



Canada Revenue Agency

# Registered Charities' Political Activities Consultations

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# INTRODUCTION

# Background and objectives

- One of the Minister of National Revenue's mandate letter priorities is to work with the Minister of Finance to modernize the rules governing the charitable sector, which will include clarifying the rules governing political activities.
- To address this priority, the Canada Revenue Agency (the CRA) announced in a news release on January 20, 2016, that it would consult with the charitable sector on the rules governing political activities. The federal budget of 2016 proposed funding for the CRA to carry out this consultation, in collaboration with the Department of Finance.
- Accordingly, the CRA held a consultation to collect feedback from charities and the public on its administration of the rules governing charities' political activities, and ways to clarify these rules.

## Objective

- The objective of this project was to hold a series of in-person consultation sessions to ask charities for feedback on the rules governing political activities. Findings will be used by a Consultation Panel to generate recommendations for action; the Consultation Panel was established in September 2016, and is composed of five individuals with expertise in the regulatory issues facing charities.
- A charity is an organization that has been registered by the CRA as such. In the context of these consultations, a charity representative can be a director, volunteer, staff member, or other person nominated to attend the sessions by the charity's board of directors, Executive Director, or other responsible party.

# Things to consider

- This consultation focussed on gaining a more in-depth understanding of:
  - What issues or challenges charities encounter with the existing policies on charities' political activities?
  - To what extent do these policies help or hinder charities in advocating for their causes or for the people they serve?
  - Is the CRA's policy guidance on political activities clear, useful, and complete?
- While the aim of the consultation was not to inform the broader issues relating to the Government of Canada's relationship with registered charities apart from the political activities restrictions, discussions around these issues sometimes touched on areas of interest across the federal government.
- While not all of these issues fall within the jurisdiction of the CRA's Charitable Directorate, the feedback remains relevant and important. Where appropriate findings related to the discussion have been further explored under Detailed findings.
- In instances where feedback received was deemed to be outside of the mandate of the CRA, we have included these details in the Other Comments section.
- It is important to consider that while the CRA interprets and administers the provisions within the Income Tax Act, the Department of Finance is responsible for legislative changes.

# Things to consider (cont'd)

- It should be noted that views presented in this document reflect and are limited to the views/perspectives of individuals and organizations having participated in the in-person consultation sessions. As such they cannot and should not be considered representative of the Canadian public more broadly or the charitable sector more specifically.
- It is therefore not possible to draw conclusions about how views differ across specific audiences. Rather they represent the views of those engaged in this consultation process and as such should not be extrapolated.

## METHODOLOGY

# Who, where and when... ?



### WHO

Among **167 representatives** with responsibilities for tax filings at registered charities involved in political activities or potentially involved in political activities. All participants were identified by CRA or requested to participate, and were then invited by Ipsos.

### WHERE

A series of **14 facilitated in-person consultations** carried out in 7 centers (*two separate and distinct sessions to be conducted in each location*).

### WHEN

These 2-hour sessions occurred between November 29<sup>th</sup> and December 13<sup>th</sup> 2016 during business hours.





# Consultation session process

- Each session followed a similar discussion guide to lead the conversation and ensure that each topic was discussed. This guide was modified during the sessions to allow conversation to flow naturally, and for participants to engage in discussing issues that were of importance to them.
- Each discussion touched on the following core areas:
  - Role of charities in public policy development
  - The CRA's interpretation and application of the rules
    - The CRA's description of political activities
    - Representations to government
    - Resource limits
    - Partisan political activities
  - Communicating Policy – Accessing the CRA's educational materials on political activities



# DETAILED FINDINGS

# ROLE OF CHARITIES IN PUBLIC POLICY DEVELOPMENT

# Current role of charities

Advocacy  
Awareness.and.advocacy  
Participant.in.development.of.public.policy  
Important.role.in.voicing/raising.concerns/causes.and.need.for.changes  
**Limited.role**  
Limited.and.scope.for.more  
Important.role Support.function  
Limited.role.due.to.lack.of.support.by.current.laws  
Important.role.in.policy.development  
Consultants.and.advocates  
**Expert**

*Participants in CRA Roundtable Consultations for Registered Charities on Political Activities – Please note as findings are directional in nature they are **NOT** representative (counts)*

# The role of charities in public policy development is significant...

According to participants in addition to the core charitable purposes they serve, charities are most effective when they act as:

- Subject Matter Experts,
- Advocates on behalf of the stakeholders they serve,
- A voice with a hands-on and on-the ground perspective on issues,
- Partners in public policy development, and
- Drivers of public engagement and public opinion.



“Charities offer a unique perspective on what concerns Canadians today. Public policy evolves from public opinion. I believe most Canadians appreciate their chosen charities to be able to advocate for them on what concerns them the most.”



“A critical voice on behalf of diverse communities in respect of policies that affect individuals and groups. Often key experts in the areas affected by particular policies and as such of considerable assistance to the development of policy that works.”



“Charities have an important role to play in bringing a specific perspective, creating broader awareness of issues and ideas related to public policy and encouraging the broader public to be engaged citizens.”



“Charities play a pivotal role in the development of public policy in Canada – through awareness campaigns, education programs and by providing opportunities for citizen engagement for individuals to take action to shape their country.”

# They could contribute even more ... if not limited by unclear rules

- For many the political climate of the past decade combined with a lack of clarity /ambiguity as it relates to political activity has at times negatively impacted charities willingness to actively engage in public policy debate or tangible efforts to affect substantive change for fear of being subjected to heightened government scrutiny.
- The lack of a clear understanding of what does and does not constitute political activity can at times act as a deterrent to greater engagement. There were numerous references to the CRA's definition of political activity as being too nuanced, ambiguous, and/or unclear.
- Many participants referenced the resource requirements in the Income Tax Act regarding charities' political activities (i.e. the "10% rule") and the prospect of audits as deterrents to increased public policy engagement.



"I believe the role of charities is limited due to a lack of understanding, and fear of contravening the laws regarding unrestricted vs. limited political activities. I think this is starting to change given the federal government's actions over the past year to seek public input through consultations on a number of policy issues."



"Charities have unique expertise and are expected by Canadians to contribute to public policy to get to the root of serious problems but currently this important role in our society is constrained by the 10 percent limit on political activity."



"In theory, charities have the potential to play a crucial role in public policy debates and development. -In practice, that potential is not actively exercised as a result of a high level of risk aversion by charities in the context of unclear rules and a recent history of targeted audits and government funding cuts to charities that have been perceived as speaking out against federal government policies."



"Charities play a vital role in the development of public policy -- given their expertise. Too often, however, the CRA's definition of political activities restrains the level of involvement that is optimal."

# They can contribute even more ... in filling in the gaps in government services

- According to participants in a world where government front line service delivery models are under incessant pressure due to budget limitation and a diminishing supply of front line personnel, charities are increasingly taking the responsibility for front line service delivery to vulnerable populations.
- Charities can and should also play a role in ensuring that government programs and services run effectively and efficiently and address Canadians needs.
- Charities have a role to play in supplementing public services but also in supporting initiatives to not only alleviate pressures on Canada's public programs and services but also to reduce the need for them.
- Some expressed that the perceived role of charities has changed from a service delivery model to a more proactive approach which includes prevention and effecting social change, in part through public policy development. They felt that while the public (and subsequently their donors) has this new expectation of their role in society, the political environment has not shifted to meet this new reality.



“Charities should have a voice as they are often at the front line of service delivery to vulnerable people groups and can provide valuable input to governments.”



“Informing government officials on policy development to ensure they properly understand the issue and that policy effectively represents the interests of Canadians.”

# THE CRA'S INTERPRETATIONS AND APPLICATION OF THE RULES



# Across the discussion, a few key themes re-emerged connected to the CRA's interpretation and application of the rules – some provided general feedback on current guidance ...

- Most contributors in all sessions expressed **equal parts confusion and frustration with the current political activity rules.**
- Confusion focussed on the distinction between political activities and partisan activities, which led to smaller charities often avoiding any participation in the policy development process.
- Many contributors – particularly those representing smaller charitable organizations with limited resources expressed concern with **the administrative burden and consequently costs associated with keeping track of their organizations political activities.**
- **There was a sense that current political activity rules are too ambiguous,** making charities act in a risk adverse way to avoid any implications or questions that may put their charitable status at risk. While this causes some to hire expert legal and/or tax resources for advice, others simply choose to avoid any program that may be seen as political regardless of its effectiveness or merit.

# ... while others questioned the purpose of these rules.

- In some cases, political activity rules **simply run counter to charities stated charitable purposes** – in such cases how are charitable organizations actions to be interpreted i.e. as charitable or as political?
- Others state that they are **simply not aligned with the evolving roles of charities in civil society**. Simply put, at times these rules appear to limit charities ability to contribute in a meaningful way to public policy development.
- Many contributors outright **questioned the need for political activity rules which in their opinion limit their ability to advocate on behalf of their stakeholders**. According to these individuals what **CRA should be focussing on was clearly defined partisan political activities**.

# There was considerable debate about the roles of charitable purpose as compared to charitable activity

- A few contributors expressed concern that in some cases their stated charitable purposes, as identified in their registration, could potentially be interpreted as running counter to current political activity rules.
  - One example of this was among environmental organisations, who were concerned that while their activities are charitable in nature, they don't feel their purposes are currently recognized as charitable.
- These contributors made a point of stating that a charitable organizations' stated purposes should be taken into consideration when determining levels of political activity. If better assessments were done of charitable purposes vs. political activities when deciding on charitable registration there may be no need for political activity rules.
- Similarly, there was a call for renewed definitions of charitable purposes to include organisations whose purpose is the betterment of civil society, but that may not squarely fall within the current definitions.
- That said, there was a recognition that there is a risk that some organizations (whose mandates may not truly be charitable) might usurp the process in order to benefit from charitable status while avoiding having to comply with political activity rules.



“Public are not joining political parties because they don't align with particular issues (they care about) contributing instead to charities who are driving issue specific changes.”

# THE CRA'S DESCRIPTION OF POLITICAL ACTIVITIES

# Call to political action

**Political activity** is any activity that **explicitly communicates a call to political action** (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).

- Many contributors expressed concern that this stipulation in effect limits their ability to contribute and advocate meaningfully and proactively to policy development and legislative change on behalf of their stakeholders – and in many cases may not allow them to achieve their stated charitable purposes.
- Contributors also question why charities are explicitly limited in their ability to communicate a call to action whereas for profit organizations have no such limitations.



“These restrictions stifle the effectiveness of charities in pursuing their charitable purposes. For example if an environmental group seeks to prevent pollution then the most effective way to achieve this is likely to secure enhanced pollution prevention laws and engage the public to support the creation of such laws.”



“The commercial sector does not have these restrictions – while charitable sector is limited even though they are inherently organised for the public good”

# Communicate policy change to public

*Political activity is any activity that 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, opposed, or changed.*

- While permissible, the limits on this type of activity reduces charities' ability to advocate on behalf of their constituency, and to work towards meaningful change that will benefit them. Contributors are quick to stipulate that they, in many cases, are the voices for those who cannot otherwise be heard (whether it is the underprivileged, those living under oppressive regimes or species at risk for instance...).
  - This was particularly important among international development focused charities.
- According to contributors, charities cannot on the one hand be advocates, subject matter experts and partners in public policy development while on the other hand being limited in their ability to state publicly their position on legislation or policy that affects those they serve.



“So the question to me is what was the purpose of the political activity governance law? Is it to stop charities for influencing policy or to keep them out of partisan politics?”



“Our mandate is a freedom of expression organization. To fulfill our mandate we are running into political activity rules. People want to be engaged – are we free to engage them on issues for changing government policies (incl. international governments), or does it fall within the 10 percent?”

# Pressure on elected officials

***Political activity is any activity that 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.***

- Contributors repeatedly expressed difficulty in reconciling why they can meet with elected representatives or public officials to advocate on behalf of an issue, policy or legislative change and this is considered a charitable activity (as per the definition of representations to government), however taking a more public stance on the same issues constitutes a political activity.
  - The concern is that often these activities would be intended to benefit the stakeholders it serves and be aligned with its stated charitable purposes.
- This apparent contradiction leads to questioning about the intended purpose of political activity rules as well as implications for tracking political activities for reporting purposes.
- Another key point raised, was that in order to effect pressure on elected officials there needs to be a demonstration of public will among their constituents, and in limiting charities' ability to coordinate and communicate with the public regarding policy, their effectiveness as advocates for these groups is limited.



“This definition seems to say that expressing concern via opinion is a political activity. Muzzling charities ability to speak on current events is completely contrary to the mandate of most charities.”

# REPRESENTATIONS TO GOVERNMENT



# Representations to government

## ***Representations to elected representatives or public officials must:***

- ***Only be undertaken as an activity that is subordinate to a charity's charitable purposes;***
- ***Relate to an issue that is connected to a charity's purposes;***
- ***Be well-reasoned; and***
- ***Not contain information that the charity knows or ought to know is false, inaccurate, or misleading.***

- Contributors expressed concerns as to what many viewed as the use of confusing and ambiguous language such as the use of “subordinate” or “well-reasoned”, there was an expressed desire for more of a plain language approach – this was particularly true of those representing smaller charitable organizations.
- There was also concern about the subjective nature of these terms, that interpretations are often in conflict between advisors (tax, legal etc...) as well as between different CRA officials who are responsible to decide if an argument is well-reasoned or the connection to the charity's purpose.
- There was agreement that the use of specific real life examples to help illustrate these conditions would be useful – again this was particularly true for smaller organizations who have less experience navigating CRA rules as they related to charitable organizations.
- Contributors from larger and established organizations were much more familiar with making representations than their counterparts in smaller or more recently established charities. According to some this is due to the fact that larger and established organizations have the resources, established relationships (via government relations staff) and a track record of working with government.
- Many contributors also expressed frustration at what they see as an apparent double standard when it comes to restrictions that apply to representations for charities whereas no such restrictions are in place in the case of the for profit sector who more often than not have significantly more resources and government relations personnel.

# RESOURCE LIMITS

# Resource limits, contentious for many...

There were a number of questions and concerns expressed around resource limits. Moreover, comments were remarkably consistent from one consultation session to the next. Concerns/questions tend to revolve around the following broad themes:

## Justification for the 10% - 20% political activity limits

- Contributors often questioned the reasoning behind the current resource limits, many stating that they appeared to have been set arbitrarily by CRA and without any real justification.
- A reoccurring comment in many sessions was that **resource limits were not necessary**, rather the CRA's focus should be on whether the charitable organizations activities were consistent with its charitable purposes.
- There were also concerns expressed about the apparent inequality that the current benchmarks create between larger charities for whom a 10% limit of total resources may represent significant political activity vs. smaller charities for whom 10% - 20% of total resources may represent a negligible amount permissible for political activity – according to some this in turn significantly limits these smaller organizations from conducting any meaningful political activities.



“This requirement suggests there is something wrong with charities being in this space, starting point is that charities shouldn't be advocating, how can we enable these voices to participate instead of tracking if we go to a meeting”



“This needs to go. As a matter of principle charities should not be constrained in how they seek to advocate on behalf of their service recipients. Back to ‘purpose’ instead of activities.”

# Resource limits (cont'd)

## How should limits be calculated and what should be included?

- Questions abound about how organizations are to calculate resource limits – a number of contributors commenting that guidance received from CRA was inconsistent and varied from one representative to the other. This can also be said of what specifically can and should be included as political activities. Discussions suggested there was no rule of thumb rather charities are left to their own devices – this was a source of frustration for many.
  - In the case of those who had undergone audits, the auditor had challenged their methods of calculation – suggesting perhaps the auditors use guidelines that are not shared with the sector
- The issue of how to account for volunteer hours (particularly for small organizations) was also mentioned repeatedly as was the use of social media channels.

## The administrative burden created by tracking political activities:

- Virtually all agree that the administrative burden created by having to track political activities in order to comply with current resource limits detracted from their respective charities primary purposes – this viewpoint tended to be more strongly held among those from smaller charitable organizations with limited financial and human resources at their disposal.

# PARTISAN POLITICAL ACTIVITIES

# Support for maintaining partisan political activity rules

- There was general agreement in all sessions that partisan political activities should be prohibited. A number of participants pointing out that failing to do so may result in the creation of ‘charitable organizations’ whose only purpose would be to undertake partisan political activities – some references to the U.S. and **political action committees (PACs)** here.
- A reoccurring theme in all sessions, whether discussing political activity rules, representations to government or partisan political activities, was a desire for more specificity and definitions of these activities within the Income Tax Act. This need for additional information and clarity is particularly true in the case of smaller charities who simply can’t afford specialized internal resources (lawyers, government relations specialists etc.)
- There was some discussion however about when partisan political activity rules should apply. Some contributors felt they should only be enforced during around electoral campaigns (specifically once the electoral writ has been dropped).
  - Others questioned whether they would apply in the case where their organization may have taken a very public stance which a political party or candidate then espouses.
  - Some were concerned if they were to organize a public community event and only one candidate or an elected MP from one particular party were to attend, the event may be viewed as partisan.
  - Others yet wondered aloud whether these rules should also apply to indirect support or opposition or activities conducted by an officer of a charity but carried out during his/her personal time/ as a citizen rather than a representative of his or her charity.



“We support retention of partisan activity as offside, but guidance needs to be cleaned up.”



“CRA's description of political activities has forced charities to dedicate time and resources to mitigate risk (e.g.. identifying which activities may be political) rather than spending those resources on fulfilling their mission.”



“If we have a stance on a particular issue and then a political party adopts it, is it then political?”

# COMMUNICATING POLICY – ACCESSING THE CRA'S EDUCATIONAL MATERIALS ON POLITICAL ACTIVITIES

# Current impressions of the CRA's educational materials on political activities

- Most commented on the professional nature of the Charities Directorate and the quality of the assistance received when dealing with the dedicated Charities Helpdesk.
- Many were not aware of the resources currently available on the website created by the CRA, such as short videos and examples.
- Some noted that while helpful, the lack of written response to refer to in the future made even advice provided by the Charities Directorate policy team at times unreliable, some complained that they would often receive conflicting advice from different helpdesk agents.
  - E-mail or text-based chat correspondence was a suggested improvement.



CRA (Charities Directorate) representatives have been very accessible and given clear cut answers, the site is helpful but text is very dense. People learn in different ways –videos are very good.”



The material on the website is much more straightforward than it used to be.”



# Suggestions to improve the CRA's educational materials on political activities

- Many were not familiar with the Charities Directorate's current communications offering (particularly those from belonging to smaller charities), some suggestions received included:
  - A broad range of short and simple video explanations;
  - Sector/case specific examples to assist in the application of the rules
  - Specific guidelines for measurement of political activities as used by Auditors in their evaluation
  - Possible succinct training on Political Activity rules for members of Charity Boards of Directors.



Updates are important- there needs to be consistent way of finding out if things have changed.”



The definition of political activities is fundamentally, and irremediably, ambiguous – leaving scope for arbitrary and inconsistent application of the rules.”

# OTHER COMMENTS

# Other issues raised

## Ongoing Charity Audits

- Another issue raised by a number of participants was the ongoing political activities audit program. Many called for the audits undertaken as part of this program to be cancelled or re-visited due to the perceived political nature of the targeted charities. Given the current review of the charities sector, many are hopeful about the outcomes for these audits.
- Clarity within the guidance and legislation would assist in guarding against perceived politically motivated audits
- Clarity regarding appeal processes and recourse available following an audit

## The need for fundamental legislative change to the Income Tax Act

- While referenced throughout the discussion, legislative reform on behalf of Department of Finance was often suggested.
- There was broad agreement in all sessions that the root cause of these frustrations did not lie with the CRA's interpretation of the law, but rather that these common frustrations underscored the need for fundamental legislative change to address these issues in a definitive way. A revised legislative framework would help eliminate ambiguities and greatly lessen the need for CRA interpretations.

## An Agency to Oversee Charities

- One suggestion received by a small number of participants, was instituting a body independent of the CRA in order to oversee Charitable Status and regulations within the charitable sector.

# APPENDIX

# Registered Charities' Political Activities Consultations – Discussion Guide

## 1.0 Introduction

Explain to participants:

- Ipsos
- the length of discussion group (90 minutes)
- taping of the discussion group (audio)
- results are confidential/individuals are not identified
- today's session will be a discussion to engage in dialogue, while we welcome formal written submissions we ask that you be respectful and allow everyone the opportunity to contribute
- the role of moderator is to ask questions, timekeeper, objective/no vested interest
- role of participants: not expected to be experts, speak openly and frankly about opinions, no right/wrong answers
- role of CRA & Finance dept. staff: listen and provide context only when needed, not here to answer specific questions,
- role of EAG members: reporting to the Minister, again to listen and feed into discussion only when needed
- issues with the Ideation tool, logout and log back-in, if persists wave at Ruth

## 2.0 Warm-up Questions / Icebreaker (10 minutes)

We are going to start off with a warm up exercise by asking you a few basic questions to get to know everyone in the room and get used to the online tool.

### [QUESTIONNAIRE WHILE WAITING TO START]

1. How long have you worked in the not-for-profit and/or charities sector?
  - a. Less than 1 year
  - b. 1-2 years
  - c. 3-4 years
  - d. 5-7 years
  - e. 8-10 years
  - f. 10+ years
2. What is your current role within your organization?
3. To what extent is your organization involved in political activities? That is...DEFINE
  - a. Actively involved
  - b. Somewhat involved
  - c. Not very involved
  - d. Not at all involved
4. In your view, what is the current role of charities in the development of public policy in Canada

# Registered Charities' Political Activities Consultations – Discussion Guide

## 3.0 CRA Presentation (5 minutes)

We'd like to discuss the why the CRA is undertaking this initiative in a bit more detail. **[DESIGNATE]** from the CRA is going to come up and provide a brief explanation of what this means and provide some context.

### **[SUMMARY OF IMPORTANCE OF CONSULTATION AND OUTLINE KEY AREAS FOR DISCUSSION]**

- The CRA's interpretation and application of the rules
  - The CRA's description of political activities
  - Representations to government
  - Partisan political activities
  - Resource limits
- Communicating Policy – Accessing the CRA's educational materials on political activities

### **[DISCUSSION – IDEA GENERATION]**

During the course of the presentation we invite you to react with questions via the online platform. As time permits we will have the CRA representative clarify on any issues pertaining to the consultation at hand.

## 4.0 Ideal Policy Situation (15 minutes)

### **[DISCUSSION – IDEA GENERATION]**

What role should charities play in driving public policy development, including legislative changes?

- **PROBE:** calls to political action (i.e. Contact your MP), communicating laws to the public, advocate for charitable cause, discuss directly with elected officials
- **PROBE:** What limitations should there be on charities in Canada in contributing to public policy and legislation?

### **[DISCUSSION – IDEA GENERATION]**

What does the term “advocacy” mean for your charity?

### **[DISCUSS]**

**[IF NOT BROUGHT UP ORGANICALLY PROBE]** For the CRA, advocacy is, generally speaking, a demonstrated support for a cause or particular point of view. Advocacy is not necessarily a political activity.

### **[DISCUSSION – IDEA GENERATION]**

What should the rules be for charities' political activities?

- **PROBE:** Should they be allowed – yes/no?
- **PROBE:** Should there be a limit on how much political activities charities should be able to engage in?

# Registered Charities' Political Activities Consultations – Discussion Guide

## 5.0 The CRA's interpretation and application of the rules (60 minutes)

As a reminder, we've reposted the description of political activities from the materials you were asked to read in preparation. As we get into the details a bit, we'd like to remind you that your feedback today is anonymous and confidential. It will have no impact on your organizations' future relationship with the CRA, beyond the insights obtained from your feedback for policy direction.

### The CRA's description of political activities (20 minutes)

#### [NOTE FOR IDEATION SCREEN]

#### The CRA's description of political activities

The term political activity is not defined by the Income Tax Act. In these kinds of situations, the CRA looks at decisions of the courts for guidance. When Policy Statement CPS-022 was developed, the CRA interpreted the case law as meaning a political activity is any activity that:

- 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);
- 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; or
- 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.

In Budget 2012, the Income Tax Act was amended to add another, fourth type of political activity: any gift from a charity to a qualified donee intended to support the recipient's political activities. In short, a qualified donee is any organization that can issue an official donation receipt to a Canadian individual or corporation. Canadian registered charities are likely the best-known type of qualified donee, but there are others, such as certain universities outside of Canada, and registered Canadian municipalities.

#### [DISCUSSION – IDEA GENERATION]

Is the CRA's description of political activities relevant to the work charities are actually carrying out?

#### [DISCUSSION – IDEA GENERATION]

Based on this description and your previous experiences with the CRA regarding Political Activities for Registered Charities, what issues or challenges do charities encounter with the existing policies on charities' political activities?

#### [DISCUSSION – IDEA GENERATION]

What obstacles does your charity encounter in carrying out political activities, particularly in regards to the rules in the CRA's policy statement and other educational resources?

#### [DISCUSSION – IDEA GENERATION]

Do these policies help or hinder charities in advocating for their causes or for the people they serve?

# Registered Charities' Political Activities Consultations – Discussion Guide

## Representations to Government (10 minutes)

### [NOTE FOR IDEATION SCREEN]

#### Representations to government

When a registered charity makes a representation, whether by invitation or not, to an elected representative or public official, the activity is considered to be charitable, rather than political. Even if the charity explicitly advocates that the law, policy, or decision of any level of government in Canada or a foreign country ought to be retained, opposed, or changed, the activity is considered to fall within the general scope of charitable activities.

Representations to elected representatives or public officials must:

- only be undertaken as an activity that is subordinate to a charity's charitable purposes;
- relate to an issue that is connected to the charity's purposes;
- be well-reasoned; and
- not contain information that the charity knows or ought to know is false, inaccurate, or misleading.

### [DISCUSSION – IDEA GENERATION]

Has your charity made representations directly to elected representatives or public officials? Why?

- **PROBE:** How does this support your other charitable activities? How effective are these representations? Is this something you will continue to do in the future?

### [DISCUSSION – IDEA GENERATION]

Is it clear to you how the CRA's position on how the political activities rules do or do not apply to representations to government?

- **PROBE:** How should representations by charities to government be treated by the CRA under the political activities rules?

## Resource limits (15 minutes)

### [NOTE FOR IDEATION SCREEN]

#### Resource Limits

The Income Tax Act allows a charity to carry out political activities if it devotes substantially all of its resources to charitable activities. The CRA typically interprets;

- **substantially all** to mean at least 90%, generally meaning charities can devote around 10% of their total resources to political activities; and
- **resources as** meaning everything the charity owns or controls, such as money, staff time, and physical property.

The CRA offers some flexibility to smaller charities by administratively interpreting substantially all as meaning up to 20% for charities with less than \$200,000 in annual income. Further, in exceptional cases, charities that have not devoted the maximum allowable amount of their resources to political activities in previous years can carry forward unused amounts up to two years.

The CRA does not give guidelines on how a charity should calculate and compare its use of resources, but states a charity should use a reasonable and consistent method to calculate its use of resources for political activities.



# Registered Charities' Political Activities Consultations – Discussion Guide

## [DISCUSSION – IDEA GENERATION]

What challenges do you face in calculating resources spent on political activities?

- **PROBE:** How do you think the CRA should interpret the term resources? Should it be limited to financial, or also include other resources like capital, human resources, or time?

## [DISCUSSION – IDEA GENERATION]

How should the CRA administer the provision that requires a charity to devote substantially all of its resources on charitable activities?

- **PROBE:** How do you think the CRA should interpret the term substantially all?
- **PROBE:** Is the current 90% interpretation sufficient, should it be stricter? More lenient?
- **PROBE:** Should the ITA place tangible limits on resources spent on political activities?

## [DISCUSSION – IDEA GENERATION]

As you are tasked with calculating this, how would you calculate the percentage of resources used for political activities? What would you include? Would you exclude anything?

- **PROBE:** Are guidelines needed to ensure this is fairly applied?

Partisan political activities (15 minutes)

## [NOTE FOR IDEATION SCREEN]

### Partisan political activities

The Income Tax Act prohibits a charity from using any of its resources to directly or indirectly support or oppose a political party or candidate for political office (often referred to as partisan political activities).

The CRA's position is that it is not a partisan political activity for a charity to make its views known on public policy issues, as long as the charity does not explicitly connect its views to any political party or candidate for public office.<sup>1</sup>

## [DISCUSSION – IDEA GENERATION]

Should charities be prohibited from supporting or opposing political parties or candidates for public office?

- **PROBE:** Should the same rules apply to all charities?

## [DISCUSSION – IDEA GENERATION]

How broadly or narrowly should the CRA administratively interpret “directly or indirectly” support/oppose?

- **PROBE:** For example, can criticizing a sitting government ever constitute opposition to the political party (or parties) forming the government, or does praising a Member of Parliament ever constitute support of that MP's political party?
- **PROBE:** What would direct support/opposition look like? What is indirect support/opposition?
- **PROBE:** Should prohibitions be limited to direct support only?

# Registered Charities' Political Activities Consultations – Discussion Guide

## 6.0 Communicating Policy (15 minutes)

Let's talk more generally about the CRA's role in interpreting and applying rules as well as communicating these rules to registered charities.

### [DISCUSSION – IDEA GENERATION]

Is the CRA's policy guidance on political activities clear, useful, and complete?

- **PROBE:** What are they doing well? What is missing?
- **PROBE:** What type of information have you accessed in the past? Was it helpful?

### [NOTE FOR IDEATION SCREEN]

## Accessing the CRA's educational materials on political activities (10 minutes)

The CRA has several educational resources on its website regarding charities' political activities. Most of these documents and videos were developed as a result of the measures in Budget 2012, which provided funding to the CRA to enhance its educational materials on political activities.

### [DISCUSSION – IDEA GENERATION]

Have you read or viewed any of these materials before participating in this consultation? If so, what materials? If not, why not?

- **PROBE:** Lack of interest, difficulty finding this information

## 7.0 Bringing the Discussion Together (10 minutes)

We've come full circle, we started today talking about the ideal policy relationship with the CRA, then discussing different issues concerning political activities for registered charities.

### [MODERATOR SHORT RECAP OF DISCUSSION KEY THEMES]

### [AS TIME PERMITS] [DISCUSSION – IDEA GENERATION]

Now that we've had a more in depth conversation about the different issues concerning political activities, how do you think the CRA should handle political activities conducted by registered charities?

### [DISCUSSION – IDEA GENERATION]

Do you have any further comments or feedback to make concerning political activities of registered charities?

# Registered Charities' Political Activities Consultations – Discussion Guide

## 8.0 Final Questions (5 minutes)

Before we wrap up our conversation today I would like you to take a few minutes to complete the following questions based on our discussions today.

### [RATE]

To what extent would you say you agree or disagree with the following statements?

- CRA is committed to making the tax process as clear and understandable as possible
- CRA is looking for new ways to improve its services and the way it interacts with charities.
- CRA is an innovative and forward looking organization
- I am optimistic that my dealings with CRA will improve in the future.

Response items:

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree