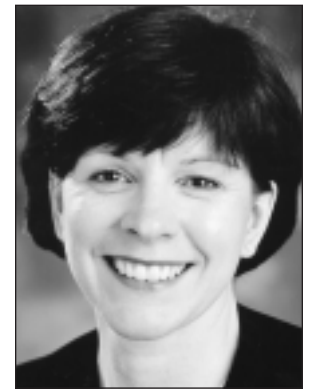


Sara Neely



Non-Profits, Not-for-Profits, and Charities: What's the Difference?

When I give money, why can one organization give me a tax receipt while others cannot?

This is a complex area of case law, legislation, and practice. As you look for one answer, more questions are raised. I will focus on the key similarities and differences among these organizations and whether they can issue an official income tax receipt for gifts.

Each of these organizations carries out its activities for the benefit of society. Most organizations have fundraising drives or operate business activities, or both, to generate income to carry out these philanthropic activities.

A key feature is that they are all prohibited from operating for profitable purposes. They cannot pass profits on to directors or members of the organization, other than by way of legitimate salaries; the profits must be used for their philanthropic activities. Another key feature is that each organization has tax-free status: no tax is payable on the taxable income of the organization.

A not-for-profit organization can be an unincorporated association, a charitable trust, a not-for-profit corporation without share capital, or a society that is prohibited from operating for profitable purposes. In British Columbia, a society is registered pursuant to the *BC Society Act* or the federal statute, the *Canada Corporations Act*.

The term “not-for-profit organization” is all-encompassing and can refer to either a non-profit organization or a charity. Non-profits are able to do virtually anything, except operate with a profit-making motive and issue a charitable receipt. Non-profits range from very high profile groups such as political parties, to small groups of a few people linked by a common interest or cause. They can include trade groups, professional groups, social clubs, and sporting organizations. They do not need to be registered with the Canada Customs and Revenue Agency (CCRA).

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A charity is defined through case law and in the *Income Tax Act (ITA)*. Case law from the late 1800s defined charity as falling into four main categories:

- the relief of poverty;
- the advancement of religion;
- the advancement of education; and
- other purposes of a charitable nature beneficial to the community as a whole.

While this definition of charity has been interpreted by the courts and remains a contentious issue in modern

times, the key features remain and form the basis of the definition in the *ITA*.

A “charity” is defined in the *ITA* as a charity registered by the CCRA. Like a non-profit, no tax is payable on the taxable income of a charity. Unlike a non-profit, a registered charity can issue official income tax receipts for gifts made by individuals or corporations, thereby entitling its donors to financial incentives for giving.

The *ITA* gives a registered charity the status of a charitable organization, a public foundation, or a private foundation. A charitable organization is usually the initiator of charitable activities and provides the services and programs for the constituents served by the organization. Examples include churches, schools, universities, hospitals, and arts organizations.

A public foundation is a public body that funds the charitable activities of other registered organizations. While they are permitted to carry on their own charitable activities, most of their expenditures are made to other charitable organizations. Examples include a foundation supporting a hospital or university or a community foundation.

A private foundation can act as an organization or a foundation, that is, it can do the charitable activities or fund the activities of other organizations. It is the degree to which it is privately funded or controlled that determines its status as

a private foundation. These foundations are usually linked to one person or a group who do not deal at arm's length, such as a family foundation.

A registered charity is required to meet a disbursement quota. This quota is a regulatory tool to ensure charities spend most of their annual income on charitable purposes, while keeping their administration costs down. As a donor, you can ask about the charity's annual report and audited financial statements, the costs of administration, and how your gifts will be used. You can ask about designating your gift. The record of your contributions should be kept in confidence and, unless you give your permission, your name and address should not be shared with other organizations.

The same reporting requirements and regulatory tools are not in effect for non-profit organizations. If you have questions about how your gift will be used or about any other issues, make sure you ask the organization about its policies and practices.

As you can see, this area of law can be complex. But the essence of the not-for-profit world is that people in these organizations are carrying out good work every day for people who rely on the services and programs for their quality of life.

Keep interested in their vision of a better society. Keep supporting these vital causes.

Keep asking the questions. ▲

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