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## **PREFACE**

In 1977 I wrote what I believe to be the first book dealing with the taxation of charities to be published in Canada. That book which had as a target audience lawyers and accountants (the concept of professional fundraisers was in its infancy) was 148 pages which included every Income Tax Act provision, and Revenue Canada (as it then was) document about charities.

The successor to that slim volume today encompasses ten looseleaf volumes, a comprehensive set of materials for the professional advisor but not of much use to the average volunteer with a charity or even a board member.

Thus, the publication of *Starting and Maintaining a Charity in Canada* by my long-time colleague, Adam Aptowitz, fills a significant need, a comprehensive overview of what the lay leadership of one or more charities should know about the law and administration which is germane. This would include volunteers at all levels and of course directors or trustees.

Aptowitz is well qualified to write this book as he has emphasized in his practice the setting up of charities, their operation and occasionally their demise. He has a wide experience is dealing with (or occasionally fighting with) the Canada Revenue Agency over issues relating to charities and thus write from extensive first hand experience.

And unlike my original book which limited itself to tax issues, this books ranges far beyond the provisions of the Income Tax Act and covers key federal and provincial corporate issues

Aptowitz would be the first to acknowledge that even a complete mastery of this material will not make one an expert. But this book does give one an overview of the astonishing number of issues which a charitable board of directors might face over any given period of time.

In my view, the importance of this book is that it gives a non-professional a head's up on issues which he or she may face as a board member or volunteer. What is particularly valuable is not only that the arrangement and the writing makes the issues accessible but that it will allow the reader to formulate the appropriate questions to professional advisers and to set the stage for getting germane answers.

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For example, the impact of the GST (or HST in some provinces) is so arcane that even the vast majority of professional advisers are often leery of opining on the issues. But in Chapter 9 Aptowitzer summarizes the rules so that board member can be alert to situations where a decision may have an impact of GST liability and sets the stage for being able to ask one's accountant or lawyer specific questions while armed with an overview of the rules.

I would anticipate that this book will become a sort of Bible for lay leadership and might usefully be given to people who are newly involved with an organization as part of an introduction to their duties and obligations.

I highly recommend it.

**Arthur B. C. Drache CM, QC**

## INTRODUCTION

***With great privilege comes great regulation.***

Historically, many of the responsibilities that are currently performed by government were the responsibility of groups of people – usually religious – who worked to help their neighbour. In modern times these groups of people have become more highly organized and specialized. Governments too have learned to work with these groups by sharing responsibility for some areas of charity – such as health care and education – and by creating tax incentives for those who donate to charity.

Unfortunately, with the special privileges accorded charities come great regulation designed to ensure that these privileges are not abused. Such rules though are frustrating for the vast majority of people involved in charity who adhere to the innate instinct shared almost universally through humanity of people who simply wish to help their neighbour.

This book is written for those people, and for the numerous directors, fundraisers, lay leaders, professionals and volunteers who work to help their fellows. While there are many rules and regulations that affect charities just as they affect all other actors in society, charities must contend with an extra layer of regulation contained mostly within the *Income Tax Act*. Unfortunately, the *Income Tax Act* and its various regulations, schedules, interpretation bulletins, guidances and cases are simply inaccessible for the vast majority of charities. And so, *Starting and Maintaining a Charity in Canada* is my attempt to help charities maintain compliance with the law while continuing their good work.

While the work in this book is mine, it could not have been completed without the aid of several colleagues. I would like to thank Arthur Drache for his encouragement in undertaking this project and Alexandra Tzannidakis for her contributions on early drafts of some of the chapters. Eric Brown for his help on some of the research in chapter 4 and Jim Hilborn, Lisa MacDonald and Janet Gadeski of Civil Sector Press for bringing the practice to fruition. Finally, the Talmud tells us that the last in the list are those closest to our heart. I want to thank my wife Elana for her constant support in allowing me the time necessary to pursue this project and caring for our daughters Mia and Noa while I researched and wrote. To the extent that this book helps charities heal the sick, feed the hungry, clothe the naked, shelter the homeless and educate the ignorant it is because of her.

Adam Aptowitzer

Ottawa, Ontario

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