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Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA.

Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: Are teachers in receipt of a taxable benefit where parents donate money to a private charitable foundation to assist teachers in paying for tickets to a gala fundraiser that benefits the private school where they teach?

POSITION: Question of fact, but probably not.

REASONS: See response

XXXXXXXXXX

2013-049062
Bonnie Ruttan-Morillo

December 10, 2013

Dear XXXXXXXXXXXX,

This is in response to your email dated May 24, 2013, asking about the taxation of amounts donated by parents to assist teachers with certain costs. In particular, you have asked if the parent donations result in a taxable benefit for the teachers.

In your situation, a private charitable foundation, associated with a private school, holds a fundraising gala for the benefit of the school and charges \$XXXXXXXXXX per person. Teachers at the school are strongly urged to attend the gala and can purchase tickets for \$XXXXXXXXXX. Parents' donations to the foundation further reduce the cost of the tickets to the teachers. The teachers do not solicit the parent donations and are only made aware of any further reduction to their ticket cost when they purchase their tickets from the foundation.

Our Comments

This technical interpretation provides general comments about the provisions of the Income Tax Act and related legislation (where referenced). It does not confirm the income tax treatment of a particular situation involving a specific taxpayer but is intended to assist you in making that determination. The income tax treatment of particular transactions proposed by a specific taxpayer will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC 70-6R5, Advance Income Tax Rulings.

As stated in paragraph 4 of Interpretation Bulletin IT-334R2, Miscellaneous Receipts, amounts received as gifts (i.e. voluntary transfers of real or personal property without consideration) are not subject to tax

in the hands of the recipients. However, when a voluntary payment or other valuable transfer or benefit is received by an employee from an employer, or from some other person, by virtue of an office or employment, the amount of the payment or the value of the transfer or benefit is generally included in income pursuant to subsection 5(1) or paragraph 6(1)(a) of the Income Tax Act. Therefore, gifts received by employees are generally taxable unless they are received in the person's capacity as an individual or fall under the Canada Revenue Agency's gifts, awards, and social events policy. This policy can be viewed at www.cra.gc.ca/gifts.

An amount is generally considered to be received in a person's capacity as an individual, as opposed to his or her capacity as an employee, where the amount is: philanthropic; voluntary; not based on employment factors such as performance, position, or years of service; and not made in exchange for employment services.

An amount received by an individual may also be considered a windfall and not taxable. The following factors listed in paragraph 3 of IT-334R2 are indicative of whether an amount is a windfall:

- (a) the taxpayer had no enforceable claim to the payment,
- (b) the taxpayer made no organized effort to receive the payment,
- (c) the taxpayer neither sought after nor solicited the payment,
- (d) the taxpayer had no customary or specific expectation to receive the payment,
- (e) the taxpayer had no reason to expect the payment would recur,
- (f) the payment was from a source that is not a customary source of income for the taxpayer,
- (g) the payment was not in consideration for or in recognition of property, services or anything else provided or to be provided by the taxpayer, and
- (h) the payment was not earned by the taxpayer as a result of any activity or pursuit of gain carried on by the taxpayer and was not earned in any other manner.

It is a question of fact whether an amount is received by virtue of a person's employment, in the person's capacity as an individual, or as a windfall. Based on the information provided, it is our view that any further reduction in the cost of the ticket to the teachers resulting from the parent donations is likely a windfall or a gift received in the person's capacity as an individual.

We trust these comments are of assistance to you.

Yours truly,

Nerill Thomas-Wilkinson, CPA, CA
Manager
for Director
Business and Employment Division
Income Tax Rulings Directorate