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CORPORATE AND PRACTICE MANUAL FOR CHARITIES AND NOT-FOR-PROFIT CORPORATIONS

Burke-Robertson, Carter and Man
Release No. 1, February 2026

This loose leaf service examines the process of incorporating non-share capital corporations for federal, provincial, and territorial corporations. This publication covers all aspects of corporate maintenance and examines select practice issues relevant to the operation of charitable and not-for-profit corporations, including charities operating outside of Canada, intellectual property, provincial investment power, privacy law, issues when drafting restricted charitable purpose trusts, antiterrorism and money laundering issues for charities, and a discussion on the need for a practice approach to advising charities.

This release features updates to Chapters 14 (Issues for Charities Operating Outside of Canada), 16 (Provincial Investment Power Issues), 18 (Fundraising Issues for Charities), 19 (Issues in Drafting Restricted Charitable Purpose Trusts) and 20 (Anti-Terrorism and Money Laundering Issues for Charities).

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Highlights

- **Issues in Drafting Restricted Charitable Purpose Trusts — What are the Different Types of Restricted Charitable Gifts? — Precatory Trusts and Donor-Advised Funds —** In *Gruber v. Hebrew University of Jerusalem*, the court reaffirmed the “armchair rule” for interpreting wills from *Dice Estate* and *Robinson Estate*, in looking to the plain meaning of the will and surrounding circumstances. The deceased’s intention to support peaceful coexistence between Jews and Arabs through an academic initiative was clear. The court held that the “assumptions” or criteria in the will to “guide” the allocation of funds were not binding conditions. The gift lacked the three certainties required for a trust, namely, certainty of intention, certainty of subject matter and certainty of object, of which, the certainty of intention was particularly lacking. “The list of assumptions specifically sets out that there may be peace in the Middle East and that the terms of the Will remain unchanged even after the signing of a peace treaty. Therefore, there is recognition that there must be flexibility because of potential changes in the Middle East and the State of Israel.” The use of terms like “foundation” and “endowment” was seen as colloquial and interchangeable, not technical. Also, the court found that the legal requirements to create a “nonprofit corporation” under the *Income Tax Act* were not addressed in the will: *Gruber v. Hebrew University of Jerusalem*, 2025 ONSC 3088.
- **Anti-Terrorism and Money Laundering Issues for Charities — Canada’s AML/ATF Regime — AML/ATF Regime — Canada’s 2023-2026 AML/ATF Strategy —** In March 2023, the Department of Finance Canada released Canada’s Anti-Money Laundering and Anti-Terrorist Financing Regime Strategy 2023-2026 (the “AML/ATF Strategy”), described as the federal government’s first comprehensive framework for the national AML/ATF Regime. The document outlines measures intended to enhance Canada’s ability to detect, deter, and disrupt financial crimes associated with organized crime and terrorism through regulatory development, institutional coordination, and increased transparency within the financial system. It identifies three central elements of the regime: policy and coordination, prevention and detection, and investigation and disruption, each corresponding to the assessment of risks, supervision of compliance, and enforcement activities undertaken by federal and provincial authorities. The AML/ATF Strategy indicates that particular attention will be directed toward improving beneficial ownership transparency, strengthening cooperation among agencies and international partners, and addressing emerging risks arising from virtual assets, financial technologies, and digital identity systems. It notes that Canada continues to engage with the Financial Action Task Force (FATF), FATF-Style Regional Bodies, the Egmont Group, and the Five Eyes partnership to share intelligence, support transnational investigations, and align domestic practices with global AML/ATF standards.