

Volume 1 | March 2010

## CHARITIES: DISBURSEMENT QUOTA REFORM

By Leilani Kagan

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Charities must devote their resources to charitable purposes. Under the *Income Tax Act*, registered charities are subject to a disbursement quota to curtail fundraising costs and limit capital accumulation. The disbursement quota is intended to ensure that a significant portion of a registered charity's resources are devoted to charitable purposes. In general terms, the disbursement quota requires that the amount a charity spends each year on charitable activities (including gifts to qualified donees) is at least 80 % of the previous year's tax-receipted donations (the "charitable expenditure rule") and 3.5 per cent of all assets not currently used in charitable programs or administration, if these assets exceed \$25,000 (the "capital accumulation rule").

Stakeholders have called for the elimination of the disbursement quota because it imposes "an unduly complex and costly administrative burden on charities - particularly small and rural charities" and it constrains the flexibility of charities, without achieving its core purpose of limiting spending on fundraising and non-charitable activities.

Budget 2010 proposes to reform the disbursement quota for fiscal years that end on or after March 4, 2010. Specifically, Budget 2010 proposes to:

- repeal the charitable expenditure rule;
- modify the capital accumulation rule; and
- strengthen related anti-avoidance rules for charities.

Consequently, provisions relating to a number of concepts will no longer be required to calculate the disbursement quota:

- enduring property (gifts to a charity for endowments or multi-year charitable projects which are not subject to the charitable expenditure rule);
- the capital gains reduction and the capital gains pool (provisions that ensure that capital gains realized from the disposition of enduring property are not subject to the charitable expenditure rule and the capital accumulation rule);
- specified gifts (a provision that allows charities with disbursement excesses to help charities with disbursement shortfalls to meet their disbursement quota requirements); and
- exclusions from the calculation of the base to which the 3.5-per-cent disbursement rate is applied (provisions that ensure that funds subject to the charitable expenditure rule are not also subject to the capital accumulation rule).

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Further, Budget 2010 proposes to reduce the applicability of the capital accumulation rule by increasing the threshold amount of assets not currently used in charitable programs or administration from \$25,000 to \$100,000 for charitable organizations. This increase will reduce the compliance burden on small charitable organizations and provide them with greater ability to maintain reserves to deal with contingencies. The threshold for charitable foundations will remain at \$25,000.

Budget 2010 also proposes to amend the existing rule that provides the Canada Revenue Agency with the discretion to allow charities to accumulate property for a particular purpose, such as a building project. The existing provision states that property accumulated after approval from the Canada Revenue Agency and any income earned in respect of that property is deemed to have been spent on charitable activities. This rule will require amendment in the absence of the charitable expenditure rule. In order to allow a charity to accumulate property for a particular project, the Canada Revenue Agency will be given the discretion to exclude the accumulated property from the capital accumulation rule calculation.

For assistance with this or any other charities or not-for-profit issue, please contact any member of the TDS [Charities or Not-For-Profit](#) practice group.

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