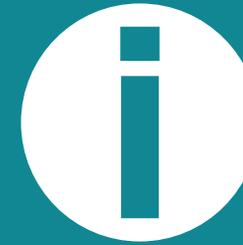


Choosing Charitable Status



Introduction

Co-operatives can operate as either not-for-profit or for-profit organizations, and in some cases, they may wish to operate with charitable status. Charities are organizations that meet the Canada Revenue Agency's legal and administrative standards of charitable work, and must be operated solely for public benefit. If a co-op wishes to operate as a charitable organization there are certain requirements that must be met, both during incorporation and ongoing operations, if the organization wishes to maintain both its co-operative and charitable status.

There are pros and cons for co-ops to consider when deciding whether or not charitable status is appropriate for them. Co-ops are urged to contact a lawyer and/or an accountant when making the decision about whether or not to pursue charitable status.

What Is a Charity?

A charitable organization is an incorporated entity that has applied for (and received) charitable status from the Canada Revenue Agency. The charitable distinction is a tax-related issue, not a category of legal structure. Any incorporated body that successfully fulfills the requirements set out by the Canada Revenue Agency can be granted charitable status.

The major stipulation an organization seeking charitable status must demonstrate is how its activities provide a public benefit to the majority of the community. The group cannot be organized to provide benefits to only a small or restricted group of people, as a social club or association might be. This also means that charities are prohibited from distributing any part of its income to members or other individuals associated with the organization. The Canada Revenue Agency has a guide to applying for charitable status online that provides additional details about the process.

There is no strict legal definition of charity, but there are some guidelines that have arisen as a result of legal precedent.

Acceptable charitable activities and purposes are:

- **relief of poverty;**
- **advancement of education;**
- **advancement of religion; or**
- **any purpose beneficial to the community not falling under the other three purposes.**

Why Would a Co-op Operate as a Charity?

There are three main operational benefits to operating as a charity.

1) Tax Receipts Can be Issued to Donors

When someone makes a donation to a charitable organization they can receive a tax receipt. Individuals can use these receipts to claim a tax credit while corporations can consider their donations tax deductible. Tax receipts can be a major incentive for people to donate to charities and may provide charitable organizations with a vital source of revenue that wouldn't have been available otherwise.

- There are over 9,000 co-operatives operating in Canada. The Canadian co-operative movement has over \$330 billion in assets and more than 18 million members.
- A federal study has shown that health care co-ops have lower per-capita health care costs than private practice models.
- Canadian co-operatives employ more than 150,000 employees.
- Canada has the world's largest per-capita credit union membership: about one-third of all Canadians are members of a credit union or caisse populaire.

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2) More Sources of Funding are Available

As a charity, organizations have easier access to funding from foundations and organizations that provide funding to charitable organizations. This can provide important sources of funding for operations and projects that would not normally be available to a co-operative without charitable status.

3) Charitable Organizations are Exempt from Paying Income Tax

As with other not-for-profit organizations, charitable organizations do not have to pay income tax.

Disadvantages to Charitable Status

Although there are advantages to charitable status that may be attractive for a co-op to consider, there are some additional formalities to having charitable status.

1) There Is a Higher Administrative Burden

The Canada Revenue Agency requires that the organization track and report on a lot of information that is unique to charities. The organization must conform exactly, or the organization runs the risk of losing its charitable status.

2) Charities are Limited in their Activities

In order to maintain charitable status, an organization is limited in the activities they can perform. Most, if not all, of their activities have to be related to charity (i.e. for the public good).

3) Co-ops are Prohibited from Distributing Surplus to Its Members

See the next section for more details on member benefits as it relates to charitable status.

Co-ops, Member Benefits and Charities

A co-op's primary purpose is to meet the needs of its members. Although co-ops subscribe to the triple bottom line (including social and environmental goals), most co-ops also have a financial component where they provide their members with a benefit in the form of a patronage.

At first glance, the financial benefit that members receive from a co-op would seem to make them ineligible for charitable status, since it contravenes the requirements for charities to provide a public benefit to the community at large (rather than the small, specific group of the membership). However, co-ops can make themselves eligible for charitable status by indicating that they will

not distribute surplus to members, and that its primary purpose is not to provide gain to its members. This is done in the Articles of Incorporation for the co-operative.

Practical Issues of Charitable Status

Incorporation

The decision to operate as a charity is one that will have to be made before the group incorporates and begins operating. If the co-op is to become a registered charity they must indicate in the 'special provisions' section that the co-op is carrying on business without the purpose of gain for its members and that any profit or surplus that the co-op earns will be used for the purposes of promoting its objects. This is similar to what a co-op must do if it wishes to operate on a not-for-profit basis.

In addition to the text above, the objects listed in a co-op's Articles must be compatible with the Canada Revenue Agency's outline of acceptable charitable purposes. The Articles also need to be specific enough to satisfy the Agency's requirement that the activities being carried out by the co-op are truly charitable.

- A 2008 study in Quebec found that 62 percent of co-operative enterprises were still operating after 5 years, compared with 35 percent for other business corporations.
- Studies show that co-operative housing costs 71 percent less than public housing projects.
- The global co-operative sector has more than one billion members in more than 90 countries.
- It is estimated that co-operatives account for more than 100 million jobs around the world.

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Paying Directors for Service

Generally, directors of a co-operative can be paid for their services as a director, and the information related to how much directors may be paid and for how long must be written into the bylaws.

In the case of co-operatives with charitable status, the directors of the organization cannot be paid for the services they provide as directors. Directors of charitable organizations have prescribed fiduciary duties that they are expected to carry out, and one of them is to avoid conflict of interest issues and always act in the best interests of the organization. There are strict interpretations of these rules for charities that include the prohibition against directors being paid for their services, and it also means that directors cannot enter into contracts with the organization to be paid for contract-work outside of their duties as directors.

Distribution of Surplus

A relative disadvantage for a co-op operating as a charity is that the co-op is prohibited from distributing any surplus that it generates to its members. This can impede the charity's ability to attract members to a co-op because there is a limit to the financial benefit available to members which would otherwise be available to members in a for-profit co-op via a patronage payout.

Co-ops must consider if the benefits of being income tax exempt and having access to charity grants outweigh the drawbacks of being unable to distribute surplus to members.

References

Co-ops and Charity Law, Richard Bridge, February 2003, BC Co-operative Association.

T4063 Registering a Charity for Income Tax Purposes: cra-arc.gc.ca/E/pub/tg/t4063/README.html

FOR MORE INFORMATION, CONTACT

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More resources are available at:
CoopZone Network
coopzone.coop

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