

The following material can be referenced on the Charitable Directorate website and address specific issues related to acceptable and unacceptable receipting practices for Charities.

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## When can a charity issue a donation receipt?

Under the *Income Tax Act*, a charity can issue official donation receipts for income tax purposes for donations that legally qualify as gifts.

A gift is defined as a voluntary transfer of property without valuable consideration.

**To qualify as a gift, all three of the following conditions must be met:**

- Some property, either in the form of cash or a gift-in-kind, is transferred by a donor to a registered charity.
- The property is given voluntarily. The donor must not be obliged to part with the property, for instance as the result of a larger contract or a court order.
- The donor is transferring the property to the charity without expecting anything in return. No benefit of any kind may be provided to the donor or to anyone designated by the donor as a result of a gift.

To issue an official donation receipt, a registered charity must determine whether or not the donation constitutes a gift.

A registered charity can only issue an official donation receipt to the individual or organization that made the gift and the name and address of the donor must appear on the receipt.

A charity cannot issue an official donation receipt in the name of anyone but the true donor.

Once a registered charity has determined that a gift has been made, it must determine the eligible amount of that gift for receipting purposes in order to issue an official donation receipt.

To determine the eligible amount of a gift, a charity must know:

- The fair market value of the donated property; and
- The fair market value of any advantage provided to the donor.

Before the charity can issue an official donation receipt, any advantage must normally be deducted from the fair market value of the donation.

## What can and cannot be receipted?

### What types of transactions generally do not qualify as gifts and thus cannot be receipted?

- a court ordered transfer of property to a charity;
- the payment of a basic fee for admission to an event or to a program;
- 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 that exceeds 80% of the value of the payment;
- a payment for a lottery ticket or other chance to win a prize;
- the purchase of goods or services from a charity;
- a donation for which the fair market value of the advantage or consideration provided to the donor exceeds 80% of the value of the donation;
- a gift in kind for which the fair market value cannot be determined;
- donations provided in exchange for advertising/sponsorship;
- gifts of services (for example, donated time, labour);
- gifts of promises (e.g. gift certificates donated by the issuer, hotel accommodation);
- pledges
- loans of property
- use of a timeshare
- the lease of premises

### Can a charity issue a receipt in lieu of a speaking fee at a conference?

**No.** The *Income Tax Act* only permits a registered charity to issue official donation receipts for income tax purposes for gifts.

- To be considered a gift, **there must be a transfer of property**. Contributions of services (*i.e.*, time, skills or effort) are not property. Therefore, they do not qualify as gifts for purposes of issuing official donation receipts.
- However, a charity may issue an official donation receipt if a person provides a service to the charity, the charity pays for the service, and the person then chooses to return an amount to the charity as a gift.

### Can a charity provide a donation receipt for a pledge?

**No.** A pledge or promise to make a gift is not in itself a gift. Therefore, a registered charity cannot issue an official donation receipt for a pledge. However, when a donor honours a pledge, a receipt can be issued.

### Can a charity provide a donation receipt to sponsors?

**No.** Sponsorship is when a business makes a donation to a charity and, in return, receives advertising or promotion of its brand, products or services. Providing sponsorship to a charity or to a charitable event is not a gift, and a charity generally cannot issue a receipt for sponsorship.

## **How can a registered charity thank a business for its donation and still issue that business an official donation receipt?**

A charity is certainly allowed to thank its donors. If a business receives the same level of recognition as all other donors, with no special treatment, and the recognition is nominal, this usually constitutes a simple acknowledgment, and a receipt may be issued for the full amount of the donation.

However, while a simple "thank you" is not an advantage, advertising is. If a business receives special recognition for its donation, or if it receives more than nominal recognition (for example, banners, advertising of products), this usually constitutes sponsorship.

It is difficult, if not impossible to establish a fair market value for sponsorship, and when the fair market value cannot be determined, a receipt cannot be issued.

## **Can a registered charity issue official donation receipts for gift certificates?**

This depends on whether or not the donor is the issuer of the gift certificate. An issuer is the person (individual, retailer or business) that creates the gift certificate. A gift certificate purchased from the issuer and then donated to a charity is considered property and may be receipted for its eligible amount. However, a certificate donated by the issuer is not property, but rather a promise, and may not be receipted.

Thus a registered charities can issue an official donation receipt when

- the donor is not the issuer of the gift certificate; and
- the donor has purchased the gift certificate either from the issuer or another third party.

## **Can a registered charity receipt an anonymous gift?**

**Yes.** Under the *Income Tax Act*, an official donation receipt must show the name and address of the donor (and for an individual, his or her first name and initial).

However, the Canada Revenue Agency has made an administrative decision to allow registered charities to issue official donation receipts for anonymous gifts if the following procedures are followed:

- the donor establishes an agency or trust agreement to make the anonymous gift;
- the donor appoints an agent for the purpose of making a gift on behalf of the donor;
- the agent agrees to hold the funds in trust for the donor;
- the donor directs the agent to make a gift to a registered charity on the donor's behalf;
- the agent agrees to direct the registered charity to issue a receipt in the amount of the gift in the name of the agent in trust; and
- the agent agrees to deliver the receipt to the donor for the purpose of establishing the details of the donation.

## **Can a charity provide a donation receipt for a gift directed to a specific person, family, or other non-qualified donee?**

**No.** Donors cannot choose the beneficiaries of their donations. A charity must have full discretion in deciding how to allocate its funds. When a charity does not have ultimate control over donated funds, or when a benefit accrues to the donor from donated funds, these funds do not constitute a gift and are not eligible for an official donation receipt.

A donor may be able to direct a gift towards a person, family, or other non-qualified donee if they have been identified beforehand by the charity as a recipient of its charitable program. However, the charity must be able to re-allocate all donated funds to other charitable programs or activities when it deems appropriate.

A donation subject to a general direction from the donor that the gift be used in a particular program operated by the charity is acceptable, provided that no benefit accrues to the donor or anyone not at arm's length to the donor.

## **Receipting practices**

### **Does a registered charity have to issue official donation receipts for gifts it receives?**

**No.** Receipting carries with it a certain administrative burden, and receipted donations increase a registered charity's spending obligation. Therefore, registered charities may choose to issue receipts according to certain criteria, or they may choose not to issue receipts at all.

- Some registered charities set minimum donation thresholds for receipting. Others do not provide receipts during certain fundraising events.
- Remember that donors cannot claim a charitable tax credit or deduction unless they are issued an official donation receipt. Therefore, registered charities are strongly advised to make potential donors aware of any circumstances in which a receipt will not be issued.

### **When should a charity issue a receipt?**

There is no requirement in the *Income Tax Act* for a registered charity to issue an official donation receipt or that it issue a receipt within a certain timeframe.

The Canada Revenue Agency (CRA) suggests that registered charities issue receipts by February 28 of the calendar year that follows the year of the donation. This allows individual taxpayers to claim their donations on their annual income tax returns.

A registered charity may issue receipts periodically through the year or, for cash donations, issue one cumulative receipt for the year.

A separate receipt must be issued for each gift in kind (non-cash) donation.

### **How can a charity correct errors on printed receipts?**

We recommend that a registered charity use a stamp that clearly shows a change of name, address, or registration number if it wants to use its remaining stock of official donation receipts before ordering a new supply. The charity should also make sure that any incorrect information is crossed out, either by stamp or by hand.

### **How can a charity replace a lost or spoiled receipt?**

To replace a **lost** receipt, a registered charity can issue a replacement, which must contain all the required information plus the serial number of the lost receipt. The replacement receipt should also state that it "cancels and replaces the lost receipt." The charity's copy of the lost receipt should be kept and marked "cancelled."

For a **spoiled** receipt, a registered charity can issue a new receipt but must keep the original copies (both the donor's and charity's) marked "cancelled".

## **Electronic Receipting Practices**

### **Can a charity issue computer-generated receipts?**

**Yes.** Computer-generated official donation receipts are acceptable as long as they are legible and the data is sufficiently protected from unauthorized access. To protect computer-generated receipts from unauthorized access, registered charities should ensure that:

- the computer system used to store the receipts is password protected and restricts entry to and modification of donor contribution records;
- donor records are stored on non-erasable media, such as CD-ROMs or printouts, with copies kept off-site for recovery purposes; and
- hard copies of issued receipts can be printed on request.

### **Can official donation receipts be sent by email?**

**Yes.** However a charity should take the following precautions to protect its electronic receipts:

- receipts should be in a read-only or non-editable format;
- receipts should be protected from hackers through the use of appropriate software;
- the document should be encrypted and signed with an electronic signature;
- the use of a secure electronic signature should be kept under the control of a responsible individual authorized by the charity; and
- copies of email-issued receipts must be retained by the charity.

### **Can receipts be issued with facsimile signatures?**

**Yes.** A facsimile signature can be used under the following conditions:

- all copies of 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 registered charity's Canadian address (this address must be the address recorded with the Canada Revenue Agency).

## Returning gifts to donors

### Can a registered charity return a gift to a donor?

In most cases, a registered charity cannot return a donor's gift. At law, a gift transfers ownership of the money or other gifted property from the donor to the charity. Once the transfer is made, the charity is obliged to use the gift in carrying out its charitable purposes.

However, a charity may try to retain the goodwill of donors seeking the return of their gifts by offering to transfer the gifted property to another registered charity.

### When must a registered charity return gifts to donors?

A charity is occasionally obliged by law to return gifts to donors. This can happen, for instance, when a charity asks the public to contribute to a special project and later events make it impossible to carry out the project. Under certain laws, ownership of the gifted property can revert to the donors if the project becomes impossible to fulfill.

The return of gifts to donors falls more appropriately under trust law than the *Income Tax Act* and is ultimately a matter for a court to decide. A charity may wish to consult legal counsel in these instances. We also strongly suggest that the charity, or its legal counsel contact the Charities Directorate if it appears that the charity may have to return gifts to donors.

### How can a charity avoid having to return gifts to donors?

When a charity is seeking funds for a special project, we recommend that the charity clearly inform donors, and/or state in its fundraising material, before accepting any donations, what it will do with the money if the project cannot be carried out or if more money is collected than the project requires. The charity could state, for example, that it will apply any unused donations to its other programs.

## Third party Issues

### Can a charity have an organization carry on a fundraiser for it and issue receipts?

A registered charity can engage a third-party organization or retain a fundraiser as an agent or other contractor to organize a fundraising event such as a golf tournament. However, the charity should maintain control over all the monies that are received as part of the event, and over any receipts that are issued.

**An organization held a fundraiser on behalf of a charity and asked the charity to issue receipts to attendees. Can the charity do this?**

No. A registered charity can contract an organization to carry on activities on its behalf.

However, when an activity is carried on that a charity is not aware of, it is not possible to say that this is an activity of the charity. So the charity cannot issue receipts.

## **Consequences for improper receipting practices**

**Can a charity lend its registration number to another organization for receipting purposes?**

**No.** Under no circumstances should a registered charity lend its registration number to another organization for receipting purposes. A registered charity is responsible for all tax receipts issued under its name and number and must account for the corresponding donations on its annual information return. A charity that lends its registration number risks losing its charitable registration.

**What are the consequences for charities that issue receipts with incorrect or false information?**

A registered charity that issues an official donation receipt that includes incorrect or incomplete information is liable to a penalty equal to 5% of the eligible amount stated on the receipt. This penalty increases to 10% for a repeat offence within five years.

A registered charity that issues an official donation receipt that includes deliberately false information is liable to a penalty equal to 125% of the eligible amount stated on the receipt. If the charity is liable for penalties in excess of \$25,000 for issuing false receipts, that charity is also liable to one year's suspension of its charitable status. A registered charity that contravenes or continues to contravene the receipting requirements of the *Income Tax Act* could also have its registration revoked.