

From: [Hayley Maschek](#)
To: [Executive Director](#)
Subject: RE: Tax Specialist
Date: September 5, 2024 10:12:48 AM
Attachments: [image001.png](#)

Hi Kimberly,

I have reviewed the fund agreement attachment, and am comfortable that this is consistent with the CRA's guidance and expectations. Please let me know if you have any further questions or if I can be of further assistance in this and/or other matters.

Thanks,

Hayley

Hayley Maschek (she/her)
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From: Executive Director <executivedirector@cfpdi.ca>
Sent: Thursday, September 5, 2024 7:59 AM
To: Hayley Maschek <Hayley.Maschek@mnp.ca>
Subject: RE: Tax Specialist

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Hi Haley.

Attached is our Fund Agreement, which states that CFPD has the ultimate decision on granting. The grants that are given to the organizations administered through the RM are from our general endowment fund where donors do not indicate where the investment income is granted to and the activities do further our charitable purpose.

Hope this answers your questions.

From what you said I feel like we are doing what we are supposed to do with regards to CRA regulations, but I do feel we need to add more on our website.









Thanks

From: Hayley Maschek <Hayley.Maschek@mnp.ca>
Sent: Wednesday, September 4, 2024 2:12 PM
To: Executive Director <executivedirector@cfpdi.ca>
Cc: Brent Michie <Brent.Michie@mnp.ca>
Subject: RE: Tax Specialist

Apologies – one quick follow up question/comment regarding the recipient organizations that do not have bank accounts. Can you confirm that these grants involve funds held by the Foundation that have been determined to be provided to recipient organizations (in furtherance of the Foundation's charitable purposes), but that due to administrative/banking issues, the funds are instead gifted to the RM for further disbursement to the ultimate recipient organizations? Are there any agreements in place (i.e. with the RM)? Are the grants within the control of the Foundation (such that the Foundation made the decision to provide funding to the recipient organization and was not directed to do so by a donor)?

For greater certainty, I confirm that the Rural Municipality of Portage la Prairie is listed as a qualified donee (excerpt from the CRA's list below). If the amounts are simply gifted to the RM for their further action/determination, they could be reported as such.

List of municipalities

Name  	Type  	Status  	Effective date  
Portage la Prairie	City	Registered	2012-01-01
Portage la Prairie	Rural Municipality	Registered	2012-01-01

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From: Hayley Maschek

Sent: Wednesday, September 4, 2024 11:56 AM

To: Executive Director <executivedirector@cfpdi.ca>

Cc: Brent Michie <Brent.Michie@mnp.ca>

Subject: RE: Tax Specialist

Hi Kimberly,

Following up on the below and in anticipation of your upcoming Board meeting, I have some comments/guidance that I hope will be helpful.

I confirm that the Income Tax Act now provides (in paragraph 168(1)(f) that a registered charity could have its charitable registration revoked if it “accepts a gift **the granting of which was expressly or implicitly conditional on the charity...making a gift to another person, club, society, association or organization other than a qualified donee**”.

Where the Foundation receives donations to establish a donor-advised fund or flow-through fund, this may be acceptable if and/or to the extent that the class of potential recipients is limited to registered charities and/or other qualified donees (as confirmed by the CRA’s list: <https://www.canada.ca/en/revenue-agency/services/charities-giving/list-charities/list-charities-other-qualified-donees.html>). In this case, the rule in paragraph 168(1)(f) would *not* apply and there is no need to limit or cease accepting such gifts.

Where the gifts are intended to be used to support *not*-qualified donees (including NPOs and/or other organizations), the CRA provides some helpful guidance in [CG-032 Registered Charities Making Grants to Non-Qualified Donees](#) in which it describes examples of gifts that would be viewed as explicitly and implicit conditional on being gifted over to a non-qualified donee.

- An explicitly conditional gift is made if a donor indicates that a gift must be used to grant money to a specific non-qualified donee, and if it is not used for that purpose, the funds must be returned to the donor.
- An implicitly conditional gift is made when a charity includes the name of a non-qualified donee in its own name, purposes, or other formal documents, indicating this would be the sole recipient of any grants the charity makes.

The CRA recommends that charities communicate to donors, on the donations page of their website and any fundraising communications/materials, that donors may indicate the program preference for how their donation may be applied, but that ultimate authority on the use of resources rests, at all times, with the charity. Charities should further communicate/clarify that if the charity does not use the donation in accordance with the donor’s preference, the charity will *not* return the donation. As long as a charity can show that it retains authority over the use of its funds, the CRA confirms that the charity will not be considered to be engaged in directed giving.

Can you confirm whether there are gift agreements (and/or fund establishment documents) in place? Do these *require* that the Foundation adhere to donor requests? It may be possible to modify these to ensure that they are consistent with the CRA’s

recommendations. We also suggest that factually, the Foundation should assess the gifts/requests to determine whether it wishes to comply with a donor request in light of the purposes and/or activities of the potential recipient. This should serve as further evidence of the Foundation's authority and decision/making power of the use of such funds. The Foundation should operate in furtherance of its own charitable purposes in managing all funds received, and while it may take requests from donors into consideration, it should not be required by any donor to make a transfer (unless that transfer is to a qualified donee).

If you have any sample agreements or documents, I would be happy to review and provide comments if that would be helpful.

Please let me know if you have any questions and/or would like to discuss.

Kind Regards,

Hayley

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From: Executive Director <executivedirector@cfpdi.ca>

Sent: Friday, August 23, 2024 1:25 PM

To: Hayley Maschek <Hayley.Maschek@mnp.ca>

Subject: RE: Tax Specialist

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Hi Hayley.

The recipients of our funds are qualified and non – qualified donees. A few do not have their own bank accounts and the RM receives funds and then distributes to them. We believe we cannot longer flow funds through another charity. Also we have donor advised funds where the donor indicates where they would like the investment income from their fund to but the Anti-giving rules say we can no longer do this unless we are reading it wrong. We also offer Flow-through funds where a donor makes a donation to us in order to get a tax receipt but we then instructs up to give those funds to an organization/group.

Thanks

From: Hayley Maschek <Hayley.Maschek@mnp.ca>

Sent: Friday, August 23, 2024 1:53 PM

To: Executive Director <executivedirector@cfpdi.ca>

Cc: Brent Michie <Brent.Michie@mnp.ca>

Subject: RE: Tax Specialist

Hi Kimberly,

Can you confirm the recipients of the funds? That is, are they all registered charities or other qualified donees? Are any of the recipients NPOs, community groups, individuals, or other non-charitable organization?

Based on the answers to the above, I will provide written comments/guidance (in advance of your Board Meeting). I'm also happy to have a call anytime to discuss.

Thanks,

Hayley

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From: Executive Director <executivedirector@cfpdi.ca>
Sent: Thursday, August 22, 2024 11:53 AM
To: Hayley Maschek <Hayley.Maschek@mnp.ca>
Cc: Brent Michie <Brent.Michie@mnp.ca>
Subject: FW: Tax Specialist

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Hi Hayley.

My Board would like this information for our next board meeting on September 5, 2024. If you are unable to respond, is there someone else that can assist us?

Thanks

From: Executive Director
Sent: Tuesday, July 23, 2024 9:27 AM
To: Hayley Maschek <Hayley.Maschek@mnp.ca>
Subject: RE: Tax Specialist

What we are wondering about is how the Anti-Giving Rule relates our Funds. Should we still be offering Flow Through Funds and Donor Advised Funds? Also we have two groups who do not have bank accounts so the RM is the charity we always flowed the grant money through. Should we still be doing this?

Thanks

From: Hayley Maschek <Hayley.Maschek@mnp.ca>
Sent: Friday, July 19, 2024 2:49 PM
To: Executive Director <executivedirector@cfpdi.ca>
Subject: FW: Tax Specialist

Hi Kimberly,

Brent forwarded your query and asked that I reach out to you. My apologies for the delay in reaching out to you – I have been out of the office.

Do you have any availability today or early next week for a call to discuss? If you would prefer, I can provide some preliminary comments in writing to help give you some guidance.

Please feel free to reach out directly anytime at my direct line below or on my cell at 604-726-5966.

Kind Regards,

Hayley

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From: Executive Director <executivedirector@cfpdi.ca>
Sent: Tuesday, June 11, 2024 9:23 AM

To: Brent Michie <Brent.Michie@mnp.ca>

Subject: Tax Specialist

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Hi Brent.

Do you have a Tax Specialist at your office that we can discuss the Anti Giving Rule more in-depth. In particular, should we stop offering Flow Throughs and also we flow money through the RM for two groups and want to know if we should cease doing this.

Sincerely,

Kimberly Lavallee
Executive Director



[Click Here to make a Donation](#)

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For Community, By Community, Forever

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