

POLICY

To provide a policy and procedure with respect to the accounting for donations in cash or in-kind made to the City for community events.

AUTHORITY

Executive Committee Report 23, Clause 17 (2012)
Executive Committee Report 29, Clause 7 (2009)
Executive Committee Report 20, Clause 3 (2008)
Policy and Finance Committee Report 7, Clause 3 (2006)
Chapter 71 of Toronto Municipal Code S71-19

Under the Income Tax Act (Canada), individuals and corporations can claim an income tax credit for certain gifts made to Canadian municipalities.

The City has authority under section 110.1(1)(a) of the Canadian Income Tax Act for corporate donations, and under section 118.1(1) of the Canadian Income Tax Act for individuals' donations.

The City is not a Registered Charity and therefore does not have a Registered Charity number. As a Canadian municipality, the City is a *qualified donee* under the Income Tax Act and is eligible to issue tax receipts as regulated by the Canada Revenue Agency.

IMPACT

Cash and "gifts-in-kind" donations provide an additional source of revenue for the City. The City may provide an income tax receipt in the amount of the fair market value of charitable donations, which may be claimed by the donor to offset taxable income.

POLICY

Eligibility:

1. Donations will not be accepted from those registered as lobbyists with the City, or developers with any pending planning, conversion, demolition or sign variance application or bidders of any outstanding Requests for Proposals or Requests for Quotations.
2. All donations must be documented by the recipient division, and reported through the variance reporting for donations under \$50,000 and to City Council for donations above \$50,000:

- a. Cash and in-kind donations of \$100 or more and under \$50,000 must be documented and the terms and requirements communicated to the donor.
- b. Cash and in-kind donations of \$50,000 or more must be documented through a legal agreement to the satisfaction of the City Solicitor.
- c. The donation communication to donors should:
 - i. Convey the terms and requirements of the donation, including donor contact information, the purpose of the donation, the value of the donation, information about the tax receipt, how unused funds will be dealt with and the responsibilities of the respective parties.
 - ii. A statement acknowledging that the donation may be subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act.
 - iii. For in-kind donations, include where necessary in the opinion of the City Solicitor a waiver of liability and an indemnity clause.
 - iv. Include the following statement:

"All donations and/or in-kind donations, made to the City of Toronto and its agencies must be given unconditionally and voluntarily without and expectation of benefit. A donation cannot be used to influence the outcome of an outstanding approval, permit or license application or award of a procurement call. You must advise the City in writing if you, your organization or company is currently involved in a planning approval or procurement process with the City or one of its agencies."
3. All donation cheques shall be made out to the City of Toronto.
4. All donations will be accounted for in the calendar year in which it is received. Donations to operational budget cannot be carried over between calendar years, unless Divisions request Council approval to carry over unspent operating budget donations from one fiscal year to the next.

Tax Receipt Criteria:

1. Qualified Donations

Donation shall be in cash or in-kind, given voluntarily and unconditionally for an approved community event, with no expectation of benefits in return.

2. Non-Qualified Donations

- a. Donation made in exchange for consideration of a right, privilege, material benefit or advantage such as promotion or advertising for the donor's purposes.
- b. Contribution of services (time, skills, effort). For example consulting, landscaping, labor, etc.
- c. Donation of consumables. For example, hot dogs, drinks, etc.
- d. Loan of equipment. For example, barbeque, stage, sound equipment, etc.
- e. Gift certificates received from the issuer.
- f. For fundraising dinners, balls, concerts, or shows the donation amount is the difference between the ticket price and the fair market value of the food or entertainment. The ticket price should specify the donation amount and the fair market value of the food and entertainment. The donation amount has to be equal to at least 20% of the ticket price. For example: If the ticket price is \$100, the donation amount must be at least \$20.
- g. Purchase of a ticket for a lottery, draw or raffle to win a prize of more than nominal value is not considered a donation.
- h. Sponsorship arrangements with benefits exchanged such as brand/company name advertising and donations of services in-kind (intangible) are excluded.

Official Donation Receipts:

1. Official receipts for income tax purposes shall be authorized by the Treasurer for eligible gifts and gifts-in-kind made to the City if requested by the donor.

2. Receipts shall be made in the name of the donor only.
3. The fair market value of an In-kind donation should be provided by the donor. The City reserves the right to determine if the appraised value is fair. A written professional appraisal report will need to be provided at the donor's expense. The appraisal shall be in form and content acceptable to the Treasurer. The income tax receipt shall be in the amount of the appraised value, or in the case of two or more appraisals, the lowest appraised value. The receipt shall also indicate a description of the object and the name and address of the appraiser, and shall be dated the day in which the City received the gift.
4. Official receipts for income tax purposes for in-kind donations will not be issued to corporations. Corporations can receive a thank you letter for their donation. Corporations have expense deductibility options available to them when making in-kind donations.

Ineligible Donations:

1. Planning Approvals
 - a. Voluntary donations for community benefits cannot be received from an applicant or their representative concurrent to a planning approval or from a party proposing to make a planning application.
 - b. There is a blackout period in planning approval processes during which voluntary donations for community benefits are not permitted. For specific types of planning applications, the end of the blackout period is as follows:
 - i. For official plan amendments, zoning by-law amendments and combined applications is the date of expiry of the appeal period after Council makes its decision on the by-law(s) and there is not appeal; or, if appealed, is the date the Ontario Municipal Board makes its decision.
 - ii. For plans of subdivisions and condominiums is the date of expiry of the appeal period after the City makes its decision on draft plan approval and there is no appeal; or, if appealed, is the date the Ontario Municipal Board makes its decision.

- iii. For site plan control is the date the site plan agreement is executed; or, if appealed, is the date the Ontario Municipal Board makes its decision.
- iv. For part lot control exemptions by-laws is the date the Council adopts or refuses to adopt the by-law.
- v. For minor variance and consent to sever is the date of expiry of the appeal period after the Committee of Adjustment makes its decision and there is no appeal; or, if appealed, is the date the appeal body makes its decision.

2. Procurement Decisions

- a. Voluntary donations for community benefits may not be solicited and offers may not be made by or accepted from a bidder, proponent or applicant to procurement, or their representative, concurrent to the procurement solicitation and award process.
- b. There is a blackout period in procurement decision making processes during which discussions about voluntary donations for community benefits are not permitted and voluntary donations may not be offered, solicited or accepted. The blackout period for procurements commences when the request or call for a bid, quote, proposal, etc. is formally issued, and it ends at the time the procurement is awarded.
- c. The City shall not accept donations that are conditional upon the endorsement of any product, service or supplier.
- d. Current and prospective suppliers to the City that decline solicitations for donations shall not be penalized in procurement decisions of the City.

3. Other

- a. No advantage is to accrue to the donor or to any person not dealing at arm's length to the donor as a result of the donation.
- b. Donations cannot confer a personal benefit to any City employee or City Official.

- c. Donations that violate City By-laws or City policies, or the laws, conventions and treaties of the other orders of government will not be accepted by the City.
- 4. Ineligible Donors
 - a. The City may decline donations from any donor who in the opinion of the Council, or of a Division Head under delegate authority, represents a reputational risk to the City through involvement of activities that are contrary to the values of the City. Examples of ineligible donors include but are not limited to:
 - I. Arms manufactures
 - II. Proven or suspected criminal organizations
 - III. Organizations that promote hatred against individuals or groups
 - b. The City may not accept donations from individuals or organizations currently in litigation against the City.

PROCEDURES

1. Delegated Authority of Division Heads:

A Division Head has a delegated authority to accept and spend unsolicited donations where:

- a. The donation has a current value that does not exceed \$50,000.00 and cumulative donations from the same donor for the same purpose does not exceed \$50,000.00 in a fiscal year
- b. The donation is not in the form of real property
- c. The donation does not involve a proposal to name
- d. The donation is in compliance with this policy
- e. The spending is consistent with the Divisions programs, services and activities

- f. The donation does not commit or expose the City to unplanned/unbudgeted future expenditures, risk or obligations that cannot be absorbed
- g. The donation is not associated with commercial product or service endorsements.

2. Delegated Authority of City Manager

When Standing Committees and Council do not have any regularly scheduled meetings for a period of two months or longer, the City Manager may have authority in excess of \$50,000 and up to \$500,000.

3. Donations of Real Property

- a. Donations of real property to the City or its agencies, boards and commissions may only be accepted with the prior approval of Council, which is to include approval of the budget for any future or ongoing obligations arising from the donation.
- b. Where appropriate, approval of a donation of real property is to include the use and disposition of the real property including the net proceeds arising from a property transaction.
- c. Donations of real property to the City or its agencies, boards and commissions, whether designated for specific purposes or not, will be held in the name of the City.
- d. Donations of real property designated for specific purposes are exempt from the City's property management process.

4. Appraisals

- a. When a gift is received from a donor, it is the responsibility of the recipient Division to determine whether or not the gift qualifies for an income tax receipt.
- b. The Canada Revenue Agency requires satisfactory evidence of fair market value of an eligible gift-in-kind, including real property. The responsibility for providing this information rests with the donor. The responsibility for

securing this information for the purposes of issuing a tax receipt rests with the Division that benefits from the gift.

- c. In situations where the gift is not of direct benefit to a particular Division, the Toronto Office of Partnerships will be responsible for securing fair market value evidence from the donor.
- d. With respect to in-kind gifts, the recipient Division may retain the donation or sell the asset and apply the proceeds as necessary.
- e. For fair market values of gifts-in-kind under \$1,000.00, Divisions can provide an in house appraisal by a knowledgeable management staff.
- f. For fair market values of gifts-in-kind at or over \$1,000.00 will require a professional appraisal.

5. Reporting

- a. As part of the quarterly budget variance reporting process, each Division shall disclose the amount of all donations received to date and report how the donations were used.
- b. On an annual basis, The Toronto Office of Partnerships shall provide Council with a report summarizing the City's donation fundraising activity.

6. Issuance of Official Tax Receipt

- a. Donations that are eligible for official tax receipts shall be batched, and forwarded to Accounting Services with a covering memo from a divisional delegated staff and shall be addressed to Tax Compliance Unit, 14th Floor of Metro Hall. The memo shall indicate:
 - i. The date and amount donated
 - ii. The donor's name and full address
 - iii. The description of community event supported
 - iv. Copy of the cheque and the SAP document
 - v. Appraisal report for in-kind donation
- b. The year-end donation can be receipted for the current year if the post-mark on the envelope is dated on or before December 31. The post-marked envelope shall be attached to the covering memo.

- c. Upon confirmation of the deposit and review for compliance with this policy, an official income tax receipt will be issued pursuant to the Income Tax Act.
- d. Tax receipts are not issued to other registered charities as per CRA policy.
- e. Donations made by cheques may take some time to ascertain that the cheques are not bounced.
- f. Income tax receipts shall be issued for donations of \$20.00 or more.

Contact: Tax Compliance Unit, Accounting Services Division

E-mail: taxunit@toronto.ca