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# Income Tax Folio S7-F1-C1, Split-receipting and Deemed Fair Market Value

## Series 7: Charities, Non-profit Organizations, and other Tax Exempt Entities

### Folio 1: Charitable Gifts and Deductions

#### Chapter 1: Split-receipting and Deemed Fair Market Value

## Summary

The purpose of this Chapter is to provide the Canada Revenue Agency (CRA)'s views on the application of subsections 248(30) to (41), which include the rules commonly referred to as the **split-receipting rules** and the **deemed fair market value rule**. These rules were enacted on June 26, 2013 and are generally applicable to charitable gifts made after December 20, 2002. In effect, the meaning of a **gift** under common law is modified for purposes of the split-receipting rules. The rules allow for the recognition of a gift for income tax purposes in certain circumstances where there is a transfer of property for partial consideration. Such a transfer may already result in a gift under civil law in certain circumstances.

This Chapter also provides guidelines on how to determine:

- whether there is a gift;
- the amount of the advantage in respect of the gift; and
- the eligible amount of the gift in common fundraising situations.

Persons seeking a less technical discussion of the split-receipting rules may prefer to first review [Pamphlet P113, Gifts and Income Tax](#).

The CRA issues income tax folios to provide technical interpretations and positions regarding certain provisions contained in income tax law. Due to their technical nature, folios are used primarily by tax specialists and other individuals who have an interest in tax matters. While each paragraph in a chapter of a folio may relate to provisions of the law in force at the time it was written (see the [Application](#) section), such comments are not a substitute for the law. The reader should, therefore, consider such comments in light of the relevant provisions of the law in force for the particular tax year being considered.

The CRA may have published additional guidance and detailed filing instructions on matters discussed in this Chapter. See the [CRA Forms and publications](#) web page for this information and other topics that may be of interest.

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## Discussion and interpretation

### Meaning of the term gift

**1.1** The Act encourages taxpayers to support the activities of registered charities and certain other recipients (**qualified donees**) by allowing gifts to such donees to qualify for special tax treatment. If the gift is made by a corporation, section 110.1 allows the corporation a deduction in computing taxable income. A non-refundable tax credit under section 118.1 is available if the gift is made by an individual. Because the term **gift** is not defined in the Act, it is necessary to refer to the applicable common or civil law for its meaning.

**1.2** Under the common law, “a gift is a voluntary transfer of property owned by a donor to a donee, in return for which no benefit or consideration flows to the donor” (The Queen v Friedberg, [1992] 1 CTC 1, 92 DTC 6031 (FCA)). Generally, for purposes of sections 110.1 and 118.1, a gift under common law is made if a taxpayer has donative intent, and all three of the following conditions are satisfied:

- there must be a voluntary transfer of property to a qualified donee;
- the property transferred must be owned by the donor; and
- no benefit or consideration must flow to the donor.

**1.3** Under the civil law, Article 1806 of the Civil Code of Québec (C.C.Q.) provides that a gift is a contract by which the donor transfers ownership of property to the donee by gratuitous title.

It is generally accepted that a transfer is made by gratuitous title when:

- the transfer impoverishes the donor to the benefit of the donee and is made without any corresponding consideration; and
- it is the donor's intention to enrich the donee without receiving any corresponding consideration.

The donor's intention to enrich the donee does not need to involve the full value of the transferred property. Therefore, a transfer of property for partial consideration may result in a gift under the civil law. For example, under the civil law, it is possible to sell a property to a qualified donee at a price below fair market value, resulting in a gift of the difference, if all the other requirements of the civil law are met. Article 1810 of the C.C.Q. also formally recognizes the validity of gifts with partial consideration that are remunerative gifts or gifts with a charge.

**1.4** The paragraphs that follow discuss the rules in subsections 248(30) to (41), including those that deal with the tax implications of a transfer of property for partial consideration in the context of charitable giving.

## **Split-receipting – intention to give**

**1.5** Subsection 248(30) allows for the recognition of a gift for tax purposes in certain circumstances even though some form of benefit or consideration flows back to the taxpayer. Under this rule, the existence of an amount of an advantage in respect of a transfer of property to a qualified donee does not in and of itself disqualify the transfer from being a gift for tax purposes. Specifically, under paragraph 248(30)(a), a gift can be recognized if the amount of the advantage does not exceed 80% of the fair market value of the transferred property. If the amount of the advantage exceeds 80% of the fair market value of the transferred property, the transfer might nevertheless qualify as a gift for tax purposes under paragraph 248(30)(b). To qualify, the taxpayer must be able to establish to the satisfaction of the Minister that the transfer was made with the intention to make a gift. It is the CRA's view that even if the requirements in paragraph 248(30)(a) or (b) are met, the other requirements with respect to whether a transfer of property qualifies as a gift at law must still be met.

**1.6** When a registered charity makes a gift to another qualified donee, subsection 248(40) provides that subsection 248(30) does not apply.

## **Eligible amount of a gift**

**1.7** The tax deduction or credit for purposes of sections 110.1 and 118.1 is based on the **eligible amount** of a gift. The eligible amount of a gift is defined in subsection 248(31) as the amount by which the fair market value of the property that is the subject of a gift (**gifted property**) exceeds the **amount of the advantage**, if any, in respect of the gift.

**1.8** Generally, if there is no advantage, the eligible amount of the gift is the fair market value of the gifted property (see exceptions in ¶1.29 to 1.32). Where appropriate, the donee should consider obtaining a qualified independent valuation of the fair market value of the gifted property.

### Advantage in respect of a gift

**1.9** The **amount of the advantage** is defined in subsection 248(32) as the total value, at the time the gift is made, of any property, service, compensation, use or other benefit that the taxpayer obtained, received or enjoyed as consideration for, in gratitude for or in any other way related to the gift. An advantage might exist even though it is not received at the time of the gift. For example, it might have been received prior to the time of the gift or may be contingent or receivable in the future. The advantage might accrue either to the taxpayer or to a person or partnership not dealing at arm's length with the taxpayer. Furthermore, it is not necessary that the advantage be received or receivable from the qualified donee.

In addition, the amount of the advantage includes any **limited-recourse debt** in respect of the gift at the time the gift is made (see ¶1.39).

Income Tax Folio S1-F5-C1, Related Persons and Dealing at Arm's Length, discusses the meaning of arm's length and non-arm's-length.

**1.10** Any advantage in respect of a gift must be clearly identified and its value ascertainable. Where appropriate, the donee should consider obtaining a qualified independent valuation of the amount of the advantage. If the value of the advantage cannot be reasonably ascertained, the eligible amount of the gift cannot be determined and an official receipt cannot be issued.

**1.11** Section 3501 of the Regulations describes the information that must be included on the official receipt when one is issued. Where there is an advantage, the receipt must include a description and the amount of the advantage in addition to the other required information.

### Nominal threshold

**1.12** A taxpayer might receive an advantage from a qualified donee as a token of gratitude for making a gift. Such tokens often have a nominal value. Accordingly, the CRA administratively provides for a **nominal threshold** that simplifies matters for both taxpayers and qualified donees where such advantages are insignificant. If the amount of an advantage received by the taxpayer does not exceed the lesser of 10% of the fair market value of the gifted property and \$75, it will not be regarded as an advantage for the purposes of determining the eligible amount.

**1.13** The nominal threshold does not apply to cash or near-cash items (for example, gift certificates and gift cards). An advantage is not considered nominal if its fair market value cannot be ascertained.

### Fundraising guidelines

**1.14** The following general guidelines may assist in determining the existence of an advantage at fundraising events:

- The attendance of celebrities at fundraising events will not be viewed as an advantage per se. However, any incremental amount paid for the right to participate in an activity with a particular individual (for example, dinner or golf) would not be viewed as a gift.
- Participants might receive complimentary benefits (for example, pens and key chains) and/or be eligible for door and achievement prizes by simply attending the event. The value of any complimentary benefits and door and achievement prizes will be viewed as an advantage unless the total value of such items, per ticket sold or per attendee, is within the nominal threshold. For this purpose, the total value of door and achievement prizes will be allocated to all participants on a pro rata basis.
- The value of the activity that is the object of the fundraising event is to be taken into account in determining the amount of the advantage. This would apply, for example, to the value of a meal at a fundraising dinner, a ticket to a charity concert, or green fees, cart rental and meal at a fundraising golf tournament. The value of the activity that is the object of the fundraising event will not be considered for purposes of applying the nominal threshold.

The guidelines in ¶1.15 to 1.22 address specific fundraising events.

Fundraising dinners

**1.15** Where there is a fundraising dinner, the value of a comparable meal provided by a comparable facility determines the amount of the advantage. If the event is held at a restaurant, then the price the restaurant would charge a regular customer would be the comparable value. In this regard, it is acceptable to take into account group or banquet rates.

Example 1

A registered charity holds a fundraising dinner for which 500 tickets are sold for \$250 each.

- A comparable meal could be purchased for \$100, excluding harmonized and any other sales taxes and gratuities.
- The total value of the door prizes is \$3,500. Based on 500 tickets sold, the value per ticket is \$7.
- Each attendee receives a logo pen and a key chain with a total retail value of \$10.

The door prizes, the key chain and the logo pen are complimentary benefits or items provided to all participants for attending the fundraising dinner.

The total value of the door prizes and complimentary items is \$17 per ticket sold, which is less than the lesser of 10% of \$250 (\$25) and \$75. This means that by applying the nominal threshold, the value of the door prizes and the complimentary items will not be viewed as an advantage in determining the eligible amount.

Determination of the eligible amount for Example 1

Ticket price	\$250
Less: meal	\$100
Less: complimentary items/door prizes	\$0
<b>Eligible amount</b>	<b>\$150</b>

The amount of the advantage is \$100, which is not more than 80% of the ticket price (\$200). Accordingly, an official receipt may be issued for the eligible amount of \$150.

## Charity auctions

**1.16** Generally, it is the CRA's position that there will not be an eligible amount with respect to items purchased at charity auctions on the basis that the bid determines the value of the various items put up for auction. Therefore, with regard to certain personal items (for example, the jersey of a hockey player, the right to play golf with a particular person or the right to dine with a particular person), the value of the item will be the amount of the bid. As a result, there will not be an eligible amount.

**1.17** However, where the value of an item is clearly otherwise ascertainable (for example, there is a retail price for the item) and made known to all bidders in advance, an eligible amount might be present where the amount of the bid is in excess of the posted value (advantage). As noted in ¶1.5, a gift can be recognized if the amount of the advantage does not exceed 80% of the fair market value of the transferred property. Therefore, where the posted value of the item does not exceed 80% of the accepted bid, an official receipt can be issued for the eligible amount, computed as the amount by which the accepted bid exceeds the posted value.

**1.18** The right to participate in an auction to be held at a fundraising event will not be viewed as an advantage.

### Example 2

One of the items available at a charity auction is a mountain bike. The bike was donated by a corporate retailer from its inventory and has a retail value of \$400. The retailer's cost was \$250. The \$400 retail value is posted with the bike at the auction. Mr. X bids \$500 and wins the bike.

#### **Tax treatment for the successful bidder:**

Since the retail value of \$400 does not exceed 80% of the bid amount of \$500, Mr. X is entitled to an official receipt for the difference. An official receipt for the eligible amount of \$100 could therefore be issued.

#### **Tax treatment for the corporate retailer:**

If the donation of the bike represents a gift by the retailer, the retailer will be deemed to receive proceeds of \$400, pursuant to paragraph 69(1)(b). The retailer will also have a donation deduction of \$400. The retailer would also be entitled to deduct the \$250 cost of the bike.

If the retailer characterizes the transfer of the bike as a promotion or advertising expense instead of a gift, the retailer will only be entitled to deduct the bike cost of \$250.

## Lotteries/raffles

**1.19** It is the CRA's view that participants in lotteries, while perhaps influenced in choosing which lottery they will participate in by the identity of the organizing charity, are primarily motivated by the chance to win the prizes that are offered. Therefore, while there may be an element of a gift in some cases, the amount of the advantage cannot be reasonably quantified. Accordingly, no part of the cost of a lottery ticket is a gift which may be receipted for income tax purposes.

## Concerts, shows and sporting events

**1.20** A particular event might be a charity fundraiser, all or a portion of the proceeds from which are designated in favour of a qualified donee. However, for receipting purposes, the qualified donee must be able to establish that there is an eligible amount. This would be the case where the ticket price for the charity fundraising event exceeds the ticket price for a reasonably comparable event. If there is no reasonably comparable event, then no portion of the ticket price can be viewed as an eligible amount.

## Golf tournaments

**1.21** Generally, various components are present at a fundraising golf tournament. The following is the CRA's view on determining their value in order to calculate the amount of an advantage received by a participant.

- Green fees

The value of green fees is the regular green fee charge that would be paid by a non-member playing the course at the time of the event.

No amount would be allocated to participants who are members of the particular golf course if members are not required to pay green fees.

- Cart rental

The value of a cart rental is the regular cost of a cart rental at the particular golf course.

- Meals

The value of a meal is the retail price charged by the golf course.

- Hole-in-one prize

Given the remote odds of a hole-in-one for an average golfer, the value of the chance to win the prize is considered insignificant, and can therefore be ignored.

### Example 3

A registered charity holds a fundraising golf tournament with a participation fee of \$200. The tournament is held at a golf course at which members are not required to pay green fees.

- There are 100 participants in the tournament, some of whom are members of the golf course.
- The regular green fee for non-members on that day is \$50.
- The cart rental (included in the participation fee) is normally \$20.
- Each participant receives golf balls with a retail price of \$15.
- The retail value of door and achievement prizes is \$2,000. Based on 100 participants, the value is \$20 per participant.
- The retail price of supplied food and beverage excluding harmonized and any other sales taxes and gratuities is \$30 per participant.
- The hole-in-one prize is the use of an automobile for one year.

The total value of the complimentary items and the door and achievement prizes is \$35 per participant. The nominal threshold does not apply as the total value of \$35 exceeds the lesser of \$20 (10% of the participation fee of \$200) and \$75. Accordingly, such items constitute part of the advantage in determining the eligible amount.

### Determination of the eligible amount for non-members

Participation fee	\$200
Less:	
Green fee	\$50
Cart rental	\$20
Complimentary items/door and achievement prizes	\$35
Food and beverage	\$30
Hole-in-one prize	\$0
Amount of the advantage	\$135
Eligible amount (non-members)	\$65

In the case of non-members, the amount of the advantage is \$135, so an official receipt may be issued for the eligible amount of \$65.

Members would not otherwise have to pay the \$50 green fee, which means the amount of their advantage is reduced to \$85. Therefore, the eligible amount for which an official receipt could be issued for members is \$115.

If the golf course normally offers group rates, this would be taken into account. In this example, if the course offers a reduced green fee of \$40 for tournaments where there are more than 50 participants, then \$40 instead of \$50 would be used for non-member green fees, which would result in an eligible amount for non-members of \$75.

Membership fees

1.22 A taxpayer might pay a membership fee or a similar amount to an organization that is a qualified donee. If the payment exceeds the amount of any advantage received, there might be an eligible amount for receipting purposes.

Example 4

The purpose of a registered charity is the promotion of Canadian theatre. For a fee of \$250, a taxpayer becomes a member of this registered charity and receives the following:

- inclusion of the taxpayer’s name in a listing of donors in the charity's newsletter (nil value);
- a subscription to the charity's quarterly newsletter (otherwise available free of charge);
- the right to attend annual meetings (nil value);
- a monthly calendar of performances (otherwise available free of charge);
- an advance invitation to certain performances (nil value);
- an invitation to dress rehearsals (open to the general public);
- a pewter key chain (normally sold for \$10);
- a discount for certain performances (value of \$40); and
- parking vouchers (value of \$40).

Determination of the eligible amount for Example 4



Determination of the eligible amount for Example 7

Membership fee	\$250
Less Complimentary items:	
Key chain	\$10
Tickets discount	\$40
Parking vouchers	\$40
Amount of the advantage	\$90
Eligible amount	\$160

The onus is on the charity to provide a value for these complimentary items. The value must be reasonable, given the facts of the particular situation.

The nominal threshold does not apply as the total value of the complimentary items of \$90 exceeds the lesser of \$25 (10% of \$250) and \$75.

The amount of the advantage (\$90) received by the member is not more than 80% of \$250 (\$200), so an official receipt may be issued for the eligible amount of \$160.

Donor recognition

**1.23** Qualified donees might, at times, thank their donors with some form of recognition. Where donor recognition is provided in gratitude for a gift, the amount of the advantage in respect of the gift would be determined at the time the gift is made. Depending on the nature of the donor recognition, the value of the advantage might be nominal. This might be the case where the recognition consists of publishing a list of donors (see [Example 4](#)).

Property subject to mortgage or hypothec

**1.24** Where property subject to a mortgage or hypothec is transferred to a qualified donee, all relevant factors, such as encumbrances other than mortgages and hypothecs, need to be taken into account in determining the value of the transferred property. The terms and conditions of the mortgage or hypothec must be considered when determining the amount of the advantage and the eligible amount.

Cost of property acquired

**1.25** Where a taxpayer receives property in the course of making a gift and the fair market value of the property is included in computing the amount of the advantage, the rule in subsection 248(33) applies. Under this rule, the cost to the taxpayer of such property is its fair market value at the time the gift is made.

Deemed fair market value rule

**1.26** Subject to the exceptions described in [¶1.29](#) to 1.32, the fair market value of a property gifted by a taxpayer to a qualified donee might be deemed to be an amount that is less than its actual fair market value. Subsection 248(35), which applies for the purposes of determining the eligible amount of a gift under subsection 248(31), deems the fair market

value of a gifted property to be the lesser of:

- a. the fair market value of the property otherwise determined; and
- b. the cost of the property to the taxpayer (or the adjusted cost base in the case of capital property, or the adjusted cost basis of a life insurance policy where the taxpayer is a policyholder) immediately before the gift is made.

**1.27** This deemed fair market value rule applies where the taxpayer acquired the property under a gifting arrangement that is a tax shelter as defined in subsection 237.1(1). Unless the gift was made as a consequence of the taxpayer's death, this deeming rule also applies where the taxpayer acquired the property

- a. less than three years before the day the gift is made; or
- b. less than 10 years before the day the gift is made and it is reasonable to conclude that one of the main reasons the taxpayer acquired the property was to gift the property to a qualified donee.

**1.28** The deemed fair market value rule also applies for the purposes of determining the proceeds of disposition under paragraph 69(1)(b), as well as the fair market value of the gifted property and the proceeds of disposition under subsections 110.1(2.1) and (3) and 118.1(5.4), (6) and (13.2).

### Example 5

In an arm's length transaction, an individual acquires 100 shares of a manufacturing company at the cost of \$40 per share. The shares are not listed on a designated stock exchange and are considered capital property to the individual.

Two years later, the unlisted shares are worth \$60 each. The individual gifts 50 shares to a qualified donee.

#### Tax consequences to the individual

Since the shares were acquired less than three years before they were gifted, subsection 248(35) applies to deem the fair market value of the shares to be \$40 per share, representing the lesser of:

- the individual's adjusted cost base (\$40 per share) and
- the fair market value at the time the gift is made (\$60 per share).

Therefore, having gifted 50 shares at \$40 per share, the eligible amount of the individual's gift (and the proceeds of disposition) is \$2,000.

### Exceptions to the deemed fair market value rule

**1.29** Subsection 248(37) provides exceptions to the deemed fair market value rule in subsection 248(35). The deemed fair market value rule does not apply to a gift of:

- a. inventory;
- b. a real property or an immovable situated in Canada;
- c. an object certified by the Canadian Cultural Property Export Review Board. This exception does not apply to a gift of an object made after February 10, 2014 that was acquired by the taxpayer as part of a gifting arrangement that is a tax shelter;

- d. securities described in paragraph 38(a.1). This might include shares, debt obligations or rights listed on a designated stock exchange, shares of a mutual fund corporation, units of a mutual fund trust, an interest in a related segregated fund trust or a prescribed debt obligation;
- e. ecologically sensitive land (including a covenant, an easement, or, in the case of land in Quebec, a real servitude) described in paragraph 110.1(1)(d) or in the definition of total ecological gifts in subsection 118.1(1). This exception does not apply to a gift of such property to a private foundation; or
- f. property in situations described in ¶1.30 to 1.32.

**1.30** A taxpayer might transfer a property (**transferred property**) to a corporation controlled by the taxpayer (or by a person related to the taxpayer or a group of persons each of whom is related to the taxpayer) in exchange for shares issued by the corporation. If the taxpayer subsequently gifts those shares to a qualified donee, the deemed fair market value rule will not apply to the gifted shares if this rule would not otherwise have applied had the transferred property been gifted by the taxpayer instead of the shares.

**1.31** Another exception to the deemed fair market value rule exists for certain property gifted by a corporation to a qualified donee. This exception applies if the property was transferred to the corporation under subsection 85(1) or (2) by a shareholder that controlled the corporation or by a shareholder who was related to a person or each member of a group of persons that controlled the corporation. The deemed fair market value rule will not apply to the gifted property if this rule would not otherwise have applied had that property been gifted by the shareholder instead of the corporation.

**1.32** The deemed fair market rule will also not apply to a gift of property that was originally acquired by the donor on a tax-deferred rollover basis under subsection 70(6) or (9) or 73(1), (3) or (4), unless the rule in subsection 248(36) would have applied (see ¶1.33).

## Non-arm's-length transactions

**1.33** Under subsection 248(36), where a taxpayer gifts a property that was acquired from a non-arm's-length person or partnership, the taxpayer's cost of the gifted property for the purposes of applying the deemed fair market value rule might be less than its actual cost to the taxpayer. Subsection 248(36) applies if:

- a. the deemed fair market value rule applies because the taxpayer acquired the gifted property within the 3-year or 10-year period described in ¶1.27(a) and (b); and
- b. the gifted property had been acquired at any time in that 3-year or 10-year period by any person or partnership that does not deal at arm's length with the taxpayer.

Where these conditions are met, the taxpayer's cost (or in the case of capital property, the adjusted cost base) of the gifted property immediately before the gift is made is deemed to be the lowest of the cost or adjusted cost base, as the case may be, to:

- the taxpayer, or
- the non-arm's-length person or partnership immediately before the person or partnership disposed of the property.

However, subsection 248(36) does not apply where the taxpayer acquired the property as a result of the death of an individual.

## Artificial transactions

**1.34** Subsection 248(38) is intended to prevent a taxpayer from artificially increasing the cost of a property by entering into transactions designed to circumvent the application of the deemed fair market value rule. Subsection 248(38) deems the eligible amount of a gift to be nil if it can be reasonably concluded that the particular gift relates to a transaction or series of transactions:

- a. one of the purposes of which is to avoid the application of the deemed fair market value rule; or
- b. that would otherwise result in a benefit to which the general anti-avoidance rule in subsection 245(2) applies.

Under subsection 248(10), a series of transactions includes any related transactions completed in contemplation of the series.

### Substantive gift (selling property and donating proceeds)

**1.35** Subsection 248(39) prevents a taxpayer from avoiding the application of the deemed fair market value rule by disposing of a capital property (the **substantive gift**) to a qualified donee and gifting the proceeds of disposition (or any property substituted, directly or indirectly for the proceeds of disposition) to the qualified donee, rather than gifting the property itself. Subsection 248(39) applies if:

- the deemed fair market value rule would have applied if the substantive gift had itself been gifted to a qualified donee; and
- the taxpayer gifts all or part of the proceeds of disposition or any such substituted property to the qualified donee or any person not dealing at arm's length with the qualified donee.

Prior to January 1, 2017, the term substantive gift also included an eligible capital property.

**1.36** Where the conditions described in ¶1.35 are met and the taxpayer gifts all of the proceeds of disposition or any such substituted property to the qualified donee, for the purpose of determining the eligible amount under subsection 248(31), the fair market value of the gifted property is deemed to be the lesser of:

- a. the fair market value of the substantive gift; and
- b. the cost of the substantive gift (or if the substantive gift is capital property of the taxpayer, its adjusted cost base).

Where the taxpayer gifts only part of the proceeds of disposition or any such substituted property, the fair market value of the gifted property is deemed to be the proportion of the lesser of (a) and (b) above that the fair market value of the gifted property is of the proceeds of disposition of the substantive gift (see Example 6).

**1.37** Where the substantive gift is capital property, if the fair market value of the gifted property (determined without reference to section 248) exceeds its deemed fair market value as determined in ¶1.36, the excess amount will reduce the sale price of the substantive gift for purposes of determining the **proceeds of disposition** of property in subsection 13(21) and section 54 (see Example 6).

**1.38** For tax years ending before January 1, 2017, if the substantive gift was eligible capital property, the excess amount reduced the amounts the taxpayer received or was entitled to receive from the sale of eligible capital property determined under paragraph (a) in the description of E in the definition of **cumulative eligible capital** in subsection 14(5) (now repealed).

### Example 6

In 2013, a taxpayer acquires a capital property with an adjusted cost base of \$2,000. The property is not a property listed in the exceptions to the deemed fair market value rule in subsection 248(37).

In 2014, the taxpayer sells the property (substantive gift) to a registered charity for \$2,500, which represents the property's fair market value.

In 2015, the taxpayer makes a cash donation (gifted property) to the registered charity.

### Computation of deemed fair market value

#### Donation of full proceeds

If, in 2015, the taxpayer gifts the full proceeds of disposition (\$2,500) to the registered charity, the fair market value of the gifted property for purposes of determining the eligible amount of the gift under subsection 248(31) is deemed to be \$2,000, which is the lesser of:

- a. \$2,000, the taxpayer's adjusted cost base of the capital property, and
- b. \$2,500, the fair market value of the capital property.

#### Donation of partial proceeds

If, in 2015, the taxpayer makes a \$500 cash donation to the registered charity, the fair market value of the gifted property for purposes of determining the eligible amount of the gift under subsection 248(31) is deemed to be \$400. This amount is computed as the lesser of (a) and (b) above multiplied by the proportion of the fair market value of the gifted property is of the fair market value of the capital property, as follows:

$$\$2,000 \times \$500 / \$2,500 = \$400$$

Further, for the purposes of determining the proceeds of disposition of the substantive gift, the sale price of the substantive gift (\$2,500) is reduced by the difference between the fair market value of the gifted property (\$500) and its deemed fair market value (\$400). In this example, the proceeds of disposition of the substantive gift will be reduced to \$2,400 (\$2,500 - (\$500 - \$400)).

## Limited-recourse debt

**1.39** A limited-recourse debt in respect of a gift of a taxpayer at the time the gift is made is considered an advantage pursuant to paragraph 248(32)(b). Under subsection 143.2(6.1), the limited recourse debt is the total of the following amounts, each of which can reasonably be considered to relate to the gift:

- a. a **limited-recourse amount** of the taxpayer and all other taxpayers not dealing at arm's length with the taxpayer;
- b. a limited-recourse amount of other taxpayers dealing at arm's length with the taxpayer and holding, directly or indirectly, an interest in the taxpayer; and
- c. the unpaid amount of any other indebtedness, of any taxpayer referred to in (a) or (b) above, if there is a guarantee, security or similar indemnity or covenant in respect of that or any other indebtedness.

For this purpose, the term **limited-recourse amount** is defined in subsection 143.2(1) as the unpaid principal amount of any indebtedness for which recourse is limited either immediately or in the future and either absolutely or contingently. For example, if a taxpayer enters into a contract of insurance whereby all or part of a debt will be paid upon the

occurrence of either a certain or contingent event, the debt is a limited-recourse debt in respect of a gift if it is in any way related to the gift.

**1.40** A taxpayer might repay an amount on account of the principal of an indebtedness that was a limited-recourse debt in respect of a gift (**original gift**). In this situation, paragraph 248(34)(a) deems the taxpayer to have made a gift (**deemed gift**) to a qualified donee in the year of repayment. The eligible amount of the deemed gift is determined by taking into account:

- the eligible amount of the original gift;
- the amount of prior repayments; and
- the eligible amount of all prior gifts deemed by paragraph 248(34)(a) to have been made in respect of the original gift.

However, a repayment financed by other limited-recourse debt or made by way of assignment or transfer of a guarantee, security or similar indemnity or covenant is not recognized for the purpose of paragraph 248(34)(a).

### Information not provided by the taxpayer

**1.41** Subsection 248(41) provides that the eligible amount of a gift made by a taxpayer is nil if the taxpayer fails to inform the qualified donee, before the issuance of an official receipt in respect of the gift, of any information that would cause the eligible amount of the gift to be less than the fair market value of the gifted property for the purposes of subsection 248(31), (35), (36), (38) or (39) (determined without reference to subsections 248(35), 110.1(3) and 118.1(6)). Information that might be relevant includes, but is not limited to:

- a. length of time for which the property was held;
- b. whether it was acquired as part of a tax shelter arrangement or from a non-arm's-length party; and
- c. whether the taxpayer engaged in a transaction or series of transactions to avoid the deemed fair market value rule.

The qualified donee requires such information to prepare the official receipt (see ¶1.11).

## Application

This updated Chapter, which may be referenced as S7-F1-C1, is effective October 9, 2020.

When it was first published on November 8, 2016, this Chapter replaced and cancelled Interpretation Bulletin IT-110R3, Gifts and Official Donation Receipts and Income Tax Technical News No. 26.

The history of updates to this Chapter as well as any technical updates from the cancelled interpretation bulletin and income tax technical news can be viewed in the [Chapter History](#) page.

Except as otherwise noted, all statutory references herein are references to the provisions of the Income Tax Act, R.S.C., 1985, c.1 (5th Supp.), as amended and all references to a Regulation are to the Income Tax Regulations, C.R.C., c. 945, as amended.

Links to jurisprudence are provided through CanLII.

Income tax folios are available in electronic format only.

# Reference

Subsections 248(30) to (41) (also sections 54, 110.1 and 118.1, subsections 13(21), 70(6), 70(9), 73(1), 73(3), 73(4), 85(1), 85(2), 143.2(1), 143.2(6.1), 237.1(1), 245(2) and 248(10), and paragraphs 38(a.1) and 69(1)(b) of the Act and section 3501 of the Regulations).

Additional information about charitable gifts can be found in the following CRA publications:

- [Pamphlet P113, Gifts and Income Tax](#)
- [Guidance CG-013, Fundraising by Registered Charities](#)
- The CRA web page [Issuing receipts](#) provides sample donation receipts and information on determining [fair market value of gifts in kind \(non-cash gifts\)](#).

**Date modified:**

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