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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: Will the changes proposed above to the Letters Patent in order for the Institute to obtain status as a registered charity under the Act affect the status of approved research institute for purposes of clause 37(1)(a)(ii)(B) of the Act?

POSITION: No.

REASONS: No change to the entity's activities.

XXXXXXXXXX

2014-053737

Amanda Hachey

September 9, 2014,

Dear XXXXXXXXXXXX

Re: Approved Research Institute Status

We are writing in response to your letter dated June 24, 2014, wherein you requested our views with respect to the XXXXXXXXXXXX's ("the Institute") status as an approved research institute for purposes of the Income Tax Act (the "Act").

In a letter dated XXXXXXXXXXXX, signed by Brian McCauley, Assistant Commissioner, Legislative Policy and Regulatory Affairs Branch (the "Approval Letter"), the Institute was granted status as an "approved research institute" for purposes of clause 37(1)(a)(ii)(B) of the Act.

We understand that the Institute has applied to become a "registered charity" within the meaning of that term in subsection 248(1) of the Act, so that it can receive additional funding to use for scientific research and experimental development activities and to be able to issue charitable donation receipts to the donors. In order to become a registered charity, certain changes to the Institute's Letters Patent are necessary. However, before any changes to the Institute's Letters Patent are approved and adopted, you would like us to confirm that the proposed changes will not affect the Institute's status as an approved research institute.

The current wording of the Articles of the Institute's Letters Patent that are to be changed, and the proposed changes that are of relevance to the Institute's status as an approved research institute, are described below.

Article XXXXXXXXXX – Objects

Currently, Article XXXXXXXXXX of the Institute's objects indicates that the Institute was created:

“To encourage the study and development of scientific research and experimental development as defined in Regulation 2900(1) under the Income Tax Act by XXXXXXXXXX within Canada.”

Article XXXXXXXXXX will be amended as follows:

“To advance education by carrying on “scientific research and experimental development” (“SR&ED) within the meaning of that term for the purposes of the Income Tax Act (Canada) that is XXXXXXXXXX.

To improve the capacity and efficiency of another registered charity by providing the administration and management of all its scientific research and experimental development (SR&ED) activities.

To undertake activities ancillary and incidental to the above-mentioned purposes.”

Article XXXXXXXXXX – Special provisions (dissolution)

Currently, Article XXXXXXXXXX is as follows:

“In the event of dissolution or wind up of the Corporation, to distribute the Corporation's assets remaining after payment of all just debts and liabilities outstanding at the time that such dissolution or wind up, to one or more Canadian organizations referred to in Sections 37(1)(a)(ii)(A), (B), (C) or (E) of the Income Tax Act, whose objects are beneficial to the community and which carry on activities similar to those of the Corporation, to be used exclusively for scientific research and development in Canada in accordance with the Corporation's by-laws.”

Article XXXXXXXXXX will be amended as follows:

“Upon the dissolution of the Corporation and after payment of all debts and liabilities, its remaining property shall be distributed or disposed of to charities registered under the Income Tax Act (Canada).”

Notwithstanding the above-described changes, you maintain that the Institute will continue to carry on activities that unquestioningly fall within the meaning of “scientific research and experimental development” (“SR&ED”), as that term is defined in subsection 248(1) of the Act such that all the conditions and requirements that are set out in the Approval Letter will continue to be met by the Institute.

Our comments

Provided the Institute continues to operate in the manner set out in the Approval Letter, the proposed changes to the Institute's Letters Patent as described above, would not, in and by themselves, affect the Institute's status an approved research institute for purposes of clause 37(1)(a)(ii)(B) of the Act.

We trust our comments will be of assistance.

www.globalphilanthropy.ca

Yours truly

Michael Cooke, C.P.A., C.A.
Manager
Business Income and Capital Transaction Section
Business and Employment Division
Income Tax Rulings Directorate
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