

CANADA REVENUE AGENCY (CRA)

**Follow-up to the Standing Senate Committee
on Fisheries and Oceans (POFO)**

Letter of November 14, 2023

What follows is the Canada Revenue Agency's (CRA) follow up response to a letter from the Standing Senate Committee on Fisheries and Oceans (POFO) of November 14, 2023.

For ease of reference, the relevant excerpts of letter have been included to provide additional context.

Question 1

In a letter of November 14, 2023, the Deputy Chair of POFO – on behalf of the Committee – asked the CRA the following:

In your experience, are animal welfare and other similar groups in Canada registered as charities or not-for-profit organizations? If so, please explain the difference between an organization registered as a charity and an organization registered as a not-for-profit. Do either of them (or both) benefit from federal tax exemptions?

CRA response

An animal welfare organization may be registered as a charity if it can demonstrate that it meets the [general requirements](#) for registration under the Income Tax Act (the Act). These organizations can generally qualify for registration as a charity if they are established for educational purposes (for example, by providing courses on animal welfare laws), or for promoting the welfare of animals (for example, by operating animal rescue and/or adoption agencies). For more information on these types of charitable activities, please see [Guidance CG-011, Promotion of animal welfare and charitable registration](#).

Animal welfare organizations can also be tax-exempt non-profit organizations (NPO) that are not registered charities. This could occur in cases where, for example, an organization has not applied for registration or does not meet the requirements for registration as a charity.

While the term “non-profits” is sometimes used to refer to both registered charities and tax-exempt NPOs, there are some important differences under the Act. Registered charities must be constituted and operated exclusively for [charitable purposes](#); whereas the requirements to qualify as a tax-exempt NPO, as found in paragraph 149(1)(l) of the Act, describe a NPO as a club, society, or association that is not a charity (whether registered or not) and that is organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or any other purpose except profit. There is no requirement for these organizations to be registered by the CRA as tax-exempt NPOs for purposes of the Act.

While both NPOs that meet the requirements of paragraph 149(1)(l) and registered charities are tax exempt, only charities are registered by the CRA and can issue official donation receipts for gifts they receive. Additional information about the differences between a registered charity and a tax-exempt NPO can be found at [What is the difference between a registered charity and a non-profit organization?](#)

Question 2

In a letter of November 14, 2023, the Deputy Chair of POFO – on behalf of the Committee – asked the CRA the following:

Can legislative, legal or policy-based measures be taken against Canadian charities or not-for-profit organizations that are found to be using disinformation in their fundraising campaigns or in their informational materials? If there are measures that can be taken, what would these be? Which federal government department or agency would lead the process? In other words, if a registered Canadian charity or not-for-profit organization is found to be using disinformation in its fundraising campaigns or in its informational materials, what possible repercussions could it face? What penalties, if any, could be imposed?

CRA response

With respect to registered charities, in addition to being constituted and operated for exclusively charitable purposes, they are required to provide a [public benefit](#) and they cannot carry on activities that are illegal or contrary to public policy. With respect to fundraising in particular, registered charities are permitted to use some of their resources for fundraising to support the charitable activities they carry on in furtherance of their charitable purposes. However, the CRA's position is that fundraising is not a charitable purpose in itself. Therefore, the resources used to conduct fundraising activities must be necessary, reasonable, and proportionate in relation to the public benefit a registered charity provides.

In addition, fundraising by registered charities must be conducted within certain legal parameters. For example, the fundraising cannot be illegal, nor can it be deceptive or misleading. Illegal fundraising activities could include those that are criminally fraudulent, or that violate federal or provincial statutes governing charitable fundraising, charitable gaming, the use of charitable property, or consumer protection. Deceptive fundraising would include practices that might cause significant harm through misleading donors or potential donors, or by impairing the fundraising efforts of other charities, whether the conduct is intentional or negligent.

As the federal regulator of registered charities, the CRA has a responsibility to protect the integrity of the tax system and the charitable sector by ensuring that all registered charities follow the rules. The CRA fulfils this responsibility by monitoring the operations of registered charities and promoting compliance through a balanced program of education, client service, and responsible enforcement. A determination as to whether an organization qualifies, or continues to qualify, for charitable registration may only be performed after a full consideration of all of the relevant facts.

As part of its ongoing efforts to make sure charities meet the requirements of registration, the CRA uses a risk-based approach to promote voluntary compliance through various audit and non-audit interventions across a wide segment of the sector. Non-audit interventions, which include [Charities Education Program \(CEP\)](#) visits, education letters and telephone calls, are intended to address lower risk, low complexity non-compliance issues. This approach allows the CRA to dedicate its audit resources to address the smaller proportion of charities that exhibit the highest risk of more serious non-compliance. If the CRA identifies non-compliance as a result of an audit, it generally gives a charity the opportunity to correct the non-compliance through education or a compliance agreements. Other interventions, such as sanctions or revocation, are reserved for cases where a charity has engaged in more serious or repeated acts of non-compliance. The facts of the charity's case will determine which compliance approach the CRA will take.

With respect to NPOs, there are no provisions under the Income Tax Act that would prevent an entity from qualifying as a tax-exempt NPO with respect to the information that it distributes.