

GWA Charitable Status & Wharf Gate questions

Mar 1, 2021

1. Can GWA as a charity, require membership fees and issue tax receipts for them?

Yes, with conditions. It seems to me that issuing receipts for the membership fee is okay but not for the kayak and dingy parking. Those would be considered an “advantage” and not “gifts”. The GWA is already aligned with this advice.

Membership fees

Policy statement

A qualified donee can issue an official donation receipt for the eligible amount of a payment for membership fees. To determine the eligible amount, the donee must determine the advantage received by the member in return for the payment.

Where the advantage is not more than \$75 or 10% of the amount paid for the membership fees (whichever is less), a receipt can be issued for the full amount.

Where the advantage is more than \$75 or 10%, the amount of the advantage must be deducted from the amount paid for the membership fees to determine the eligible amount of the receipt.

Example

For a membership fee of \$100, the member receives a hat valued at \$15 and a pen valued at \$2.

Membership fee	\$100
Total value of advantages (\$15 + \$2)	\$17
Eligible amount (\$100 - \$17)	\$83

Since the total value of the advantages is more than 10% of the membership fee, the advantages must be deducted to determine the eligible amount. The donee can issue an official donation receipt for \$83.

Note

Where the advantage is more than 80% of the amount paid for the membership fees, it is generally considered that there is no true intention to make a gift, and a receipt cannot be issued.

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/summary-policy-m05-membership-fees.html>

- Government of Canada

2. Can GWA restrict access to the wharf to “paying” members only and maintain charitable status?

No.

What is charitable?

To qualify for registration as a charity, an organization **must have purposes that are exclusively charitable and charitable activities that support those purposes**. The purposes (also called objects) describe the aim or main intent of the organization. The activities describe how your organization will accomplish its purposes.

The term **charitable** is not defined in the Income Tax Act, so we rely on common law ([court decisions](#)) to determine what is charitable.

Charitable purposes

Your organization's purposes **must** fall within one or more of these categories:

- relief of poverty
- advancement of education
- advancement of religion
- **certain other purposes that benefit the community** in a way the courts have said is charitable

Organizations established to provide public amenities (for example, library, museum, gallery, botanical garden, public recreation grounds) can qualify for registration under the following category of charitable purposes: other purposes beneficial to the community in a way the law regards as charitable.

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/registering-charitable-qualified-donee-status/apply-become-registered-charity/establishing/what-charitable.html> - Government of Canada

GWA charitable status falls under the fourth category: purposes that benefit the community. The purposes must meet the public benefit test...

Charitable activities

Activities are your organization's programs or the things you do to accomplish your purposes. **Charitable activities** are activities carried out to fulfill a **charitable purpose**. Without a charitable purpose, your organization cannot have charitable activities.

Public benefit test

To be registered as a charity, **your organization's purposes and activities must also meet a public benefit test**. To qualify under this test, your organization must show that:

- its purposes and activities provide a measurable benefit to the public
- **the people who are eligible for benefits are either the public as a whole, or a significant section of it (the beneficiaries cannot be a restricted group** or one where members share a private connection - this includes social clubs and professional associations)

If your organization wants to limit its beneficiaries unreasonably, or offer an unreasonable benefit to a group or individual, it will not qualify for registration.

3. Can GWA just revoke their charitable status in order to proceed with restricted access?

Voluntarily revoking charitable status has to be requested to the CRA and the GWA would have to pay a revocation tax equal to all its assets!

Charitable registration is a one-way street. If a charity decides to dissolve (or revert back to status as a non-profit organization), or if its registration is revoked by the CRA, **the charity must either pay the CRA a 100% tax on its assets (referred to as a 'revocation tax'), or transfer those assets to another charity.** So, the decision to register as a charity must be made carefully.

<https://www.centreforsocialenterprise.com/five-easy-ways-to-jeopardize-your-charity/> - BC Centre for Social Enterprise

Request voluntary revocation

CRA can only consider voluntary revocation if you request it. There are several reasons why you might ask to have your charitable registration revoked, such as:

- you ended your operations because you merged or consolidated with another organization
- you achieved your goal (for example, you were established to build a playground and you did)
- you no longer have the required financial or physical resources to run your charity

Note:

Voluntary revocation is a process that is discretionary on the part of the Canada Revenue Agency and cannot be used by a charity to avoid any ongoing compliance action.

Make sure you know the [Consequences of revocation](#) before you ask for voluntary revocation of your charity.

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/making-changes/request-voluntary-revocation.html>

Consequences of revocation

If your charitable registration is revoked, you:

- cannot issue official donation receipts
- do not qualify for exemption from income tax as a registered charity
- will have your name and reason for revocation published in [Canada Gazette](#) and in the [List of charities](#)
- must transfer all your remaining assets to an [eligible charitable organization](#) or [pay revocation tax](#)
- will not be a charity for [GST/HST](#) purposes which could affect:
 - the tax status of your supplies
 - the way you calculate your net tax
 - your ability to claim a rebate for GST/HST

If you use your remaining assets for your charitable activities or transfer them to an eligible donee during the [winding-up period](#), your revocation tax may be zero.

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/revoking-registered-status/consequences-revocation.html>

- Government of Canada

Summary of above

So as a registered charity, the GWA cannot limit access to the wharf to members only - not even with a constitution change.

Revoking charitable status has significant consequences including loss of assets.

The payment of membership fees is a donation to the society in support of its purpose of providing and maintaining the wharf for the public. It is not an entitlement to “members only” access to the wharf.

The question remains as to whether the “Public” can include only Granthams Landing residents and whether a gate can be put up with the code available to all members of the community. This needs to be checked with the Charities Directorate (phone number is below).

Those who don’t want the wharf to be open to the community (as it has always been) would have the option of not paying the membership fee.

The GWA can offer dingy and kayak storage to members only, but the fees for those are not eligible for a charitable receipt.

Contact the CRA Charities Directorate

Our client service representatives can provide you with:

- general information about registered charities
- information on how to apply for registration online
- information on how your charity should properly issue official donation receipts and how to fill out the annual information return (Form T3010)
- guidance on changing your charity's legal name, purposes, activities, and more

You can contact a representative Monday to Friday (except statutory holidays) between 9 a.m. and 5 p.m., local time:

By phone: 1-800-267-2384

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/contact-charities-directorate.html>

4. Can the Granthams community be considered a “significant section of the public”?

Tony called the Charities Directorate on Monday 1 March 2021, 12:30pm PT and spoke to Ala Uddin, who confirmed that:

- 1. The Granthams Landing community would be considered “the Public” in the context of the wharf; it is not necessary to consider people outside of Granthams Landing.*
- 2. A coded gate can be installed at the wharf for reasons of security, safety, and/or concerns re overcrowding.*
- 3. All community members that desire access must be granted access without any cost or required donation (i.e. providing the code exclusively to members who have paid their membership donation is not acceptable).*
- 4. Providing the gate code via email to all community members (at no cost) is acceptable.*

Called the Charities Directorate again on Friday 5 March 2021, 8:30am for additional clarification re community membership, and spoke to Jonathon who explained that:

- 5. The CRA does not have specific guidelines re community membership qualifications for visitors, i.e. there is no strict definition. It is up to the community to sort it out. He also suggested that a more open, inclusive approach is favourable, but if there were concerns about security, for example, then access could be more limited.*