

ADVOCACY, POLITICAL ACTIVITY AND FOREIGN FUNDING

What do we mean by advocacy, political activity, and partisan political activity when it comes to charities?

Charities are called on to promote or advocate for their mission as part of their day-to-day operations. While it does not itself use the term “advocacy,” the Canada Revenue Agency recognizes that much of this charitable activity is not subject to any restrictions or limits in the Income Tax Act. According to CRA guidance, “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. Even if the charity explicitly advocates that the law, policy, or decision by 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.”

CRA defines political activity as:

- a call to political action (such as encouraging the public to contact a public official in support of the charity’s position);
- communicating to the public that a law, policy, or decision should be retained or opposed; and,
- explicitly indicating in internal or external materials that the purpose of activity is to put pressure on elected representatives or public officials to retain, oppose, or change a law, policy, or decision.

Political activity must relate to a charity’s purpose, must be “well-reasoned” and must not contain any information the charity knows to be false, inaccurate, or misleading.

Partisan political activity is the direct or indirect promotion of a political candidate or party, or the direct or indirect opposition to a political party or candidate. Partisan political activity by charities is explicitly banned.

Should charities be involved in advocacy and political activity?

Charities play a critical role in Canadian society by supporting open conversations that strengthen democracy. In every major public policy discussion, charities have contributed to ensuring that diverse perspectives are heard, including those that are frequently under-represented or marginalized in comparison to established interests. Upholding the law has been long recognized as a charitable purpose. As such, it is legitimate for charities to participate in legal and regulatory review proceedings. Deeply rooted as they are in communities across Canada and around the world, charities provide a conduit to ensuring that community and minority perspectives are brought to the attention of decision-makers.

What sort of advocacy and political activity are charities involved in?

Charities in Canada have a long and proud history of public policy work. For example, health charities were instrumental in advocating for smoke-free environments and substantially reduced tobacco consumption. Similarly, charities have contributed to the creation of the Registered Disability Savings Plan, the Canadian Initiative for Maternal, Newborn and Child Health, and the Canada-United States acid rain treaty.

What sort of rules are in place regarding political activity?

The Canada Revenue Agency has established explicit regulations on political activity by the charitable sector and they can be found at:

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>

Charities, in general, are not allowed to devote more than 10 percent of their resources to political activity.

Charities are explicitly prohibited from endorsing or opposing political parties or candidates, or from endorsing or opposing political platforms.

What changes did Budget 2012 introduce regarding charities' involvement in political activity?

As a result of Budget 2012, charities must now complete a new **Political Activities Schedule** describing not only their political activities, but also the types of resources used. Foundations, for their part, will have to report funds granted explicitly for political activity as part of their own political activity. Charities will also have to report on foreign funds received explicitly to carry out political activity.

New intermediate sanctions will now allow the Canada Revenue Agency to temporarily suspend charities of their receipting privileges if they are found to have engaged in an inappropriate amount of political activity or if they incorrectly fill out their information returns. These sanctions apply to all aspects of completing the T3010, not just those sections that address political activities.

There is no change, however, to the right of operating charities to carry out political activity.

Should foundations be supporting the engagement of front-line charities in the public policy process?

An engaged and informed citizenry is a prerequisite of a healthy and robust democracy. We never know where the next good idea is going to come from and ensuring that front-line organizations have the capacity to develop and share policy recommendations and participate in the process helps maintain a wide-open marketplace of ideas.

Foundation support can help ensure that organizations are able to contribute to the debate on a range of public policy issues. Such support includes: researching best practices in other jurisdictions; providing economic and technical analyses of policy options; evaluating proposed policies and initiatives against established environmental, economic and social benchmarks; providing public education; and ensuring that relevant and reasonable laws and policies are implemented.

How should operating charities track their political activities in anticipation of completing the new T3010 form?

The requirement to report on the T3010 form resources allocated to political activities is not a new one. In light of the changes made in Budget 2012, however, charities now have to provide more details regarding these activities. Upon review of the new T3010 form, charities are encouraged to ensure that their tracking systems allow them to capture all the information required in anticipation of completion of the new form at the end of their fiscal year. While each organization's approach will be tailored according to its own internal operating systems, charities are encouraged to adopt an approach that will allow for consistency in their individual year to year reporting. Charities should be able to provide a reasonable and clear sense of the organization's level of engagement in these activities, if and when asked.

Would it be possible to restrict the advocacy and political activities of some charities but not of others?

Under the current regulatory regime, no, it would not. Currently under the Income Tax Act or at common-law, there is no mechanism that constrains the political activities of a registered charity based on its particular charitable purposes. Any restrictions on political activity apply to all registered charities.

Are charities allowed to accept funding from foreign sources?

Charities are allowed to accept funding from foreign sources. Similarly, Canadians are allowed to donate to causes they support in other countries. In some cases, Canadians are eligible to claim a tax credit on their income tax for donations they have made to foreign organizations. The T3010 form that charities must submit annually to CRA requires them to note if they receive funding from a foreign source for political activities. Foreign funding received for other purposes, in excess of \$10,000, must also be reported.

Why should charities be allowed to accept foreign funding?

Many issues and causes are international in scope. Just as individual Canadians are free to donate to overseas organizations they care about, or to Canadian organizations devoted to international causes, overseas donors and organizations support initiatives and causes based in Canada.

For example, the rich history of U.S.-based foundations supporting work in Canada includes:

- The Chrysler Foundation has supported the United Way of Calgary.
- The Annenberg Foundation has supported the city of Iqaluit's Recreation and Community Service Department and Housing and supportive programs for elderly individuals and homeless women and children.
- The Alfred P. Sloan Foundation has supported the Vancouver Aquarium.
- The Oak Foundation has supported the International Institute for Child Rights and Development through the University of Victoria.
- Andrew Carnegie built 125 libraries in Canada.
- More broadly, Canadian educational institutions across Canada have established support organizations in the U.S. for utilization of grants from U.S. donors, while also seeking grants directly.

How much U.S. funding do Canadian charities receive?

The Foundation Center in New York tracks grants provided by the largest charities and foundations in the United States, including grants made internationally. Its 2010 figures indicate total grants to Canadian charities of \$87.5 million. This compares to \$8.3 billion worth of donations that Canadians claimed income tax credits for in 2010. The funding reported by the Foundation Centre represents less than 0.1 percent of donations to Canadian charities.

How much foreign funding do environmental charities receive?

Based on information from the T3010 data file, there are roughly 1,400 charities that reported working in environment-related areas in 2011. About five percent of their total reported revenues came from outside Canada, for a total of just over \$66 million in 2011. At the same time, these organizations derived roughly 28 percent of total revenues from domestic receipted and unreceipted donations and fundraising.

Is it just environmental groups that receive support?

No. Foreign donors and charities are generous in supporting all types of charitable activities in Canada, including faith, environment, education, and health care, to name a few. As a result, charitable contributions from foreign sources have played a modest but important role in making Canada a healthy and vibrant society.

The range of Canadian charities receiving grants from the United States, for example, is as varied as the sector itself. Many of the largest grant recipients in 2010 are universities. Other recipients include foundations, health charities, hospitals, religious organizations and organizations providing services to the aboriginal population.

Why are U.S.-based funders supporting environmental groups in Canada?

Issues such as energy, forest and ocean conservation, and climate change are global in nature and attract international philanthropy. The support that flows into Canada is a testament to the perceived value and uniqueness of Canada's ecosystems to the global community. For example, our boreal forest is often characterized, like the Amazon, as the "lungs of the planet."

Just as Canadians fund rainforest protection in Brazil and send relief to the famine in East Africa, Americans reach out through philanthropy to support Canadian organizations working on issues – including energy and climate – that matter to the global community.

There are no boundaries for our air, water and salmon. People have the right to support what they care about, wherever those challenges are most pressing.

What is the nature of U.S. philanthropic funding for environmental work in Canada?

U.S. philanthropic funding addresses a wide range of challenges including: protecting wetlands, some of our most important and fragile ecosystems; restoring and enhancing fish-bearing streams and rivers; re-localizing farming and food production; building capacity and retraining workers to help build a Canadian green economy; supporting policy research and public engagement across a range of issues; and preparing Canadian communities to prosper in the low-carbon future. Strong and well-administered Canadian regulations ensure the transparency of all philanthropic contributions, regardless of origin.



Questions and Answers: Charitable Funders and Political Activities

Q1. Where can we find a definition of what constitutes a political activity by a charity?

- The best source is Canada Revenue Agency (CRA)'s policy document on political activities, CPS-022.
- CRA defines *political* activity (within the broader context of activities in support of charitable purpose) as:
 - a call to political action (such as encouraging the public to contact a public official in support of the charity's position);
 - communicating to the public that a law, policy, or decision should be retained or opposed; and,
 - explicitly indicating in internal or external materials that the purpose of activity is to put pressure on elected representatives or public officials to retain, oppose, or change a law, policy, or decision

Q2 How much can charities and charitable funders spend on political activities?

- CRA states that substantially all of a charity's activities must be devoted to charitable activities. The Agency uses an estimate of about 10% of a charity's total resources as an acceptable amount to allocate to political activities.

Q3. What is included in the resources to which the 10% resource limit applies? In the case of an endowed foundation, is it only income on invested capital or does it include the capital itself?

- The 10% resource limit applies to all of a foundation's resources, including financial, staff, volunteer or physical property. So a foundation's invested assets would be included, not just the income from the investment. The 10% resource limit should be viewed in conjunction with the overall requirement that charities devote substantially all of their resources to charitable purposes.

Q4. Do foundations need to track and report (on Form T3010), the *actual use* by the grantee of grant funds for political activities?

- No. Funders need to report as political activities the amounts that they *intend* to be used by grantees on political activities, regardless of how the amounts are actually used by the grantee.

Q5. Should we ensure that we have an internal policy statement on our funding of political activities?

- If you engage in funding political activity, it is a good idea to have a written policy statement on the types of activities that you are willing to fund.



Q6. How should we report grants that are intended to support both charitable and political activities?

- If a grant is intended to support both types of activity, you should specify in the grant agreement what portion of the grant is intended to be used for political activity. This portion is what is then reported as a political activity on your T3010.

Q7. How do we account for a grant in terms of our 3.5% disbursement quota, if a portion of it is intended for political activity?

- The portion of a grant intended for political activity cannot be used to meet a charity's disbursement quota.

Q8. Does participation in a public hearing process such as an environmental assessment hearing automatically constitute a political activity?

- No. A charitable funder or charity can make representations in such a hearing held by government on a particular issue and this would generally be considered a charitable activity. The charity's participation must fall within the guidelines for representations to government described in section 7.3 in the CRA policy on political activities, CPS-022. Other activities related to the hearing or the issue before the hearing, however, may be political.