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SECTION 149(1)(l)

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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: Does the corporation qualify for the exemption in paragraph 149(1)(l) of the Act?

POSITION: It appears to.

REASONS: The organization is not a trust. It appears to be operated for a purpose other than profit, no income is being made available to members. It is not a charity.

December 17, 2012

Compliance Programs Branch

Headquarters

Specialty Audits Section Directorate

Income Tax Rulings

Directorate

Attention: Rubin Dressler

P. Burnley

(613) 957-2100

2011-042508

XXXXXXXXXX (the "Corporation")

We are writing in response to your request for our views as to whether the Corporation qualified for the tax exemption provided by paragraph 149(1)(l) of the Income Tax Act (the "Act") for the years under review. You specifically asked whether the organization is a charity, if a reserve indicated that it was operating with a profit purpose and whether an apparent trust arrangement affected the Corporation's ability to qualify for the exemption.

Based on the information you gave us, we understand that the Corporation receives funds as a result of a funding agreement negotiated between a city and a third party. The Corporation has the ability to enforce the payments required by the agreement but cannot change the terms of the agreement. The funds received by the Corporation can be expended only for specific purposes that must meet certain criteria. Essentially, the expenditures must be for community, educational and charitable works or purposes and are limited to projects and programs which provide benefits to residents in a localized area. The Corporation has a reserve as a result of a current lack of qualifying projects.

Initially, it appeared that a trust was involved, but the auditor subsequently confirmed that the organization in question is a corporation. At our request, the Charities Directorate reviewed the objects of the Corporation and based on a preliminary review felt that the Corporation would not, in the present constitution, be a charity within the meaning assigned by subsection 149.1(1) of the Act.

We also reviewed the information you gave us and we agree with the auditor that the Corporation was organized and operated to qualify for the exemption provided by paragraph 149(1)(l) of the Act for the years under review. The Corporation has no control over the amount of funding it receives, nor over the framework under which it operates to determine qualified projects to fund. The Corporation receives minimal passive investment income, does not solicit other income, and is actively looking for appropriate projects to fund while honouring the objects of the Corporation. In our view, the Corporation is clearly not running a business on a for-profit basis.

For your information, unless exempted, a copy of this memorandum will be severed using the Access to Information Act criteria and placed in the Canada Revenue Agency's electronic library. A severed copy will also be distributed to the commercial tax publishers for inclusion in their databases. The severing process will remove all material that is not subject to disclosure, including information that could disclose the identity of the taxpayer. Should the taxpayer request a copy of this memorandum, they may request a severed copy using the Privacy Act criteria, which does not remove taxpayer identity. Requests for this latter version should be made by you to Mrs. Celine Charbonneau at (613) 952-1361. In such cases, a copy will be sent to you for delivery to the taxpayer.

R. Albert, CPA, CA

Non-Profit Organizations and Aboriginal Issues

Income Tax Rulings Directorate

Legislative Policy and Regulatory Affairs Branch