

Governing Documents: Charitable Status



Contents

4.1 Why are Governing Documents Important to Charities?

4.2 Notification of Registration

Why keep it handy?

A sample of CRA's Notification of Registration

4.3 Objects

What are objects?

How to find your organization's objects

Model objects for charities

Why use the model objects?

4.4 Where to Find More Information on Charitable Status

4.5 Folder: A Place to File Your Documents

Notification of registration

Objects



1	Overview
2	Administrative Info
3	Constitution
4	Charitable Status
5	Minutes
6	Policies & Procedures
7	Financial Documents
8	Annual Returns
9	Official Tax Receipts
10	Operational Info
Resources	

Governing Documents: Charitable Status



From www.charitycentral.ca/site/?q=node/457

4.1 Why are Governing Documents Important to Charities?

Section 230 of the *Income Tax Act* says that a charity must keep three kinds of books and records:

- information to enable determination of whether there are grounds for revocation of its status under the Act (i.e., its compliance with the Act)



In other words, you must be able to prove to CRA that your charity is doing what you claim.

- duplicates of donation receipts
- 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.



Key info

A charity should 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.

The *Income Tax Act* includes a long list of items in its definition of “books and records”, including **governing documents**. (See sections 3, 5, and 6 for more info on governing documents.)

What this means for you

You must keep a copy of your governing documents in a safe and easily accessible place. Information follows on how to find these documents. File a copy here in your Office in a Box.



Revocation:
To lose one's
charitable
status!

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

- **governing documents** – a large category of documents, which includes Notification of Registration, Objects, and Governing Statute.



From www.charitycentral.ca/site/?q=node/455



From www.charitycentral.ca/site/?q=node/456

Importance of Documents	Notification of Registration	Objects	More Information	Your Documents
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4.2 Notification of Registration

If your organization has been granted charitable status, it will have been issued a Notification of Registration by the Canada Revenue Agency (CRA). This notification is considered a historical document of your charity.

Keep a copy of your Notification in your Office in a Box, in the folder at the end of this section.

Why keep it handy?

You may be asked occasionally by various individuals or groups to provide a copy of your Notification of Registration. For example, funders or donors may want to see it.

Important to Note

Even if your organization was registered as a charity, it may have been struck from the registry. Check to see if your organization's charitable status has been revoked by searching online at www.cra-arc.gc.ca/tx/chrts/menu-eng.html. Note that you can sort through listings of charities in several different categories.

Since this is only a list of recently revoked organizations, you may not find your organization listed if its charitable status was revoked some time ago.

If you are still in doubt about whether your organization is a registered charitable organization or whether its registration is still active, call Charities Client Assistance at the CRA at 1-800-267-2384 or talk with your organization's lawyer.

A **sample** of CRA's Notification of Registration follows, with some helpful information provided in text boxes. **Note:** this sample letter is an example of what the CRA will mail to charities once they have been granted charitable status.

Importance of Documents	Notification of Registration	Objects	More Information	Your Documents
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A sample of CRA's Notification of Registration

- 1 -

[Recipient's address]

[Their file number]

[Our file number]

[Date]

SUBJECT: NOTIFICATION OF REGISTRATION**[Name of organization]**

Dear [Salutation]:


We are pleased to inform you that based on the information supplied, and assuming that the activities will be as stated during the application process, we have determined that the [Name of organization] (the Charity) qualifies for tax-exempt status as a registered charity under paragraph 149(1)(f) of the *Income Tax Act* (the Act).

The following paragraphs and the documents attached to this letter will explain the operational requirements that apply to all registered charities (filing requirements, content of official donation receipts, etc.). Please take time to look over this information and keep this letter for future reference. You should also pass on a copy of the registration letter to whoever will be responsible for completing the Charity's annual information return.

If you have any questions about the information contained in this letter, or require further assistance, please do not hesitate to visit the Charities and Giving Web pages at www.cra.gc.ca/charities or contact our Client Service Section, either by phone at 1-800-267-2384, or by mail to the Charities Directorate, Canada Revenue Agency, Ottawa, ON K1A 0L5. For questions pertaining to charities and the Goods and Services Tax (GST), please call us toll-free at 1-800-959-5525.

REGISTRATION INFORMATION**• Reason for Registration**

[Type reason]

 1-800-267-2384 is the CRA's main phone number. Don't hesitate to call them for help!

A Sample of CRA's Notification of Registration (continued)

- 2 -

• **Key Registration Data**

▫ **Official Name of the Charity**

The Charity has been registered under the name that appears on your governing document: [Official Name of Organization]. This name must be reproduced in full on all official donation receipts issued by the Charity.

▫ **Business Number**

The Charity's Business Number is **FIELD**.

The Business Number (BN) is a numbering system that simplifies and streamlines the way organizations deal with the federal government. It is based on the concept of one entity, one number. The BN consists of a nine-digit root, followed by a two-letter, four-digit account identifier. The nine-digit root is the same for each account an organization may have with the Canada Revenue Agency (CRA) (besides a charity account, you may also have payroll, corporate income tax, and GST/HST accounts, etc.). The two-letter, four-digit identifier will be different for each account; registered charitable status is acknowledged by the **RR000FIELD** - account identifier. Please note that the Charity's BN should be written in full on all its donation receipts.

▫ **Effective Date of Registration**

The Charity is registered effective **FIELD**.

▫ **Designation**

The Charity is **designated** as a **FIELD**. We have determined that the Charity is a **FIELD** because it meets the requirements of that definition as set out in subsection 149.1(1) of the Act. This designation determines the operational requirements that the Charity will have to meet under the Act. For further information on the types of registered charities, go to:

www.cra.gc.ca/tx/chrts/pplyng/trcd-eng.html or call the Client Service Section at 1-800-267-2384. If you think this designation does not accurately reflect the present structure, source of funding or mode of operation of the Charity, please write to us within sixty days of the mailing of this letter, clearly setting out your reasons.

If the Charity changes its purposes, activities, sources of support or directors (see below), a change in its designation may be required. Should you wish to apply for a change in designation, you will need to complete form T2095, *Registered Charities: Application for Re-Designation*, (available on the CRA Web site or by calling our toll-free line).

▫ **Fiscal Year End**

The Charity's **fiscal year end** has been established as **FIELD**.

▫ **Due Date for T3010 Information Return**

The Charity will have to file its first **annual return** on or before **FIELD**, for the fiscal period ending **FIELD**.

Record your Business Number in Section 2.1, A Place to Record Your Registration Numbers.

Note these dates in your organizational calendar, Section 2.3



A Sample of CRA's Notification of Registration (continued)

- 3 -

OPERATIONAL INFORMATION

• Changes in the Charity's Purposes, Activities, Sources of Support or Directors

We have registered the Charity based on the information provided during the application process. A registered charity is not entitled to pursue purposes that are not stated in its governing documents. If the Charity wishes to formally change the stated purposes or objects contained in its governing document, we recommend that the Charity obtain our prior approval. Should the Charity amend its purposes to those that are not considered charitable at law, its charitable status could be revoked. If the Charity wishes to undertake activities (programs) that are materially different from those in the information submitted, it should make sure they are within the scope of its stated purposes. Moreover, programs or activities that are different from those already reviewed, may not be charitable. As a precaution, we recommend that you check with us before making any changes. If the Charity actually undertakes programs that are not charitable, it could jeopardize its registered charitable status.

Finally, if the Charity's sources of support, character, or method of operation were to change, we recommend that the Charity advise us immediately so that we may consider any impact this may have on its registered status. We also recommend that the Charity advise us if the relationships (blood, marriage, adoption or business) among its directors and officials change.

Any of these types of changes might affect the Charity's designation and the operational requirements it has to meet under the Act.

• Gifting (During the Charity's lifetime and upon dissolution or winding-up)

A registered charity may gift only to "qualified donees" described in subsection 149.1(1) of the Act (see appendix attached). The specific requirements of individual provinces may modify or restrict the "qualified donees" to which a registered charity may gift its resources. In all cases, once the Minister of National Revenue has issued a notice of intention to revoke the organization's registration as a charity under the Act, a charity may subsequently divest itself of its assets only to "eligible donees" described in subsection 188(1.3) of the Act (see appendix attached). Further information about gifting and disposing of assets can be obtained from our Client Service Section.

• Issuing Receipts Acknowledging Gifts to the Charity

In order for donors to benefit from the tax incentives associated with gifting to a charity, they must receive an official receipt issued by a registered charity. Official receipts are those issued by a registered charity that meet the requirements set out under Regulation 3501 of the *Income Tax Act Regulations*.



See Section 4.3 for info on Objects.



Here, the terms "objects" and "purposes" are used interchangeably.



"Qualified donee" isn't a simple concept.

For more info, search www.charitycentral.ca.

A Sample of CRA's Notification of Registration (continued)

- 4 -

Official receipts can only be issued to acknowledge gifts to the charity.

A gift is defined as a voluntary transfer of property (including money) by a donor with “donative intent”. The test used to determine whether the donor actually intended to make a gift is based on whether anything is received in return. If nothing is received then clearly, there is donative intent. If some form of consideration is received, the value must not exceed 80% of the fair market value of the original gift. An official charitable donation receipt can only be issued for the “eligible amount”, which is the amount exceeding the value of anything the donor received in return.

A contribution of services (for example, time, skills or effort) does not qualify as a gift since services are not property. However, a charity can pay for services rendered and later accept the return of all or a portion of the payment as a gift, provided it is returned voluntarily.

For more information about what constitutes a gift in charity law and about issuing receipts, please visit our Web pages at www.cra.gc.ca/tx/chrts/prtng/gfts/menu-eng.html and www.cra.gc.ca/tx/chrts/prtng/rcpts/menu-eng.html or call our toll free line.

• Books and Records

A registered charity must keep adequate books and records so that we can ensure that it continues to comply with the requirements for registration. For further details please consult Information Circular IC78-10R4, *Books and Records Retention/Destruction*, at www.cra.gc.ca/E/pub/tp/ic78-10r4/README.html. For more information on electronic books and records, go to: www.cra.gc.ca/tx/chrts/prtng/bks-eng.html.

• Use of Resources/Conduct of Activities

According to the Act, a registered charity may only use its resources (funds, personnel and/or property) in two ways, both inside and outside of Canada.

- First, a charity can undertake charitable activities itself. These are activities/ programs that are conducted under the Charity's direction and control. Such activities may be conducted by the Charity's employees or volunteers, or by its “intermediaries” (agents, contractors or partners). Should the Charity wish to transfer its resources to an individual or organization that is its intermediary, it must do so according to a structured arrangement. The arrangement must clearly show that the Charity maintains direction and control over the use of its resources. Please refer to our Guide RC4106, *Registered Charities: Operating Outside Canada*, at www.cra.gc.ca/E/pub/tg/rc4106/README.html for more information, and for details about the type of arrangement needed.
- Second, a charity may use its resources to gift funds to “qualified donees” as defined in the Act. For the most part, “qualified donees” are other registered



See Section 9 for info on receipting.



Make sure you understand what CRA

considers “adequate”! Keeping your papers in order in the Office in a Box will help immeasurably.

Importance of Documents	Notification of Registration	Objects	More Information	Your Documents
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A Sample of CRA's Notification of Registration (continued)

- 5 -

Canadian charities. Individuals, and most organizations outside Canada such as foreign charities and international aid agencies, are not “qualified donees”. The attached appendix contains a complete list. For registered charities that are designated as *charitable organizations*, gifts to “qualified donees” should not exceed 50% of the charity’s income for that year (gifting in excess of 50% will change the charitable organization’s designation to that of a public foundation). *Public foundations* will gift over 50% of their income to qualified donees on an annual basis. Please refer to page **FIELD** of this letter for the Charity’s designation, and go to: www.cra.gc.ca/tx/chrts/pplyng/trcd-eng.html for additional information.

In the course of carrying on its charitable activities, a registered charity can devote some of its resources to management and administration (such as rent for space not used for charitable programs or salaries paid to persons who are not directly involved in charitable program delivery). However, these expenses are not necessarily considered to be expenditures on charitable activities and may not count towards meeting the Charity’s disbursement quota.

- **Remuneration of Directors/Trustees**

Subsection 149.1(1) of the Act states that no part of the income of a registered charity can be payable to, or otherwise available for the personal benefit of, any of its proprietors, members, shareholders, trustees, or settlors. This means that directors/trustees of registered charities must not receive any income from the Charity simply for being named as director/trustee. However, the Charity may reimburse its directors/trustees for any expenses they incur while performing their duties. As well, directors/trustees can receive reasonable remuneration for the actual time, effort and services devoted to the Charity’s affairs, provided that compensation is in accordance with the organization’s governing documents, by-laws and/or provincial legislation. Registered charities are responsible for ensuring that they are in compliance with all legal requirements.

- **Tax Shelters**

The CRA has serious concerns about abusive tax shelter gifting arrangements and cautions registered charities about becoming involved in such schemes. A tax shelter gifting arrangement typically promises its participants tax savings greater than the cost of participation in the scheme, thus allowing donors to “profit” from donating to a charity. Prominent examples of such schemes include gifting trust arrangements, leveraged cash donations, and “buy-low, donate-high” schemes.

While certain tax shelter arrangements may be legitimate, the CRA intends to audit most or all that involve charitable gifts. To date these audits have resulted in the reassessment of thousands of donors and billions of dollars.

A Sample of CRA's Notification of Registration (continued)

- 6 -

Registered charities that are found to have knowingly exploited their tax-receipting privileges by participating in abusive or fraudulent tax shelter gifting arrangements, or that fail to devote their resources to legitimate charitable activities, will be subject to significant monetary penalties and/or the revocation of their registered charitable status.

Additional information about tax shelter gifting arrangements can be found on our Web pages at www.cra.gc.ca/tx/bsnss/tpcs/txshltrs/menu-eng.html.

• Other Possible Requirements Associated with Charitable Status

The Charity is now registered for federal income tax purposes. However, depending on where in Canada it carries on its activities, there may be provincial legislation or municipal by-laws that govern its operations. These rules may require the Charity to file reports or annual returns, or to apply for licenses in connection with various aspects of its activities, such as fund-raising. The Charity should contact the appropriate provincial and municipal authorities to determine all relevant requirements. Please note that if the Charity intends to issue receipts to residents of Quebec for Quebec provincial income tax purposes, it must also be formally registered with Revenu Québec.

FIELD For further information please contact:

Ministère du revenu du Québec
Direction principale des services à la clientèle des entreprises
3800, rue de Marly
Québec QC G1X 4A5
Tel. (418) 659-4692
Toll Free 1-800-567-4692

THE CHARITY'S ANNUAL FILING REQUIREMENTS


• T3010 Annual Information Return


Every registered charity must file a T3010 information return (the “return”) each year no later than six months after the end of its fiscal period. A complete return includes:

- Form **[Type T3010A or T3010B]**, *Registered Charity Information Return*, and the *Registered Charity Basic Information Sheet*.
- A list of directors/trustee or like officials, with all the required information.
- A list of “qualified donees”, with all required information (if applicable).
- A copy of the registered charity’s financial statements.

The information that must be included in the return may differ substantially from that available in the Charity’s current books and records. Here are some items of information the Charity will have to provide:

- A breakdown of gifts, including those for which **official tax receipts** were issued and those from other registered charities.

 See Section 8.2 for annual returns.

 See Section 8.1 for more info on the T3010 annual information return.

A Sample of CRA's Notification of Registration (continued)

- 7 -

- Disbursements, specifying amounts spent on charitable programs, on fund-raising, on administrative expenditures, and on political activities.
- A breakdown of remuneration to directors, executive officers and employees engaged in charitable activities, and employees engaged in other activities.

The return is mailed out annually to all registered charities. It is important, therefore, for the Charities Directorate to always have the current address of the Charity. However, it is the Charity's responsibility to ensure that it meets its annual filing requirements, without prior notice from the CRA. **Failure to file the return within the prescribed six-month period following each fiscal year end could result in the revocation of the Charity's registered charitable status.**

- **Other Filing Requirements**

If the Charity is a corporation, it is not required to file Form T2, *Corporation Income Tax Return*, during the period it has registered charitable status. Should a registered charity lose its registered charitable status, it will be required to resume filing the T2 return. For information regarding T2 filing requirements with regards to charities please call Business Enquiries at 1-800-959-5525.

- **Accessing Guides and Forms Online**

To help with completing the return, Guide T4033, *Completing the Registered Charity Information Return*, is available online through the CRA's Charities and Giving Web pages at www.cra.gc.ca/charities.

The CRA recognizes that a number of registered charities do not have access to high-speed Internet. Therefore, most of our guides are available in both PDF and HTML formats. Documents in HTML format are Web-based, load faster than those in PDF, and are more convenient to navigate online. Registered charities can access Guide T4033 in HTML format, click on the sections of relevance to them, and print individual sections relatively quickly. PDF is the better format to print the entire guide, but it is more difficult to navigate online, and takes significantly more time to load on your computer.

We encourage registered charities to make use of our Web site. It provides access to most of our forms and publications, as well as guidelines outlining the requirements for the Charity's continued registration under the Act. Registered charities that do not have access to our online material, or that find the process too slow, can call the Charities Directorate Client Service number at: 1-800-267-2384, and one of our officers will be happy to answer any questions or mail printed copies of any necessary guides or forms.



Each year, make sure you have the most up-to-date version of the T4033 Guide.

A Sample of CRA's Notification of Registration (continued)

- 8 -

CHARITY AUDITS

Through ongoing audit and review programs, the CRA endeavours to ensure that the requirements for continued registration are met. Further, a number of registered charities are verified by the CRA each year. Charities are selected for audit using risk-based criteria, including the review of annual returns, or on the basis of random sampling. Where a registered charity is not complying with the Act, it may face penalties up to and including revocation of its registered charitable status.

• Revocation of Charitable Status

In the event that the Charity loses its charitable status, either on a voluntary basis or for cause, it would lose its tax-exempt status as well as its authority to issue official receipts for income tax purposes. It would also be subject to a tax equal to the value of any remaining assets not disposed of in a prescribed manner. Please visit our Revoking Registered Status Web pages at: www.cra.gc.ca/tx/chrts/rvknng/menu-eng.html for additional details.

ELECTRONIC MAILING LIST

To ensure that you receive information in a timely manner, we strongly encourage you to subscribe to our **Electronic Mailing List (EML)**. For details on how to sign up, simply go to: www.cra.gc.ca/esrvc-srvce/mlst/sbscrbchrts-eng.html.

This is a free service. By subscribing to the EML, you will be automatically notified, via e-mail, of the latest information available for charities, such as up-dates to policies, new forms, newsletters, etc. Being registered on the EML allows you to pick and choose items that are of interest to the Charity, and to visit the site for additional information on those particular topics.

The Web site provides access to many subjects, some of which have been mentioned above. The site also provides information related to our annual Charity Information Sessions at which representatives of the Charities Directorate discuss a variety of topics of interest to registered charities. These sessions are open to all registered charities and are free of charge.

Because this letter could help resolve any questions about the Charity's charitable status, you should keep it in your permanent records.

Yours sincerely,

[Officer's Name]
[Senior - if applicable] Charities Officer
for Cathy Hawara,
A/Director General
Charities Directorate

Attachments

[OFFICER'S INITIALS]/[Clerk's initials]



It is an excellent idea to subscribe to the Electronic Mailing List.

4.3 Objects

What are objects?

The term “objects” refers to the objectives that your charity is trying to achieve through its activities. In other words, this is the core reason that your organization exists.

For example:

- To relieve poverty by operating a food bank for the benefit of the poor.
- To educate the public about community development through workshops and seminars.
- To establish, maintain, and support a house of worship with services conducted in accordance with the tenets and doctrines of the [insert specific] faith.
- To produce performing arts festivals for the purposes of educating and advancing the public's understanding and appreciation of performing arts and to educate artists through participation in such festivals and related workshops.
- To provide the necessities of life to victims of disasters.



Confusing terms “objects”, “purposes”, and “objectives” are sometimes interchanged by those working with charities. Other similar terms include “vision” and “mandate”.

How to find your organization's objects

In order to find your organization's purpose you need to find the part of your constitution that refers to its objects.

- If your organization is incorporated under the federal *Corporations Act* your objects will be found in the *Articles of Incorporation*.
- If your organization is incorporated under the Saskatchewan *Non-profit Corporations Act*, your objects will be found in your *Articles of Incorporation*.
 - Look at the appropriate part of the constitution for your organization and find the objects for your organization. Read them carefully.

Alternatively, as a registered charity, you may be able to find your organization's objects in the application for registration sent to the CRA.



Adapted from *Understanding Your Corporate Documents* by Lois Gander (2010).



Refer to the back of section 3 for your objects, where you have filed:

- your articles of incorporation

There is no particular format required for writing objects, but they tend to look something like this:

Sample objects

- a. To provide relief to persons with disabilities by developing and implementing recreation, education, and social integration programs for the disabled.
- b. To provide training for, and to assist in, the placement of persons with disabilities in employment.
- c. To provide life management counseling and other support services to assist persons with disabilities to become more independent in the community.

If you have any questions about what your organization was set up to do, discuss them at the next board meeting.

If your board is still unclear as to the purpose of your organization, meet with your organization's lawyer to discuss your objects.

If your charity does not have a lawyer, you could meet instead with a former board chair or someone who knows the history of your charity.

Model objects for charities

In order to qualify as a registered charity under the *Income Tax Act* with the Charities Directorate of the Canada Revenue Agency (CRA), your organization must:

- be established and operated exclusively for charitable purposes that are within the four categories of charity (that is, purposes or “objects”) identified by the courts.

It must also:

- be resident in Canada, and
- devote all its resources (financial, personnel, and property) to charitable activities.

In considering registration, an organization has to review its governing document that describes its purposes, or objects. The purpose of an organization is the why and the what (end results) of its existence. These purposes have to be within the four categories identified by the courts:

- to relieve poverty
- to advance education
- to advance religion
- other purposes beneficial to the community that the courts have found to be charitable.



From Charity
Central: [www.
charitycentral.ca/
site/?q=node/550](http://www.charitycentral.ca/site/?q=node/550)



If your organization is **beginning** the application process for charitable registration, or if your charity is in the process of **changing** its objects. It is a very good idea to speak directly with the Charities Directorate of the CRA before you do a lot of work to determine the objects!

If your organization's purposes do not fall within the four categories, it cannot be registered unless you change its purposes. If it is provincially incorporated, changes have to be filed with the provincial regulatory body.

The CRA has a list of model objects that would be acceptable, which you can access online at www.cra-arc.gc.ca/tx/chrts/pplyng/mdl/mdl-bjcts-eng.html

Why use the model objects?

When an organization applies for registration as a charity, the CRA will usually not need to discuss the wording of the object with you if your organization uses a model object. This may speed up the CRA's decision making processes because, in most cases, the CRA will only need to consider whether:

- the organization will deliver a public benefit
- the proposed activities are charitable, will be carried out in a manner allowed by the Act, and will further one of the organization's objects, and
- the organization is appropriately set up.



Adapted from
CRA:

[www.cra-arc.
gc.ca/tx/chrts/](http://www.cra-arc.gc.ca/tx/chrts/pplyng/mdl/menu-eng.html)

[pplyng/mdl/menu-eng.html](http://www.cra-arc.gc.ca/tx/chrts/pplyng/mdl/menu-eng.html)

4.4 Where to Find More Information on Charitable Status

Canada Revenue Agency, Charities Directorate

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

Charities Client Assistance: 1-800-267-2384

Charity Central

www.charitycentral.ca

Understanding Your Corporate Documents (2010). Lois Gander. The Muttart Foundation.

www.muttart.org/board_development_workbooks



See Glossary
for specific
content terms,
such as objects, statute,
constitution, and bylaws.

Importance of Documents	Notification of Registration	Objects	More Information	Your Documents
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4.5 A Place to File Your Documents

- Notification of registration
- Objects – *Optional*

Books and Records: Length of Retention

Type of record	Description	Retention period
All Documents and Bylaws Governing a Registered Charity	All Documents and Bylaws Governing a Registered Charity NOTE: This includes your notification of registration	<ul style="list-style-type: none">• as long as the charity is registered• two years after the date on which the registration of the charity is revoked

(From Charity Central: www.charitycentral.ca/site/docs/FastFacts_BandR_Length_final.pdf)

Remember, your objects are already contained in your constitutional documents, in Section 3.



It may help your charity to file your objects here, since they are so essential to the work that you do as a charity.