



Canadian Library Association /
Association canadienne des bibliothèques
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Attention: Ms. Kelly Moore

File #: 0327098

March 11, 2014

Subject: Reminder Letter - Reporting Political Activities

Dear Ms. Moore:

We have reviewed the activities of the Canadian Library Association/ Association canadienne des bibliothèques (the Organization). At this time, the Organization's registered status remains unchanged. The Canada Revenue Agency (CRA) is taking this opportunity to offer information about provisions in the *Income Tax Act* related to political activities to assist the Organization in complying with the requirements for registration.

CRA is responsible for ensuring that registered charities comply with requirements for registration under the Act, its Regulations, and the common law. Along with the many advantages and privileges of being a registered charity in Canada come a number of obligations under the law.

A registered charity must devote substantially all of its resources to charitable activities in furtherance of its charitable purposes. While a charitable organization may devote a portion of its resources to political activities, those political activities must be non-partisan,¹ and they must be ancillary ("connected") and incidental ("subordinate") to its charitable activities that further its charitable purposes.²

¹ That is, they may not include the direct or indirect support of, or opposition to, any political party or candidate for public office.

² Income Tax Act 149.1(6.2)

A political activity is an activity aimed at retaining, opposing or changing the law, policy, or decision of any level of government in Canada or a foreign country³. An activity is presumed to be political if an organization:

- explicitly communicates a call to political action (that is, encourages the public to contact an elected representative or public official and urges them to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country);
- explicitly communicates to the public that the law, policy, or decision of any level of government in Canada or a foreign country should be retained (if the retention of the law, policy, or decision is being reconsidered by a government), opposed, or changed;
- explicitly indicates in its materials (whether internal or external) that the intention of the activity is to incite, or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country; or
- makes a gift to another qualified donee to support political activities.

For further information on political activities, please visit CRA's website at: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltcl-ctvts/menu-eng.html>.

As stated above, a registered charity must devote substantially all of its resources to charitable activities. A charity is generally considered to be devoting substantially all of its resources to charitable activities when it devotes 90% of its resources to them. Based on the information contained on the Organization's Form T3010, *Registered Charity Information Return*, for the fiscal periods ended December 31, 2010, 2011, and 2012, it is evident that the Organization engages in political activities. The amount of political activities reported at line 5030 of the Organization's T3010 for the fiscal periods listed above, account for less than 2% of the Organization's total expenditures. Thus, it appears as though the Organization is well within the allowable limit for political activities.

However, we also note that the Organization's financial statements include expenditures for "advocacy and media relations". The Organization reported that it spent \$67,921 (2011) and \$67,278 (2012) on "advocacy and media relations". Since the term

³ Policy Statement CPS-022 Political Activities <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html>

“advocacy” can mean different things, and may include political activities, it is not clear if the Organization reported its expenditures accurately on its T3010.

In this regard, we note that the Organization is involved in various types of political activities. For example, the Organization’s website contains a document titled *CLA Grassroots Advocacy Summer Bulletin: Meet with your local Member of Parliament (MP) Today!*⁴ This bulletin encourages people to contact elected officials to urge them to change copyright legislation, to adopt Bill C-509 (*An Act to amend the Canada Post Corporate Act (library materials)*), and to continue the Community Access Program that provides Canadians with public access to the Internet. Specifically, it states “So contact your MP, ask for a meeting – in person or by phone – and share our messages on copyright legislation, the library bookrate, and Canada’s digital economy”.

Next, the Organization’s website contains another document titled “*CLA Toolkit: Budget Cuts to Federal Libraries / Contact Your Local Member of Parliament Today!*”⁵ which opposes budget cuts to Library and Archives Canada and to libraries in other federal government departments. It also urges people to “contact your MP today and **make your voice heard!**”

In the examples above, the Organization explicitly communicates a call to political action and encourages the public to contact elected representatives to urge the elected representative to change the law, policy, or decision of government. Therefore, these activities are considered political activities.

Furthermore, the document titled “*Library Advocacy Now! A Training Program for Public Library Staff and Trustees*”⁶ encourages members of the Organization to participate in various advocacy activities, including lobbying, and includes statements, such as, “The more people who are perceived to have a particular opinion, the more chance there is to influence a politician”, as well as, “Numbers and force of expression do matter – no elected official can afford to ignore the views of significant numbers of people”.

Based on these statements, it is evident that the intention of this activity is to incite, or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country. Therefore, this would also be considered a political activity.

As the political activities described above appear to be ancillary and incidental to the Organization’s charitable purposes and are non-partisan, they are considered to be

⁴ http://www.cla.ca/Content/NavigationMenu/CLAAatWork/Advocacy/CLA_Summer_Bulletin-Grassroots_Key_Messages-July2011.pdf

⁵ http://www.cla.ca/Content/NavigationMenu/CLAAatWork/Advocacy/CLA_Member_Toolkit-Federal_Library_Budget_Cuts.pdf

⁶ <http://www.cla.ca/divisions/capl/LibraryAdvocacyNow.pdf>

within the scope of political activities allowed under subsection 149.1(6.2) of the Act. Nonetheless, all resources devoted to political activities (for example, staff time devoted to managing web content) must be reported on the Organization's T3010. Note that under paragraph 188.2(2.1) of the Act, the authority to issue official donation receipts may be suspended if a registered charity fails to report information that is required on its T3010.

Representations

When a registered charity makes a well-reasoned representation to elected representatives or public officials, it is considered a charitable activity provided that the representation is a reasonable way to achieve the organization's charitable purpose and provided the representations remain a minor focus of the organization. An organization that focuses primarily on making representations to elected representatives or public officials may be considered by CRA to have a political purpose, which is not charitable at law.

In this regard, we note that the Organization makes representations that can be considered charitable activities. For example:

- Letter to Clerk of Privy Council dated May 24, 2013;⁷
- Joint Statement on Qualities of a Successful Librarian and Archivist of Canada dated May 24, 2013;⁸
- Submission to the Information Commissioner's consultation on the Access to Information Act.⁹
- Letter to the Minister of Canadian Heritage and Official Languages dated December 20, 2013¹⁰

When a representation is connected to an organization's charitable purposes and is based on objective and factual information, it is considered to be a charitable activity, even if it advocates for the law, policy, or decision of any level of government to be retained, opposed, or changed. Similarly, publishing, or otherwise making available to the public, the entire representation, is also a charitable activity. Resources devoted to activities like these are not calculated toward the allowable limit for political activities; rather they should be reported as expenditures on charitable programs.

⁷http://www.cla.ca/Content/NavigationMenu/CLAAatWork/Advocacy/letter%20re%20LAC_appointment_joint_statement_may13_draft.pdf

⁸ http://www.cla.ca/Content/NavigationMenu/CLAAatWork/Advocacy/Joint_Statement_FINAL_24May13_EN.pdf

⁹ http://www.cla.ca/Content/NavigationMenu/CLAAatWork/Advocacy/Access_to_Information_Act_consultation-response_from_CLA_finaljan13.pdf

¹⁰http://www.cla.ca/Content/NavigationMenu/CLAAatWork/Advocacy/Crown_Copyright_FINAL_Dec_19_2013.pdf

Governing documents

We note that the Organization is currently incorporated under Part II of the Canada Corporations Act. Registered charities established under this Act must apply for a certificate of continuance, in order to transition to the new Canada Not-for-Profit Corporations Act, no later than **October 17, 2014**.

If the Organization does not apply for a certificate of continuance by October 17, 2014, Corporations Canada will take steps to dissolve the Organization's corporate status. Once an organization's corporate status is dissolved, it is no longer a legal entity. If a registered charity is no longer a legal entity, its registration could be revoked. For further information, please visit the Charities Directorate's website at: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/nfpc/menu-eng.html>.

Conclusion

Based on the information currently available to us, we are satisfied that the Organization is operating within the limits set out in subsection 149.1(6.2) of the Act.

At this time, the Organization is not required to respond to this letter. We trust that it will take appropriate action, as necessary, to remain compliant with the provisions of the Act, including refraining from undertaking any partisan activities. This letter does not preclude any future audits.

We hope the information that has been provided will help clarify the rules under which charities agree to operate when they are granted charitable status.

Should you require further information, clarification, or assistance, please do not hesitate to contact me at 613-957-8709 or 1-800-267-2384.

Yours sincerely,



Valerie Spiegelman
Technical Policy Advisor
Compliance Division
Charities Directorate

