

# Regulatory Changes for Canadian Charities

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CCVO "Lunch & Learn" series  
May 18, 2004

# Federal Budget 2004

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- Most significant changes in charity law in more than 20 years
  
  - Portrayed by media as “tightening up” on charities
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# Today's presentation

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- ❑ How did we get here?
  - ❑ What's really changed?
  - ❑ When will it change?
  - ❑ What does it mean?
  - ❑ What do charities have to do to get ready?
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How did we get here?

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**VSR**

begat

**Broadbent**

begat

**Working Together**

begat

**Voluntary Sector Initiative**

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# How did we get here?

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- ❑ VSI – seven joint tables
  - ❑ Unique process
  - ❑ Membership from sector and government
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# How did we get here?

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## □ Regulatory Table

- 14 members
  - 3 advisors
  - 2 observers
  - Secretariat also unique
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# Regulatory Table Mandate

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- Recommendations
    - Transparency & Accessibility
    - Appeals
    - Intermediate Sanctions
  - Examine
    - Regulatory models
  - Action items
    - Annual reporting form
    - Business activities
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# Regulatory Table Process

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- ❑ Met for 20 months
  - ❑ Interim report July 2002
  - ❑ Consultations in 23 cities
  - ❑ Report delivered May 2003
    - 75 recommendations
  - ❑ Federal budget 2004
    - Adopted 69 recommendations
    - Legislation to come
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# Key Message to Take Away

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**For most charities,  
the only change they must make  
is to reprint their receipts  
to include the name and website  
address of the regulator**

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# Transparency

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- Regulator to provide public reasons for decisions
    - Adverse registration decisions will not identify the applicant
  - Information to be available if sanction imposed on charity
  - Financial statements to be available publicly along with reporting form
  - Information sharing among regulators
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## Transparency - 2

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- ❑ Policy information to be available publicly
  - ❑ Database of cases and precedents used by regulator
  - ❑ Appointment of Charities Advisory Committee
  - ❑ Printing regulator's name and website address on receipts
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# Intermediate Sanctions

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- Currently, only penalty is deregistration
    - For some, a hammer
    - For some, a “free pass”
  - New system introduces list of “offences” with corresponding penalties
    - No new offences; rules are exactly the same
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# Sanctions

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- Emphasis to be on education and remediation
    - Better information about complying
    - Working with charities to solve issues
  - Appropriate penalties when appropriate
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# Sanctions

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## □ Offences

- Fail to file return
  - Recepting infractions
  - Unrelated business activity
  - Undue personal benefit
  - Avoiding disbursement quota
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# Sanctions

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- Deregistration will remain ultimate penalty
    - Of average 2500 deregistrations each year, 2200 for failure to file, 250 at request of charities, average 5 to 10 per year for substantive offences
  - New penalties will relate to offence
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# Appeals

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- Greatest discrepancies between JRT recommendations and results
  - Table recommended
    - Internal appeals → Tax Court
    - Appeals fund
  - Government announced
    - Tax Court only for sanctions
    - No appeals fund
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## Recommendations not accepted

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- Tax Court for appeals
  - Appeal fund
  - Identifying unsuccessful applicants
  - Injunction process
  - Codifying grounds for annulments
  - Study of broader not-for-profit sector
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# Other changes

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- Disbursement quota changes not part of JRT report
    - Reduced to 3.5% from 4.5%
    - Now applies to endowments held by charitable organizations
    - Doesn't take effect until 2008 for charities registered before budget day
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# Timing

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- ❑ Draft legislation
  - ❑ Introduced in House
  - ❑ Senate
  - ❑ Most changes come into effect  
January 1, 2005 or 30 days after  
passage of legislation
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# Follow-up

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- ❑ VSF will follow up progress
  - ❑ Expect Charities Advisory Committee will have chance to review draft legislation
  - ❑ Public education process being planned
  - ❑ Governments talking about deceptive and predatory fundraising
  - ❑ Still work to be done on appeal issue
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# Conclusion

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- Government response is positive and helps modernize some aspects of the Income Tax Act
  - For most charities, changes are neutral; for the sector, access to more information that will allow more informed public-policy work on law of charities
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## For more information

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- <http://www.fin.gc.ca/budget04/bp/bptocce.htm>
  - <http://www.muttart.org/download/Explanation%20Revised.pdf>
  - <http://www.ccra-adrc.gc.ca/tax/charities/whatsnew/whatsnew-e.html>
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# Question and Answer Period

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- Will timelines be affected by the election?
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# Question and Answer Period

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- Are the education materials being developed mandatory or will there be a role for the sector?
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# Question and Answer Period

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- Where do we go from here?
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