

Qualified donees – Consequences of returning donated property

Guidance

Reference number

CG-016

Issued

October 19, 2012

Summary

Qualified donees that return property after March 21, 2011, must file an information return if an official donation receipt was issued for the original property, and if the returned property has a fair market value of more than \$50. The information return must be filed within 90 days after the day the property is returned. This allows the Canada Revenue Agency (CRA) to disallow a tax credit or deduction that was claimed in a prior year in relation to the returned property.

General caution

These provisions do not address whether a transfer of property to a qualified donee was a gift at law, nor do they confirm whether a qualified donee can legally return a gift. Before returning donated property, qualified donees should determine if other provincial or federal legislation may affect their ability to legally return donated property.

Caution for registered charities

In rare and unique circumstances, there may be a legal requirement for a donee to return a gift. As a general rule, however, a registered charity cannot return a gift. The *Income Tax Act* requires a registered charity to devote its resources exclusively to its charitable purposes and activities, and prohibits it from making gifts to non-qualified donees. So, a registered charity that returns donated property could be regarded as making a gift to a non-qualified donee, or providing an undue benefit, which are contraventions of the Act and could result in [sanctions](#) that include revocation of registered status. Registered charities are also subject to provincial and other federal legislation, as well as common law, particularly the law of trusts, all of which might affect their ability to legally return donated property to donors.

Commentary

A qualified donee that issued an official donation receipt and later returns donated property must file an information return with the CRA if the fair market value of the property is greater than \$50 when it is returned, and the property is returned after March 21, 2011. The information return must be filed within 90 days after the day the property is returned. The qualified donee must also give the donor a copy of the information return.

This provision applies whether the property returned is:

- the same property that was donated;
- property that is identical to the donated property; or
- a substitute for the donated property.

This provision does not apply if property is transferred to a donor as reasonable consideration or payment for another property or services.

Contents of the information return

The information return is simply a letter that must include all of the following information:

- a description of the returned property;
- the fair market value of the returned property at the time it is returned;
- the date on which the property is returned;
- the name and address of the person that the property is being returned to including, in the case of an individual, their first name, initial, and last name; and
- the information contained in the original donation receipt, or a duplicate copy of the original receipt, if the property is being returned by the qualified donee that originally issued the receipt or a person not at [arm's length](#) with the qualified donee.

Send the completed return to:

Audit Section
Compliance Division
Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

Implications for donors

A donor's income tax return may be reassessed for any claim that can reasonably be regarded as relating to the returned property. Consequently, the portion of the charitable donation tax credit or deduction related to the property may be disallowed. Other consequential adjustments may also be made to the return if applicable (for example, to address the original disposition of the property).

References

- *Income Tax Act*, ss. 149.1, 110.1(14) to (17), 118.1(25) to (28), 168(1)(c), 188.1 and Reg. 3501.1

Sample information return for donated property returned by a qualified donee

This sample is for reference only. Your return does not have to appear exactly as presented, but it must contain all the required information.

Audit Section, Compliance Division
Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5

August 23, 2012

Subject: Information return for donated property returned by a qualified donee

Dear Sir/Madam:

On June 15, 2012, ABC charity, BN 123456789 RR0001 returned donated property with a fair market value over \$50 on that date. We are filing this information return for the returned property as required under the *Income Tax Act*.

We are returning the donated property because...

[Although it is not required under this provision, the qualified donee can include the reason they returned the property. For registered charities, in particular, this will allow the CRA to determine if there are additional tax issues that need to be addressed.]

The required information relating to the returned property is listed below:

- Description of returned property: 10 shares of Pubco
- Fair market value of the returned property at the time it was returned: \$1,500
- Date the property was returned: June 15, 2012
- Name of the person the property was returned to: John W. Doe
- Address of the person the property was returned to: 456 Any Street, Ottawa ON A1A 2B2

We issued the original donation receipt and the information contained in that receipt (or a copy of the receipt) is included below:

- Receipt #: 0001
- Name of Charity: ABC Charity
- Canadian charity address: 789 Anywhere Lane, Unit 2, Ottawa ON A1A 2C2
- Charity BN/Registration#: 123456789 RR0001
- Date donation received: April 5, 2010
- Donor name: John W. Doe
- Donor address: 456 Any Street, Ottawa ON A1A 2B2
- Eligible amount of gift for tax purposes: \$1,600 (fair market value of property)
- Description of property received by charity: 10 shares of Pubco
- Appraiser name: Bob D. Assessor
- Appraiser address: 123 New Street, Ottawa ON A1A 3C3
- Date receipt issued: May 6, 2010
- Location issued: Ottawa
- Authorized signature: Gerry C. Friend, Treasurer

If you require additional information, please contact me at 613-123-4567.

Sincerely,

Jane Q. Smith
President, ABC Charity

Date Modified: 2012-10-18