

Canada Revenue Agency Interpretation — external 2011-0400091E5 — *Benevolent fund*

Date: July 25, 2011

Reference: 3, 6(1), 8(1), 8(5)

**SUMMARY:** Benevolent fund — ITA-3, 6(1), 8(1), 8(5) — Whether amounts paid to a union by its members, to establish a benevolent fund for injured workers, are deductible by the members for income tax purposes.

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 amounts paid to a union by its members, to establish a benevolent fund for injured workers, are deductible by the members for income tax purposes.

**POSITION:** No

**REASONS:** Amounts paid to a union that are not made to maintain membership in a trade union or association (i.e., not directly related to the ordinary operating expenses of the trade union) are not deductible for income tax purposes, in accordance with subsection 8(5) of the ITA.

XXXXXXXXXX 2011-040009

K.G. Weir

July 25, 2011

Dear XXXXXXXXXXXX:

Re: **Benevolent Fund**

We are writing in response to your letter concerning mandatory deductions from a union. More specifically, you enquired whether union dues paid to establish a benevolent fund (the "Fund"), operated by a union on behalf of its members, are deductible for income tax purposes.

You provided various documents with respect to the union and the trust agreement for the Fund. These documents indicate that a Fund was established by the union where employed workers contribute a small amount for every hour worked via payroll deductions. The payments are mandatory and there are no contributions from an employer. The primary purpose of the Fund is to provide financial assistance for injured workers due to medical emergencies, medical incapacitation, terminal illness and other injuries until alternative benefits are received, such as employment insurance benefits or benefits from the Workplace Safety Insurance Board of Ontario.

In addition, you advise that the union membership of a particular local elected five trustees from the local to form a committee to oversee the Fund under a trust document that has a separate bank account for the Fund. The committee has full and complete discretion over the disbursement and entitlement of the funds. In order to receive a payment from the Fund, injured workers must apply by completing an application and submitting a medical form. In return, injured workers could receive a lump-sum to

bridge the gap until benefits are received from alternative sources. However, there is no guarantee that every applicant would receive a payment from the Fund.

### **Our Comments**

Written confirmation of the tax implications inherent in particular transactions may only be provided by this Directorate where the transactions are proposed and are the subject matter of an advance income tax ruling submitted in the manner set out in Information Circular 70-6R5, Advance Income Tax Rulings, dated May 17, 2002. This Information Circular and other Canada Revenue Agency publications can be accessed on the Internet at <http://www.cra-arc.gc.ca>. Where the particular transactions are completed, the inquiry should be addressed to the relevant Tax Services Office. We are, however, prepared to provide the following general comments.

Generally, under subparagraph 8(1)(i)(iv) of the Income Tax Act (“ITA”), employees are able to deduct certain annual union dues paid to maintain membership in a trade union in calculating income from an office or employment to the extent that they are not reimbursed. However, subsection 8(5) of the ITA imposes a number of restrictions on amounts that are deductible. One of the restrictions is that the dues must be used for the purpose directly related to the normal operating expenses of the union as noted in paragraph 8(5)(c) which states that dues are not deductible in computing a taxpayer's income from an office or employment where the dues are levied for the following:

- for or under a superannuation fund or plan;
- for or under a fund or plan for annuities, insurance, (other than professional or malpractice liability insurance that is necessary to maintain a professional status recognized by statute) or similar benefits; or
- for any other purpose not directly related to the ordinary operating expenses of the trade union.
- 

Although the contributions to the Fund are mandatory for union members, it is our view that these contributions are for a special purpose fund and are not directly related to the ordinary operating expenses of the union. A union's “ordinary operating expense” can generally be defined as an expenditure which falls into place as part of the undistinguished common flow of the trade union's activity; that the expenditure forms part of the normal business as carried on, calling for no remarks and arising out of no special or particular situation. A special purposes fund such as you described would not be considered an ordinary operating expense of a union. Therefore, the amounts paid to the union with respect to the Fund are not deductible for income tax purposes.

For additional information on union dues, please refer to Interpretation Bulletin IT-103R, Dues Paid to a Union or to a Parity or Advisory Committee.

We trust these comments will be of assistance.

Phyllis Waugh  
A/Manager  
for Director  
Ontario Corporate Tax Division  
Income Tax Rulings Directorate  
Legislative Policy and Regulatory Affairs Branch