

LANGIND E  
DOCNUM 2010-0377811E5  
AUTHOR Boyle, Andrea  
DESCKEY 25  
RATEKEY 2  
REFDATE 100913  
SUBJECT Charitable Donation  
SECTION 118.1  
SECTION  
SECTION  
SECTION  
\$\$\$\$

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: Whether, in a subsequent year, a taxpayer can claim charitable donations previously reported and carried forward on a spouse or common law partner's personal tax return.

POSITION: Yes.

REASONS: The CRA's administrative practice allows a taxpayer to initially choose which spouse or common law partner will report a donation or gift and allows for the subsequent transfer of any carryforward balances from one to the other.

XXXXXXXXXX

2010-037781  
Andrea Boyle, CGA

September 13, 2010

Dear XXXXXXXXXXXX :

Re: Charitable Donations

I am writing in reply to your letter dated July 30, 2010, in which you asked whether a husband can use his wife's charitable donation carryforward balance. In the situation which you have described the wife reported a charitable gift and used a portion of the eligible amount on her personal tax return in year one and the husband would like to claim the balance of the donation amount on his personal tax return in year two.

The particular situation outlined in your letter appears to relate to a factual one, involving specific taxpayers. Written confirmation of the tax implications inherent in particular transactions is given by this Directorate only where the transactions are proposed and are the subject matter of an advance income tax ruling request submitted in the manner set out in Information Circular 70-6R5, Advance Income Tax Rulings, dated May 17, 2002. Where the particular transactions are completed, the inquiry should be addressed to the relevant tax services office. We are, however, prepared to offer the following general comments, which may be of assistance.

All statutory references in this letter are references to the provisions of the Income Tax Act, R.S.C. 1985 (5th supp.) c. 1, as amended.

While there is no authority in law for doing so, it is the Canada Revenue Agency's administrative practice to accept gifts made by the spouse or common law partner of that individual as part of an individual's "total charitable gifts" as defined

in subsection 118.1(1). Pamphlet P 113 Gifts and Income Tax 2009 provides some indication of how this administrative practice is applied:

If you are filing a paper return, include your Schedule 9, as well as your official receipts showing either your or your spouse's or common-law partner's name.

...

You have to claim tax credits for gifts you carried forward from a previous year before you claim tax credits for gifts you give in the current year. If you are claiming a carryforward, attach a note to your return indicating the year of the return with which you submitted the receipt, the portion of the eligible amount you are claiming this year, and the amount you are carrying forward.

Under the Canada Revenue Agency's administrative policy, it is permissible for a charitable donation that was initially reported on one spouse or common-law partner's return to be transferred to the other spouse or common-law partner in a subsequent year. Taxpayers should provide all the relevant details regarding the transfer with their submitted returns to ensure that the claim is allowed and the carry forward balance is adjusted accordingly.

We trust that these comments will be of assistance.

Yours truly,

Randy Hewlett  
Manager  
for Director  
Ontario Corporate Tax Division  
Income Tax Rulings Directorate  
Legislative Policy and Regulatory Affairs Branch