



THE CANADIAN
BAR ASSOCIATION
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Via email: tony.manconi@cra-arc.gc.ca; stephane.poitras@cra-arc.gc.ca

Tony Manconi, Director General
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Stephane Poitras, Director
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Ottawa, ON K1R 5A3

Dear Messrs. Manconi and Poitras:

Re: Accessing My Business Account (MyBA) through the Represent a Client (RAC) Service

I am writing on behalf of the Canadian Bar Association's Charities and Not-for-Profit Law Section (CBA Section) about challenges with the MyBA online portal. We would like to comment on the application process and work with the CRA to improve the RAC service. We propose a meeting to outline access to the online application process and address the questions and concerns set out below.

The CBA is a national association representing over 36,000 jurists, including lawyers, notaries, law teachers and law students across Canada. The CBA's mandate includes seeking improvements in the law and the administration of justice. The CBA Section has members across Canada practising in all areas of charities and not-for-profit law and in every size of practice, from large national firms to small and solo practitioners

We thank the Charities Directorate of the Canada Revenue Agency (CRA) for engaging with the CBA Section about the online portal and for implementing improvements to the online Application to Register a Charity (Application) under the *Income Tax Act* based on our letter dated May 21, 2020. We also congratulate the CRA on the success of the Charities IT Modernization Project (CHAMP), including the online Application, and the resulting increase in the proportion of charity applications that are accepted.

Unfortunately, charity law lawyers continue to be challenged with the MyBA online portal that result in extensive delays for clients, including for online filing of Applications. Significant problems have arisen with obtaining authorization to access clients' online CRA accounts through the RAC service, requiring more time-consuming and less efficient options. While the CBA Section understands that the ultimate authorization process is not within the Charities Directorate's control, we believe you should be aware of the roadblocks preventing us from serving our clients in a timely and efficient manner and from respecting their rights, to assist you in requests to change the system.

Requesting Consultation

The CBA Section requests a consultation between our representatives, as users of RAC, and CRA personnel with detailed knowledge of the service, to understand how the initial and updated information regarding a new corporation, trust or unincorporated association is gathered and populated, and how any necessary verifications are made prior to granting online access through RAC.

Accessing the Application

Charity law lawyers are often hired by clients to incorporate their organizations and to complete their applications for charitable status as part of one retainer. Ideally, the incorporation documents that set out the charitable purposes of the organization are prepared concurrently with the charity application, since the Application relies fundamentally on those purposes, and then builds on them by including activities, budget, and other details. Accessing the online Application prior to incorporation would ensure that the charitable purposes adequately encompass the charitable activities.

Since access prior to incorporation is not currently possible, lawyers first incorporate to obtain a business number (BN). Then they use it to request authorization to access the corporation's online CRA account through the RAC service to obtain a temporary registration (RR) number and complete the Application. This process is less efficient than accessing the Application before incorporation and can result in more organizations amending their purposes to qualify for charitable registration.

Lawyers often use a paper copy of the Application to work through details of the application for charitable registration before finalizing the charitable purposes of an organization and incorporating it. However, given that the online Application is updated from time to time, the paper copy of the Application does not remain up to date. Working with an out-of-date paper copy of the Application is not efficient.

We know that the T1789 form (online) replaced the T2050 form (paper) Application, because lawyers have in the past obtained a paper copy of the online form showing the form number but were unable to locate any reference to the T1789 on the website. It would be helpful for the CRA's website to list the numbers of the online forms for clarity and allow access to the current online Application for drafting purposes but not to submit the Application. It would also help to be able to download the Application to share and collaborate as it is developed, and to download a complete version of the filled Application once it is submitted. Currently, it is only possible to save a "print to pdf" version which is difficult for people to edit, and which most often abbreviates the purposes and activities sections significantly.

Access through RAC

Prior to recent workflow changes at the CRA, lawyers were generally able to obtain authorization on a new corporation's online BN account by submitting a request signed by one of the incorporators through the MyBA online portal. However, the CBA Section has been advised that, due to security concerns, the CRA has added an additional step to its workflow process to verify authorization requests.

It is our understanding that the CRA now phones an owner/director associated with a BN account from a blocked number, two or three times. If the CRA cannot reach the owner/director, the authorization is rejected without notice to the lawyer who filed the request. The only way to find out is by regularly checking the online account. An authorization request will only be successful if:

1. the CRA has sufficient information (including the correct phone number) to contact the client by phone to confirm;
2. the client is available and chooses to answer one of the two or three calls received from a blocked number; and
3. the client decides that it is really the CRA calling from the blocked number and gives the requested information to the CRA over the phone.

In today's realities, a successful authorization is extremely unlikely. We have all received phone calls purporting to be from the CRA, asking for information, trying to collect money or threatening to show up with a sheriff if we do not pay. Phone calls received from the CRA, especially originating from a blocked number, are no longer a trusted means of communication.

Information in MyBA

We understand that the RAC system relies on there being an owner/director in the system connected with a business account, but we are unsure how an account is populated and updated, and what information is in fact included.

A newly established corporation, whether incorporated under a provincial incorporation statute or federally under the *Canada Not-for-Profit Corporations Act* (CNCA), is assigned a BN on incorporation. When that BN is assigned, we understand that the CRA database is populated with initial information, presumably from the incorporation documents. We do not know if the CRA system is updated when changes to directors are reported by a corporation to the applicable corporate ministry.

The CRA suggests ensuring all owner/director information (social insurance number (SIN)/phone number/name) is current with business enquiries before submitting an online authorization request because that request may be cancelled if information is missing on the account. However, none of the incorporation (or director update) processes require entry of directors' SINS, and only rarely do the forms allow for entry of phone numbers. For incorporations under the CNCA, only the individual who signs to confirm the names of the initial directors is asked for a phone number on Form 4002. Phone numbers are not generally submitted for provincial incorporation. There appears to be, at least in part, a disconnect between the information required to verify and authorize a request for access and the information collected by provincial or federal corporate offices on the incorporation process. It is unclear how the CRA can call an owner/director associated with a BN account if a phone number is not provided on incorporation.

As lawyers representing new corporations, CBA Section members provide all the information through the incorporation process. We are unable to provide the balance of information the CRA needs on behalf of our clients because we are not authorized to do so. Therefore, the CRA often does not have the information it needs to verify authorization requests.

There are similar challenges in setting up MyBA and accessing the RAC system for a charitable trust or an unincorporated association established by a constitution, particularly given that there are no government registration systems for those as there are for corporations. In those cases, we understand that the trust or association would first need to use the account registration service to obtain a BN, but we don't know who could provide the initial information about the organization to establish the "owner", and whether we as lawyers would be able to do so and access the RAC system.

Options for RAC Authorization

The CRA workflow changes present significant difficulties for CBA Section members to obtain online authorization to assist clients.

We could ask clients to contact the CRA to provide this information directly, but most retain lawyers expecting them to look after the charitable registration details and set up, and do not wish to do it themselves. Even if clients are inclined to assist with the authorization, and the CRA does call a client, it does not leave a call-back phone number because there are no staff resources to answer them. If clients call business enquiries to provide this information, whether in response to a call from the CRA or on their own initiative at our request, they may be on hold for a long time. This is not efficient for clients.

In the case of an existing corporation, trust or unincorporated organization, only the directors or trustees who the CRA identify as authorized can update and provide information. As the directors or trustees of

volunteer-run organizations change regularly, and as the volunteer responsible to report those changes to the CRA may not always do so correctly, it is often difficult for the directors or trustees to determine who is actually authorized on the account, notwithstanding who the actual directors or trustees of the organization may be. Accordingly, clients find this a difficult process to manage without assistance.

The CBA Section believes that the only available process for lawyers to provide the required information is to use the following paper-based workaround to the online system:

1. obtain a signed authorization form for offline access;
2. fax it to the Business Numbers Services Unit with a letter confirming/updating the owner information and attaching confirmation from the federal or provincial registry;
3. wait until the CRA has processed the offline request and updates its records; and
4. then file an online authorization request and hope for success. Unfortunately, if a phone call to the client is needed to verify the request, for the reasons above, it may fail at this stage as well.

This process is extremely inefficient and results in significant delays (generally weeks) to provide client services. In addition, it requires the use of offline services, which are staff intensive for the CRA, and it requires that we collect and send SINS by facsimile which is not ideal for security reasons. Further, these workarounds also require significant lawyer, staff and administration time, which result in either greater costs for clients or, more usually, time written off because we would generally not bill this non-productive time to clients.

Accountant Experience

As the CBA Section has indicated in previous correspondence, we as lawyers are not as familiar as accountants at working with the CRA's online systems, however, each of us works diligently to get up to speed and have been working fairly effectively in the CHAMP system until the recent changes to the RAC service. Chartered Professional Accountants Canada (CPA Canada) has advised that accountants have similar issues with RAC. Accountants also use the E-file system, a better system for getting access, but as lawyers do not generally E-file tax returns for our clients, we do not have experience with that system and believe that the access point for our clients' needs is the RAC service.

Conclusion

In conclusion, we applaud the CRA on its CHAMP system which provides fast and efficient access to online filing and other CRA services. We look forward to working with the CRA to iron out the challenges with the RAC service experienced by members of the CBA Section so that the legal profession can continue to assist organizations with their applications for charitable status and other compliance requirements.

We look forward to working with you to find a solution for these issues. Please do not hesitate to contact me for clarification or to schedule a meeting.

Yours truly,

(original letter signed by Julie Terrien for Florence Carey)

Florence Carey
Chair, CBA Charities and Not-for-Profit Law Section