



Canada Revenue
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Canada

Gifts and Income Tax

2005



More Ways to Serve You!

Proposed changes

This pamphlet includes income tax changes that have been announced, but were not law at the time of printing. Once they become law, they will be effective as of the date indicated.

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Canada Revenue Agency
750 Heron Road
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NOTE: In this publication, the text inserted between square brackets represents the regular print information.

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Is this pamphlet for you?

Are you an individual planning to give property to your favourite charity? Do you own land or a building, or have stocks or bonds that you would like to give to a registered charity? Do you own an oil painting, stamp collection, etching, sculpture, antique, or coin set that you would like to give to a gallery or museum? Are you having your gift appraised? If so, the decisions you make may affect your tax situation. This pamphlet will provide you with information about making a gift in the year. This pamphlet also gives income tax information about gifts you made in the previous year.

Definitions

In this section, we define some terms that we use in this pamphlet.

Arm's length transaction – A transaction between persons who each act in his or her self-interest. Related persons are not considered to deal with each other at arm's length. Related persons include individuals connected by a blood relationship, marriage or common-

law partnership, or adoption (legal or in fact). Also, a corporation and a shareholder who controls the corporation are related.

Unrelated persons usually deal with each other at arm's length. However, this might not be the case if one person is under the influence or control of the other.

Eligible amount of the gift – This is the amount by which the fair market value (FMV) of the gifted property exceeds the amount of an **advantage**, if any, received or receivable for the gift. Under proposed legislation, there are situations in which the eligible amount may be deemed to be nil. For more information, see "Receipts" on page 25 [11] and "Deemed fair market value" on page 30 [13]. The **advantage** is generally the total value of all property, services, compensation, or other benefits that you are entitled to as partial consideration for, or in gratitude for, the gift. The **advantage** may be contingent or receivable in the future, either to you or a person or partnership not dealing at arm's length with you.

For example, you donate \$1,000 to the Anytown Ballet Company, which is a registered charity. In gratitude, the company provides you with three tickets to a show that are valued at \$150. You are therefore

considered to have received an **advantage** of \$150. The **eligible amount** of the gift is \$850 (\$1,000 – \$150).

Under proposed legislation, for gifts made after February 18, 2003, the advantage also includes any limited-recourse debt in respect of the gift at the time it was made. For example, there may be a limited-recourse debt if the property was acquired through a tax shelter that is a gifting arrangement. In this case, the eligible amount of the gift will be reported in box 13 of Form T5003, STATEMENT OF TAX SHELTER INFORMATION. For more information on gifting arrangements and tax shelters, see T4068, GUIDE FOR THE PARTNERSHIP INFORMATION RETURN.

Fair market value (FMV) – This is usually the highest dollar value you can get for your property in an open and unrestricted market, between a willing buyer and a willing seller who are acting independently of each other.

Note

For the purposes of this pamphlet, there are certain situations in which the FMV will be deemed to be less than the actual FMV of the

property described on page 8 [above]. For more information see "Deemed fair market value" on page 30 [13].

Gifts and income tax

If you made a gift of money or other property to certain institutions, you may be able to claim federal and provincial or territorial non-refundable tax credits when you file your return, provided that you receive an official receipt from the institution(s). If you lived in Quebec on December 31, claim your provincial tax credit on your Quebec return.

In most cases, a gift is a voluntary transfer of property without valuable consideration to the donor. However, under proposed legislation, for gifts made after December 20, 2002, a transfer of property for which you received an **advantage** (as defined on page 7 [4]) will still be considered a gift for purposes of the INCOME TAX ACT as long as we are satisfied that the transfer of property was made with the intention to make a gift. An intention to make a gift will be presumed where the fair market value (FMV) of the advantage **does not exceed 80%** of the FMV of the transferred property.

Note

If the amount of the advantage **exceeds 80%** of the FMV of the transferred property, we may still consider the transfer to be a gift for purposes of the INCOME TAX ACT. For more information, write to the Charities Directorate, CRA, 320 Queen Street, Ottawa ON K1A 0L5, or call the Charities Directorate at (613) 954-0410 or 1-800-267-2384.

For gifts made after December 20, 2002, it is the **eligible amount** (as defined on page 7 [4]) of the gift that is used to calculate your non-refundable donation tax credits.

The tax consequences of a gift depend on such facts as if it is:

- a gift to a qualified donee such as a registered charity, the Government of Canada, a province or a territory;
- a gift of ecologically sensitive land; or
- a gift of certified cultural property to a designated institution or a public authority under the CULTURAL PROPERTY EXPORT AND IMPORT ACT.

It will also depend on whether the property was capital property, listed personal property, or inventory of a business.

What gifts can you claim?

Gifts to registered charities and other qualified donees

You can claim a tax credit based on the **eligible amount** of the gift you give to a qualified donee. A qualified donee generally includes:

- a registered Canadian charity;
- a registered Canadian amateur athletic association;
- a Canadian tax-exempt housing corporation that only provides low-cost housing for seniors;
- a municipality in Canada, or under proposed legislation, for gifts made after May 8, 2000, a municipal or public body performing a function of government in Canada;
- the United Nations and its related agencies;
- a prescribed university outside Canada;

- a charitable organization outside Canada to which the Government of Canada has made a donation in the tax year, or the previous tax year; and
- the Government of Canada, a province, or a territory.

Generally, you can claim part or all of the **eligible amount** of your gifts, up to the limit of 75% of your net income for the year. If you give capital property (including depreciable property), you may be able to increase this limit. For details, see "Calculating your increased donation limit" on page 43 [18].

Non-qualifying gifts

Special rules apply if you make a gift of a non-qualifying security, such as shares of a corporation you control, or obligations, or any other security issued by yourself (other than shares, obligations, and other securities listed on a prescribed stock exchange and deposits with financial institutions). For details, see guide T4037, CAPITAL GAINS.

Gifts to U.S. charities

Generally, if you have U.S. income, you can claim any gifts to U.S. charities that would be allowed on a U.S. return. You can claim the **eligible amount** of your U.S. gifts up to 75% of the **net U.S. income** you report on your Canadian return. However, you may be able to claim the **eligible amount** of your gifts to certain U.S. organizations up to 75% of your **net world income**. You can do this if you live near the border in Canada throughout the year and commute to your principal workplace or business in the U.S., which is your main source of income for the year.

Gifts to Canada, a province or territory

You can claim a tax credit based on the **eligible amount** of gifts to the Government of Canada, a province, or a territory. Government gifts do not include contributions to political parties.

If the gifts were agreed to in writing **before February 19, 1997**, the amount that qualifies for the tax credit is **not** limited to **75%** of your net income for the year. Enter the **eligible amount** of gifts that were agreed to in writing before February 19, 1997, on **line 342** of

Schedule 9, DONATIONS AND GIFTS. In all other cases, the amount that qualifies for the tax credit is limited to **75%** of your net income. Enter the eligible amount on **line 340** of Schedule 9.

Gifts to Canada include **monetary** gifts made directly to the federal Debt Servicing and Reduction Account. If you made such a gift, which will be used only to service the public debt, you should have received a tax receipt. To make a gift to this account, which should be made payable to the Receiver General, send it, along with a note asking that we apply it to this account, to: Place du Portage, Phase III, 11 Laurier Street, Gatineau QC K1A 0S5.

Gifts of ecologically sensitive land

You can claim a tax credit based on the **eligible amount** of a gift of ecologically sensitive land (including a covenant, an easement, or in the case of land in Quebec, a real servitude) you made to Canada, or one of its provinces, territories, or municipalities, or a registered charity approved by the Minister of the Environment.

Under proposed legislation, gifts of ecologically sensitive land made after May 8, 2000, to a municipal or public body performing a function of government in Canada will also qualify for a tax credit.

The Minister of the Environment, or a person designated by that minister, has to certify that the land is important to the preservation of Canada's environmental heritage. The Minister will also determine the fair market value (FMV) of the land.

For a gift of a covenant or an easement, or a real servitude (in Quebec), the FMV of the gift will be the **greater** of the FMV otherwise determined of the gift **or** the amount of the reduction of the land's FMV that resulted from the gift.

The FMV of the donated property, as determined or re-determined by the Minister of the Environment, will apply for a 24-month period after the last determination or re-determination. If you make a gift of the property within that 24-month period, it is the last determined or re-determined value that you use to calculate the **eligible amount** of the gift, whether you claim the gift as a gift of ecologically sensitive land or as an ordinary charitable gift.

Your claim for this type of donation is not limited to a percentage of your net income.

The Minister of the Environment (or if the land is located in Quebec, the ministère du Développement durable, de l'Environnement et des Parcs) will issue you a certificate indicating that the property is important to the preservation of Canada's environmental heritage and the FMV of the gifted property. Attach this certificate to your income tax return. Enter the **eligible amount** of the gift of ecologically sensitive land on **line 342** of Schedule 9, DONATIONS AND GIFTS.

You may have a capital gain or loss for the land that you donated. For information, see the section called "Capital gains and losses" on page 40 [17].

Gifts of certified cultural property

Special incentives have been created to encourage Canadians to keep in Canada cultural property that is of outstanding significance and national importance. Under the CULTURAL PROPERTY EXPORT AND IMPORT ACT, people can donate this type of property to Canadian

institutions and public authorities that have been designated by the Minister of Canadian Heritage.

You can claim a tax credit based on the **eligible amount** of gifts of certified cultural property. The **eligible amount** of your gift is calculated based on fair market value (FMV) of the property, on the date you legally transferred ownership to the designated institution or public authority, as determined by the Canadian Cultural Property Export Review Board (CCPERB).

The FMV of the donated property, as determined or re-determined by the CCPERB, will apply for a 24-month period after the last determination or re-determination. If you make a gift of the property within that 24-month period, it is the last determined or re-determined FMV that you use to calculate the **eligible amount** of the gift, whether you claim the gift as a gift of cultural property or as an ordinary charitable gift.

Your claim for a gift of certified cultural property is not limited to a percentage of your net income.

If you donate cultural property, certified by the CCPERB, to a designated institution or a public authority, the CCPERB will issue you Form T871, CULTURAL PROPERTY INCOME TAX CERTIFICATE, indicating the FMV of the gifted property. Attach this certificate to your income tax return. Enter the **eligible amount** of the gift of certified cultural property on **line 342** of Schedule 9, DONATIONS AND GIFTS.

You do not have to report, or pay tax on, any capital gain that you realize when you donate certified cultural property to a designated institution or a public authority. You can, however, deduct capital losses within specified limits. For information, see guide T4037, CAPITAL GAINS.

For more information on the certification of cultural property donations, see the section called "THE CULTURAL PROPERTY EXPORT AND IMPORT ACT" on page 47 [20].

Carrying forward tax credits

You do not have to claim, on your return for the current year, the **eligible amount** of gifts you made in the year. It may be more beneficial for you to carry them forward and claim them on your return

for any of the next five years. No matter how you claim them, you can claim them only once.

You have to claim tax credits for gifts you carried forward from a previous year **before** you claim tax credits for gifts you give in the current year. If you are claiming a carryforward, attach a note to your return indicating the year of the return with which you submitted the receipt, the portion of the **eligible amount** you are claiming this year, and the amount you are carrying forward.

Usually, you can claim gifts on the return you receive. However, you have to use a GENERAL INCOME TAX AND BENEFIT RETURN if you are claiming:

- gifts to Canada, a province, or a territory agreed to in writing **before** February 19, 1997;
- gifts of certified cultural property;
- gifts of ecologically sensitive land; or
- most gifts in kind (see "Gifts in kind" on page 21 [this page] for details).

Gifts in the year of death

If you are preparing a return for a deceased person, you can claim the **eligible amount** of gifts that the person gave in the year of death including those that the person bequeathed in the will. You can claim the lower of 100% of the deceased person's net income, or, under proposed legislation, the eligible amount of the gift(s) donated in the year of death (including gifts by will), **plus** the unclaimed portion of any gifts made in the five years before the year of death. Any excess can be claimed on the return for the previous year (up to 100% of the deceased's net income for that year).

You may claim a charitable donation tax credit on the deceased person's return for a donation of a direct distribution of proceeds to a qualified donee who is the designated beneficiary of a registered retirement savings plan (RRSP), including a group RRSP, a registered retirement income fund (RRIF), or a life insurance policy including a group life insurance policy. This does not apply if the qualified donee is a policyholder under the life insurance policy or is the assignee of the life insurance policy.

You have to attach official tax receipts and other required forms to the return on which you are claiming the gifts. However, there are exceptions to this rule. For more information, see guide T4011, PREPARING RETURNS FOR DECEASED PERSONS.

Gifts in kind

A gift in kind refers to a gift of property other than cash such as capital property (including depreciable property) and personal-use property (including listed personal property). These terms are defined in the glossary of guide T4037, CAPITAL GAINS. A gift in kind does not include a gift of services.

Do you have property to donate?

Here are some things to keep in mind when you donate property:

- If you plan to give away property, any capital gain you have made on the property since you got it may be subject to tax. For more information, see "Capital gains and losses" on page 40 [17].

- Your own situation will affect the tax status of the gift. If you are an artist, dealer, or collector, different tax rules apply when you donate property from your inventory.
- You have to decide where you are going to donate your property. We cannot advise which museum, art gallery, archive, municipality, or institution you should approach. Remember that the tax implications may differ depending on the way in which you make the gift and to whom.
- Once you have chosen a qualified donee, and have determined that it is willing to accept your gift, you or the qualified donee may have to have the property appraised to determine its fair market value.

Donation appraisals

Donors and qualified donees often approach appraisers, dealers, and other people who are knowledgeable about particular objects to get appraisals for income tax purposes. Determining fair market value (FMV) (as defined on page 8 [5]) is not a simple process. You must consider numerous facts regarding the property.

You may need to get one or more appraisals to establish the FMV of the property you are donating. Use the appraised FMV to calculate the eligible amount of the gift unless the deemed FMV rules apply (see page 30 [13] for details). The eligible amount is used to calculate the tax credit you can claim on your return. The appraised FMV is also used in the calculation of any capital gain or loss you may have from donating your property.

Who should appraise a gift?

For every situation, whether the property is **personal property, real property, or intangible property**, donors and qualified donees are encouraged to contact a professional appraiser, valuator, or other individual who is accredited in the field of valuation. That individual should be knowledgeable about the principles, theories, and procedures of the applicable valuation discipline and follow the UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE or the standards of the profession. Also, he or she should be knowledgeable about and active in the marketplace for the specific property.

The chosen individual should be independent. For instance, he or she should not be associated with the donor, the qualified donee,

or another party associated with the purchase, sale, or donation of the property.

The individual should also be knowledgeable about the elements of a properly prepared and credible valuation report.

If you have difficulty finding an independent appraiser, or this would involve unreasonable expense, a qualified employee of the qualified donee accepting your gift can appraise it if the FMV is \$1,000 or less. If the circumstances are very unusual, that employee can appraise the donation if the FMV is just over \$1,000.

The appraisal report

The appraisal or evaluation report should be based on the principles, theories, and procedures of the applicable valuation discipline and follow the standards of the profession. The report has to be an estimate of the FMV of the property as of the date of donation. Also, if you owned the property on valuation day (December 31, 1971), you may need to get a valuation reflecting the value on that date.

Note

The Canadian Cultural Property Export Review Board (CCPERB) has requirements for appraisals. Before applying for certification, please consult the Review Board Secretariat. See page 50 [21] for the telephone number.

Donation date

The donation date is the date that the gift is made. The donation date may not be the date of physical delivery, since a property may be on loan to the qualified donee before the actual donation date.

Receipts

Under proposed legislation, the eligible amount of a gift made after 2005 is deemed to be nil if the donor fails to inform the donee of information that would be relevant to the application of the limitations regarding deemed FMV (see "Deemed fair market value" on page 30 [13]).

For donations of gifts in kind, the qualified donee can issue a receipt after the property has been appraised. The receipt should show the FMV or deemed FMV of your gift. It will also show the **eligible amount** of the gift.

If your gift comes under the CULTURAL PROPERTY EXPORT AND IMPORT ACT, and the CCPERB has certified it, you will receive Form T871, CULTURAL PROPERTY INCOME TAX CERTIFICATE, from the Board. Attach Form T871 and the official receipt from the qualified donee accepting your gift to your return.

If your gift is ecologically sensitive land that the federal Minister of the Environment has certified as important to the preservation of Canada's environmental heritage, you will receive a CERTIFICATE FOR DONATION OF ECOLOGICALLY SENSITIVE LAND. Attach the certificate and official receipt to your return.

If the land you give is located in the province of Quebec, you will receive a CERTIFICATE RESPECTING GIFTS OF LAND WITH ECOLOGICAL VALUE OR SERVITUDES ENCUMBERING LAND WITH ECOLOGICAL VALUE, issued by the ministère du Développement durable, de

l'Environnement et des Parcs. Attach the certificate and the official receipt to your return.

Generally, the eligible amount that qualifies for the tax credit applies for the year you give the gift, regardless of the date the certificate or receipt is actually issued, or the date the appraisal is completed. You can choose the part of the **eligible amount** of the gift you want to claim in the year and you can carry forward any unused part for up to five years.

If you are filing a paper return, include your Schedule 9, as well as your official receipts showing either your or your spouse's or common-law partner's name. You do not have to attach receipts for amounts shown in box 46 of your T4 or T4A slips, in box 48 of your T3 slips, in box 34 of your T5013 slips, or on financial statements showing an amount a partnership allocated to you. If you receive a T5003 slip(s) with an amount in box 13, you must submit a charitable donation receipt that you will receive from the charity. You must also submit Form T5004, CLAIM FOR TAX SHELTER LOSS OR DEDUCTION.

You may have included with a previous return a receipt for a donation you are claiming for the current year. If so, attach a note indicating

the return with which you submitted the receipt. However, if you are filing electronically, keep all of your documents in case we ask to see them.

Gifts of capital property

Capital property includes depreciable property, and any property that, if sold, would result in a capital gain or a capital loss. You usually buy it for investment purposes or to earn income. Capital property **does not** include the trading assets of a business, such as inventory. The following properties are generally capital properties:

- cottages;
- securities, such as stocks, bonds, and units of a mutual fund trust; and
- land, buildings, and equipment you use in a business or a rental operation.

If you donate capital property, we consider you to have disposed of that property for proceeds **equal** to the fair market value (FMV) of the property. You have to report any capital gain on your return in the

year you donated the property. In some cases, you may be able to claim a capital loss in the year you donated the property.

Note

All references to fair market value (FMV) in this section are subject to the deemed FMV rules as discussed under "Deemed fair market value" on page 30 [13].

However, if you make a gift of capital property to a registered charity or other qualified donee, or to Canada or one of its provinces or territories and the FMV of the donated capital property, otherwise determined, is **more** than its adjusted cost base (ACB), you may designate an amount that is **less** than the FMV to be the proceeds of disposition. This may allow you to reduce the capital gain otherwise calculated.

If you choose to designate an amount, you can choose the value of the donated property. When you make the donation, you can choose an amount that is **not greater than** the FMV and **not less** than the greater of:

- any **advantage** in respect of the gift; and

- the ACB of the property (if the property was depreciable property, the lesser of its ACB and the undepreciated capital cost of the class of the property).

Treat the amount you choose as the proceeds of disposition when you calculate any capital gain. Also use this amount to determine the **eligible amount** of the gift, which you use to calculate the tax credit.

If when you made the donation, the FMV was **less** than the ACB, the proceeds of disposition must equal the FMV of the donated property. This amount will be used to calculate any capital loss on the disposition of a non-depreciable capital property and the **eligible amount** of the gift, which you use to calculate the tax credit.

For more information, see Interpretation Bulletin IT-288, GIFTS OF CAPITAL PROPERTIES TO A CHARITY AND OTHERS.

Deemed fair market value

Under proposed legislation, for a gift of property made to a qualified donee effective 6:00 p.m. EST, on December 5, 2003, the fair market

value of the property gifted will be deemed to be the lesser of the property's:

- fair market value otherwise determined; and
- its cost (or adjusted cost base if it is capital property), at the time the gift was made.

This limitation applies to property that was acquired under a gifting arrangement. Unless the gift is made as a consequence of the taxpayer's death, this rule also applies if the property was acquired:

- less than three years before the day the gift was made; or

- less than 10 years before the day the gift was made if it is reasonable to conclude that when the property was acquired, the taxpayer expected to make a gift of it.

If a property gifted on or after July 18, 2005 was acquired in a non-arm's length transaction during the 3-year or 10-year period, the cost (or adjusted cost base if it is capital property) of the gifted property will be deemed to be equal to the lower of the cost to the

! donor and the lowest cost to a party to the non-arm's length !
! transaction. !
- - - - -

The limitation does **not** apply to gifts of:

- inventory;
- real property located in Canada;
- certified cultural property;
- ecologically sensitive land (including a covenant, an easement, or in the case of land in Quebec, a real servitude);
- a share, debt obligation, or right listed on a prescribed stock exchange;
- a share of the capital stock of a mutual fund corporation;
- a unit of a mutual fund trust;
- an interest in a related segregated fund trust;
- a prescribed debt obligation;

- a share of the capital stock of a corporation issued by the corporation to the donor, if immediately before the share was gifted, the corporation was controlled by the donor or other persons related to the donor, **and** if the limitations described on page 31 [the preceding page] would not have otherwise applied; or
- a property by a corporation if the property was acquired by the corporation in consideration for shares of the corporation's capital stock in a rollover transaction and immediately before the gift, the shareholder from whom the corporation acquired the property (or other persons related to the shareholder) controlled the corporation, **and** if the limitations described on page 31 [the preceding page] would not have otherwise applied.

If a donor attempts to avoid the limitation described on page 31 [the previous page] with the acquisition or disposition of a property before gifting it, the eligible amount of the gift is deemed to be nil. This rule applies to gifts made after July 17, 2005.

If an applicable property is sold to a registered political organization or candidate or a qualified donee after February 25,

2004, and all or part of the proceeds of disposition is property that is the subject of a gift or monetary contribution, the fair market value of the gift is deemed to be the lesser of the fair market value of the property sold and its cost.

If the property was acquired through a tax shelter that is a gifting arrangement, the eligible amount will be reported in box 13 of Form T5003, STATEMENT OF TAX SHELTER INFORMATION.

Gifts of securities acquired under a security option plan

You can claim an additional deduction on **line 249** of your return for donating publicly-listed shares of corporations or mutual fund units you acquired through your employer's security option plan. However, you must meet **all** of the following conditions:

- You acquired a security under an option that was granted to you as an employee of a corporation or a mutual fund trust.
- You disposed of the security in the year it was acquired, and not more than 30 days after its acquisition, by donating it to a qualified donee that is **not** a private foundation.

- You are entitled to claim a security option deduction on line 249.

Claim **25%** of the amount that would be the employment benefit. When calculating the employment benefit, the fair market value (FMV) of the security when the option was exercised is considered to be whichever of the following is **less**:

- the FMV of the security at the time of acquisition; or
- the FMV of the security at the time of disposition.

You may have a capital gain on the disposition of the security. For more information, see "Capital gains and losses" on page 40 [17].

Are you an artist?

If you are an artist, we usually consider any works you create and own as inventory, not capital property. When an artist creates a work of art intending to sell it but instead donates it to a qualified donee (recipient), we consider the gift to be a disposition of property from the artist's inventory.

As an artist, if you donate a gift from your inventory and if the gift's fair market value (FMV) is **more than** its cost amount, you can designate any amount for the value of the donated property as long as it is:

- not greater than the FMV; and
- not less than the greater of:
 - the amount of any **advantage** in respect of the gift; and
 - the cost amount.

Use the amount you choose for the value of the gift as proceeds of disposition to determine your income. This amount will also be used to calculate the **eligible amount** of the gift, which you use to calculate the tax credit.

If, at the time you made the donation, the FMV is **less than** the cost amount, the proceeds of disposition must equal the FMV of the donated property. This amount will also be used to calculate the **eligible amount** of the gift, which you use to calculate the tax credit.

As an artist, you may donate a **work of cultural property** you created, from your inventory, to a designated institution or public authority. If you do this, and the Canadian Cultural Property Export Review Board (CCPERB) certifies the gift, we consider that you received proceeds of disposition equal to the greater of the cost amount of your gift and the amount of any **advantage** in respect of the gift. The amount that qualifies for the tax credit on certified cultural property will be based on the **eligible amount** of the gift, provided you meet all other requirements outlined in the section called "Gifts of certified cultural property" on page 16 [8].

Note

An artistic endeavour occurs when you are in the business of creating paintings, murals, original prints, drawings, sculptures, or similar works of art. An artistic endeavour does not include reproducing works of art.

When you calculate your income from an artistic endeavour, you can choose to value your ending inventory at nil. If you do this, we consider the cost amount of your gift as nil. Your choice stays in effect for each following year, unless we allow you to change it.

For more information, see Interpretation Bulletin IT-504, VISUAL ARTISTS AND WRITERS.

Are you an art or antiques dealer?

If you buy and sell art, antiques, rare books, or other cultural property as a business, and you donate one of these objects, your gift has no capital gains implications. We consider the objects as part of your inventory, not capital property or personal-use property. Therefore, we consider the proceeds to be business income based on the fair market value of the donated property at the time you donated it. You can claim a tax credit based on the **eligible amount** of the gift if it otherwise qualifies.

If your gift is from a private collection that you maintain apart from those works we consider to be your business inventory, the usual rules for donating capital property or personal-use property apply.

Listed personal property

Personal-use property includes a special class of property called **listed personal property**. Items in this class usually increase in value.

Listed personal properties include:

- prints, etchings, drawings, paintings, sculptures, or other similar works of art;
- jewellery;
- rare folios, rare manuscripts, or rare books;
- stamps; and
- coins.

We consider all or any part of such properties, a part interest in them, or any right to them as listed personal property. You should have a Valuation Day value established for any listed personal property you acquired before December 31, 1971, that is worth more than \$1,000, either separately or as a set. In most cases, you may find an

indication of the fair market value for many of these items by checking dealers' catalogues, or by asking art antiques, coin, jewellery, or stamp dealers.

Special rules may apply to personal-use property and listed personal property. For more information, see guide T4037, CAPITAL GAINS.

Capital gains and losses

To have a capital gain or loss, the property involved has to be capital property. You will find examples of capital property in the section called "Gifts of capital property" on page 28 [12].

If you donate capital property, we consider you to have disposed of that property. You have to report any resulting capital gain or loss on your return for the year that you donate the property.

You need to know the following three amounts to calculate a capital gain or a capital loss:

- the proceeds of disposition (generally the fair market value of the property at the time of donation);

- the adjusted cost base (ACB) of the property; and
- the outlays and expenses you incurred when donating the property.

You have a capital gain when you dispose of a capital property for **more** than its ACB plus the outlays and expenses incurred to dispose of it.

When you dispose of a non-depreciable capital property for **less** than its ACB plus the outlays and expenses incurred to dispose of it, you have a capital loss.

For details, see guide T4037, CAPITAL GAINS.

Capital gains realized on gifts of certain capital property

If you donate certain types of capital property to a registered charity or other qualified donee (other than a private foundation), you may be able to calculate any taxable capital gain using a **25%** inclusion rate.

This **25%** inclusion rate applies if you donate the following property:

- a share, debt obligation, or right listed on a prescribed stock exchange;
- a share of the capital stock of a mutual fund corporation;
- a unit of a mutual fund trust;
- an interest in a related segregated fund trust;
- a prescribed debt obligation; and
- ecologically sensitive land (including a covenant, an easement, or in the case of land in Quebec, a real servitude).

If you did not receive an **advantage** in respect of the gift, the full amount of the capital gain is subject to the **25%** inclusion rate.

However, if you received or are entitled to an **advantage**, only a portion of the capital gain is eligible for the **25%** inclusion rate. The remainder is subject to the **50%** inclusion rate.

The amount subject to the **25%** inclusion rate is calculated using the following formula:

$$A \times (B \div C)$$

Where

A = the capital gain

B = the eligible amount of the gift

C = the proceeds of disposition

Report the total of all amounts subject to the **25%** inclusion rate on Form T1170, CAPITAL GAINS ON GIFTS OF CERTAIN CAPITAL PROPERTY, on **line 6823** and/or on **line 6825**, depending on the type of property. Report the total of all amounts subject to the **50%** inclusion rate, on **line 132** and/or on **line 153**, of Schedule 3, CAPITAL GAINS (OR LOSSES).

Calculating your increased donation limit

If you donate cash or other property to a registered charity or other qualified donee in the year, your total donations limit will generally be **75%** of your net income for the year. However, you can increase your total donations limit if you donate **capital property** in the year. Where

you received an **advantage** in respect of the donation of the property, include, in your calculations, only the portion of taxable capital gains and recapture of depreciation that related to the gift portion of your donation.

To do so, complete Chart 1 below, and enter the result on Schedule 9, DONATIONS AND GIFTS. Your donations limit cannot exceed your net income for the year.

Chart 1 – Gifts of capital property

Amount of current year taxable capital gains from capital property donated in the year	\$	<u> </u>	1
Amount of current year capital gains deduction from capital property donated in the year	–	<u> </u>	2
Line 1 minus line 2	\$	<u> </u>	3

Enter this amount on line 4 of Schedule 9.

You can also increase your total donations limit if you have to include a recapture of depreciation on your current year return as a result of donating the property.

To do so, complete Chart 2 below, and enter the result on Schedule 9. Your total donations limit **cannot exceed** your net income for the year.

Chart 2 – Gifts of depreciable property

Class No. of property _____		
Amount of recaptured depreciation included on your current year return	\$	_____ 1
<hr/>		
Net proceeds of disposition of the current year donated property for this class	\$	_____ A
<hr/>		
Capital cost of the current year donated property for this class	\$	_____ B
<hr/>		

Enter the amount from line A or line B, whichever is less.	\$	<u>2*</u>
Enter the amount from line 1 or line 2 whichever is less.	\$	<u>3</u>

Enter this amount on line 3 of Schedule 9.

If you included on your current year return recaptured depreciation from more than one class, complete a separate Chart 2 for each class, add the results and enter the total on line 3 of Schedule 9.

* If you donated more than one property in this class in the year, complete lines A and B for each property and enter the total on line 2.

For more information, see Interpretation Bulletin IT-288, GIFTS OF CAPITAL PROPERTIES TO A CHARITY AND OTHERS, and Interpretation Bulletin IT-478, CAPITAL COST ALLOWANCE – RECAPTURE AND TERMINAL LOSS.

The Cultural Property Export and Import Act

The INCOME TAX ACT and the CULTURAL PROPERTY EXPORT AND IMPORT ACT (CPEIA) provide tax incentives to individuals who want to sell or donate significant movable cultural property to Canadian heritage institutions or public authorities.

The Canadian Cultural Property Export Review Board (CCPERB) is responsible under the CPEIA for certifying property as cultural property and therefore of "outstanding significance and national importance."

It is also responsible for determining the fair market value of such property for income tax purposes.

When you donate cultural property to a designated Canadian institution or public authority and the CCPERB certifies it, you do not realize a capital gain. You use the **eligible amount** of the gift to calculate the non-refundable tax credit. The amount you can claim as a non-refundable tax credit is limited to the total amount of tax still payable after claiming your credits for any other charitable gifts.

Once the CCPERB certifies your donation of cultural property, it will provide you with Form T871, CULTURAL PROPERTY INCOME TAX CERTIFICATE. However, they must first receive written confirmation from the institution or public authority that the legal transfer of ownership of the donation was made, and that the gift is irrevocable.

How is cultural property certified?

If you want your gift to be certified under the CPEIA, the institution or public authority receiving the gift has to apply with you, or on your behalf, to the CCPERB to have the property certified. Cultural property may be anything from paintings and sculptures to books and manuscripts to ethnological and decorative art material. It does not have to be of Canadian origin.

The CCPERB may determine that an object is of "outstanding significance and national importance" because of its:

- close association with Canadian history or national life;
- aesthetic qualities; or
- value in the study of the arts or sciences.

Certification by the CCPERB is only necessary if you want us to treat your donation as a gift of cultural property. It is not necessary if you want us to treat your donation as a gift to a registered charity or other qualified donee.

Designated institutions and public authorities

To be eligible to have cultural property certified, an institution or public authority has to be designated by the Minister of Canadian Heritage before the legal transfer of ownership of the property takes place.

Designation ensures that institutions receiving cultural property have the appropriate measures in place to collect, preserve, and make cultural property accessible to the public for research or display purposes.

"Category A" designation status is granted indefinitely to institutions and public authorities that are well established and meet all of the criteria for designation.

"Category B" status is granted exclusively in relation to the proposed acquisition of an object or collection to institutions that meet as many of the criteria for designation as possible in order to effectively preserve the specific property for which certification by the CCPERB is desired.

If you have any questions about designation or the certification of cultural property, or if you would like to get the CCPERB's publication called APPLICATIONS FOR CERTIFICATION OF CULTURAL PROPERTY FOR INCOME TAX PURPOSES – INFORMATION AND PROCEDURES, contact the Review Board Secretariat in one of the following ways:

Telephone	(819) 997-7761
Fax	(819) 997-7757
Email	revboard_sec@pch.gc.ca

Do you need more information?

If, after reading this pamphlet, you need more help, you can call our Charities Directorate at **(613) 954-0410** or **1-800-267-2384**.

For personal and general tax information, you can visit our Web site at **www.cra.gc.ca**. You can also use our **T.I.P.S. (Tax Information Phone Service)** by calling **1-800-267-6999**.

If you would like to get any of our forms or publications mentioned in this pamphlet, visit our Web site at **www.cra.gc.ca/forms** or call **1-800-959-2221**.

Teletypewriter (TTY) users – If you use a TTY because you have a hearing or speech impairment, an agent at our bilingual enquiry service (**1-800-665-0354**) can help you during the hours of service indicated in your tax guide.