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Gift to charity

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March 26, 2007

Window On Canadian Tax Commentary

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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: Clarification of our comments in 2003-004495 relating to the completion of a gift.

POSITION: General comments.

REASONS: Where a gift is subject to a condition precedent that legal title must be transferred to the donee, the condition precedent must be satisfied before the gift can be considered to be completed. Absent the transfer of legal title constituting a condition precedent, a gift is considered to be completed when beneficial ownership of the gifted property is transferred to the donee.

XXXXXXXXXX

2007-022839

March 26, 2007

Dear XXXXXXXXXXXX:

Re: Gift to Charity

This is with regard to our letter to you dated February 9, 2004 (our reference 2003-004495). It has come to our attention that a comment made therein lacks clarity and therefore may be confusing to some readers. Specifically, we indicated "an official tax receipt can only be issued once the gift is completed which requires legal title to the gifted property to be transferred to the donee." The intended context of this statement was in reference to the preceding sentence which indicated that "where the gift is subject to a condition precedent, the gift cannot be completed before that condition is satisfied." Accordingly, if the transfer of legal title to the donee is a condition precedent, this condition must be satisfied before the gift can be considered to be completed.

Absent the transfer of legal title constituting a condition precedent, a gift would be considered to be completed when beneficial ownership of the gifted property has been transferred to the donee.

Yours truly,

F. Lee Workman
Manager
Charitable and Financial Institution Sectors
Financial Sector and Exempt Entities Division
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