

FREQUENTLY ASKED QUESTIONS

FOR CANADIAN REGISTERED CHARITIES AND NON-PROFIT ORGANIZATIONS IN THE TIME OF THE COVID-19 CRISIS

By Mark Blumberg, Maddy Sawyer, Lynn Gluckman, Ron Segal, and Adam Greco of Blumberg Segal LLP

Dated as of: April 14, 2020

1. Can my registered charity or non-profit provide COVID-19 relief programs and other COVID-19 support?

You will need to review your organization's official "objects" or "purposes", as stated in your organization's governing documents, to see whether or not they cover the programs or activities you wish to carry out.

If they do not, as a non-profit, you should be able to change your purposes to cover your new activities. For registered charities, you may be able to change your purposes to cover your new activities, but you may also require CRA approval of those purposes. CRA's Charities Directorate is currently closed and therefore cannot presently approve any changes in purposes. Depending upon the organization and the nature of the object changes, in some cases, a registered charity can make the changes and provide the amended corporate documents to CRA along with a detailed statement of activities immediately after making the corporate changes.

If your purposes do not allow for COVID-19-related relief programs, you may still be able to give funds to other groups that are undertaking COVID-19-related relief programs if your purposes include a gifts to registered charity or qualified donee clause. Qualified donees include registered charities, listed municipalities, listed foreign universities, etc. In many cases, another registered charity may be able to do a particular charitable program or intervention better than your registered charity and you should consider making a gift to that other registered charity. If you are unsure whether your purposes allow for COVID-19-related relief programs, or need to change your purposes, you should obtain legal advice. You may also find the following resources to be helpful: [Objects of registered charities in Canada are sometimes not charitable](#), CRA's guidance [CG-019 How to draft purposes for charitable registration](#) and [Ontario PGT has issued a "Statement on Accessing Restricted Purpose Trust Funds Prior to Obtaining a Court Order During the COVID19 Pandemic"](#).

2. How does the COVID-19 crisis affect our registered charity's filing of the T3010 or our non-profit corporation's filing of the T2 and T1044?

CRA has announced that it has extended the T3010 Registered Charity Information Return filing deadline for all registered charities that are required to file from March 18, 2020. The extension will allow all registered charities that have a filing deadline between March 18, 2020 and December 31, 2020 to file by December 31, 2020.

Here is more information on that CRA announcement [CRA Charities Directorate announces extension of T3010 filing deadlines till December 31, 2020 in response to COVID-19.](#)

As of March 30, 2020, the CRA updated their website to allow extension for certain non-profits to file T2 Corporation Income Tax Return and T1044 Non-Profit Organization (NPO) Information Return.

Any T2 Corporation Income Tax Return or T1044 that was due from March 19, 2020 to June 1, 2020 can be filed by June 1, 2020.

See: [Extension for non-profits to file T2 Corporation Income Tax Return and T1044 Non-Profit Organization \(NPO\) Information Return](#)

3. Can my registered charity or non-profit provide funds to other groups providing COVID-19-related relief?

This depends on many factors, including whether you are a charity or a non-profit.

As a non-profit, you likely can support other groups with funds and other resources provided it is within your objects. However, for both non-profits and registered charities keep in mind that any funds that you received under a grant or donor arrangement that is restricted for a specific purpose cannot be repurposed unless your agreement with the grantor or donor allows for that or you obtain a [court order](#). Always consult any granting agreement and/or any messaging provided to the public in connection with an appeal before spending restricted funds.

As a registered charity, generally you may only make a "gift" to other [qualified donees](#). Qualified donees include other Canadian charities, such as hospitals and universities, as well as municipalities and provincial and federal governments. In addition, if you wish to transfer funds to an organization that is not a qualified donee then you need to follow CRA's guidance CG-004 – Using an intermediary to carry out a charity's activities within Canada: <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/using-intermediary-carry-a-charitys-activities-within-canada.html>.

This guidance discusses how Canadian registered charities can work with non-profits and for-profits and provide them with resources so long as there is appropriate "direction and control". There are many thousands of registered charities every year that work with non-qualified donees (such as non-profits and for profits) to help charities implement their charitable programs. If this is not something your organization has had experience with, we would suggest that you review CRA's guidance carefully and/or seek legal counsel to ensure you are meeting the necessary compliance requirements.

4. Can I contact the CRA Charities Directorate about my questions around the COVID-19 crisis?

CRA has closed all non-essential departments, including the Charities Directorate and the Charities Directorate call centre. Some call centres at CRA, outside of the Charities Directorate, are still operating at this time (i.e. for businesses or personal tax or for questions about the CRA's My BA system).

If you need to send something to CRA best to avoid courier or fax and rather [use regular mail or the new online CHAMP system](#).

Here are some helpful resources for registered charities that are available online:

[CRA Charities and Giving Page](#)

[Blumbergs' Canadian Charity Law website](#)

Charities may wish to sign up to the [CRA email list](#) or the [Blumbergs Charity Law List](#) to receive updates, including when the Charities Directorate of CRA will start up their call centres.

5. Is my registered charity or non-profit organization still required to hold an annual general meeting of the members (AGM) during the COVID-19 crisis?

This depends on whether you are an incorporated organization and, if so, under which legislation (Federal or the different Provincial acts) you are governed and whether the relevant companies branch maintaining the act has allowed for extensions.

For Federally incorporated non-profits and charities, you may request an extension to the AGM requirement by emailing Corporations Canada at IC.corporationscanada.IC@canada.ca at least 30 business days before sending the notice calling the meeting. More information is available here: [Extending the time for calling an annual meeting of members](#). Blumbergs is preparing a document to help Canadian Federal non-profit corporations under the CNCA if they need to either request an extension of the six-month timeframe for holding AGM's and/or also the requirement to provide financial statements to members at least 21 days ahead of the AGM. These are separate requirements. Currently Corporations Canada does not have the ability to provide a blanket extension.

For non-profits and charities incorporated in Alberta, as an example, Service Alberta has recently announced that corporations may postpone their AGMs for up to 3 months (until June 2020). The Ontario government has passed an [Emergency Order](#) that will allow all corporations under the Ontario Corporations Act (OCA) to hold meetings of directors and members virtually (i.e., electronically or by telephone). As well they have extended the timeframe by which corporations under the OCA must hold Annual General Meetings (AGMs) in certain circumstances related to the emergency "no later than the 90th day after the day the emergency is terminated."

For all jurisdictions, it is best to consult your local companies branch for further information or obtain legal advice.

6. Can my registered charity or non-profit organization hold virtual directors and members' meetings?

Some non-profit corporate legislation in Canada allows for virtual meetings; however, the ability to hold virtual meetings can be limited by a corporation's corporate documents such as its articles or by-law. The rules may also be different for directors' versus members' meetings. Keep in mind that there may also be different rules for partially virtual meetings (where a few people are together and the rest are online).

You should first review the legislation under which you are incorporated. Then, if necessary, contact your companies branch as there may be special requirements or procedures to follow to ensure that your meetings (and any voting) is valid. As well, some acts do not provide for virtual meetings.

Second, if the legislation that governs your corporation allows for virtual meetings, then you should review your governing documents (such as articles and by-laws) to see whether they allow for them.

For many organizations who have traditionally had face-to-face meetings, this may seem daunting. But many non-profits and charities are adjusting the way they hold director and member meetings to deal with the current COVID-19 crisis.

The Ontario government has passed an [Emergency Order](#) that will allow all corporations under the Ontario Corporations Act (OCA) to hold meetings of directors and members virtually (i.e., electronically or by telephone) overriding the OCA, and governing documents such as letters patent, supplementary letters patent and by-laws.

7. Can my registered charity or non-profit organization continue operating?

Please review any orders issued by any level of government relevant to your operations. Some provinces (such as Ontario) have ordered the closure of all non-essential business, which can include non-essential non-profit and charitable organizations. However, these closure orders typically would not affect non-essential businesses that are working remotely (i.e. having volunteers and staff working from their own home).

Be sure to also consider the health and safety of your organization's employees, volunteers, beneficiaries and community. It is best to practice safe physical distancing as much as possible.

8. My registered charity or non-profit needs to downsize, what do I need to consider in downsizing?

In light of the disruptions to work caused by the ongoing COVID-19 crisis, many charities and non-profits may be faced with the prospect of temporarily laying off some or all of their employees. Many will try to avoid any layoffs by repositioning work for employees, if possible, or paying employees to be home during the crisis, but some will not have sufficient unrestricted reserves to be able to do this. Every province and their respective employment law may deal with this issue differently, and you should obtain appropriate advice relating to your organization and its employees in different provincial jurisdictions.

For example, in Ontario, unless the employee has previously agreed to be temporarily laid off, whether in an employment agreement or otherwise, there is case law that suggests that such a layoff may constitute wrongful dismissal. However, if an organization is faced with such a wrongful dismissal claim, it may attempt to resist the claim by arguing that the employment contract was 'frustrated' due to the mandated closure of the organization's operations as a result of the Ontario government's ongoing efforts to reduce the spread of COVID-19. It remains to be seen whether an Ontario court would find this argument persuasive.

Wherever possible, employers should try to obtain the employee's consent to the temporary layoff, ideally prior to laying off the employee. Additionally, employers should only have the temporary layoff continue as long as is necessary. The longer that an employee is laid off, the more likely he or she will consider claiming that they have been wrongfully dismissed.

Employment legislation varies from province to province and, depending on where the organization's employees reside, the organization may need to obtain legal advice in multiple jurisdictions prior to proceeding with a layoff. For example, in Ontario, the *Employment Standards Act, 2000* provides that an employee may only be temporarily laid off for a period of up to 13 weeks in any 20-week period, or up to 35 weeks in any 52-week period. Other statutory obligations in Ontario include the requirement to continue to pay the employee's benefits during the entire layoff period. Organizations that are considering a temporary layoff of its employees should obtain legal advice in each jurisdiction where their employees reside prior to proceeding with the layoff.

You might also find this [article on the Federal Wage subsidy helpful](#).

9. Can my registered charity or non-profit organization continue to fundraise during the crisis?

It depends on the nature of the fundraising. Any in-person fundraising events would probably be inappropriate and in violation of bans against group gatherings, which apply to charities as much as anyone else. Face-to-face fundraising on the streets has already ceased. You must also consider whether your organization has large reserves and whether or not now is the time to tap into those reserves. Keep in mind that it may not look appropriate to the public for an organization to continue to fundraise when it is sitting on large amounts of money in the bank. If you are a registered charity and have large reserves and wish to fundraise, you should definitely have a reserve fund policy. For further information on this topic, please see: [If your Canadian charity has assets/reserve and you don't have a reserve fund policy you should stop fundraising](#)

There are many in need during this crisis and many Canadians who are willing to support those in need. Fundraising may help your organization assist those severely affected by the COVID-19 crisis, as long as it is done appropriately. Be very careful when making requests for funds from the public or other charities, especially if they are specifically linked to the COVID-19 crisis. Now is a great time to push for online fundraising, and you can donate directly to many charities or you can go to [CanadaHelps](#) to find a list of all charities and donate to them. If you want over 15 years of detailed information on over 84,000 Canadian registered charities you can visit Blumbergs' [CharityData.ca](#) website.

10. How can my registered charity or non-profit continue to operate while adhering to ongoing restrictions and protecting our employees and/or volunteers?

For some charities there will be no alternative but to cease operations at this time. For others, as much as possible, try to allow volunteers and/or employees to work remotely even if you are, for example, an essential service and employees could attend in-person at work. There are various resources and articles online to help you transition to a virtual workplace.

For those who cannot have a virtual workplace, such as food banks, ensure that your volunteers and/or employees have good training, the right protective equipment, as well as generous leave options for those feeling ill. In the past, in some workplaces, the culture may not have discouraged people who are ill to show up for work and in this current environment that culture needs to change.

11. What financial supports are available to registered charities and non-profits which have been impacted by the COVID-19 crisis?

Both Federal and Provincial governments are releasing regular updates on stimulus plans, which may include funding for your organization or your employees. Regularly check for those updates to see if you can apply for financial support. Some funders will be increasing funding so you may want to utilize those options.

12. During the COVID-19 crisis, is there an exemption to the rules for registered charities, such as being able to work with non-profits or for-profit corporations without a structured arrangement or direction and control?

No, as a registered charity, the rules still apply. If your organization is going to work with another organization that is not a Canadian registered charity or another qualified donee, you must still adhere to the rules for working with intermediaries found in CRA's guidance CG-004 – Using an intermediary to carry out a charity's activities within Canada: <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/using-intermediary-carry-a-charitys-activities-within-canada.html>.

All other restrictions on registered charities, such as proper receipting, appropriate fundraising and acting only within your charity's charitable purposes still apply as well. Charities have a lot of flexibility and resources but there are rules and limits. If you think your COVID-19 response plan may be in violation of the legal requirements, keep in mind that, in many cases, something can be done by a different organization or individual and does not need to be done by the registered charity itself.

13. We have to cancel our events, and this is going to mean a tremendous loss of revenue for our registered charity. Can we offer registrants a charitable donation receipt instead of a refund?

Canceling events will be very costly for charities, but they often have no alternative. Some charities can adjust their events to make them online. Other charities can delay their events by a few months instead of cancelling. For those that must cancel, it may somewhat reduce the impact of the cancellation if you can convert potential refunds into charitable donations. Here are two articles that discuss this issue at greater length: [Corona Virus/COVID-19 charity issues - cancelling events, refunds and the possibility of a charitable donation](#) and [What to do if you have cancelled an event due to COVID-19 and the charity has already issued a tax receipt?](#)

14. I have received a request to donate to a COVID-19 charity cause by text or email. How do I know if it is legitimate?

Over the next few months, expect to receive a large number of fraudulent or deceptive requests for funds or donations for COVID-19-related issues. If you don't want your money to end up in the hands of scammers, it is best that you exercise some caution. Ideally, donate to non-profits or registered charities that you know well and that have the reputation and experience to do the work that is necessary. Go to their website directly and don't follow links sent to you via text or email as they may be spoofing the group and not actually from the group. Sometimes the scams are not asking for a donation but offering to sell you a COVID-19 test kit (these are apparently only available to hospitals) or to sell you face masks (they could take your money and you may never see the masks).

There are many groups, not only charities, doing great work in our communities and they need help with the increasing demands being placed on them. For more information see Blumberg's [smartgiving.ca](#) website or the [Canadian Anti-Fraud Centre](#).

15. I am on the board of a religious group and some members think that COVID-19 is over-hyped and that daily prayer services should continue. What should I do?

From a charity regulation point of view, charities must have objects that are charitable and must provide a public benefit. If you undertake, or allow your facilities to be used for, reckless activities then you could be causing more harm (dis-benefit) than benefit and therefore your charity would not be providing a public benefit. If you endanger your supporters and there is more harm than public benefit, then expect that your charity could lose its registered charity status in addition to many other consequences that are even more dire. If you lose your charitable status, you will need to disgorge any assets within a year or face a penalty equal to the value of those assets. Furthermore, there are other consequences including protracted lawsuits and possible prosecution. Charities need to act responsibly and realize that we are not in normal times. For further information see our post "[Some religious institutions are not closing and either conducting religious services or allowing them to happen](#)".

16. I am on the board of a foundation and traditionally we have made sure that we give out the required disbursement quota of 3.5%. What should we be thinking of today in light of this crisis?

Every foundation is different, and every grantee is different. Foundations are dealing with both a stock market decline and a pandemic at the same time. However, most foundations realize that their work is far less stressful and dangerous than that of frontline workers. Many foundations are looking at doing very significant grantmaking because of current urgent needs. While some foundations have historically given out only the minimum required, many others have always made greater disbursements than the legal requirement.

In terms of how much your organization can do to deal with COVID-19, you may wish to review whether the funds/assets you have are restricted or not. If restricted, how are they restricted? And can those restrictions be changed if required? Many areas are in need as a result of the pandemic, so almost any foundation can find some way to be supportive if they wish to. If a foundation cannot think of how to modify their systems to be supportive, they should reach out to experienced charity legal counsel to assist them.

If there are no binding restrictions on some or all your assets, then consider ramping up giving quickly, efficiently, without too much bureaucracy, but always in compliance with legal requirements. We are currently working with one large foundation that is looking to give away 50% of its very substantial assets to deal with COVID-19.

There can be reputational issues if your organization is not pulling its weight in dealing with the crisis. In the future, people will look carefully at what foundations did and did not do during this time, and this might be a defining moment for many charitable foundations. Hopefully it will be a shining example of what great things foundations can do.

17. With COVID-19 cybercams on the rise, how do I protect my registered charity or non-profit organization from cyberattacks?

With more employees and/or volunteers working from home on less secure home networks, there is an increased risk of cyberattacks, especially for non-profits and charities. This can be damaging to your organization's reputation and alienate your members and donors. Ensure that you review your digital security and perform any necessary updates. For example, does each computer at home or at work have anti-virus software, anti-malware software and regular updates to the system? You should also ensure that employees and/or volunteers have an appropriate level of security on their home systems, as home networks tend to be less secure. As well, many employees and volunteers could benefit from educational material and training on basic online safety. It may be advisable to consult an IT professional or firm to review your digital security and protocols. They will be able to suggest protective measures for home networks.

If you do experience a breach in your security, please note that you may be under an obligation to report the breach under various privacy legislation across Canada. For example, groups that are under the *Personal Information Protection and Electronic Documents Act* (PIPEDA) may need to report to the Privacy Commissioner, as well as any individuals affected by the breach. In the event of a security breach, you should consult a privacy commissioner's office or a privacy lawyer. You can find more information on a breach in security in the Office of the Privacy Commissioner of Canada's guidance [What you need to know about mandatory reporting of breaches of security safeguards.](#)

I understand that the Charities Directorate is closed so how can I sign up to use their online system?

Since June 2019 the Charities Directorate of CRA has had an online system, the Charities IT Modernization Project (CHAMP). The CHAMP system can be accessed through your personal CRA account. If you don't have a CRA account then:

1. You will need to obtain a personal CRA user ID and password. You **apply online** and it will be sent by mail – it will have your CRA security code. If you already have this personal CRA account (that you use for your personal income tax returns) you can skip to the next step.
2. Then go to the **My Business Account page** and do Option 2 CRA register – it will ask for your SIN and other information
3. You can then **login** to access the My BA account of the organization

Here is **further information from CRA if helpful on CHAMP and MY BA.**

As the CHAMP system is operational there are many tasks that can be performed even though the Charities Directorate is closed at the moment. For example, you can file your T3010 or put in a charity application or advise CRA of numerous changes or authorize a representative.

We are regularly assisting clients with the CHAMP system.

This FAQ is provided as general information and is not intended as legal advice to specific organizations.