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DOCNUM 2013-0513781E5

REFDATE 140401

SUBJECT Trade union dues

SECTION 8(1)(i)(iv); 8(5)

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 annual dues paid by an employee in the year to an employee association are considered annual dues to maintain membership in a trade union and deductible from employment income under 8(1)(i)(iv)?

POSITION: It is a question of fact but likely yes.

REASONS: Although the association is not certified as a trade union, it appears to negotiate collectively with the employer for improvements in the members' working conditions.

XXXXXXXXXX

Kathryn McCarthy

2013-051378

April 1, 2014

Dear XXXXXXXXXXXX:

Re: Trade union dues

We are writing in response to your letter dated November 5, 2013, concerning dues paid by employees to an employee association ("Association"). More specifically, you have asked whether the annual dues paid in the year to the Association are considered annual dues to maintain membership in a trade union and deductible from employment income under subparagraph 8(1)(i)(iv) of the Income Tax Act ("Act").

Based on the information provided, our understanding of the relevant facts is as follows:

* The Association:

is a company-wide organization that represents the interests of all non-management employees;

is made up of various sub groups that represent specific employee groups;

is not certified by Human Resources and Skills Development Canada as a labour organization; and

collectively negotiates employment agreements covering compensation, benefits, and occupational health and safety.

* It is a condition of employment that all non-management employees of the employer are members of the Association.

* The employer collects Association dues bi-weekly via payroll deduction.

Our comments

This technical interpretation provides general comments about the provisions of the Act and related legislation (where referenced). It does

not confirm the income tax treatment of a particular situation involving a specific taxpayer but is intended to assist you in making that determination. The income tax treatment of particular transactions proposed by a specific taxpayer will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC 70-6R5, Advance Income Tax Rulings.

Generally, under subparagraph 8(1)(i)(iv) of the Act, an individual may deduct from employment income annual dues paid in the year to maintain membership in a trade union (as defined by section 3 of the Canada Labour Code). It is a question of fact whether annual dues paid to a particular employee association are considered annual dues to maintain membership in a trade union.

The Canada Labour Code defines a trade union as any organization of employees formed for purposes that include the regulation of relations between employers and employees. It is an established position of the Canada Revenue Agency ("CRA") that an association need not be certified as a trade union to be considered a trade union for the purposes of subparagraph 8(1)(i)(iv) of the Act. Further, an association which negotiates collectively with an employer for improvements in the members' working conditions is generally considered to be a trade union for purposes of subparagraph 8(1)(i)(iv) of the Act.

Although the Association is not certified as a trade union, based on the facts provided, it appears to negotiate collectively with the employer for improvements in the members' working conditions. In our view, the Association, as described, would likely be considered a trade union for purposes of subparagraph 8(1)(i)(iv) of the Act. Therefore, an employee

likely may deduct from employment income the annual dues paid in the year to maintain membership in the Association. However, subsection 8(5) of the Act will prohibit the deduction of annual dues if the dues were levied for:

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

More information about dues which an employee may deduct from employment income is available in Interpretation Bulletin, IT-103R, Dues paid to a union or to a parity or advisory committee, on the CRA website.

We trust our comments will be of assistance.

Yours truly,

Nerill Thomas-Wilkinson, CPA, CA
Manager
Business and Employment Income Section
Business and Employment Division
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