



Novel Coronavirus (COVID-19)

Not-for-Profit & Charities

April 2020

COVID-19 Update For Non-Profits

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Non-profit organizations are a category of tax exempt entities under the *Income Tax Act* (Canada) (**ITA**), distinct from registered charities. A non-profit organization can be established provincially or federally, and can be incorporated or unincorporated. Its legal obligations will depend upon its legal status and the jurisdiction in which it was created.

This article provides an overview of extensions for filings that have been granted due to the COVID-19 pandemic that are relevant for non-profits governed by Ontario or federal not-for-profit corporate legislation.

Federal Jurisdiction

Federally incorporated non-profits are governed by the *Canada Not-for-Profit Corporations Act* (**CNCA**). The CNCA does not distinguish between non-profits and charities. Rather, a CNCA corporation's obligations differ in some cases depending upon whether it is soliciting or non-soliciting. Generally speaking, a corporation is soliciting if it receives more than \$10,000 in a financial year by way of donations from the public or grants from government. A corporation will be non-soliciting if it has received less than \$10,000 in such funds in each of its three most recent financial years.

All CNCA corporations, including non-profits, are required to file an annual corporate return. Due to the COVID pandemic, Corporations Canada has granted extensions to file this return. Non-profits and other corporations governed by the CNCA have various other filing obligations with Corporations Canada. See our article for further information on the annual return extensions and the filing requirements of CNCA corporations.

CNCA non-profits are also subject to the same parameters regarding the holding of their meetings as CNCA corporations that are registered charities. See our article regarding the Notice issued to CNCA corporations by Corporations Canada with information on the holding of meetings in light of the restrictions on gatherings and social distancing.

Ontario

In Ontario, many non-profits are incorporated under the Ontario *Corporations Act* (**OCA**) as corporations without share capital. The OCA also does not make any distinctions between non-profits and charities. Unlike the CNCA, however, the OCA does not include different categories of corporations without share capital. (The Ontario *Not-for-Profit Corporations Act*, which is not yet in effect, will contain distinctions between not-for-profit corporations which are public benefit corporations, and those which are not.)

Non-profits governed by the OCA are required to file an annual corporate return under the *Corporations Information Act* (Ontario). The filing date for this return corresponds with a corporation's filing deadline for its tax return with the Canada Revenue Agency (**CRA**) under the ITA. (See further discussion below under the heading "Income Tax Returns".)

The requirements for the holding of meetings by OCA non-profits are the same as for charities incorporated under the OCA. See our article regarding the temporary changes that the Ontario government has put in place to facilitate the holding of electronic meetings under the OCA during the pandemic.

Income Tax Returns

Non-profit corporations, whether incorporated federally or provincially, are required to file a T2 Corporation Income Tax Return, or if eligible, a T2 Short Return, (**T2 Return**) annually with the CRA. A T2 Return is required to be filed within six months of a non-profit corporation's year end.

Some non-profits are also required to file a Form T1044, Non-Profit (NPO) Information Return (**NPO Return**) for a financial year if the non-profit:

- Received or was entitled to receive in excess of \$10,000 in taxable dividends, interest, rentals or royalties in the year;
- Had assets with a book value of greater than \$200,000 at the end of its preceding financial year; or
- Was required to file an NPO Return in any prior year.

In response to the COVID situation, the CRA has granted an extension for the filing of any T2 Return or NPO Return due after March 18, 2020 and before June 2020. These Returns are now required to be filed by June 1, 2020.

We would be happy to answer any questions that you may have about non-profit organizations during the COVID-19 crisis or otherwise.

For legal advice on issues arising from COVID-19, please contact your Torkin Manes lawyer. For more information about dealing with COVID-19, please visit our COVID-19 Resource Center.

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