

Registered Charities: Limitations on Political Activities



COCO Legal Info-sheet

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At COCo, we often receive requests for information about the legal limitations on political activities undertaken by registered charities. When discussing social policy, charities have a real expertise about the issues on which they work and want to share this information with government bodies and the general public.

In order to share their knowledge and experience without losing their charitable status, charities want to know **what is considered a political activity, what kind of political activities are allowed, and how many of these activities they can organize or participate in each year.** Organizations that are considering applying for charitable status also want to understand the rules about political activities so they can decide if registering as a charity is right for their organization.

This info-sheet provides an introduction to the rules on political activities for charities. It also references the criticisms raised about the political activity rules, and provides an update on the CRA's political activities audit of charities and recent government consultations on the political activity rules.

Please contact COCo for more detailed information or for references to lawyers with experiences working with registered charities.

The information presented below provides, in part, a summary of the CRA's policy statement on political activities and all quotations originate from that document. The full policy statement can be found at::

**CRA Policy Statement
"Political Activities"**

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

1. What is the difference between incorporating as a non-profit organization and applying for charitable status?

A non-profit organization is not necessarily a charity. Incorporation is a separate process from applying for charitable status, and in fact, many non-profit organizations are incorporated but are not registered as charities. Organizations can incorporate federally or provincially, with the choice often depending on a variety of factors. For more information about incorporation, please refer to:

**COCo Info-Sheet
“Incorporation of a Non-Profit Organization in Quebec”**

Registering as a charity is separate process that is administered by the CRA. For more information on applying for charitable status, please refer to:

**COCo Info-Sheet
“Applying for Charitable Status”**

2. What are some of the benefits of being a registered charity?

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.

More generally, charities must follow certain financial and governance obligations and ensure that they devote their resources to their charitable purposes and activities. These requirements 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 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.

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>

3. What is the general rule about charities and political activities?

A charity can only carry out political activities if it complies with certain legal limits. The activities have to be non-partisan, connected to a 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>

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

A charity can never endorse or oppose a political party or candidate at any government level. Partisan political activities are **prohibited activities**.



Note that some activities that might at first seem to be political might actually be considered charitable activities.

For example, some **public awareness raising activities** might be accepted as charitable activities when they are well-reasoned, non-partisan, and sufficiently related and subordinate to the charity's purposes. Such activities would then not count towards the maximum number of political activities.

In addition to the resources from the CRA already mentioned in this document, Imagine Canada has a useful summary of the the political activity rules here:

**Imagine Canada
"Political Activities"**

<http://sectorsource.ca/managing-organization/activities/political-activities>

Are all types of political activities allowed?

No, only non-partisan political activities are allowed. All partisan political activities are strictly prohibited. Illegal activities, are, of course, also forbidden.

What are partisan political activities?

The Canada Revenue Agency defines a partisan political activity as “one that involves direct or indirect support of, or opposition to, any political party or candidate for public office”.

A charity can never endorse or oppose a political party or candidate at any government level. 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.

For example:

Bilal's Homeless Shelter can invite political candidates to speak at their awareness-raising event about homelessness, but candidates from all political parties must be invited and given equal time to speak. If one candidate is given more time to speak, this may be interpreted as partisan political activity, and is therefore prohibited.



For example:

The WolfRat Dancing Collective is concerned about recent legislation that limits funding for the arts. The WolfRat Dancing Collective can make the voting records of all elected officials available via a link on their website but, in order to avoid appearing partisan, they cannot point to the specific voting history of any candidate or party.

For more detailed information about partisan political activities, please see:

CRA Advisory

“Important Advisory on Partisan Political Activities”

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltcl-ctvts/dvsry-eng.html>

What if an organization takes the same position as a political party or candidate?

A charity can still take a similar position as a political party or candidate, as long as the charity does not endorse, mention, or connect one of their ideas or proposed policy changes with any political party or candidate.

4. What are non-partisan political activities?

The **Canada Revenue Agency (CRA)** defines non-partisan activities as anything that explicitly calls for a “law, policy or decision of any level of government” to be “retained, opposed or changed”. Non-partisan political activities are the only type of political activities charities can organize or participate in. It is these types of activities that the CRA defines as falling within the yearly limitations on political activities.

Non-partisan political activities can include asking people to contact politicians, communicating with the public at large, and delivering an opinion in any of the organization’s materials. The policy’s mention of “any level of government” refers to governments both within Canada and in any foreign country.



Note: any non-partisan political activities that a charity undertakes need to relate to the charity’s mandate and should be well-reasoned.

For example:

Queer Youth United, a registered charity based in Montreal, is very upset that their main funder, Quebec’s Ministry of Health and Social Services, has cut 12 million dollars in core funding for youth organizations pursuant to the recent economic downturn. The charity is worried that this will greatly reduce the funding received by all youth organizations, including their own, next year.

Queer Youth United wants to call on their members, other groups that are impacted by the funding cuts, and the public at large to phone, email and fax the Minister of Health and Social Services demanding that the funding be reinstated in full. This would be considered non-partisan political activity by the Canada Revenue Agency. Any staff, financial or other resources that Queer Youth United puts into this project will count towards the charity’s yearly limits on political activity.

It is important to note, however, that some advocacy activities that may seem like non-partisan political activities will not count towards an organization’s yearly limit if certain criteria are met, as described in the next section.

5. What advocacy activities are not considered political activities by the Canada Revenue Agency (CRA)?

There are various advocacy activities that a charity may assume are political, which the CRA will not in fact count towards the charity's yearly limitations **since they are considered to be charitable activities**.

These include:

- **Public awareness campaigns** well-reasoned and not based on false or inaccurate information. The CRA defines a well-reasoned position as one “based on factual information that is methodically, objectively, fully, and fairly analyzed. Awareness campaigns should be about issues that fall within a charity's mandate.
- **Making a statements or representation to government and elected politicians**, even if the charity is talking about changing, keeping or stopping a law, government policy or decision. Again, the information presented must be “well-reasoned” and within the charity's mandate.
- **Publishing or distributing the text from a representation to elected officials** either on the Internet or in the form of a press release, is not considered political activity as long as you don't ask the reader to contact the government or elected politician to demand that they change, keep or change a law, government policy or decision.

How does the Canada Revenue Agency know how many political activities my charity organized or participated in each year?

It is a charity's responsibility to report their political activities on the yearly Registered Charity Information Return. This form must be submitted by a charity every year. The charity needs to report on the political activities it carried out and how those activities relate to the charities' charitable purposes. It also needs to report on the the physical and human resources used in carry out those activities.

For any foreign funding that was received with instructions that it be use for political activities, specific reporting information is required.

CRA Charity Information Return
“T3010 Registered Charity Information Return”
<http://www.cra-arc.gc.ca/E/pbg/tf/t3010/>

Or you can contact the Canada Revenue Agency for more information by phone at 1-800- 267-2384 (English) or 1-888- 892-5667 (bilingual).

**Note that in 2012, certain reporting and compliance requirements changed regarding charities and political activities. These are summarized by the CRA here:

"Changes to compliance and reporting requirements"

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltcl-ctvts/rcntchngs-eng.html>

Will the Canada Revenue Agency (CRA) make an exception if a charity exceeds their 10% to 20% of allowed political activities one year?

If your charity exceeds the amount of political activities it was allowed for a particular year, the CRA may make an exception by averaging the registered charity's political activities over a number of years.

See the CRA Policy statement for more details

<http://www.cra-arc.gc.ca/chrtsgvng/chrts/plcy/cps/cps-022-eng.html#9-1>

Where can I find information that is critical about the legal limitations on political activities by registered charities?

Over the last few decades, criticisms have repeatedly emerged in Canada's charity sector about the limitations on political activities as well as the general legal framework for charitable organization in Canada. Some complaints focused on the lack of clarity from the Canada Revenue Agency (CRA) and the courts about what constitutes permissible political activity. Other concerns focused on the overall structure of charity law, arguing that the current framework for eligibility is too restrictive and imposes unnecessary limitations on charities that are already registered and the ability of registered charities to contribute to a vibrant democratic state.

The CRA's political activities policy statement attempts to address some of the concerns raised by the "Voluntary Sector Initiative", as well as the Charities and Democracy project and the Ontario Council of Agencies Serving Immigrants (OCASI).

After considerable pressure from coalitions and organizations, the CRA released a policy statement on charitable status applications from organizations working with ethnocultural communities, which outlines which activities will be deemed charitable.

The policy statement can be found at:

CRA Policy Statement

"Charitable Work and Ethnocultural Groups: Information on registering as a charity"

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

The CRA also released guidelines about charities upholding human rights, see:

"Upholding Human Rights and Charitable Registration"

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

Most recently, the political activities rules have been widely discussed in the media and in the charity and non-profit sector due to the CRA's political activities audit.

COCo provided an update about the audit, and the announcement that it was winding down here:

"End of the Political Activities Audit: What Does it Mean for Charities?"

<http://coco-net.org/political-activities-audit/>

What about the Consultation on Political Activities?

In 2016, the Canadian government announced a consultation on political activities. Many organizations submitted their opinion about the advocacy rules and their impact on charities and organizations considering registering for charitable status. Stay tuned for further information from COCo about the consultations and its recommendations.

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