

9924098 -- Gifts of United States non-profit organization

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the Department. Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle du ministère.

**PRINCIPAL ISSUES:** Whether a gift by a Canadian resident to a NPO in the U.S. is considered to be a gift to a registered charity.

**POSITION:** If the organization qualifies under section 501(c)(3) of the U.S. Internal Revenue Code, it will qualify for the purposes of paragraph 6 of Article XXI of the Canada-U.S. treaty.

**REASONS:** See Registered Charities Newsletter - Autumn 1996

Signed on October 7, 1999 XXXXXXXXXXXX

Dear XXXXXXXXXXXX : The Honourable Martin Cauchon, Minister of National Revenue, has asked me to reply to your letter of August 13, 1999, concerning the issuance of charitable donation receipts to Canadian donors. You have indicated in your letter that XXXXXXXXXXXX . is a non-profit organization that qualifies under section 501(c)(3) of the U.S. Internal Revenue Code. Since your organization has received cash and gifts in kind from several Canadian donors, you have asked whether your organization can issue charitable donation receipts to these donors for Canadian income tax purposes. Pursuant to paragraph 6 of Article XXI of the Canada-U.S. Income Tax Convention , gifts made by a resident of Canada to an organization which is resident in the United States which is generally exempt from U.S. tax and which could qualify in Canada as a registered charity if it were created or established and resident in Canada, will be treated as gifts to a registered charity. Generally, the taxpayer may claim a tax credit for such gifts to the extent they do not exceed 75 per cent of the taxpayer's income from U.S. sources. The Department accepts that any organization that qualifies under section 501(c)(3) of the U.S. Internal Revenue Code will qualify for the purposes of paragraph 6 of Article XXI of the Canada-U.S. Income Tax Convention. In this regard, we have attached a copy of a Registered Charities Newsletter regarding the procedures with respect to paragraph 6 of Article XXI. Under subsection 118.1(9) of the Income Tax Act, an individual who resided in Canada near the

Canada and U.S. border throughout a taxation year and commuted to his or her principal place of employment or business in the United States may claim a tax credit for gifts made to a religious, charitable, scientific, literary or educational organization created or organized under U.S. law. Such gifts are not limited to U.S. source income but are included in the individual's "total charitable gifts" and are treated in the same manner as gifts to Canadian registered charities. To qualify under this provision, the individual's chief source of income for the year must be from that employment or business. If a Canadian donor does not have any U.S. source income, the donor will be entitled to claim a tax credit for gifts to a U.S. charity only if Her Majesty in right of Canada had made a gift to the U.S. charity within the donor's taxation year or the 12 months immediately preceding that particular year. Finally, I have enclosed a copy of Interpretation Bulletin IT-110R3 which sets out the information to be provided on an official donation receipt. In the case of a U.S. charity, it will not have a registration number but it should indicate that it qualifies under section 501(c)(3) of the U.S. Internal Revenue Code. Also enclosed is a copy of Interpretation Bulletin IT-297R2 which contains information on gifts in kind. I trust this information is of assistance.

Yours sincerely,

Bill McCloskey Assistant Deputy Minister Policy and Legislation Branch Attachments J. Leigh  
952-1505 992409 September 29, 1999

END OF DOCUMENT