

Applying for Charitable Status

COCo Legal Info-sheet

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Because we are not lawyers at COCo, our info-sheets only present general information. COCo never provides legal advice. While we do our best to ensure that our information is accurate, please consult a lawyer if you want professional assurance that our information, and your interpretation of it, is appropriate to your particular situation. You can contact COCo for a list of lawyers with experience working with community groups. Please know that COCo cannot take responsibility for your use and interpretation of the information in our info-sheets.

Charitable status: Do we really have to?

At COCo, we encounter groups working for social change under all sorts of legal structures. Lots of community groups do charitable work without ever applying for charitable status. Some organizations apply for charitable status in order to become eligible to receive funding from charitable foundations or because they think donors will be more likely to donate money if they can obtain charitable receipts for donations, which entitle the donors to certain tax benefits.

Other groups evaluate the potential for increased donations or funding and decide applying for and maintaining charitable status just isn't worth the time and effort required. It's worth thinking carefully about your options before you proceed with a charitable status application.

What is the difference between applying for incorporation as a nonprofit and getting charitable status?

A non-profit organization is not necessarily a charity. Nonprofit incorporation is a separate process from applying for charitable status. In fact, most non-profit organizations are incorporated but are not registered as charities. Organizations can incorporate as nonprofits federally or provincially, and might choose either of these options depending on a variety of factors. Registering as a charity is separate process from nonprofit incorporation, and is administered federally by the Canada Revenue Agency (CRA).

**For more information about nonprofit incorporation, please refer to:
COCo Info-Sheet
“Incorporation of a Non-Profit Organization in Quebec”**

What is the difference between a foundation and a charity?

Charitable organizations are distinct from public and private foundations. Charitable organizations mostly carry out their own charitable activities. Public foundations focus on raising money to fund other charities, though they can carry out some of their own charitable activities. Private foundations also tend to focus on funding other charities, but some private foundations only carry out their own charitable activities, and some do both.

What are some of the benefits of charitable status?

- Registered charities **do not have to pay income tax** and benefit from some preferential treatment with the GST and QST.
- Registered charities can provide official receipts for donations, which entitle the donors to gain certain tax benefits in exchange for their donations.
- Registered charities are also eligible to receive funds from **charitable private and public foundations**.

Charities must follow certain **financial and governance obligations** and ensure that they devote their resources to their charitable purposes and activities. The requirements and obligations of charitable status may make some members, donors, or funders feel that the organization is more financially and democratically accountable.

What is required to maintain charitable status?

In order to maintain their charitable status, charities need to comply with certain legal obligations, including but not limited to:

- Devoting the charity's resources to charitable purposes and activities;
- Filing the T3010 Registered Charity Information Return each year;
- Respecting the charity's disbursement quota. This means spending a minimum amount each year on charitable activities or on gifts to qualified donees.

The disbursement rules changed in 2010. Read more about the rules here:

Meeting the disbursement quota

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtnng/spndng/clclb-eng.html>

Keeping sufficient books and records;

- Tracking, reporting, and respecting limits on the charity's participation in political activities;
- Issuing official tax receipts that contain certain required information.

Charities also have to maintain their other forms of legal status.

An incorporated non-profit with charitable status, for example, must also meet its obligations as a non-profit corporation, such as by complying with non-profit law, and by paying fees and filing annual and updating information returns with provincial business registrars and with Corporations Canada, if applicable.

Can charities organize or participate in political activities?

A charity can only carry out political activities if it complies with certain legal limitations on those activities. The activities have to be non-partisan, connected to the charity's charitable purpose, and can only use a limited percentage of the charity's resources. Failure to comply with these rules can have serious consequences, including the suspension of a charity's right to issue tax receipts and even revocation of its charitable status.

Depending on the size of the organization, only 10% to 20% of a charity's resources can be spent on non-partisan political activities. This is often referred to as "**the 10% Rule**" although the percentage varies according to the income of the organization.

For the amount that applies to your organization, consult the "Expenditures" section of the CRA Policy statement found here:

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>



Partisan political activities are prohibited activities. Failure to comply with this rule can have serious consequences and result in an organization losing its charitable status. A charity can **never** endorse or oppose a political party or candidate at any government level.

Allowable (non-partisan) political activities include things like calling on the public to put pressure on the government to change a law or policy.



It is important to note that some activities that might at first seem to be political, might actually be considered charitable activities. For example, public awareness raising activities might be accepted as charitable activities if they are **well-reasoned, non-partisan, and sufficiently related and subordinate to the charity's purposes**. Such activities would then not count towards the **allowable amount** of political activities (see above, about the "10% rule").

For more information about charities and political activities, see COCo's Info-Sheet: "Charitable Organizations: Limitations on Political Activities"

WHAT IF...

If a registered charity does not meet these and other legal requirements, it may be required to pay a penalty or, more seriously, it may have its ability to issue tax receipts suspended or its charitable status revoked. A comprehensive and detailed list of rules for charities can be found on the *Canada Revenue Agency's* website:

CRA Checklists
“Checklists for Charities”
<http://www.cra-arc.gc.ca/checklists>

How can we decide if it is worthwhile to apply for charitable status?

By estimating in advance the potential for increased donations and funding, you can assess whether charitable status will help the financial health of your organization.

The amount of donations you receive may not necessarily increase drastically just because you can provide official tax receipts. By estimating the possible increase in donations, you can decide whether the efforts of obtaining and maintaining charitable status are worthwhile.



It is useful to survey the additional funding that may be available if your organization becomes a registered charity. Foundation funding can be difficult to access, and is often limited to funds for short-term projects that must fit into very specific categories. Some organizations cannot conceive of fitting their activities into these predefined foundation themes.

Talking with other organizations doing similar work can also help you understand the funding options available to charities.

Is our organization eligible for charitable status? What counts as a charitable activity?

To be eligible for charitable status, your organization's activities must fit into **at least one of these four categories**:

1. the advancement of religion
2. the relief of poverty
3. the advancement of education
4. other activities of benefit to the community that the courts have deemed as charitable.

For more information on which activities **fall within** the above categories will be considered charitable, see the **CRA's website**.

CRA Guide

Registering a Charity for Income Tax Purposes

<http://www.cra-arc.gc.ca/E/pub/tg/t4063/README.html>



A variety of charitable purposes fall within the fourth category. Sometimes an organization's purposes may actually **fall under more than one charitable purpose**.

For example, when charitable, the promotion of animal welfare may fall under **education** (second category) and “**other**” (fourth category). In this case “other” recognized charitable purposes may include protecting the environment or promoting agriculture.

For a list of the Canada Revenue Agency's policies and guidance on applying for registration, see:

CRA's Policies and guidelines about applying for registration

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/bcmng-eng.html>

Note that after considerable pressure from community organizations working with ethnocultural communities, the Canada Revenue Agency released a policy statement on charitable status applications from organizations working with ethnocultural communities, which outlines which activities will be deemed charitable. It serves as a useful guide for organizations that are applying for charitable status. The policy statement can be found at:

CRA Policy Statements

Charitable Work and Ethnocultural Groups – Information on registering as a charity

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/thn-eng.html>

Applicants Assisting Ethnocultural Communities

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-023-eng.html>

What forms and documents are required when applying for charitable status?

Necessary documents include:

- The “Application to Register a Charity Under the Income Tax Act”
<http://www.cra-arc.gc.ca/E/pbg/tf/t2050/README.html>

The other documents required depend on the organization's legal status, planned activities, and history, but include, for example:

- The organization's bylaws;
- a detailed description of its activities;
- minutes from annual general meetings;
- letters patent or articles of incorporation (if your organization is incorporated);
- financial statements;
- letter of good standing (Quebec equivalent: certificat d'attestation)

The Canada Revenue Agency provides tool that allows charities to make their own checklist of documents that need to **be included in** an application for charitable status.

CRA: How to apply for charitable registration

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/menu-eng.html>

Should I consult a lawyer?

Some people complete the application for charitable status on their own, or with the support of people with experience completing such applications, often because they have a limited budget for legal support.

Others seek legal advice because charity law is complicated. It takes a considerable amount of time to understand the application process and mistakes can be time-consuming, frustrating, and may lead to the application for charitable status being refused. A charity lawyer will help an organization identify whether it is eligible for charitable status, and what changes have to be made for an organization to meet the requirements. The lawyer can also ensure that the application requirements are met and the application is complete.

Some lawyers may be willing to donate their time to assist a non-profit organization applying for charitable status, which can be of significant help. It is important to note, however, that a lawyer with experience with charitable status applications will be more familiar with charity law and the application process. COCo has a list of lawyers with experience working in charity law.



What are the costs associated with applying?

The government does not charge a filing fee. If you decide to apply without third-party assistance there may be some out of pocket costs, for example, the expense of your time working on the application, making copies of documents required for the application, etc. Lawyer fees will depend on the lawyer who is consulted, their level of experience, their overhead costs, where they work, and many other factors. You can ask a lawyer for an estimate of the costs and also ask whether there are ways that you can keep legal fees down.

How long before I receive the decision from the Canada Revenue Agency?

The response time can range from **two months to six months or even longer**, depending on how complicated the application is and whether the CRA requires additional information before making its decision. If the CRA requires additional information or has concerns, it will generally provide 60 days for the organization to respond.

If the application is ultimately refused, the organization can choose whether to object to the decision within the limited deadline for objections.

The CRA provides an overview of the application review process, how to object, and what to do to avoid delays in your application being processed.

CRA: Application Review Process

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/pprp-eng.html>