

TABLE OF CONTENTS

Introduction	21
Churches and Denominations: A Special Note About Terminology	23
SECTION I - Charities: Structures & Activities.....	25
Chapter 1: Establishing A Canadian Charity.....	27
Before Starting a New Charity	28
Choosing the Name	28
Selecting Board Members	28
Ineligible Individuals.....	29
Declaration of Not Being an Ineligible Individual.....	32
Clarifying the Group’s Purpose	32
Drafting Purposes for Charitable Registration	33
Additional Considerations under Corporate Statutes.....	34
Deciding on the Organizational Structure	35
Advantages of Incorporation	35
Obligations Associated with Incorporation	36
Considering the Options Available in Canada	37
Operating Without Incorporating	37
The Governing Documents.....	40
Establishing the Powers and Special Provisions in the Initial Governing Document	43
Developing Bylaws	44
Clearly Defined Membership	45
Membership Eligibility.....	45
Members’ Rights and Remedies	46
Members’ Meetings	46
Directors’ Qualifications	47
Applying to CRA for Registered Charity Status	48
Description of Actual/Prospective Charitable Activities.....	49
Denial of Registration and the Appeal Process	50
Grounds for Refusing Charitable Organization Status	50
Registering in Quebec.....	51
Sample Document: Declaration of Not Being an Ineligible Individual	52

Chapter 2: Charitable Organizations and Private or Public Foundations	53
Arm’s Length Defined	54
Charitable Organizations: Characteristics	55
Control Test.....	55
Summary of a Charitable Organization’s Characteristics.....	56
Charitable Foundations	57
Charitable Public Foundation: Characteristics	57
Minimum Number of Trustees for Public Foundation	58
Summary of a Public Foundation’s Characteristics	58
Charitable Organizations, Public Foundations, and the Control Test	59
Charitable Private Foundation: Characteristics.....	59
Summary of a Private Foundation’s Characteristics.....	60
Changing a Charity’s Designation.....	60
Chapter 3: Carrying Out Charitable Activities.....	63
Charitable Activities	63
Qualified Donees.....	64
Using an Intermediary to Carry Out Charitable Activities Outside Canada.....	66
Using an Intermediary to Carry Out Charitable Activities Within Canada.....	66
Charities Must Carry Out Their Own Activities	67
Direction and Control.....	67
Types of Intermediaries.....	68
The “Charitable Goods Policy”	69
Transfers to Qualified Donees.....	71
The Meaning of “Income” for the Purposes of Transfers to Qualified Donees	72
Transfers to Qualified Donees Not From Income	72
Associated Charity Status	72
Chapter 4: Scholarship & Student Aid Programs	75
Establishing a Scholarship or Bursary Fund	75
Tax Implications of Scholarships and Bursaries.....	76
Reporting Requirements for Institutions that Issue Scholarships and Bursaries	77
Social Assistance Payment or Bursary?	78
Chapter 5: Related Business Activities	79
Mixing Charitable and Business Activities	79
What is a “Business”?.....	79
Related Business Activities	80
Linked and Subordinate Businesses.....	81

Meaning of “Linked”	81
Meaning of “Subordinate”	82
Activities That Are Not Considered to be a Business.....	83
Consequences and Penalties.....	85
A Possible Alternative	86
Chapter 6: Advocacy, Political Activities, and Lobbying	89
Charitable, Permitted Political, and Prohibited Political Activities.....	89
Political or Charitable Activity?	90
Permitted Political Activities.....	91
Tracking the Use of Resources for Political Activities	92
Prohibited Partisan Activities.....	92
Charitable Activities In the Public Square.....	94
Making a Representation to Government	94
Public Awareness Campaigns.....	95
Religious Teaching on Moral Issues.....	96
Representatives of a Charity Involved in Political Activities on their Own Time	97
Charities as Lobbyists.....	98
Who is a Lobbyist?	98
What is Lobbying?	99
What is Not Lobbying?	99
Who Can be Lobbied?	99
The Registry of Lobbyists	100
The 20 Percent Rule.....	101
Initial Registration and Monthly Returns.....	101
Recommendations.....	102
Chapter 7: <i>Income Tax Act</i> Penalties Applicable to Charities	105
Infractions Triggering Intermediate Sanctions	105
Late Filing of the T3010	105
Inaccurate or Incomplete Information on T3010	106
Incorrect Receipts.....	106
Receipts Containing False Information.....	106
Failure to Keep Adequate Books and Records	107
Unrelated Business	107
Foundation Acquiring Control of a Corporation	107
Undue Personal Benefit.....	108
Delay of Expenditures to Circumvent the Disbursement Quota	109
Inappropriate Transfer of Property by a Foundation to Circumvent the Disbursement Quota	109
Private Foundations.....	109

Political Activities	109
Implication of the Suspension of Receipting Privileges	110
Public Disclosure of Penalties	110
Penalties: A Charity's Right to Object and Appeal	111
Summary of Penalties.....	111
Chapter 8: Operational Issues.....	113
Liability Insurance	113
Computer Backups.....	113
Personal Information Privacy Policy.....	114
Canada's Anti-Spam Legislation ("CASL").....	114
Fiscal Year-End Changes.....	115
Copyright	116
Do Not Call List.....	118
Chapter 9: Reorganization and Revocation.....	119
Merging or Amalgamating Charities	119
Amalgamation, Merger, or Consolidation?.....	120
Reasons for Revocation of Charitable Status	121
Revocation by Voluntarily Winding Up.....	122
Summary of the Revocation Process	123
Obligation to File Returns.....	124
Revocation Tax	124
Revocation Tax: Possible Liability of Third Parties	126
Revocation Tax: Abandonment of Notice of Intent to Revoke Status.....	126
Winding-up Period	127
A Charity's Right to Object and Appeal.....	128
Transfer of Property and Trust Law Considerations.....	128
Annulment	129
SECTION II - Gifts & Receipts	131
Chapter 10: Donor Gifts to Charities.....	133
Gifts: The Basics.....	133
Definition of a Gift	133
Charity's Requirements to Reduce Donor Gifts (Advantage, Benefit, or Compensation).....	134
Use of Unreceipted Gifts.....	135
How to Deal with Non-Cash Gifts: Gifts-in-Kind.....	135
Establishing a Value for Gifts-in-Kind	136

Tax Paid on Gifts-in-Kind	137
When the Value of a Gift-in-Kind Must be Reduced to the Donor's Cost	137
Special Considerations for Specific Gifts-in-Kind	139
Timeshares	139
Gift Certificates.....	139
Reward Points.....	140
Gifts with Strings Attached	141
Donor-Restricted or Directed Gifts.....	141
Cy-près Applications.....	141
Why Every Charity Should Have a Donor-Restricted Gift Policy.....	142
The Problem with Gifts Given for the Purpose of Channeling or Funneling through a Conduit Charity.....	143
Can this Donation Be Receipted?.....	143
Channelling Either Receipted or Unreceipted Funds To Foreign and Sister Organizations.....	145
Individuals.....	146
Gifts Collected for Individuals in the Form of a "Love Offering" in Churches.....	146
Donations to Support Missionaries and Mission Programs.....	147
Donations for Projects Where a Linkage Exists Between Donor and Project.....	148
Deputized Fundraising	148
Short-Term Missions Projects.....	150
Gifts to Cover Travel Expenses.....	152
Donations for External Short-Term Projects.....	152
Donations to a Benevolence Fund	153
Gifts: Some Practical Issues	154
Donor Lists.....	154
December 31st and Gifts Made by Mail.....	155
Dishonoured Cheques.....	155
Online Donations Through a Third Party Payment Transfer Agent.....	155
Returned Gifts	156
Loose Offerings	157
Receipting Gifts of Nominal Value.....	157
Gifts to Universities Outside of Canada.....	157
Gifts to U.S. Charities by Canadian Residents Employed in the U.S.	157
Gifts by Canadian Residents from Their U.S. Sourced Income.....	157
Chapter 11: Split-Receipting.....	159
Split-Receipting: Advantage and Eligible Amount of a Gift	159
The Scope of Advantage	160
<i>De minimis</i> Threshold	161
Examples Where a Benefit is Not an Advantage that Reduces the Eligible Amount of a Gift.....	161

Payments to Members, Directors, and Trustees	161
Membership Fees	162
Refreshments at Meetings.....	162
Free Dinners.....	163
Receiving Donations for Dinners.....	164
Examples of Donor Benefits that Reduce a Gift.....	164
Discounts to Members and Donors Including Facility Rentals.....	164
Promotion of a Donor’s Economic Interests.....	165
Fundraising Events	165
Common Fundraising Scenarios.....	166
Fundraising Dinners.....	166
Sponsoring or Buying a Table of Tickets	167
Golf Tournaments	168
Auctions.....	169
Split-Receipting Summary	170
Chapter 12: Official Receipts	171
Form and Content of Official Receipts.....	171
Technical Compliance Mandatory	172
Sample Receipt for Cash Donations in 2016.....	173
Sample Receipt for Non-Cash Donations in 2016	174
Date of Gift.....	174
Name of Donor	174
Signature on the Official Receipt	175
Electronic Receipts	176
Replacing Official Receipts	176
Transfers from Other Charities	177
Receipting for Individuals Taxable in Quebec.....	177
Caution: Charities Must Not “Lend” Registration Numbers	177
Chapter 13: Charities Operating and Funding Religious Schools	179
Schools Providing Religious Instruction Exclusively	180
Schools Providing General Education and Religious Instruction.....	180
Calendar Year Contributions	186
Funding Charities.....	186
Definitions	187

Chapter 14: Deferred Gifts	189
Gifts Made Through a Will.....	189
Restricted Gifts	189
Gifts Made Through a Trust.....	190
A Revocable Trust.....	191
An Irrevocable Trust.....	192
Remainder (Residual) and Equitable Interests	192
Benefits of a Residual Gift.....	193
Considerations for Charities before Accepting Gifts via Trust	193
Loans	194
Charitable Gift Annuity	194
Life Insurance	195
Gifts of a Residual Interest in RRSPs, RRIFs, and Tax Free Savings Accounts (TFSA).....	197
Chapter 15: Tax Treatment of Charitable Gifts	199
Reducing Income Tax Payable - Tax Credits and Deductions	199
Charitable Tax Credits for Individuals	199
First-Time Donor's "Super Credit"	200
Carry-over of Charitable Gifts.....	201
Gifts Resulting from a Death Occurring Prior to 2016	201
Gifts for Deaths After 2015	202
Graduated Rate Estate.....	203
Charitable Gift Deduction for Corporations	203
Tax Treatment of Gifts-in-Kind.....	204
Tax Treatment of Capital Property in General.....	204
Gifts of Appreciated Capital Property	205
Special Tax Provisions for Charitable Donations of Capital Property	206
Gifts of Shares to Private Foundations.....	208
Gifts of Securities Received Through an Employee Stock Option Plan.....	208
Gifts of Non-Qualifying Securities	209
Real Estate Donations	210
Recognition of Capital Gain for the Donor	211
Loanbacks.....	211
Gifts of Business Inventory.....	212
Other Tax Deductions Available for Specific Types of Gifts	213
Gifts of Medicine from Inventory	213
Gifts of Cultural Property and Ecological Gifts.....	214
Gifts to Prescribed Donees.....	215
Gifts of Registered Pension Plans	215

SECTION III - Employment Issues217

Chapter 16: The Employment Relationship.....219

Independent Contractors219

Determination of Relationship219

 Control.....220

 Ownership of Equipment and Supplies221

 Profit Opportunity and Loss Risks.....221

 Integration of the Work with the Worker’s Economic Activities.....222

Questions for Analysis222

Contracts For Services223

Employer Responsibilities224

Hiring New Employees and Social Insurance Numbers.....224

Record of Employment (ROE) Form225

 When Does an Interruption of Earnings Occur?225

Unpaid Interns.....226

Working with Volunteers227

 Vicarious Liability228

Intern/Volunteer Agreements228

Chapter 17: Income Tax for Individuals Engaged in Ministry.....231

What is Included in Employment Income?232

Note on Payroll Deductions233

Note on GST/HST and Taxable Benefits.....233

Allowances versus Reimbursements of Ministry Expenses233

Reimbursements versus Accountable Advance234

Exempt Allowances235

 Motor Vehicle or Transportation Allowances.....235

 Book Budgets/Allowances237

 Tuition for Children Attending Boarding Schools237

Employee Benefits and When They Must Be Included in Employment Income.....238

 Accommodation Supplied by Employer238

 Automobile Supplied by Employer.....239

 Calculating the Standby Charge240

 Calculating Automobile Operating Expense Benefit241

 Employer-Provided Motor Vehicles Required to be Taken Home at Night.....242

 GST/HST.....242

 Cell Phone and Internet Services242

 Childcare243

 Death Benefits.....243

Gifts from Employers	243
Group Benefits	245
Loans and Employer Financing (Generally and for Homes).....	246
Rates for Home Purchase or Home Relocation Loans.....	247
Home Relocation Loan Deduction	248
Reimbursement of Loss Due to Home Relocation	248
Loyalty Programs	248
Moving Expenses	249
Parking Provided by Employer.....	249
Private Health Services Plan.....	249
Travel	249
Tuition and Education for Employees	250
Tuition/Education Assistance for Employees' Family Members	250
Income-Related Deductions and Credits.....	251
Child Care Services.....	251
Moving Expenses	251
Northern Residents Deductions.....	253
Travel Expenses.....	254
Tuition and Education Credits	254
Chapter 18: Clergy Residence Deduction.....	257
Deduction Overview	257
Individuals Eligible for the Clergy Residence Deduction.....	257
The Status Test.....	258
Members of the Clergy	258
Regular Minister of a Religious Denomination	258
Member of a Religious Order.....	259
The Function Test.....	259
Ministering.....	259
Congregation	260
Full-time Administrative Service.....	260
Appointment by a Religious Order or Religious Denomination.....	260
Teaching and the Function Test.....	261
Religious Order	262
Obtaining an Advance Ruling for Religious Order Status.....	263
How to Determine the Body that is the Religious Order	263
Summary of Eligibility for the Clergy Residence Deduction	264
CRA Form T1223 <i>Clergy Residence Deduction</i>	265
Part B Section 4 - Conditions of Employment and Job Description.....	266
CCCC Suggestions for Preparing Job Descriptions	266
Box 30 of the T4 Slip.....	268

Payroll Administration and the Clergy Residence Deduction.....	270
Income Tax.....	270
Employment Insurance (EI).....	272
Canada Pension Plan (CPP).....	272
Chapter 19: OAS, CPP, EI, and Social Security Agreements	275
Social Security Agreements	275
Old Age Security	276
Exception to the “40-Year Rule”	276
Requirements to Receive a Partial Pension	277
Special Deemed Residence Rules for Missionaries and Charity Workers.....	278
Canada Pension Plan	278
CPP and Time Limitations.....	279
CPP and Employment in Countries Not Having a Social Security Agreement with Canada.....	279
Employment Insurance (EI) and Missionaries.....	280
Chapter 20: Non-Resident Withholding Tax.....	283
The General Withholding Rule	284
Who is a Non-Resident Person?.....	284
What is Required to be Withheld?.....	284
Remitting and Records.....	285
Steps the Non-Resident Service Provider Should Take.....	286
Potential Cost for Non-Compliance	286
Waivers: Relief from the General Rule.....	286
Relief from Tax Withholding Through Reciprocal Tax Treaties	287
Payments to Non-Resident Employees for Services	288
Chapter 21: Residency and the Income Tax Act	289
Residency for Income Tax Purposes	289
Determining Factual Residency	290
Determining Deemed Residency	292
SECTION IV - Annual Reporting & Keeping Records	293
Chapter 22: Disbursement Quota.....	295
Background to the Disbursement Quota	295
The Disbursement Quota: Capital Accumulation (3.5%).....	295
The 3.5 Percent Disbursement Quota Formula.....	296
Calculating the Disbursement Quota.....	296

Provisions Providing Charities Relief from the Disbursement Quota	298
Carry Over Provision.....	298
Permission to Accumulate Funds	298
Application for Reduction of Disbursement Quota.....	299
Anti-Avoidance Provisions.....	299
Transactions to Avoid or Delay Charitable Spending	299
Gifts between Related Charities and Designated Gifts	300
Chapter 23: T3010, Registered Charity Information Return	303
TF725, <i>Registered Charity Basic Information Sheet</i>	304
The Purpose of the T3010, <i>Registered Charity Information Return</i>	305
The T3010 Format.....	306
Section A: Identification	306
Section B: Directors/Trustees and Like Officials.....	308
Section C: Programs and General Information.....	308
Section D: Financial Information	312
Financial Statements	313
Schedule 6: <i>Detailed Financial Information</i>	313
Assets and Liabilities	313
Revenue and Expenditures.....	315
Section E: Certification	319
Common Errors in Completing the T3010	319
The Return Summary	322
Chapter 24: CRA’s Regulation of Fundraising Activities.....	323
Fundraising or Charitable Activity?.....	323
What is Fundraising?.....	323
Allocation of Fundraising Expenditures	324
Allocation of Expenditures	325
Unacceptable Fundraising	329
Concluding Tips	329
Chapter 25: Reporting Requirements.....	331
Payroll Remittances and Penalties.....	331
T4 and T4A Information Returns in General	331
T4s	332
T4As	332
Preparing the T4 Slips	332
Preparing the T4 Summary.....	338
Amending T4 and Other Slips.....	338

Dealing with a PIER Report.....	338
Social Assistance and the T5007 Summary Requirement	339
Recipients of Social Assistance Payments	340
Benefit Payments to Former Employees.....	340
T5s and Payment of Interest to Members and Supporters.....	340
T3s and Trusts.....	340
U.S. Social Security.....	340
Chapter 26: Books and Records	343
Why Good Record Keeping Is Important.....	343
Getting Started.....	343
Audits	344
ITA Requirements.....	345
CRA Requirements	345
Privacy Considerations	346
What are Books and Records?	346
How Long Should Records be Kept?	347
Record Keeping for Human Resource Purposes	348
Electronic (Income Tax) Records	348
Electronic Imaging of Income Tax Records.....	348
Record Retention for GST/HST Purposes.....	349
When There is No Statutory Obligation to Keep a Particular Record.....	349
Inadequate Books and Records Case Law.....	352
Record Retention with Foreign Activities	353
Using Intermediaries	354
Written Agreements.....	354
Agents.....	355
Joint Ventures	356
Record Keeping Issues that Arise with Foreign Activities Original Source Documents	357
Requirement to Keep Records in Canada.....	358
Capital Property in a Foreign Country	358
Anti-Terrorism.....	359
SECTION V - Accounting & Financial Issues	361
Chapter 27: Budgeting.....	363
Strategic Planning is the Context for Budgeting	363
The Budget Process.....	363
Developing the Budget.....	364

Revenues.....	364
Expenses	364
Integrate Cash Flow Projections to Avoid a Cash Shortfall.....	364
Borrowing.....	365
Reporting & Monitoring	365
Program Evaluation.....	366
Common Budget Issues.....	366
Communication.....	366
Capital Expenses	366
Department “Silos”	367
Monitoring of Budgets	367
Unrealistic Projections.....	368
Chapter 28: Accounting Systems.....	369
Accrual Versus Cash Method of Accounting.....	369
Division of Funds	370
General Fund	370
Capital Fund	371
Other Funds	371
Handling Cash Receipts.....	371
Handling Disbursements	371
Importance of Internal Control	372
Classification of Accounts.....	372
Chapter 29: Financial Statements and the External Audit.....	375
Statement of Financial Position (Balance Sheet).....	375
Statement of Operations and Changes in Fund Balances (Income Statement).....	377
Function and Object Reporting	378
Statement of Cash Flows.....	378
Notes to the Financial Statements.....	378
Auditors’ Report.....	379
When Should a Charity Have an Audit?.....	380
Board Audit Committee.....	383
Audit Committee Checklist of Questions	383
Review of Financial Statements	384
Review Guidelines	384
Review Program.....	385
Review Report	387

Chapter 30: GST and HST	389
GST/HST Rates	390
A Note About Quebec Sales Tax (QST)	391
Definition of Charity for GST Purposes.....	391
SECTION 1: Overview of GST/HST	394
Background to GST.....	394
Background to HST.....	395
General GST/HST Principles	395
SECTION 2: Categories of Supplies under GST	396
Place of Supply	396
Zero-Rated Supplies	396
Exempt Supplies.....	397
ITCs or Rebates for Exempt Supplies.....	398
Supplies by a Charity that are Taxable	400
Fundraising Dinners.....	403
Taxable Supplies that are Sometimes Exempt	403
Supplies Made for Free or at Cost	403
A Supply that is Made up of Both Taxable and Exempt Supplies	404
SECTION 3: Small Supplier Rule.....	405
Small Supplier Rule and Chapters, Branches, or Divisions.....	405
Small Supplier Rule and the Definition of Gross Revenue	406
SECTION 4: When Registration for GST is Required	407
Charities and Remitting Collected GST	408
Input Tax Credits (ITCs).....	408
The Simplified Method for Remitting GST	408
GST/HST Registrants not Using the Simplified Method to Remit GST	411
GST Registrants and Reporting Periods	413
SECTION 5: Miscellaneous GST/HST Issues (for Registrants and Non-Registrants).....	414
GST Collected in Error	414
The Obligation to Self Assess for GST on Purchased Goods and Services - Even if not a GST Registrant.....	414
SECTION 6: Public Service Body Rebates for GST Paid by Charities - Even if Not a GST Registrant.....	415
Eligible Purchases and Expenses	416
Calculating the Rebate.....	416
Employee/Volunteer Allowances and Reimbursements.....	417
SECTION 7: Other Miscellaneous Rebates.....	418
Exported Supplies	418
100 Percent Rebate for Purchases of Printed Books	419
Rebate for Property or Services Removed from a Participating Province.....	419
Federal Excise Gasoline Tax Refund	420

APPENDICES 421
 Appendix A - Sample Joint Ministry Agreement..... 423
 Appendix B - Sample Agency Agreement 437
 Appendix C - Sample Co-operative Participant and Trust Agreement..... 443

INDEX 449