



Regulation of Charitable Giving in Canada – An Update

Blaine Langdon

Senior Policy Officer

Canada Revenue Agency

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Canada Customs
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Agence des douanes
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Canada

Overview

- Purpose of today is to discuss some of the more recent changes to the *Income Tax Act* relating to registered charities and charitable giving
- Discuss some of the issues surrounding charitable giving that the the CRA is taking an interest in



Budget 2007

- In Budget 2007 the Federal Government proposed to eliminate the taxation of capital gains arising from donations of publicly-listed securities to private foundations
- Also extended the measures relating to employees that acquire publicly-listed securities under an option granted by the employer and donate these to a charity within 30 days, to private foundations

Excess Business Holdings Regime

- Budget 2007 also introduced a compliance regime to limit shareholdings by private foundations
- A Private foundation will be required to divest itself of shareholdings where the foundation:
 - a. Holds more than 2% of any share class, and
 - b. The combined holdings of the foundation and non-arm's length parties exceed 20%.
- Existing shareholdings of foundations are subject to a transitional period



Donations of Medicines

- Special incentives were introduced by Budget 2007 for donations by corporations of medicine held in inventory, to a registered charity that has received a disbursement under a program of the Canadian International Development Agency



Bill C-33 – First Reading

- Contains a variety of pending technical amendments to the ITA
 - “Split-receipting” legislation (Effective for gifts made after December 20, 2002)
 - Tax shelter rules regarding deemed FMV and repayment of limited recourse debts (Effective December 5, 2003 and February 19, 2003)
 - Replacement of the “contribution test” for foundations with the “control test” (applicable to fiscal years after 1999)

Administrative Changes

- Increased audit coverage
 - Audits are now conducted by regional offices
 - Desk audit function now fully operational
- Intermediate Sanctions process in place (Graduated Approach)
- Objections and Appeals process in place and operational
- Fairness process underway (primarily w/respect to penalties)

Penalties

- 188.1(7) - Incorrect information: Every registered charity that issues, in a taxation year, a receipt for a gift otherwise than in accordance with this Act and the regulations is liable to a penalty equal to 5% of the eligible amount of the gift
- Can apply to: Missing information, incorrectly recorded values, incorrect date of gift, incorrect donor etc.
- Penalty increased to 10% for subsequent infractions
(Penalties are applicable to taxation years after March 22, 2004)

Penalties (continued)

- 188.1(9) – False Information: A person who makes or participates in the making of a false statement on a receipt is liable to a penalty equal to 125% of the eligible amount
- Can apply to: Fraudulent receipts, receipts where the person knew, or would reasonably be expected to know, the information being recorded was incorrect
- Mandatory suspension of the charity if total penalty exceeds \$25,000
- Penalty under 163.2 may also apply to individuals involved

Contact Us

- **Charities Information Line**
 - 1-800-267-2384 (English)
 - 1-888-892-5667 (bilingual)
- **Charities Information on the Web**
 - WWW.CRA.GC.CA/CHARTIES
- **Charities Electronic Mailing List**
 - To connect, follow instructions on CRA's Charities Web site (Electronic Mailing Lists link in left menu)