

Registered Charities: *What's new?*

Important changes
to the law affecting
registered charities

Charities Directorate
Canada Revenue Agency
www.cra.gc.ca/charities

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Registered Charities

Why are there changes?

New changes to the *Income Tax Act* directly affect registered charities. To make charity regulation more effective and to enhance public confidence in charities, the federal government and the voluntary sector worked together to make recommendations for reform.

What are the changes?

Changes relate to the following:

- *Registered Charity Information Return* (return) – new penalty for failure to file;
- disbursement quota;
- sanctions;
- appeals;
- official donation receipts; and
- new measures relating to private foundations.

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Registered Charity Information Return

New penalty for failure to file

As a registered charity (i.e. charitable organization or public or private foundation), you have to file a return with the Canada Revenue Agency (CRA) each year no later than six months after your fiscal year-end. For example, if your fiscal year-end is March 31, the return for the previous 12 months must be filed on or before September 30. It is very important that you complete the return accurately and file it on time.

If you do not file your return, your charity, in addition to having its registration revoked, is now subject to a \$500 penalty should you wish to be re-registered. Your charity will be required to pay this penalty, pay all other amounts owing under the *Income Tax Act* and the *Excise Tax Act*, and file any missing returns at the time of re-registration.

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Disbursement quota (DQ)

The DQ is the minimum amount that a registered charity must spend each fiscal period on charitable activities or as gifts to qualified donees (QDs) to keep its charitable registration. (QDs are organizations that can issue official donation receipts for gifts they receive.)

As a registered charity, if you receive donations for which you issue official donation receipts, you are required (with some exceptions) to spend 80% of this amount on charitable activities or as gifts to QDs in the following year.

What's new with the DQ?

A percentage of funds you receive from other registered charities must be spent on charitable activities or as gifts to QDs. Previously, this requirement only applied to foundations. This requirement now applies (with some exceptions) to charitable organizations.

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A percentage of the value of your property **not** being used on charitable activities or administration (e.g., investments) must be spent on your charitable activities or as gifts to QDs.

Key features

- Applies to charitable organizations registered after March 22, 2004 (for charitable organizations registered before March 23, 2004, it will apply to taxation years that begin after 2008.)
- The percentage rate has been reduced from 4.5% to 3.5%.
- The new DQ only applies where the property is in excess of \$25,000.
- Charities can access capital gains from enduring property to meet the 3.5% DQ.

Please note that this is a brief overview of the DQ and some of its changes. For a more detailed explanation, please consult Guide T4033A, *Completing the Registered Charity Information Return*, which is sent out with the return and is also available on the CRA Web site at www.cra.gc.ca/charities.

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Sanctions

To encourage charities to comply with the *Income Tax Act*, there are new intermediate sanctions. In addition to revocation, these new sanctions include fines and a suspension of the ability of a registered charity to issue official donation receipts.

For example, sanctions may be imposed for the following:

- failing to file a return;
- issuing receipts with incomplete or misleading information;
- failing to keep proper books and records;
- carrying on unauthorized business;
- providing undue benefits; and
- inappropriately transferring funds.

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Appeals

To make the appeals process more accessible to charities, a new unit in the CRA's Appeals Branch will review notices of objection filed about decisions made by the CRA's Charities Directorate on matters such as:

- denials, revocations and annulments of charitable registration; and
- sanctions.

As a registered charity, if you are not satisfied with the outcome of the review, you have the option of an external appeal. An appeal of a sanction will be brought to the Tax Court of Canada and an appeal of a denial, revocation or annulment of charitable registration will be brought to the Federal Court of Appeal. We will post information about decisions on the CRA Web site.

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Official donation receipts

Charities must now print the name of the Canada Revenue Agency and the Web site address **www.cra.gc.ca/charities** on all official donation receipts. Charities can use their current stock of receipts and include the name and Web site address by hand, sticker or stamp.

For a complete listing of requirements for official donation receipts and to download a sample official donation receipt, please visit the CRA Web site at **www.cra.gc.ca/charities**.

New measures relating to private foundations

As proposed in the 2007 Federal Budget, where a taxpayer donates publicly-listed securities to a private foundation on or after March 19, 2007, the associated capital gains will be reduced to zero. In addition, where an employee who deals at arm's length with his or her employer acquires stock options and donates these to a private foundation within 30 days, an additional deduction may be available to offset the related employment income.

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These incentives were not previously available for donations to private foundations due to concerns about the potential for self-dealing. Self-dealing can occur when individuals with significant holdings in a corporation also have the influence over the management of a foundation's holdings of the same corporation.

To address such opportunities, a new compliance regime is also being introduced which will limit the share ownership of private foundations based on the relative size of holdings by foundations and non-arm's length persons in a particular corporation.

Effective with taxation years beginning on or after March 19, 2007, a private foundation that owns more than 2 per cent of any share class of a corporation will be required to report its holdings, and those of non-arm's length persons, to the Canada Revenue Agency on the foundation's annual information return.

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Where the holdings of the foundation exceed 2 per cent and the combined holdings of the foundation and all non-arm's length persons exceed 20 per cent, a divestment will be required.

For more detailed information, please visit our Web site at www.cra-arc.gc.ca/charities. Additional information can also be found on the Department of Finance Web site at <http://www.budget.gc.ca/2007/bp/bpa5ae.html>.

How can I find out more information about the changes?

To explain the changes and other requirements for registered charities under the *Income Tax Act*, the Charities Directorate of the CRA develops newsletters, policy documents, forms, publications, fact sheets, questions and answers and also hosts Roadshows throughout the country. To access this information and to find out more about Roadshows, please visit the CRA Web site at www.cra.gc.ca/charities.

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The Charities Directorate also offers an electronic mailing list that provides regular information updates. To ensure that you receive up-to-date information, it is important that all registered charities, including staff, directors and trustees, as well as other individuals involved with charities, subscribe to this free service at www.cra-arc.gc.ca/eservices/maillist/menu-e.html.

How can I contact the Charities Directorate?

Charities Directorate
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www.cra.gc.ca/charities

1-800-267-2384 (English)

1-888-892-5667 (Bilingual)