



Foreign Universities Applying to be Registered Universities outside Canada: What we have learned.

By Mark Blumberg¹ and Jessie Lang (February 16, 2023)

Is your university outside of Canada interested in fundraising in Canada or from Canadians who are travelling abroad? If so, this article will provide helpful information on an option for non-Canadian universities which can greatly assist with fundraising in Canada and from Canadians. Essentially, if your non-Canadian university typically has at least 2 Canadian students studying at the university each year over the previous five-year period, then the university may be able to obtain qualified donee status as a registered university outside Canada (previously referred to as a Prescribed Foreign University). This status can assist in fundraising in Canada by providing generous tax incentives to Canadian donors for their donations to the foreign university. For wealthy donors (and not just alumni) these tax incentives can be between 50-70 cents for every dollar they donate. In addition, it makes it much easier for Canadian foundations and other charities to make grants to the foreign university.

Registered universities outside Canada are foreign universities that have applied to the Canada Revenue Agency (the “CRA”) and have been approved as a qualified donee. A qualified donee is an organization that can issue official donation receipts under the *Income Tax Act* (Canada) for gifts it receives from individuals and corporations. While there is an abundance of information available on CRA’s website about how to apply for

¹ A previous version of this article was originally written by Kate Robertson and Mark Blumberg in February 2016.

registered charities status, there is far less detail about obtaining and maintaining qualified donee status as a registered university outside Canada.

This article will provide information on (i) what it means to be a registered university outside Canada, (ii) the eligibility criteria for becoming a registered university outside Canada, (iii) the application procedures with CRA, and (iv) how a registered university outside Canada can maintain its qualified donee status.

1) What is a Registered University Outside Canada?

Registered universities outside Canada have the same 'qualified donee' status as Canadian registered charities. As such, registered universities outside Canada can: (i) issue official donation receipts under the *Income Tax Act* (Canada) for gifts they receive, and (ii) easily receive gifts from Canadian registered charities. If individuals or corporations in Canada donate to a registered university outside Canada, they receive the same significant tax benefits that they would have received if they had donated to a Canadian registered charity (including Canadian universities). If a Canadian foundation or charity makes a gift to a registered university outside Canada, it is as easy as gifting to a Canadian registered charity (including a Canadian university).

As a result of the 2011 Federal Budget, CRA developed a publicly available [list of universities outside Canada registered as qualified donees](#) that is now maintained on a regular basis. The list currently includes approximately 650 registered foreign universities across the world (in the US, Europe, etc.) that can issue official donation receipts to Canadian donors as qualified donees. However, upon closer examination, significant gaps remain – for example, there is currently only one Indian university on the list and there are only two universities from China and four in Hong Kong. On the other hand, some countries such as the USA and commonwealth countries are very well represented on the list.

Changes were made to the regulation of registered universities outside Canada (then referred to as Foreign Prescribed Universities) in the 2018 Federal Budget. While the eligibility criteria did not change (See Part 2 below), the registration process was simplified, and only requires CRA to include the university on its public list following approval. Previously, foreign universities needed to be listed both in Schedule VIII of the *Income Tax (Canada) Regulations* and in CRA's list of foreign prescribed universities (registered universities outside Canada) to be qualified donees. This dual requirement made the process take much longer. Budget 2018 removed the requirement that universities be "prescribed" in the regulations, and also repealed Section VIII of the Regulations.

2) Eligibility criteria

Before embarking on the application process with CRA, a foreign university should examine the eligibility criteria to ensure that it can meet the required conditions. CRA provides some helpful information in their guidance, [RC191: Becoming a Prescribed University Outside Canada](#).

Overview

To be considered for qualified donee status as a university outside Canada, a foreign educational institution must meet all the following conditions:

- maintain an academic entrance requirement of at least secondary school matriculation standing;
- be organized for teaching, study, and research in the higher branches of learning;
- have the authority to grant degrees of at least the baccalaureate level (bachelor or equivalent) according to the academic standards and statutory definitions of the country the institution is located in; and
- ordinarily include Canadian students in its student body.

This means that an institution will not qualify if it either:

- grants only associate degrees, diplomas, certificates, or other degrees at a level lower than a bachelor degree or equivalent.
- is affiliated to a university but does not have the authority to grant degrees at the baccalaureate level or higher.

Degree Granting University

CRA has indicated that an institution that confers only associate degrees, diplomas, certificates, or other degrees at a level lower than a bachelor degree or equivalent will not qualify. Also, in some countries an educational institution does not have the right to issue degrees at the baccalaureate level or higher and instead has an affiliated university that is responsible for issuing its degrees. This type of entity would not be eligible to become a registered university outside Canada. A university foundation would also not be eligible as the foundation itself does not have the power to confer degrees.

Canadian Students

We have found that one of the greatest stumbling blocks for a foreign university to obtain the registered university outside Canada status is the minimum threshold of "Canadian students". The legislation does not clearly state exactly how many students are required to meet the minimum threshold however, CRA will generally look at the university's last five years (previously was ten years) and expect that, in each of those years, there are at least two Canadian students studying there that will meet CRA's "Canadian student" requirement. There is no requirement that these students be different each year in order to meet the minimum threshold, therefore the Canadian students can potentially be the same two Canadian students for the entire 5-year period. CRA may allow a gap year with no students in attendance or a year with only one student in attendance, however this will be allowed on a case-by-case basis.

Other important considerations are whether the students are “Canadian students” and whether they are ordinarily included in the institution’s student body. The first issue of whether the students are “Canadian students” is not whether the students are Canadian citizens but whether they are or were considered “Canadian” for CRA’s purposes. Typically, this is easiest to determine if the students are or were residents of Canada and filed taxes in Canada at some point. For example, if a student was born in Canada and moved to a foreign country when they were 3 years old, they may not qualify as a “Canadian student” under the CRA system. On the other hand, if a foreign person comes to Canada when they are 25 and works in Canada for 5 years and files income tax returns and then studies abroad, they may be considered by CRA to be “Canadian” for purposes of this provision. It is important that the foreign university is able to confirm when the students were enrolled at the university (start date and end date), their date of birth, and their home address during the last five years. Providing CRA with the students’ Canadian social insurance numbers is helpful for CRA to be able to check its system, however it is not required. If the foreign university cannot provide evidence that the students attending are or were “Canadian students”, it will not qualify as a registered university outside Canada. Often the best approach for an institution which may not track all of this information is to place an advertisement in student newspapers or email students asking for names of students who have spent time in Canada.

Ordinarily include Canadian Students in its student body

The second consideration is whether the Canadian student is ordinarily included in the institution’s student body. CRA has indicated that there is no minimum number of credits that a Canadian student must earn at an institution, provided they are considered an ordinary part of the student body. Therefore, the Canadian student could be a full-time or part-time student, or even a student attending the university online as long as the institution considers them an ordinary part of the student body.

This vagueness allows for the possibility that a broader range of Canadian students can be included towards the minimum threshold of Canadian students required to meet the eligibility criteria. It is our understanding that Canadian student must be earning credits at the foreign university, but those credits do not have to ultimately result in a foreign degree being awarded to the Canadian student. Furthermore, Canadian students that are studying on an exchange with the foreign university, depending on the nature of the exchange, may be counted by CRA. Some “exchanges” may be short term and not counted by CRA as they may not view them as being an ordinary part of the student body. However, other longer term Canadian students on exchange may meet the CRA’s assessment criteria. Again, CRA will consider if the student meets the criteria on a case-by-case basis.

While it is clear that some foreign universities do not meet the minimum requirements for registration, it is also clear that there are many universities who meet the criteria and are not on the list. There is no reliable way of knowing whether a university outside Canada could be in this category of qualified donee without submitting an application to CRA and have CRA review and consider that application. Universities that could be on the list and don’t apply could be forsaking tremendous fundraising opportunities.

For groups who don’t have Canadian students studying at their universities there are other options for fundraising in Canada and they include establishing a Canadian registered charity that can fund activities outside of Canada or working with a Canadian registered charity that already exists.

3) Application Process with the Canada Revenue Agency

Once a university has determined that it may meet the conditions outlined above, an authorized official or representative of the university will need to submit a letter to CRA that, according to CRA, contains all the following information and supporting documents:

- the institution's identifying information, such as its legal name, mailing address, physical address, and phone number(s)
- the institution's fiscal period-end
- a list of all the institution's current officials, for example, its directors, trustees, and like officials
- a copy of the institution's complete governing documents, for example, incorporating documents and any amendments, as well as current by-laws
- the institution's general admission requirements
- a copy of documents issued by the appropriate educational authority in the institution's country of residence that confirm that the institution is one of higher learning and has the authority itself to confer degrees of at least the bachelor level
- a list of the Canadian students who have attended the institution during the last five years and identification information for each student. The list should include each student's full name (first, last, and middle initial (if available)), Canadian address, date of birth, and Canadian social insurance number (if available), as well as each year or semester they attended. The institution may need to contact the Canadian students to get their approval to release this information
- the institution's website address, if available

All of the above information is needed for the institution's request to be considered complete and the information must be in either English or French. If the documentation is in other languages, it must be accompanied by a certified English or French translation.

Upon its review of the institution's application, CRA may request additional information on the type of degree program that each student is enrolled in or may require additional information about the student. Keep in mind that the institution may need to obtain consent from its students before disclosing the required information to CRA.

We note that the CRA will only communicate with an institution's officials (such as a director, trustee or similar official) or individuals that the institution has authorized to deal with the CRA such as a law firm or representative in Canada. CRA will require a written authorization from the institution to communicate with that individual, and such letter of authorization must include the printed name and signature of the current official.

The anticipated timeline to receive feedback from CRA on an application for qualified donee registration as a university outside Canada is generally around six months. CRA's response time may be quicker in instances where it is clear that the application does not meet the minimum requirements.

Once approved, CRA will send the institution a final letter confirming that it is registered as a qualified donee and the institution will be added to the publicly available list of qualified donees on the appropriate websites. The effective date of an institution's status will be retroactive to the date that CRA received the university's complete submission.

4) Maintaining Qualified Donee Status as a Registered University Outside Canada

Canadian registered charities are somewhat constrained and restricted in terms of how they can operate and must ensure they are operating at all times within the requirements of the *Income Tax Act* (Canada) and the CRA guidelines to maintain their status as a qualified donee. CRA's requirements for a registered university outside Canada are much less onerous. To maintain its status as a qualified donee, a registered university outside Canada will need to ensure that (i) official donation receipts are being properly issued to Canadian donors, and (ii) adequate books and records are being maintained. Furthermore, a registered university outside Canada must remain an institution that grants bachelor or higher-level degrees and that ordinarily has Canadian students studying there.

In terms of issuing official donation receipts under the *Income Tax Act* (Canada), there are many rules and requirements that must be met. It is more complicated in Canada than many other jurisdictions and we have prepared the [Blumbergs' Receipting Kit](#) to assist.

The books/records of the registered university outside Canada should contain the following:

- information to allow the CRA to verify revenues for which donors can claim tax credits or deductions
- information to allow the CRA to confirm that they meet the requirements for qualified donee status under the *Income Tax Act* (Canada)
- a duplicate of each receipt containing prescribed information for each donation received

CRA has indicated that the books and records of a registered university outside Canada can be kept in the country where the university resides (which is different from a Canadian registered charity which must keep its books and records in Canada), however they must be made available for the CRA upon request. For CRA's purposes, books and records include but are not limited to, financial statements supporting any donation receipts that are issued and source documents such as cancelled cheques and bank deposit slips.

A registered university outside Canada does not have to file a return in Canada as Canadian charities must do every year; however, CRA may contact the university occasionally to check that it still qualifies. If the university fails to keep its books and records supporting the official donation receipts it issues, fails to respond to CRA or provide the requested documents or demonstrates importer issuance of donation receipts, CRA may suspend the university's receipting privileges or revoke its qualified donee status. If a university's qualified donee status is suspended, it cannot issue official donation receipts or receive gifts from registered charities during that period. Revoked universities no longer have qualified donee status.

Finally, a registered university outside Canada must keep the CRA informed of any changes to its legal name or address so that the information that CRA has on the list of qualified donees is correct. Any letter informing the CRA of such changes must include copies of the legal documentation effecting the change(s) and must also include the name and signature of the university official authorized to deal with the CRA.

Canada has many exciting fundraising opportunities for foreign universities and obtaining qualified donee status as a registered university outside Canada can provide a way for the university to expand its presence in Canada and create enhanced opportunities for the university to receive gifts from Canadian individuals, Canadian registered charities and Canadian corporations. It is important that a foreign university not only obtain registered university outside Canada status but also maintain it in order to protect this important fundraising mechanism as well as its reputation.

Being a registered university outside Canada can definitely make it easier for a foreign university to fundraise in Canada. However, a number of larger foreign universities may also wish to have a Canadian affiliate non-profit or charity to conduct active fundraising in Canada. Because of the delays in the review process and the legal and practical issues that might arise during the charity application process and after receiving charitable status, it is usually a good idea to obtain legal counsel to assist with various aspects of the process. However, a group that just wishes to be a registered university outside Canada can usually complete the process by themselves.

Please feel free to circulate this article to any foreign university that is interested in fundraising in Canada.

Mark Blumberg and Jessie Lang are lawyers at Blumbergs Professional Corporation in Toronto, Ontario. If you are a foreign university and you have any questions with respect to fundraising in Canada, please contact us. To find out more about legal services that Blumbergs provides to Canadian charities and non-

profits please visit www.CanadianCharityLaw.ca, www.SmartGiving.ca or www.CharityData.ca

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