

## CANADIAN CHARITY LEGAL CHECKLIST

by Mark Blumberg April 5, 2019

Prepared for the Ontario Bar Association

[www.canadiancharitylaw.ca](http://www.canadiancharitylaw.ca) and [www.globalphilanthropy.ca](http://www.globalphilanthropy.ca)

Measure	Yes	No	Not Sure	N/A	For More Information
<b>1</b> <b>Understanding Your Legal Status</b>					
a. Are you an unincorporated association or trust?					Many organizations that are registered charities may be unincorporated associations or trusts and not incorporated entities. You might want to consider incorporating and having CRA transfer over your charity number to the new corporation. There are many advantages of being incorporated but incorporating is not required. If you do incorporate in most cases it is best to incorporate as a Federal non-profit corporation under Canada Not-for-profit Corporations Act ("CNCA") and not under provincial jurisdiction.
-if yes do you have an updated copy of your constitution or trust deed?					
b. Are you an incorporated organization (either federally or provincially)					<p>Check out your letters patent (articles of incorporation) for this information, but if you don't have these, then try searching the free Corporations Canada database to at least eliminate the possibility you are a federal corporation.</p> <p><a href="https://www.ic.gc.ca/app/scr/cc/CorporationsCanada/fdrlCrpSrch.html?locale=en_CA">https://www.ic.gc.ca/app/scr/cc/CorporationsCanada/fdrlCrpSrch.html?locale=en_CA</a></p> <p>For Ontario corporations you can review a 2014 list from Blumberg Segal LLP of Ontario corporations (both active and inactive):  <a href="http://www.canadiancharitylaw.ca/blog/list_of_ontario_non_profit_corporations_revealed_for_the_first_time">http://www.canadiancharitylaw.ca/blog/list_of_ontario_non_profit_corporations_revealed_for_the_first_time</a></p> <p>Some organizations that are trusts or unincorporated associations will not be affected by either the CNCA or ONCA.</p>

Measure	Yes	No	Not Sure	N/A	For More Information
-if yes do you have a copy of your incorporation documents such as articles of incorporation (and articles of amendments) or letters patent and supplementary letters patent?					<p>If you are a Federal corporation you can request copies of articles and by-laws from Corporations Canada. Find your corporation on Corporations Canada's <a href="#">Search for a Federal Corporation</a> and once you have found your corporation click "Buy copies of corporate documents".</p> <p>If you are an Ontario corporation you can request the letters patent and supplementary letters patent from the Ontario government. They will provide you with a microfiche. The Ontario government does not keep copies of non-profit by-laws.</p> <p>Also, if you are a registered charity, the Canada Revenue Agency may have copies of some of these documents, but they could be outdated.</p>
C. If you are an Ontario corporation, have you recently conducted a corporate profile report to check that the listed registered office, directors and officers are accurate and that your corporation is active?					
d. If you are a Federal non-profit Corporation under the CNCA have you recently conducted a corporate profile report to check that the listed registered address, directors and officers are accurate and that you have made your necessary filings?					<p>Some of the common mistakes made by CNCA corporations that are potentially visible on the Corporations Canada database are:</p> <ul style="list-style-type: none"> <li>• old registered office address;</li> <li>• old directors listed and new directors not listed;</li> <li>• using residential addresses is no longer required and some directors may prefer that a different address is used for privacy reasons;</li> <li>• the number of directors does not seem to be consistent with the requirements of the articles of the corporation;</li> <li>• the Form 4022 – Annual Return has not been filed for the necessary years;</li> <li>• being incorrectly listed as a non-soliciting corporation when it is soliciting; and</li> <li>• when a soliciting corporations failure to file financial statements. (this is in addition to the requirement for registered charities to file financial statements with CRA along with their T3010).</li> </ul>
e. Your charity files necessary corporate returns					

Measure		Yes	No	Not Sure	N/A	For More Information
f.	If you are an Ontario non-profit Corporation under the Ontario Corporations Act you have a plan to bring your corporation into compliance with the new Ontario Not-For-Profit Corporations (ONCA) which is potentially going to come into force in 2020?					<p>If you are an Ontario corporation, you may want to consider skipping the move to ONCA and rather continuing into the Federal jurisdiction under the Canada Not-for-profit Corporations Act (CNCA). There are a number of advantages of this approach. It will not work for all Ontario non-profits. Here are some resources that may be of assistance:</p> <p><a href="#">Options for dealing with ONCA for Ontario non-profit organizations under the OCA</a></p> <p><a href="#">20 Ways We May Be Able To Help You With ONCA</a></p> <p><a href="#">Ontario Not-for-Profit Corporations Act (ONCA) "targeted" to be brought into force in early 2020</a></p> <p><a href="#">Ontario Changes Affecting Membership of Ontario Non-Profit Organizations under the OCA</a></p> <p><a href="#">Options for dealing with ONCA for Ontario non-profit organizations under the OCA</a></p>
g.	Are the objects/purposes of your organization up-to-date and relevant for the current work of your non-profit?					In some cases, it may make sense to update the organization's objects as part of the corporate changes. It is important to remember that all registered charities will need to ask CRA for pre-approval of these revised objects and provide CRA with a detailed description of activities, which can take up to a year, so this is an example of something that you may wish to start sooner rather than later.
h.	Do you have a copy of your most recent by-law?					
i.	Are your by-laws up to date and reflective of the governance practices that you wish to practice?					<p>If you want to update your by-law and you are a Federal CNCA corporation it is typically best to start with a new by-law based on the Industry Canada model by-law or something similar to that.</p> <p>If you want to update your by-law and you are a Ontario corporation under the ONCA keep in mind that the ONCA will not be in force till 2020 at the earliest. For some groups it may make sense to update their Ontario OCA by-laws. For others you may want to wait for ONCA to come into force. Others may want to continue to Federal jurisdiction.</p>

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j.	Do you know who your members are and do you have an updated list?					If there is more than one membership class, do you know the attributes of each class? (ie name, notice, vote, etc)? Members are like shareholders in a for-profit company, except that members don't own the corporation, they control it. Under both ONCA and CNCA members will have more rights. In some cases non-voting members will even get to vote. Because of this, your organization may wish to clarify who will be the members in the future.
k.	Does the organization want to maintain its current name or change its name?					If you want to change your name you will need to have a NUANS search prepared, amend your governing documents and if a registered charity then advise CRA of such amendment
l.	Do you have a current list of directors and officers?					
m.	Does your charity have an AGM every year?					
n.	Do you keep minutes of your AGM?					
o.	Are you up-to-date in the corporate filings for your organization?					If not, you may want to do arrears in filings.
p.	Do you regularly keep copies of minutes of directors meeting?					
<b>2 Registered Charity Status</b>						
a.	Have you confirmed that you are a registered charity on the CRA's Charities Listing					<a href="https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a> CRA's Charities Listing
b.	CRA has your correct contact information					<p>See CRA listing <a href="https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a></p> <p>On the Form TF725, <i>Registered Charity Basic Information Sheet (BIS)</i>, which is the same form with pre-printed labels attached, make sure that you file that form and verify all the information on the form. In addition to updating your contact information you should also update your program areas on the TF725.</p>

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c.	Is your CRA designation as a charitable organization, public foundation and private foundation correct?					<p>If you are a public foundation this resource may be helpful:  <a href="#">CRA's List of Areas of Non-Compliance with Income Tax Provisions - Canadian Public Foundations</a></p> <p>If you are a private foundation these resources may be helpful:  <a href="#">Top Fallacies about Private Foundations in Canada</a>  <a href="#">CRA's List of Areas of Non-Compliance with ITA Provisions for Canadian Private Foundations</a></p>
d.	Do you have a copy of your Notification of Registration from the Charities Directorate?					You should review the Notification of Registration as it can have specific requirements that apply to your charity. If you don't have a copy of your notification of registration it is a public document and can be requested on the CRA website.
e.	If your charity ever entered into a compliance agreement, have you complied with it?					
f.	If you ever changed your objects, have you provided the revised objects to CRA?					
g.	Do you have copies of all correspondence from and to CRA?					
<b>3 Important Documents</b>						
a.	If the charity owns land, does it have title documents?					
b.	If the charity has a mortgage, do you have the mortgage documents?					
c.	If the charity is leasing space do you have a copy of the lease and any amendments?					

Measure		Yes	No	Not Sure	N/A	For More Information
d.	Do you have copies of internal policies, if any?					<p>Some common policies include a conflict of interest policy, HR policies, gift acceptance policy, policies relating to internal controls and financial procedures, reserve fund policy, safeguarding policy dealing with vulnerable beneficiaries, expense policy, investment policy, privacy policy, data protection policy, and volunteer recruitment and management policy.</p> <p>While registered charities are not required to have policies to be a registered charity, policies can if appropriately constructed assist the charity in fulfilling its mission. Poorly constructed policies can create confusion and increase potential risk for charities. Different charities might have different needs – for example a charity that is fundraising and has a reserve should have a reserve fund policy whereas for other charities it might just be a good idea.</p>
e.	Do you have copies of recent financial statements and government filings?					
f.	Copies of insurance policies, if any?					
g.	Copies of major agreements affecting the charity?					See section on employment and gift agreements.
<b>4 Filing Your T3010 Registered Charity Information Return</b>						
a.	You have checked that you are a registered charity on the CRA's Charities Listing					<a href="https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a> CRA's Charities Listing
b.	Do you know the date of your fiscal year end?					See previous T3010 or CRA listing at <a href="https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a> which lists the fiscal year end for each charity
c.	Do you know when to file your T3010 and when do you have to file your T3010?					<p>The T3010 is supposed to be filed within 6 months of the end of your charity's fiscal year. See CRA's guidance on filing dates at <a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4033/t4033-completing-registered-charity-information-return.html#_Toc412013111">https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4033/t4033-completing-registered-charity-information-return.html#_Toc412013111</a></p> <p>Here is a helpful <a href="#">CRA infographic</a> on filing dates.</p>

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d.	You know who is responsible for filing the T3010 in your organization					For larger organizations the T3010 should be reviewed by various individuals from programming, finance, governance as well as accounting and legal advisors.
e.	You always file your T3010 on time					
f.	You are up to date with your T3010 filings					
<b>5 Ensuring Your T3010 is Correct and Complete</b>						
a.	Have you reviewed your charity's past filings on <a href="http://www.charitydata.ca">www.charitydata.ca</a> ?					It is often easier to see past mistakes when you review the T3010 filings on Blumbergs' portal <a href="http://www.charitydata.ca">www.charitydata.ca</a> which shows up to 15 years of filings side by side
b.	Have you reviewed CRA's guide to completing the T3010?					<a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4033/t4033-completing-registered-charity-information-return.html">https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4033/t4033-completing-registered-charity-information-return.html</a>
c.	Are you using the correct form for the particular fiscal year?					<a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/t3010.html">https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/t3010.html</a>
d.	Do you complete all required information on the T3010?					View CRA's page on the T3010 <a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/t3010.html">https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/t3010.html</a>

Measure	Yes	No	Not Sure	N/A	For More Information
e. Do you attach all required documentation when you file your T3010 such as financial statements, TF725 etc					<p>A complete information return includes:</p> <ul style="list-style-type: none"> <li>• Form T3010, Registered Charity Information Return</li> <li>• Form TF725, Registered Charity Basic Information Sheet</li> <li>• a copy of the charity's own financial statements, including notes to the financial statements</li> <li>• Form T1235, Directors/Trustees and Like Officials Worksheet, with all the required information</li> <li>• if applicable—Form RC232-WS, Director/Officer Worksheet and Ontario Corporations Information Act Annual Return, or Form RC232, Ontario Corporations Information Act Annual Return</li> <li>• if applicable—Form T1236, Qualified donees worksheet / Amounts provided to other organizations</li> <li>• if applicable—Schedule 1, Foundations</li> <li>• if applicable—Schedule 2, Activities outside Canada</li> <li>• if applicable—Schedule 3, Compensation</li> <li>• if applicable—Schedule 4, Confidential data</li> <li>• if applicable—Schedule 5, Gifts in kind</li> <li>• if applicable—Schedule 6, Detailed financial information</li> <li>• if applicable—Schedule 7, Political activities</li> <li>• if applicable—Form T2081, Excess Corporate Holdings Worksheet for Private Foundations</li> </ul> <p>See CRA checklist on pg. 3 in the T3010 guide at <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/t3010-checklist-avoid-common-mistakes-when-filing-your-return.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/t3010-checklist-avoid-common-mistakes-when-filing-your-return.html</a></p>
f. If you are having trouble with the T3010 you have checked CRA resources or called the CRA or obtained professional advice					<p>See CRA client services at <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/contact-charities-directorate.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/contact-charities-directorate.html</a></p>
g. You have checked that you have not made some of the most common mistakes with the T3010					<p><a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/t3010-checklist-avoid-common-mistakes-when-filing-your-return.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/t3010-checklist-avoid-common-mistakes-when-filing-your-return.html</a></p>

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h.	You had your lawyer, accountant and/or board members who are knowledgeable about the form check the T3010 before it was filed					This is not required but it is a good practice to increase the likelihood of the T3010 being accurate. Changes in the 2012 Federal Budget allow CRA to suspend receiving privileges of a charity if their T3010 filing is incomplete.
i.	After filing the T3010 you have checked your T3010 online at the CRA website to ensure accuracy					This is a best practice for larger organizations. See CRA Charities Listing at <a href="https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action">https://apps.cra-arc.gc.ca/ebci/haip/srch/advancedsearch-eng.action</a> . Also see Blumbergs' <a href="http://www.charitydata.ca">www.charitydata.ca</a> for historical filings
j.	If you have material errors in your previous filings have you considered filing a notice of adjustment?					
k.	Beyond the T3010 have you considered how your charity can be transparent about its activities?					<a href="#">Some simple and free steps to increase your Canadian registered charity's transparency</a>
<b>6 Ensuring Your Donation Receipts Are Correct</b>						
a.	You only provide official donation receipts for "gifts" when appropriate					See definition of "gift" <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities-charities-giving-glossary.html#gift">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities-charities-giving-glossary.html#gift</a> . See also P113 Gifts and Income Tax <a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/p113.html">https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/p113.html</a>
b.	You only provide receipts for donations to your organization (you do not act as a conduit or lend your registration to another organization such as non-profit or foreign charity)					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/guidance-002-canadian-registered-charities-carrying-activities-outside-canada.html#toc14">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/guidance-002-canadian-registered-charities-carrying-activities-outside-canada.html#toc14</a> or for an article on being a conduit see: <a href="https://www.globalphilanthropy.ca/blog/with_foreign_activities_what_is_the_difference_between_a_conduit_and_a_struct">https://www.globalphilanthropy.ca/blog/with_foreign_activities_what_is_the_difference_between_a_conduit_and_a_struct</a>

Measure		Yes	No	Not Sure	N/A	For More Information
C.	You understand the "split receipting" rules and ensure that any "advantage" is subtracted from the amount of the donation to determine the eligible amount of the official donation receipt					<p><a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/split-receipting.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/split-receipting.html</a></p> <p>Example of split receipting – someone pays \$100 to go to gala dinner, you subtract advantage (food, door prizes etc) and issue receipt for donation minus advantage.</p>
d.	You understand that the definition of "advantage" or benefit is what a donor may receive in return for his or her donation (for example, a meal, tickets to a show), and it must be taken into consideration when determining the eligible amount of a gift for receipting purposes					<p><a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/determining-fair-market-value-gifts-kind-non-cash-gifts.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/determining-fair-market-value-gifts-kind-non-cash-gifts.html</a></p>
e.	You understand that advantage is very broad and some of the many possible advantages include property (for example, cash, non-cash gifts also called gifts-in-kind), the use of or enjoyment of property; the provision of services; and other benefits including but not limited to assumption of debt by charity, sponsorship, non-recourse loans, etc.					<p><a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/charities-giving-glossary.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/charities-giving-glossary.html</a></p>
f.	All mandatory fields are included on your receipts					<p>You can review CRA's checklist <i>Issuing complete and accurate donation receipts</i></p> <p><a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/issuing-complete-accurate-donation-receipts.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/issuing-complete-accurate-donation-receipts.html</a> or review CRA's sample receipts</p> <p><a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/sample-official-donation-receipts.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/sample-official-donation-receipts.html</a></p> <p>The easiest way to create official donation receipts is to cut and paste the sample receipts from the <a href="#">Blumbergs' Receipting Kit</a>. Unfortunately CRA's sample receipts are now non-editable graphics.</p>
g.	You always ensure that you have the correct donor on the receipt					<p><a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-commentary-010-issuing-a-receipt-a-name-other-than-donor-s.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-commentary-010-issuing-a-receipt-a-name-other-than-donor-s.html</a></p>

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h.	You understand the definition of fair market value namely: • Fair market value is normally the highest price, expressed in dollars, that property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/determining-fair-market-value-gifts-kind-non-cash-gifts.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/determining-fair-market-value-gifts-kind-non-cash-gifts.html</a> <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/charities-giving-glossary.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/charities-giving-glossary.html</a>
i.	You understand that in certain circumstances under the deemed fair market value rules a charity must issue a receipt for the lesser of fair market value or the cost to the donor					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/deemed-fair-market-value-rule.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/issuing-receipts/deemed-fair-market-value-rule.html</a>
j.	You understand that if either the fair market value of a gift in kind or an advantage cannot be determined, an official donation receipt cannot be issued					
k.	You understand that the onus is on the charity to determine fair market value and that a charity cannot rely on a donor's valuation or view of fair market value					

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I. You are aware of the transactions that generally do not qualify as gifts and therefore no tax receipt is issued? For example: <ul style="list-style-type: none"> <li>• A court ordered transfer of property to a charity;</li> <li>• The payment of a basic fee for admission to an event or to a program;</li> <li>• The payment of membership fees that convey the right to attend events, receive literature, receive services, or be eligible for entitlements of any material value that exceeds 80% of the value of the payment;</li> <li>• A payment for a lottery ticket or other chance to win a prize;</li> <li>• The purchase of goods or services from a charity;</li> <li>• A donation for which the fair market value of the advantage or consideration provided to the donor exceeds 80% of the value of the donation;</li> <li>• A gift in kind for which the fair market value cannot be determined;</li> <li>• Donations provided in exchange for advertising/sponsorship;</li> <li>• Gifts of services (for example: donated time, labour);</li> <li>• Gifts or promises (for example: gift certificates donated by the issuer, hotel accommodation);</li> <li>• Pledges;</li> <li>• Loans of property;</li> <li>• Use of a timeshare; and</li> <li>• The lease of premises.</li> </ul>					<p>For more information on receipting and Canadian charities see:  <a href="http://www.canadiancharitylaw.ca/blog/category/receipting_by_charities">http://www.canadiancharitylaw.ca/blog/category/receipting_by_charities</a></p> <p>Check out the free Blumbergs' Receipting Kit with information on receipting and relevant CRA policies:</p> <p><a href="https://www.canadiancharitylaw.ca/blog/blumbergs_receipting_kit_for_canadian_registered_charities_by_mark_blumberg">https://www.canadiancharitylaw.ca/blog/blumbergs_receipting_kit_for_canadian_registered_charities_by_mark_blumberg</a></p>
<b>7 Gift Acceptance and Restricted Gifts</b>					
a. Does your charity have a gift acceptance policy?					While not required it can be a very useful document helping a charity, its fundraisers and board navigate sometimes difficult gift acceptance issues such as when to refuse a gift, what is appropriate recognition, what types of restrictions are appropriate, who decides on various issues, etc.
b. Does your charity have a standard gift agreement with necessary clauses to protect the charity?					
c. Do you keep all gift agreements for as long as necessary?					

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d.	If your charity has endowments or other types of restricted gifts are you complying with the endowment or other restrictions?					
e.	If your charity has endowments or other types of restricted gifts, do you have a list of all restrictions?					
f.	If your charity is making a broad fundraising appeal for a special purpose, such as a new hospital wing or helping people in a disaster, has your charity has included a caveat in the event circumstances change or there are more or less donations than required?					
g.	If you have gifts that have a restricted purpose, are there alternative purposes provided if it becomes impracticable for the gift to be used as originally intended or for capital to be encroached on if income is insufficient?					<a href="#">Recent decision of the BC Supreme Court in Re Mulgrave School Foundation</a>
h.	Do you understand whether they are externally or internally restricted and whether the gift agreement provides the flexibility to make changes to the purpose or administration of the gift?					<a href="#">Recent decision of the BC Supreme Court in Re Mulgrave School Foundation</a>  It is very important that all gift agreements and especially those with restrictions have an amendment clause. There are many models of amendment clauses but without an amendment clause the charity and donor, even if they agree, may not be able to change the gift.
i.	If your charity has endowments or other types of restricted gifts, are you complying with the endowment or other restrictions?					<p>Restricted gifts can result in numerous problems including:</p> <ul style="list-style-type: none"> <li>• funds not being used efficiently or not being used at all</li> <li>• significant managerial time expended</li> <li>• increase in legal costs</li> <li>• time consuming court applications, conflicts with the donor (or their descendants) to determine how to proceed with the gift</li> </ul> <p>Unless carefully considered, charities should not be agreeing to restrictions unless they can and will be able to comply with those restrictions.</p>

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j.	If you have endowments, do you have the ability to encroach on capital in certain extenuating circumstances or if there is not enough income to be utilized effectively?					
k.	If you have endowments, do you have a provision which allows borrowing from capital in certain circumstances?					
l.	Have you read about gift acceptance issues, gift acceptance policies and gift agreements.					You might find this webinar helpful: <a href="#">Dangers of Restricted Gifts</a>
m.	When donors request information on bequests is your response or package accurate?					
<b>8</b>	<b>Religion and Religious School Tuition Receipts</b>					
a.	If you are a religious charity have you read CRA's guidance on advancing religion?					<a href="#">CRA's Draft Guidance Advancement of religion and charitable registration is released through ATIP</a>
b.	If your charity is a religious school and is issuing receipts for the religious portion of tuition, it is in compliance with CRA's circular IC 75-23					<a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic75-23/tuition-fees-charitable-donations-paid-privately-supported-secular-religious-schools.html">https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic75-23/tuition-fees-charitable-donations-paid-privately-supported-secular-religious-schools.html</a>
<b>9</b>	<b>Fraudulent Tax Receipts</b>					
a.	Your charity locks away your receipting book or uses a secure password on any computer or program that produces official donation receipts					
b.	Your charity maintains tight controls over who can issue receipts in order to avoid the issuance of fraudulent or improper tax receipts					
c.	If you suspect someone has issued fraudulent receipts on behalf of your charity you have advised CRA					

Measure		Yes	No	Not Sure	N/A	For More Information
<b>10</b>	<b>Charity Gifting Tax Shelters</b>					
a.	Your charity avoids any involvement with "abusive tax shelter gifting arrangements" which offer that people can make money on a charitable donation					For information on what are abusive tax shelters see: <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/giving-charity-information-donors/making-a-donation/donation-tax-shelter-schemes.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/giving-charity-information-donors/making-a-donation/donation-tax-shelter-schemes.html</a>
<b>11</b>	<b>Acting Outside Legal Objects</b>					
a.	You periodically review the legal objects in your charity's letters patent/articles of incorporation, trust deed or constitution to ensure all the activities of your charity are within your legal objects					<a href="#">Now might be a good time to look at your charity's legal objects and whether they should be changed</a>
b.	If activities are outside the scope of your objects, you have discontinued those activities or decided to modify your objects					
c.	If you are modifying your legal objects, you have first obtained CRA's approval for the changes (by submitting the new proposed objects and a detailed description of activities to CRA) and secondly provided CRA with a copy of the supplementary letters patent or articles of amendment after they have been changed					See CRA's guidelines on charitable purposes <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/applying-registration/charitable-purposes.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/applying-registration/charitable-purposes.html</a>  See CRA's <a href="#">Model purposes</a> and CRA's page <a href="#">Changing a charity's purposes</a>
d.	If you are an Ontario non-profit Corporation under the Ontario <i>Corporations Act</i> you have a plan to bring your corporation into compliance with the new Ontario act (ONCA) which may come into force in 2020 or later.					See Blumbergs' <a href="#">ONCA blog directory</a>
<b>12</b>	<b>Non-Charitable Activities</b>					
a.	The charitable purposes recognized by CRA are: <ul style="list-style-type: none"><li>• The relief of poverty;</li><li>• The advancement of education;</li><li>• The advancement of religion, or</li><li>• Other purposes beneficial to the community in a way the law regards as charitable.</li></ul>					See CRA Checklist <i>Engaging in Allowable Charitable Activities</i> <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/engaging-allowable-activities.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/engaging-allowable-activities.html</a>

Measure		Yes	No	Not Sure	N/A	For More Information
b.	You only conduct non-charitable activities such as fundraising, administration, political, business, and social activities within the limits prescribed by law					Other acceptable activities permitted within certain limits <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/activities/other-acceptable-activities-permitted-within-certain-limits.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/activities/other-acceptable-activities-permitted-within-certain-limits.html</a>
<b>13</b>	<b>Avoiding Gifts to Non-Qualified Donees and Foreign Activities</b>					
a.	You understand the rules relating to Canadian charities working with non-qualified donees whether in Canada or outside of Canada					<p>See the CRA's <i>Guidance for Canadian Registered Charities Carrying out Activities Outside Canada</i>  <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/guidance-002-canadian-registered-charities-carrying-activities-outside-canada.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/guidance-002-canadian-registered-charities-carrying-activities-outside-canada.html</a> or</p> <p>CRA's Guidance <i>Using an Intermediary to Carry Out Charitable Activities within Canada</i> <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/using-intermediary-carry-a-charity-activities-within-canada.html?rss">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/using-intermediary-carry-a-charity-activities-within-canada.html?rss</a>  <a href="http://www.globalphilanthropy.ca">http://www.globalphilanthropy.ca</a></p> <p>You might find these resources helpful:</p> <p><a href="#">Canadian Charities Conducting International Activities (2015)</a></p> <p><a href="#">Webinar on Foreign Activities 101: Introduction to Canadian charities carrying out foreign activities</a></p> <p><a href="#">Canadian Charity Foreign Activity Legal Checklist - Working with Foreign Charities or Intermediaries</a></p>
b.	You know what a "qualified donee" is					For a definition see <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/qualified-donees.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/qualified-donees.html</a>
c.	You only grant funds or gift resources to qualified donees					

Measure		Yes	No	Not Sure	N/A	For More Information
d.	If your charity provides resources to organizations or individuals that are not qualified donees (such as foreign charities or Canadian organizations that are not registered charities), your charity has a "structured arrangement" with these intermediaries that maintains "direction and control" by:					<p>See <a href="#">With foreign activities what is the difference between a conduit and a structured arrangement?</a></p> <p><a href="#">Canadian Charity Foreign Activity Legal Checklist - Working with Foreign Charities or Intermediaries</a></p> <p>See our directory of resources on <a href="#">Canadian charities carrying out foreign activities</a>.</p> <p><a href="#">What is a "development project" and how can this add further flexibility to foreign activities</a></p> <p>If you want to fund universities outside of Canada see our article <a href="#">Foreign Universities Applying for Prescribed University Status in Canada 2018</a></p>
e.	Conducting appropriate due diligence on intermediaries					
f.	Entering into appropriate written agreement with intermediaries with all necessary elements					
g.	Agreeing on a detailed description of activities before sending funds or resources					
h.	Monitoring and supervising the activities					
i.	Maintaining a real, ongoing, active relationship with your intermediary					
j.	Providing periodic payments for larger projects					
k.	Segregating funds					
l.	Maintaining Books and Records in Canada of the activities					
m.	You properly categorize foreign activities on the T3010 Registered Charity Information Return					
<b>14</b>	<b>Fundraising Costs and Practices</b>					

Measure		Yes	No	Not Sure	N/A	For More Information
a.	If your charity fundraises then you, or someone else in your organization, has read and understands the CRA's Guidance <i>Fundraising by Registered Charities</i> (CG-013)(April 20, 2012)					CRA's Guidance <i>Fundraising by Registered Charities</i> <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/fundraising-registered-charities-guidance.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/fundraising-registered-charities-guidance.html</a> For additional information on Canadian charities and fundraising see: <a href="http://www.canadiancharitylaw.ca/index.php/blog/category/fundraising_guidance_for_registered_charities/">http://www.canadiancharitylaw.ca/index.php/blog/category/fundraising_guidance_for_registered_charities/</a>
b.	You are aware that CRA in its Guidance on <i>Fundraising by Registered Charities</i> considers fundraising to be acceptable unless the fundraising is: <ul style="list-style-type: none"> <li>•a purpose of the charity (a collateral, non-charitable purpose);</li> <li>•delivering a more than incidental private benefit (a benefit that is not necessary, reasonable, or proportionate in relation to the resulting public benefit);</li> <li>•illegal or contrary to public policy;</li> <li>•deceptive; or</li> <li>•an unrelated business.</li> </ul>					CRA's Guidance <i>Fundraising by Registered Charities</i> <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/fundraising-registered-charities-guidance.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/fundraising-registered-charities-guidance.html</a>  Blumbergs' <a href="#">directory of resources on fundraising</a>
c.	None of the indicators of concern apply to your charity, such as: <ol style="list-style-type: none"> <li>1. Sole-source fundraising contracts without proof of fair market value.</li> <li>2. Non-arm's length fundraising contracts without proof of fair market value.</li> <li>3. Fundraising initiatives or arrangements that are not well-documented.</li> <li>4. Fundraising merchandise purchases that are not at arm's length, not at fair market value, or not purchased to increase fundraising revenue.</li> <li>5. Activities where most of the gross revenues go to contracted non-charitable parties.</li> <li>6. Commission-based fundraiser remuneration or payment of fundraisers based on amount or number of donations.</li> <li>7. Total resources devoted to fundraising exceeding total resources devoted to program activities.</li> <li>8. Misrepresentations in fundraising solicitations or in disclosures about fundraising or financial performance.</li> </ol>					

Measure	Yes	No	Not Sure	N/A	For More Information
d. You appropriately allocate fundraising expenditures according to the CRA's Guidance <i>Fundraising by Registered Charities</i>					
e. You know your charity's ratios of cost to revenue, and the ratios are in line with CRA expectations					
f. Your ratio is below 35%?					
g. You provide adequate disclosure and transparency of fundraising activities and costs					
h. You are following best practices as outlined in the CRA's Guidance <i>Fundraising by Registered Charities</i> , including:					
1. Prudent planning processes					
2. Appropriate procurement processes					
3. Good staffing processes					
4. Ongoing management and supervision of fundraising practice					
5. Adequate evaluation processes					
6. Use made of volunteer time and volunteered services or resources					
7. Disclosure of fundraising costs, revenues, and practice (including cause-related or social marketing arrangements)					
i. You are taking steps to reduce your fundraising costs if they are high					
j. When third parties, whether paid fundraisers or volunteers, are conducting fundraising on behalf of your charity you have an appropriate written agreement with such third party					
k. If you have reserves and are fundraising you have a reserves policy which discusses the factors used by the charity to decide on what is appropriate reserve					
l. Has your charity agreed to be bound by any ethical codes or standards and are you complying with those codes?					

Measure		Yes	No	Not Sure	N/A	For More Information
<b>15 Failure to Meet Disbursement Quota</b>						
a.	You understand that changes in the March 2010 Federal budget removed part of the disbursement quota, namely the 80/20 expenditure rule. Now charitable organizations will need to expend on charitable activities 3.5 per cent of all assets not currently used in charitable programs or administration, if these assets exceed \$100,000 for charitable organizations or \$25,000 for public or private foundations. This for example covers reserves, endowments, investment, buildings owned by a charity but not used in charitable programs or administration.					<p>See CRA's note on disbursement quota reform at <a href="http://www.cra-arc.gc.ca/gncv/bdq/2010/chrt-eng.html">http://www.cra-arc.gc.ca/gncv/bdq/2010/chrt-eng.html</a></p> <p>Also see article "Canadian Budget 2010 announces disbursement quota reform for Canadian charities" at <a href="http://www.globalphilanthropy.ca/index.php/blog/comments/budget_2010_disbursement_quota_changes_and_anti-avoidance_provisions/">http://www.globalphilanthropy.ca/index.php/blog/comments/budget_2010_disbursement_quota_changes_and_anti-avoidance_provisions/</a></p>
b.	You review your <i>Registered Charity Information Return Summary</i> received from CRA after filing your T3010					
c.	Do you have surplus in your disbursement quota?					
<b>16 Political Activities</b>						
a.	You understand that:  Recent changes to the Income Tax Act now allow Canadian registered charities to conduct public policy dialogue and development activities (PPDDA) connected to the legal purpose of the charity as long as they are not directly or indirectly partisan. PPDDA is essentially allowable non-partisan political activities that further one of your charitable purposes.					<p>CRA's draft guidance <a href="#">CG-027, Public policy dialogue and development activities by charities</a></p> <p>Here is a 20 minute presentation on why political activities are important for registered charities: <a href="http://maytree.com/fqi/five-good-ideas-about-registered-charities-and-political-activities.html">http://maytree.com/fqi/five-good-ideas-about-registered-charities-and-political-activities.html</a></p> <p>See Blumbergs' <a href="#">directory on Canadian charities and political activities</a>.</p>
b.	If your organization engages in PPDDA:					CRA's draft guidance <a href="#">CG-027, Public policy dialogue and development activities by charities</a>
	1. Those PPDDA activities are connected to your legal objects as found in your governing documents					Your legal objects are in your articles of incorporation (or letters patent), articles of amendment (or supplementary letters patent) or if you are a trust in your trust deed or if you are an unincorporated association in your constitution

Measure	Yes	No	Not Sure	N/A	For More Information
2. the PPDDAs, when considered together with the charity's stated charitable purpose, would provide a benefit to the public					see CRA Guidance <a href="#">CPS-024, Guidelines for registering a charity: Meeting the public benefit test</a>
3. The PPDDA activities are non-partisan and not "direct or indirect support of, or opposition to, any political party or candidate for public office"					<p>"The Income Tax Act prohibits a charity from devoting any part of its resources to the direct or indirect support of, or opposition to, any political party or candidate for public office. Footnote 6 Any activity that supports or opposes a political party or candidate is not a PPDDA, and a charity cannot carry on such an activity to any degree."</p> <p>"Under the Income Tax Act, a charity may publicly agree or disagree with a decision or position of a government, but in doing so must not support or oppose any political party or candidate for public office. As a general guideline, a charity's communications should focus on the policy issue under discussion, and not refer to any candidate or political party."</p> <p>"A charity that provides a platform for the public to comment on and discuss issues (for example, a website or blog) must monitor these platforms, and remove messages that support or oppose a political party or candidate for public office. In such a case, a charity might choose to add a notice to its platform that messages that support or oppose a political party or candidate will be removed."</p>
4. If the PPDDA involve providing information it must be truthful, accurate and not misleading					
5. If the PPDDA involve research then such research must be conducted within CRA guidance					See CRA Guidance <a href="#">CPS-029, Research as a charitable activity</a> .
6. An PPDDA opinions must "draw on research and evidence and are not contrary to hate speech laws or other legitimate restrictions on freedom of expression"					

Measure	Yes	No	Not Sure	N/A	For More Information
7. Any PPDDA activities must comply with provincial rules on the use of charitable assets that are more restrictive than the Income Tax Act					"Charities should be aware that some provinces may have rules regarding the use of charitable assets that differ from the requirements of the Income Tax Act as they relate to PPDDAs. Footnote 10 (See, for example, Ontario's Office of the Public Guardian and Trustee, whose role includes reviewing applications by organizations who wish to be given charitable status to check that the activities of the organization are, in fact, those which the law defines as charitable.) A charity that meets the requirements of the Income Tax Act as they relate to PPDDAs is not exempted from meeting any provincial requirements on the use of its resources, such as any restrictions on the use of charitable assets for a political purpose."
8. You comply with lobbying requirements at different levels of government?					
<b>17 Letting CRA know of changes as a registered charity</b>					
a. Changes to address, phone number or fax					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-address-phone-number.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-address-phone-number.html</a>
b. Changes such as amalgamations, mergers, and consolidations					If you are considering a merger you might find this guide helpful: <a href="https://www.cpa.ca/English/Issues/Non-Profit/20-Questions-Directors-of-Not-for-Profit-Organizations-Should-Ask-about-Mergers.aspx">CPA Canada's 20 Questions Directors of Not-for-Profit Organizations Should Ask about Mergers</a> Also <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/amalgamations-mergers-consolidations.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/amalgamations-mergers-consolidations.html</a>
c. Changes to your authorized representative information					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-authorized-representative-information.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-authorized-representative-information.html</a>
d. Changes to your By-laws or governing documents					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-bylaws.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-bylaws.html</a>

Measure		Yes	No	Not Sure	N/A	For More Information
e.	Changes to your director, trustee, or like official information					When there are small changes to directors these are usually just reflected on your next T3010. However, sometimes if there are a large number of changes it is a good idea to let CRA know <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-director-trustee-like-official-information.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-director-trustee-like-official-information.html</a>
f.	Changes to your fiscal year end					You require CRA approval to change a fiscal year end <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-requests-that-require-approval/asking-a-fiscal-period-end-change.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-requests-that-require-approval/asking-a-fiscal-period-end-change.html</a>
g.	Changes to your legal name					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-legal-name.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-legal-name.html</a>
h.	Change in legal status					If you are a trust or unincorporated association and you want to incorporate or you are incorporated under one jurisdiction and want to move to another jurisdiction then check out: <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-legal-status.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/changing-a-charitys-legal-status.html</a>
i.	Re-designation					Registered charities are either designated as 1) Charitable organizations, 2) Public foundation and 3) Private foundation. If your current designation is not accurate you should apply for re-designation <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-requests-that-require-approval/asking-a-designation.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-requests-that-require-approval/asking-a-designation.html</a>

Measure		Yes	No	Not Sure	N/A	For More Information
<b>18 Unrelated Business Activities</b>						
j.	If your charity carries out business activities you have read CPS-019 <i>What is a Related Business</i> on the CRA website					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-statement-019-what-a-related-business.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-statement-019-what-a-related-business.html</a>
k.	If your charity is carrying on a business (i.e. activity commercial in nature), then:					
	1. Are all goods donated?					
	2. Are the business activities conducted infrequently?					
	3. Are business activities related business (i.e. 90% volunteers) or linked AND subordinate to charity's purpose?					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-statement-019-what-a-related-business.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policy-statement-019-what-a-related-business.html</a>
l.	If your charity is conducting business activities in order to advance community economic development then you have read CRA's bulletin <i>Community Economic Development Activities and Charitable Registration (CG-014)</i>					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/community-economic-development-activities-charitable-registration-014.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/community-economic-development-activities-charitable-registration-014.html</a>

Measure	Yes	No	Not Sure	N/A	For More Information
<b>19</b> <b>Transactions with Directors</b>					
a. Do you compensate your directors?					<p>Charities have a duty to avoid conflict of interest situations and directors generally have a duty to act gratuitously. Generally directors of a charity should not be compensated. They should only be provided with reimbursement of reasonable out-of-pocket expenses related to the work of the charity. There are some exceptions to this rule including by obtaining a court order or provincial legislation such as Ontario section 2.1 "Authorization to Pay" at <a href="https://www.ontario.ca/laws/regulation/010004#top">https://www.ontario.ca/laws/regulation/010004#top</a></p> <p>See "5. Duty to Act Gratuitously" at <a href="http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/char_bullet/bullet3.asp">http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/char_bullet/bullet3.asp</a></p> <p>Even if a charity is legally permitted to compensate a director for certain services provided to the charity there should be no undue private benefit under the ITA <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/summary-policy-d10-directors-trustees.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/summary-policy-d10-directors-trustees.html</a></p>
<b>20</b> <b>Employment Issues</b>					
a. Your "independent contractors" really are independent contractors and not employees					<p>See CRA publication <i>Employee or Self-employed?</i> <a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc4110.html">https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc4110.html</a></p>
b. Your charity is deducting appropriate amounts of CPP, EI, and income tax and remitting them to CRA for all employees					
c. You have agreements with all employees and independent contractors that cover off at least termination, confidentiality and ownership of intellectual property					
d. Compensation is appropriate and no greater than fair market value					<p>See <a href="https://www.canadiancharitylaw.ca/How-does-a-Canadian-charity-determine-appropriate-compensation-for-an-executive-of-the-charity/">How does a Canadian charity determine appropriate compensation for an executive of the charity?</a></p>

Measure	Yes	No	Not Sure	N/A	For More Information
<b>21 Intellectual Property</b>					
a. Has the charity trade marked words, phrases or logos used in association with the ware and services of the charity?					
b. Has the charity secured necessary domain names?					
c. Do the charity's agreement such as employment agreements, independent contractor agreements and volunteer agreements cover ownership of intellectual property appropriately?					
d. Has the charity confirmed especially with outside contractors, independent contractors or volunteers that that the charity owns content that it is either paying for or using?					
<b>22 Keeping Adequate Books and Records</b>					
a. Your charity maintains adequate books and records as defined by CRA					<a href="#">CRA's Books and Records Checklist</a>
b. You keep records preferably in either English or French					
c. You keep records for at least the prescribed period of time for each record					<a href="https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic78-10r5.html">https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic78-10r5.html</a>
d. You keep books and records at an address in Canada that is on file with CRA					
e. You maintain copies or backups of all key documents at a separate site					
f. Electronic documents are backed up regularly and also stored off site					
g. You have easy access to governing documents (incorporating documents, constitution, trust document), bylaws, financial statements, copies of official donation receipts, copies of T3010, written agreements, board and staff meeting minutes, annual reports, ledgers, bank statements, expense accounts, inventories, payroll records, promotional materials, and fundraising materials					
h. You keep source documents (e.g. invoices, vouchers, work orders, delivery slips, purchase orders, and bank deposit slips)					

Measure		Yes	No	Not Sure	N/A	For More Information
<b>23 Provincial Registrations</b>						
a.	For charities operating in Ontario, you have made necessary filings with the Ontario Public Guardian and Trustee					<a href="http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charities/">http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/charities/</a>
b.	For charities fundraising in Alberta, you have registered with the Alberta government under the <i>Charitable Fundraising Act</i> , if required					<a href="http://www.servicealberta.ca/661.cfm">http://www.servicealberta.ca/661.cfm</a>
c.	For charities operating in Quebec, or providing receipts to Quebec residents, you have made necessary filings with Revenu Quebec					
d.	If you operate in other provinces or issue receipts to residents in other provinces you are aware of the provincial regulations and have complied with them					
e.	If you use a name to identify your organization or a program other than your legal name have you considered whether a business name registration is required and in which provinces?					
f.	If you have employees or offices in different provinces have you done the necessary provincial registrations?					
<b>24 Financial Management and Internal Financial Controls</b>						
a.	Is a budget prepared annually?					
b.	Your charity's management compares actual performance versus plans, goals, and established objectives?					
c.	Is the board updated regularly on the financial status of the charity?					
d.	Your senior management sets a good example and abides by internal policies?					
e.	Your charity is aware of the many ways that some entities may try to take advantage of the charity, including for fraud, money laundering, terrorism, private benefit, etc.					
f.	You have adequate internal financial controls in place to prevent misuse of charitable assets?					<i>CC8 - Internal Financial Controls for Charities (UK Charity Commission)</i> <a href="https://www.gov.uk/government/publications/internal-financial-controls-for-charities-cc8">https://www.gov.uk/government/publications/internal-financial-controls-for-charities-cc8</a>

Measure		Yes	No	Not Sure	N/A	For More Information
g.	You have segregation of duties with separating authorization, custody, and record keeping roles to limit risk of fraud or error by one person?					
h.	You have a system for review and authorization of transactions?					
i.	You have appropriate physical safeguards in place such as usage of cameras, locks, physical barriers, etc. to protect property, such as records, merchandise or inventory					
j.	You maintain adequate IT security including passwords, regular updating of programs, anti-virus programs, and anti-malware programs.					
k.	You regularly communicate changes relating to policies to employees and volunteers?					
l.	You have an investment policy and comply with it?					
m.	Your investments comply with the investment policy and the prudent investor rule, your governing documents, any applicable gift agreement and other legal requirements?					
n.	You are aware of financial management resources for Canadian charities					<a href="https://www.canadiancharitylaw.ca/blog/charity_finances_trustee_essentials_great_information_on_financial_manageme">https://www.canadiancharitylaw.ca/blog/charity_finances_trustee_essentials_great_information_on_financial_manageme</a>
o.	You assist your partners and intermediary, if necessary, with basic financial management					<i>Building Capacity through Financial Management: A Practical Guide</i> <a href="http://policy-practice.oxfam.org.uk/publications/building-capacity-through-financial-management-a-practical-guide-115411">http://policy-practice.oxfam.org.uk/publications/building-capacity-through-financial-management-a-practical-guide-115411</a>
p.	Has charity applied for property tax rebate from municipality?					
q.	Has charity obtained advice with respect to HST applicability and refunds?					
r.	Does the charity have an audit if required by law?					

Measure		Yes	No	Not Sure	N/A	For More Information
<b>25</b> <b>Basic Risk Management</b>						
a.	Your charity is aware of its governance risks, operational risks, financial risks, external risks, and the importance of complying with the law					<a href="https://www.gov.uk/government/publications/charities-and-risk-management-cc26">https://www.gov.uk/government/publications/charities-and-risk-management-cc26</a>
b.	Your charity has assessed and analyzed the risk that it faces and has an informal or formal risk management plan which considers what risks will be assumed, what will be eliminated, how to reduce risk associated with certain activities and transference of risk by insurance or outsourcing					
c.	Your charity avoids any involvement either directly or indirectly with criminal enterprises or terrorism					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/checklist-charities-on-avoiding-terrorist-abuse.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/checklists-charities/checklist-charities-on-avoiding-terrorist-abuse.html</a>
d.	If your charity deals with children or vulnerable adults, it has policies and procedures to prevent abuse of beneficiaries and such policies and procedures are being enforced					Webinar <a href="#">Minimizing Risk in your Onboarding of Volunteers and Staff</a>
e.	Your charity maintains appropriate insurance coverage					Some of the most common polcies including commercial general liability policies, directors and officers liability policies.
f.	You attempt to ensure that your directors and officers are appropriate and are not "ineligible individuals" under the <i>Income Tax Act</i> (Canada)					Ineligible individual rules <a href="http://www.canadiancharitylaw.ca/index.php/blog/comments/presentation_to_the_law_society_annual_estate_and_trust_summit/">http://www.canadiancharitylaw.ca/index.php/blog/comments/presentation_to_the_law_society_annual_estate_and_trust_summit/</a>
g.	Does the charity have a disaster recovery plan?					
h.	Do you comply with Canada's Anti-Spam Legislation (CASL) including by obtaining necessary consents and having an unsubscribe mechanism on emails?					
i.	If the charity is an affiliate of another group (such as an umbrella organization) is the charity complying with any affiliation agreement?					

Measure		Yes	No	Not Sure	N/A	For More Information
j.	Does your charity occasionally consider the value in having multiple corporate entities?					<p>An organization may wish to consider having one or more or a combination of registered charities, non-profits and/or for-profits for the following reasons:</p> <ul style="list-style-type: none"> <li>• Greater flexibility with respect to the activities the entity can conduct</li> <li>• Limit liability for risky activities or undertakings</li> <li>• Access funding</li> <li>• Having an entity ready if necessary</li> </ul>
<b>26</b>	<b>Governance</b>					
a.	Your board of directors is aware of its basic responsibilities					<p><a href="#">Top Tips for Serving as a Director of a Canadian Registered Charity by Mark Blumberg</a></p> <p><a href="#">How to Read and Understand Financial Statements and Reports for Your Small to Mid-Size Charity or Not-for-profit Organization</a></p>
b.	Does your charity have a diverse board of directors?					
c.	Is there proper division of responsibilities between the board and CEO/ED?					
d.	Does your charity have a conflicts of interest policy?					
e.	Are conflicts of interest scrupulously avoided?					
f.	You run an effective and efficient charity					<p>You might find this UK publication helpful <i>CC10 - Hallmarks of an Effective Charity</i></p> <p><a href="https://www.gov.uk/government/publications/the-hallmarks-of-an-effective-charity-cc10">https://www.gov.uk/government/publications/the-hallmarks-of-an-effective-charity-cc10</a> and the UK <a href="#">Charity Governance Code</a>.</p>
g.	Is your non-profit's governance structure appropriate?					<p>If your current board is ineffective and uncooperative, it would be useful to consider looking into governance training and advice so that the new board can be more successful, strategic and effective.</p>

Measure		Yes	No	Not Sure	N/A	For More Information
h.	Does each board member sign a consent before joining the board?					
i.	Do you have an inperson board orientation for each new board member?					
j.	Does each board member receive a board binder?					
k.	Do you have a list of charity stakeholders?					
l.	Have you considered collaboration with other charities to increase impact?					<a href="http://www.cpa.ca/20-questions-directors-not-for-profit-organizations-should-ask-about-mergers">CPA Canada's 20 Questions Directors of Not-for-Profit Organizations Should Ask about Mergers</a>
<b>27</b>	<b>Other</b>					
a.	Whenever entering into a major agreement between the charity and a third party, the charity understands the content of the agreement and if necessary obtains appropriate professional advice					
b.	Are you aware of any specific municipal, provincial or federal acts or regulations that govern the activities of your particular organization and have you obtained necessary permissions and permits, licences, etc.?					
c.	You occasionally check the CRA website for new developments					<a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities.html</a>
d.	You are aware of various resources for charities					<p>For example, <a href="http://www.canadiancharitylaw.ca">http://www.canadiancharitylaw.ca</a>, <a href="http://www.globalphilanthropy.ca">www.globalphilanthropy.ca</a>, <a href="http://www.smartgiving.ca">www.smartgiving.ca</a>, or <a href="http://www.charitydata.ca">www.charitydata.ca</a></p> <p>As well as CRA's main guidances for charities are at: <a href="https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policies-guidance-about-operating-a-registered-charity.html">https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/policies-guidance-about-operating-a-registered-charity.html</a></p>

Measure		Yes	No	Not Sure	N/A	For More Information
e.	You are signed up to the CRA's free e-mail newsletter					<a href="https://www.canada.ca/en/revenue-agency/news/e-services/canada-revenue-electronic-mailing-lists/electronic-mailing-list-charities-giving-whats-new.html">https://www.canada.ca/en/revenue-agency/news/e-services/canada-revenue-electronic-mailing-lists/electronic-mailing-list-charities-giving-whats-new.html</a>
f.	You are signed up to non-profit and private sector providers of news and legal information					<p>For example, Mark Blumberg's <a href="http://www.CanadianCharityLaw.ca">http://www.CanadianCharityLaw.ca</a> newsletters at <a href="http://www.canadiancharitylaw.ca/index.php/pages/subscribe/">http://www.canadiancharitylaw.ca/index.php/pages/subscribe/</a></p> <p>or you can keep up-to-date with legal developments by following Mark Blumberg at:</p> <p><a href="#">Twitter</a>  <a href="#">Linkedin</a></p>
g.	You have reviewed basic information of charity compliance at <a href="http://www.globalphilanthropy.ca">www.globalphilanthropy.ca</a> and <a href="http://www.canadiancharitylaw.ca">www.canadiancharitylaw.ca</a> ?					<p><a href="#">Common Paragraphs from CRA in the Notification of Registration On Operating a Registered Charity</a></p> <p><a href="#">CharityVillage Top Charity Compliance Issues for Canadian Registered Charity with Mark Blumberg</a></p> <p><a href="#">Top Canadian Charity Law Issues by Mark Blumberg - For Charity Village - March 2018</a></p> <p><a href="#">Searching the CRA's new website at Canada.ca made easy</a></p> <p><a href="#">Our directory of top resources for Canadian registered charities</a></p> <p><a href="#">Top 68 CRA Reasons for Denying your Canadian Registered Charity Application</a></p> <p><a href="#">CRA increasingly focused on and auditing internal controls of registered charities</a></p> <p><a href="#">Ignorance isn't bliss for large registered charities anymore as CRA focuses audits on them</a></p> <p><a href="#">Canadian Charity Case Law</a></p> <p><a href="#">Upcoming Webinars for the Canadian Charity Law Association</a></p> <p>Webinar <a href="#">Top Charity Law Issues for Canadian Registered Charities</a></p>

Measure	Yes	No	Not Sure	N/A	For More Information
h. Your charity obtains appropriate professional advice (from lawyers, accountants, investment advisors, insurance agents etc) when required?					
i. Who is the charity's accountant?					
j. Who is the charity's lawyer?					
k. Who is the charity's investment advisor?					
l. Who is the charity's insurance broker?					
m. Who is the charity's bank?					

*This Charity Legal Checklist was prepared by Mark Blumberg, a lawyer at Blumberg Segal LLP in Toronto. To find out more about legal services that Blumbergs provides to Canadian charities and non-profits please visit <http://www.canadiancharitylaw.ca> or <http://www.globalphilanthropy.ca>.*

*This Canadian Charity Legal Checklist is for information purposes only. It is provided "as is" and it is not intended to be or provide legal advice. You should not act or abstain from acting based upon such information without first consulting a legal professional.*

*If you found the Checklist helpful then [let us know](#). Also if you have any suggestions for improvement they are always appreciated.*