

Canada Revenue Agency Technical Interpretation — external 2009-0346331E5, *Association dues*

Date: February 23, 2010

Reference: 8(1)(i)

**SUMMARY:** Association dues — ITA-8(1)(i) — Whether dues paid to an association of non-unionized employees in a particular situation are deductible.

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 dues paid to an association of non-unionized employees of the XXXXXXXXXX are deductible.

**POSITION:** No

**REASONS:** The association documents do not indicate that the primary purpose of the association is to improve conditions of employment.

2009-034633

XXXXXXXXXX Rita Ferguson

519-645-5261

February 23, 2010

Dear XXXXXXXXXX:

Re: **Association Dues**

This is in response to your letter of October 19, 2009 inquiring about whether membership dues paid to the XXXXXXXXXX (the "Association") are tax deductible. You have indicated that the Association is an incorporated entity that was formed to address issues of concern to the non-unionized employees of the XXXXXXXXXX. You have stated that, since its inception, the Association has achieved pay increases and new terms and conditions of employment. You have provided various documents regarding the Association and its activities.

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 a request for an advance income tax ruling submitted in the manner set out in Information Circular 70-6R5, "Advanced Income Tax Rulings", dated May 17, 2002. This Information Circular and other Canada Revenue Agency ("CRA") publications can be accessed on the internet at <http://www.cra-arc.gc.ca>. Where the particular transactions are complete, the inquiry should be addressed to the relevant tax services office, a list of which is available on the "Contact Us" page of the CRA website. Although we cannot comment on your specific situation, we are prepared to provide the following comments in respect of the issues that you raised. Please note, however, that these comments are of a general nature only and are not binding on the CRA.

#### **Our Comments**

Pursuant to subsection 8(2) of the Income Tax Act (the "Act"), the general rule in computing income from an office or employment is that no deduction may be made for any expense except as specifically permitted by section 8 of the Act. Under subparagraph 8(1)(i)(i) of the Act, a deduction in computing income from an office or employment is permitted for amounts paid for annual professional membership dues, the payment of which are necessary to maintain a professional status recognized by statute. Since the Association is not an organization of professionals whose status is recognized by a Canadian, provincial, or foreign statute, the membership dues are not deductible under this provision. Under subparagraph 8(1)(i)(iv) of the Act, an employee may deduct annual dues to maintain membership in a trade union (as defined by section 3 of the Canada Labour Code or in any provincial statute providing for the investigation,

conciliation or settlement of industrial disputes). It is our view that this provision generally contemplates organizations that negotiate collectively with employers for improvements in their members' working conditions. Since the Association does not negotiate collectively, nor does it negotiate terms and conditions of employment, it is our view that it would not qualify as a trade union.

Subparagraph 8(1)(i)(iv) of the Act also allows an employee to deduct from income amounts paid as annual dues to maintain membership in an association of public servants the primary object of which is to promote the improvement of the members' conditions of employment or work. While it remains a question of fact what the primary purpose of the Association is, from our review of the documentation provided, it does not appear that the condition in subparagraph 8(1)(i)(iv) has been met. The documents do not clearly demonstrate that the primary purpose of the Association is to promote the improvement of the members' conditions of employment or work. Accordingly, it is our view that membership dues would not qualify for deduction under this provision.

In addition, subsection 8(5) of the Act provides that annual dues are not deductible in computing a taxpayer's income from an office or employment to the extent that they are, in effect, levied

- a) for or under a superannuation fund or plan,
- b) for or under a plan for annuities, insurance benefits, or
- c) for any other purpose not directly related to the ordinary operating expenses of the association or trade union to which they were paid.

It is our view that, even if the Association did otherwise qualify under the primary purpose test, any part of the dues levied to provide materials for professional development of the members, or for social activities, would not qualify for deduction under subparagraph 8(1)(i)(iv) of the Act because of the restriction in paragraph 8(5)(c).

With respect to the reporting of Association dues that have been collected by the XXXXXXXXXX through payroll deduction, we would like to include the following further comments. Subsection 200(1) of the Income Tax Regulations requires every person making a payment described in subsection 153(1) of the Act to make an information return in prescribed form. Paragraph 153(1)(a) refers to the payment of salaries and wages, and the prescribed form for these payments is the T4. Guide RC4120 Employers' Guide: Filing the T4 Slip and Summary provides the instructions for completing a T4. It states that Box 44 is to be used for reporting union dues and amounts paid to a parity or advisory committee that qualify for a deduction, and that have been withheld and remitted by the employer. There is no similar comment for reporting the dues remitted and paid to an association of public servants. Accordingly, these amounts should not be reported by an employer on a T4, regardless of whether or not the dues paid to such an association may qualify for a deduction under subparagraph 8(1)(i)(iv) of the Act by the employees. Where such an association of public servants does meet the criteria for deduction, the recipient association should issue receipts to the members. The official receipt issued by the association must certify that the fees or dues paid are in fact "annual" dues to maintain membership, and not amounts paid for the purposes set out in paragraphs 8(5)(a), (b) or (c) of the Act, above. The wording of the certification may be similar to that suggested for a trade union as illustrated in paragraph 7 of Interpretation Bulletin IT-103R "Dues Paid to a Union or to a Parity or Advisory Committee".

We trust the above comments are of assistance.

Yours truly,

Renée Shields

for Director  
Business and Partnerships Division  
Income Tax Rulings Directorate  
Legislative Policy and Regulatory Affairs Branch