Cassels

From Surplus Management to Reporting Obligations: Key Regulatory Considerations and Developments for NPOs

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Developments from the Canada Revenue Agency (CRA) and the Department of Finance signal meaningful changes ahead for non-profit organizations (NPOs) operating under paragraph 149(1)(l) of the *Income Tax Act* (Canada) (the ITA). In particular, two of the CRA's most recent views offer further insight into how accumulated surpluses and incidental investment income affect an organization's tax-exempt status. At the same time, the Department of Finance's January 29, 2026 draft legislative proposals outline a revised reporting framework that will significantly expand annual filing obligations for many NPOs beginning in 2027. Together, these updates provide important guidance for NPOs seeking to maintain compliance and properly plan for future operational and financial governance.

CRA Views on Accumulated Surplus

The CRA released two views regarding the extent to which NPOs may earn and retain investment or incidental income without jeopardizing their non-profit tax-exempt status.

CRA View 2024-1045401E5

CRA View 2024-1045401E5 addresses questions regarding an NPO's eligibility for an income tax exemption under paragraph 149(1)(l) of the ITA which prescribes that a non-profit club, society, or association operated exclusively for a social welfare, civic improvement, pleasure or recreation purpose is exempt from paying income tax. To qualify, the organization must not be operated for a profit purpose, and no part of its income may be payable to – or otherwise available for – the personal benefit of a member. Specifically, this CRA View addresses the question of whether earning interest from membership fees would disqualify an organization from this exemption.

The CRA clarified that earning incidental interest income to fund operating expenses is generally acceptable, provided that the organization does not aggressively pursue investment income or accumulate a surplus far beyond its operational needs. In relation to the accumulated funds, the CRA explained that there is no limit for what a "reasonable" surplus is, however, it is a question of fact based on the organization's unique circumstances and future anticipated expenditures. It is typically permitted to use incidental surplus to cover reasonable costs for member-wide events, but limiting such benefits to select members is likely to violate the "no personal benefit" test mentioned above, unless it directly promotes the NPO's non-profit objectives. Overall, the CRA emphasized that the organization must be operated exclusively for non-profit purposes to maintain its tax-exempt status.

CRA View 2025-1062851E5

CRA View 2025-1062851E5 addresses whether a club described in paragraph 149(1)(l) can sell property, invest the proceeds, and earn investment income to reduce member fees without jeopardizing its tax-exempt status. The view focuses on whether such activities constitute a profit purpose or confer an impermissible personal benefit on club members.

Consistent with its earlier view, the CRA confirmed that earning investment income will not, in and of itself, disqualify an NPO under the 149(1)(l) exemption, provided the income is incidental and the NPO is not operated with a profit-making purpose. The CRA also referenced section 149(5)(e)(ii) of the ITA, which provides that capital gains are not taxable on the sale of property used "exclusively" for dining, recreational, or sporting facilities provided by the NPO to its members. The CRA clarified that the use of the term "exclusively" in the provision implies that the property must be restricted to the direct, specific purpose, and not some other use. The CRA further noted that a main parking lot associated with such dining, recreational, or sporting facilities would also likely qualify for this capital gains exemption.

Consequently, investing proceeds from the sale of property is permissible as long as it does not become a significant or independent profit objective. However, if the investment income or reserve funds accumulate into a surplus beyond what is reasonably required for the NPO's operations, it may lose its tax-exempt status. Finally, the CRA noted that using capital gains or incidental investment income to reduce member fees will generally not, on its own, constitute an impermissible personal benefit.

Further detailed guidance on operating within non-profit purposes and personal benefits to members may be found in CRA Interpretation Bulletin No. IT-496R.

Revised NPO Reporting Rules – 2026 Draft Legislative Proposals

On January 29, 2026, the Department of Finance released draft legislative proposals that would expand the annual reporting and disclosure obligations of Canadian NPOs, coming into force on January 1, 2027. These proposals introduced a new reporting threshold requiring all NPOs claiming tax-exempt status under paragraphs 149(1)(e) or 149(1)(l) of the ITA, with gross annual revenue above $100,000, to file the full T1044 (Non-Profit Information Return). NPOs who do not meet the requirements to file the T1044 would file a new short-form information return requiring the NPO to provide the CRA with basic corporate information (description of activities, financials, and names of directors/officers). Entities are not required to file the short-form information return if its total gross revenue for the fiscal year is below $10,000. It is unclear if these modified reporting rules change an NPO's obligation to file a T2 (Corporate Income Tax Return).

This proposed legislative amendment is an update and modification from the Canadian Budget announcement (as discussed in our previous comment) which proposed a $50,000 gross annual revenue threshold requirement for the filing of a T1044.

Implications for NPOs

If the draft legislative proposals are implemented, they would:

- allow NPOs extra time (until on or after January 1, 2027) to comply with the reporting and disclosure requirements;
- require all NPOs with gross annual revenue of $100,000 to file a T1044; and
- exempt NPOs with total gross annual revenues below $10,000 from an NPO-specific filing.

The draft legislation does not change the existing requirement for an NPO with assets exceeding $200,000 to file a T1044.

Conclusion

Taken together, the CRA's clarification on accumulated surplus and the Department of Finance's proposed NPO reporting rules highlight a broader shift towards increased transparency, accountability, and operational discipline within the sector. While the CRA continues to emphasize the importance of operating exclusively for non-profit purposes, particularly in relation to surplus management and not personal benefit, the forthcoming reporting thresholds and new short-form information return will shape how many NPOs engage with the annual compliance process. Organizations should proactively assess how these developments may affect their financial practices, governance structures, and reporting obligations well in advance of the 2027 implementation date. By doing so, NPOs will be better positioned to preserve their tax exempt-status and adapt confidently to the evolving regulatory landscape.
