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# Registered charities making grants to non-qualified donees (draft)

**i** The Canada Revenue Agency welcomes your feedback on this draft guidance. We encourage you to read the guidance and ask that you provide your comments by January 31, 2023.

## Guidance

### Reference number

CG-032

### Issued

November 30, 2022

### General requirements for charitable registration

In addition to the requirements set out in this guidance, there are a number of other general requirements related to charitable registration. For more information, see [Guidance CG-017, General requirements for charitable registration](#).

Guidance products can be updated. If you have comments or suggestions to improve the guidance, we would like to hear from you. To provide comments or obtain additional information, [contact the](#)

## Charities Directorate.

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## 1.0 Introduction

1. Before the enactment of amendments to the Income Tax Act proposed in Budget 2022, <sup>1</sup> registered charities that wanted to work through a non-qualified donee <sup>2</sup> could only do this in one way. Charities had to show that the activities were their own, demonstrated by maintaining ongoing direction and control over the use of their resources.

2. The Income Tax Act was amended in 2022 to provide another way for charities to work with non-qualified donees: by making grants. With this change, charities can support the activities of non-qualified donees (grantees), provided charities can show that they meet accountability requirements set out below.

3. This guidance focuses on making grants to grantees. It aims to balance the Canada Revenue Agency’s (CRA) role of overseeing the use of tax-assisted resources with the charitable sector’s need for accountability tools that are reasonable and flexible.

## 1.1 Definitions

4. In this guidance, unless otherwise stated:

- “charity” includes all three types of registered charities: charitable organizations, public foundations, and private foundations.<sup>3</sup> The term “charity” also includes applicants for registration.
- “grant” refers to transfers of both monetary and non-monetary resources, or otherwise making resources available, to a non-qualified donee (grantee).
- “grantee” is a non-qualified donee and is defined in the Income Tax Act to include “a person, club, society, association or organization or prescribed entity, but does not include a qualified donee”.<sup>4</sup> A grantee is an individual or organization that the charity works with to further its charitable purposes.

**Granting differs from the “own activities” (“direction and control”)<sup>5</sup> rules in key respects:**

- Granting opens up opportunities for charities to work in new ways with a wide range of grantees.
- The relationship between a charity and grantee can be a collaboration, rather than a hierarchy with the charity in charge.
- Granting is not intended to make the grantee a representative of the charity, but rather allows the grantee autonomy to carry on its programs.
- An activity does not need to be the charity’s own initiative, carved out by the work of an intermediary; rather, the charity can support the existing activities of the grantee.
- A charity is not required to provide ongoing instructions to the grantee.

- A charity does not need to otherwise “direct and control” the grantee as it would if this were the charity’s own activities.
- Granting focuses on risk and accountability, rather than the charity’s “own activities”.

Please note that whether engaged in its own activities or making a grant, a charity must meet the requirements of the Income Tax Act.

## 2.0 General requirements for a charity

### 2.1 Purposes and activities

5. To be registered as a charity under the Income Tax Act, an organization must be constituted and operated exclusively for charitable purposes.<sup>6</sup> An organization must meet two basic requirements:<sup>7</sup>

- Its **purposes**<sup>8</sup> must be exclusively charitable and define the scope of the activities it may carry out.
- All of its resources must be devoted to **activities** that further its purposes.

6. A charity's resources include all its physical and financial resources.<sup>9</sup>

7. Purposes (or “objects”) are an organization’s goals or objectives. Each must be clearly stated in an organization’s governing document. For more information, see Guidance CG-019, How to draft purposes for charitable registration. We rely on the common law (case law or court decisions) to determine when purposes are charitable and whether the activities further the charitable purposes.

### 2.2 Public benefit test

8. To be considered charitable, a charity must meet the “public benefit” test. This means that a charity must deliver a measurable and socially useful benefit to the public or a sufficient section of the public. It also means that a charity must not deliver a more than incidental private benefit. <sup>10</sup> A private benefit is incidental when it is necessary, reasonable, and proportionate to the resulting public benefit.

9. Public benefit requirements apply when a charity makes a grant.

10. For more information about public benefit, see [Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test.](#)

## 3.0 How can a charity operate?

11. The Income Tax Act allows a registered charity to operate in the following ways:

- carrying on its own charitable activities through:
  - its staff and volunteers
  - an intermediary (over which a charity must exercise direction and control)
- making qualifying disbursements through:
  - gifts to qualified donees
  - **grants to non-qualified donees** (a charity must meet accountability requirements)



12. Under the Income Tax Act, a charity continues to be able to carry on activities using an “intermediary”, provided the charity exercises “direction and control”. For more information about working through an intermediary to carry on charitable activities, see [Guidance CG-002, Canadian registered charities carrying on activities outside Canada](#) and [Guidance CG-004, Using an intermediary to carry on a charity's activities within Canada](#).

13. A charity can also operate by making a qualifying disbursement through either a gift to a qualified donee or a grant to a grantee. A grant includes both monetary and non-monetary resources. A charity's resources include all its physical and financial resources. For example, this includes its staff, intellectual property, and real property.

14. When a charity intends to work with another organization, it should consider at the outset whether it will do this through a grant to a grantee, a gift to a qualified donee, or by carrying on its own activities through an intermediary. This decision rests with the charity. The charity can determine what is most appropriate in the circumstances, based on the

information and recommendations set out in the relevant guidance. A charity should clearly show which approach it has taken in its books and records.

15. The CRA (Canada Revenue Agency) recognizes that a charity's relationship with a non-qualified donee may evolve, and the charity can convert its relationship with the non-qualified donee (for example, from an intermediary to grantee relationship). A charity should document this change in its books and records and must meet all requirements at the time of the change.

### Example

A Canadian charity with purposes to advance education carries on its own activities of operating a school in Tanzania through a non-qualified donee (intermediary). The charity maintains direction and control by providing instruction to the intermediary, having appropriate representation on the project's management committee, and other measures.

With the success of the program, the charity finds it increasingly unnecessary to exercise direction and control, but wants to continue furthering its purposes through these activities.

The charity decides to continue its financial contributions by making grants to the non-qualified donee (grantee). The charity reviews any granting risks it may not have previously considered, outlines and updates the due diligence it previously conducted, and develops accountability tools, including a written agreement that documents the grant's terms and conditions. The charity documents this transition in its books and records.



## 4.0 Making grants to grantees: the Income Tax Act accountability requirements

16. A charity meets the Income Tax Act's definition of a "qualifying disbursement" to a "grantee organization" if: <sup>11</sup>

- i. the disbursement is in furtherance of a charitable purpose ... of the charity,
- ii. the charity ensures that the disbursement is exclusively applied to charitable activities in furtherance of a charitable purpose of the charity, and
- iii. the charity maintains documentation sufficient to demonstrate
  - A. the purpose for which the disbursement is made, and
  - B. that the disbursement is exclusively applied by the grantee organization to charitable activities in furtherance of a charitable purpose of the charity ...

17. This means that under the Income Tax Act a charity can make a grant to a grantee if the charity **ensures** and **demonstrates** in its books and records that it meets these accountability requirements.

### Note

This guidance provides the CRA (Canada Revenue Agency)'s recommended approach to help charities meet the accountability requirements.

Note that whatever means a charity chooses to meet the accountability requirements, it must clearly demonstrate this in its books and records. If a charity chooses not to incorporate recommended tools, it should provide a rationale for this decision in its books and records.

A charity should apply a reasonable and consistent approach to its grants, that is, treating similar grants in a consistent way depending on the risk level.

## Examples

Here are some examples of grants:

### Example 1

- A charity with purposes to relieve poverty makes a grant to a grantee that is providing aid to a country undergoing a food shortage. The grant resource is cash, and the grantee will be giving both cash and food vouchers to its program recipients. The grantee can manage and direct the activity, as long as it upholds the terms of the grant agreement and provides sufficient documentation to the charity.

### Example 2

- A charity with purposes to advance religion provides a grant to a grantee that is facilitating a religious educational program for young people. The grantee will use the charity's church hall to conduct the program, and this will include overhead and insurance coverage. The grantee can charge tuition, as long as any profits are applied to the charitable program.

### Example 3

- A charity with purposes to protect the environment provides grants to grantees who are graduate students looking to launch non-profits that deliver charitable programs. Grant resources include cash, financial administration, and support from the charity's

employees. The charity can also grant intellectual property assets, provided any private benefit concerns such as non-charitable use of the profits are addressed.

## 5.0 The grant-making process

18. The CRA (Canada Revenue Agency) tries to adopt a reasonable and flexible approach when determining whether a charity has met the accountability requirements. This guidance focuses on the accountability “tools” that we recommend a charity use to minimize risk and meet the requirements.

19. The accountability tools include:

- **a due diligence review of the grantee**, which does not necessarily apply to existing relationships
- **a description of grant activity**, including its intended outcome and charitable purpose
- **a written agreement**, including minimum standards, milestones, outcomes, and budgets
- **monitoring and reporting**, including final reports, and interim reports if suitable
- **a transfer schedule**, for longer-term or higher-risk grants
- **separately tracked funds**, such as a separate ledger

20. The accountability tools are described in detail in section 5.3 below. These tools are not exhaustive and their suitability depends on the circumstances of individual grants. If a charity chooses other tools, it can explain the rationale for their use in its books and records.

21. This is the process we recommend a charity follow when making a grant:

- A. Establish how the grant furthers the charity's charitable purposes.
- B. Assess the grant's overall risk level: high, medium, or low risk.
- C. Consider the accountability tools the CRA (Canada Revenue Agency) recommends the charity implement, based on the grant's risk level.
- D. Determine how to apply the accountability tools to mitigate risk and meet the accountability requirements.

22. This process is described in detail in sections 5.1, 5.2, and 5.3 below.

23. There may be other ways for a charity to **demonstrate** accountability. Ultimately, the charity is responsible to ensure it meets the legislative requirements.

24. We understand that charities may need to devote reasonable expenses to administer and manage the grant. <sup>12</sup> The CRA (Canada Revenue Agency) considers these to be necessary and important.

## 5.1 Meeting the accountability requirements: assessing risk

25. A charity should assess the level of risk at the outset of the grant. The matrix below is a guideline to explain the non-exhaustive risk factors a charity should consider. A charity should weigh the significance of each risk in deciding the grant's overall risk level and response. For example, two minor medium risks with five low risks may still constitute a low-risk grant.

Risk factors	High risk	Medium risk	Low risk
Charity's experience	<ul style="list-style-type: none"> <li>no experience with grants or working with</li> </ul>	<ul style="list-style-type: none"> <li>some experience with grants or</li> </ul>	<ul style="list-style-type: none"> <li>significant experience with grants</li> </ul>

	non-qualified donees	working with non-qualified donees	or working with non-qualified donees
<b>Grantee's experience</b>	<ul style="list-style-type: none"> <li>newly established grantee or charitable program</li> </ul>	<ul style="list-style-type: none"> <li>some related experience either with charities or charitable program</li> </ul>	<ul style="list-style-type: none"> <li>extensive and effective experience with charitable and charitable program</li> </ul>
<b>Grant activity location</b>	<ul style="list-style-type: none"> <li>outside Canada <sup>13</sup></li> <li>in a country or region with <b>significant instability</b>, including violent conflict or other social instability, or where there are security concerns</li> <li>lack of infrastructure, such as limited access to financial institutions such as banks or to the</li> </ul>	<ul style="list-style-type: none"> <li>outside Canada</li> <li>in a country or region with <b>some instability</b>, including social instability, or where there are some security concerns</li> <li>at least basic infrastructure, such as banks or reliable internet access</li> <li>in a country where the charity or grantee do not have significant previous</li> </ul>	<ul style="list-style-type: none"> <li>inside Canada</li> <li>in a country or region with stability including security and social stability</li> <li>strong infrastructure</li> <li>in a country where the charity or grantee have an established presence</li> </ul>

	<ul style="list-style-type: none"> <li>internet</li> <li>in a country where the charity or grantee do not have any previous experience or connection</li> </ul>	experience or connection	
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<b>Grant amount</b>	<ul style="list-style-type: none"> <li>high amount or significant transfer of resources per grant (more than \$25,000)</li> </ul>	<ul style="list-style-type: none"> <li>moderately high amount or significant transfer of resources per grant (\$5,000-\$25,000)</li> </ul>	<ul style="list-style-type: none"> <li>low amount or limited transfer of resources per grant (up to \$5,000)</li> </ul>
<b>Private benefit concerns</b> <u>14</u>	<ul style="list-style-type: none"> <li>significant potential for unacceptable private benefit, such as granting to a for-profit entity (as opposed to payment for services), or a non-arm's length party <u>15</u></li> </ul>	<ul style="list-style-type: none"> <li>some private benefit concerns</li> </ul>	<ul style="list-style-type: none"> <li>limited private benefit concerns</li> </ul>

<b>Nature of resources granted</b>	<ul style="list-style-type: none"> <li>resources that are susceptible to non-charitable use, such as cash, cryptocurrency, and real property</li> </ul>	<ul style="list-style-type: none"> <li>resources that are somewhat susceptible to non-charitable use, such as a mix of cash and other resources</li> </ul>	<ul style="list-style-type: none"> <li>resources that are likely to be used only for charitable purposes, such as charitable goods, including textbooks or medical supplies <sup>16</sup></li> </ul>
<b>Grant duration</b>	<ul style="list-style-type: none"> <li>long term grants with no end date, such as real property grants</li> </ul>	<ul style="list-style-type: none"> <li>longer terms grants with an end date (longer than one year but less than two years)</li> </ul>	<ul style="list-style-type: none"> <li>short term grants (less than one year)</li> </ul>

26. If there is a significant change in grant conditions, the charity should assess whether the grant's overall risk level has changed, and whether it is appropriate to work with the grantee to adjust the grant's terms. For more information, see [Appendix A](#).

## 5.2 Meeting the requirements: accountability tools to combat risk

27. "Accountability tools" are ways a charity can mitigate risk and meet the grant requirements. Depending on the grant's risk level, the [CRA \(Canada Revenue Agency\)](#) recommends using the accountability tools identified in the table below, **as applicable**. <sup>17</sup>

Accountability tools	High risk	Medium risk	Low risk
<b>Due diligence review</b>	Extensive review	Less extensive review	Limited review
<b>Description of grant activity</b>	Detailed written description of grant activity	Written description of key elements of grant activity	Simple description of activity
<b>Written agreement</b>	Formal written agreement with comprehensive terms	Formal written agreement with key terms	Simple agreement; other documentation likely sufficient for grants under \$5,000



<b>Monitoring and reporting</b>	Detailed written final report, and where appropriate, interim reports	Written final report, covering key deliverables, and if relevant to the charity, interim reports	Simple written final report
<b>Transfer schedule</b>	Yes	If likely to be a concern for the charity	For the charity to consider under the circumstances
<b>Separately tracked funds</b>	Yes	Yes	Yes

## 5.3 Meeting the requirements: applying the accountability tools

28. This section explains how accountability tools support a charity when it makes a grant, as well as how to apply each tool.

29. In addition to risk considerations, the charity should collaborate with the grantee to determine what tools are appropriate in the circumstances.

### 5.3.1 Due diligence review

30. Learning about a grantee before giving them a grant helps a charity manage risk to ensure the intended purpose of the grant is achieved. This due diligence review allows a charity to determine at the outset whether a grantee is a suitable grant recipient. It also helps to establish rapport and provides a clearer view into the grantee's operations.

31. As part of the due diligence review, a charity should assess and document information about the grantee, such as:

- purposes and mission
- programs
- history
- reputation
- staff
- volunteers
- associated individuals or entities
- experience and capacity to carry on the grant activity (for example, personnel and equipment)
- potential use of the charity's resources

32. The review can take many forms, such as:

- independent research
- in-person visits
- virtual meetings
- requesting information from the grantee, such as governance documents and website links related to the grant activities
- reviewing the outcome of past grants
- letter of reference or support

33. The charity must ensure that its resources are properly applied, but the grantee applies the resources without direction and control from the charity. So, it is in the charity's best interest to consider whether the grantee will be able to fulfil the grant's terms. The CRA (Canada Revenue Agency) recommends that a charity perform its due diligence on every grantee before giving them a grant. If a charity has already formed a successful working relationship with a grantee, the review may not need to be extensive.

34. There may be other reasons why it is not feasible to conduct extensive due diligence. For example, in an emergency relief situation, a charity may not have the time required to conduct a significant due diligence review. Or, if the grantee is a new organization, it may not be possible for the charity to review the grantee's experience and reputation. In cases like these, a charity may wish to consult with experts, community leaders, or other charities about risk in these circumstances. The charity should document the measures taken in its books and records. A charity may also determine it is more appropriate in the circumstances to carry on its own activities through an intermediary by exercising direction and control. <sup>18</sup>

35. If concerns about the grantee arise, the charity should consider not making the grant, or it should document in its books and records how it intends to address these concerns.

### **5.3.2 Description of activity**

36. Reviewing and documenting the grant activity with the grantee helps to manage risk. Creating a detailed description allows the charity and grantee to collaborate and agree on a shared understanding of the grant's terms. Including this description in a written agreement provides documentation to refer back to.

37. Here are some considerations:

- charitable activity and the charitable purpose it furthers
- location of grant operations
- start and end dates, and other relevant timelines
- public benefit, and ways to address any unacceptable private benefit
- deliverables and performance objectives
- partners, contractors, and third parties the grantee intends to use to carry out the grant activity

- accountability tools to satisfy the grant requirements

38. Working through these with the grantee helps a charity further identify the grant's risk level and corresponding accountability tools.

### 5.3.3 Written agreement

39. A charity can also mitigate risk by formally settling on the grant's terms and conditions with the grantee.

40. Creating a written agreement:

- documents the grant, including its charitable purpose and budget
- clarifies expectations, including roles and responsibilities
- confirms the grant terms and conditions
- keeps grant arrangements on track

41. The CRA does not provide a template for written agreements. For a list of the information that could be included in a grant agreement, see [Appendix B](#).

42. A charity is required to maintain grant documentation, including documenting the purpose for which the grant is made. The [CRA \(Canada Revenue Agency\)](#) recommends that a charity enter into a written agreement for every grant.

43. A written agreement may not be necessary for non-recurring grants of \$5,000 or less. Also, other documentation may be enough to satisfy the requirements in very low risk circumstances. This documentation could include written communications, email records, and meeting minutes.

44. If a charity expects to make ongoing grants of \$5,000 or less to a grantee, annually for example, the [CRA \(Canada Revenue Agency\)](#) recommends the charity have a written agreement with the grantee.

45. There may be other reasons a written agreement is not feasible in the circumstances. If this is the case, the charity should explain why in its books and records and maintain other sufficient documentation. A charity may wish to consult experts or obtain legal advice on what other documentation may be appropriate.

46. When an applicant for charitable registration intends to make grants, it should include with its application a copy of any existing written agreements and a template for future written agreements. This helps the CRA (Canada Revenue Agency) to assess whether the applicant can satisfy the accountability requirements.

47. The CRA (Canada Revenue Agency) recommends that a charity have a system in place to periodically review its granting practices, including the written agreements, to make sure they stay current.

### **5.3.4 Monitoring and reporting**

48. Monitoring and reporting help a charity manage risk by tracking whether the grantee is using the resources as set out in the agreement.

49. Some examples of monitoring include:

- final reports with supporting documentation
- interim reports, if appropriate
- expense receipts and financial statements, including bank records
- records of communication by telephone, videoconference, or email
- photographs or videos
- audit reports
- on-site visits from the charity's staff

50. The CRA (Canada Revenue Agency) recommends that every grant require a final written report from the grantee, along with supporting documentation, if appropriate. The charity should document in its books

and records that it has reviewed the final report and is satisfied that no further action is required. The CRA (Canada Revenue Agency) also recommends requiring interim reports for longer term and higher risk grants.

51. If requiring a written final report with supporting documentation is not appropriate in the circumstances, a charity may wish to consult experts or obtain legal advice to determine what alternative documentation would be suitable. The charity should document its reasons in its books and records.

### **5.3.5 Transfer schedule**

52. In longer term or higher risk situations, a charity should consider transferring resources in periodic instalments, rather than in one lump sum. This helps a charity to mitigate any losses if resources are not applied according to the agreement. In these circumstances, a charity should document in its books and records why it chose not to implement a transfer schedule.

53. A charity should include in the written agreement the right to terminate the grant and have the grantee return any unused resources.

### **5.3.6 Separately tracked funds**

54. Asking the grantee to track the charity's funds is an accountability tool that will help both the grantee and charity properly document the use of resources. Tracking does not mean that the grantee needs to maintain separate books and records or a separate bank account in respect of the grant.

55. During the description of activity and written agreement stages, a charity should request that the:

- grantee's books and records contain enough detail to allow it to track the use of grant funds and report back to the charity
- grantee track each grant separately from its other funds in its books and records, if feasible

56. If a grantee is unable to do this, a charity should document in its books and records how it will mitigate any related risks.

## Example

A charity has purposes to relieve poverty. While on a short-term relief and development trip outside of Canada, the charity's staff and volunteer team are approached by a local organization involved in water sanitation projects. The organization asks the charity if it would be willing to contribute to their work. These interactions allow the charity's team to evaluate the local group's capacity and its history of planning and completing a variety of water service projects. Based on this experience, the team recommends to the charity's board that it provide a grant to this local group, which would be in furtherance of the charity's charitable purposes.

Initial due diligence has been carried out by the charity's staff and volunteers. The charity's board receives and assesses the recommendation. The proposed grantee has experience, capacity, a strong community presence, and widespread recognition and support for its work. There is some political instability in the country where the activities would take place, but this has not previously impacted the grantee's work. The local group needs \$50,000 in addition to its own investment to complete this project. The board deems the grant as medium risk, approves the grant, and records the reasons for its decision in the board meeting minutes.

Charity staff prepare a written agreement that includes a description of the project. The agreement schedules two instalments of \$25,000. Before sending the second instalment, the charity requires a brief interim report, as well as one video meeting in order to ask any questions. The grant's terms also require a final written report.

The first instalment is sent on schedule. The second instalment is temporarily held back until the grantee obtains the required machinery and moves it onsite.

The interim report is a one-page summary of the progress achieved so far. The video call is scheduled during one of the charity's regular board meetings. The grantee answers all of the board's questions in a satisfactory way. The board records the report and video call in its board meeting minutes.

Upon completion of the program, the charity receives an emailed report with links to photos and videos of the new community well and water filtration system in use. The report also includes a financial statement from the grantee. The charity records these details in its books and records, including that it is satisfied that the grantee has met the grant's terms and furthered the charity's purposes.

## 6.0 Keeping books and records

57. Under the Income Tax Act, a charity must keep adequate books and records in Canada, containing enough information to allow the CRA (Canada Revenue Agency) to determine whether the charity is operating in accordance with the Income Tax Act. <sup>19</sup>



58. With respect to grants, a charity's books and records must allow the CRA (Canada Revenue Agency) to check whether:

- the charity's grants meet the accountability requirements
- the grantee's use of resources can be verified
- the grantee continues to use the grant's resources on the purposes and activities set out in the grant's terms

59. A charity that fails to keep adequate books and records risks sanctions under the Income Tax Act, such as suspension of receipting privileges or revocation of its registration. <sup>20</sup>

60. For more information, go to Books and records.

## 6.1 Supporting documents

61. The charity should be able to obtain from the grantee any grant documents in original or electronic format, such as a photocopy, scanned document, or photograph.

# 7.0 Special topics

## 7.1 Grants inside and outside Canada

62. A charity can carry on its own activities both inside and outside Canada. Similarly, it can make grants to grantees that operate both inside and outside Canada.

63. A charity's purposes and activities must always comply with Canadian law. Before making grants to grantees operating outside Canada, a charity should become aware of local laws where the grant activities will take

place, and how they would affect the grant. This will help a charity make sure the public benefit provided by the grant is not offset by harm to the grantee, the grant's beneficiaries, or anyone else.

64. Under Canadian law, most activities that are charitable in Canada are also charitable abroad. However, the courts have stated that some activities that are charitable in Canada may not be considered charitable under Canadian law if carried out in a different country. For example, it is charitable to make a grant that would increase the effectiveness and efficiency of Canada's armed forces, but it is not charitable under Canadian law to make a grant that would support the armed forces of another country.

65. Whether grant activities take place inside or outside Canada, they must not be contrary to officially declared and implemented Canadian public policy. For example, see [CSP-P13, Public policy](#), and see anti-terrorism considerations in section 7.2 below.

## 7.2 Grants and anti-terrorism considerations

66. A charity is responsible for making sure that it does not support terrorist activities, including by making a grant to an individual or group that is engaged in or supports terrorist activities.

67. For more information about a charity's responsibilities with respect to terrorism, go to [Checklist for charities on avoiding terrorist abuse](#).

68. Under the Charities Registration (Security Information) Act and the Income Tax Act, a charity's registration may be revoked if the charity makes its resources available, either directly or indirectly, to a **listed entity**, as defined in subsection 83.01(1) of the Criminal Code, or to any other entity

(person, group, trust, partnership, or fund, or an unincorporated association or organization) that engages in terrorist activities or activities in support of them.

69. Any charity making a grant to a grantee that is listed as a terrorist organization will lose its charitable registration. The Income Tax Act also prevents individuals with a known history of supporting terrorism from becoming a director, trustee, or similar official of a charity. <sup>21</sup>

70. Charities are also subject to prohibitions on funding or otherwise facilitating terrorism, as contained in the Criminal Code and various regulations enacted under the United Nations Act. For more information, go to [Charities in the international context](#).

### 7.3 Qualifying disbursement limit – charitable organizations

71. The Income Tax Act requires that a charity that is designated as a “charitable organization” disburse no more than 50% of its income by way of **gifts** to **qualified donees**; otherwise, it may be re designated as a public foundation. <sup>22</sup> There is no such limit on how much of its income a charitable organization may devote to making **grants** to **grantees** (non-qualified donees). Making grants to grantees will not affect the designation of a charitable organization.

### 7.4 Directed donations and acting as a conduit

72. The Income Tax Act stipulates that a charity should not accept a gift that is expressly or implicitly conditional on the charity granting it over to a specific recipient, other than a [qualified donee](#). <sup>23</sup>

73. To avoid any concerns regarding conditional gifts, a charity should clearly communicate the following to its donors:

- Donors can indicate their program preference for how a charity will apply their donation, but ultimate authority on the use of resources must rest with the charity.
- If the charity does not use the donation the way the donors prefer, the charity will not return the donation to the donors.

74. For example, this message should be included on the giving page of the charity's website and in any of its fundraising communications.

75. Provided a charity ensures it retains authority on the use of its resources, it will not be considered to be engaged in directed giving.

76. This provision is also intended to prevent a charity from acting as a conduit, which can be implicitly or expressly conditional when a donor makes a gift. For example, it will prevent situations where a charity solely exists as a fundraising arm in Canada of an affiliate organization in another country. In these circumstances, the affiliate would make all decisions around the use of resources, and the Canadian charity would not be in a position to act independently.

## Example

A charity has purposes to advance religion and relieve poverty. The charity regularly grants cash to the local food bank, which is a non-qualified donee. The grant's purpose is to support the food bank's ongoing program to provide food to those in poverty within the community. The charity has a grant agreement with the local food bank, which it reviews and renews each year, based on the proceeds the charity collects.

Donors can support these grants by making a donation to the charity. For example, when donating online, the web page asks how the donor would prefer the charity use the donation. The donor can indicate its

preference, which could include the name of the local food bank. At the top of that web page, the charity includes a message to its donors. The message says that a donor can ask that the donation go to a particular program, but that the charity has the ultimate authority to decide how to use the donation. The web page also says that if the charity does not use the donation for the donor's preferred program, it will not return the donation to the donor.

Since the charity also uses third party websites to collect donations, it makes sure to use the same messaging on those pages also.

## 7.5 Reporting grants

77. The Income Tax Regulations were amended in 2022 to provide: <sup>24</sup>

For the purpose of subsection 149.1(14) of the Act, the following is prescribed information for the public information return of a charity in a taxation year:

- A. in respect of each grantee organization that received total qualifying disbursements from the charity in excess of \$5,000 in the taxation year, the name of the grantee organization
- B. the purpose of each qualifying disbursement made to a grantee organization referred to in paragraph (a) in the taxation year
- C. the total amount disbursed by the charity to each grantee organization referred to in paragraph (a) in the taxation year

78. This means that if a charity disburses a total of more than \$5,000 to a grantee in a taxation year, whether in single or multiple grants, the charity must report all of the following for each applicable grantee:

- the name of the grantee
- the purpose of each grant made to the grantee

- the total amount granted to the grantee in the taxation year

79. This reporting requirement applies to grantees who operate both inside and outside Canada.

80. A charity can apply to the CRA (Canada Revenue Agency) to make a special request that certain information not be made available to the public if its release would place the charity, grantee, their staff, or volunteers in danger.

### 7.6 Revocation

81. If the charity cannot meet the accountability requirements in the Income Tax Act, it may be subject to revocation of registration. <sup>25</sup>

### 7.7 Pooled grants

82. A charity may wish to “pool” its resources with multiple organizations (other grantors) when it makes a grant. The CRA (Canada Revenue Agency) recognizes that joint initiatives such as pooled grants operate differently than one-on-one granting arrangements. While the CRA (Canada Revenue Agency) prefers that a written agreement be in place with all parties when charities engage in pooled grants, we recognize this may not always be feasible or practical. With pooled grants, the CRA (Canada Revenue Agency)’s requirements focus on the charity implementing the following accountability tools:

#### Accountability tools for pooled grants

Due diligence review	<ul style="list-style-type: none"><li>• Assess both the grantee(s) and grantors.</li></ul>
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<b>Description of activity</b>	<ul style="list-style-type: none"> <li>• A description of the charity's involvement in the pooled funding, including the resources granted.</li> </ul>
<b>Written agreement</b>	<ul style="list-style-type: none"> <li>• Ideally, a written agreement be put in place with all grantees and grantors.</li> <li>• If a written agreements is not feasible when making a pooled grant, a charity should document the reasons in its books and records.</li> </ul>
<b>Monitoring and reporting</b>	<ul style="list-style-type: none"> <li>• Given the complexity of pooled grants, a charity should show that it has made reasonable efforts to monitor and keep track of the grant activity.</li> <li>• A charity should only enter into a pooled funding arrangement when written interim or final reports will be provided. <ul style="list-style-type: none"> <li>◦ The reports can be directed to all grantors, not just the charity.</li> <li>◦ The reports should clearly show that the resources provided were used in the intended way and furthered the charity's charitable purposes.</li> </ul> </li> </ul>
<b>Transfer schedule</b>	<ul style="list-style-type: none"> <li>• If the grant activity carries on over a longer term (for example, more than one year), the charity should transfer its resources periodically.</li> </ul>
<b>Separately tracked funds</b>	<ul style="list-style-type: none"> <li>• Ideally, the grantee(s) separately tracks the charity's contribution to the pooled grant.</li> <li>• This may not be feasible in pooled grant situations, so the charity should maintain records of the grant, such as bank records, email communications, or other forms of confirmation.</li> </ul>

83. These accountability tools allow a charity to show that it made a responsible grant that was carefully considered and resulted in the furtherance of the charity's charitable purpose.

84. In addition to the risk factors identified in section 5.1 above, there are unique risk factors when charities pool resources for grants. The higher the risk, the more fully documented the grant should be. Higher risk situations include when the:

- grantors are made up predominantly of non-charitable organizations
- charity grants real property when pooling grants
- grantee has never been the recipient of pooled grants before
- number of grantors is large
- purpose of the pooled grant is a mix of both charitable and non-charitable purposes

85. If it is not possible to apply the accountability tools, the CRA (Canada Revenue Agency) recommends approaching pooled grants cautiously. A charity may wish to consult experts or obtain legal advice before entering into pooled grant arrangements.

### Example

A group of 10 Canadian relief organizations, all registered charities, want to support efforts for emergency relief in a country at war. A grantee with a strong reputation wants to provide food and clothing to the children affected, and needs some financial support.

Some of the charities have successfully worked with the grantee in different contexts. Others have no experience with the grantee. Most of the charities are familiar with one another, but some charities are new to this network.



The grant's overall risk is high due to the security conditions in the country and monetary value of the grant, among other risk factors.

Given the emergency nature of the project, there is not a lot of time to conduct significant due diligence. The charities set up a conference call to consult with experts who have responded to similar emergencies in the past and have experience in the region.

Based on the experts' feedback, the charities decide to start with a smaller grant of \$10,000 cash each, and to consider a second grant upon successful completion. The charities create a shared summary that records their rationale for moving forward with the pooled grant, while doing what they can to mitigate the risks. The charities list reasons such as the nature of the emergency, the reputation of the grantee, and the collective experience of the charities in managing this type of work.

The grant duration will be six months. One written agreement is drafted between all of the granting charities and the grantee. It describes the project and requires two written reports – the first at the midway point of the project, and a final report prior to the end of the calendar year. Only the pooled grant will be tracked by the grantee, but the grantee will provide a financial report. The charities will meet with the grantee on a video call halfway through the grant to see if they can provide any expert assistance, and to hear how the program is going.

At the video call, the grantee says the situation is worse than anticipated and asks if the grant terms can be changed to allow the grantee to spend the cash faster. The grantee shares the interim report, which is a PowerPoint presentation that explains the challenges and expenditures to date. The charities take a vote, which the written agreement requires to make a change. The majority agrees to speed up

the grant. The agreement is changed and signed by all parties. Each charity files in its books and records a copy of the PowerPoint presentation, rationale for the change, and modified agreement.

At the end of the grant, the grantee is able to show how the cash was used in a final report. Reviewing the same paperwork and process, the charities agree to issue another grant to the grantee to continue the program, and this time, for a larger grant.

In the meantime, other charities and non-qualified donees hear about the success of this program and also want to pool their resources. The 10 existing charities use the time during the first grant to conduct due diligence of these new grantors, and include them in the new grant agreement. As the program grows, if it becomes too onerous to continue having a written agreement, the charities will rely instead on creating a collective terms of reference to support group decision-making and obtain the necessary documentation from the grantee.

## 7.8 Granting charitable goods

86. If a charity is transferring charitable goods only, this is considered a low-risk activity, and the recommended accountability tools are provided in the table below. To be considered charitable goods, the resources being transferred could only reasonably be used for charitable purposes. For example, medical supplies like antibiotics and instruments will likely only be used to treat the sick, while school supplies like textbooks will likely only be used to advance education.

### **Accountability tools for charitable goods**

<b>Review of grantee</b>	<ul style="list-style-type: none"> <li>After reviewing the status and activities of the grantee (including the outcome of any past transfers from the charity), the charity can reasonably expect the grantee to use the charitable goods only for the intended charitable activities.</li> </ul>
<b>Description of activity</b>	<ul style="list-style-type: none"> <li>The charitable goods should be described in a way that shows their only reasonable use would be to further a charitable purpose.</li> </ul>
<b>Written agreement</b>	<ul style="list-style-type: none"> <li>The grantee understands and agrees to use the charitable goods only for the specified charitable activities, as documented (for example, in a written agreement).</li> </ul>
<b>Monitoring and reporting</b>	<ul style="list-style-type: none"> <li>The charity should require a final written report from the grantee, accounting for how the charitable goods were used.</li> </ul>

## Examples

Here are some examples of granting charitable goods:

- A charity with purposes to advance education grants school supplies to an after-school program run by a non-qualified donee.
- A charity with purposes to promote health grants medical supplies to a foreign disaster relief organization.
- A charity with purposes to advance religion grants religious books to a library or school that is not a qualified donee.
- A charity with purposes to relieve poverty grants food vouchers to a local community centre that is not a qualified donee.

## 7.9 Granting real property to a grantee or another non-qualified donee

87. A charity may wish to grant real property to a grantee, which the grantee may then transfer to another non-qualified donee. In most situations, a charity is not permitted to transfer ownership of real property to a non-qualified donee, including a local organization or government body. This is because the land and buildings might be used for non-charitable purposes. However, a transfer of real property might be acceptable as a grant to a grantee if the charity follows all granting requirements and uses the appropriate accountability tools.

88. Granting real property is considered high risk, as it is difficult for the charity to ensure the property will continue to be used for the charity's charitable purposes once it is granted. The charity should assess the risk that its real property might be used inappropriately. If the risk of inappropriate use is greater than the benefit that may be provided, the charity should not grant real property. Before a charity grants any real property, we recommend contacting the Charities Directorate to discuss available options.

### Accountability tools for real property grants

<b>Due diligence review</b>	<ul style="list-style-type: none"> <li>The charity should review the grantee and document the process. If concerns arise about the grantee, the charity should not proceed with a real property grant.</li> </ul>
<b>Description of activity</b>	<ul style="list-style-type: none"> <li>In the describing the activity, the charity must also determine and document the public benefit and resolve any concerns about unacceptable private benefit before proceeding.</li> </ul>

<b>Written agreement</b>	<ul style="list-style-type: none"> <li>The charity must get adequate documentation from the grantee stating that the real property will be used only for charitable activities that further the charity's charitable purposes. The documentation should also provide reasonable assurances that the property will, for its expected useful life, provide a public benefit. The charity must keep this documentation as part of its books and records.</li> </ul>
<b>Monitoring and reporting</b>	<ul style="list-style-type: none"> <li>The charity should monitor the status of the real property over the term of the grant and at the time the property is transferred.</li> </ul>
<b>Transfer schedule</b>	<ul style="list-style-type: none"> <li>Since it is not usually possible to conduct a periodic transfer of real property, the CRA recommends the charity determine through past practice or other research whether the grant would meet requirements.</li> </ul>
<b>Separately tracked funds</b>	<ul style="list-style-type: none"> <li>The charity should require the grantee to track any profit arising from the real property and ensure that any profit is spent on the charitable activities that further the charity's charitable purposes.</li> </ul>

## Example

A charity has purposes to relieve poverty and advance education. The charity's staff and volunteers regularly go on short term relief and development trips to a country outside of Canada. During these trips, the charity's team helps run educational programming alongside a local school that is a non-qualified donee.

The educational activities take place in a multi-purpose community hall that the school is permitted to use for a few hours each day. Over time, the school grows, requiring a facility of its own. The school does not have sufficient funds to purchase a facility, and no suitable spaces are available for rent.

The charity is not allowed to own property in the foreign country. It wants to make a grant to the school to purchase school property.

Leaders of the school are known to the charity through prior trips. On this basis, the charity records the positive results of its due diligence review.

Together, the charity and school (grantee) agree on the grant's terms. They enter into a written agreement that sets out the accountability tools they will use to mitigate risk.

The agreement:

- estimates the useful life of the facility
- describes activities that will be carried out at the facility and how the activities will benefit the community
- requires annual reports from the school about the facility's use
- includes a provision that any funds generated by the facility, such as rental fees, will be used exclusively for facility operations and maintenance
- includes a provision that if activities that further the charity's purposes become impossible to continue, the grantee must seek the charity's instructions as to which option the grantee should pursue:
  - sell the facility and return proceeds to the charity, or

- transfer ownership of the facility to another party to continue with the programs and activities that further the charity's purposes

## 7.10 Information for organizations that want to carry on disaster or emergency relief

89. After a disaster or other emergency, such as an earthquake or flood, organizations often want to provide assistance. In order to help those affected, registered charities may need to amend their charitable purposes to provide disaster relief. Also, non-registered organizations may want to apply for charitable status.

90. Because the situation is usually urgent, the CRA (Canada Revenue Agency) typically assigns priority to these files. However, disaster or emergency relief organizations must still meet all legal requirements. For example, an applicant wishing to make grants should be able to show the CRA (Canada Revenue Agency) that it can satisfy the accountability requirements. Given these pressing circumstances, the CRA (Canada Revenue Agency) will make every effort to be flexible and accommodating within the limits of the law.

91. Applying for registered charity status may not be the most suitable path for a non-registered organization. However, it may be eligible to receive a grant from an existing registered charity to carry on disaster relief.

92. After a disaster or other emergency, local authorities may only grant access to well-established relief organizations. If an organization does not have a background in this type of work, it is often faster and more effective to support existing registered charities or other qualified donees that have

the experience, resources, and infrastructure in place to respond.

Registered charities can also provide grants to established and capable non-qualified donees.

## **Appendix A – What are some examples of changes in a grant’s risk levels?**

93. Some examples of increased risk could include:

- financial collapse in a country
- if the grantee’s reporting is low quality
- knowledge of a private benefit concern; for example, the charity learns from monitoring and reporting that the grantee is making profits from the grant activity, and not applying the profits to the charitable purposes of the grant
- change in the grantee’s leadership

94. Some examples of decreased risk could include:

- stabilization or peace established in a country
- strong track record with a grantee, such as the grantee continues to meet workplans beyond expectations, or a charity establishes strong rapport with a grantee after working together for a considerable amount of time
- decreased value in the charitable resources; for example, it is no longer difficult to access the granted medication

## **Appendix B – What could be included in a written agreement?**



95. Depending on the nature and circumstances of the grant, a written agreement could include:

- A. full legal names and physical addresses of the parties, where possible
- B. the signature of directors, trustees, or like officials, authorized to receive the grant
- C. the date the agreement was signed
- D. a provision that clearly indicates the charity intends to make a grant (as opposed to carrying on its own activities through an intermediary)
- E. a description of the grant activity and the charitable purpose it furthers
- F. the location of the activity
- G. start and end dates
- H. timelines and frequency of written reports, including financial and progress reports (showing the receipt and disbursement of resources, and progress of the grant activity)
- I. a confirmation of the right to inspect the grant activity with reasonable notice, if suitable
- J. provisions for transferring resources in periodic instalments based on demonstrated completion, as well as for withholding resources, terminating the grant, and returning unused resources when required (for example, if the charity has concerns, such as the grantee's failure to apply the grant resources to the charity's charitable purposes), as appropriate
- K. a requirement for the grantee's books and records to be sufficiently detailed to allow it to track the use of grant funds and provide an accounting to the charity in its reporting; and track each grant separately from its other funds in its books and records
- L. a provision that any resources transferred to the grantee will continue to be used only for charitable purposes in the future
- M. effective date and termination provisions

- 1 Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures, 1 Sess, 44th Parl, 2022 (assented to June 23, 2022), SC 2022, c 10.
- 2 For more information on the meaning of “qualified donee”, see Guidance CG-010, Qualified donees.
- 3 For more information, see Types of registered charities (designations).
- 4 The Income Tax Act, at subsection 149.1(1). See also Guidance CG-010, Qualified donees.
- 5 For more information about working through an intermediary to carry on charitable activities, see Guidance CG-002, Canadian registered charities carrying on activities outside Canada and Guidance CG-004, Using an intermediary to carry on a charity's activities within Canada.
- 6 See the definition of “charitable organization” in the Income Tax Act, at subsection 149.1(1).
- 7 See Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue, [1999] 1 S.C.R. 10 (Vancouver Society), at paragraph 159.
- 8 An organization’s purposes are stated in its governing document, such as its letters patent, articles of incorporation, trust, or constitution.
- 9 See CSP-R13, Summary policy.

- 10 A private benefit is a benefit provided to an individual or organization that is not a charitable beneficiary, or a benefit provided to a charitable beneficiary that goes beyond what is considered charitable (for example, paying salaries that exceed fair market value).
- 11 The Income Tax Act, at subsection 149.1(1).
- 12 For more information, see [Completing Form T3010 Registered Charity Information Return](#).
- 13 The [CRA \(Canada Revenue Agency\)](#) has no authority to audit outside Canada, so it relies heavily on the charity and grantee to mitigate risks associated with granting.
- 14 For more information, see [Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test](#).
- 15 For more information, see [Income Tax Folio S1-F5-C1, Related Persons and Dealing at Arm's Length](#).
- 16 For more information, see [Guidance CG-002, Canadian registered charities carrying on activities outside Canada](#).
- 17 For example, a grant would not have a final report if there is no termination date. In these circumstances, the grant should require interim reports.
- 18 For more information, see [Guidance CG-002, Canadian registered charities carrying on activities outside Canada](#) and [Guidance CG-004, Using an intermediary to carry on a charity's activities within Canada](#).

- 19 The Income Tax Act, at subsection 230(2); and The Canadian Committee for the Tel Aviv Foundation v. Canada (2002 FCA 72) 2002-03-01, at paragraph 42.
- 20 See the Income Tax Act, at paragraph 168(1)(e).
- 21 These measures were introduced in Budget 2021.
- 22 See the Income Tax Act, at subsection 149.1(6). Amendments to the Income Tax Act proposed in Budget 2022 maintain this requirement: see the Income Tax Act, at subsection 149.1(6.001). An exception to this requirement is a charitable organization designated as an “associated charity”. For more information, see [IC77-6R, Income Tax Information Circular](#).
- 23 See the Income Tax Act, at paragraph 168(1)(f).
- 24 See the Income Tax Regulations, section 3703.
- 25 For information on the [CRA \(Canada Revenue Agency\)](#)’s Charities Compliance Program, including audit processes, consequences of non-compliance, bringing a charity back into compliance, penalties and sanctions, and other related information, go to [Compliance and audits](#).
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