

Lawyer sets sights on charities

By Michael Rappaport

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NAMES IN THE NEWS

Adam Aptowitz, an Ottawa-based tax and charity law lawyer, recently published a paper calling for the creation of a new federal/provincial regulatory agency for charities, which would allow for new types of registered charitable organizations. Currently, in Canada there are about 83,000 registered charities across Canada. To qualify for tax exempt status, registered charities must comply with archaic rules and reams of red tape, however.

"The federal government uses the Income Tax Act to assume jurisdiction over charities. But the Canada Revenue Agency wasn't really designed to regulate charities. As a result the regulations are unwieldy," Aptowitz explains. He says both the federal Liberal and the Conservative parties have expressed interest in his paper, but he doesn't expect any reforms will be put forward until one party has a majority in Parliament.

Published by the C.D. Howe Institute, a leading public policy think tank, the paper titled *Bringing the Provinces Back In: Creating a Federated Canadian Charities Council* advocates for a federal-provincial regulatory agency for charities that would assume from the CRA responsibility for registering charities, regulating non-tax-related aspects of the charity system, adjudicating disputes regarding a charity's registration, and ensuring compliance.

Currently, the legal framework which governs charities is quite restrictive. The statute which determines eligible charities, dates back to 1601 and the enactment of the Charitable Uses Act in England, also known as the Statute of Elizabeth. Under this Act, all charities must fit in the following four categories to be registered charities: (i) the relief of poverty; (ii) the advancement of religion; (iii) the advancement of education; or (iv) other purposes beneficial to the community. Aptowitz writes changes are required because the current regulatory environment is rigid and selective and stymies the development of new charities.

Before launching his career as a tax and charity law lawyer, Aptowitz studied political science

and economics at the University of Calgary, in his hometown. He moved to the national capital, to pursue his interest in tax law at the University of Ottawa in 1999. After graduating from law school in 2001, where he was taught tax law by Vern Krishna, also a columnist for *The Lawyers Weekly*, he articulated at a tax litigation boutique in Toronto.

During his articles, Aptowitz says that he had one case where the accountant had twisted the financial records into such knots that every time he reviewed the file his head would begin to throb. Fortunately, he had another file involving charitable donations which captivated his interest.

Although Aptowitz was hired back by his firm after completing his articles, the firm did not share his enthusiasm for charity law. While many tax and corporate lawyers have charitable organizations as clients, few lawyers _ only about 30 across Canada _ are devoted to charity law almost exclusively, Aptowitz estimates.

Nevertheless, he decided to follow his passion. Six months after being called to the bar, he struck out on his own and opened a tax and charity law boutique in Toronto, Aptlaw in October 2002. In 2005 he merged his firm with Ottawa-based Drache LLP, which was headed by Arthur Drache, considered to be the dean of the charity law bar. During the 1970s, while Drache was a senior mandarin at the Department of Finance, he wrote much of the tax law which is applicable to charities. Over the past 30 years, he has written more than 1,600 articles for the *Financial Post* and has written or contributed to or co-authored twelve other books. In recognition of his many achievements, Drache was awarded the Order of Canada in 2004.

In May 2010, Aptowitz became a partner at Drache Aptowitz LLP, which has offices in Ottawa and Calgary. He is also the managing partner of the firm, which has three lawyers and four staff members, including a virtual assistant based in Israel.

Aptowitz has written for the *Canadian Taxpayer*, *Canadian Fundraising & Philanthropy* and the *Not-for-Profit News*, and has been cited as an expert in several national media publications. He has also spoken widely at the Association of Fundraising Professionals, the Canadian Association of Gift Planners, the Canadian Bar Association and has given expert opinion testimony at a parliamentary roundtable.

Name:

Adam Aptowitz

Law school:

University of Ottawa

Called to the bar:

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Career highlights:

2007-200

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Co-hosted the A to Z of Charity Law in Canada, a series of podcasts which are distributed on CharityVillage.com, a website for non-profit associations and registered charities across Canada

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Bringing the Provinces Back In: Creating a Federated Canadian Charities Council published by the C.D, Howe Institute

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Promoted to partnership at Drache Aptowitz LLP

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