

Recent Developments Affecting Charities and Non-Profits

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September 20, 2018



Non-share Corporations to hold Personal Assets

- perpetual existence
- no twenty-one year rule
- avoid estate administration tax
- defer capital gains tax
- flexibility
- Lash case involving family dispute
- CRA position on members as shareholders and benefit issues
- need for tailor-made by-laws, “lease” payments, etc.

Charitable Donation “Schemes”

- previous jurisprudence says no credit or deduction for cash portion of “donations” under “buy-low donate high arrangements”
- arrangement treated as an “investment” rather than gift with donative intent
- recent *Cassan* decision of TCC reviews earlier cases and law and finds in favour of taxpayers to limited extent
- under appeal to FCA

Political Activity

- Harper government initiatives
- controversy
- public consultation
- report from committee
- government response and plan to amend legislation and administration
- Canada Without Poverty decision and uncertainty
- government will appeal
- draft legislation introduced on September 14, 2018 to amend ITA

“Social Investments” in Ontario

- *Charities Accounting Act*
- *Trustee Act*
- income tax issues
- program related investments (for tax purposes)
- guidance
- PGT

Remuneration Payable by Charities to Directors

- case law and practice of PGT in Ontario
- prohibition against payment to director in any capacity
- often misunderstood or overlooked
- attempt by PGT to provide relief
- regulation under CAA
- section 13 orders
- guidance from PGT
- restrictions
- PGT guidance

Current Issues With Respect to CNCA

- ongoing issues
- current situation
- implications

Current Status of ONCA

- further delay in implementation
- enactment of parts of ONCA by amendments to *Corporations Act*
- ongoing issues

Cultural Property

- valuation of cultural property
- *Heffel Gallery* case
- interpretation of “outstanding significance” and “national importance”

2018 Budget Changes

- changes dealing with gifts to foreign universities
- comparison to Canada - U.S. Treaty
- extended definition of “eligible donee” includes municipalities for relief from revocation tax

Miscellaneous

- gifts by executors
- ineligible individuals
- CRA website address required on official receipts
- valuation of gifts in kind
 - *Balkwill* case
 - duelling experts
 - bootlegging issue
- amendment of NPO tax exemption

Miscellaneous

...cont'd

- extended definition of “charitable purposes” in CAA
 - extends common law and income tax concept
 - PGT position
- disputes among directors and/or members
 - *Wall* case
 - *Mount Pleasant* case
 - others
- *Humboldt Broncos* case and crowdfunding

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