

CRA Compliance for Independent Schools

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Agenda

- Review CRA audit process
- Review common compliance issues
- Update on the *Societies Act*

Audits and the compliance program

- Charities Directorate monitors compliance – audits are part of compliance program
- “Education first” approach
 - website
 - outreach program
 - client service program
 - reminder letters
 - **audit program**

Audits and the compliance program

- CRA audits approx. 800 to 900 charities per year
- Reasons for selection
 - random selection
 - referral from another section of CRA
 - complaints from public
 - publicly available media
 - review of specific *Income Tax Act* obligations
 - information from annual return
 - follow-up on compliance agreement

Audit process

- Two types of audits: field and office
- Field audit
 - 3 to 5 days at charity's premises
 - director or representative present to answer questions
 - auditor will examine books and records – see handout
- Office audit
 - conducted at CRA office
 - common for following up with compliance agreement

Audit results

- CRA will send letter outlining results
- Where no issues, will confirm in writing
- Where potential issues, will
 - outline concerns
 - give preliminary view of corrective actions
 - give opportunity to respond within 30 days

Audit results

- “Education first” approach applies
- Four compliance approaches
 - education letter
 - compliance agreement
 - sanctions
 - revocation
- Can also result in annulment

Audit results

- Education letter
 - minor non-compliance
 - guidance letter
 - no response necessary
- Compliance agreement
 - moderate non-compliance
 - outlines issues and remedial actions
 - sets out timelines and consequences

Audit results

- Sanctions
 - serious or repeated non-compliance
 - financial penalties or temporary suspension of receipting privileges
- Revocation
 - revocation generally last resort but can be first step if non-compliance intentional, substantial or repeated

Audit results

Outcome	2015-2016
No further action	40
Education letter	444
Compliance agreement	111
Voluntary revocation	22
Penalties or suspensions	4
Notice of intention to revoke	21
Annulment	59 (13 in 2013-2014, 14 in 2014-2015)
Other	25
TOTAL	726

Audit preparation

- Involve professional advisors early
- Engage in pre-audit review
- Must provide auditor all reasonable assistance
 - respond on a timely basis
 - carefully choose representative
 - do not provide more information than requested
 - **can ask that question be put in writing**

Audit preparation

- CRA cannot view documents subject to solicitor-client privilege
 - protects advice and direction received from lawyer
 - can be waived by disclosure
 - if dispute, seal document and retain pending agreement or court order
- No privilege between accountant-client

Audit preparation

- If areas of non-compliance, seek to address before audit – document all remedial steps
- Possible voluntary disclosure (with legal advice!)
 - duration and extent
 - amount of resources involved
 - explanation of how arose, mitigating circumstances
 - remedial steps taken or proposed

Common compliance issues

- In 2015-2016, most commonly identified concerns:
 - incorrectly issued donation receipts
 - annual return errors
 - inadequate books and records
 - non-charitable purposes or activities
 - non-filing of T4/T4A slips

Compliance: receipts

- Incorrectly issued donation receipts
 - mandatory information missing
 - name and address does not match CRA file
 - receipting practices not properly controlled
 - valuations for gifts-in-kind not supported
- Review receipts regularly

Compliance: receipts

- Do your receipts include the middle initial of donor?
Amount of any advantage and eligible amount?
- For gifts-in-kind, do your receipts include name and address of appraiser?
- **Updated website: canada.ca/charities-giving**
- Update receipts by March 31, 2019

Compliance: receipts

- Lost receipt
 - can issue replacement
 - include serial number of lost receipt
 - state that cancels and replaces lost receipt
 - mark copy of lost receipt as “cancelled”
- Spoiled receipt, i.e., mistake on first receipt
 - can collect original, issue new receipt
 - state that cancels and replaces spoiled receipt
 - keep both original receipts, mark as “cancelled”

Compliance: receipts

- Can issue receipt for providing religious education
- Generally receipted in amount of tuition less “cost per pupil” of secular education
- Be prepared to substantiate “cost per pupil”
- For more information, see IC75-23

Compliance: annual returns

- Annual return errors
 - amount of gifts for which receipts issued
 - amount spent on charitable programs
 - personal information of directors, trustees
- Compare carefully against financial statements
- Do not leave blank return fields
- Within six months after fiscal year-end

Compliance: books and records

- Inadequate books and records
 - missing copies of donation receipts
 - missing expense receipts
 - accounting details inconsistent with annual return
- Must be able to verify revenues, expenditures on charitable activities and that purposes and activities are charitable

Compliance: books and records

- Must keep at address on file, including books and records related to activities outside Canada
- Electronic formats acceptable, subject to same rules
- Should keep backup
- Must retain in accordance with ITA

Compliance: books and records

- Retention periods
 - governing documents – life + 2 years
 - Board and member minutes – life + 2 years
 - copies of donation receipts – minimum 2 years
 - records for 10-year gifts – life + 2 years
 - general ledgers and accounts necessary to verify entries – 6 years or 2 years after life
 - financial statements, source documents and annual returns – 6 years or 2 years after life

Compliance: books and records

- Documents not subject to ITA still potentially subject to BC *Personal Information Protection Act*
- Under PIPA, if personal information used to make decision about individual, retain for at least one year
- Destroy or anonymize documents with personal information as soon as
 - purpose of collection not being served, and
 - retention unnecessary for legal or business purposes

Compliance: purposes or activities

- Non-charitable purposes or activities
 - purposes not exclusively charitable
 - activities not exclusively charitable
 - activities charitable but not permitted by purposes
- Especially if constitution not reviewed recently
- Changes to constitution and bylaws must be filed

Compliance: purposes or activities

- Review purposes and activities
- Schools often carry out activities beyond core educational mandate
 - Relief of poverty locally and globally
 - Advancement of religion through worship services, missions and other evangelization
- Do you have activities outside of Canada? **Must maintain direction and control**

Compliance: purposes or activities

- Related business
 - Business run substantially by volunteers
 - Business linked to purpose and subordinate to purpose, e.g., a use of excess capacity
- If renting out space, consider fair market value

Common compliance issues

- Non-filing of T4/T4a slips
 - do not issue T4/T4a slips
 - do not maintain records
- Ensure meeting payroll and employment obligations

Societies Act update

- Charity **must** maintain status as legal entity
- Transition requires filing transition application by November 28, 2018
 - opportunity to update constitution and bylaws
- Over 27,000 societies in BC
- Fewer than 8,500 have transitioned
- Refer to SCSBC resources

Thank you for attending.

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