

Why LifeSiteNews and Most Canadian Pro-Life Organizations are Denied Charitable Tax Status

Sept. 2007 legal opinion from Carters Professional Corporation regarding the possibility of Canadian charitable status for LifeSiteNews Canada. Carters is one of the leading Canadian law firms regarding non-profit and charitable organization Revenue Canada issues.

(Note: Bolding was added by LSN to highlight the most significant statements. Also, note the second set of footnotes which indicate that a Canadian chastity promotion group (Chastity Challenge), Canada's national pro-life educational organization (Alliance for Life), and the Canadian branch of Human Life International, all had their charitable tax status removed. This led to all 3 organizations closing down.)

Legal Opinion

We have been requested to provide an opinion on whether it is possible for the Organization to seek charitable status from Canada Revenue Agency ("CRA") under the *Income Tax Act* (Canada). We were advised that it is not essential for the Organization to obtain charitable status, although the Organization would welcome the opportunity to be registered as a charity with CRA provided that such a status would not prohibit the Organization from carrying on the activities it proposes to undertake. In the event that the Organization could not be registered as a charity under the *Income Tax Act*, then it could be established as a non-profit organization ("NPO") under section 149(1)(l) of the *Income Tax Act*. The key differences between a registered charity and an NPO are that an NPO must be operated on a non-profit basis, does not have to pay tax on most types of income, but cannot issue official donation receipts for income tax purposes. We also confirm our understanding that even if the Organization cannot obtain charitable status, it would still want to move forward with the incorporation.

In order to be recognized as a charity, the Organization must be established under one or more of the four heads of recognized charitable purposes at common law, namely relief of poverty, advancement of education, advancement of religion, or other purposes beneficial to the community in a way the law regards as charitable.¹ It is possible for charities to be established to carry out activities under only one of these head of charitable objects. It is also possible for charities to carry out activities under more than one of these objects.

We were advised by the Organization that its purpose is to operate an internet service (e.g. by operating an internet website) to provide information on culture, life and family. As such, it does not appear possible for the Organization to be recognized to be established for the relief of poverty or for other purposes beneficial to the community.

It is also our opinion that it is unlikely for the Organization to be granted charitable status on the basis that it is established for the advancement of education or advancement of religion for reasons set out below in this section.

1. Advancement of education

We have reviewed whether it is possible for the Organization to be recognized as a charity established for the advancement of education. We have reviewed CRA's policies and publication on this issue, as well as relevant case law. It is our opinion that it is unlikely for the Organization to be granted charitable status on the basis that it is established for the advancement of education.

CRA's policy indicates that to advance education in the charitable sense means "formal training of the mind, advancing the knowledge or abilities of the recipient, raising the artistic taste of community, or improving a useful branch of human knowledge through research."² The Supreme Court of Canada in *Vancouver Society of Immigrant and Visible Minority Women* case ("*Vancouver Society*")³ is the leading case on this issue. The court set out the following criteria when⁴ determining whether a purpose or activity is charitable in advancing education:

- There must be structure and a genuinely educational purpose
- There must be a teaching or learning component
- There must be a legitimate, targeted attempt to educate others (simply providing an opportunity for people to educate themselves, such as by making available materials with which this might be accomplished but need not be, is not enough)
- The definition of education is not limited to traditional academic subjects, but may include teaching practical topics and skills such as necessary life skills or providing information to a specific practical end
- The knowledge being conveyed must be "useful knowledge," means that its acquisition by the individual provides a benefit to the community

¹ CRA's Summary Policy CSP-C01, "Charitable purposes", October 25, 2002.

² CRA Summary Policy CSP – E01, "Education – Charity Purposes", October 25, 2002.

³ *Vancouver Society of Immigrant and Visible Minority Women v. MNR*, [1999] 1 S.C.R. 10 ("*Vancouver Society*").⁴ See also CRA, Policy Commentary CPC – 027, "Charitable purposes -Whether publishing a magazine can be considered a charitable activity under the advancement of education" February 3, 2006, and Theresa Man, Charity Law Bulletin No. 92, "Publication of Magazines for the Advancement of Education", April 18, 2006 on our website at <http://www.carters.ca/pub/bulletin/charity/2006/chylb92.pdf>.

However, the *Vancouver Society* decision also indicates that education does *not* include educating people **about a particular point of view in a manner that might more aptly be described as persuasion or indoctrination.** In this regard, **where "an organization is established to provide information to the public of selected items of information and opinion is not advancing education in the charitable sense."**⁵

This would mean that although it may be possible for an organization established to provide information on culture, life and family issues to be recognized to be charitable for the advancement of education, **such an organization is required to provide information on these issues without promoting a particular point of view. For example, it must not be established for the purpose of providing information on culture, life and family issues solely from a pro-life perspective. Instead, the organization must also provide information from a pro-choice perspective, direct its readers to both pro-life and pro-choice perspectives, and not take a stand on either side.**

We were advised that the Organization does not support individual political candidates and does not engage in political activities. However, this is not determinative that the objects and activities of the Organization would be charitable. We have reviewed the internet website currently operated by the Organization. **It does not appear that information from both the pro-life and pro-choice perspectives are provided equal coverage.** Instead, it appears that most, if not all, information is provided from the pro-life and pro-family perspective on issues such as abortion, euthanasia, cloning, etc. Furthermore, a link is provided on the Organization's internet to Campaign Life Coalition, a well-known pro-life group, but **no link or information is provided on pro-choice groups** which would provide a strong indication that the goal of the Organization is to educate the public from the pro-life perspective.

Although CRA's policy accepts that publishing a magazine can be considered a charitable activity under the advancement of education, it is not clear whether such a policy would apply to other types of publication, for example, pamphlets, newsletters, newspapers, internet website, etc. We note that this CRA policy was a result of the granting of charitable status to The Walrus Foundation, established to publish the Walrus Magazine. On the Walrus Magazine's website, they indicate that it is a general-interest magazine to publish "the best work by the best writers from Canada and elsewhere on a wide range of topics." However, the internet operated by the Organization is not a general interest website, but rather it is focused on providing information on culture, life and family issues from a particular perspective.

⁵ CRA Summary Policy CSP-106, "Information (provision of)", June 9, 2003. In *The Challenge Team v. Revenue Canada*, 2000 D.T.C. 6242; [2000] 2 C.T.C. 352 (FCA), the organization was denied charitable registration because its activities were undertaken solely for the purpose of advancing a particular point political or moral perspective. In *Alliance for Life v. MNR*, 99

D.T.C. 5228; [1999] 3 C.T.C. 1 (FCA), the court held that despite the charitable objects of the organization set out in its governance document, its true mission was to advance its strongly held convictions on important social and moral issues in a one-sided manner, to the virtual exclusion of any equally strong opposing convictions. In *Human Life International in Canada Inc. v. MNR*, 98 D.T.C. 6196 (F.C.A.), the organization was found not advancing education because a substantial part of its activities had been designed to sway public opinion on a controversial issue and therefore they were political rather than charitable in nature. The object of that organization was to protect the unborn, elderly and handicapped, to promote Christian family values, to encourage chastity and to teach natural family planning.

2. Advancement of religion

We have reviewed whether it is possible for the Organization to be recognized as a charity established for the advancement of religion. We have reviewed CRA's policies and publication on this issue. It is our opinion that it is unlikely for the Organization to be granted charitable status on the basis that it is established for the advancement of religion.

CRA's policy indicates that to advance religion in the charitable sense means to promote the spiritual teachings of a religious body and to maintain doctrines and spiritual observances on which those teachings are based and that there must be an element of theistic worship, which means the worship of a deity or deities in the spiritual sense.⁶

The court in *Fuaran Foundation v. Canada*⁷ noted that the advancement of religion has been defined in the courts to mean "to promote it, to spread its message ever wider among mankind; to take some positive steps to sustain and increase religious belief; and these things are done in a variety of ways⁸ which may be comprehensively described as pastoral and missionary" or the "promotion of the spiritual teaching of the religious body concerned and the maintenance of the spirit of the doctrines and observances upon which it rests⁹ ..." The court also indicates that the analysis of the court in *Vancouver Society* in relation to the advancement of education would also apply to advancement of religion, i.e. there must be some targeted attempt to promote religion or to take positive steps to sustain and increase religious belief, and there must be some structured program relating to advancement of religion.

Although it is possible for a media organization to be registered as a charity for the purpose of advancing religion, it would be required to demonstrate some targeted attempts to promote religion or increase religious belief by utilizing the mass media, e.g. a Christian newspaper, a Christian radio station, a Christian television ministry.

We have reviewed the internet website currently operated by the Organization. Other than the fact that it indicates that the internet website "emphasizes the social worth of traditional Judeo-Christian principles", there does not appear to be any emphasis on promoting the Christian faith. As such, it does not appear likely that the Organization would be granted charitable status on the basis that it is established for the advancement of religion.

To conclude, based on the activities currently proposed to be undertaken by the Organization, it appears unlikely that charitable status would be granted. As such, the Organization would need to be established as an NPO. However, if the Organization would like to seek charitable status, it would be necessary to re-structure the objects and the activities of the Organization.