



October 2011.

Dear GLGI Donor,

Many participants in the Global Learning Group Inc. (GLGI) 2009 donation program have received correspondence from the Canada Revenue Agency (CRA) indicating its intent to reassess their 2009 tax returns. We should emphasize that this letter is not out of the ordinary, but is part of the regular CRA administrative process. As some of you know, these letters are mass produced and are not primarily focused on your personal tax situation. Of course, each letter does contain information personal to you, such as the amounts of your donations, but the rest of the letter is very similar to that sent to other GLGI participants.

We also advise you that donors in previous years have challenged CRA's position and these matters will shortly be before the Tax Court of Canada for determination. Remember, CRA states they take a "position" but their position is not the law, and contrary positions may ultimately prove more valid. GLGI is assisting in these matters and therefore your participation in the 2009 donation program will likely not come under legal review for quite some time, until prior years' issues have been determined by the court. In the meantime GLGI recommends that you make prudent use of the tax savings the program has generated for you.

We at GLGI are committed to supporting and assisting you in dealing with CRA. At this stage, there is no need for you to respond to CRA's letter but you may wish to do so. Unfortunately, our advisors feel that CRA will not pay much serious attention to your response, no matter how detailed. At the end of this letter, we set out what is likely to be the next stage in the process, and what action you should take.

We have reviewed the CRA's typical letter with our professional advisors. The CRA letter contains numerous inaccuracies, partial information, and omissions of relevant information. In addition, because the CRA correspondence is repetitive, some donors may find it confusing. We list below the CRA's five main arguments. We then state our response to each of these arguments.

No Donative Intent

CRA Argument No. 1

It is CRA's position that donors had no donative intent because there was no element of impoverishment. Therefore, the donation cannot be characterized as a gift.

GLGI Response

At the time donations were made, donors owned both cash and courseware. Donors were free to retain or to donate their courseware and/or cash. They were clearly impoverished, under these circumstances, to the extent that they chose to give away their cash and their courseware. The fact that donors may have profited from a tax credit for these donations should be irrelevant. Case law is clear that the value of tax credits does not enter into the determination of impoverishment.

CRA Argument No. 2

CRA's second argument relating to donative intent is that donors received consideration for their donation in the form of a benefit or advantage linked to their donation. The CRA claims that donors received the benefit of becoming a beneficiary of the trust and of receiving courseware without cost to themselves, and that this entitlement was linked to the donor's cash payment. The CRA takes the position that the courseware was distributed to donors in consideration of their cash payment and their agreement to donate the courseware.

GLGI Response

The CRA's understanding is incorrect. The facts are as follows:

- i) Any individual could apply to become a capital beneficiary of the Global Learning Trust.
- ii) Individuals were not required to make any cash payment in order to qualify as a beneficiary of the Trust or to receive a distribution of courseware from the Trust. Some donors of courseware, for a variety of reasons, never did make corresponding cash donations. Nevertheless, when these individuals chose to donate their courseware, they received donation receipts for the value of the courseware.
- iii) The Trust did not stipulate that beneficiaries donate courseware as a condition for distributing the courseware to them. Beneficiaries were free to retain or to donate courseware.
- iv) GLGI implemented special measures to protect the right of individuals to retain their cash and courseware by arranging for an independent escrow agent to implement the donations and in particular to remind prospective donors by email of their right to donate or not to donate their cash or courseware. This safeguard provided all individuals with the opportunity to decide to retain their cash or courseware before they made any donation. Some individuals exercised the right not to donate.

Cash Donation

CRA Argument

The CRA's position is that because the Charity did not have unfettered use of the donors' cash, the charity did not benefit from the donors' donations. The donations, therefore, were not gifts.

GLGI Response

Donors imposed no conditions on the Charity's use of cash donations. The CRA's argument was based, in part, on the fact that the charity contracted to pay a portion of its donations in fundraising fees and, therefore, did not have use of all the funds received by it for charitable purposes. It is common practice today for charities to engage paid fundraisers, even telemarketers, to solicit donations. The CRA's position is, in fact, unsupported by law.

Courseware Donation

CRA Argument

The CRA does not believe that any of the transactions relating to the transfer of courseware titles occurred, or that these were legally effective, nor is it convinced that the Trust is a valid trust. The CRA then raises several technical arguments as to why these transactions may be ineffective.

GLGI Response

GLGI provided the CRA with copies of all documentation relating to legal title and the creation of the Trust. This documentation was prepared or reviewed by the prominent national law firm providing the original favourable tax opinion, and it is difficult to imagine that this law firm overlooked such basic issues as those raised by the CRA. The process for title receipt and transfer of the courseware rigorously follows all accepted legal and business practices in this regard.

Fair Market Value

CRA Argument

The CRA claims that it has a document indicating that the settlor of the trust “purchased” all of the courseware for the various amounts. The CRA does not accept the appraisal of the courseware at the retail market price, stating that it does not feel it is appropriate. CRA sites an adjustment of the Fair Market Value by the valuers as supporting a reduced valuation amount.

GLGI Response

GLGI possesses a copy of this document. The document clearly states that the various amounts are not a purchase price, but are, rather, a contribution to the software developer to help defray the costs of software development. Several other facts are relevant here:

- i) The document acknowledges that the software developer, a worldwide leader in interactive learning solutions, was aware of the philanthropic purpose of the transactions and, in fact, encouraged them.
- ii) All donated courseware was appraised at the time of donation at the retail value (fair market value) of that courseware. The adjustment of the valuation by the valuers referred to by CRA was to allow for the reduced value of courseware teaching older software programs, but these same valuers (whom CRA relied upon to adjust the value downward) also appraised the courseware you donated at the Fair Market Value the charity put upon the donation of your gift-in-kind.
- iii) Identical courseware is regularly sold by the courseware developer at the same retail price as the value you received for your donated courseware.

Although the CRA does not accept the appraisal of the courseware at the retail market price, it does not indicate which market it considers the appropriate market, and it has not provided any other appraisal of the courseware. The courseware developer has not had any requests or visits from any CRA person or their authorized valuator to investigate or substantiate CRA’s position that the courseware value is anything other than that claimed by the donor and received by the charity.

Our Conclusions and Advice to you

As stated in the CRA’s letter, you may respond personally to its letter. In our experience, however, the CRA is unlikely to consider favourably any submissions made by individual taxpayers, and may use such submissions to support its own position. At this point, it seems likely that CRA will issue you a “Reassessment” of your 2009 tax year. In that case YOU MUST RESPOND to the Reassessment by filing a Notice of Objection, following the procedure that accompanies the Reassessment. For your information, a Notice of Objection must be filed within



90 days of the date of mailing of a CRA Reassessment. More details are found on the GLGI website at www.glgi.ca .

We would like to remind you of our Donor Support Program and the terms under which donors are eligible for our continuing support. A significant contingency fund (defense fund) has been set aside to deal with tax related issues, if and when they arise. To ensure our continuing support through our Donor Support Program, we insist that donors keep the head office updated as to all contact information. Changes of mailing addresses or emails can be either faxed to (905) 947-0800 or emailed to giving@glgi.ca .

GLGI believes that the claims for charitable tax credits made by the 2009 program participants are valid. Global Learning will continue to provide professional assistance as it pursues this matter to its ultimate conclusion. We will keep you apprised of any further developments.

Kind Regards,



Robert Lewis
GLOBAL LEARNING GIFTING INITIATIVE