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Canada Revenue Agency refuses to divulge audit tactics targeting charities

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Ottawa claims revealing guidelines on political activity would hamper its work as it investigates actions of Pen Canada

The federal government has denied a freedom-of-expression charity's request for auditors' guidelines on political activity, saying revealing how the Canada Revenue Agency conducts audits could hamper their work.

Since Ottawa first started cracking down on political activities among charities in 2012, Pen Canada has filed a series of access-to-information requests¹ seeking, among other things, the criteria auditors use to determine what, exactly, constitutes political activity.

The group, which recently became the subject of an audit itself, also sought insight into how the tax collector decides which charities will receive letters reminding them that engaging in prohibited partisan activity could result in a revocation of their charitable status.

The Globe and Mail reviewed the government's responses, including pages from a heavily redacted CRA training booklet that listed "Specific Audit Guidelines," as well as a document entitled "Reminder Letter Guidelines" that was redacted where it explained, in three parts, when a letter might be issued.

The redactions were justified by a section of the Access to Information Act that says a refusal is warranted if the information could reasonably be expected to hinder the enforcement of a law, in this case the Income Tax Act.

"The CRA claims that revealing the criteria their auditors use to determine political activities would make it easier for charities to avoid being caught, but if we don't know which activities the CRA considers problematic, how can we ensure we're following the rules?" Pen Canada executive director Tasleem Thawar said, noting the group has filed complaints with the Information Commissioner.

CRA spokesman Philippe Brideau said he couldn't comment on access-to-information requests, but said the agency doesn't divulge its auditing techniques. "Providing information about how we conduct our general audit review could hinder or impede our ability to effectively carry out future audits," he said, adding that an explanation of charitable, political and partisan activity is available on the CRA website.

Canadian law doesn't bar charities from engaging in political activity so long as it's limited to roughly 10 per cent of its

resources. Political activity must be non-partisan and incidental, meaning the charity can't, for example, support an election candidate, and the activities must be connected but secondary to their charitable purposes.

In a CRA program update earlier this year, the agency said it knows the requirements around political activities can be "quite subtle," so it launched online education tools aimed at clarifying what is likely to raise concerns with the CRA. However, charities say they're still grappling to understand what constitutes political activity.

And since the head of the CRA's charities directorate, Cathy Hawara, last week revealed the political-activities auditing program was designed to be balanced across the political spectrum, charities say they also want to know whether the CRA has determined where they stand – and if so, how.

"The bottom line is we want to make sure that charities can operate in an environment where their viewpoints can be brought forward in an open and transparent manner," said Imagine Canada president Bruce MacDonald, who advocates on behalf of Canadian charities. "We're already seeing a chill, and I think it's important that we get some greater clarity."

Ms. Hawara said to the extent possible, the CRA was careful to make sure it is "even-handed" and not focusing on one side of the spectrum. Asked about characterizing charities' political leanings, Mr. Brideau said the agency doesn't conduct research into the political views of any charity and that "where a charity stands on a particular policy issue is irrelevant to audit selection."

The CRA program update said as of January, 2014, 403 files had been screened and 31 charities were slated to receive reminder letters about the rules around political activity.

References

1. pencanada.ca/political-activity-atip-request

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