

NFP Q&A: CRA's Requirements On Keeping Records



With the end of a calendar or fiscal year, organizations may be tempted to throw away some of their documents. Wait! Before doing so, organizations need to consider record-keeping requirements. I asked my colleague Camille Jordaan to provide a reminder on some of these record-keeping rules in terms of records of interest to the Canada Revenue Agency (“CRA”).

Question: Why should organizations not start shredding their paper documents or deleting their electronic documents?

Camille: Organizations are required by law to keep certain records. For example, the *Income Tax Act* (Canada) generally requires records and supporting documents required to determine one’s tax obligations and entitlements to be kept for a period of at least six years from the end of the taxation year to which the records and documents relate. There could be penalties or other consequences for failing to keep adequate records.

Question: What records need to be kept by not-for-profit and charitable organizations?

Camille: According to the CRA, for its purposes, it generally does not provide an exhaustive list of the records that need to be kept. It does require that the records be reliable and complete, provide correct information to assist in fulfilling tax obligations and to calculate credits, be substantiated by supporting documents to verify the information in the records, and include other documents that assist in determining obligations and entitlements (e.g., income tax returns, and scientific research and experimental development vouchers and records). Also, if an organization created a document electronically, it will need to retain it in electronic format. It cannot keep a paper record of it instead.

For all registered charities and registered Canadian amateur athletic associations, the CRA has indicated that records that need to be kept include those that verify revenues including all charitable donations received, that resources are spent on charitable programs and that the charity’s purposes and activities continue to be charitable; minutes of meetings of executives and members; and a duplicate of each receipt containing prescribed information for each donation received.

For other qualified donees, such as municipalities and low-cost housing corporations for seniors, they also must keep records confirming they meet the requirements for qualified donee status under the *Income Tax Act* (Canada). The records must allow the

CRA to verify all donations donors can claim tax credits or deductions for, and a duplicate of each receipt containing prescribed information for each donation received.

Question: For how long do organizations need to keep records?

Camille: It depends on the type of record. As mentioned above, the general rule is six years from the end of the taxation year to which the record or document relates. However, certain records containing important details about an organization, such as minutes of the meetings of the directors or members, as well as all governing documents and by-laws, must be kept by a registered charity for at least two years after the date on which the registration of the charity is revoked. For that reason, it is recommended that such documents be retained permanently by an organization. For organizations for whom record-keeping is onerous or burdensome, note that it is possible to request permission from the CRA to destroy such records earlier, though there is no guarantee such a request will be granted.

Question: What happens if an organization does not maintain adequate records?

Camille: At the outset, it is important to remember that the CRA does have the power to require an organization to provide information or documents it requests. If an organization is found to have failed to maintain adequate books and records, or does not provide information or documents requested by the CRA, it can be prosecuted, which can result in a fine of \$1,000 or more. The CRA can also ask for a court order, under which a judge would order an organization to provide any access, assistance or document requested by the CRA. For a registered charity, the failure to keep adequate books and records may also result in revocation of the charity's registered status, though keep in mind that the Federal Court of Appeal has recently said that the CRA must clearly identify the information the charity has failed to keep and explain why such failure justifies revocation before a charity's registration can be revoked on this basis.

Question: Anything else organizations need to keep in mind before paper documents are shredded or electronic documents deleted?

Camille: Record-keeping obligations are very specific to the type of record and the type of organization keeping the records. So organizations will need to review their obligations on a case-by-case basis. The review may involve more than a review of the *Income Tax Act*, as other laws may impose additional requirements. Whether an organization maintains its records or a third party (e.g., accountant) does, the organization is responsible for keeping, maintaining, retaining and safeguarding the records.

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