

# TALES FROM THE TRENCHES

BY BARRY C. MCGUIRE

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## TAX CHARITY SCAM

“Our member saw one of those ads, ‘help the less fortunate and save on your tax bill’. “Just what I need,” thought our member. It had been a busy couple of years. Over 20 properties purchased and refinanced during the boom. His accountant had been warning him about the looming giant tax bill.

He attended an information meeting and was very impressed with the slick presentation. Handsome men in suits explained clearly and logically why a charitable donation of \$20,000 to a registered charity would allow you a \$100,000 tax deduction. The idea was that the charity would purchase software licenses on a wholesale basis. Those licenses and the ability to buy the underlying software would then be donated to worthy recipients on a retail cost basis. Essentially that is the reason why a \$20,000 donation would turn into a \$100,000 deduction.

Our member was impressed. As a businessman with a senior position, he was accustomed to doing rigorous analysis. The concept and numbers made sense. There was an accounting opinion from a national firm attesting to the bona fides of the plan. The \$20,000 cheque was written and the \$100,000 deduction taken by our member’s accountant at tax time.

All went well until a nasty tenant dispute over an \$800 security deposit.

The unhappy tenant cleverly called the Canada Revenue Agency (CRA) and said that our member had unreported income. This resulted in a CRA audit. Our member naively told his accountant to deal with the CRA. When the CRA requested information, the accountant simply took ALL of our member’s neat, tidy and well-organized information, **every bit of it** and gave it to the CRA auditor.

On examination the auditors found no evidence of unreported income. What he did find was the \$20,000 charitable donation and the \$100,000 tax deduction. This triggered a more extensive audit and analysis of the donation by the CRA’s ‘Aggressive Tax Planning’ section. Did you know the CRA had such a section ? Our member quickly hired a lawyer and a tax accountant, but the damage was done. The last two years have been extremely stressful and have included many expensive meetings with lawyers and accountants.

The CRA's opinion is that this donation scheme and most others like it are shams. Their recent opinion is 12 pages long and very heavy on technical, legal argument and interpretation. In the end they disallowed the \$100,000 deduction and very recently disallowed the \$20,000 charitable donation. In hindsight, our member understands that the CRA is a giant, faceless and remorseless bureaucracy that can grind granite into sand. He asks himself and says to other members, “why would you ever get involved with them?”

### SUMMARY:

1. A fight with a tenant over \$800 is almost always not worth it. (Stress, Small Claims court, report illegal suites or to CRA)
2. This is a classic "if it seems too good to be true, it probably is". Any charitable donation scheme that promises bigger than normal deductions is almost certainly a sham. These schemes are characterized by their complexity, seeming sophistication and opaqueness, all of which make it impossible to get a clear, understandable opinion as to their bona fides.
3. If the CRA comes calling, get expert advice early. Most accountants and lawyers are not CRA experts.