

# INFORMATION LETTER

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## ***Re: Treatment of Tuition Fees as Charitable Donations under Information Circular 75-23***

The purpose of this letter is to familiarize registered charities that operate a religious school with the Departmental guidelines for issuing receipts for tuition payments as outlined in Information Circular 75-23. Attached is the Circular for your further information.

Under the *Income Tax Act*, a registered charity can issue receipts to those who make gifts to support the charitable work it carries on. However, the question of whether a payment made to a registered charity is a gift is not dependent upon the nature of the activities of the organization but, rather, upon the nature of the payment.

The term "gift" is not defined in the Act and therefore has the meaning established at common law - which is a voluntary transfer of property without consideration or expectation of return or compensation. A payment for tuition, even to a school which is a registered charity, is not a gift because it is not made without such consideration, and therefore would not normally be deductible as a charitable donation. The only deduction the Act provides for tuition fees paid to Canadian schools is that provided to students under paragraph 60(f) of the *Act*.

Nevertheless, for a number of years it has been the Department's practice not to view religious instruction given at parochial schools as consideration, with the result that a portion of payments made by parents for their children's instruction at such schools may be treated as a gift to a charity. This is the practice set out in Information Circular 75-23.

The practice embodied in Information Circular 75-23 applies to two types of schools: those which teach exclusively religious and those which operate in a dual capacity offering both secular and religious education. The term "school" for purposes of the Circular does not include a nursery or pre-school program for children who could not be admitted to a regular kindergarten program in the public school system where the parochial school is located, nor does the practice extend to post-secondary educational institutions. Also note that the practice is applicable only to payments which are made directly to the school(s) attended by the payor's child or children. The Department is under no obligation under the Circular to treat as a charitable donation any portion of parents' payments made to foundations or other organizations established to provide operating funds to parochial schools. Furthermore, no part of a parents' payment may be receipted under this practice if the child attends only the periods of secular instruction offered by the school.

For purposes of the Circular, the term "parent" includes a foster-parent, relative, guardian or other person contributing to a school for the purpose of enabling a specific child to attend that school. The terms "school fees" and "amount paid" do not include amounts paid in settlement of charges for room, board, transportation and like services. Donation receipts may not be issued for such payments, As was intended when the Circular was issued, the interpretation given by the Department to the term "religious training" is restricted to training that is given during a period of instruction that is devoted entirely to the teaching of the creed, doctrines, dogma, tenets, history, observances or services of a particular religion or denomination, including the devotion of scheduled time to prayer or religious ritual. The Department has never accepted the teaching of mathematics, science, history, music, home economics, drama, art or other subjects ordinarily included in the curricula of the public school systems to be religious training, notwithstanding any spiritual or moral aspects such instruction may have. However, where music or religious history are taught as separate subjects and such subjects are in addition to history and music subjects that are ordinarily included in the curricula of the public school systems, the teaching of such religious history and religious music will be considered to be religious training for the purposes of the Circular, as will the teaching of Hebrew by a Jewish school.

There are two methods of calculating the receiptable portion of parents' payments made to schools which offer academic and religious instruction. The first method (described in paragraph 7 of the Circular) is to be used by schools which can and do segregate the cost of operating the secular portion of the school and the cost of providing religious training. In order to take advantage of the more favourable treatment available under this paragraph, a school must have maintained separate accounts for the religious portion of the school. In particular, separate payrolls should have been kept for teachers of academic and teachers of religious subjects, respectively, and supplies consumed for religious portion of the school have been separately recorded. Journal entries made at the year end purporting to segregate such costs are not sufficient.

Costs that are shared (e.g. building maintenance, mortgage interest, rent, etc.) may, however, be allocated periodically, but must be allocated on a reasonable basis, such as the percentage of total instruction time devoted to religious training. In the case of shared overhead costs, such as those for the operation of a common building, a reasonable periodic allocation of costs on a usage basis such as time or floor space would also be allowable.

Where a school which operates in a dual capacity does not or cannot segregate the cost of operating the secular portion of the school and the cost of providing religious training in the manner described above, a donation receipt may be issued only for that part of the payment which is in excess of the net operating "cost per pupil" of the whole school for a school year, calculated in accordance with paragraph 9 of the Circular.

We would point out that under both methods, the "cost per pupil" should be derived using the school's entire operating costs, even where a tax subsidy is received from a provincial or territorial authority for specified grades within the school. However, capital

expenditures (such as payments or principal on loans, the cost of buildings and equipment, extraordinary repairs, etc.) are not current operating costs and should not be included in the cost per pupil calculation. If a taxpayer has nor than one child in attendance, the amount to be deducted from the total payment to arrive at the receiptable portion of the applicable "cost per pupil" multiplied by the number of children enroled in the school during the year. The term "school year", for purposes of the Circular, refers to the twelve-month period normally encompassing two semesters of instruction (i.e. September through December and January through June) and a summer vacation. The twelve months may end at any date between June 30 and September 1 provided that the period is used consistently. Where school accounting is on a school year basis and a parent's payments for the school year are made over two taxation (i.e. calendar) years, a separate receipt for each of the two taxation years must be issued. Ideally, the amount for which each receipt is issued should be determined by pro-rating the "cost per pupil" in the same ratio as the payment(s) made in each of the taxation years using:

(A) the "cost per pupil" for the immediately preceding school year for the payment(s) made in the September through December semester of the school year, and

(B) the "cost per pupil" for the current school year for the payment(s) made in the January through June semester of the school year.

Where a school is operated as part of an organization that is a church or other registered charity, rather than a separate entity, and contributions by parents are not specifically identifiable as payments for the tuition of their children or where the fee does not bear a reasonable relationship to the cost of operating the school, the provisions of the Circular will be applied as though all payments made to the charity by parents were tuition payments. In that case, the reference to a parent's payment made in paragraphs 7 and 9 of the Circular will be taken to mean the total amounts contributed by a parent to the charity in the taxation year, less amounts paid or contributed during that year in settlement of charges for room, board, transportation or like services rendered.

We trust the foregoing will be sufficient to enable you to calculate the portion of a tuition payment made to your school which may be treated as a donation under the guidelines set out in Information Circular 75-23. As mentioned earlier, no method of calculating the receiptable portion of these payments other than those specified in the Circular and as explained above will be accepted. Any questions concerning application of the Circular should be directed to this division at Ottawa, Ontario K1A 0L5 or at the telephone numbers noted on the first page of this letter.

Charities Directorate  
Canada Customs and Revenue Agency

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