

## **Q & A: Cycle Toronto’s Application for Charitable Status**

### **Isn’t Cycle Toronto already a charity?**

No. Since its founding in 2008, Cycle Toronto (“CT”) has been a provincially-incorporated not-for-profit corporation.

### **What is a charity?**

A charity is an entity that is established for a public benefit purpose such as relief of poverty, advancement of religion, advancement of education, or another purpose beneficial to the community in a way the law regards as charitable.

### **What is a registered charity?**

Status as a “registered charity” under the *Income Tax Act* (Canada) is a special designation granted, and once granted, the charity can issue charitable donation tax receipts and will not be required to pay tax on its income. Status is obtained by applying to the Canada Revenue Agency (“CRA”). In order to maintain charitable status, registered charities must comply with special rules and regulations.

### **What are the advantages of charitable status?**

First, charitable status would permit CT to issue official donation tax receipts for Canadian income tax purposes for gifts it receives from individual and/or corporate donors. Donors then receive a tax credit (individuals) or tax deduction (corporations) for their gift. Second, charitable status opens opportunities for CT to receive grants from other foundations whose funds must be directed to charities.

### **Can CT apply to become a charity?**

Yes. CT’s purposes must be revised to qualify as charitable and must fit under a recognized head of charity such as those listed above.

### **Why should CT become a charity?**

In the Board’s view, CT has long been engaged in programs that would be considered to be charitable activities under Canadian law – such as protection of the environmental, promotion of health, and education. The Board believes that charitable giving would be an important development opportunity for CT from a program standpoint, and an opportunity for CT to potentially access new sources of revenue.

### **So why has CT taken 10 years to consider applying to be a charity?**

First, reporting and compliance obligations impose an administrative burden on charities. The Board believes that CT has matured and now has the staff capacity to bear that burden.

Further, until just last year, Canadian law placed a limit on the proportion of a charity’s total resources that could be devoted to “political activities” (such as advocating to public officeholders for changes to laws). An approximate, administrative threshold of ten per cent (10%) was applied by the CRA. The Board of CT was concerned that this law might restrict CT’s activities.

In March 2017, a consultation panel produced a report to the current federal government recommending the removal of this “10% rule”. Then, in July 2018 a [court decision](#) struck down the “10% rule” as an unconstitutional limit on freedom of expression. The federal government did not appeal the ruling and subsequently enacted legislation amending the *Income Tax Act* (Canada).

Accordingly, charities can now engage in what has been termed “[public policy dialogue and development activities](#)” (“PPDDAs”) such as advocacy, without a specific limit, if it furthers a specific charitable purpose of the charity.

CT was advised that it likely could have qualified for charitable registration under the old “political activity” rules, but the Board and Management feel like the new PPDDA regime is a safer regulatory environment for CT.

### **So what do these recent changes mean for CT?**

They do not change anything except for the fact that the regulatory regime is safer than before, as explained above. CT will continue to carry on activities in furtherance of its mission and goals.

### **Can charities be partisan?**

The rules that apply to all Canadian registered charities provide that charities may not devote any part of their resources to activities that directly or indirectly support or oppose any political party or candidate for public office. “Resources” includes funds or any asset whatsoever owned by the charity, as well as the time of the charity’s staff or volunteers.

### **Is Cycle Toronto “partisan”?**

No. Cycle Toronto has always taken a non-partisan approach to advocacy. If CT becomes a charity, this approach will simply continue. Safer, healthier, and more sustainable streets is not a partisan issue.

To the extent Ward Groups are acting as agents or representatives of CT – such as on *Twitter* – they must adopt the same approach that CT has always taken and not make “partisan” statements or participate in partisan activities. Members or volunteers can engage in partisan politics in their personal capacities; however, it must be absolutely clear to the public that a person is engaged in their personal capacity and not on behalf of CT.

### **What’s next?**

The Board is preparing the necessary application materials, resolutions and corporate amendments to present to the membership at the AGM. If the membership ratifies the Board’s recommendation at the AGM, CT will proceed with an application for charitable status. It could take up to a year for CRA to complete its review and reach a decision.

### **What if I have more questions?**

The Board has invited CT’s charity lawyer to the AGM to make a brief presentation and answer some questions. However, given the busy agenda and costs involved we encourage members to consider the following resources, to see if they answer any remaining questions:

1. [“New Public Policy Advocacy Rules for Charities”](#) (Imagine Canada - November 30, 2018)
2. [“Public policy dialogue and development activities by charities”](#) (Government of Canada - January 21, 2019)
3. [Draft CRA Guidance on public policy dialogue and development](#) (Government of Canada - January 21, 2019)

If you still have questions, please write in advance of the AGM to [charityinfo@cycleto.ca](mailto:charityinfo@cycleto.ca).

Thank you for your support of Cycle Toronto – we look forward to seeing you at the AGM.

Yours truly,

The Board of Directors