

Canada Revenue Agency

Taxpayer Alert

Warning: Participating in tax shelter gifting arrangements is likely to result in a tax bill!

Despite numerous warnings and audit actions by the Canada Revenue Agency (CRA), taxpayers are still participating in tax shelter gifting arrangements. The CRA is urging taxpayers to avoid these schemes.

The CRA is auditing all gifting arrangements

Taxpayers should be aware that the CRA plans to audit all tax shelter gifting arrangements. Every audit completed to date has resulted in a reassessment of tax, plus interest. In many cases the CRA has denied the “gift” completely. Penalties will be considered, especially where an investor was audited and reassessed for previously participating in a gifting arrangement.

Stats and Facts

- To date, the CRA has reassessed over 26,000 taxpayers who participated in these schemes, and denied about \$1.4 billion in donations claimed.
- Audits of another 20,000 taxpayers involving \$550 million in donation claims are just about complete.
- Audits on other arrangements involving over 50,000 taxpayers are about to begin.

Current Promotions

New schemes are being marketed that claim to be different from those for which the CRA has previously issued warnings. Taxpayers should avoid all schemes that promise donation receipts for 3 to 4 times the cash payment. It is the CRA’s position that the proposed legislation, effective since 2003, will apply to reduce the donation credit to no more than the actual cash payment. Furthermore, as indicated above, completed audits have shown that there was effectively **no gift** being made in many cases, and as a result, the donation was reduced to zero.

Packages promoting these schemes sometimes include letters of commendation about the particular charity, which can give the impression of endorsing the scheme itself. These letters should not be interpreted as providing any assurance that these schemes do what they claim to be doing or that the promised tax benefits are in accordance with the *Income Tax Act*.

Get professional, independent advice

If you are still thinking about participating in a tax shelter gifting arrangement, it’s very important that you get independent legal and tax advice. Independent advice means advice from a tax professional that is **not** connected to the scheme or promoter. If property is involved, you should also get independent advice on its true value. Packages from promoters will often claim to have legal or tax opinions from a law firm. You may find that these opinions contain very general comments and do not provide unconditional support for the scheme. Ask to see them, and have them reviewed by an independent professional.

In addition, participants who have been reassessed for previous participation in these schemes may also wish to obtain independent tax advice to determine their best options.

Tax shelter identification numbers

The CRA reminds taxpayers that tax shelter numbers are used for **identification purposes only**. These numbers identify both the schemes and those taxpayers who participate in them. They do not guarantee that taxpayers are entitled to receive the proposed tax benefits.

Not been contacted by the CRA yet?

The CRA generally has three years from the date of assessment to reassess taxpayers, and these audits can take over a year to complete. The fact that investors in these tax shelters have not been contacted and/or reassessed should not be interpreted as the CRA's acceptance of their claim.

Previous Tax Alerts and Fact Sheets

For more information on previous tax alerts and fact sheets, please visit the Taxpayer Alert section of CRA's website at www.cra-arc.gc.ca.

Tax Alerts:

Tax shelter donation arrangements (October 2006)
Tax shelter donation arrangements (November 2005)

Fact sheets:

Tax shelter donation arrangements (November 2004)
Tax shelter donation arrangements (November 2003)
Art-donation schemes or "art flipping" (November 2002)
Canada Customs and Revenue Agency Reminds Investors of Risks Associated with Tax Shelters (November 2000)
Warning on Art Donation Scheme (December 1999)
What is a Tax Shelter? (February 1998)