

COCO INFO-SHEET



COCo – The Centre for Community Organizations
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Charitable Organizations: Limitations on Political Activities

At COCo, we often receive requests for information about the legal limitations on political activities undertaken by charitable organizations. 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 which are considering applying for charitable status also want to understand the rules about political activity so they can decide if registering as a charity is right for their organization.

This info-sheet provides an introduction to the Canada Revenue Agency's (CRA) policy on political activities. It also guides you towards resources regarding the criticisms raised by the policy. Please feel free to contact COCo for more detailed information or for references to lawyers with experiences working with charitable organizations.

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/tx/chrts/plcy/cps/cps-022-eng.html>

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What is the difference between applying for incorporation and 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, depending on where they will conduct their activities. 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 administered by the CRA. For more information on applying for charitable status, please refer to:

COCO Info-Sheet

“Applying for Charitable Status”

What are the benefits of being a registered charity?

Organizations that are registered charities with the Canada Revenue Agency do not have to pay income tax and can provide tax receipts for donations.

What rules do registered charities have to follow?

Charities must follow certain rules and procedures in order to maintain their charitable status including:

- filing annual information returns;
- meeting “disbursement quotas” on how much donated money is spent on actual charitable activities;
- keeping adequate books and records; and

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- respecting limits on what type and how many political activities charities can participate in.

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/tx/chrts/chcklsts/menu-eng.html>

What is the general rule about charities and political activities?

Charities need to make sure that most of their resources are spent on charitable activities. According to the Canada Revenue Agency, charitable activities are distinct from political activities. Depending on the size of your organization, only 10% to 20% of your resources can be spent on non-partisan political activities every year. This is often referred to as "the 10% rule" although the percentage varies according to the overall annual income of your organization.

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.

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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/tx/chrts/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. Any policy that a charity supports needs to relate to the charity's mandate and their explanation of why they support the policy must be well-reasoned.

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.

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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.

For example: *Queer Youth United*, a charitable organization 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.

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

There are various advocacy activities that an organization may assume are political, which the CRA **will not** in fact count towards the charity’s yearly limitations. These include:

- **Public awareness campaigns** will not be considered political activities if the campaign meets certain criteria. First of all, the campaign must present a well-reasoned position. The CRA defines a well-reasoned position as one “based on factual information that is methodically, objectively, fully, and fairly analyzed. In addition, a well-reasoned position should present/address serious arguments and relevant facts to the contrary.” If there is not space or time in an advertisement to provide all this information, a method to obtain more information on the subject must be included. An organization must also make sure that the awareness campaign falls within their mandate and must also be

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sure not to start focusing most of their resources on awareness campaigns. Finally, the CRA states that public awareness campaigns cannot be overly “emotional”.

- **Talking to government and elected politicians**, regardless of whether the charity was invited, is not considered a political activity, even if the organization 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. If the charity is not given enough time to give a full, well-reasoned presentation, this information should be provided as soon as possible after the meeting. The charity can also inform anyone it would like, including the general public, that the organization will be speaking with or has spoken with government officials or elected politicians, as long as the information given to the officials or politicians is available for consultation.
- **Publishing or distributing the information you gave to the government or elected politicians**, 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. If you ask people to contact certain officials or politicians, this activity will then use up some of your yearly limits on political activities.

How does the Canada Revenue Agency know how many political activities my organization 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. Sections C7 and E3 of the form specifically ask about the charity’s political activities during the year being reported. Detailed information about the *Registered Charity Information Return* can be viewed online at:

CRA Charity Information Return

“Registered Charity Information Return”

<http://www.cra-arc.gc.ca/tx/chrts/prtnng/rtrn/menu-eng.html>

Or you can contact the Canada Revenue Agency for more information by phone at 1-800-267-

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2384 (English) or 1-888-892-5667 (bilingual).

How does an organization know the exact percentage of political activities it can participate in or organize each year?

Here is how much the Canada Revenue Agency says your organization can spend on non-partisan political activities each year, based on your annual revenue:

- Up to 20% of your resources can go to non-partisan political activities this year if your organization's annual revenues were less than \$50,000 last year;
- Up to 15% of your resources can go to non-partisan political activities this year if your organization's annual revenues were more than \$50,000 and less than \$100,000 last year;
- Up to 12% of your resources can go to non-partisan political activities this year if your organization's annual revenues were more than \$100,000 and less than \$200,000 last year;
- Up to 10% of your resources can go to non-partisan political activities this year if your organization's annual revenues were more than \$200,000 last year.

It is important to remember that any resources put towards political activities will not count towards the organization's "disbursement quota". The "disbursement quota" is the CRA's rule that makes sure that most of the money a charity receives as donations (either from individual, corporate donors, or other charities) goes toward charitable activities. For more information on disbursement quotas and how they are calculated, please see :

CRA Rules on Disbursement Quotas

"Annual Spending Requirement (disbursement quota)"

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

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

Will the Canada Revenue Agency (CRA) make an exception if an organization

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exceeds their 10% to 20% of allowed political activities one year?

If your organization exceeds the amount of political activities it was allowed for a particular year, the CRA may make an exception. They will evaluate if the charity still, generally speaking, uses “substantively all” of their resources to fund their charitable activities and whether it can be shown that unique circumstances caused excess spending that year. If the organization did not use up all of their allowed percentage in the last two years, the CRA may allow the organization to use the amount it did not spend to cover the excess spending for the exceptional year in question.

For example: *Sally’s Food Cooperative* is a registered charity providing low-cost, organic food to poor people. In 2006, the provincial government was considering passing a law that only allowed food to be sold in supermarkets because of concerns about the safety of food sold in smaller stores and cooperatives.

In 2005, *Sally’s Food Cooperative* had an annual income of \$60,000. The cooperative used \$21,000 of their resources in 2006 on a public campaign urging people to ask their elected officials to vote against the proposed law, which they felt would seriously limit poor people’s access to healthy organic food.

In 2006, *Sally’s Food Cooperative* was only allowed to spend 15% of their resources on political activities, but they actually spent 35%. They exceeded their yearly limitations on political activities by 20% in 2006. In 2004 and 2005, however, the food cooperative only spent 5% of their resources each year on political activities. If they can show that there were unique circumstances in 2006, they can use the 10% left over from both 2004 and 2005 to cover the extra 20% they overspent in 2006.

Can my organization establish a separate political wing that will be able to engage in unlimited political activities?

Some organizations chose to establish a separate, distinct organization that will not have charitable status, so it can pursue as much political work as it chooses. This separate

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organization cannot use any of the funding or resources of the charity and must be an independent legal entity. If these conditions are met, the separate organization's political activities will not count towards the charity's yearly limits.

Where can I find more information criticizing the legal limitations on political activities by charitable organizations?

In recent years, criticisms have 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, stifling the ability of charitable organizations 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 groups such as the now defunct Institute for Media, Policy and Civil Society's (IMPACS) Charities and Democracy project and the Ontario Council of Agencies Serving Immigrants (OCASI).

A summary of these concerns and links to other resources can be found in the following article:

Article: Bridge, Richard

"The Law of Advocacy by Charitable Organizations: The Case for Change"
(Institute for Media, Policy and Civil Society (2000)

http://epe.lac-bac.gc.ca/100/200/300/impacs/law_advocacy-e/law_advocacy-e.pdf

After considerable pressure from coalitions and organizations like OCASI and IMPACS, 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:

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CRA Policy Statement

“Charitable Work and Ethnocultural Groupes: Information on registering as a charity”

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

More information about the concerns raised by the Ontario Council of Agencies Serving Immigrants (OCASI) can be found on their webpage:

OCASI Concerns

“Charities and Charitable Status”

<http://www.ocasi.org/index.php?catid=124>

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