

Registering a Charity in Canada

Canada Revenue Agency (CRA) | Corporate Law | Income Tax Act | Non-Profit & Charities | Non-Profit and Charities | Ontario Corporations Act | Tax

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The number of charitable organizations registered with Canada Revenue Agency (CRA) is close to 90,000. This includes large public organizations in the health and arts field, local service groups and private or family foundations. In order to be registered as a charity, an organization, which may be a corporation, trust or unincorporated association, must have as its exclusive purpose one or more of the relief of poverty, the advancement of religion, the advancement of education or some other purpose which has been recognized by the courts as being charitable in nature. The organization must satisfy CRA that, not only are its purposes entirely charitable, but the activities in which it will engage in order to further its purposes are in themselves charitable.

The process for registration consists of filing an application, together with supporting information and documentation, that CRA requires to satisfy itself that the organization meets the requirements for registration. CRA will often advise that it considers the proposed purposes not to be exclusively charitable (or sometimes not to be charitable at all). In the past, an organization could submit draft articles of incorporation setting out the proposed purposes. CRA would review them and advise whether the purposes were acceptable. In many cases CRA would suggest the necessary modifications to be made. The organization could then incorporate and, upon receipt of the filed articles of incorporation, CRA would grant the charitable registration. However, earlier this year CRA advised that it would no longer accept applications based on draft articles of incorporation. It is now necessary to complete the incorporation and submit the articles to CRA. If CRA determines that the purposes or other provisions in the articles are not acceptable, it will require the organization to obtain articles of amendment (or supplementary letters patent in the case of a corporation incorporated under the *Ontario Corporations Act*).

The CRA also requires each application to contain a complete description of at least one proposed activity for each purpose, including a budget and description of proposed fundraising activities. The CRA examiner subjects this material to detailed review, which will include checking the applicant's website and raising any inconsistencies or missing information. If the purposes or activities are to be carried on outside of Canada, additional CRA policy requirements must be satisfied.

This Spring a panel appointed by the Minister of National Revenue recommended that the Income Tax Act be amended to simplify this process by ensuring a focus on charitable purposes rather than activities, and adopting an inclusive list of acceptable charitable purposes to reflect current social and environmental issues and approaches. These recommendations, if implemented, would simplify and shorten the process required to obtain charitable registration.

Currently, once an application is filed, CRA can take as little as three months for a private foundation and as long as nine months for any other type of application, to advise the applicant that the file has been assigned to an examiner for review. Other than private foundations, very few applications succeed without the requirement to respond to a list of deficiencies that CRA sets out in an "administrative fairness letter". In short, it can easily take up to a year for an organization to become a registered charity.

Non-Profit and Charities Group

Non-profit and charitable organizations work hard every day to support their members, serve the public, and make valuable contributions to Canadian society. They do so in a legal environment that is always demanding and often daunting. The Non-Profit and Charities Group at Gardiner Roberts helps our clients to overcome this and other challenges so they can achieve their goals in compliance with all laws and in accordance with best practices.

We have represented (often as general counsel) a wide range of local, regional and national non-profit and charitable organizations, including universities, colleges and schools, hospitals and health research and support organizations, social services agencies, environmental groups, religious organizations, trade and professional associations, cultural and sports organizations, governmental and quasi-governmental agencies, and public and private philanthropic foundations. Our experience runs broad and deep, ensuring that we will deliver the best legal counsel to your organization in the most effective manner. As part of a full-service firm, the Non-Profit and Charities Group draws upon the resources of all of Gardiner Roberts' professionals so your organization receives the specialized advice

needed to address its unique legal needs.

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