acceptable OPGT objects.....	3
2. Objects/Purposes Charitable	3
3. Broad and Vague Language.....	3
4. Purposes Don't Reflect Activities	3
5. Lack of Information	4
6. Unstated Collateral (Additional) Purposes	4
7. Re-registration – Objects and Activities No Longer Charitable.....	4
8. Combine Objects and Activities Section in the AFL.....	5
9. Alberta <i>Societies Act</i> – Object Clauses.....	6
10. Public Benefit	6
11. Fundraising	6
12. Promotion of Culture	7
13. Mutual Understanding	7
14. Promotion of Multiculturalism	7
15. Activities Outside Canada/Devotion of Resources.....	8
16. Activities Outside Canada with Insufficient Agency Agreement.....	8
17. Lack of Information & Activities Outside of Canada Together	9
18. Political Purposes/Activities	11
19. Partisan Political Activities.....	11
20. Social Activities/Purposes	12
21. Expenditures on Social Activities.....	12
22. Promotion of Industry/Trade	12
23. Not Advancing Religion	13
24. Advancement of Religion - Request for More Information	13
25. Advancement of Religion versus the Promotion of a Philosophy.....	14
26. Missionaries	14
27. Promotion of Sport.....	15
28. Restriction to a Particular Sport.....	15
29. Healthy Recreation	15
30. Fringe Medicine/Holistic Medicine/Homeopathic Medicine	16
31. Relief of the Aged.....	16
32. Aged/Housing	16
33. Housing under relief of poverty	17
34. Education and Research.....	17
35. Education/Dissemination of Information:	18
36. Scholarships - List of Things to Consider	18
37. Scholarships – Private Benefit.....	19
38. Youth	19
39(a). Youth Employment	19
40. Relief of Poverty/Loans not limited to the hard-to-employ.....	22
41. Community Centre.....	22

42. Preservation of Property - Public Benefit	23
43. Property Arrangements	24
44. Real Property	24
45. Service Clubs – General	25
46. Service Clubs – Separation of Service Club and Charitable Activities	25
47. Insufficient Separation	26
48. Designation – Private Foundation	27
49. Private Foundation Operating a Business	28
50. Operational Capacity	29
51. Operating as an Umbrella Organization	30
52. Municipal Projects	31
53. Warning for Applicants who Advertise Themselves as Charities Before Being Registered	31
54. Issuing Tax Receipts	32
55. Issuing Tax Receipts - Re-registration	32
56. Tax Shelter	32
57. Bona Fides	32
58. Non-Profit Clause	33
59. Remuneration of Directors	33
60. The Royal Canadian Legion Poppy Fund	34
61. Dissolution Clause and the <i>Societies Act</i> of Nova Scotia	34
62. Dissolution Clause and the <i>[name of Act]</i> Act of Quebec	35
63. Dissolution Clause and Special Provisions under the <i>Corporations Act</i> of Ontario ..	35
64. Internal Divisions – The “head body” provided is not currently recognized in the internal division manual.....	Error! Bookmark not defined.
65. Internal Divisions – The criteria required to fulfill the function of a “head body” is not evident.....	Error! Bookmark not defined.
66. Internal Divisions – Parent organization requirements are not evident.....	Error! Bookmark not defined.
67. Internal Divisions – The “head body” is not established in Canada.	Error! Bookmark not defined.
68. Separate Legal Entities – Associated with Internal Divisions ...	Error! Bookmark not defined.

1. Acceptable OPGT objects

Purposes taken from The Office of the Public Guardian and Trustee are generally considered to be charitable at law. While the Applicant has been established for exclusively charitable purposes, it has not shown that it is focused on activities that further these purposes. Our concerns are set out below.

2. Objects/Purposes Charitable

While the Applicant has been established for exclusively charitable purposes, it has not shown that it is focused on charitable activities that further these purposes. Our concerns are set out below.

3. Broad and Vague Language

In order for a purpose to be charitable, the wording must not be broad or vague. Broad purposes are often expansive and do not always express a direct or tangible charitable benefit. They can permit both charitable and non-charitable activities. Vague purposes are ambiguous and can be interpreted in many different ways. The organization's intentions remain unclear. A charitable purpose should identify the reason the organization is being set up (to relieve poverty), how it will accomplish its goal (by providing a soup kitchen), and who will benefit (poor people in Halifax). We cannot register an organization that has been established with vague purposes, or with a mix of broad and vague purposes, because it is impossible for us to determine if the organization is established for charitable purposes.

To be eligible for registration as a charity, an organization must be established with purposes that are restricted to the realm of charity as recognized by law. The purposes must be expressed in clear terms that limit the scope of the organization's activities. For more information on and examples of broad purposes, see Guidance CG-019, *How to Draft Purposes for Charitable Registration*, at www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/drftprpss-eng.html.

4. Purposes Don't Reflect Activities

It is our position that the Applicant is carrying out activities that are not authorized by its formal purposes. As mentioned above, in order to qualify, an organization must show that it has been established exclusively for charitable purposes and that it is focused on charitable activities that further these purposes.

While the purposes set out in the [Governing Document] could be considered charitable, the activities do not appear to further the Applicant's purposes. The Applicant has not provided us with activities that will further [most of] these purposes.

5. Lack of Information

When we review an application, we look for a detailed description of charitable activities that relate to each of the purposes provided. The Federal Court of Appeal held that an applicant is responsible for proving that its activities are charitable at law. Therefore, it should give us sufficient information to clearly show that its programs and activities are eligible for registration. We require this information whether these programs are currently carried on or are planned for the future. Please go to www.cra.gc.ca/chrts-gvng/chrts/pplyng/cpc/dsc-eng.html for more information on providing a description of activities.

6. Unstated Collateral (Additional) Purposes

We review the Applicant's purposes beyond those that are formally stated in its governing documents. We examine the Applicant's activities to determine whether the organization pursues its stated purposes or has adopted additional, unstated purposes.

While some of the activities carried on by the Applicant are charitable, such as [describe charitable activities], other activities engaged in by the Applicant fall outside of what is considered charitable at law. It is our view that the Applicant operates for an unstated collateral purpose: [describe the unstated purpose]. Our opinion is supported by a review of the Applicant's website at "[website address]" .

"[Include sample text from website]"

In light of the above, it is our opinion that the Applicant's activities are designed to further an unstated collateral purpose, which is to [describe the unstated purpose]. Charitable registration cannot be granted to an organization whose primary emphasis is [FIELD]. Furthermore, registration cannot be granted to an organization which places a significant or primary emphasis on such a purpose or activity, whether it is collateral or not.

7. Re-registration – Objects and Activities No Longer Charitable

After examining the Applicant's purposes, it our position that the Applicant does not meet the requirements of charitable registration because [e.g. the objects are broad and vague, mixture of charitable and non-charitable, etc.]. Although the Applicant's purposes were acceptable when it was originally granted

registration on [date], legislative amendments, court decisions and developments in our policies (charity law) have changed the requirements for charitable status.

8. Combine Objects and Activities Section in the AFL

Has the Applicant been established with purposes that are charitable at law and does it carry on charitable activities?

The term “charitable” does not include any and all purposes that may contain an element of public benefit. Rather, the courts have held that for a purpose to be considered charitable at law, it must fall within at least one of the following four categories:

- the relief of poverty;
- the advancement of education;
- the advancement of religion; or
- other purposes beneficial to the community as a whole in a way which the law regards as charitable.

This fourth category includes additional specific purposes that the courts have decided are charitable at law. It does not mean that any purpose that is beneficial to the community is charitable.

In addition, in order to qualify for registration, an applicant must pursue exclusively charitable activities that further its purposes. When we review an application, we look for a detailed description of charitable activities that relate to each of the purposes provided. The Federal Court of Appeal has held that an applicant is responsible for proving that its activities are charitable at law. Therefore, an applicant must give us sufficient information to clearly show that its programs and activities are eligible for registration. We require this information whether these programs are currently carried on or are planned for the future. Please go to www.cra.gc.ca/chrts-gvng/chrts/pplyng/cpc/dsc-eng.html for more information on providing a description of activities.

The objects of an organization are found in its governing document. The Applicant's objects are found at [FIELD] of its [governing document], dated [date]. The activities are found in its application and in any supplementary materials or resources provided. Based on the information you provided with the application, it is our position that

[Describe policy and common object/activity issue here (e.g. gifting to non-QDs)]

The courts have held that purposes and activities that are designed to [FIELD] are not considered charitable.

9. Alberta Societies Act – Object Clauses

The Applicant has adopted some of the standard object clauses provided in the Application to Form a Society, under the *Societies Act* of Alberta. These purposes are broad and vague and would not restrict the Applicant to exclusively charitable activities. In addition, some of these clauses are not charitable within the legally established concept of the term. Finally, the purposes indicated on the Application to Form a Society do not accurately reflect the Applicant's intentions.

10. Public Benefit

Charitable purposes must possess certain essential characteristics, particularly “public benefit,” as opposed to “private benefit.” Public benefit is a direct and tangible benefit to the community as a whole, or a sufficient section of it. A private benefit is one directed towards the interests of a narrowly defined group, rather than the public as a whole. Any organization that provides benefits to members of a particular group cannot be registered as a charity.

It is our view that the Applicant has been established for the benefit of its members, as indicated by [insert examples of objects or activities]. As the Applicant's members are a narrowly defined group, and not a significant section of the community as a whole, it is our opinion that it has been established to provide a private benefit.

11. Fundraising

A charity is allowed to raise funds as a way to support its charitable activities and purposes. However, fundraising itself is not a charitable activity, and must be ancillary and incidental to the organization's charitable purposes. As such, these activities should receive only a minor proportion of a charity's time and resources. An organization that places primary emphasis on fundraising activities will not qualify for charitable registration. For more information, go to www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html.

The Applicant indicates that it is spending [\$XXXX] on fundraising, for which it expects to generate [\$XXXX] in revenue. It is our view that the Applicant is using an excessive amount of resources for fundraising activities, and that these activities have become a primary purpose. As it appears that the Applicant is devoting a substantial amount of its resources towards fundraising activities rather than fulfilling its charitable purposes, it does not qualify for charitable registration.

12. Promotion of Culture

The meaning of culture is vague, and “promoting culture” can mean different things to different people. It can mean advancing the interests of a particular community. It can also mean promoting the institutions and practices of a historically identifiable group. Promoting culture lacks the necessary element of public benefit to qualify as charitable because the benefit provided is not to the community as a whole or a sufficient section of it. We do consider enhancing the public’s knowledge and appreciation of the art, history and language of a particular culture to be charitable under the advancement of education. However, the focus must be clear. There is an important difference between *educating* about a particular culture, which is charitable, and *promoting* a particular culture, which is not.

13. Mutual Understanding

Purposes such as uniting people, or strengthening relations among people, have not been recognized as charitable by the courts. The courts have determined that an organization established to promote mutual understanding between two countries is not charitable and therefore cannot be registered as a charity. The courts have also ruled that encouraging cultural exchanges between people from different countries is not charitable.

An organization established for a political purpose, or one that engages in more than incidental political activities, cannot be registered as a charity according to the Act. Political purposes are those that seek to: further the interests of a particular political party, support a political party or candidate for public office, or retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country. A purpose which seeks to strengthen ties between Canada and another country could be considered political, depending on the activities carried out to achieve it.

14. Promotion of Multiculturalism

There are few cases in which the Canadian courts have considered the issue of charitable registration in connection with multiculturalism. As a result, the legal meaning of the term is not well defined. The promotion of multiculturalism does not fall within any of the recognized categories of charity. In addition, the promotion of multiculturalism might include non-charitable purposes and activities, such as the promotion of a particular culture. As a result, applicants whose purposes include the promotion of multiculturalism are not eligible for charitable registration.

15. Activities Outside Canada/ Direction and control

The Act¹ requires that a charitable organization devote all of its resources to charitable activities carried on by the organization itself.² Thus, as a matter of Canadian law, an organization granted status as a registered charity can only use its resources (e.g. funds, personnel, and property) in two ways, whether inside or outside Canada:

- on its **own** activities (those that are carried out under the charity's ongoing direction, control and supervision, and for which it can account for any resources expended); and
- on gifts to **qualified donees**.³ Generally, qualified donees are other registered Canadian charities. Individuals and most organizations outside Canada are **not** qualified donees.

Therefore, except in instances where it gifts its resources to a qualified donee, the Canada Revenue Agency (CRA) requires a charity to show that the activities towards which its resources are directed are undertaken at its initiative and direction, and are conducted under its supervision and control.

16. Activities outside Canada (agency agreement not sufficient)

The Act⁴ requires that a charitable organization devote all of its resources to charitable activities carried on by the organization itself.⁵ Thus, as a matter of Canadian law, an organization granted status as a registered charity can only use its resources (e.g. funds, personnel, and property) in two ways, whether inside or outside Canada:

- on its **own** activities (those that are carried out under the charity's ongoing direction, control and supervision, and for which it can account for any resources expended); and
- on gifts to **qualified donees**.⁶ Generally, qualified donees are other registered Canadian charities. Individuals and most organizations outside Canada are **not** qualified donees.

Therefore, except in instances where it gifts its resources to a qualified donee, the Canada Revenue Agency (CRA) requires a charity to show that the activities towards

¹ Paragraph 149.1(1)(a) of the Act.

² Activities are considered **charitable** when they are carried on in furtherance of a charitable purpose.

³ The term **qualified donees** includes only those entities defined in subsection 149.1(1) of the Act. For a complete list, please visit our website at cra.gc.ca/chrts-vng/chrts/plcy/cgd/qlfddns-eng.html.

⁴ Paragraph 149.1(1)(a) of the Act.

⁵ Activities are considered **charitable** when they are carried on in furtherance of a charitable purpose.

⁶ The term **qualified donees** includes only those entities defined in subsection 149.1(1) of the Act. For a complete list, please visit our website at cra.gc.ca/chrts-vng/chrts/plcy/cgd/qlfddns-eng.html.

which its resources are directed are undertaken at its initiative and direction, and are conducted under its supervision and control.⁷

We note that the Applicant has submitted with its application material, a **draft written agreement/agency agreement**. While the CRA recommends that a charity enter into a written agreement with any intermediary it intends to work with, this alone is not sufficient to prove the charity will be carrying on its **own activities**.⁸ For a program to be considered its own activity, a registered charity must be able to demonstrate that it has a real, ongoing, active relationship with its intermediary, and that it will maintain sufficient direction and control over its resources, and the activities carried on⁹. The courts have held¹⁰ that the onus is on the Applicant to prove that it is carrying out its own activities, and that it is not operating as a **conduit**¹¹ established to fund the pre-existing programs of a non-qualified donee. An applicant that operates as a conduit would be operating in contravention of the Act, and would not be eligible for registration as a charity.

We have reviewed the **draft written agreement/agency agreement** provided and it is our opinion that the Applicant has failed to demonstrate it will be carrying on its own activities. Rather, it is our opinion the Applicant is operating as a conduit, established and operated for the purpose of funding the programs and activities of **xxxx**, a non-qualified donee.

In particular, we note that...**xxxxxx**

In addition, an applicant entering into an intermediary relationship with a non-qualified donee, should be able demonstrate that its intermediary is able to deliver the services required (i.e. by virtue of their reputation, expertise, years of experience, etc.). We have reviewed the materials provided, and note we have not been provided with any **information in this regard** **it is our opinion that we have not been provided with sufficient information in this regard**. As explained earlier, an Applicant's failure to provide sufficient detailed information in support of its application is reasonable grounds for denying registration.

⁷ For more information on how a charity can operate outside Canada, please see our Guidance (CG-002), *Canadian Registered Charities Carrying out Activities outside Canada* found on our website at cra.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html.

⁸ Guidance CG-002, *Canadian Registered Charities Carrying Out Activities Outside Canada*, July 8, 2010.

⁹ *The Canadian Committee for the Tel Aviv Foundation v. Canada* [2002] F.C.A. 72; *Canadian Magen David Adom for Israel v. Canada (Minister of National Revenue)* [2002] F.C.A. 323; and *Bayit Lepletot v. Canada (Minister of National Revenue)* [2006] F.C.A. 128.

¹⁰ In *Public Television Assn. of Quebec v. Minister of National Revenue*, [2015] F.C.A. 170, 2015, para xx. The Court held that onus is on the Applicant to prove that it is not a conduit.

¹¹ A **conduit** is a registered charity that receives donations from Canadians, issues tax-deductible receipts, and funnels money without direction or control to an organization that is not a qualified donee. Acting as a conduit violates the *Income Tax Act*.

17. Activities outside Canada (lack of information)

The Act¹² requires that a charitable organization devote all of its resources to charitable activities carried on by the organization itself.¹³ Thus, as a matter of Canadian law, an organization granted status as a registered charity can only use its resources (e.g. funds, personnel, and property) in two ways, whether inside or outside Canada:

- on its **own** activities (those that are carried out under the charity's ongoing direction, control and supervision, and for which it can account for any resources expended); and
- on gifts to **qualified donees**.¹⁴ Generally, qualified donees are other registered Canadian charities. Individuals and most organizations outside Canada are **not** qualified donees.

Therefore, except in instances where it gifts its resources to a qualified donee, the Canada Revenue Agency (CRA) requires a charity to show that the activities towards which its resources are directed are undertaken at its initiative and direction, and are conducted under its supervision and control.¹⁵

When an applicant plans to carry on activities outside Canada, it must demonstrate how the programs and activities carried on further its stated charitable purposes. In this regard, an applicant is required to provide:

- a clear, complete, and detailed description of the activities to be carried out;¹⁶
- the location where the activity will be carried on (i.e. physical address, town or city);
- details regarding how the applicant will carry out its activities (i.e. through its employees or volunteers, through an intermediary, or by gifting a qualified donee);
- details explaining the Applicant's, or its intermediary's, capacity to carry out its activities; and
- the intended beneficiaries of the program.

It is insufficient to simply express the organization's aspirations.¹⁷ Even if the organization is not yet in operation, it must describe its **proposed** activities in as much detail as possible. As explained earlier, failure to devote resources to activities that are

¹² Paragraph 149.1(1)(a) of the Act.

¹³ Activities are considered **charitable** when they are carried on in furtherance of a charitable purpose.

¹⁴ The term **qualified donees** includes only those entities defined in subsection 149.1(1) of the Act. For a complete list, please visit our website at cra.gc.ca/chrts-vng/chrts/plcy/cgd/qlfddns-eng.html.

¹⁵ For more information on how a charity can operate outside Canada, please see our Guidance (CG-002), *Canadian Registered Charities Carrying out Activities outside Canada* found on our website at cra.gc.ca/chrts-vng/chrts/plcy/cgd/td-cnd-eng.html.

¹⁶ Includes supporting documentation pertaining to an applicant's activities and programs, such as financial statements, business plans, written agreements and/or contracts, brochures and pamphlets, etc.

¹⁷ *Vancouver Society of Immigrant and Visible Minority Women v. M.N.R.*, [1999] 1 S.C.R. 10, and *Sagkeeng Memorial Arena Inc. v. Canada (National Revenue)*, [2012] F.C.A. 171, per Stratas J. at paras. 8 & 9

charitable at law, or failure to provide adequate detailed information, constitute reasonable grounds for denial of charitable registration.

Relating this to the Applicant, xxxx

18. Political Purposes/Activities

The Act and common law state that an organization established for a political purpose or engaging in more than incidental political activities cannot be registered as a charity. The courts have held that political purposes are those that seek to further the interests of a particular political party, support a political party or candidate for public office, or retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country.

An organization whose purposes include promoting the rights of a particular group by seeking a change in the law, a shift in government policy, or a reversal of a government decision, has political purposes. Although an organization may take part in non-partisan political activities as a way of furthering its charitable purposes, those political activities must be subordinate to the charitable purposes. When the political activity of an organization becomes more than incidental and ancillary to its charitable purposes, thereby becoming a primary purpose itself, we will consider the organization as having political purposes.

Relating the above to the Applicant, some of its [objects and/or activities] are [insert details].

Based on the Applicant's financial information, we would define ancillary and incidental to mean [XX%]. As such, it is our position that the Applicant's political activities are more than incidental and ancillary to its purposes. Therefore, we would consider the Applicant as being established for a political purpose, which would preclude charitable registration.

For more information, please see our Policy Statement, CPS-022, *Political Activities*, available at: www.cra.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html.

19. Partisan Political Activities

A charity may not take part in a partisan political activity. A partisan political activity is one that involves direct or indirect support of, or opposition to, any political party or candidate for public office.

A charity may support or promote a policy that is also supported by a political party or candidate for public office. However, a charity must not directly or indirectly support the political party or candidate for public office. This means that a charity may only make the

public aware of its position on an issue if it demonstrates the issue is connected to its purposes and its views are not connected to any political party or candidate for public office. In addition, the charity's views must be based on a well-reasoned position, and public awareness campaigns cannot become the charity's primary activity.

Finally, a charity may inform its supporters or the public how all the Members of Parliament or the legislature of a province, territory, or municipal council voted on an issue connected to the charity's purpose. However, a charity must not single out the voting pattern of one particular elected representative or political party on an issue.

Relating the above to the Applicant,

[FIELD: provide example from application or supplementary research materials], it is our view that the Applicant is specifically endorsing and connecting its views to a political party, which is not acceptable.

20. Social Activities/Purposes

Social activities are not considered charitable at law. However, an organization that is established for exclusively charitable purposes may devote some of its resources to social activities provided these activities are ancillary and incidental to its charitable purposes. This means that **substantially all** (usually 90%) of the charity's funds and resources, including time spent by volunteers and employees on holding such events, must be directed to its charitable activities. Because of the emphasis on and frequency of your social activities, it is our position that [insert reference to object or activity], would not be considered charitable at law.

21. Expenditures on Social Activities

Social activities are not considered charitable at law. However, an organization that is established for exclusively charitable purposes may devote some of its resources to social activities, provided that the activities are ancillary and incidental to its charitable purposes. This means that substantially all (90%) of the organization's resources must be devoted to pursuing exclusively charitable activities. In your [e.g. financial statement], a substantial amount of your funds are devoted to your social activities. Therefore, it our position that the Applicant's social activities are not ancillary and incidental to its charitable purposes given the substantial amount of funds devoted to these activities.

22. Promotion of Industry/Trade

While the promotion of industry and trade for the benefit of the community is considered a charitable purpose, the courts have decided that this only applies to the promotion of agriculture and craftsmanship. For more information on the promotion of industry and

trade, please go to <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/cintyenvcdvplnt-eng.html>.

It is our position that your activities are not limited to the promotion of agriculture and craftsmanship. In addition, your activities are not limited to the charitable programs that the courts have accepted. Examples of acceptable programs include research, holding exhibits of a community's products and services to increase public knowledge, and/or competitions that encourage excellence in products. Therefore, it is unlikely that [insert reference to object or activity] would be considered charitable at law.

23. Not Advancing Religion

To be registered under the *Income Tax Act*, a religious charity must advance religion in the charitable sense. According to case law, advancing religion involves promoting all of the following three key attributes:

1. faith in a higher unseen power such as a God, Supreme Being, or Entity;
2. worship or reverence; and
3. a particular and comprehensive system of doctrines and observances.

The Applicant should note that not everything done in the name of religion advances religion within the meaning of case law. There must be a clear and material connection between an organization's activities or programs and promotion of the religion's key attributes.

Relating the above to the Applicant, [description of unacceptable objects/activities]

The Applicant has not shown that it has been established to advance religion in the charitable sense.

24. Advancement of Religion - Request for More Information

We would also request that you provide our office with the following information:

1. The Statement of Articles of Faiths espoused by the religious organization
2. The requirements for membership
3. The number of members at the place of worship and their relationship, if any, by blood, marriage or adoption
4. The ministerial credentials of the ministers at the place of worship
5. The frequency of services or meetings at the place of worship and the location at which they are held
6. Full details as to the religious organization's administrative and financial affiliation with its Head Office

7. Sample copies of periodicals and other materials obtained from the Head Office of the religious organization.

25. Advancement of Religion versus the Promotion of a Philosophy

It appears that the Applicant is not advancing religion in the charitable sense, but is instead promoting the philosophy of [FIELD], which appears to centre around [FIELD]. To be registered under the Income Tax Act, a religious charity must advance a religion. According to case law, advancing religion involves promoting all of the following three key attributes:

1. faith in a higher unseen power such as a God, Supreme Being, or Entity;
2. worship or reverence; and
3. a particular and comprehensive system of doctrines and observances.

The Applicant should note that not everything done in the name of religion advances religion within the meaning of case law. There must be a clear and material connection between an organization's activities or programs and promotion of the religion's key attributes.

Generally, an organization formed to promote a particular philosophy or ideology will be lacking at least one of the key attributes of religion, usually the element of belief in, or worship of, a Supreme Being or Entity, and will not therefore be eligible for registration as a charity.

Relating the above to the Applicant, [description of unacceptable objects/activities] The members of the [FIELD] do not appear to worship a higher unseen power such as a God, Supreme Being, or Entity, but instead believe in and put their faith in [FIELD] ...

Since the Applicant does not exhibit all of the three key attributes for the advancement of religion, the Applicant does not qualify for charitable registration.

26. Missionaries

We require more information about the Applicant's work with missionaries to determine if it is operating within the limits of the Act. The Act does not allow a registered charity to carry out its purposes by giving funds or other resources to another organization that is not a qualified donee. You must provide detailed information to help us understand the relationship with the missionaries and how the activities are funded. For example, we require information about:

- missionaries that are directly employed by your organization;
- missionaries that are intermediaries (agents) of your organization;
- formal agreements, if any, that your organization has with agents; and
- the transfer of funds and whether they are used to pay for services performed on behalf of your organization or to cover costs relating to activities.

If you transfer funds directly to qualified donees employing missionaries, please provide us with the full name and charitable registration number of that charity.

27. Promotion of Sport

The courts have held that promoting sport is not a charitable purpose in and of itself. As the Applicant has been established primarily to promote the sport of [name of sport], it cannot be registered as a charity.

We also considered whether the Applicant could qualify as a Registered Canadian Amateur Athletic Association, which is a non-profit organization whose primary purpose is the promotion of amateur athletics in Canada on a nation-wide basis. We determined that the Applicant does not meet this description and therefore cannot qualify for the above-noted designation.

28. Restriction to a Particular Sport

The promotion of sport is not a purpose that has been recognized by the courts to be charitable at law. The mere playing of games for enjoyment, amusement, or competition is not charitable, nor necessarily educational, though they may have an educational effect if diligently practiced. It may be acceptable to pursue a sport in an incidental way to further an ultimate charitable purpose. It may also be acceptable to advance education through the sport's connection to the provision of formal education. However, an organization that promotes sport, as a primary or collateral purpose, is not eligible for registration under the Act.

Our examination of the Applicant's objects and/or activities reveals that the promotion of sport is its primary or collateral object. The material provided shows a significant emphasis on promoting the sport of [name of sport], which cannot, in our opinion, be considered to be merely incidental to the fulfillment of any ultimate charitable purpose.

For additional information, see Policy Statement CPS – 027, *Sports and Charitable Registration*, at www.cra.gc.ca/chrts-gvng/chrts/plcy/cps/cps-027-eng.html.

29. Healthy Recreation

While promoting healthy recreation is an accepted charitable purpose, an organization must encourage the public to take part in physical activities in general, and not a specific type of physical activity. Therefore, since the Applicant's focus is on teaching and encouraging [name of sport] alone, it is our view that it is not promoting healthy recreation.

30. Fringe Medicine/Holistic Medicine/Homeopathic Medicine

The provision and promotion of holistic medicine, fringe healing, and alternative healing therapies can qualify as charitable. In order to qualify as charitable, an applicant must identify the illnesses that it proposes to treat and provide evidence that the methods used are well recognized or provide evidence that the medical profession accepts the method used.

The Applicant indicates that it provides [name of treatment method], but it does not identify the illness it will treat. The Applicant must also provide evidence that [name of treatment method] is well recognized or accepted by the medical profession as effective in treating such illness.

31. Relief of the Aged

The Applicant has not demonstrated how its activities serve to relieve conditions associated with aging, such as loneliness, isolation, and infirmities. Under the fourth category of charity, providing relief to the aged is considered a charitable purpose. However, using the term "senior citizens" does not necessarily refer to relieving conditions associated with old age. In addition, age restrictions are not recognized as an acceptable means of selecting beneficiaries. The Applicant must show that its beneficiaries have developed needs that require relief, resulting from the effects of aging.

To qualify for registration, the Applicant must clearly show that its activities directly assist or relieve conditions associated with old age. For example, an Applicant that limits its activities to social and recreational programs for those who experience the effects often associated with old age would likely qualify for registration.

32. Aged/Housing

Purposes and activities that help relieve the loneliness, social isolation, and inactivity experienced by the aged can be recognized as charitable under the fourth category of charity. Similarly, providing physical, mental, and emotional relief to the disabled, and providing food, clothing, and shelter to the poor, are also charitable purposes.

Applicants established to provide low cost housing for the aged and/or the disabled may qualify for registration, without the requirement that the beneficiaries be poor, as long as

the organization provides relief from the conditions of old age or the barriers associated with being a person with a disability. The Applicant has not shown that it has made special considerations in this regard.

33. Housing under the relief of poverty

An organization that applies for charitable status by providing affordable housing must show that its services are restricted to people in need. Specifically, the Applicant must specify:

- the criteria and process used to select the beneficiaries;
- the process used to determine rental rates;
- the policies and procedures in place to ensure that only eligible beneficiaries receive charitable benefits (screening mechanism, discussed below);
- the proportion of tenants who are not eligible beneficiaries, and whether such tenants pay market rent;
- all goods, services, and associated amenities provided by the organization to eligible beneficiaries and other tenants; and
- if any space is leased to commercial tenants, all details of these arrangements, and the reason for entering into these arrangements.

There must also be a screening mechanism in place for the charity to determine eligibility on the basis of poverty. The screening mechanism must be administered at least annually, and policies must be established for cases where tenants' incomes rise to the point where they are no longer eligible beneficiaries. For further information, please refer to our Guidance CG-022, *Housing and Charitable Registration*, found on our website at www.cra.gc.ca/chrts-gvng/chrts/plcy/cgd/hsng-eng.html.

34. Education and Research

It is our view that purpose [FIELD] is not considered to advance education since it focuses on providing selected items of information and lacks the necessary element of instruction.

The courts have held that advancing education in the charitable sense means formal training of the mind or improving a useful branch of human knowledge. In order to fall under the advancement of education, the information or training must be provided by the organization in a structured manner for a genuinely educational purpose – that is, to advance the knowledge or abilities of the recipients. On the other hand, promoting a particular point of view or political orientation is not charitable. Presenting selected items of information and opinion to the general public without the necessary element of instruction is not regarded as charitable.

A registered charity may carry out research that expands knowledge in a field that has educational value, and where the results are disseminated to the public. It must be clear that the intent behind the research is not simply to sway public opinion.

It is not clear from the information provided that the Applicant will be engaging in charitable research and publishing or disseminating the research to the public at large. The Applicant has therefore not proved that it engages in activities which further an educational purpose.

35. Education/Dissemination of Information:

The courts have held that disseminating information is not educational in the charitable sense. It is not sufficient to simply inform people or exchange ideas on a particular subject. To advance education in the charitable sense means formal training of the mind, advancing the knowledge or abilities of the recipient, raising the artistic taste of the community, or improving a useful branch of human knowledge through research. Therefore, simply providing an opportunity for people to educate themselves does not advance education in the charitable sense.

36. Scholarships - List of Things to Consider

Scholarships, bursaries, awards, prizes and student loans are usually charitable under advancement of education. To ensure that the necessary element of public benefit is met, an applicant must describe:

- the eligibility and selection criteria it uses in distributing such prizes;
- the composition of the selection committee;
- how and where the award is advertised;
- the amounts that will be awarded; and
- how the funds will be distributed

In most cases, a scholarship fund set up to assist any of the following will not qualify as charitable:

- a named individual or individuals;
- employees of a company;
- relatives; or
- members of a private club, trade union, or cooperative

A scholarship can be limited to groups such as students of a school, women, and people of specific ethnic backgrounds.

37. Scholarships – Private Benefit

The information in the application indicates that the Applicant plans to grant scholarships. [option 1 - lack of information] We did not receive enough information/documentation to determine whether there is a sufficient element of public benefit provided as a result of the scholarships. [option 2 - private benefit] Based on the information provided, the scholarship program will benefit [insert detail e.g.: named individual, group]. [Insert details from file]. Scholarship funds set up to provide a private benefit do not qualify as charitable.

Granting scholarships can be a charitable activity when there is a sufficient element of **public benefit**. One way to test the presence of public benefit is to look at the criteria that will be used to select the recipients of scholarships. The criteria used to determine eligibility for the scholarship cannot be so narrow or restrictive that the benefit granted would only be to a *private* group of persons. For example, you cannot limit scholarships to family members of a particular company. For this reason, we also review who chooses the winning candidates and what relationship they may have with those candidates. We also take into consideration how and where the scholarship is advertised.

We also take into consideration the process used to select the recipient of the scholarship. Many scholarships are awarded on the basis of legitimate criteria, such as scholastic achievement or financial need, or a combination of both. Scholarships are also awarded on the basis of excellence in extracurricular activities: athletics, student council, or other student activities. These criteria are normally acceptable. On the other hand, irrelevant criteria such as membership in an organization (other than an educational institution) would generally not be acceptable.

38. Youth

To qualify for registration as a charity, organizations providing services directed at youth must be established to address and prevent specific problems faced by youth, including juvenile delinquency, substance abuse, eating disorders, teen pregnancies, depression, family conflicts, and suicide. While the courts recognize youth as a sufficient section of the community, they do not recognize young people in and of themselves as acceptable beneficiaries of charity. Therefore, an organization with a purpose to simply assist young people would not qualify as charitable.

39(a). Youth Employment

Relieving and preventing unemployment is a charitable purpose under either the first or fourth categories of charity. However, providing employment is not a charitable purpose in itself, but on occasion it can be a way to achieve a charitable purpose.

Helping people who are unemployed is usually a charitable activity. This may not be charitable, however, when the clients have enough resources and skills of their own that they do not need the help of others.

We consider an activity to be charitable under the relief of poverty if it addresses:

1. the needs of the hard-to-employ; or
2. the employment needs of any other group, as long as the applicant can show that substantially all (90%) of the members of the group are living below the poverty line.

The Applicant does not qualify under the relief of poverty because it has not shown that substantially all of the youth it assists are living below the poverty line. The Applicant has also not shown that the youth it intends to help meet the definition of the hard-to-employ.

Charitable activities that address the needs of other unemployed people are considered charitable under the category other purposes that benefit the community in a way the courts have said is charitable.

Charities under this fourth category are required to offer their services to everyone in the community who may need them. Any restrictions must flow naturally from the type of services they are set up to provide. As a result, an organization that helps only young, unemployed persons may be justified if it needs to tailor its programs to meet the needs of its clientele.

Furthermore, an organization that assists youth must also show that it is directed at specific problems faced by youth such as juvenile delinquency, substance abuse, eating disorders, teen pregnancies, depression, family conflicts, and suicide.

The Applicant has not shown that its programs are structured enough to properly address these issues. For example, it does not provide any training to youth to make them more employable or formally follow up on any of its matches. Rather, it simply matches youth with employers who need workers. Simply providing an employment opportunity on its own does not address the issues of juvenile delinquency.

39(b). Drop-in centres for youth

A drop-in centre for youth can be operated to further a variety of charitable purposes. However, to qualify for charitable registration, the centre must carry out structured and focused activities that are clearly directed toward addressing or preventing specific problems facing youth.

An organization established with a purpose of helping youth deal with identified problems in a drop-in centre setting, and that provides only recreational activities that are

not structured and focused on addressing these problems, cannot qualify for registration. For example, a drop-in centre operated to simply keep youth off the streets does not, in and of itself, further a charitable purpose. Without monitoring, teaching, or some sort of structure and focus, it cannot be established that the activity is addressing or preventing identified problems.

For more information, see Guidance CG-020, *Charitable Purposes and Activities that Benefit Youth* at www.cra.gc.ca/chrts-gvng/chrts/plcy/cgd/yth-eng.html.

39(c). Sports activities for youth

The law does not recognize purposes that promote sport as charitable. However, some sports activities can further charitable purposes that benefit youth, such as when they help build self-esteem, or assist in the recovery from addiction.

Where an organization intends to further its charitable purpose through a sports activity, it must demonstrate that the activity is a structured and focused attempt to address an identified problem facing youth. Participation in sports alone is not enough. Substantive evidence of a causal connection between the activity and the delivery of the charitable benefit is needed. It is not the inherent nature of a sports activity that determines whether it is charitable, but rather how that sports activity furthers a charitable purpose. In the same way, simply providing sports equipment or opportunities for youth to play sports is unlikely to directly further a charitable purpose, unless the program is restricted to providing equipment and registration fees to poor youth as an activity to further a relief of poverty purpose.

For more information, see Guidance CG-020, *Charitable Purposes and Activities that Benefit Youth* at www.cra.gc.ca/chrts-gvng/chrts/plcy/cgd/yth-eng.html, and Policy Statement CPS-027, *Sports and Charitable Registration* at www.cra.gc.ca/chrts-gvng/chrts/plcy/cps-027-eng.html

39(d.) Religious youth groups

An organization that is established to advance religion and operates a religious youth group must ensure its activities are structured and focused on advancing religion, rather than on social and recreational activities. An applicant must demonstrate that the activities of its religious youth group are a reasonable means of advancing religion, and that it is making a legitimate, targeted attempt to do so.

The courts have held that simply making available a place where religious thought may be pursued is not enough to constitute the advancement of religion in the charitable sense. There must be a targeted attempt to promote religion or to take positive steps to sustain and increase religious beliefs. While we acknowledge that various activities of a religious organization may include social and recreational components, these elements must remain ancillary and incidental to the charitable purpose of advancing religion. Participation in the religious aspects of an activity must be mandatory, as opposed to optional or voluntary.

40. Relief of Poverty/Loans not limited to the hard-to-employ

The Applicant proposes to establish loans for business activities. This activity can potentially qualify as charitable under the relief of poverty. In order to qualify, the Applicant's programs must assist in the start up of a new business by persons considered to be hard-to-employ. We recognize persons as hard-to-employ if they:

- have been out of the labour force for over a year;
- have completed high school or post-secondary education and not found employment within a year;
- have not completed high school;
- are over age 45;
- have a previous criminal conviction;
- are on social assistance;
- are affected by a physical, mental, or developmental disability;
- are located in an economically challenged community (ECC); or
- are refugees.

Because individuals receiving loans through the Applicant's program do not appear to meet the above criteria of being hard-to-employ, we do not consider this activity to relieve poverty in the charitable sense. For more information, please go to www.cra-arc.gc.ca/chrts-gvng/chrts/pley/cgd/cintycnmcvptn-eng.html.

41. Community Centre

The provision of a community centre can qualify as charitable if the facility is available for general use by the public for a variety of community activities. An applicant should restrict itself to the construction and maintenance of the centre, and should only have minor involvement in the organization of events and programs. An applicant that is primarily involved in the organization of events and programs is carrying on activities that go beyond the provision of a community centre, and is considered a provider and promoter of these events and programs. If an applicant is acting as a provider and promoter of these events and activities, it must demonstrate that each activity qualifies as charitable.

It appears that the Applicant organizes many of the centre's events and programs. We will discuss these activities, and the reasons why they may not qualify as charitable in the following section.

42. Preservation of Property - Public Benefit

An essential characteristic of every charitable purpose is the element of public benefit. To qualify for registration, an organization's activities must be directed primarily at providing and/or promoting a benefit to the public. On the other hand, an organization that is established to provide a private benefit is not considered charitable. We would consider a private benefit to be one directed towards the interests of a particular, narrowly defined group. Any organization that is substantially or entirely directed towards securing benefits for its members, or the members of a particular group, is not considered charitable.

The public benefit requirement includes two aspects that are particularly important to organizations that have been established for the preservation of a property. These types of charitable organizations must not actively discourage access to the public or transfer resources or benefits to non-qualified donees.

[Insert if issue is Public Access]

It is our view that the Applicant fails to meet the requirement of public benefit because it denies or actively discourages access to the public.

To qualify for registration, an organization that is established to maintain a particular building, site, or habitat must allow the public to have direct physical access. An organization applying for charitable registration, which denies or actively discourages access to the public, would have difficulty demonstrating that the public benefit requirement has been met.

Relating the above to the Applicant, it is our view that the Applicant has not satisfied the public benefit requirement necessary to qualify for charitable registration. Specifically, based on a review of the material provided, it appears that [FIELD] is a private community which actively discourages access to the public. Specifically, on [FIELD], it is stated that:

“”[quote from website]” .”

[Insert if issue is Private Benefit]

The Act prohibits a registered charity from transferring resources and conferring benefits to individuals or organizations that are not qualified donees.

Based on a search of our records, it appears that the Applicant is not a qualified donee. In addition, based on the materials provided and other material retrieved off of the Internet, it

appears that the common grounds of the Applicant are privately owned and managed. The main activity of the Applicant appears to be:

""[quote from website]" .

This would be considered a private benefit to the owner(s) of the property, a non-qualified donee.

Since the Act prohibits a registered charity from transferring resources and conferring benefits to individuals or organizations that are not qualified donees, the Applicant does not qualify for charitable registration. If however, the Applicant is able to ensure that no unnecessary private benefit is received by the private property owner(s) as a result of capital improvements made to the property with charitable resources, the Applicant could potentially meet the public benefit requirement. For additional information please refer to CPS-006, *Registered Charities Making Improvements to Property Leased from Others* at www.cra.gc.ca/tx/chrts/plcy/cps/cps-006-eng.html. On the other hand, if the property was owned by the City of [Name of city], a *qualified donee*, the public benefit requirement would be met.

43. Property Arrangements

It appears that the Applicant will be improving the facilities it leases by using its own funds and resources. If the Applicant were to qualify for charitable registration and it makes leasehold improvements to property it leases from non-qualified donees, the landlord must compensate you for any improvements made.

The Act prohibits registered charities from transferring resources to individuals or organizations that are not qualified donees. A registered charity cannot provide a private benefit to commercial landlords in the form of increased value to their property, as a result of leasehold improvements made by said charity.

To meet the requirements of the Act, your lease agreement must include a clause requiring the landlord to compensate the Applicant for the fair market value of the improvements. For more information, read our Policy Statement CPS-006, *Registered Charities Making Improvements to Property Leased from Others*, at www.cra.gc.ca/chrts-gvng/chrts/plcy/prtng-eng.html.

44. Real Property

The Applicant is established under a Constitution. If the Applicant plans on purchasing or receiving real property (land or buildings), it may be necessary for the Applicant to incorporate or have the property held by a trust. We suggest that you obtain legal advice before acquiring any real property, to discuss the advantages and disadvantages

associated with each option. For more information, please contact our Client Service Section.

45. Service Clubs – General

It appears that the Applicant intends to operate a service club or fraternal organization, which is not eligible for registration. Service club and fraternal society type organizations, which include social societies, lodges, legion branches, orders, and other similar organizations, do not qualify for charitable registration because they typically carry out a mix of charitable and non-charitable activities.

In order to qualify for registration as a charity, an organization must:

- be established exclusively for charitable purposes;
- devote substantially all of its resources to charitable activities; and
- demonstrate sufficient direction and control over its resources and activities.

Service clubs or fraternal organizations are generally established for social activities and fellowship. Social activities are not charitable at law and are only allowed on an occasional basis. Also, not all benevolent activities that provide a benefit to the community, or a portion of it, are considered charitable. For example, supporting a local sports team could be considered benevolent, but would not, in itself be considered charitable.

[Insert if governed by a head body] Organizations seeking charitable registration must show **direction and control** over all of their resources and activities. Service clubs, however, are generally established as branches or regional offices of a head organization. As such, they are often required to transfer fees to the head governing body. In some cases service clubs are governed, at least in part, by a head body over which they have limited or no control. As a result, the individual service club or branch itself is generally unable to demonstrate that it meets the necessary criteria for charitable registration.

46. Service Clubs – Separation of Service Club and Charitable Activities

While some of the Applicant's programs are charitable, it intends to operate a service club or fraternal organization, which is not eligible for registration. Service club and fraternal society type organizations, which include social societies, lodges, legion branches, orders, and other similar organizations, do not qualify for charitable registration because they typically carry out a mix of charitable and non-charitable activities.

However, it may be possible to obtain registration for the part of the organization that carries on activities that are **exclusively** charitable. That part of the organization must

operate separately, in both a leadership and financial sense, from the service club or fraternal society.

If the Applicant chooses to proceed with this option, it must withdraw its current application and re-apply by sending us a new Form T2050, in the name of the separate **charitable organization**, which will carry on charitable activities. All the information provided on Form T2050 must relate only to the charitable organization that is making the application. Please go to www.cra.gc.ca/charities for information on the requirements for registration.

This separate charitable entity must operate under its own governing document and must have its own board of directors, completely separate from the service club. This separate charitable entity then becomes exclusively responsible for carrying out the charitable activities of the club or society. There must be a clear distinction between the operation of the charity and the social club or fraternal society. We advise you to keep the following points in mind:

- create separate governing documents for the charitable entity, which only pertain to its charitable activities;
- the legal name of the charitable entity should be distinct from that of the service club or fraternal society;
- promotional material or advertisements for the charitable entity must only contain the *legal name* for the charitable entity;
- keep separate bank accounts;
- keep separate books and records;
- conduct separate board meetings and keep separate meeting minute records;
- operate entirely separate charitable activities that do not resemble or overlap those of the service club or fraternal society; and
- only gift to qualified donees (the head body for the social club or fraternal society might not be a qualified donee).

47. Insufficient Separation

The Applicant has not demonstrated the required separation between itself and [Name of related organization] (the [Organization]). While the Applicant and the [Organization] appear to be separate *legal* entities, it is unclear how they carry out their respective activities independently of each other. The Applicant must show that there is a clear division between the organizations. This is particularly important where the related organization is involved in for-profit activities.

To qualify for registration, the Applicant's purposes and activities must provide a tangible benefit to the public as a whole, or a significant section of it. Organizations that provide a **private benefit** are not charitable. A private benefit occurs when an organization's programs and services:

- assist specific named individuals;
- provide benefits to a limited group of persons on the basis of criteria that are not connected to the organization's purposes; or
- promote the interests of individuals involved in private business.

[FIELD: Optional Text]

Comparing information suggests that similarities exist between both entities. For example:

- The organizations have similar names and physical addresses;
- Both organizations have comparable education programs;
- The Applicant refers to [Organization]'s website for more information about its activities;
- The Applicant's directors are also directors of [Organization];
- The Executive Director of [Organization] is also one of the Applicant's directors.

Since there appears to be an overlap between the Applicant's activities and those of [Organization], it is our opinion that there is insufficient separation between the two entities. As such, the public's ability to distinguish between [Organization]'s commercial purposes and the Applicant's activities may be in jeopardy. Furthermore, the relationship between the Applicant and [Organization] may provide an opportunity, real or perceived, for [Organization] to receive a private benefit. Accordingly, it is our position that the relationship between the Applicant and the [Organization] prevents the former from being eligible for charitable registration.

48. Designation – Private Foundation

The designation a charity receives depends on its structure, its source of funding, and its mode of operation. The requirements of the Act are different depending on the charity's designation. In this regard, we advise that should the Applicant qualify for registration as a charity, it would be designated a **private foundation** as...

Option 1 50% or more of its governing officials are **not at arm's length**¹⁸ with each other, or with the organization's principal donor(s); and/or

Option 2 a contributor to the organization controls the organization.

For more information on designations, please visit our Charities and giving website at cra.gc.ca/chrts-gvng/chrts/pplng/trcd-eng.html.

¹⁸ The phrase **at arm's length** describes a relationship where persons act independently of each other, or who are not related. The phrase **not at arm's length** means persons acting in concert without separate interests, or who are related.

49. Private Foundation Operating a Business

As explained earlier [in paragraph 48 above], all charities registered under the Act must be established and operated exclusively for charitable purposes. While a charity is permitted to use some of its resources for fundraising in order to support its charitable activities, it is the CRA's position that fundraising is not a charitable purpose in itself, or a charitable activity that directly furthers a charitable purpose.

As explained above, the requirements of the Act are different, depending on the charity's designation. In this regard, an applicant applying for charitable registration as a private foundation cannot carry on **any** kind of business, whether related or unrelated.¹⁹ In general terms, a business involves commercial activity (i.e. deriving revenues from providing goods or services), undertaken with the intention to earn profit. The phrase **carrying on a business** implies that the commercial activity is a continuous or regular operation. For instance, making sales or providing services on a regular daily or even weekly basis, with the operation requiring ongoing care and attention, would likely be viewed as "carrying on a business". Most fundraising events are business activities. They typically involve the sale of goods and services for the purpose of obtaining income.

While a private foundation is not permitted by the Act to engage in fundraising activities that amount to "carrying on a business", it can engage in some occasional business-like transactions, provided they are not operated regularly or continuously (e.g. an annual garage sale). In making our determination, the CRA considers whether the fundraising event:

- has a clear **start** and **end** point ("carrying on a business" implies continuous operations);
- recurs with such regularity and frequency that it amounts to "carrying on a business".

For more information on what constitutes the carrying on of a business, please see our Policy Statement, *What is a Related Business?* (CPS-019) found on our web site at cra.gc.ca/chrts-gvng/chrts/plcy/cps/cps-019-eng.html#N1027A.

Relating this to the Applicant, it is our view the Applicant's fundraising activities amount to "carrying on a business". Specifically...insert fundraising activities that are of concern (e.g. selling items like t-shirts, mugs, etc. with the Applicant's logo on a year round basis), and explain why.

¹⁹ Paragraph 149.1(4)(a) of the *Income Tax Act*. "The Minister may, in the manner described in section 168, revoke the registration of a private foundation for any reason described in subsection 168(1) or where the foundation (a) carries on any business..."

49.5 Response to trigger question 16(a)

We note that in response to question 16(a) on the Application to Register a Charity under the *Income Tax Act*, you indicated that _____ owns more than 2% of the issued and outstanding shares of a corporation.

Under the Income Tax Act (the *Act*), registered charities that are private foundations are required to provide information with respect to their corporate holdings where those holdings exceeds 2% of the issued and outstanding shares in any class of shares.

Separately, where those holdings exceed certain thresholds, the *Act* requires that the private foundation divest those excess holdings. Failure to divest by the required date can result in the assessment of financial penalties and/or revocation of registered status. These requirements are discussed in the guide T2082, [Excess Corporate Holdings for Private Foundations](#). It appears that if _____ is determined to be registerable as a charity, its designation would be that of a private foundation.

Therefore, in order to allow us to determine whether _____ will meet these requirements if registered, please provide answers to the questions below and other information requested relating to each class of shares of a corporation where _____'s holdings, or the anticipated holdings once the terms of the will are fully implemented, exceeds 2% of the issued and outstanding shares of that class as of the date of application for registration:

- Name of Corporation
- Class of shares
- Total number of issued and outstanding shares in this class
- Is this class of shares listed on a designated stock exchange?
- Percentage holdings of the class of shares held by _____
- Percentage holdings of the class of shares held by **relevant persons**

While **relevant persons** generally refers to persons that do not deal at arm's length with the private foundation, please refer to the section "Meaning of Relevant Person" on page 4 guide T2082 for a complete definition of the term.

50. Operational Capacity

It is our view that the Applicant does not possess the operational capacity necessary to carry out activities inside and outside of Canada. Our review of the Applicant's proposed activities includes an examination of its resources, expertise, experience, and the existence of its relationships, if any, with established local partners. This examination is done to determine whether the Applicant itself has the operational capacity necessary to carry out the proposed activities described.

To begin, the Applicant has not provided any evidence that it has experience operating [example: a shelter]. We note that the Applicant has not provided any indication that it

has approached appropriate government agencies and service providers, in order to survey legal requirements necessary to establish, staff, and operate [example: a shelter].

It also appears that the Applicant lacks sufficient planning expertise. The Applicant has failed to demonstrate it has taken practical steps concerning primary aspects of its operations, such as:

[Support your analysis using examples from application]

- providing potential locations for its facilities;
- projecting costs associated with operating each program; and
- establishing the credentials required of the instructors it will hire (as mentioned previously).

Similarly, the Applicant has not indicated that it has any relationships with existing service providers in the [e.g. the social welfare community, which assists its program delivery].

Finally, it is our position that the Applicant lacks the financial resources to operate its programming. **[Support your analysis using examples from application]**

In light of the above, it is our position that the Applicant has failed to demonstrate it has the expertise, experience, and resources to operate [example: a shelter].

51. Operating as an Umbrella Organization

We considered whether the Applicant could qualify as a facilitator organization, also known as an umbrella organization. Generally speaking, an umbrella organization assists other groups in carrying out a charitable service. There are three types of umbrella organizations that may qualify to become registered charities, including organizations that:

- assist other registered charities;
- advance a recognized charitable purpose; or
- hold title to property for other registered charities.

To qualify under the first type, the umbrella organization must demonstrate that at least 90% of the beneficiaries of its services are **registered charities**, while the other 10% is limited to non-profit groups with purposes focused on providing a benefit to the community-at-large. The umbrella organization must provide a service or assistance that:

- directly improves the charitable programs of other registered charities;
- improves the efficient administration of other charities; or
- enables charities to have greater budgets that would not be available otherwise.

Based on the information provided, it does not appear that 90% of the listed community groups are registered charities. As a result, the Applicant has not demonstrated that it meets the criteria for the first type of acceptable umbrella organization.

To qualify under the second type, the umbrella organization must be established to further a charitable purpose other than assisting charities. Membership mainly consists of registered charities, but may also contain non-registered entities. While the umbrella organization may carry out activities that improve the efficiency of member organizations, the beneficiaries must be the public-at-large. As such, an applicant cannot be registered under the second type if it is established for purposes such as “to provide support to member groups” or “to co-ordinate the activities of member groups.” As stated in its activities, the Applicant intends to [insert description of unacceptable activities]. As such, the Applicant has not demonstrated that it meets the criteria for the second type of acceptable umbrella organization.

To qualify under the third type, the umbrella organization can hold title only if the tenants themselves are other registered charities. However, the Applicant did not provide us with the title-holding arrangements for the property. If the Applicant’s members are a mix of registered charities and non-profit organizations, it would likely not qualify under the third type of acceptable umbrella organization.

52. Municipal Projects

Your organization appears to be acting as a branch or agent for the Municipality of [name of municipality]. Under the Act, gifts to a Canadian municipality are treated the same way as gifts to registered charities. In this case, the organization does not need charitable registration if the municipality:

- agrees to receive gifts;
- controls the expenditures; and
- issues official receipts in the municipality’s name.

However, an independent organization carrying on its own activities, with the support of the municipality, is required to obtain separate status as a registered charity. In this case, we require more information about [insert details].

53. Warning for Applicants who Advertise Themselves as Charities Before Being Registered

It appears that the Applicant identifies itself as a registered charity on its website at FIELD. It states “quote from website.” Issuing receipts for your organization prior to being designated as a registered charity by the CRA is a contravention of the Act. Accordingly, if the Applicant is issuing tax receipts or borrowing a registration number of another charity, **this practice must stop immediately**.

54. Issuing Tax Receipts

The Applicant states in its [XXXX] [that it can issue tax receipts / OR insert quote]. An organization is only eligible to issue receipts for income tax purposes to donors after it has been registered as a charity with the CRA. Please be advised that issuing receipts for your organization prior to being registered as a charity with the CRA is a contravention of the Act. Accordingly, if the [XXXX] is issuing tax receipts either itself or through a third party, this practice must cease immediately. [FIELD] It should also correct the information provided in its "[name of document e.g. pamphlet, website, etc.]".

55. Issuing Tax Receipts - Re-registration

When the registration of a charity is revoked, it loses both its tax-exempt status and its authority to issue receipts for income tax purposes to donors. The Applicant must therefore discontinue issuing receipts for income tax purposes to donors (if it has not already done so) until a decision is made on whether it qualifies for re-registration as a registered charity. It should also correct the information provided in its "[name of document e.g. pamphlet, website, etc.]".

56. Tax Shelter

The response to **Q12 d)** of Form T2050 indicates that the Applicant is currently, or has plans to become, involved with a tax shelter arrangement. The CRA has serious concerns about abusive tax shelter gifting arrangements and cautions registered charities about becoming involved in such schemes. We require more detailed information about the Applicant's connection to a tax shelter, such as:

- the identity of the tax shelter;
- how the Applicant is affiliated with the tax shelter – if the Applicant was referred to the tax shelter or if there was a previous working relationship; and
- how the Applicant will value the donations related to the tax shelter and whether the Applicant will issue an official donation receipt.

These questions must be addressed so that we can determine whether the tax shelter arrangement meets the requirements of the Act. For further information regarding tax shelters go to www.cra.gc.ca/tx/bsnss/tpcs/txshltrs/menu-eng.html.

57. Bona Fides

Every application for registration as a charity under the Act is required to be *bona fides*. This means that an applicant must be established and operated to provide a benefit to the

public without personal or private gain. The courts place extensive responsibility, known as fiduciary duties, on the officials of charities, which include:

- the duty to act honestly and in good faith, in the best interests of the charity and not in a manner that is self-serving;
- the duty to follow the laws and rules that apply to charities;
- the duty to use all charitable property and funds for only charitable purposes; and
- the duty to be accountable for the charity's property and funds.

We assess the *bona fides* of an applicant to determine whether it will be able to comply with the legal responsibilities and requirements associated with charitable registration.

An assessment of relevant information about the Applicant's officials indicates that – _____ and _____ have shown non-compliance with the legal responsibilities associated with charitable registration in the past, specifically related to charitable receipting and inadequate books and records.

Because officials hold primary authority, control, and influence over an organization, it is our view that the behaviour of your officials will impact whether you will use your resources appropriately. In other words, you must ensure that you will comply with all legal responsibilities, fulfill the required fiduciary responsibilities, and maintain adequate books and records. Although the past conduct of an official does not disqualify an applicant from registration, we advise you to consider our concerns.

58. Non-Profit Clause

The constitution must be amended to include a non-profit clause that states:

“The organization shall be carried on without purpose of gain for its members, and any profits or other accretions to the organization shall be used solely in promoting its objectives.”

The amended constitution must be signed and dated by at least three directors and, if applicable, certified by the provincial regulating body. Please note that the organization's effective date of registration will be the effective date of the amendment.

59. Remuneration of Directors

The Applicant's Remuneration of Directors clause, set out in [location of clause in governing document], may cause potential non-compliance with the Act. Directors and trustees may not receive compensation simply for being named as director or trustee. They may be paid **reasonable** expenses incurred in the performance of their duties, and may be compensated for actual services provided to the charity, provided

that compensation is in accordance with its governing document, by-laws and/or provincial legislation.

If the Applicant adequately responds to each of our concerns, we would require that it amend its Remuneration of Directors clause, and provide us with the amended By-laws. If you are uncertain about what compensation a registered charity may provide to its directors or trustees, you should seek legal advice.

60. The Royal Canadian Legion Poppy Fund

If you are applying for registration for the purpose of operating a Royal Canadian Legion Poppy Fund, you must provide:

1. **a letter or written statement from your Provincial Command**, confirming the establishment of your Poppy Fund in accordance with their regulations. This statement should reflect the date your Fund was established and must be signed by an authorized Provincial Command officer; **and**
2. **a statement, signed and dated by 2 officers of your Poppy Fund**, confirming that:

“The Royal Canadian Legion, [FIELD] Branch Poppy Fund will be used only in accordance with the rules and regulations of the General By-laws of The Royal Canadian Legion which apply to Poppy Funds.”

All other information requested on Form T2050, the Application to Register a Charity Under the *Income Tax Act*, must also be provided as it applies to the Poppy Fund alone. In other words, the financial statements, description of activities, and board of directors provided should be for the Poppy Fund instead of the Legion Branch. If you have any questions, please contact our Client Service Section.

61. Dissolution Clause and the *Societies Act* of Nova Scotia

The [Applicant] is incorporated under the *Societies Act* of Nova Scotia that provides for the distribution of all its remaining assets to the members of the corporation upon its dissolution.

This is not acceptable because, upon the dissolution of its corporation, a registered charity may only gift its funds or assets to a **qualified donee** described in the Act.

Generally, qualified donees are other registered Canadian charities, registered Canadian amateur athletic associations, and Canadian municipalities. For a complete list of qualified donees, please go to www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/qlfddns-eng.html.

To be considered for charitable registration, the [Applicant] must amend its By-laws to include the following dissolution clause:

“Upon the dissolution of the corporation and after payment of all debts and liabilities, its remaining property shall be distributed or disposed of to qualified donees described in subsection 149.1 (1) of the *Income Tax Act*.”

To amend the dissolution clause, you must file a Special Resolution with Registrar of Joint Stock Companies. Once they have approved your request, you must send us a copy of the Special Resolution outlining the amendments, the Special Resolution certificate stamped and certified, and the Certificate of Memorandum Alteration.

62. Dissolution Clause and the *[name of Act]* Act of Quebec

The [Applicant] is incorporated under the *[name of Act]* of Quebec that provides for the distribution of all its remaining assets to the members of the corporation upon its dissolution. This is not acceptable because, upon the dissolution of its corporation, a registered charity may only gift its funds or assets to a **qualified donee** described in the Act.

Generally, qualified donees are other registered Canadian charities, registered Canadian amateur athletic associations, and Canadian municipalities. For a complete list of qualified donees, please go to www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/qlfddns-eng.html.

To be considered for charitable registration, the [Applicant] must amend its By-laws to include the following dissolution clause:

“Upon the dissolution of the corporation and after payment of all debts and liabilities, its remaining property shall be distributed or disposed of to qualified donees described in subsection 149.1 (1) of the *Income Tax Act*.”

“Au moment de la dissolution de la société et après l’acquittement de toutes les dettes et obligations, le reliquat des biens sera distribué ou cédé aux donataires reconnus, tels qu’ils sont décrits au paragraphe 149.1(1) de la *Loi de l’impôt sur le revenu*. ”

To amend the dissolution clause, you must file an application for a Supplementary Letters Patent with the Registraire des entreprises du Québec. Once they have approved your request, you must send us a copy of the *Lettres patentes supplémentaires* bearing the date stamp of the Ministry as well as the *Résolution* outlining the amendments.

63. Dissolution Clause and Special Provisions under the *Corporations Act of Ontario*

The Applicant is incorporated under the *Corporations Act* of Ontario, which provides for the distribution of all its remaining assets to the members of the corporation upon its dissolution. This is not acceptable because upon its dissolution a registered charity may only gift its funds or assets to a qualified donee, as described in subsection 149.1(1) of the Act. We note that there is no dissolution clause contained in the Applicant's Letters Patent or its By-laws. Accordingly, in order to comply with the Act, we request the Applicant add the following clause to either Article 5 of its Letters Patent or within its By-laws:

Upon the dissolution of the corporation and after payment of all debts and liabilities, its remaining property shall be distributed or disposed of to charities registered under the Income Tax Act (Canada) in Canada.

Please note, it is our understanding that if the Applicant amends Article 5 of its Letters Patent to include a dissolution clause as a special provision, it is likely that the Ontario Public Guardian and Trustee (OPGT) may require the Applicant to include all of its special provisions relating to charities. It is for this reason that we suggest the Applicant adopt the OPGT's Appendix D, *Special Provisions Required of Incorporated Charities*, in its entirety, which may be found at

www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charbullet/bullet2.asp

To make the necessary amendments, the Applicant must submit an Application for Supplementary Letters Patent to the OPGT for its approval. Once approved, the OPGT will send the document to the Ministry of Government Services of Ontario who then issues and stamps the Application for Supplementary Letters Patent.