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9 February 2016

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Via FedEx and Email (randy.hewlett@cra-arc.gc.ca)

**Re: Taxation of gift cards**

Dear Mr. Hewlett:

Thank you for taking the time to meet with us this past November during our liaison meeting to discuss our concerns about the tax treatment of gift cards provided by employers to their employees. During that meeting we committed to provide you with a further discussion of the basis for including such gift cards and gift certificates within the Canada Revenue Agency's ("CRA") administrative policy<sup>1</sup> on the exemption from taxation of certain gifts and awards (the "Policy").

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<sup>1</sup> <http://www.cra-arc.gc.ca/tx/bsnss/tpcs/pyrll/bnfts/gfts/plcy-eng.html>

Paragraph 6(1)(a) of the Income Tax Act (the “Act”) includes in an employee’s income the value of any benefits of any kind received by the employee in respect of, in the course of, or by virtue of his or her employment unless another provision of the Act specifically excludes such value from the employee’s income.

While no provision in the Act excludes from an employee’s income the value of employer-provided gifts and awards, the CRA has a long-standing administrative position in which an unlimited number of non-cash gifts and awards with an aggregate annual fair-market value up to \$500 (including taxes) can be provided to employees on a tax-free basis under specific circumstances. The Policy exempts gifts and awards provided to employees for special occasions, such as a religious holiday, a birthday, a wedding, or the birth of a child. The Policy also exempts gifts and awards provided to employees for employment-related accomplishments, such as outstanding service, employees’ suggestions, or meeting or exceeding safety standards. Awards exempted under the Policy must be in recognition of an employee’s overall contribution to the workplace, not simply recognition of job performance.

The initial purpose of the Policy was to remove the administrative burden of reporting small gifts and awards and to recognize common business practices. However, near-cash awards and gifts, such as gift cards and gift certificates, fall outside the Policy because the CRA considers gift cards and gift certificates to be easily converted to cash, and also allow the employee a wide selection of choice in the item they receive.

Since the CRA last updated the Policy in 2010, gift cards have modernized the gift-giving landscape in Canada and have become an increasingly common way for employers to recognize employees in small but meaningful ways for employment-related accomplishments or to give gifts to their employees on special occasions. Gift cards are convenient and flexible; the majority of Canadian retailers (including many employers) offer gift cards in any denomination, which can be used in-store or online. This allows employers to control the amount of recognition or gift provided to an employee and allows the employee to choose a reward or gift that is meaningful to them.

The gift cards provided are generally designed to acknowledge and motivate employees by recognizing their efforts in providing excellent service or their commitment to safety. They are not intended to be compensation for performance. Gift cards may also be provided as gifts for weddings, milestone birthdays, baby showers, and similar occasions. Thus, the gift-card amounts employers generally provide to their employees is generally low and is normally restricted to a certain dollar threshold per card.

While the CRA regards gift cards as providing an element of choice to employees, gift cards can generally only be used at a designated retailer specified on the card. Also, these cards generally

cannot be redeemed for cash, but may only be used to procure a specific good or service. Furthermore, we see no significant difference between an employer purchasing a gift or award for an employee or providing a gift card to that employee to purchase those same or similar items themselves. For example, an employer who wishes to provide a small recognition to an employee who enjoys Starbucks coffee could purchase a bag of coffee from Starbucks for that employee. The fair-market value of the item will not be included in the employee's income provided it meets all of the CRA's criteria for awards under the Policy. However, this will require the employer to determine the coffee preferences of the employee and physically purchase and provide the coffee product to the employee. Alternatively, if an employer provides a gift card to the employee, then the employee controls when and what type of coffee they wish to buy. The reward incentive shifts from the employer to the employee in a way that likely makes the employee happier, namely by increasing his or her choices, while decreasing administrative costs on everybody. To tax this rewarding incentive for employees simply because the employee has a greater choice in award is inconsistent with the intention of the Policy.

We believe that gift cards achieve the Policy's objective to significantly reduce the administrative burden of reporting the numerous immaterial items given to employees in a year, provided they meet the requirements of the Policy.

It is worth noting that Revenu Quebec has stated that gift certificates, gift coupons, or gift cards that must be used to purchase goods or services from designated businesses, and are not considered easily convertible into cash, are not taxable benefits to an employee for Quebec income tax purposes.<sup>2</sup>

The CRA Policy that excludes from income certain employee benefits should newly include gift cards and gift certificates, which inclusion can be achieved with the following requirements:

- The cards are provided to employees for employment-related accomplishments and in recognition of an employee's overall contribution to the workplace or as gifts for special occasions as outlined in the Policy,
- The annual aggregate amount of all gifts and awards provided to an employee does not exceed \$500 (including taxes),
- Any amount in excess of \$500 will be included in the employee's income, and

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<sup>2</sup> [http://www.revenuquebec.ca/documents/en/publications/in/in-253-v\(2014-10\).pdf](http://www.revenuquebec.ca/documents/en/publications/in/in-253-v(2014-10).pdf)

- The dollar amount per gift card/gift certificate is limited to \$100 or less.

During our November 2015 liaison meeting, CRA indicated that it may reconsider its position of not including gift cards or gift certificates in the Policy if the dollar amount per gift card or gift certificate were restricted. To that end, we believe that the dollar amount of \$100 per gift card or gift certificate would be a reasonable limitation. (Revenu Quebec does not impose such a limit on gift cards.) We respectfully request that the CRA reconsider its position and allow gift cards and gift certificates to be exempted under the CRA's administrative policy on gifts and awards.

Again, we thank you for taking the time to meet with us on November 17, 2015 to discuss this issue, and we look forward to continuing this dialogue. Should you have any questions about the points in this letter, please contact Mr. Grant Lee, Chair of TEI's Canadian Income Tax Committee, at 604.641.2502 (or grant\_lee@hsbc.ca) or me, at 403.750.2278 (or lmoen@walton.com).

Respectfully submitted,

**Tax Executives Institute, Inc.**



Lynn Moen

Vice President for Canadian Affairs

cc: Kevin McKenzie, Director General, Canada Revenue Agency (by email only)  
Grant Lee, 2015-2016 Chair, TEI's Canadian Income Tax Committee (by email only)