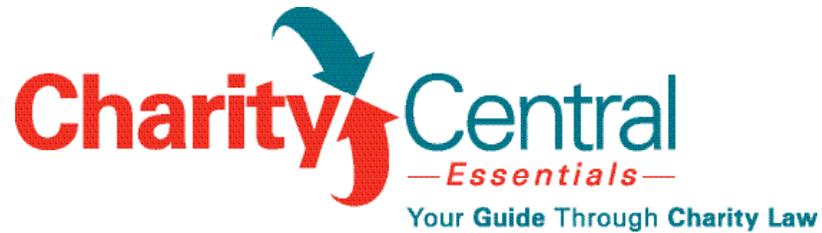




Resources

Appendix A



FAQ Booklet

www.charitycentral.ca

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Canada

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Resources

Introduction

This booklet provides answers to basic questions about the nature of registered charities and the books and records that must be kept by registered charities. The information only deals with federal law, as outlined in the *Income Tax Act*. See other sources for additional requirements of your province and local municipality.

Canada Revenue Agency, Charities Directorate

- www.cra-arc.gc.ca/tx/chrts/menu-eng.html
- This website contains a wealth of information including checklists, forms, guides, policies and technical information.
- To talk to someone at the Charities Directorate, you can call 1-800-267-2384 (English) toll free from anywhere in Canada or 1-888-892-5667 (bilingual).

Charity Central/ Charity Central Essentials

- www.charitycentral.ca
- **Charity Central** is a project of the Legal Resource Centre of Alberta (LRC), designed to help Canada's Registered Charities understand their responsibilities under the *Income Tax Act*. It provides a wide range of print and electronic resources including learning modules and FAQs, to help guide Registered Charities through the ins and outs of: issuing proper donation receipts; maintaining proper books and records; and, understanding fundraising activity guidelines.
- **Charity Central Essentials** is a project of the LRC designed to assist small and rural charities in the Prairie Provinces to improve voluntary compliance with Canada Revenue Agency's requirements.

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Disclaimer

The contents of this booklet are provided as general background only. It is not legal or accounting advice. If you have a legal or accounting problem, you should consult a lawyer or accounting professional.

Your use of the information in this booklet is your responsibility and is at your own risk. This information is provided 'as is', without warranty of any kind. The information contained in this booklet was correct at the time it was printed. Be aware that there may have been subsequent changes which make the information outdated at the time you are reading it.

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About Registered Charities

1. Is my organization a registered charity?

Short Answer

A “registered charity” is a technical and precise term referring to a charitable organization that is registered under the *Income Tax Act (ITA)*. In order for your organization to be a registered charity, you must have applied for charitable status with the Charities Directorate of the Canada Revenue Agency (CRA).

Just because your organization is referred to as a “charity” or because you do “charitable” work (that is, helping those in need and not taking any profit) does **not** necessarily mean that your organization is a registered charity under the *ITA*.

Your organization can become a registered charity by applying for charitable status with the CRA. Detailed requirements are set out in the rules of the *ITA*. The process begins by sending in a completed T2050 form. When the process is complete, the federal government provides you with a charities registration number. (See Question 3.)

Don’t confuse a charities registration number with other numbers that may be issued by a province, territory, or municipality, such as a fundraising registration number or a number issued upon registration as a corporation (corporate access, business or entity number).

Long Answer

Municipal, provincial (territorial), federal, and specific commissions and other bodies define the terms “charity” and “charitable” in various ways. For example:

- In Alberta, an organization that wishes to promote “charitable” purposes can incorporate under either the *Companies Act* or the *Societies Act*. Neither of these acts defines the term “charitable” and neither of them links the term to the concept of a registered charity under the *ITA*. In addition, any organization that wishes to raise funds over \$25,000 must register with the provincial government as a “charitable organization” under the *Charitable Fund-Raising Act*. This applies to both registered charities and non-profits in general. So, if you are a “charitable organization” in Alberta, that does not necessarily mean that you are also a registered charity under the *ITA*. This lack of a link between the provincial concept of “charity” and “charitable” and the concept of a registered charity under the *ITA* can also be found in British Columbia, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, and Newfoundland and Labrador.



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- In Saskatchewan both the *Charitable Fund-Raising Businesses Act* and the *Non-Profit Corporations Act* refer to “charitable” corporations and “charitable” organizations as corporations and organizations that **are** registered charities within the meaning of the *ITA*.

More ...

To find out if your organization is a registered charity, go to Question 5.

2. My organization is a “non-profit”. Is it a registered charity?

Not necessarily.

A non-profit organization can be set up for **any** legal purpose as long as its members do not receive a direct financial benefit from the revenues or assets of the organization. A non-profit can operate fully without registering as a registered charity with the Canada Revenue Agency (CRA).

A registered charity, on the other hand, is a technical and precise term that refers to an organization that

- is established exclusively for charitable purposes
- uses its resources (personnel, funds, and property) for charitable activities
- does not operate for profit
- has applied and is registered as a charity under the *Income Tax Act (ITA)*
- has received a Notice of Registration from the CRA
- has been assigned a charitable registration number by the CRA (see Question 3).

More...

For further explanation of the differences between a registered charity and a non-profit organization, see the Charity Central Fast Facts tip sheet titled “Registered Charity vs Non-Profit Organization” at www.charitycentral.ca/site/?q=print_resources

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3. What is a charitable registration number?

A charitable registration number is a number assigned by the Canada Revenue Agency (CRA) to a registered charity.

Don't confuse a charities registration number with other numbers that may be issued by a province, territory, or municipality, such as a fundraising registration number or a number issued upon registration as a corporation (corporate access, business or entity number).

A charitable registration number has 12 digits and 2 letters. It consists of

- your nine-digit business number (this number is unique and does not change no matter how many or what type of CRA accounts you have)
- the two letters RR identify your account as a registered charity
- 0001 is the reference number used to distinguish between internal divisions with the same program accounts

Example:

987654321RR0001 is an example of a charitable registration number

4. Can our charity lend its registration number to another organization?

No! Under no circumstances should your registration number be loaned to another organization.

A charity is responsible for all tax receipts issued under its name and number and must account for the corresponding donations on its annual information return.

Lending the registration number to another organization could lead to the revocation of your charity's registered status.

5. How can I find out if my organization is a registered charity?

You can

- call the Charities Directorate of the Canada Revenue Agency at 1-800-267-2384 (English) or 1-888-892-5667 (bilingual) and speak to an agent

or

- search the CRA website at www.cra-arc.gc.ca/charities for your organization by name.

You may also be able to find this information

- in your organization's Minute Book (the book that contains your organization's incorporation documents)
- on your organization's tax returns
- on your Notice of Registration from the CRA
- from your organization's lawyer



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6. What are the responsibilities of a registered charity?

Short answer

In return for the advantages of being a registered charity, a charity must follow certain rules.

There are three general categories of responsibility:

1. A registered charity can only do a limited range of things. It can advance religion, relieve poverty, carry out education, or undertake programs and activities of benefit to the community that the law considers charitable.
2. It must follow detailed rules under the *Income Tax Act (ITA)* for spending money, receiving income, and reporting.
3. It cannot engage in a range of activities that the law considers political.

Long answer

As part of its responsibilities, a registered charity must:

- ensure that all its activities are charitable and within its objects
- demonstrate that it is devoting its resources to its stated charitable purposes
- keep accurate, detailed and complete records, books and receipts
- ensure that it does not pay, or otherwise make available, its income to any of its members
- ensure that at least 50 per cent of its directors are at arm's length (that is, not in a close relationship) with each other
- meet its spending requirement (disbursement quota), which generally speaking is 80 per cent of the income for which it issued receipts in the last year
- ensure the accuracy of all official donation receipts and ensure that all such receipts are in accordance with the *ITA* and its regulations
- file a yearly T3010B Information Return on time (within six months of the organization's fiscal year-end)
- engage only in permitted political activity. A charity cannot
 - engage in any political activities to support or oppose a political party or a candidate;
 - try to influence public opinion on a broad social question; or
 - advocate for a change in law or policy.

However, a charity can spend up to 10 per cent of its resources on non-partisan political activities that help to accomplish the charity's purpose. All political activity must also be ancillary and incidental to the objects of the charity.

- not make any changes to its constitution without the approval of the Canada Revenue Agency (CRA)



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- allow the CRA to audit its books and activities, if asked and
- carry out all other obligations under the *ITA*.

These responsibilities are to be taken very seriously, as any violation could result in public embarrassment, the loss of reputation, and a range of sanctions by the CRA (such as financial penalties, the loss of privileges until corrective action is taken, or ultimately the revocation of charitable status).

7. What are the consequences of not meeting the obligations of a registered charity?

If a registered charity does not meet its obligations, it may be subject to a penalty or revocation (that is, lose its charitable status).

The Charities Directorate of the CRA uses a scale to determine whether a charity is meeting its obligations. In increasing severity, the Charities Directorate may use the following tools:

- education (explaining the rules to a charity)
- compliance agreements (a formal document signed by the charity and the CRA identifying the problem, the solution, and the consequences if the charity does not solve the problem)
- sanctions
 - financial penalty
 - suspension of the charity's right to issue official donation receipts (for example, for one year)
- revocation of charitable status. If an organization's charitable status is revoked, it can no longer issue tax receipts for donations and will no longer be a qualified donee.



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Books and Records Basics

8. What are the basic elements of a charity's books and records?

Short answer

The books and records of a registered charity should

- reflect all of the activities of the charity
- be capable of verifying all charitable donations received
- be supported by source documents, like original receipts and invoices and
- be in one of Canada's two official languages (see Question 12).

More...

Also note that privacy legislation relates to the use and the retention of records. Any records containing personal information, including that of employees, volunteers, clients or donors, should be handled carefully by your organization. More information about the principles guiding the use of personal information and about what privacy legislation may apply to your organization can be found in the Fundraising FAQ section of Charity Central. (www.charitycentral.ca/site/?q=node/402)

Always ensure that records are kept for as long as they have to but no longer. For more information about retention of records, see Questions 20 and 21.

9. What are our charity's general responsibilities regarding our financial and other books and records?

A charity must keep *adequate* books and records

- in either English or French
- at a Canadian address it has on file with CRA

so that CRA can verify official donation receipts issued, as well as income and expenditures.

A charity must also keep information that proves that its activities continue to be charitable. This additional information will vary from charity to charity but could include, for example, copies of minutes of meetings, correspondence, publicity brochures, or advertisements. For more on *adequate* books and records, see Questions 22–26.

The charity should also retain its books and records appropriately (see Questions 20 and 21).



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10. The *Income Tax Act* includes a long list of items in its definition of “books and records”. What types of books and records does our charity have to keep?

The usual books and records held and maintained by registered charities include

- governing documents
- constitution and bylaws
- annual reports
- board and staff meetings minutes
- ledgers
- bank statements
- expense accounts
- purchase vouchers
- inventories
- contracts
- investment agreements
- official donation receipts
- accountant’s working papers
- payroll records
- promotional materials
- fundraising materials
- financial statements

You’re right: it is a long list. Subsection 248(1) of the *Income Tax Act* defines a **record** as including 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. Notice that a **book** is defined as a record.

11. The *Income Tax Act* has a long list of books and records for a charity to keep. Does our organization have to keep all of the records noted in section 248(1)?

No, section 230 of the Act says that a charity must keep three kinds of books and records. These include information to enable determination of whether there are grounds for revocation of its status under the Act (i.e., its compliance with the Act); duplicates of donation receipts; and such other information to allow verification of donations for which a deduction or tax credit is available. Within these three categories, it is up to you to decide which books and records to keep. As a general rule, it is better to keep more records than fewer.



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12. Our charity does all its work in a language other than French or English. Do we still need to keep our records in English or French?

Short answer

Yes. Records must be in English or French.

Example

Say your charity addresses concerns of a Spanish-speaking community. You may have kept your books and records in Spanish. In this case, you should talk to CRA about your circumstances. If you do not talk to them, you will still be required to have your books and records in English or French.

The CRA does recognize that for some very small charities translating from the original may become a significant burden. So the CRA is willing to consider such situations on a case-by-case basis.

Long answer

Charities should be aware that under subsection 286(1) of the *Excise Tax Act*, persons, including charities, who carry on a business or are engaged in a commercial activity in Canada, who are required to file a GST/HST return, or persons who make an application for a rebate or refund, must keep adequate books and records in English or French in Canada.

13. Our previous treasurer has our books and records for the last fiscal period and has refused to return them. As a result, we cannot obtain the necessary information to file our T3010. What should we do?

Your charity remains responsible for maintaining adequate books and records and for meeting its filing requirements. If a legal means is necessary to obtain the documentation from the last treasurer, you may want to keep the Canada Revenue Agency informed of the steps you are taking.



Books and Records—Format and Copies

14. Can books and records be kept in electronic format?

Yes, but remember:

- Electronic records are subject to the same rules and retention periods as hard copy or paper books and records.
- Books and records that are created and maintained in electronic format must be kept in an electronically readable format, even if the charity has paper printouts of the electronic records. An electronically readable format means information supported by a system capable of producing an accessible and useable copy that would allow auditors to process and analyze the electronic records on the CRA's equipment.
- If any source documents are initially created, transmitted, or received electronically, they must be kept in an electronically readable format.
- Scanned images of paper documents, records, or books of account that are maintained in electronic format are acceptable if proper imaging practices are followed and documented.

Books and records maintained outside Canada but accessible electronically in Canada do not meet the requirement of being kept in Canada.

15. I'm a church treasurer and the offering counters are asking if they need to save the offering envelopes. Are church offering envelopes considered a record?

Yes. When the offering envelopes help verify donations, they are considered a record and must be kept for two years following the end of the fiscal period for which they were issued.

On the other hand, **if** the individual donations are recorded from the envelopes directly into a ledger of some type, you do not need to keep the envelopes.

16. Does a charity need to keep more than one copy of its books and records?

No, but it may be smart to do so. In the event of a fire or other disaster that destroys the charity's books and records, a second set would be very useful. The Canada Revenue Agency may be able to help a charity re-establish itself after such a disaster by giving them copies of documents they hold on file. This can only partly replace what may have been lost.

It may, therefore, be prudent to keep duplicates of key documents at a separate location. Storing data electronically can also increase the chances of retrieving information, as long as a regular back-up system is in place and the back-ups are kept in a safe place. (See Questions 14 and 26.)



Books and Records – Location and Retention

17. Where should the books and records of a registered charity be kept?

Books and records must be kept at the Canadian address that the charity has on file with the Canada Revenue Agency. This includes all books and records related to any activity carried on outside Canada. The charity's books and records cannot be kept at a foreign address.

18. The treasurer of our charity prefers to keep our registered charity's books and records at his house. Is that okay?

No. Books and records must be kept at the Canadian address that the charity has on file with the Canada Revenue Agency. It is, however, permissible for a charity to be run out of a home office, and if this is the registered address on file, the group's books and records can be at that location.

Note that this includes all books and records related to any activity even if it is carried on outside Canada. A Canadian charity's books and records cannot be kept at a foreign address.

Any "foreign-based information or documents" need to be available when requested by the Minister of National Revenue. The Minister may require a charity to provide any foreign-based information and/or documents and it is an offence not to produce such information as and when required.

19. Our charity has information and documents—all related to our charitable activity—located outside Canada. Do I need to concern myself about these?

Yes, you do.

The Minister of National Revenue may require a Canadian-based charity to provide any foreign-based information and/or documents. It is an offence not to produce any foreign-based information, as and when required.



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20. How long does our charity need to hold on to its books and records?

Short answer

It depends on the type of record. Some may be kept as short as two or six years after the end of the calendar year in which they were produced. More important records must be retained for as long as two years after the charity is no longer registered.

Long answer

The *Income Tax Act* and *Regulations* spell out the length of time each record must be kept. The Minister responsible for this Act can also give written permission for the earlier disposal of records.

Here's a checklist of retention periods for your charity's books and records:

- **Copies of official donation receipts** (other than for 10-year gifts) must be kept for a minimum of two years from the end of the calendar year in which the donations were made.
- **Records for 10-year gifts** must be kept for as long as the charity is registered and for a minimum of two years after the date the registration of the charity is revoked.
- **Minutes of meetings of the directors/trustees/executives** must be kept for as long as the charity is registered and for a minimum of two years after the date the registration of the charity is revoked.
- **Minutes of meetings of the members** must be kept for as long as the charity is registered and for a minimum of two years after the date the registration of the charity is revoked.
- **Governing documents and bylaws relating to the charity** must be held for as long as the charity is registered and for two years after the date the registration of the charity is revoked.
- **General ledgers or other books of final entry containing summaries of year-to-year transactions and the accounts necessary to verify the entries** must be kept for six years from the end of the last tax year to which they relate, while the charity is registered, and for two years after the date the registration of the charity is revoked.
- **Financial statements, source documents and copies of annual information returns (T3010 forms)** must be kept for six years from the end of the last tax year to which they relate or, if the charity is revoked, for two years after the date of revocation.



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21. Does the six-year retention period mean that we can destroy all of our financial information every six years?

No! The six-year retention requirement means that you can destroy only that information that you have kept six years from the end of the taxation year to which the records relate.

Each year you can destroy the records that reach six years of shelf life. This year you can destroy the records that are six years old. Next year you can destroy another batch of six-year-old records.

Of course, this only refers to certain records, for example,

- books and records, together with the accounts and vouchers, containing the summaries of the year-to-year transactions of the charity
- financial statements
- invoices and vouchers
- completed T3010 forms

Adequate books and records

22. What does the Canada Revenue Agency mean by “adequate” books and records?

Your charity must keep books and records (located at the Canadian address that CRA has on file) adequate enough to verify official donation receipts issued, income received, and expenses made.

The CRA does not specify the records to be kept. According to subsection 230(3) of the *Income Tax Act*, however, the Minister of National Revenue may specify what records or books of account must be kept after a charity has been found to be keeping inadequate records and books of account.

Also, the *Income Tax Act* requires charities to keep information in addition to their books and records so that the CRA can determine whether the activities of the charity continue to be charitable. This additional information will vary from charity to charity but should include, for example, copies of minutes of meetings, correspondence, publicity brochures or advertisements, and details of charitable program activities including program reports.



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23. What happens if a charity's records are inadequate?

Short answer

Keeping inadequate records may risk your registration as a charity. If a charity's records are considered inadequate, the Minister may

- issue a requirement that adequate records be provided
- suspend the charity's tax-receipting privileges

and/or

- revoke the status of a charity that has not provided adequate records.

Long answer

Under subsection 230(3) of the *Income Tax Act*,

the Minister of National Revenue may require the registered charity to keep such records and books of account as the Minister may specify and that the registered charity shall thereafter keep records and books of account as so required.

Suspension is a new CRA sanction. Under new subsection 188.2(2) of the *Income Tax Act*, a charity may have its tax-receipting privileges suspended for a year if it contravenes any of sections 230 to 231.5 of the Act, which include providing information as required. While the CRA may generally use education and compliance agreements first, it anticipates instances where records are deliberately not compiled or are altered, destroyed or hidden in order to disguise a serious infraction. In such cases, the CRA will likely move directly to an intermediate sanction or even revocation of the charity's registration.

24. Why is it so important for my charity to maintain adequate books and records?

Short answer

There are many good reasons to maintain adequate books and records:

- You need adequate books and records in order to maintain a healthy happy donor base.
- You'll operate more efficiently and effectively with good records.
- The CRA reviews financial records of registered charities for compliance, and you could be audited at any time.
- Certain federal, provincial, and territorial legislation demands it.
- Funding agencies may require it.

Long answer

The public increasingly asks that registered charities they support be transparent and



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accountable. Maintaining adequate books and records and ensuring proper financial statements relates to this public awareness. Prospective donors to a charity may also wish to personally review the charity's financial information prior to making a contribution.

The federal *Canada Corporations Act* and some provinces have legal requirements for charities to maintain proper books and records. Failure to comply with the requirements of federal or provincial legislation can result in penalties and possible director liability.

The Canada Revenue Agency reviews financial records of registered charities to make sure they comply with the requirements of the *Income Tax Act*. Audits are an important element of this process. Having all the books and records in order will lessen the burden on the charity's staff and resources when a CRA audit occurs.

For all of these reasons maintaining proper books and records is essential. To assist with meeting the requirements of keeping proper books and records, the Canadian Institute of Chartered Accountants (CICA) has developed generally accepted accounting standards for charitable and not-for-profit organizations.

25. Are there penalties for failing to keep and maintain adequate books and records?

Yes, indeed!

Failure to keep adequate books and records may result in the suspension of a charity's tax receipting privileges, suspension of its status as a qualified donee or the loss of its registered status.

26. Our computer crashed and it looks like all our records may have been lost. What should we do?

Do all you can to retrieve them: ask a computer specialist to see if the records can be retrieved; load your back-up files; reconstruct missing pieces from your hard copies. When these routes have been used to the fullest and you're still missing records, contact the Canada Revenue Agency, which may be able to provide copies of your records held by the CRA.

The charity remains responsible for maintaining adequate books and records. As described in Question 14, electronic records must be retained in an electronically readable format.



Books and Records – Related Issues

27. Our charity's fiscal year just ended. How soon do we have to submit our return and what needs to be included?

You have six months to file and you must include a *Registered Charity Information Return* and the *Registered Charity Basic Information Sheet* (form T3010B). Failure to file on time may result in a charity being deregistered.

Example

A T3010 return for a December 31 fiscal period end is due on or before June 30 of the following year.

More...

The CRA's instructions for completing the necessary forms can be found at "Filing the T3010B information return"

(www.cra-arc.gc.ca/tx/chrts/prtng/rtrn/flngb-eng.html)

28. Do we have to get an audit done on the financial statements included with the T3010?

Not for the purposes of the Canada Revenue Agency, although your treasurer should sign financial statements that have not been audited. Note, however, that in deciding what charities to audit, CRA uses a risk management approach. One of the factors it may consider in determining whether to investigate a charity is the availability of an independent audit or third party review of the charity's finances.

On the other hand, other government authorities, your charity's governing body, or its funding bodies may require audited statements.

29. When setting up and maintaining books and records for our charity, do I have to allow for GST?

Yes, in most cases you do have to allow for GST/HST .

More...

To learn more about GST/HST, see the Canada Revenue Agency Guide titled "GST/HST Information for Charities"

(www.cra-arc.gc.ca/E/pub/gp/rc4082). This publication includes the general rules for charities, exempt supplies of goods and services, rebates that may be available to you, and whether or not you are required to register.

30. Does a charity have to calculate payroll deductions?

If your charity has employees, you have payroll deduction obligations.



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Where Can I Find More Information?

Canada Revenue Agency, Charities Directorate

www.cra-arc.gc.ca/tx/chrts/menu-eng.html

Phone: 1-800-267-2384

Charity Central

www.charitycentral.ca

Phone: 780-822-7623

Email: info@charitycentral.ca

Charity Central Essentials, Office in a Box

www.charitycentral.ca/site/?q=office

Community Legal Education Association (Manitoba) Inc. (CLEA)

Provides public legal education and information programs to Manitobans

www.communitylegal.mb.ca

Phone: 204-943-2382

Imagine Canada, Charity Tax Tools

Charity Tax Tools is operated by Imagine Canada on behalf of the charitable sector.

<http://charitytax.imaginecanada.ca>

Legal Information Society of Nova Scotia (LISNS)

Providing Nova Scotians with information and resources about the law for more than 25 years

www.legalinfo.org

Phone: 902-454-2198

Legal Resource Centre of Alberta

Uses a collaborative approach to develop materials and strategies for teaching Albertans and other Canadians about the law, including creating resources on the topic of non-profit and charitable law

www.legalresourcecentre.ca

Phone: 780-451-8764

Public Legal Education Association of Saskatchewan (PLEA)

Educates and informs the people of Saskatchewan about the law and the legal system

www.plea.org

Phone: 306-653-1868

The Charities File: On Board

A joint project of the Canadian Federation of Voluntary Sector Networks and the Centre for Voluntary Sector Research and Development

<http://thecharitiesfile.ca>

Phone: 613-520-7444

