Canada Customs and Revenue Agency Charity Audits*

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I. Introduction

The Canada Customs and Revenue Agency (CCRA) has very extensive audit powers available to it in auditing registered charities. It is important for a charity and its legal advisors to understand how the CCRA uses those powers in order for the charity to know how to deal with a CCRA auditor. It is also important, particularly for professional advisors to charities, to understand the current issues which concern the CCRA Charities Directorate and are therefore likely to give rise to an audit or cause difficulty during an audit.

The first part of this article therefore explains the CCRA's audit authority and publicly available audit policies and gives tips on dealing with CCRA auditors. The second part of the article provides an informed view of what CCRA charities auditors are most interested in finding.

II. CCRA Charities Audits

The focus of this article is CCRA Charities Directorate audits. It does not examine other kinds of CCRA audits that charities may be subject to, such as GST audits or payroll audits. Although the statutory authority for[1] and some of the approaches applied by the CCRA during these other audits are similar, the issues that will preoccupy the CCRA during a Charities Directorate audit will obviously be quite different.[2]

Although the CCRA Charities Directorate administers its own audits, in the recent past it used auditors from Consulting and Audit Canada[3] to perform charities audits.[4] This is generally not a good thing.[5] In many cases, Consulting and Audit Canada auditors (whose usual job is to provide financial audit services to Federal Government entities) either do not have the knowledge necessary in order to permit them to find obvious violations of the *Income Tax*

* This article was developed from a presentation at an October 18, 2002 conference in Vancouver sponsored by the Continuing Legal Society of British Columbia. The author wishes to thank Michelle Fernando, Student-At-Law, Miller Thomson LLP, for her assistance with an earlier version of the article. [As a service to readers the author has provided a number of Updates and Revisions as of June 2003. These will be found following the "Footnotes" and are noted as [Inserts A to H] in the text.]

Act[6] (the *Act*), or they fixate on irrelevant considerations.[7] Howevr, a recent trend has seen the replacement of Consulting and Audit Canada auditors with CCRA auditors from the local CCRA Tax Services Office.[8] Unless the training provided to such auditors is dramatically better than that provided to Consulting and Audit Canada staff, it is difficult to see this as an improvement. Indeed, since some Consulting and Audit Canada staff have developed knowledge of charities, the changeover to local CCRA auditors may result in a decline in audit quality in the short term. As well, some CCRA tax services auditors may attempt to pursue their primary mandate which is to maximize tax revenue in ways which are inappropriate to tax-exempt registered charities.[9] It is unfortunate that budgetary constraints (presumably) prevent the CCRA Charities Directorate from using its own dedicated staff of charities auditors (as was the case in the past).[10]

1. *CCRA Audit Authority*

1.1 *Audits*

The *Act* provides the CCRA with an escalating series of information-gathering tools.[11] At the first level, the CCRA is given the authority pursuant to section 231.1 to inspect any of a taxpayer's records that the *Act* requires to be kept.[12] While the records which are required to be kept by a charity will be discussed below, note that the *Act* defines "record" very broadly to include any store of information rather than merely financial records.[13] Although the *Act* provides for revocation of a charity's registration for failure to co-operate with a CCRA auditor, these provisions are not likely to be applied unless the situation is particularly egregious, given the CCRA's other verification powers which are described below.

1.2 *Requirements*

Section 231.2 of the *Act* authorizes the CCRA to issue what is referred to as a "Requirement", i.e., a requirement to provide information to the CCRA.[14] There are numerous circumstances that may cause the CCRA to issue Requirements in the context of a charity audit. On one hand, if the CCRA conducts an audit and finds that some record which ought to have been kept is not being made available, it can issue an official Requirement.[15] On the other hand, anecdotal evidence suggests that Requirements are sometimes used as an intimidation tactic by inexperienced auditors to demand records which are not required to be kept and which are irrelevant to a charity's compliance with the *Act*.[16] Finally, the CCRA can issue a Requirement which is driven, not by the charity's compliance issues, but by another party's tax issues. For example, if the CCRA decides to examine the validity of a gift by a charity's donor, it can issue a Requirement to the charity to provide information about the gift.[17] [Insert A]

The receipt of a CCRA Requirement by a registered charity is a very serious matter. The potential penalty for the charity is revocation of registration[18] – a

more realistic possibility in this context than at the initial audit stage. As well, if the Requirement is addressed to an individual staff member at a charity, that individual could be subject to fines and/or imprisonment if the Requirement is ignored.[19] Legal advice should be sought immediately when a Requirement is received, particularly given that the only way to attack a Requirement is to seek judicial review at the Federal Court Trial Division[20] within 30 days of the date of service of the Requirement (assuming that the charity or staff person is not willing to ignore the Requirement and then defend against the revocation of registration or personal criminal charges on the ground that the Requirement was defective in some way).[21]

1.3 *Search Warrants*

Finally, the CCRA can also issue search warrants pursuant to section 231.3.[22] The issuance of a search warrant is very serious and indicates the possibility that the CCRA is investigating criminal wrongdoing. In such circumstances, legal advice should be obtained immediately (on both a tax law basis and a criminal law basis[23]).

2. *CCRA Audit Philosophy*

CCRA brings a particular philosophy to its audits. The Agency states that it audits charities to ensure that they are complying with the requirements of the *Act*.[24] A useful way to think about CCRA charities audits is to bear in mind that the CCRA will seek to discover through its audit whether the charity is in both financial compliance and in activity compliance.[25] Financial compliance refers to whether the charity is receipting properly and spending its resources properly and otherwise keeping proper financial records. Activity compliance refers to whether the charity's activities are in furtherance of its charitable purposes and otherwise in compliance with the tax law and the CCRA's administrative positions.[26] An audit of this kind requires examination of not only the financial records but also of a variety of other materials that reveal the activities of the charity and clarify the purpose for such activity, such as correspondence, reports, pamphlets, video recordings, etc. Consulting and Audit Canada auditors, who have been trained as financial auditors, were not well suited to this task.

The audit process endeavours to be confidential. As such, the CCRA is restricted from revealing to anyone, including the media and the charity's members, information that is obtained during an audit (including even whether an audit has occurred).[27] It should be noted that the report of the Voluntary Sector Initiative Joint Regulatory Table (the *JRT Report*) considered relaxing the audit confidentiality rules (on the basis that charities, unlike other taxpayers, have a public duty) before concluding that it would only recommend disclosure of the existence of a compliance action (such as an audit), if the action resulted in the application of serious sanctions.[28]

3. *CCRA Audit Selection*

There is a variety of methods applied by the CCRA to select charities to be audited. First, the CCRA has in place a selection process that it insists is random,[29] although it refuses to provide details as to how it works.[30] Second, carrying on certain types of activities that are perceived by the CCRA to be problematic or particularly open to noncompliance may trigger an audit (as will be discussed in Part III of this article).

Finally, a complaint brought against a charity will also trigger an audit by the CCRA. Any individual may request from the CCRA the constating documents, T2050 Application for Registration and any T3010 Information Return for any registered charity.[31] Quite frequently it is possible to find violations of the *Act* by a registered charity by performing a cursory review of its T3010 Information Return. Although not everyone's purpose in ordering and reviewing T3010s is nefarious, mischief makers who may be opposed to the charity's work may simply report a violation or perceived violation to the CCRA.[32]

4. *The Audit Philosophy of a Registered Charity*

An organization which is facing an audit should develop an audit philosophy to enable its staff to cope with the situation as well as possible. The CCRA auditor is neither friend nor foe. The auditor's proper goal should be to ensure that the subject organization is in compliance with the *Act.* As such, the auditor should be treated with respect. This is especially true given that the auditor has significant ability to influence the tone and content of the field report and, indirectly, the Charities Directorate report.

The *Act* requires an audit subject to provide "all reasonable assistance" to an auditor[33] and makes it a specific offence (punishable by revocation of charitable registration[34]) to "attempt to interfere with, hinder or molest any official doing or prevent or attempt to prevent an official from doing, anything that the official is authorized to do under this *Act.*"[35] Thus, it is important for a charity to provide the auditor with the required information and access.

5. *Income Tax Act Record Keeping Requirements*

There are a number of difficult issues around the margin of what constitutes a record and how detailed record keeping needs to be for tax purposes generally. However, this article will deal only with the issues in a charity-specific context.[36]

Section 230(2) of the *Act* is the primary record keeping obligation for a registered charity. It requires that:

> Every registered charity and registered Canadian amateur athletic association shall keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing

(a) information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act;

(b) a duplicate of each receipt containing prescribed information for a donation received by it; and

(c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under this Act.

It is relatively clear that a charity must keep duplicate receipts and documents to support the details of its donations received. However, the scope of paragraph 230(2)(a) is less clear.[37] Essentially, this provision requires that a charity keep sufficient records to demonstrate that all of its activities have a charitable purpose. This requires that the charity exercise considerable discretion in deciding what records to keep. However, in all cases, a charity must not destroy records if it is specifically concerned that particular activities may be perceived as not being charitable. Such action could even constitute a criminal violation of the *Act*.[38]

It should be noted that section 230(4.1) renders electronic data acceptable[39] as a general matter. The Charities Directorate has also announced that it permits official donation receipts to be issued electronically (and therefore to be stored electronically).[40]

6. *Record Retention Requirements*

Income Tax Regulation 5800 states how long records of a particular nature must be kept by a registered charity. The *Regulation* stipulates that corporate records, including directors' and members' resolutions and minutes and all governing documents must be kept until two years after the registration of the charity is revoked (if ever).[41] As a practical matter, this means that corporate records of a registered charity must be kept forever. As well, if a charity receives a gift from an individual subject to a trust condition or direction that requires that the capital of the gift be kept for at least 10 years,[42] it is required that the document imposing the condition also be kept until two years after revocation of registration.[43] Finally, duplicate receipts and supporting information must be kept for two years from the end of the year to which the receipt relates.[44]

The time for which records required by paragraph 230(2)(a) (records required to defend against revocation) must be kept is not dealt with specifically in the *Act*. However, the default record-retention requirement is six years from the end of the tax year to which the records relate.[45] This six-year retention requirement would therefore apply to paragraph 230(2)(a) records.

7. *Privilege*

The concept of solicitor-client privilege[46] is important in the context of CCRA audits.[47] Certain kinds of communications between a solicitor and client are

protected from the CCRA. Solicitor-client privilege encompasses all communications in which clients ask their lawyers for legal advice, a lawyer provides a client with legal advice, or a client asks someone else to provide information to the client's lawyer so that the lawyer can provide the client with legal advice. This privilege is Canada-wide so a charity in one province which is advised by a lawyer in another province will still be protected by privilege.[48]

It is important in dealing with privileged documents that the privilege not be waived inadvertently by disclosing the privileged documents' contents to a third party[49] (other than an agent hired to assist with the provision of legal advice).[50] This is easy to do when dealing with opposing counsel in a transaction or negotiation.[51]

By contrast, there is no privilege between clients and their accountants.[52] As a result, the CCRA can read, retain and use in an audit any communication sent between clients and their accountants. The same is true for any communication between consultants and their clients.

7.1 *Claiming Privilege*

The *Income Tax Act* sets out a mechanism for claiming privilege during an audit. Section 232 of the *Income Tax Act* provides that if a lawyer has documents in his or her possession that the CCRA seeks to obtain, the lawyer must seal the documents and the CCRA may bring an application asking a court to determine if the documents are in fact privileged. Notwithstanding that this is a fairly complicated procedure which requires going to court, depending on the contents of the documents, it may be worth taking the necessary steps to protect documents against the CCRA. While this provision does not specifically protect documents kept at the client's office during a CCRA audit, CCRA has indicated that the procedure described above would still apply.[53] Nonetheless, it is prudent to collect all privileged documents and send them to counsel, in order to enable him or her to take the steps set out in section 232.

In a recent decision, *R.* v. *Lavallee, Rackel & Heintz*,[54] the Supreme Court of Canada considered whether section 488.1 of the *Criminal Code*[55] is constitutional. The relevance of this case in the context of CCRA audits of charities is that section 488.1 sets out the statutory procedure to be used to evaluate a claim of solicitor-client privilege regarding documents seized from a lawyer's office pursuant to a search warrant and, in that way, has many similarities to section 232 in the *Income Tax Act*. A majority of the Court (Justices Arbour, McLachlin, Iacobucci, Major, Bastarache, and Binnie) concluded that section 488.1 does not meet its objective: to create a procedure which would result in reasonable searches and seizures of documents or other materials which might be covered by solicitor-client privilege and which are in the possession of a lawyer. In particular, the Court concluded that the provision unreasonably and unconstitutionally impairs solicitor-client privilege because it could result in privilege being lost (without the client whose privilege it is, knowing):

- from the inaction of the solicitor;
- from the fact that clients may or even must be named;
- that the seizure may be executed without notice to the client to whom the privilege belongs;
- from its strict time limits for application;
- from the absence of residual discretion in the judge hearing the application to make findings of privilege outside those made in accordance with section 488.1; and
- from the possibility that the Crown may, with leave, have access to the materials prior to a judicial determination of the presence or absence of solicitor-client privilege.[56]

As a result, the Court held that section 488.1 infringed section 8 of the *Canadian Charter of Rights and Freedoms*[57] and could not be saved by section 1 of the *Charter*. The Court developed a common law procedure for law office searches which should be reviewed by any lawyers prior to allowing a search to proceed:

1) no search warrant can be issued with regard to documents that are known to be protected by solicitor-client privilege;
2) before searching a law office, the investigative authorities must satisfy the issuing justice that there exists no other reasonable alternative to the search;
3) when allowing a law office to be searched, the issuing justice must be rigorously demanding so as to afford maximum protection of solicitor-client confidentiality;
4) except when the warrant specifically authorizes the immediate examination, copying and seizure of an identified document, all documents in possession of a lawyer must be sealed before being examined or removed from the lawyer's possession;
5) every effort must be made to contact the lawyer and the client at the time of the execution of the search warrant. Where the lawyer or the client cannot be contacted, a representative of the Bar should be allowed to oversee the sealing and seizure of documents;
6) the investigative officer executing the warrant should report to the issuing Justice of the Peace the efforts made to contact all potential privilege holders, who should then be given a reasonable opportunity to assert a claim of privilege and, if that claim is contested, to have the issue judicially decided;

7) if notification of potential privilege holders is not possible, the lawyer who had custody of the documents seized, or another lawyer appointed either by the Law Society or by the court, should examine the documents to determine whether a claim of privilege should be asserted, and should be given a reasonable opportunity to do so;

8) the Attorney General may make submissions on the issue of privilege but should not be permitted to inspect the documents beforehand. The prosecuting authority can only inspect the documents if and when it is determined by a judge that the documents are not privileged;

9) where sealed documents are found not to be privileged, they may be used in the normal course of the investigation;

10) where documents are found to be privileged, they are to be returned immediately to the holder of the privilege, or to a person designated by the court."[58]

While there are minor differences between section 488.1 of the *Criminal Code* and section 232 of the *Income Tax Act*, it appears that section 232 is unconstitutional because all of the deficiencies identified by the Supreme Court of Canada in the context of section 488.1 of the *Criminal Code* are also present under section 232.[59]

8. *Audit Notification*

Normally, a charity will be notified of an impending audit either through a letter or a telephone call from the CCRA or the assigned auditor.[60] When the first contact is made, it is important that a charity select a date for commencement of the audit that is somewhat removed as it needs sufficient time to contact its professional advisors and to plan and prepare for the audit. As the CCRA acknowledges, many charities are run by volunteers and therefore need time to assemble the records necessary to avoid wasting the auditor's time.[61]

Except in very unusual circumstances, it is important that charities obtain only the advice and not the representation of counsel. If the CCRA auditor is confronted with counsel as the audit is beginning, the auditor may assume that counsel has been retained because there is something worth hiding. It is suggested, therefore, that charities consult with counsel before the audit but the CCRA should not be aware of counsel's involvement until after the audit report is issued.

9. *Audit Parameters*

It is advisable for a charity to discuss the parameters of the audit with the CCRA auditor prior to the audit. Although the CCRA has a specific set of rules for audits of large corporations allowing the parties to pre-agree on the audit scope,[62] there is no comparable specific set of rules for charities.[63] Nevertheless, it is often possible to agree in advance on what is going to be discussed and whether the audit is a specific audit or a general audit. An auditor may be

convinced of the benefit of arranging these details before the commencement of the audit by suggesting that the audit can thereby proceed in a more organized and efficient manner. After the initial conversation with the auditor, a letter should be sent either by the charity or the auditor confirming in writing any agreement reached with the auditor. The letter should confirm the date on which the audit will commence, the documents that will be examined by the auditors, who will represent the charity, and that a representative of the charity (presumably its chief financial officer) will be available on the days of the audit to answer any questions.

10. *Pre-Audit Review*

At the same time as preparatory discussions with the auditor are proceeding, the charity should be conducting its own pre-audit review. The charity should request from its counsel a review of all tax and other legal issues that may arise during the audit and a review of what the exposure may be in relation to those legal issues. For instance, if the charity is involved in foreign activities, the lawyer should ensure that the arrangements with the foreign charities that partner with the domestic charity comply with the CCRA's requirements regarding foreign activities.[64]

The charity should also consider requesting that its accountant examine its financial records before the audit. Since there is no privilege available for discussions with, and advice received from accountants, charities should be cautious when requesting compliance advice from an accounting professional because the CCRA auditor will be able to review that advice and any criticism it contains. Instead, a charity might request that its accountant review the financial books and communicate any problems to the charity's lawyer for the purpose of assisting the lawyer in providing legal advice about the audit. If this approach is followed and is not a sham, it is likely that the accountant's factual review would be privileged because it would be a component of legal advice.

To the extent that this review disclosed any areas of noncompliance, consideration should be given to possible ways of bringing the charity into compliance prior to the audit. In some cases, this can be done easily (collecting and entering missing accounting data), while in other situations, it can be difficult or impossible. Particular care should be taken to avoid inappropriate backdating of missing agreements.[65] While it might be appropriate to prepare a document as evidence of an agreement which was already in place, such a late-prepared document should likely be executed with a current date but with an earlier effective date.

11. *Audit Day*

As discussed above, the *Act* requires in section 231.1 that a party that is being audited give all reasonable assistance to the auditor. Thus, a charity's staff should be pleasant and civil with the auditor. However, it is important to limit staff access to the auditor as much as possible, especially if particular staff

members are hostile to the idea of being audited[66] or if they do not understand the seriousness of being audited. One person should be assigned to deal with the auditor directly, including answering any questions and providing documents.[67] (By audit day all privileged documents should have been removed or otherwise adequately protected.)

Charities being audited sometimes mistakenly view the presence of a CCRA auditor as an opportunity for free professional advice and ask the auditor questions about particular areas of tax law applicable to charities. When a staff member of a charity asks a question about a particular subject, the auditor will almost certainly look very carefully for noncompliance in that area. Neither a charity being audited nor its staff have any responsibility to raise issues with the CCRA auditor which have not been identified by the auditor. Indeed, it might even be argued that a charity and its individual representatives have a fiduciary obligation *not* to raise issues with the CCRA and thereby imperil the organization's charitable registration and assets.

If the selected representative of the charity is asked a question that he or she is unable to answer or is concerned about answering properly, the representative should know that the auditor should be asked to put the question in writing for later response. Subsequently, the representative can find the answer and craft the proper response (with the assistance of counsel as appropriate).

12. *Audit Findings*

After the audit is completed, the CCRA will typically take a long time before reporting its findings to the charity. It is not unusual for this to be many months or years or even never.[68] If a charity does not hear from the auditor for many years, then it may reasonably assume that the auditor has lost the file or has closed the file without sending a final report.[69]

When an individual auditor has completed his review, he will often arrange an audit meeting to discuss the report.[70] A draft report will be provided by the auditor that will set out the objections (if any) to the activities of the charity. If possible, the charity's representative should explain to the auditor why the issues are not as problematic as they might appear to the auditor. Objections and corrections should be articulated before the final field audit report is produced and delivered to Charities Directorate.

Once the field auditor's report has been drafted and reviewed with a representative of the charity, it is forwarded to the Charities Directorate for review and consideration of appropriate compliance action. It is at this stage that delay comes into play. My most recent conversation on this issue with Charities Directorate staff suggests that field audit reports are not even looked at for at least a year after they are submitted to the Directorate.

Assuming that the Directorate eventually reviews the field audit report, there are a number of possible outcomes. The first is a confirmation-of-compliance

letter whereby the Directorate confirms that the audit disclosed no areas of noncompliance. The second possibility is an education letter wherein the Directorate indicates that, although the auditor discovered minor areas of noncompliance, the Directorate does not intend to take any compliance action other than the audit letter which is designed to educate the charity on ways to correct the problems identified.

If the audit discloses major areas of noncompliance, the Directorate will write to the charity requesting that the charity or its representatives undertake in writing to remedy the situation and will generally require that the undertaking be relatively detailed. The CCRA will then revisit the charity to followup on compliance with the undertakings,[71] so it is important to be sure that the given undertaking is one with which the charity can comply.[72]

If the Charities Directorate believes that the noncompliance by the charity is serious enough to justify revocation of registration, the Charities Directorate will issue an administrative fairness letter which is a proposal of revocation of registration.[73] As a practical matter, while the issuance of an administrative fairness letter should be taken very seriously by a registered charity, it does not necessarily mean that the registered charity is actually going to have its charitable registration revoked. In many cases, the CCRA uses the administrative fairness letter as a means of communicating to the registered charity the seriousness with which the CCRA views the particular noncompliance issue. It may well be possible to respond to an administrative fairness letter in a way which results in the issues being resolved through the use of undertakings.

If the problem that the CCRA has raised was raised previously[74] and previous undertakings were not fulfilled[75] or if the charity is committing a particularly serious violation (perhaps one involving fraud), the charity's registration may in fact be revoked. [Insert B]

12.1 *Legal Representation and Submissions*

Once an auditor identifies serious noncompliance issues in the course of a field audit review meeting, the charity should immediately (assuming that it has not already done so) seek legal advice. If counsel agrees that the issues raised by the auditor are indeed serious, it will probably be appropriate for the charity to change its approach to the issue to bring it into compliance with the *Act* and/or the CCRA's administrative position on the issue (without waiting for the official CCRA Charities Directorate reporting letter). It may even be appropriate to immediately (even prior to being contacted by the Charities Directorate) initiate discussions with Charities Directorate outlining for them the measures proposed to move the charity into compliance.

As a general rule, if CCRA Charities Directorate issues anything other than a confirmation of compliance, this should be provided to the charity's counsel immediately for comment and advice. At this time, it is probably appropriate for counsel to deal directly with the Charities Directorate on any issues which

arise. The charity's lawyer has the advantages of superior knowledge (I hope), the ability to approach the situation from a less emotional standpoint, and the ability to protect the consideration of the issues with privilege (enabling the lawyer to develop an analysis of the problem and protect any weaknesses of the submission or the underlying situation from the CCRA).

13. *Revocation of Registration*

Revocation of registration is the only penalty available for most violations of the *Act* that a charity may commit.[76] In the United States, charities can be subject to intermediate sanctions, such as fines. In Canada, if the violation is sufficiently serious, the CCRA can only revoke registration.[77] Pursuant to the *Act*,[78] registration can be revoked for, among other things, ceasing to comply with the requirements for registration, improper receipting and interfering with an audit. The most significant factor is ceasing to comply with the requirements for registration.

Once charitable registration is revoked, an organization faces many serious consequences. It becomes a taxable entity unless it is exempted as a nonprofit organization[79] and will, therefore, be subject to the same taxation regimes as other entities. Also, the organization will no longer have the ability to issue tax receipts for donations.[80] The organization will be charged a "revocation tax" which is comprised of an amount equal to the total market value of all assets owned by the organization 120 days before the notice of revocation was issued, the amount of any tax receipts issued after the date of revocation, and all amounts received from any other registered charity.[81] A deduction is permitted for the total of the fair market value of all assets transferred by the organization to qualified donees after the date of revocation, all amounts paid with respect to reasonable expenses, any payments for debts of the organization, and any monies spent on charitable activities between the time of revocation and the time that the tax is paid. If persons other than qualified donees received money from the charity after the date of the revocation, they are also responsible for the payment of the revocation tax to the extent of the amount so received.

A prudent charity that intends to do something that may be regarded as being noncharitable by the CCRA, may consider establishing another charity so as to be prepared to quickly transfer its assets (presumably the transferee would not be involved with the offending activity) in the event that registration is revoked. This is complicated planning and should only be carried out with appropriate consideration and professional advice.

If a registered charity actually receives notice of revocation of registration, the only official recourse is an appeal to the Federal Court of Appeal for a judicial review.[82] This is a very daunting and expensive appeal process, especially since it is based on a frequently deficient CCRA Charities Directorate file record and no new evidence can be introduced without leave from the Federal Court of

Appeal.[83] This may be why there have been so very few deregistration appeals which have been successful in the Federal Court of Appeal.

In some cases the filing of a Notice of Appeal with the Federal Court of Appeal moves the matter from a sometimes inexperienced Consulting and Audit Canada auditor and Charities Directorate officer to more experienced CCRA Charities Directorate staff who are assisted by equally experienced Department of Justice tax counsel. Their involvement may result in a more sensible approach being taken by the Charities Directorate with continued registration being the eventual result.[84] As a result of the universal agreement of all participants that the current appeal structure does not work, there is a current proposal to replace judicial review at the Federal Court of Appeal with a trial *de novo* at the Tax Court of Canada.[85]

III. Current Charity Tax Issues

There are a number of current audit concerns that both increase a charity's risk of being audited and are likely to be looked at carefully if a charity is audited for some other reason. If a charity is engaged in advocacy, is involved in foreign activity, provides grants to foreign charities, receives directed gifts, has received art donations or carries on any business activities, it is more likely that it will be audited. I will address some of these current issues in outline (with the goal of raising questions, not of providing answers).[86] There are also a number of other items like disbursement quota compliance that are always looked at in an audit[87] but which I will not outline here.

1. *Political Activities*

As a matter of the common law, political purposes are not charitable at law.[88] Attempts to lobby government or change public policy will not be characterized as charitable and organizations conducting such activities are ineligible for registration as charitable organizations.[89] However, organizations that have purposes that are incidentally political are deemed as a matter of tax law to be charitable provided that they devote "substantially all"[90] of their resources to charitable activities.[91] Ancillary and incidental activities are specifically defined not to include activities which support a candidate for political office or a particular political party.

On the other hand, it can sometimes be very difficult to draw the line between political purposes and educational purposes.[92] The CCRA views this as a very contentious issue and looks very carefully at registered charities and applicants which carry on, or which propose to carry on, any political activities. The CCRA's policy guidance on the issue is also in some disarray.[93] There is also currently significant agitation in the Canadian voluntary sector in favour of permitting pure advocacy organizations to become registered as charities.[94]

The CCRA is known to look very carefully at political activities when it audits charities. This has been a particular problem for British-Columbia-based envi-

ronmental charities[95] and for some religious charities, particularly those that deal with the abortion issue.[96]

2. *Foreign Activities / Grantmaking*

The carrying on of foreign activities by a Canadian registered charity is a complicated area which has caused difficulties for many registered charities. The CCRA's position on this issue has been neither consistent nor, at times, well communicated to registered charities. The result has been the revocation of the registration of a number of charities which thought in good faith that they were following the CCRA's policies.[97]

As a condition of registration, a registered charity[98] is required by subsection 149.1(1) of the *Income Tax Act* (Canada) to devote all of its resources "to charitable activities carried on by the organization itself". A deeming rule in subsection 149.1(6) deems within limits that grants to qualified donees have been spent on a charitable organization's own activities. As a result, a charitable organization may not make grants for a charitable purpose unless the grants are made to a qualified donee.

Qualified donees are defined by subsections 149.1(1) and 118.1(1) to include other registered charities, all levels of government in Canada, the United Nations, foreign universities customarily attended by Canadians, and foreign charities to which the federal government has made a gift in the past 12 months.[99] (The list of foreign charities to which the federal government makes gifts is extremely short.)[100]

Thus, a registered charity is generally accepted as only being able to fund foreign charitable activities either through one of the very limited number of qualified donees or by carrying out its own foreign charitable activities. It is, however, possible for a registered charity to carry on its own charitable activities using one of a number of legal devices which essentially deem the foreign activities of others to be activities of the Canadian registered charity. Basically, a registered charity can either engage a foreign charity as its agent to carry on some particular task or can enter into a form of joint venture with the foreign charity for a particular purpose.[101]

The approach of the CCRA to arrangements between Canadian registered charities and foreign entities has tightened considerably in recent years. As a result, there have been two recent decisions of the Federal Court of Appeal in which the Federal Court of Appeal denied revocation of registration appeals brought by charities which had seen their registrations revoked for noncompliance involving foreign activities. The first of these was the *Committee for the Tel Aviv Foundation* v. *The Queen*[102] and the second recent case dealing with foreign activities is *Canadian Magen David Adom for Israel*.[103] Since these cases are instructive on both substantive law and as descriptions of the CCRA's audit approach, I will outline them in some detail.

2.1 *The* Tel Aviv *Case*

In *Tel Aviv*, Revenue Canada had audited the Canadian charity (the Committee) on a number of previous occasions and had consistently flagged the failure to control foreign activities carried out by the Tel Aviv Community Foundation. In fact, in 1995 Revenue Canada even threatened to deregister the Committee because it had violated the terms of its agency agreement with the Tel Aviv Community Foundation since the Committee could not demonstrate control of funds expended by its agent and did not have proper reports from its agent. To avoid deregistration after the 1995 audit, the Committee undertook to "conform strictly to the requirements of Revenue Canada, including the specific provisions of the agency agreement, which is still in force and effect". In 1999, the CCRA audited the 1997 year of the Committee and found the same record-keeping and control failures. The CCRA then issued notice of its intention to revoke the registration of the Committee.

The Committee appealed its deregistration to the Court of Appeal on the basis that the CCRA should not have considered compliance with the terms of the agency agreement but should instead have considered whether or not the relationship between the Committee and the Foundation met the legal test for agency at common law so that activities of the Foundation were, at law, activities of the Committee. The Court decided that, on the facts of the case, there was a violation of the requirement of the *Act* that a charitable organization carry on its own activities. Because the Committee could not show that it had controlled or directed the activities of its agent, the activities were not carried out on its behalf.[104] Furthermore, the Committee was missing certain of the reports which it ought to have received from the Foundation and therefore could not meet the record-keeping requirements of the *Act*.

This case demonstrates that for foreign activities to be carried on through an agency arrangement, strict compliance with the law is necessary, including the keeping of appropriate records in Canada. A Canadian charity which is using a foreign agent can rely on frequent written financial and operational reports to satisfy the requirement that the Canadian charity keep sufficient records to show that the activities carried on by its agent are charitable. However, this only works if the records are detailed and are actually kept by the agent and forwarded to the Canadian charity. As a practical matter, charities should also be advised to follow the CCRA's administrative position set out in its guide.

Another lesson which can be learned from this case is that while the CCRA may sometimes agree not to deregister a charity which fails to comply with the tax rules, the CCRA will be much less patient with a charity which was warned about the issue in a previous audit.

2.2 Magen David Adom *Case*

Canadian Magen David Adom for Israel (CMDA) provided ambulances and other medical equipment to an affiliate in Israel (MDA). For a number of years

(and through a number of Revenue Canada audits) Revenue Canada applied an internal policy which is referred to as its "charitable goods policy" to permit CMDA to transfer ambulances and medical supplies to MDA without the agency or joint venture agreements referred to above. This policy (which was never disclosed by Revenue Canada to the public or even to the tax professional community) provided that where a Canadian registered charity transferred goods which are meant by their nature to be used only for a charitable purpose (like medical equipment) to an organization that will use the goods for such purpose, the transfer will be considered to be an example of the registered charity carrying on its own charitable activity.

Eventually CMDA was audited on two occasions by Revenue Canada at a time when Revenue Canada was no longer willing to apply the charitable goods policy to CMDA. CMDA's registration was revoked on the grounds of the absence of an agency or similar agreement and because its affiliate operated in the Golan Heights, the West Bank, East Jerusalem and the Gaza Strip (the Occupied Territories) in violation of a supposed Canadian public policy. (In the course of audit followup, Revenue Canada had obtained a list of all sites where Canadian supplied ambulances were used at the time – the list included one ambulance which had been transferred by the Israeli affiliate to the Israeli Defence Force as well as some ambulances used in the Occupied Territories.)

CMDA appealed its revocation to the Federal Court of Appeal. The Court made short work of the public policy argument because the Crown was unable to show any consistent Canadian public policy in the area. The (three judge) Court split on the issue of whether the gifting of resources to MDA (the only remaining ground for revocation) was enough to support the CCRA's revocation of registration. The majority observed that even if the charitable goods policy was good law (and they were prepared to so assume), the transfer of medical equipment to MDA did not fall within the policy because CMDA could not reasonably have expected MDA to use the goods transferred to it only for charitable purposes.

The finding of the Court of Appeal in the CMDA case on public policy has provided general comfort to Jewish charities.[105] Although leave to appeal was sought by the charity from the Supreme Court of Canada, the case for application has been abandoned as a result of the CMDA obtaining a negotiated settlement which results in its continued charitable registration.

In the broader context, the *CMDA* decision is instructive on several fronts. CMDA is a very high profile charity. If the CCRA was willing to revoke its registration, no registered charity should view itself as above the law or beyond the CCRA's reach. The case (like the *Tel Aviv* case) also confirms the importance of dealing with issues raised in previous audits.

3. *Terrorism*[106]

In the Spring of 2001, the federal government introduced Bill C-16, the *Charities Registration (Security Information) Act* (the *Security Act*) in response to media reports that Canadian registered charities were being used to fundraise for foreign terrorist organizations. This Bill C-16 gave the government the power to revoke the registration of a registered charity which was involved in fundraising for terrorist organizations. There were significant difficulties identified by charities and their representatives and it appeared that Bill C-16 would either be scrapped or substantially redesigned. Bill C-16 targeted charities only, suggesting that the problem was charities fundraising for terrorism, not that terrorist fundraising was occurring. As well, Bill C-16 contained no definition of terrorism.

September 11, 2001 changed the political landscape significantly. In short order, Bill C-36 was introduced which revived the *Security Act.* However, unlike Bill C-16, Bill C-36 addressed terrorist fundraising by charities as part of a much broader context. The definitions of terrorism contained in various U.N. Conventions were imported into Bill C-36. More importantly, Bill C-36 criminalized terrorist fundraising, whether carried on through a registered charity, through any other organization or by an individual. Thus, Bill C-36 downplayed the implications that terrorist fundraising was a charity problem and that charities are more likely to fund terrorists than are other types of organization. These conceptual level changes in approach, especially in the post September 11, 2001 context, were enough to satisfy many critics of Bill C-16 and Bill C-36 was passed into law.

The *Security Act* provides:

> The Minister and the Minister of National Revenue may sign a certificate stating that it is their opinion, based on security or criminal intelligence reports, that there are reasonable grounds to believe:
>
> (a) that an applicant or registered charity has made, makes or will make available any resources, directly or indirectly, to an entity that is a listed entity as defined in subsection 83.01(1) of the Criminal Code;
>
> (b) that an applicant or registered charity made available any resources, directly or indirectly, to an entity as defined in subsection 83.01(1) of the Criminal Code and the entity was at that time, and continues to be, engaged in terrorist activities in support of them; or
>
> (c) that an applicant or registered charity makes or will make available any resources, directly or indirectly, to an entity as defined in subsection 83.01(1) of the Criminal Code and the entity engages or will engage in terrorist activities as defined in that subsection or activities in support of them.

Upon the issuance of a certificate for the reasons described above, the Solicitor General (Canada's chief law enforcement officer, who is the "Minister" referred to in the *Security Act*) must bring the certificate before a judge for review. The *Security Act* provides for a secret hearing of the evidence against the charity without even the charity or its counsel being permitted to be present if the judge determines that disclosure to the charity or its counsel would injure national security or endanger the safety of any person.

After the hearing, the judge can revoke or deny charitable registration. The decision of the judge in the matter is final and not subject to appeal. However, it is possible for an organization which has been refused charitable registration or which has had its registration revoked on the ground that it funds terrorism, to reapply to the CCRA for registration on the ground that the reasons for the issuance of the original certificate are no longer valid.

It is obvious that the procedure described above is not consistent with the common law traditions of full disclosure and open justice. The CCRA has indicated that in the post-September 11, 2001 context, the procedural approach described in the *Security Act* is not a violation of fundamental freedoms to which the *Charter of Rights* would apply.[107] Since a court challenge is almost inevitable, time will tell.

Leaving aside procedure, one serious concern which remains is that the *Security Act* provides for the denial or revocation of registration for an organization which indirectly makes funds available to a terrorist organization. Since there is no explicit knowledge requirement in this portion of the *Security Act*, an organization such as a relief organization which provided food or medical aid in a war zone could potentially be found to have made resources available indirectly to a terrorist organization. The portion of the *Security Act* which criminalizes fundraising for terrorism provides that allowing resources to be used for terrorism is only a criminal offence if done "willfully and without lawful justification or excuse". This modifier would provide a criminal law defence for an organization which inadvertently permitted its resources to be used for the benefit of a terrorist organization. There is no such explicit qualifier in the charities registration portion of the *Security Act*, although it is to be hoped that judges applying the *Security Act* would imply one.

Charities and their advisors have taken a number of approaches to the *Security Act.* Some advisors have suggested that pre-existing law deals adequately with the issue so the *Security Act* should be scrapped.[108] A number of other advisors[109] as well as some umbrella organizations[110] have suggested that the current anti-terrorism provisions are an appropriate response in a post-September 11 world and that, at least in the short term, it is appropriate to rely on the assurances of the CCRA that it intends to interpret the anti-terrorism provisions in a sensible manner.[111] My view leans toward the second of these two

approaches although the *Security Act* laws as drafted certainly could be misused; their application should be carefully monitored.

On a cautious approach, many charities should be concerned about the implications of the *Security Act.* Charities which work overseas (particularly those which do relief and development work) need to be cautious. Some activities (particularly those carried out through foreign agents) should only be carried out after careful due diligence[112] or even after obtaining specific pre-clearance from the CCRA.[113]

4. *Directed Gifts*

Donations by an individual to a registered charity give rise to an individual tax credit[114] while gifts to a registered charity by a corporation give rise to a corporate tax deduction.[115] These tax credits and deductions are only available when the donor is able to include an official donation receipt with the applicable tax return. The *Act* specifically provides that the improper issuance of a donation tax receipt is cause for revocation of registration. One of the ways in which an improper tax receipt can be issued is when a receipt is issued for a transfer of property to a registered charity which does not meet the legal definition of a "gift".

A decision of the Federal Court of Appeal[116] defines "gift" as follows:

> This Court has held that a gift, within the meaning of the common law, is a voluntary transfer of property from one person to another gratuitously and not as the result of a contractual obligation without anticipation or expectation of material benefit. [Insert F]

Prior to the new legislation, the CCRA has revised Interpretation Bulletin 110R3 *Gifts and Official Donation Receipts*[117] to clarify in subparagraph 15(f) that:

> (f) A charity may not issue an official receipt for income tax purposes if the donor has directed the charity to give the funds to a specified person or family. In reality, such a gift is made to the person or family and not to the charity. However, donations subject to a general direction from the donor that the gift be used in a particular program operated by the charity are acceptable, provided that no benefit accrues to the donor, the directed gift does not benefit any person not dealing at arm's length with the donor, and decisions regarding utilization of the donation within a program rest with the charity.

The *Woolner* decision and the revision of IT-110R3 are indicative of the concern with which the CCRA Charities Directorate views gifts which are directed in a particular way. While courts have determined that the expectation of a tax deduction or a tax credit as a result of the gift does not constitute consideration,[118] there are a number of situations with which the CCRA is concerned.

One situation (which was considered in the *Woolner* decision) involves the attempted use of charitable donations to fund religious education beyond the limits imposed by Information Circular IC75-23 *Tuition Fees and Charitable Donations Paid to Privately Supported Secular and Religious Schools*.[119] The CCRA has been auditing religious schools aggressively on this issue.

As well, some religious charities operate under a fundraising system known as "deputized fundraising" wherein the organization, rather than having a specific fundraising department requires each of its individual employees to raise enough funds, in the medium term, to cover the expenses of the particular charitable program with which that individual employee is linked. Although the Tax Appeal Board has approved in *obiter* of a primitive version of such an arrangement,[120] and the CCRA has acknowledged the propriety of such arrangements,[121] religious charities which are involved in such arrangements are often questioned about them at audit. Any registered charity which intends to use this fundraising technique should only do so after obtaining detailed legal advice on how to ensure that the use of the technique fits within the definition of gift as described above.

5. *Art Donation Programs*

Another audit issue arising out of the requirement that a registered charity provide receipts relates to art donation programs. These typically involve the charity being approached by a fundraiser/promoter who offers to facilitate donations of artwork to the charity by various individuals. The artwork donations are generally accompanied by formal written appraisals from appraisers who appear to be at arm's length from the promoter and which indicate a relatively high value (which is based upon the retail value) for the donated art. After the charity receives the donated art, the promoter often arranges for the charity to sell the donated artwork either to the promoter or to some other entity at a wholesale price which is usually much less than the appraised value at which the charity had issued a receipt.[122]

The CCRA has attacked these transactions very aggressively from the donor's side. Typically, the attack is based upon the suggestion that the transaction does not constitute a gift at law[123] or the property transferred as part of the gift is worth very much less than the amount on the donation receipt.[124] To the extent that a registered charity issues a donation receipt for an amount which is greater than the fair market value of the artwork transferred to the charity as part of the gift, subsection 168(1) specifically provides that an offence has been committed which entitles the CCRA to revoke charitable registration.[125]

The CCRA has clearly stated its opposition to these art donation programs[126] so it may not be unreasonable to expect the CCRA to revoke the registration of charities which are involved in art donation programs. As well, even if the charity's registration is not revoked, art donation schemes can have very negative effects on a charity's disbursement quota. Since the disbursement

quota is calculated on the basis of the value of donation receipts from the charity's previous year, a charity which is funded largely through art donation programs could easily find itself in a situation where it has a very high disbursement quota but where the realized value of the artwork which it has sold does not provide enough funds to enable the charity to meet its quota. Such a charity should not expect the CCRA to be accommodating in reducing its disbursement obligations. (Pursuant to subsection 149.1(5)).

6. *Related Business*[127]

One item which has been a continuing source of friction between charities and their advisors on one hand and the CCRA Charities Directorate on the other, is the issue of what constitutes a related business.

Subsection 149.1(6) of the *Act* provides that "a charitable organization shall be considered to be devoting its resources to charitable activities carried on by it to the extent that (a) it carries on a related business". Subsection 149.1(2) provides that "the Minister may ... revoke the registration of a charitable organization ... where the organization (a) carries on a business that is not a related business of that charity".[128] Subsection 149.1(1) defines related business to include:

> Related business in relation to a charity, includes a business that is unrelated to the objects of the charity if substantially all persons employed by the charity in the carrying on of that business are not remunerated for that employment.

Until recently only one decided case had considered the application of the above related-business provisions to an actual charity: *Alberta Institute on Mental Retardation* v. *The Queen*.[129] In that case, the Institute collected used goods and provided them to Value Village for sale to the public. The contract between the Institute and Value Village provided that Value Village would cover the charity's collection expenses and pay it a certain additional sum which would eventually be distributed by the Institute to other registered charities involved in dealing with "mental retardation". The Institute had no other charitable activities.

The Federal Court of Appeal found that since all of the monies received from selling the donated goods went to charitable activities by being transferred to other charities, the Institute was operated for exclusively charitable purposes and therefore did not constitute a business. Even if the activities had constituted a business, the Court would have concluded that they were a related business because the monies collected were used for the charitable purposes of the Institute.

[Insert H] It is useful to understand what the Policy provides. Examples of situations that might not be considered business activities include selling donated goods, entering into a sponsorship deal and managing investments.

The Policy also provides the CCRA's view on exactly what constitutes a "related business" – a business that is (a) related to the charity's purposes; and (b) subordinate to those purposes. Hospital gift shops and parking lots, museum cafeterias, and university bookstores are examples of businesses "linked" to a charity's purpose. Renting excess capacity, such as university dorm rooms not used in the summer, would also be acceptable, as long as these activities remain subordinate to the charity's overall activities – measured in time expended, staffing, location, etc.

Finally, the Proposed Policy provides some comfort with respect to the de-registration process by giving a charity found in breach of the related business provisions an opportunity to:

> …place the business in a separate taxable corporation;
> invest in that corporation (provided it is an acceptable investment for the charity); and
> retain control of the corporation (subject to provincial legislation with respect to charities).

This is an area which should be monitored since the CCRA won the *Earth Fund* case on grounds that narrow or eliminate the *Alberta Institute* destination-of-funds test, we should expect to see the CCRA begin to audit charities which carry on business and to force those charities which are not compliant with the Proposed Policy to divest themselves of their business activities.

IV. Conclusion

CCRA Charities audits should be taken seriously and managed appropriately. The law provides the CCRA with relatively powerful tools to assist it in ensuring compliance with the *Act*. Bearing in mind the specific issues of interest to the CCRA described above, charities and their advisors should be prepared to respond to the CCRA in a way which will maximize the likelihood of the audit resulting in a positive outcome.

FOOTNOTES

1. GST audit powers are provided for in sections 288–295 of the *Excise Tax Act* while payroll audit powers are provided for in section 88 of the *Employment Insurance Act* and section 25 of the *Canada Pension Plan*.
2. However, it should be noted that auditors are increasingly cross-trained to catch the more obvious issues outside of their primary area of audit responsibility. I am also aware of proposals to use charity audits to obtain information to allow verification of deductions claimed by a charity's staff.
3. Part of the Federal Department of Public Works.
4. CCRA Guide T4118 *Auditing Charities* (http://www.ccra-adrc.gc.ca/E/pub/tg/t4118ed.html).

5. Drache, "Dues or Charitable Donations" (2002), 10:11 *Canadian Not-for-Profit News* 86, p. 86.
6. 1985 (5th Supp.), c. 1. Statutory references in this article are references to the *Act* unless otherwise noted.
7. Drache, "Audit Woes" (2002), 10:3 *Canadian Not-for-Profit News* 17, p. 17.
8. *Consultations and Validation of Charities Directorate Action Plan (2002)* (http://www.ccra-adrc.gc.ca/agency/directions/report_july-e.html#P307_16414).
9. Blake Bromley, "Flaunting and Flouting the Law of Gift: Canada Customs and Revenue Agency's Philathrophobia" (2002), 21 *Estates Trusts & Pensions Journal* 177 provides a strongly worded warning about the possible consequences of having a CCRA tax services auditor attack a charitable gift.
10. *Supra*, footnote 7, p. 17.
11. Craig C. Sturrock and Max Weder, "Dealing With Tax Authorities", *1998 British Columbia Tax Conference*, (Vancouver: Canadian Tax Foundation, 1998), 16:1–30 gives a good outline of the CCRA's compliance tools. Note though, that there have been significant developments in this area of law since 1998, particularly in how the CCRA's criminal investigation power overlaps with its audit power.
12. Subsection 231.1(1)

    An authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act,

    (a) inspect, audit or examine the books and records of a taxpayer and any document of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer or to any amount payable by the taxpayer under this Act.
13. Subsection 248(1)"record"

    "record" includes an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and any other thing containing information, whether in writing or in any other form;
14. Subsection 231.2(1) Requirement to provide documents or information:

    Notwithstanding any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act, including the collection of any amount payable under this Act by any person, by notice served personally or by registered or certified mail, require that any person provide, within such reasonable time as is stipulated in the notice,

    (a) any information or additional information, including a return of income or a supplementary return; or

    (b) any document.
15. *Supra*, footnote 4.

    A formal requirement may be made by Revenue Canada [now CCRA] to those who fail to provide the required information or documents.

16. As an example, I am aware of a situation in which an auditor requested copies of all account records kept by a foreign agent of a Canadian registered charity (not just the records dealing with agency matters).

17. It is important to ensure that a CCRA request for information really is a Requirement before complying with it. A practice seems to have developed at the CCRA of sending out official letters requesting information, which do not meet the statutory definition of a Requirement. Providing information to the CCRA pursuant to such a request (other than information relating to the registered charity's tax compliance) might result in liability to the subject of the request (since the protection of statutory compulsion would not apply).

18. Subsection 168(1).

19. Subsection 238(1).

20. Section 18.1, *Federal Court Act*, R.S.C. 1985, c. F-7.

21. Edwin Kroft & Dan Lipetz, "How does a Taxpayer Contest a Requirement for Information Before the Expiry of Time for Compliance?", VIII(2) *Tax Litigation* (Federated Press) 502–503 (2000).

22. Or under section 487 of the *Criminal Code*.

23. See Werner H.G. Heinrich, "Current Administrative and Enforcement Issues: An Update on the Scope of the Audit, Requirements, Penalties, Collection Matters, and the Fairness Package", *1995 British Columbia Tax Conference*, (Toronto: Canadian Tax Foundation, 1995), 15:1–68.

24. *Supra*, footnote 4.

25. *Ibid.*

> When we conduct an audit, we do not necessarily limit the process to examining a charity's financial affairs. Usually, in addition to reviewing its activities, we also review any evidence that might indicate whether or not the charity is satisfying its legal obligations under the *Income Tax Act*, and is operating for charitable purposes.

26. *Ibid.*

27. Pursuant to subsection 241(1) the CCRA and its staff are prohibited from disclosing taxpayer information, subject to fines or imprisonment for violations pursuant to subsection 239(2.2).

28. Voluntary Sector Initiative Joint Regulatory Table, "Strengthening Canada's Charitable Sector, Regulatory Reform" (2003) (http://www.vsi-isbc.ca/eng/joint_tables/regulatory/reports. cfm), pp. 59–62.

29. Arthur Drache has observed in "Audit Woes" (2002), 10:3 *Canadian Not-for-Profit News* 17, p. 19 that "The good news is that… less than 1% of charities are audited annually. Indeed, it seems to us, having seen file after file with multiple audits, that they like to return over and over again to the same offices even when there has been a clean audit earlier. Maybe they just like the coffee". This is consistent with my experience.

30. This information would not be available under the *Access to Information Act*, R.S.C. 1985, c.A-1 by virtue of section 22 which permits a government institution to refuse to disclose audit procedures.

31. Pursuant to subsection 241(3.2). The request can be made by writing to the CCRA Charities Directorate or by calling 1.800.267.2384. There is no fee and responses are typically obtained within a month. The CCRA has started to provide T3010 information on its

website (2000 tax year is now online) – see http://www.ccra-adrc.gc.ca/tax/charities/online_listings/canreg_interim-e.html.

32. For example, the CBC's *Disclosure* program ran a special on December 4, 2001 which profiled an organization called Charity Watch (which was itself a registered charity) which allegedly specialized in investigating registered charities linked to progressive causes. In the *Disclosure* piece, Charity Watch and its principal, George Barkhouse, are given credit for leading the CCRA Charities Directorate to revoke the registration of such charities as the Friends of Clayoquot Sound. For further information see: http://www.cbc.ca/disclosure/archives/0111_charity/charity.h tml.
33. Paragraph 231(1)(d).
34. Subsection 168(1).
35. Subsection 231.5(2).
36. For detailed discussions of record keeping issues in the tax context, see Michael G. Quigley, "Controlling Tax Information: Limits to Record-Keeping and Disclosure Obligations" (1999), vol. 47, no. 1 *Canadian Tax Journal*, 1–48 or Al Meghji, Gerald Green, and Edward Rowe, "Does Procedure Matter?", *Report of Proceedings of Fifty-First Tax Conference, 1999 Tax Conference* (Toronto: Canadian Tax Foundation, 2000), 15:1–42.
37. Arthur Drache, "Charity Record Retention" (2002), 10:9 *Canadian Not-for-Profit News* 65, p. 70.
38. Paragraph 239(1)(b). The penalty is a fine and/or imprisonment.
39. See the detailed discussion of electronic records in CCRA Information Circular IC 78-10R3 *Books and Records Retention/Destruction* (http://www.ccra-adrc.gc.ca/E/pub/tp/ic78-10r3 ic78-10r3-e.html).
40. CCRA Policy Statement CPS-014, *Computer Generated Official Donation Receipts* (http://www.ccra-adrc.gc.ca/tax/charities/policy/cps/cps-014-e.html).
41. *Income Tax Regulation* 5800(1)(d). For a discussion of corporate record keeping in the charity context, see Arthur Drache, "Minuting Meetings" (2002), 10 *Canadian Not-for-Profit News* 78.
42. See the definition of "disbursement quota" in subsection 149.1(1) which excludes such a gift from the previous year's income portion of the disbursement quota.
43. *Income Tax Regulation* 5800(1)(d)(iv).
44. *Income Tax Regulation* 5800(1)(f).
45. Paragraph 230(4)(b).
46. Ronald Manes and Michael Silver, *Solicitor-Client Privilege in Canadian Law* (Toronto: Butterworths, 1993).
47. For more practical detail, see Gloria Geddes, "The Fragile Privilege: Establishing and Safeguarding Solicitor-Client Privilege", 47 *Canadian Tax Journal*, 799 (1999).
48. *Mutual Life Assurance Co. of Canada* v. *Canada*, 88 D.T.C. 6511 (Ont. S.C.).
49. See *Belgravia Investments* v. *The Queen* (2002), D.T.C. 7133 (F.C.T.D.) for an example of how privilege can be lost by a law firm.
50. *Susan Hosiery* v. *M.N.R.*, [1969] 2 Ex. C.R. 27 (Ex. Ct.).

51. But see *Fraser Milner Casgrain LLP* v. *M.N.R.*, 2002 DTC 7310 (F.C.T.D.) and *Fraser Milner Casgrain LLP* v. *M.N.R.*, 2002 B.C.J. No. 2146 (B.C.S.C.) which both found that documents could be protected by "common interest privilege". For commentary, see Jehad Haymour and Alex Poole, "Revisiting Solicitor-Client Privilege" (2002), 1601 *CCH Canadian Tax Topics*.

52. William Lawlor, "Extending Privilege to Accountants: Should We Follow the American Lead?", *Report of Proceedings of Fiftieth Tax Conference*, 1998 Tax Conference (Toronto: Canadian Tax Foundation, 1999), 4:1–22.

53. Joanne E. Swystun, "Solicitor-Client Privilege Under the Income Tax Act", *1998 Ontario Tax Conference*, (Toronto: Canadian Tax Foundation, 1998), 15:1–49. See also "Revenue Canada Round Table," in *Report of Proceedings of the Thirty-sixth tax Conference*, 1984 Conference Report (Toronto: Canadian Tax Foundation, 1985), 783, question 90 at 844–845: "It is the Department's position, however, that the restrictions on seizure of documents by reason of solicitor/client privilege will in the future be extended to copies of correspondence in the hands of the taxpayer or his accounting representatives. In other words, the Department will not endeavour to obtain indirectly what it is prevented from acquiring directly from the taxpayer's solicitor because he is able to claim solicitor/client privilege".

54. [2002] S.C.C. 61 (www.lexum.umontreal.ca/csc-scc/en/rec/html/lavalle2.en.html).

55. R.S.C. 1985, c. C-46.

56. Para. 26–33.

57. S.7, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11.

58. Para. 49.

59. Haymour and Poole, *supra*, footnote 51.

60. *Supra*, footnote 4.

61. *Ibid.*

62. See Ron Friesen, "Audit Protocol Pros and Cons: A Taxpayer's Perspective", *Report of Proceedings of Fiftieth Tax Conference*, 1998, Tax Conference (Toronto: Canadian Tax Foundation, 1999), 20:1–18; and D.W. Mitchell, "Audit Protocols", *ibid.*, 22:1–23.

63. The Charities Directorate did propose a form of agreement on audit scope but the draft has been removed from the CCRA's website. I understand that there was substantial opposition within the CCRA to such things as the CCRA agreeing not to re-audit the same organization for a period of time.

64. As set out in CCRA Guide T4106 *Registered Charities: Operating Outside Canada* (http://www.ccra-adrc.gc.ca/E/pub/tg/rc4106/rc4106-e.html), discussed later in this article.

65. G. Kent Davison, "Avoidance, Evasion, and the Problem Client", *Report of Proceedings of Fiftieth Tax Conference, 1998*, (Toronto: Canadian Tax Foundation, 1999), 7:1–20.

66. Perhaps on the theory that because the organization is charitable, it can operate outside of the law.

67. Be aware, however, that CCRA auditors may want broad access to staff.

68. Despite the statement by the CCRA in its Guide T4118 (*supra*, footnote 4) that "we always inform a charity about the findings of the audit".

69. However, note that in *Canadian Magen David Adom for Israel* v. *Minister of National Revenue* 2002 FCA 323 (http://decisions.fct-cf.gc.ca/fct/2002/2002fca323.html), the charity received notice of revocation of its registration in 2001 after last hearing from the CCRA about the audit of its 1996 fiscal period in 1999.

70. *Supra*, footnote 4. "Before finalizing the audit report, the field auditors review their preliminary findings with one or more of the charity's representatives. This review ensures that the auditors have received all the information they need to consider when they evaluate the audit."

71. *Supra*, footnote 4.

72. Arthur Drache, "Deference to Authority" (2002), 10:6 *Canadian Not-for-Profit News* 41, p. 44.

73. The administrative fairness letter or some similar process is required by the decision of the Federal Court of Appeal in *Re: Renaissance International*, 83 D.T.C. 5024.

74. As in *Canadian Magen David Adom for Israel*, *supra*, footnote 69.

75. As in *Canadian Committee for the Tel Aviv Foundation* v. *Canada*, 2002 F.C.A. 72 (http://decisions.fct-cf.gc.ca/fct/2002/2002fca72.html).

76. The *Act* provides a number of specific penalties which are either designed to apply to registered charities or could be applied to registered charities. For example, the advisor penalties in section 163.2 provide penalties for deliberately or negligently making a false statement which is intended to be relied on by another taxpayer to save tax. Pursuant to its terms, this penalty could be applied to a registered charity which issued a receipt in an inappropriate circumstance (indeed the CCRA has stated that it intends to apply the penalty in such circumstances – see the heading "Deliberate Over-Valuation in a Tax Shelter-Like Arrangement" in Information Circular IC 01-1 *Third-party Civil Penalties* (http://www.ccra-adrc.gc.ca/E/pub/tp/ic01-1/ic01-1-e.html#P317_62912)). The article has already discussed the penalties provided in subsection 238.1 for taxpayers which fail to keep appropriate records. Finally, there is also a tax in section 189 on nonqualified investments of a private foundation.

77. Note that the JRT Report, *supra*, footnote 28 considered a system of intermediate sanctions for Canadian registered charities. The proposal was that, in addition to the already existing compliance options available to the CCRA, the *Act* be amended to provide that the CCRA may temporarily suspend the privilege of issuing official donation receipts by an offending charity. As well, the proposal also contemplated financial penalties for noncompliant charities (and for individuals who cause charities to fail to comply). The proposal was that any financial penalties would be applied *cy près* in some way. Time will tell if anything comes of this proposal.

78. Subsections 168.1 and 149.1(2), (3) and (4).

79. Entities which are "registered charities" are tax exempt pursuant to paragraph 149(1)(f) while organizations which are "non-profit organizations" are exempt pursuant to paragraph 149(1)(l). However, organizations which have exclusively charitable purposes but which are not registered charities are taxable. [Robert B. Hayhoe, "An (Updated) Introduction to the Taxation of Non-Profit Organizations" will appear in a future issue of *The Philanthropist.*]

80. As sections 110.1 and 118.1 and subsection 248(1)"registered charity" only permit the issuance of receipts by charities which are registered at the time of issue.

81. Subsection 188(1).

82. Paragraph 172(3)(a). (See also [Insert C]).

83. But see *Humanist Association of Toronto* v. *The Queen*, [2002] FCA 322 in which the Court of Appeal allowed new evidence in the context of a registration appeal.

84. Arthur Drache, *Canadian Taxation of Charities and Donations* (Toronto: Carswell, looseleaf) at 6–13.

85. *Supra*, footnote 28.

86. Each of these topics could be, and many have been, the subject of its own article.

87. See Arthur Drache, *Canadian Taxation of Charities and Donations* (Toronto: Carswell, looseleaf) or David Stevens, "Update on Charity Taxation" in *Report of Proceedings of the Fifty-Third Tax Conference*, 2001 Conference Report (Toronto: Canadian Tax Foundation, 2002), 28:1, for more detail.

88. See Hubert Picarda, *The Law and Practice Relating to Charities*, 3rd ed. (London: Butterworths, 1999), at chapter 14.

89. For an older example, see *Positive Action Against Pornography* v. *M.N.R.*, [1988] 1 C.T.C. 232 (F.C.A.).

90. Defined by the CCRA as 90 per cent.

91. By subsections 149.1(6.1) and 149.1(6.2).

92. *Vancouver Society of Immigrant and Visible Minority Women* v. *MNR*, [1999] 1 S.C.R. 10 (http://www.lexum.umontreal.ca/csc-scc/en/pub/1999/vol1/html/1999scr1_0010.html) is the leading Canadian tax case on the issue.

93. Information Circular IC87-1 *Registered Charities – Ancillary and Incidental Political Activities* (http://www.ccra-adrc.gc.ca/E/pub/tp/ic87-1/README.html), sets out the official position of the CCRA. However, in recognition of the confusion which the Information Circular has generated (and given that it predates the *Vancouver Immigrant Women* decision), the CCRA has also issued draft 2 of Guide RC4107E – *Registered Charities: Education, Advocacy and Political Activities* (http://www.ccra-adrc.gc.ca/tax/charities/drafts/rc4107noeq.html). The draft Guide is a sensible approach to the issue and may reduce concerns in the area.

94. For example, the website of the Institute for Media, Policy and Civil Society (www.impacs.org) presents forcefully the partisan view that advocacy by charities should be encouraged. The limitations on advocacy by registered charities are also being criticized by some participants in the Voluntary Sector Initiative (www.vsi-isbc.ca).

95. See the earlier discussion about the revocation of the charitable registration formerly held by Friends of Clayoquot Sound.

96. For example, see *Alliance for Life* v. *M.N.R.* 99 D.T.C. 5228 (F.C.A.) (http://reports.fja.gc.ca/fc/1999/pub/v3/1999fc24468.html) and *Human Life International in Canada, Inc.* v. *M.N.R.*, 98 D.T.C. 6196 (F.C.A.) (http://reports.fja.gc.ca/fc/1998/pub/v3/1998fc22183.html), both of which had the revocation of their registration upheld by the Federal Court of Appeal on the ground that their "prolife" activities constituted political advocacy rather than charitable activities.

97. Including Canadian Magen David Adom for Israel, now re-registered. [Insert D]

98. Until recently, this limitation only applied to charitable organizations as a matter of law (although the CCRA, as a matter of its administrative position, applies a similar rule for charitable foundations). See the discussion by David Stevens, "Update on Charity Taxation", at 28:38–39 or Robert Hayhoe, "A Critical Description of the Canadian Tax Treatment of Cross-Border Charitable Giving and Activities" (2001), 49 *Canadian Tax Journal* 320, pp. 331–332. [Insert E]

99. For a more detailed description of the various qualified donees in the context of foreign grantmaking, see Robert Hayhoe, *ibid.*, pp. 322–327.

100. Attachment to IC 84-3R5, *Gifts to Certain Charitable Organizations Outside Canada* (http://www.ccra-adrc.gc.ca/E/pub/tp/ic84-3r5-attach/ic84-3r5-attach-e.html).

101. For a policy analysis of the rules applicable to foreign activities and grants by Canadian registered charities, see Hayhoe, *supra*, footnote 98. For practical discussions of some of the elements required in such arrangements, see CCRA Guide RC4106, *supra*, footnote 64, or David Amy, "Foreign Activities by Canadian Charities" (2000), 15 *The Philanthrop.* No. 3, p. 41, or Terrance S. Carter, "U.S. Tax Exempt Organizations Commencing Charitable Operations in Canada and International Structuring" (1999), 11 *J. Tax. Exempt Org.* or Ronald C. Knechtel, "Compliance Issues in Operating Charities," in *Report of Proceedings of the 49th Tax Conference*, 1997 Conference Report (Toronto: Canadian Tax Foundation, 1998) 28:1.

102. *Supra*, footnote 75. The discussion herein of this case is based in part upon a case comment which was published as R. Hayhoe, "Case Comment on *Canadian Committee for the Tel Aviv Foundation* v. *Canada"* (2002), 4:4 *International Journal of Not-for-Profit Law* (http://www.icnl.org/journal/vol4iss4/cn_na.htm).

103. *Supra*, footnote 69. The discussion herein of this case is based in part upon a case comment: R. Hayhoe, "Case Comment on *Canadian Magen David Adom for Israel* v. *Minister of National Revenue"*, 2002 FCA 323, 5:1 *International Journal of Not-for-Profit Law* (http://www.icnl.org/journal/vol5iss1/cn-na-canda.htm).

104. As I have previously pointed out (in the case comment referred to above), the Court's conclusion on agency is odd. Once a charity establishes that there is an agency, relationship with a foreign charity, as a matter of the common law of agency, the activities of the agent are activities that the Canadian charity carries on itself. If a requirement for direction and control by the Canadian charity is a good thing, it should be required by the *Act*, not simply adopted from the nonauthoritative CCRA guide.

105. Ron Lsillag, "Federal Court of Appeal Rejects 'Green Line' Policy on Charities", [October 3, 2002] *The Canadian Jewish News.*

106. This discussion is based in part upon R. Hayhoe, "Canada Country Update: *Charities Registration (Security Information) Act*" (2002), 4:4 *International Journal of Not-for-Profit Law* (http://www.icnl.org/journal/vol4iss23/cr_na.htm).

107. "The New Anti-Terrorism Law: Impact on Charities" (Spring 2002), 12 *CCRA Registered Charities Newsletter* (http://www.ccra-adrc.gc.ca/tax/charities/newsletters/news12-e.html).

108. The best known proponent of this view is Terrance Carter whose law firm sponsors the internet domain http://www.antiterrorismlaw.ca which provides links to various articles which comment on the *Security Act*.

109. For example, see David Amy, "The Impact of Anti-Terrorism Legislation on Charities", in *Working Together, 2002 Canadian Council of Christian Charities Annual Conference* (Ontario: Canadian Council of Christian Charities, 2002), or even Arthur Drache, "C-36 Amendments" (2001), 9:12 *Canadian Not-for-Profit News* 89, p. 89.

110. See references to statements by the Canadian Centre for Philanthropy and the Canadian Jewish Congress in Amy, *ibid*.

111. *Supra*, footnote 107.

112. See Amy, *supra*, footnote 109 or Terrance Carter, "Charities Need to Comply with Anti-terrorism Act" [April 5, 2002], *Lawyer's Weekly* for compliance checklists.

113. Which I understand to be available in some circumstances.

114. Subsection 118.1.

115. Subsection 110.1(1).

116. *Woolner* v. *Canada*, 99 D.T.C. 5722 (F.C.A.) (http://decisions.fct-cf.gc.ca/fct/1999 a-912-97.html).

117. http://www.ccra-adrc.gc.ca/E/pub/tp/it110r3/README.html.

118. *Friedberg* v. *M.N.R.* (1991), 135 NR 61 (FCA), aff'd. on other grounds (1993), 160 NR 312 (SCC).

119. http://www.ccra-adrc.gc.ca/E/pub/tp/ic75-23/README.html (as modified by CCRA *Information Letter Re: Treatment of Tuition Fees as Charitable Donations under Information Circular 75-23* (http://www.ccra-adrc.gc.ca/tax/charities/ic75-23-attach-e.html)).

120. *MacKenzie* v. *M.N.R.*, 52 D.T.C. 346.

121. "Directed Donations", (Spring 1999) 8 *CCRA Registered Charities Newsletter* (http:// www.ccra-adrc.gc.ca/tax/charities/newsletters/news8-e.html) states that:

> There are cases where a gift to a charity for a named beneficiary can be valid. These cases are usually exceptions to the above rule and depend on a number of facts. This is of particular interest to poverty-relief and medical-treatment charities as well as certain religious charities, notably with regard to fund-raising for missionary activities. [Insert G]

122. See Arthur Drache, "Art Flip Update" (2001), 9:4 *Canadian Not-for-Profit News* 25, p. 28, Vern Krishna, "Art Donation Scams" (2003), Can. Current Tax 53, or CCRA Fact Sheet, *Art donation schemes or art-flipping* (2002) (http://www .ccra-adrc.gc.ca/newsroom/factsheets/2002/nov/art-e.html).

123. Courts have not accepted this approach (see *Friedberg*, discussed previously).

124. The CCRA has had some success with this approach: *R.* v. *Duguay*, 2000 D.T.C. 6620 (F.C.A.) (http://decisions.fct-cf.gc.ca/fct/2000/a-756-98.html).

125. Revocation is specifically threatened in the CCRA Fact Sheet, *supra*, footnote 122.

126. "The 'art' of issuing official donation receipts", (Summer 1996) 6 *Registered Charities Newsletter* (http://www.ccra-adrc.gc.ca/tax/charities/newsletters/news6-e.html).

127. A portion of the following discussion of related business is based upon an article by my colleague Rachel Blumenfeld, "CCRA Requests Comments on its Draft Related-Business Guidelines," [July 19, 2002] *The Lawyers Weekly* 14.

128. Subsections 149.1(6.1) and 149.1(3) provide the same rules for public foundations. Subsection 149.1(4) prevents a private foundation from carrying on *any* business.

129. 1987 D.T.C. 5306 (F.C.A.) (leave denied).

130. http://www.ccra-adrc.gc.ca/tax/charities/consultation_policy-e.html

131. David Stevens certainly takes the position that the Alberta Institute case was wrongly decided: David Stevens, "Update on Charity Taxation" in *Report of Proceedings of the Fifty-Third Tax Conference*, 2001 Conference Report (Toronto: Canadian Tax Foundation, 2002), 28:1, p. 28:33–34. [Insert H]

Updates and Revisions

Insert A

In responding to a Requirement which seeks information about a third party, it is important to be sure that the Requirement is validly issued. The CCRA may not, under the guise of an audit of one taxpayer (or registered charity) seek information about unnamed third parties (like donors). Subsections 231.2(2) and (3) provide that such a Requirement can only be issued if the CCRA first obtains an *ex parte* court order (with the subject of the Requirement able to seek to overturn the order before being required to comply.) See Subsections 231.1(5) and (6).). For an example of an audit in which the CCRA sought to avoid obtaining the statutorily mandated court order by taking the position that it was seeking to verify the tax liability of a tax shelter promoter where it really wanted to obtain a list of donors who had taken part in the charitable donation, see *Capital Vision Inc.* v. *M.N.R.*, 2003 D.T.C. 5054 (F.C.T.D.). In that case, the Court decided that the requirements were invalid and proceeded to quash them.

Insert B

The JRT Report suggests that "charities lose their registration for serious or continued non-compliance." *Supra*, footnote 28, p. 89.

Insert C

See Arthur Drache, "Primer on Appeal Procedure" (2003), 11 *Canadian Not-For-Profit News* 33 for a practical (and critical) description of appeal procedures.

Insert D

Janice Arnold, "CMDA Resolves Tax Dispute" [March 15, 2003], *Canadian Jewish News* (http://www.cinews.com/viewarticle.asp?id=433).

Insert E

The December 20, 2002 technical bill introduced amendments to subsections 149.1 (2), (3), and (4) to confirm that registration of any registered charity could be revoked for making a gift otherwise than in the course of charitable activities carried on by it or to a qualified donee.

Insert F

As part of the December 20, 2002 technical bill, the Department of Finance introduced legislation to permit "split receipting" or the issuance of an official donation receipt in a situation where the donor receives something of value in exchange for the gift. Pursuant to proposed 110.1(3) and 118.1(6), a donation receipt is available for the amount by which the "advantage" (defined in proposed subsection 248(31)) received by a donor is exceeded by the fair market value of the donated property provided that there is an intention to give.

Insert G

In Policy Commentary CPC 025, the CCRA Charities Directorate concludes that volunteer missionaries may make a properly receiptable donation to the registered charity for which they volunteer in the amount required to pay their reasonable expenses (http://www.ccra-adrc.gc.ca/tax/charities/policy/cpc/cpc-025-e.html).

Insert H

In late 2002, the Federal Court of Appeal issued its decision in the *Earth Fund* appeal (2003 D.T.C. 5016 (F.C.A.)). Earth Fund appealed the CCRA's refusal to register it as a charity. The CCRA had taken the position that Earth Fund (which planned to operate an internet lottery and devote its revenue to environmental causes) was proposing to carry on an unrelated business. Earth Fund's argument that the Alberta Institute case mandated a destination-of-funds test was rejected by the Court of Appeal which decided (without much analysis) that since the activity of Earth Fund was clearly commercial it must not be a related business. See Arthur Drache, "An Unhelpful Decision" (2003), 11 *Canadian Not-For-Profit News* 1.

At the same time the CCRA had issued, in draft prior to *Earth Fund* and in final form subsequent to that decision, a policy statement on related business (the *Business Policy*). See CCRA Policy CPS-019 "What is a Related Business?" (2003), (http://www.ccra-adrc.gc.ca/tax/charities/policy/cps/cps-019-e.html).

The Canada Revenue Agency is currently conducting extensive audits on some of Canada's most prominent environmental groups to determine if they comply with guidelines that restrict political advocacy, CBC News has learned. If the CRA rules that the groups exceeded those limits, their charitable status could be revoked, which would effectively shut them down.Â Auditors alone determine whether they investigate a charity. "I assume they receive all sorts of information from all sorts of Canadians, in terms of who they should or should not audit. Ultimately it is up to them as an independent agency who they audit or not,â€ Alberta Conservative MP James Rajotte said. CBC News contacted the CRA several times to ask how auditing targets are chosen. Canada Revenue Agency, Ottawa, ON. 85 215 tykkÃ¤ystÃ¤ Â· 1 552 puhuu tÃ¤stÃ¤. Visit canada.ca/cra-coronavirus for information on tax measures to help support...Â NÃ¤ytÃ¤ lisÃ¤Ã¤ sivusta Canada Revenue Agency Facebookissa. Kirjaudu sisÃ¤Ã¤n. tai. Luo uusi tili. NÃ¤ytÃ¤ lisÃ¤Ã¤ sivusta Canada Revenue Agency Facebookissa. Kirjaudu sisÃ¤Ã¤n. Unohditko kÃ¤yttÃ¤jÃ¤tilin? Review custom tariffs for importing goods. Find a patent. Import and export from Canada.Â A charity can be selected for audit for various reasons including the following: random selection. referral from another area of the CRA.Â Director, Compliance Division Charities Directorate Canada Revenue Agency Ottawa ON K1A 0L5. The Canada Revenue Agency (CRA) audits taxpayers who actively trade in their TFSA. The CRA takes a number of factors into account when determining whether or not a TFSA is subject to income tax. These include the duration of the holdings, the frequency of the trades, the nature and quantity of the securities, the time spent on the activity, and your intention to hold investments to resell them for a profit.Â China, the world`s second largest economy, is forecast to reach a projected market size of US$866.3 Million by the year 2027 trailing a CAGR of 13.9% over the analysis period 2020 to 2027. Among the other noteworthy geographic markets are Japan and Canada, each forecast to grow at 12.8% and 12.4% respectively over the 2020-2027 period.