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.

PRINCIPAL ISSUES: What are the tax implications of a donor making a gift of a newly acquired life insurance policy to a registered charity?

POSITION: Provided general comments.

REASONS: 118.1; 248(35); 148(1); 148(7); 148(9)

XXXXXXXXXX

2012-043260

Sylvie Danis

(613) 957-3496

August 13, 2012

Dear XXXXXXXXXX:

Re: Transfer of Ownership of a New Policy to a Charity

This is in response to your letter dated January 3, 2012, wherein you requested our comments with respect to the tax implications of a donor making a gift of a newly acquired life insurance policy to a registered charity.

Written confirmation of the tax implications inherent in particular transactions is given by this Directorate only where the transactions are proposed and are the subject matter of an advance income tax ruling request submitted in the manner set out in Information Circular 70-6R5, Advance Income Tax Rulings, dated May 17, 2002. However, we can offer the following general comments that may be of assistance.

Section 118.1 of the Income Tax Act (the "Act") provides that individual taxpayers may claim a credit against taxes payable, within specified limits, for an eligible amount of a gift made to a qualified donee, if supported by an official receipt. Pursuant to proposed subsection 248(31) of the Act, the eligible amount of a gift is the excess of the fair market value ("FMV") of the property transferred to a qualified donee over the amount of the advantage provided.

The FMV of an interest in a life insurance policy gifted to a qualified donee has been the subject of previous comments by the Canada Revenue Agency ("CRA"). At the 2008

CALU - Conference for Advanced Life Underwriting, the CRA confirmed that to establish the FMV of an interest in a life insurance policy for the purpose of proposed subsection 248(31) of the Act, paragraphs 40 and 41 of Information Circular 89-3, Policy Statement on Business Equity Valuations, must be taken into account. Factors to be considered in the determination of FMV include, (a) cash surrender value, (b) the policy's loan value, (c) face value, (d) the state of health of the insured and his/her life expectancy, (e) conversion privileges, (f) other policy terms, such as term riders, double indemnity provisions, and (g) replacement value. Furthermore, paragraph 3 of IT-244R3, Gifts by individuals of life insurance policies as charitable donations, must be read taking into account this new position.

Proposed subsections 248(35) to (37) of the Act set out special rules for determining the FMV of a property that is the subject of a charitable gift for purposes of determining the eligible amount of a gift under proposed subsection 248(31) of the Act. Generally, where a taxpayer acquired the property that is the subject of the gift less than three years before the day the gift is made, proposed subsection 248(35) of the Act provides that the FMV of the gifted property is deemed to be the lesser of its FMV otherwise determined and its cost, or in the case of a life insurance policy in respect of which the taxpayer is a policyholder, its adjusted cost basis ("ACB") immediately before the gift is made.

The ACB to a policyholder of an interest in a life insurance policy is determined by a formula under subsection 148(9) of the Act. In general terms, the ACB will be the amount by which the premiums paid by the policyholder (excluding premiums for accidental death benefits), and any income in respect of the interest in the policy that has previously been reported for tax purposes, exceeds the net cost of pure insurance ("NCPI") under the policy. Section 308 of the Income Tax Regulations to the Act sets out the rules for calculating the NCPI of a taxpayer's interest in a life insurance policy. The NCPI represents the cost the policyholder has paid to be covered by insurance during the time that he or she has held the policy and as such reduces the amount that can be returned to the policyholder on a tax-free basis on disposition of the interest in the policy.

When an interest in a life insurance policy is gifted to a qualified donee, subsection 148(1) of the Act will apply to require the policyholder to report a gain for tax purposes to the extent that the proceeds of disposition of the interest in the policy exceed the ACB of the policy at the time of disposition. Pursuant to subsection 148(7) of the Act, the proceeds of disposition from a gift of an interest in a life insurance policy are generally equal to the cash surrender value of the policy at the time of disposition.

We trust the above comments are of assistance. However, as stated in paragraph 22 of Information Circular 70-6R5, the above comments do not constitute an income tax ruling and accordingly are not binding on the CRA in respect of any particular situation.

Yours truly,

Jenie Leigh

for Director

Financial Industries Division

Income Tax Rulings Directorate

Legislative Policy and Regulatory Affairs Branch