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Does Being a Federal Not-For-Profit Corporation Mandate Audited Financial Statements?

Given that many (although certainly not all) not-for-profit corporations (“NFPs”), both charitable and non-charitable, have a December year end and are preparing for their year end financial reporting, we thought it timely to provide a reminder about the financial disclosure requirements contained in their governing corporate legislation.

Federal NFPs are governed by the *Canada Not-for-profit Corporations Act* (the “CNCA”). The CNCA refers to the appointment of a public accountant rather than an auditor and contains complex financial disclosure requirements, the primary provisions of which are as follows:

Is a Federal NFP Required to have Audited Financial Statements and Appoint a Public Accountant?

Not necessarily. It depends upon whether or not an NFP is a soliciting corporation and on its gross annual revenues. (A soliciting corporation is a corporation that has received public donations or government grants in excess of \$10,000 in one of the last three years.)

- A soliciting corporation with gross annual revenues of over \$250,000 and a non-soliciting corporation with gross annual

revenues of over \$1 million must appoint a public accountant and must have audited financial statements.

- A soliciting corporation with gross annual revenue of more than \$50,000 and up to and including \$250,000 must appoint a public accountant but the members can require a review engagement instead of an audit for a specific year if they pass a special resolution (that is, a resolution approved by at least two-thirds of the votes cast) for that specific year.
- A soliciting corporation with gross annual revenues of \$50,000 or less and a non-soliciting corporation with gross annual revenue of \$1 million or less (both classified as a designated corporation under the CNCA):
 - does not need to appoint a public accountant if its

members pass an unanimous resolution for a specific year waiving the appointment; and

- is required to have a review engagement unless the members pass a resolution for a specific year, by majority vote, to require an audit.

NFPs should speak with their public accountants for further information regarding the accounting standards applicable to them.

Are there any Restrictions on Who may be Appointed as the Public Accountant?

The public accountant of an NFP must:

- belong to an institute or association of accountants of one of the provinces; and
- be qualified under the relevant provincial laws or rules to perform the necessary duties under the CNCA, such as conducting an audit or review engagement and the subsequent reports; and
- be independent of the NFP, its affiliates and the directors and officers of the NFP and its affiliates, unless permitted by court order.

How, When and for How Long is a Public Accountant Appointed?

A public accountant must be appointed by the members of an NFP at each annual members' meeting. A public accountant holds office until the NFP's next annual members' meeting.

What if a Public Accountant is Required but the Members don't appoint one?

If the members don't appoint a public accountant at an annual meeting, the public accountant previously appointed remains in office until another public accountant is appointed. If a public accountant resigns, the directors must appoint a replacement, unless the NFP's Articles of Incorporation or Continuance state that a vacancy can only be filled by the members.

What Notices must be given to an NFP's Public Accountant?

The public accountant of an NFP must be given notice of meetings of the NFP's audit committee, if any, and all notices and other communications relating to members' meetings that the members are entitled to receive.

How is the Remuneration of an NFP's Public Accountant Set?

The remuneration of an NFP's public accountant may be fixed by the members but if they fail to fix it, then the directors must do so.

Do the Members of an NFP Approve the NFP's Financial Statements?

No, the members of an NFP do not approve its financial statements. However, at each annual members' meeting, the directors must present the financial statements with the public accountant's report to the members. The members must be sent a copy of the financial statements and public accountant's report 21 to 60 days before the meeting. In the alternative, the

members can be sent a summary of the financial statements and report or a publication of the NFP which reproduces the information contained in the financial statements and report.

The annual members' meeting at which the financial statements will be presented must be held not more than six months after the year end to which the statements pertain.

Are there any Restrictions on the Fiscal Year End of an NFP?

The first financial statements for an NFP must cover the period beginning on the date of its incorporation and ending on its selected fiscal year end. Under the *Income Tax Act* (Canada), a fiscal period cannot be longer than 53 weeks.

Subsequent financial statements of an NFP must cover the period beginning on the first day following the end date of the preceding statements.

Can an NFP Change its Fiscal Year End?

Yes, but only with the consent of the Canada Revenue Agency and subject to any approval requirements contained in the NFP's incorporation documents and by-laws.

NFPs should be aware that their fiscal year ends can affect their corporate reporting obligations. For more information about the corporate reporting obligations of Federal NFPs, please [click here](#).