

CHURCH TREASURER'S DAY
JANUARY 23, 2021
CHARITY LAW 101
WHAT DOES IT MEAN TO BE A
CHARITY IN CANADA?

OUTLINE

- Introduction
- Charity legal/tax principles
- Disbursements
- Receipting
- Questions

INTRODUCTION

- Is CRA our ally or hindrance?
- Consider law to be on your side

CHARITY LAW

- Statutory law
 - Income Tax Act
 - Religious Societies Lands Act
 - Corporations Act
 - Employment law
- Common law
 - Dynamic, changes as society changes
 - Makes the law dynamic and adaptable to new circumstances
- Public trustee and trust law

CHARITIES AS TRUSTS

- Parties to a trust
 - Settlor (donor)
 - Beneficiaries
 - Trustees (board members)
- Board members/trustees must act in the best interests of the beneficiaries
- Terms of the trust are established by the governing documents
 - Include a purpose statement and parameters
 - Must be filed with CRA
 - Purpose must be "charitable"

HEADS OF CHARITY

- Advancement of religion
- Advancement of education
- Relief of poverty
- General benefit to the community

CHARITABLE DISBURSEMENTS

- The question is more what can we disburse than what can we receipt
- 2 ways to disburse funds
 - Transfer funds to another registered Canadian charity
 - On the charity's own programs = direction and control
- Applies equally to receipted and unreceipted monies

SPECIAL PROJECT ACCEPTABILITY TESTS

- Fits within stated objectives of Church
- Project is charitable
- Complies with CRA rules
- Would we be willing to use budget funds?
- Complies with Church policies & guidelines
- Administrative expertise
- Precedent concerns
- Consistent with public policy

SENATE COMMITTEE ON THE CHARITABLE SECTOR

- Tabled in June 2019
- Included 42 recommendations
- CCCC blog article at: https://www.cccc.org/news_blogs/noteworthy/2019/07/05/the-senate-report-on-the-charitable-sector-what-you-need-to-know-policies-and-guidance/
- Senate report on the charitable sector at: www.sencanada.ca/en/committees/CSSB/42-1

CHARITY RECEIPTS

- Definition of "Gift"
 - Voluntary
 - Transfer
 - Must give up control
 - Of Property
 - Does not include services
- Designated donations
 - Charity has to decide whether they wish to and are able to comply with a designation before accepting the gift
 - Designation is binding and cannot be changed
 - Fundraising policy

QUESTIONS

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PANDEMIC GOVERNMENT PROGRAMS

INTRODUCTION

- Programs have changed over time and will likely continue to change
- We will talk only about the programs that are most relevant to churches
- Each Church needs to consider whether it is appropriate for them to apply for program support

PANDEMIC PROGRAMS AVAILABLE

- Temporary Wage Subsidy (TWS)
- Canada Emergency Wage Subsidy (CEWS)
- Canada Emergency Rent Subsidy (CERS)
- Canada Emergency Business Account (CEBA)
- Manitoba Bridge grant

TEMPORARY WAGE SUBSIDY (TWS)

- Qualification criteria
 - Paid wages
- Benefit calculation
 - 10% of wages PAID between March 18 and June 19, 2020
- Application
 - Can request payment in the following ways:
 - Reduce payroll source deductions remitted to CRA up to the amount of income tax withheld from employees
 - Request refund cheque after yearend
 - Request that subsidy amount be applied to 2021 payroll source deduction account
 - Must complete a PD27

CANADA EMERGENCY WAGE SUBSIDY (CEWS)

- **Qualification criteria**
 - Paid wages
 - Experienced a revenue decrease over the comparative period
- **Benefit calculation**
 - Depending on revenue decline, a range of subsidy is available up to 75% (sometimes 100%) of wages EARNED during a claim period
 - Applies to wages earned after March 15, 2020
- **Application**
 - Must be done online through CRA's website
 - Revenue decrease and eligible wages earned calculations need to be completed prior to completing the application online
 - CRA provides a good spreadsheet calculator at <https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy/cews-calculate-subsidy-amount.html#cews-cal-options>
 - Must complete a RC661 or attestation
 - Must complete a separate application and RC 661 for each 4 week CEWS period
 - Beneficiaries' names will be made public
 - Application deadline for Periods 1 to 5 is January 31, 2021

CANADA EMERGENCY RENT SUBSIDY (CERS)

- **Qualification criteria**
 - Own property or pay rent
 - A registered charity that experienced a revenue decrease over a comparative period, similar to CEWS
 - If had a revenue drop AND had to shut down the location or activities were adequately limited then also qualify for "Lockdown support"
- **Benefit calculation**
 - Depending on revenue decline, a range of subsidy is available up to 65% of rent paid or property taxes, insurance, and mortgage interest paid during a claim period
 - Lockdown support is 25% (prorated based on lockdown days) of eligible expenses
- **Application**
 - Must be done online through CRA's website My Business Account
 - Must complete a separate application and RC 665 for each 4 week CERS period
 - Beneficiaries' names may be made public
 - Application deadline is 180 days after end of qualifying period

CANADA EMERGENCY BUSINESS ACCOUNT (CEBA)

- **Qualification criteria**
 - The first stream (payroll stream) required that 2019 wages be between \$20,000 and \$1.5 million
 - The second stream (non deferable expense stream) required that 2020 non deferable expenses be between \$40,000 and \$1.5 million
 - Non deferable expenses include wages, rent, property taxes, insurance, utilities, mortgage payments, etc
- **Benefit calculation**
 - The first phase provided a \$40,000 interest free loan with 25% of that forgivable if the balance is repaid by Dec 31/22
 - The second phase provided an additional \$20,000 interest free loan with 50% of that forgivable if the balance is repaid by Dec 31/22
- **Application**
 - Apply at your financial institution
 - If you qualify under the payroll stream no further documentation is required
 - If you qualify under the non deferable expenses stream you have to upload supporting documentation to the government site
 - Application deadline is March 31, 2021
 - Read the complete application and attestation form carefully before signing

MANITOBA BRIDGE GRANT

- **Qualification criteria**
 - Located in Manitoba
 - Must have had to close doors due to Covid restrictions
- **Benefit calculation**
 - Two \$5,000 payments, first one in late 2020 and the second one in early 2021
- **Application**
 - Deadline is Dec 31/20

OTHER

- For 2020 the T4 must include a breakdown of wages paid in 4 blocks of time as follows:
 - Box 57 – March 15 to May 9
 - Box 58 – May 10 to July 4
 - Box 59 – July 5 to August 29
 - Box 60 – August 30 to September 26
- The stated purpose for these boxes is to give CRA additional information to review compliance with pandemic programming
