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Charities Taxation, Policy & Practice, Caselaw Collection

This release updates the Caselaw Collection with recent cases.

Highlights

Volume 2

Charitable Donations: Benefits Received, Is it a Gift?

In *Aslam v. Canada*, where the taxpayer participated in charitable donation scheme, yielding significant disparity between his actual donation and claimed donation tax credit. Taxpayer's appeal was dismissed on basis that he lacked donative intent necessary to qualify for credit.

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In *Takacs v. The King*, where taxpayer's wife participated in charitable donation program, which provided tax receipt for \$11,120 based on cash payment of \$2,560 and purported proceeds of sales of pharmaceuticals on her behalf. The taxpayer was reassessed and the Minister disallowed the claimed tax credit on the basis that gifts through the program were not valid.

Gifts in Kind: Valuation and Related Issues

Walby v. The King is affirmed where the taxpayers participated in a charitable donation program called the Global Learning Gifting Initiative (GLGI) and received charitable receipts for their cash contributions and educational courseware licenses. On appeal, the Tax Court of Canada judge found that: participation in GLGI program constituted only one single interconnected arrangement; cash donation was part of *quid pro quo* to receive distribution of courseware licences from Trust, which would ultimately result in inflated charitable tax receipt relating to in kind donation by consequence of transactional documents; and taxpayers had clear intent to profit when making their donations.

In *Malone v. The King*, where the program required taxpayers to participate in leveraged donation scheme from which each taxpayer expected to receive, in return for their cash donation, software licences having expected value of three to eight times greater than cash donation. Pursuant to scheme, taxpayers then donated those software licences to another registered charity, resulting in tax receipt that entitled taxpayers to claim inflated tax credit. The taxpayers' charitable deductions for multiple years were disallowed.

In *Aidoo v. The King*, where taxpayer donated to charity with leveraged donation scheme, who issued receipts for several times amount issued. Minister assessed the taxpayer denying charitable tax credits. The taxpayer appealed and the appeal was dismissed.

Volume 3

Revocation of Registration

The case of *Jewish National Fund of Canada Inc. v. Canada (National Revenue)* where Minister issued notice of intention to revoke organization's registration as "charitable organization" on the basis that organization had ceased to comply with Act's requirements. Organization appealed, challenging decision on grounds of bias, failure to correctly apply law, and procedural fairness. Organization brought motion for leave to amend

notice of appeal and for extension of time to bring motion regarding contents of appeal book. Motion granted in part.

