

Are You Keeping Track Of Political Activities?



We all know that a Federal election will occur in the Fall. Political activities of charities and non-profits have been a popular topic in the press and media over the past few months. This interest has been intensified because in the 2012 Federal Budget, the CRA Charities Directorate received additional funding to update the annual T3010 filing by registered charities to include questions about political activities and to further audit the political activities of registered charities.

This article discusses the definition of political activities and how charities should keep track of them.

The rules start with the concept that registered charities must pursue exclusively charitable activities. However, the *Income Tax Act* does allow a charity to use up to 10% of its resources for permitted political activities. All other activities related to a charity's purpose, should be considered charitable (subject to allowable administrative and fundraising expenses). Charities cannot pursue any *prohibited* political activities, which are activities that are partisan or otherwise illegal.

It is important to understand the definition of "political activities" for tax purposes. CRA has set out its understanding of the term in its published policy on political activities, CPS-022. According to CPS-022, a political activity of a charity is one which:

1. explicitly communicates a call to political action (that is, encourages the public to contact an elected representative or public official and urges them to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country);
2. explicitly communicates to the public that the law, policy, or decision of any level of government in Canada or a foreign country should be retained (if the retention of the law, policy or decision is being reconsidered by a government), opposed, or changed;
3. explicitly indicates in its materials (whether internal or external) that the intention of the activity is to incite, or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country; or
4. involves the making of gifts to qualified donees intended for political activities.¹

Activities that do not meet this definition will not be considered political for tax compliance purposes. Many and most of the activities of registered charities would fall into the category of charitable activity and would not be limited under the rules.

Due to the fact that charities can only dedicate up to 10% of their resources to political activities, it is vital for charities to keep track of their political activities. It is not always obvious how to do this. Set out below are some guidelines a charity could use.

To begin with, it is useful to look at the form T3010 *Registered Charity Information Return* in order to determine what a charity must report annually. Generally, the rule is that a charity should adopt a consistent method of calculating the resources it devotes to permitted political activities. In doing so, the charity needs to look at all of its expenditures on permitted political activity, including staff time, volunteer time, and other resources including operating expenses, physical space, etc. Form T3010 requires a charity to confirm whether any permitted political activity is pursued. If the answer is yes, then the charity is required to complete Schedule 7, which contains additional questions about the political activities. Form T3010 also requires a charity to show the total amount spent by the charity on the political activities, how much of the amount spent is spent by making gifts to qualified donees, and how much the charity received from outside Canada that was specifically directed by the donor to be spent on political activities.

Schedule 7 of form T3010 asks for information about the nature of the political activities a charity pursues. More specifically, charities are asked to describe their political activities and explain how the activities relate to their charitable purposes. Thus, charities need to ensure that this information is tracked within their organizations.

Second, Schedule 7 asks charities to explain how they participated in or carried out political activities by checking off boxes indicating the resources used (staff, volunteers, financial and property) on the following: media releases and advertisements, conferences, workshops, speeches or lectures, publications (printed or electronic), rallies, demonstrations or public meetings, petitions, boycotts (calls to action), letter writing campaigns (printed or electronic), Internet (website, social media (Twitter, YouTube)), gifts to qualified donees for political activity, and, other – if it is not listed, charities are asked to specify what is being done.

Finally, Schedule 7 asks charities to list the funding, if any, received from outside of Canada for political activities. Charities are required to list the amounts received and country code(s). There is no specific requirement to identify the donor.

Charities would be well advised to implement a permitted political activity policy to be distributed throughout the organization. Particularly during an election period, it is not uncommon for people to use social media to advance positions which may be relevant to issues that are being discussed during an election. Staff, volunteers, and members of a charity's board need to understand that activities they pursue in their personal capacity related to an election campaign need to be clearly identified as such so that they are not mistakenly attributed to the charity.

Twitter accounts, blogs, LinkedIn and other social media need to be carefully monitored to ensure that in no way does anyone accidentally pursue a partisan activity using the charity's accounts. To the extent that organizations have websites to which people can attach comments or Twitter accounts that get followed by many people, someone in the organization needs to follow the ongoing discussion to ensure

that inappropriate partisan comments made by third parties that could be attributed to the organization are removed.

Permitted political activity is important and has been a long-standing tradition of Canadian registered charities. The *Income Tax Act* permits charities to pursue permitted political activity and charities are encouraged to do so in the context of their charitable purposes and the charitable activities they pursue. Tracking, however, is very important in order to ensure that no more than 10% of the charity's resources are devoted to political activities. This has become of increasing interest with today's Internet environment.

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