

Locator Code : 920A

SUBJECT: INCOME TAX ACT  
**Gifts and Official Donation Receipts**

NO: **IT-110R3**

DATE: June 20, 1997

REFERENCES: Sections 110.1 and 118.1 (also Part XXXV of the *Income Tax Regulations*)

---

### ***Application***

This bulletin cancels and replaces Interpretation Bulletin IT-110R2 dated May 14, 1986 and its Special Release dated January 27, 1989.

### ***Summary***

The *Income Tax Act* encourages taxpayers to support the activities of registered charities and certain other organizations by allowing gifts to such organizations to qualify for a tax credit if the gift is made by an individual (other than one who has taken a vow of perpetual poverty and claimed a deduction under subsection 110(2)) or for a deduction in computing taxable income if the gift is made by a corporation. The tax credit is a non-refundable and non-transferable federal tax credit deductible against Part I tax payable. This bulletin discusses some of the types of donations that qualify as gifts as well as some of those that do not. In addition, there are some observations on the issue of official donation receipts.

### ***Discussion and Interpretation***

#### **PART I – GIFTS**

1. Subsection 118.1(3) provides a formula for determining the amount of the deduction from Part I tax otherwise payable that is available in connection with an individual's total gifts. This amount is calculated by applying the lowest Part I tax rate for the year (17%) to the lesser of \$200 and the individual's total gifts for the year. To that amount is added the highest Part I tax rate (29%) applied to the portion of the individual's total gifts for the year in excess of \$200. (Before 1994, the lowest Part I tax rate applied to the first \$250 and the highest Part I tax rate applied to any amount in excess of \$250.) The maximum amount of charitable donations in a year that are eligible for the deduction in the case of corporations and for the tax credit in the case of individuals is 20% of a taxpayer's net income for the year. However, no such limit applies to gifts made by an individual or a corporation for total Crown gifts, for total cultural gifts, or after February 27, 1995, for total ecological gifts. Subsection 118.1(2) provides that a gift shall not be included in computing a tax credit under section 118.1 unless the making of the gift is proven by filing a receipt containing prescribed information—see 16 below. (When an individual's income tax return is electronically filed ("E-filed"), the receipts should be retained as they may be requested to verify the reported information.) Paragraph 110.1(1)(a) permits a deduction in computing a corporation's taxable income for gifts made to registered charities if supported by official receipts.

In addition to registered charities, paragraph 110.1(1)(a) and the definition "total charitable gifts" in subsection 118.1(1) permit registered Canadian amateur athletic associations, Canadian municipalities and the United Nations and its agencies, among other qualified donees, to issue receipts for charitable gifts. For additional comments, see the booklet, *Gifts and Income Tax*.

**Note:** *Bill C-92 proposes amendments to the rules for charitable donations for 1996 and subsequent taxation years. If the amendments are enacted as proposed:*

- (a) *the general annual limit on charitable donations as a percentage of net income will be raised from 20% to 50%.\**

- (b) *the limit on gifts by individuals in the year of death and the preceding year, including bequests or legacies, will be raised from 20% to 100%; and*
- (c) *the limit of 50% of net income will be further raised by half of the amount of taxable capital gains resulting from the donation of capital property that are included in calculating the donor's taxable income for the year.\**

\* As a result of amendments proposed in the February 18, 1997 Federal Budget (described immediately below), these amendments will only be applicable to 1996.

**Note:** *As part of the Federal Budget of February 18, 1997, a Notice of Ways and Means Motion to Amend the Income Tax Act was tabled in the House of Commons. The proposed amendments affect charitable donations and gifts to the Crown for taxation years commencing after 1996. If the amendments are enacted as proposed*

- (a) *the general annual limit on charitable donations as a percentage of net income will be raised from 50% to 75%;*
- (b) *the limit on gifts to the Crown as a percentage of net income will be reduced from 100% to 75%; and*
- (c) *the annual limit on charitable donations will be increased by an amount equal to 25% of*
  - (i) the lesser of
    - the amount of recapture of capital cost allowance included in the donor's income for the year in respect of a prescribed class of depreciable property that included a property that was the subject of a charitable gift or a gift to the Crown in the year, and
    - for each such gift made in the year of property that was included in the class, the lesser of its capital cost and its fair market value, and
  - (ii) the amount of taxable capital gains included in the donor's taxable income for the year for such gifts made in the year.

Gifts of cultural property and gifts of ecologically sensitive land are not subject to the income limitation as described in (a) and (b) above.

### **Gifts of Cultural Property and Ecological Gifts**

2. A gift of cultural property must be certified by the Canadian Cultural Property Export Review Board as meeting the criteria set out in paragraphs 29(3)(b) and (c) of the *Cultural Property Export and Import Act*. The beneficiaries of such gifts must be institutions or public authorities in Canada which are designated under that Act. For further observations on gifts of cultural property, see the current version of IT-407, *Dispositions of Cultural Property to Designated Canadian Institutions*.

An ecological gift must be land (including a servitude for the use and benefit of a dominant land, a covenant or an easement) that is certified by the Minister of the Environment, or a person designated by that Minister, to be ecologically sensitive land the conservation and protection of which is, in the opinion of the Minister, or that person, important to the preservation of Canada's environmental heritage. The beneficiary of the gift must be a Canadian municipality, or a registered charity one of the main purposes of which is, in the opinion of the Minister of the Environment, the conservation and protection of Canada's environmental heritage. If the beneficiary is a registered charity, it must be approved by the Minister of Environment, or a person designated by that Minister, in respect of the gift. Environment Canada has prepared Information Circulars which describe the type of lands that qualify as ecologically sensitive and important to the preservation of Canada's environmental heritage, and identify a number of registered charities that have been approved by the Minister of Environment to receive gifts of such lands. These Information Circulars can be obtained from:

Habitat Conservation Division  
Canadian Wildlife Service  
Environment Canada  
Ottawa ON K1A 0H3

Fax: (819) 994-4445

*Note: As part of the Federal Budget of February 18, 1997, a Notice of Ways and Means Motion to Amend the Income Tax Act was tabled in the House of Commons. One of the proposed amendments affects the determination of ecological gifts made after February 27, 1995. If the amendment is enacted as proposed, for purposes of determining the fair market value of a gift of a servitude, covenant or easement included in the total ecological gifts of a taxpayer, the value will be considered to be the greater of the fair market value otherwise determined and the amount by which the fair market value of the land to which the gift relates is decreased as a result of the gift.*

### **General Rule**

3. A gift, for purposes of sections 110.1 and 118.1, is a voluntary transfer of property without valuable consideration. Generally a gift is made if all three of the conditions listed below are satisfied:
  - (a) some property—usually cash—is transferred by a donor to a registered charity;
  - (b) the transfer is voluntary; and
  - (c) the transfer is made without expectation of return. No benefit of any kind may be provided to the donor or to anyone designated by the donor, except where the benefit is of nominal value (see 11 below).

### **Exceptions to the General Rule**

4. In most cases, the general rule in 3 above will be applied to determine whether a particular payment is a gift. However, in recognition of certain widely accepted fund-raising practices, a gift is considered to have been made in the circumstances outlined in 5 to 10 below.
5. For many years the difference between the purchase price of a ticket to attend a “dinner, ball, concert or show” and the fair market value of the food, entertainment etc., available to a ticket purchaser has been considered to be a gift. This exception to the general rule will not be extended to anything that is not a dinner, ball, concert, show or a like event. A “like event” is an event which provides services and consumable goods, the equivalent of which are readily available in the marketplace and which by their very nature are necessarily purchased with the intention that they be used on a specific date in the near future by the ticket purchaser (and guests) and which, if not used, have no resale value. An auction, for example, is not a “like event.” A dinner coupled with an auction would not be considered a “like event” unless people are invited to bid and can bid at the auction without paying the admission fee for the dinner.
6. To calculate the gift portion, the charity may consider that two payments have been received: one for the fair market value of admission and the second as a gift to the charity.
7. The fair market value of admission to a fund-raising dinner, ball, concert or show should be determined by making a comparison to the regular or usual charge for attendance at the same or a similar function or event for which a donation is not solicited. In the absence of a comparable event, the value is the estimated price that would have been charged for a function or event of this nature carried out as a profit-making venture.
8. Official receipts for a gift or donation are not to be issued where the price of admission to a dinner, ball, concert or show includes participation in a lottery or draw for prizes or awards which have more than a nominal value. Any payment which might be considered in excess of the fair market value of the price of admission for the event is presumed to be consideration for participation in the lottery or draw.
9. Generally, any legal obligation on the payor to make a donation would cause the donation to lose its status as a gift. However, when a taxpayer honours a personal guarantee concerning a loan made to a charity

or honours a pledge, the amount can be considered to be a gift despite its having being paid to honour an obligation, if the obligation was entered into voluntarily and without consideration.

10. Other exceptions to the general rule in 3 above are discussed in separate publications. For example, see the current versions of IT-111, *Annuities Purchased from Charitable Organizations*, IT-244, *Gifts by Individuals of Life Insurance Policies as Charitable Donations* and Information Circular 75-23, *Tuition Fees and Charitable Donations Paid to Privately Supported Secular and Religious Schools*.

### **Benefits of Nominal Value**

11. For the purpose of 3(c) above, where a charity offers an item, privilege or other benefit in return for a donation, the benefit is considered to have a nominal value where its fair market value does not exceed the lesser of

- (a) \$50.00, or
- (b) 10% of the amount of the gift.

12. For the purposes of 11 above, a benefit is not considered to have a nominal value where its fair market value cannot be determined for reasons such as:

- a) the benefit is not readily available on the open market, for example, the benefit is the right to individually meet a famous personality; or
- b) the extent to which the benefit will be exercised is unknown at the time it is provided, for example, the benefit is a right to a discount on the purchase price of specific goods or services.

### **Separation of Purchase and Gift**

13. In certain circumstances, a donor can both purchase something from a charity and make a gift. There must be two separate transactions which are independent of each other. Where the donor can only purchase the item if a contribution is made, that contribution is not a gift and an official receipt may not be issued for it.

14. Where, however, anyone can purchase the item without making any other payment, an additional contribution made by a purchaser is a gift and an official receipt may be issued for the additional contribution but not the purchase price. Whether or not one transaction is dependent upon the other is a question of fact.

### **Non-Qualifying Contributions**

15. The following are examples (not an all-inclusive list) of payments or contributions that do not qualify as gifts. Accordingly, a registered charity may not issue official receipts for income tax purposes in respect of such amounts. If you have any doubts about a particular proposal, you should contact the Client Assistance Section, Charities Division at 1-800-267-2384.

- (a) The payment of a basic fee for admission to an event or to a program, whether on behalf of the payor, a dependant of the payor, or someone designated by the payor does not qualify as a charitable donation regardless of whether or not the payment of the fee was voluntary. Examples include:
  - fees to a day-care or nursery school facility, fees to pay for participation in an exercise or training or like program or membership that conveys a right to attend or to be admitted to a program; and
  - contributions made to offset a charity's costs of providing services (such as food and lodging at a seminar, encounter group, or therapy class).
- (b) The payment of membership fees that convey the right to attend events, receive literature, receive services or be eligible for entitlements of any material value. In this regard, the right to vote at meetings and to receive reports of the charity's activities—unless such reports are otherwise available for a fee—are not considered to be of any material value.
- (c) A payment for a lottery ticket or other chance to win a prize is not a gift. However, a lottery may

be run in conjunction with a fund-raising campaign without prejudicial effect if the lottery tickets can be purchased without any requirement that ticket purchasers also make a donation to the fund-raising campaign. Official receipts may then be issued for such donations to the fund-raising campaign, but not for the purchase of lottery tickets. An amount which would otherwise be a gift, such as a portion of the price of admission discussed in 5 above, would not qualify as such if the price of admission entitles anyone, at no additional cost, to receive a chance to win a prize.

- (d) Contributions of services may not be acknowledged by issue of an official receipt. A gift must involve property. Contributions of services (that is, time, skills, effort) are not property and do not qualify. There is nothing to prohibit a charity from paying for services and later accepting the return of all or a portion of the payment as a gift—provided it is returned voluntarily. The donor must, in such an arrangement, account for the taxable income that would be realized either as remuneration (in which case the charity may be obliged to issue an information slip) or as business income. See the *Employers' Guide to Payroll Deductions – Basic Information* for the preparation of information slips.
- (e) The purchase of goods or services from a charity may not be acknowledged by issue of an official receipt for all or any part of a payment for such a purchase. This rule applies even when the buyer pays an amount in excess of fair market value to enhance the profit of the charity. However, as discussed earlier, the rule does not apply if the purchase can be viewed as a donation because the goods or services purchased have only nominal value in relationship to the amount paid.
- (f) A charity may not issue an official receipt for income tax purposes if the donor has directed the charity to give the funds to a specified person or family. In reality, such a gift is made to the person or family and not to the charity. However, donations subject to a general direction from the donor that the gift be used in a particular program operated by the charity are acceptable, provided that no benefit accrues to the donor, the directed gift does not benefit any person not dealing at arm's length with the donor, and decisions regarding utilization of the donation within a program rest with the charity.
- (g) A charity may not issue an official receipt for income tax purposes if the donor has directed the charity to give the funds to a non-qualified donee. Most foreign charities or foreign affiliates of Canadian charities are not qualified donees, and thus, gifts directed to them are not eligible for an official receipt. However, certain foreign charities can issue official receipts for Canadian income tax purposes. If you wish to make a gift to a foreign charity, the Client Assistance Section, Charities Division at 1-800-267-2384 can advise you as to whether the charity is qualified to issue an official receipt for income tax purposes.

**Note:** *As part of the Federal Budget of February 18, 1997, a Notice of Ways and Means Motion to Amend the Income Tax Act was tabled in the House of Commons. One of the amendments proposes a special tax on charities, in respect of a charity's acquisition after February 18, 1997, of*

- *a debt obligation of a person or partnership, or*
- *a share of the capital stock of a corporation*

*that does not deal at arm's length with the charity. The tax is equal to 50% of the amount of the debt obligation or of the fair market value of the shares at the time they are acquired.*

*The amendment also proposes that the special tax will apply where at any time a gift is made to a charity; the donor deducts an amount in respect of the gift; and within 5 years after the date of the gift*

- *the charity holds a debt obligation of the donor or of a person or partnership that does not deal at arm's length with the donor,*
- *the charity owns a share of the capital stock of the donor or of a corporation that does not deal at arm's length with the donor, or*
- *the donor or a person or partnership that does not deal at arm's length with the donor uses property of the charity (other than the use by a financial institution of an amount held on deposit).*

*The tax is equal to 50% of the lesser of*

- *the amount of the gift, and*
- *the amount of the debt obligation or of the fair market value of the share or property*

*and is payable jointly and severally by the charity, the donor and the person, partnership or corporation referred to above. However, this tax will not apply where the gift was made before February 19, 1997 and the holding of the debt obligation, the ownership of the share, or the use of the property began before that day.*

*The proposed rules will not apply to shares or debt obligations that are listed on prescribed stock exchanges.*

*The amendment is designed to prevent potential abuses involving “loan-back” transactions by taxpayers not dealing at arm’s length with charities. Essentially, loan-back transactions are arrangements involving the transfer of funds or other property to a charity with funds being lent, or other property being leased to, the transferor or a related party. The non-arm’s length transactions and loan-back transactions are designed to earn tax credits or deductions for a taxpayer without having the taxpayer forgo the use of donated funds or other property.*

## **PART II – OFFICIAL DONATION RECEIPTS**

### **Contents**

16. A charity may issue official receipts only while it is registered and must not issue receipts for funds that it will not itself be responsible for spending. Part XXXV of the Regulations requires that each official receipt that a charity issues to acknowledge a donation must contain at least the following:

- a statement that it is an official receipt for income tax purposes;
- the charity’s registration number, name and address in Canada as recorded with Revenue Canada, Charities Division;
- the place or locality where the receipt was issued;
- the day on which or the year during which the donation was received or, where property other than cash is received, the actual date of receipt;
- the day on which the receipt was issued when it differs from the date of the donation;
- amount of the gift; and
- the name and the address of the donor.

Each such receipt must be prepared at least in duplicate (since charities are required to keep on file a copy of every official receipt issued), must be signed by an authorized person, and must bear its own serial number. In addition, where the donation is a gift of property other than cash, the fair market value of the property at the time the gift was made, as well as the date of the gift, a description of the property, and the name and address of the appraiser (if any) of the property, is required. For further information consult the current version of IT-297, *Gifts in Kind to Charity and Others*.

17. Some charities issue an extra copy of the official receipt or issue a temporary receipt. Where this is done, such extra copy or temporary receipt is not to include the registration number of the charity and must contain a notation to the effect that “this copy is for your information only and is not an official receipt for income tax purposes.”

### **Control of Receipts**

18. Charities are expected to guard against the unauthorized use of official receipts. Most charities arrange through a printer for a supply of blank, serially-numbered receipts to be on hand at any given time. The charity must control the use of its receipts and, in the event of lost or stolen receipts, should notify Revenue

Canada, Charities Division at the address noted below. It may be necessary in such circumstances to cancel the registration number and obtain a new one from the Department.

Charities Division  
Revenue Canada  
5th floor  
400 Cumberland Street  
Ottawa ON K1A 0L5

### **Facsimile Signatures**

19. The use of a facsimile signature is permitted under the following conditions:

- the receipts are distinctively imprinted (usually by a commercial printer) with the name, address, and registration number of the charity;
- receipts are serially numbered by a printing press or numbering machine; and
- all unused receipt forms are kept at the charity's Canadian addresses.

The requirements with respect to the contents of official receipts as discussed above are applicable whether or not a facsimile signature is used.

### **Lost or Spoiled Receipts**

20. To replace a lost official receipt, a charity may issue a replacement which must contain all required information (see 16 above) plus a notation to the effect that "this cancels and replaces receipt # (insert the serial number of the lost receipt)." The charity's copy of the lost receipt must be retained and marked "cancelled". In the case of a spoiled receipt, all copies must be retained and marked "cancelled," and another receipt may then be issued.

### **Date of Issue/Date of Donation**

21. The "date of issue" is the date on which the receipt was prepared. There are no regulations requiring the issuance of official donation receipts within a particular time frame, but it is suggested that they be issued at least by the last day of February following the year during which the gift was made. The more important date is the date of the donation. Gifts received after the end of the year may not be added to the previous year's donations unless the gift was postmarked in the previous year.

### **Computer Generated Receipts**

22. Computer-generated official donation receipts are acceptable provided these are legible and the integrity of the computer data entries is sufficiently guaranteed. Such guarantees include the circumstances under which the data are entered, stored and protected against alteration. Protection against unauthorized access is a key security precaution.

### **Other Information**

23. For further information on gifts, please refer to the current version of the following publications.

- IT-86      *Vow of Perpetual Poverty*
- IT-111     *Annuities Purchased from Charitable Organizations*
- IT-226     *Gift to a Charity of a Residual Interest in Real Property or an Equitable Interest in a Trust*
- IT-244     *Gifts by Individuals of Life Insurance Policies as Charitable Donations*
- IT-288     *Gifts of Capital Properties to a Charity and Others*
- IT-297     *Gifts in Kind to Charity and Others*
- IT-407     *Dispositions of Cultural Property to Designated Canadian Institutions*
- IT-496     *Non-Profit Organizations*

- IT-504 *Visual Artists and Writers*
- IC75-23 *Tuition Fees and Charitable Donations Paid to Privately Supported Secular and Religious Schools*
- IC80-10 *Registered Charities: Operating a Registered Charity*
- P113 *Gifts and Income Tax*

***If you have any comments regarding the matters discussed in this bulletin, please send them to:***

***Director, Business and Publications Division  
Income Tax Rulings and Interpretations Directorate  
Policy and Legislation Branch  
Revenue Canada  
25 Nicholas Street  
Ottawa ON K1A 0L5***

***Interpretation bulletins can be found on the Revenue Canada Internet site at:***

***<http://www.rc.gc.ca>***

**Explanation of Changes  
for  
Interpretation Bulletin IT-110R3  
*Gifts and Official Donation Receipts***

**Introduction**

The purpose of the *Explanation of Changes* is to give the reasons for the revisions to an interpretation bulletin. It outlines revisions that we have made as a result of changes to the law, as well as changes reflecting new or revised departmental interpretations.

**Reasons for the Revision**

We have revised the bulletin to reflect changes to the *Income Tax Act* resulting from S.C. 1996 c.21 (formerly Bill C-36), Bill C-92 (1996 Federal Budget), the *Notice of Ways and Means Motion to Amend the Income Tax Act* tabled in the House of Commons on February 18, 1997 (1997 Federal Budget), and to describe that a charity may issue a donation receipt for the amount received even if the donor is provided with a non-cash benefit equal to the lesser of \$50 and 10% of the amount of the gift. Except as described in the Notes following ¶s 1, 2 and 15, the comments in the bulletin are not affected by any other proposed legislation that was released before April 10, 1997.

**Legislative and Other Changes**

¶1 (former ¶1 as revised by the Special Release) was revised

- to mention the addition of ecological gifts made after February 27, 1995;
- to note that receipts need not be filed when a return is “E-filed” but the receipts should be retained; and
- to identify other institutions which can issue receipts for charitable donations.

Notes were added following ¶1 to reflect amendments contained in Bill C-92 and the *Notice of Ways and Means Motion to Amend the Income Tax Act* of the 1997 Federal Budget. The amendments increase the limit for charitable donations as a percentage of net income.

New ¶2 discusses the meaning of gifts of “cultural property” and “ecological gifts.” The comments on ecological gifts apply to gifts made after February 27, 1995. The contents of former ¶2, as revised by the Special Release, were moved to the Summary.

A Note was added following ¶2 to reflect an amendment contained in the *Notice of Ways and Means Motion to Amend the Income Tax Act* of the 1997 Federal Budget. The amendment provides rules for the



determination of the fair market value of a gift of a servitude, covenant or easement for ecological gifts.

¶3 was revised to

- move the Note following ¶(a) to ¶15(d), and
- move the second sentence in ¶(b) to ¶9 where it is discussed in greater detail.

¶5 was revised to reflect the Department's position that an auction is not "a like event"; therefore, if a charity sells tickets to attend an auction the charity should not issue a donation receipt for the amount paid for a ticket. An auction is not "a like event" because it does not give the purchaser access to a service or a consumable item which is necessarily purchased with the intention that it be used on a specific date in the near future.

New ¶9 incorporates a comment from the former ¶3(b) and notes that while generally a legal obligation to make a donation would cause the donation to lose its status as a gift, there are exceptions when the obligation is entered into voluntarily and without consideration.

Former ¶s 9 and 10 were consolidated in ¶10 and an additional bulletin was identified where a gift is viewed as having been made despite the donor receiving valuable consideration from the charity.

¶11 introduces an objective test in determining whether a benefit provided by a charity in return for a donation is considered to have a "nominal value."

¶12 discusses situations where the value of a benefit cannot be ascertained and is therefore not considered to have a "nominal value."

The former ¶s 11 - 13, which discussed "inducements," have been deleted.

¶15(d) (former ¶16(d)) was revised to add the comments from the Note in the former ¶3(a).

¶15(f) (former ¶16(f)) has been revised to elaborate on the discussion of donations to a charity that are subject to a general direction.

¶15(g) (former ¶16(g)) has been revised to clarify the issuance of receipts when a donor directs that a gift be made to a foreign affiliate of a registered Canadian charity or a foreign charity. The information formerly contained in Information Circular 84-3, *Gifts in Right of Canada*, can now be obtained from the Client Assistance Section of Charities Division.

A Note was added following ¶15 to reflect an amendment contained in the *Notice of Ways and Means Motion to Amend the Income Tax Act* of the 1997 Federal Budget. The amendment proposes a special tax on charities to prevent potential abuses involving loan-back transactions by taxpayers not dealing at arm's length with charities.

New ¶22 describes the conditions where computer generated receipts are acceptable.

New ¶23 identifies other departmental publications which discuss charitable donations.

Throughout the bulletin, we have made minor changes for clarification or readability purposes and deleted comments that are no longer relevant as a result of the passage of time.