

BETWEEN:

KARLENE ROWE,
and
HIS MAJESTY THE KING,

Appellant,
Respondent.

Appeal heard on November 26, 2025, at Oakville, Ontario

Before: The Honourable Lara G. Friedlander

Appearances:

For the Appellant: The Appellant herself
Counsel for the Respondent: Sean Karmali

JUDGMENT

UPON hearing from the parties:

The appeal from a reassessment under the *Income Tax Act* for the Appellant's 2007 taxation year, is dismissed, without costs.

Signed this 22nd day of December 2025.

“Lara Friedlander”

Friedlander J.

Citation: 2025 TCC 196

Date: 20251222

Docket: 2021-986(IT)I

BETWEEN:

KARLENE ROWE,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

Friedlander J.

[1] This is an appeal of a reassessment under the *Income Tax Act* (the “Act”) for the 2007 taxation year in respect of a credit claimed by the Appellant¹ for a donation in kind of certain licences (the “Licences”) to a charitable organization.

[2] At the commencement of the hearing, the Appellant moved to have this matter held in abeyance pending the final disposition of the appeal to the Federal Court of Appeal of the decision of the Tax Court of Canada in *John Rocca v. The King*, File Number 2024-1495(IT)I. That motion was denied from the Bench. The Appellant then requested an adjournment, which was also denied from the Bench.

FACTUAL BACKGROUND

[3] The donations in issue here are part of a program (the “Program”) promoted by Global Learning Group Inc. (“GLGI”). The Program has been the subject of numerous proceedings in this Court and in the Federal Court of Appeal, some of which will be referenced below. In essence, the Program contemplated that a participant would make a cash payment and would also become a beneficiary of a

¹ As a preliminary matter, the Appellant informed the Court at the beginning of the hearing that her last name had changed from Rowe to Rowe-Okosagah. As the Appellant did not present any evidence of her change of name and did not move for a change of the style of cause, the style of cause has not changed, but I make this note in the hope of forestalling any confusion on this point.

trust, for no additional consideration. The trust would then distribute property, typically licences for course materials in digital format, to the participant. The participant typically would not include in income any amount in relation to the trust distribution, and would transfer the property, as well as paying the previously mentioned cash, to certain registered charities. The participant would typically receive charitable donation receipts for the cash donation and the donation of the property, with the amount of the donation in kind being several multiples of the cash donation, such that the total value of the tax credits associated with the entire Program would exceed the amount of the cash payment.

[4] The facts of this case are generally consistent with the facts considered by this jurisprudence, although there are some material differences.

[5] The Appellant testified that she did participate in the Program, but the content of her testimony regarding that participation and her claim for a charitable donation credit was quite vague. The Appellant testified that she learned about the Program through a friend, who told her about the Program in relatively general terms. She testified that she had no knowledge of the details of the Program. She testified that she made a cash payment to her friend, which she thought was roughly \$1000, on the basis that her friend would send that money to GLGI. She understood that ultimately the cash, or licences for digital course materials or “courseware” (the aforementioned “Licences”) ultimately purchased with the cash, would be sent to certain charitable organizations, and stated that she was provided with some materials demonstrating that the charitable organizations were legitimate and would use the money or property for good causes. She was unclear as to whether the cash would be used to buy the Licences or whether the cash was a direct donation to the charities, but later testified that, as part of the Program, she expected to become a beneficiary of a trust, and that she would receive the Licences. She stated that she was given the choice of selecting charities across Canada and donating the Licences to them directly, or accepting GLGI’s offer to select charities for her and make the donations of the Licences to them on her behalf. She testified that she would not have known what to do with the Licences, and therefore accepted GLGI’s offer to donate them for her. She testified that she did not remember filling out or signing any documents, but that it “made sense” to her that she would have done so.

[6] The Appellant testified that she was motivated by the idea that her participation in the Program would help certain communities receive job training. However, the Appellant also testified that she did expect that, taking into account both her cash payment and the value of the tax receipt she received, she would be better off financially as a result of participating in the Program. Specifically, the

Appellant testified that she knew that the tax receipt would have a value that was greater than the amount of the cash payment, and agreed that she expected that her participation in the Program would provide a net financial benefit to her.

[7] The Respondent provided the Appellant with certain documents — namely, an application to be accepted as a capital beneficiary of a particular trust, deeds of gift of cash and property and two direction letters — that did not contain any information or signatures relevant to any particular individual, but that were very similar in form and content to documentation described in the Reply as being completed by participants in the Program, as well as being similar to some of the documents described in the Appellant’s Notice of Appeal. These generic documents were not tendered as evidence but rather were used to assist the Appellant in recalling the documentation that might have been completed. However, the Appellant testified that none of these documents were familiar to her and did not have copies of any such documents. She speculated that the friend who had introduced her to the Program might have filled out documents for her.

[8] Notwithstanding the Appellant’s testimony that she had no recollection of signing any documents associated with the Program, the Appellant’s Notice of Appeal describes the Program in a reasonable amount of detail and states that the Appellant made an application to become a capital beneficiary of Global Learning Trust (the “Trust”) and that the Appellant signed a written direction to Escrowagent Inc. which provided that the Appellant had a certain period of time to decide whether or not to keep or to donate certain courseware distributed to her by the Trust. None of these documents were submitted to the Court or were recalled by the Appellant. I note that the facts laid out in the Appellant’s Notice of Appeal are similar to facts considered in the jurisprudence of this Court and the Federal Court of Appeal regarding the Program.

[9] Indeed, no documentary evidence of any kind was submitted to the Court regarding the cash payment, the acquisition by the Appellant of any type of beneficial interest in a trust or the receipt of or donation of the Licences by the Appellant from or to anyone, other than a charitable donation receipt. The receipt was issued by York Region Education Industry Foundation and Career Centre (the “Charity”) in the amount of \$15,021.55 and referenced a donation of 65 computer learning program Licences. The receipt stated that no cash had been received by that organization. The charitable donation receipt references the donation of the Licences only. The Appellant was surprised to see that the cash donation was not reflected on the donation receipt presented to her during cross examination, and testified that she

would have asked questions about that had she examined the donation receipt more carefully at the time.

[10] The Appellant claimed a charitable donation credit under section 118.1 of the Act for the aforementioned \$15,021.55. That credit was denied by the Respondent, and is the subject of this appeal.

LEGISLATIVE CONTEXT

[11] Subsection 118.1(3) of the Act provides for a partial deduction from tax, or credit, in respect of an individual's "total gifts" for a taxation year. "Total gifts" is defined in subsection 118.1(1) of the Act, and includes "total charitable gifts". In turn, "total charitable gifts" is defined in subsection 118.1(1) of the Act, and equals the total of each "eligible amount" of a "gift" made in the taxation year, subject to a number of requirements.

[12] Subsection 248(31) of the Act provides that the "eligible amount" of a gift or monetary contribution is the amount by which the fair market value of the property that is the subject of the gift or monetary contribution exceeds the amount of the advantage, if any, in respect of the gift or monetary contribution. An "advantage" for this purpose is described in subsection 248(32) of the Act, but will not be discussed further here.

[13] Under paragraph 118.1(2)(a) of the Act, the eligible amount of a gift is not to be included in "total charitable gifts" unless a receipt for the gift containing prescribed information is filed with the Minister, and certain other requirements are met. The prescribed information is set out in section 3501 of the regulations to the Act (the "Regulations") and includes, pursuant to subparagraph (h)(ii), where the gift is property, the fair market value of the property at the time the gift is made.

[14] There are a number of other related provisions that will not be described here as they were not the focus of argument at trial.

THE ISSUES

[15] The Respondent made a number of arguments in his Reply, but focussed on certain arguments in particular at trial. This decision will address only on those arguments.

[16] The Respondent’s primary argument is that the Appellant did not make a “gift”. This argument has two prongs. First, the Respondent argues that the Appellant did not transfer the Licences to the Charity. Second, the Respondent argues that, were the Court to find that the Appellant did transfer the Licences to the Charity, the Appellant did not do so with donative intent.

[17] The Respondent’s second argument is that, were the Court to find that a gift was made, the fair market value of the gift was nominal, and therefore the “eligible amount” of the gift is nominal.

[18] The Respondent’s third argument is that, were the Court to reject the first two arguments, the documentation requirements set out in subsection 118.1(2) of the Act were not met, and therefore the eligible amount of the gift is nil.

Did the Appellant Make a Gift?

[19] As set out above, the definition of “total charitable gifts” in subsection 118.1(1) of the Act looks to gifts made by a taxpayer. The meaning of the term “gift” in this context is the meaning given to that term by the common law, namely a “voluntary transfer of property owned by a donor to a donee in return for which no benefit or consideration flows to the donor”. See *The Queen v. Friedberg*, [1992] 1 C.T.C. 1 (F.C.A.) (appealed to the S.C.C. on other grounds and dismissed at [1993] 2 C.T.C. 306), *The Queen v. Berg*, 2014 FCA 25 and *Walby v. The King*, 2025 FCA 94 (leave to appeal to the Supreme Court of Canada requested), for but a few examples.

[20] Paragraph 18.138 of the Reply assumes that “the Appellant did not make any gifts to the Charities”. This assumption is a statement of law rather than a statement of fact, and therefore I will disregard it as I proceed through the analysis of whether the Appellant did in fact make a gift.

Transfer of Property

[21] As stated above, a “gift” of property does not exist in the absence of a transfer of that property from the donor to the donee. Paragraph 18.129 of the Reply states that “the Appellant did not acquire any interests under the licence or own the Education Courseware Products purportedly gifted”. Paragraph 18.130 of the Reply states that “the Appellant did not take possession of any licence or the Educational Courseware Products”. Paragraph 18.166 states that “although the Appellant purportedly executed a Deed of Gift of Property to the Career Foundation respecting

Educational Courseware Products; [sic] she was not the owner of any such property at that time, or at any subsequent time”. Although paragraph 10 of the Notice of Appeal, which was denied by the Minister in his Reply, states that the Appellant donated the Licences to the Charity, and paragraph 24 of the Notice of Appeal argues that the Appellant was the legal and beneficial owner of the Licences when she donated them to the Charity, the Appellant adduced no evidence in support of these contentions. The Appellant did not produce any documentation demonstrating that she was in fact the owner of, or in possession of, the Licences. As stated above, the Appellant testified that she did not remember filling out or signing any documents and did not have copies of such documents, but that it “made sense” to her that she would have done so. This testimony alone is insufficient to “demolish” the Minister’s assumptions, as contemplated by *Hickman Motors Ltd. v. Canada*, [1997] 2 SCR 336 at paragraphs 92-94. Accordingly, I find, on a balance of probabilities, that the Appellant did not own or possess the Licences and therefore did not transfer them to the Charity.

Donative Intent

[22] Whether donative intent was present in the context of the Program has been considered in numerous cases. The Federal Court of Appeal in *Walby* stated at paragraph 48 that “if a donor transfers property with the expectation that the donor will receive a benefit or advantage, the transfer will not be a gift”.

[23] Paragraph 18.141 of the Reply states that “the Appellant had no intention to impoverish herself”. Paragraph 18.163 of the Reply states that “the Appellant did not have an intention to impoverish herself but, rather, to profit from her participation in the Program in 2007”. In cross-examination, the Appellant testified that she participated because she thought her participation was going to help people, and not just because she thought she would get a tax receipt. As stated above, the Appellant also testified that she expected that the tax receipt would have a value that was greater than the amount of the cash payment, and agreed that she expected that the participation in the Program would provide a net financial benefit to her. Although, at trial, counsel for the Respondent took the position that the Appellant had not made a cash donation, the factual assumptions identified above stand regardless of whether a cash donation was made, and the Appellant’s testimony regarding her intention also stands. Indeed, as argued by the Respondent, if the Appellant made no cash payment at all, the Appellant would have been that much better off as a result of her participation in the Program. Accordingly, the Appellant did not demolish the assumptions made by the Minister in paragraphs 18.141 and

18.163 of the Reply. As a result, I find that the Appellant had no donative intent and therefore did not make a gift of the Licences to the Charity.

Fair Market Value of Licences, Eligible Amount and the Documentation Requirements

[24] As stated above, the Respondent makes two alternative arguments, both related to the fair market value of the Licences.

[25] Beginning with the factual underpinnings of the arguments, paragraph 18.161 of the Reply states that the fair market value of each Licence was no greater than 16 cents. In contrast, paragraph 22 of the Notice of Appeal argues that “the amounts of her gifts made to the Charity for the 2007 taxation year were in accordance with the FMV [previously defined as “fair market value”] of the Goods [i.e., the Licences] at the time when the donations were made”. However, the Appellant adduced no evidence at all on this point. Accordingly, the Appellant did not “demolish” the Minister’s assumptions regarding the fair market value of the Licences, and therefore I find that the fair market value of each Licence was not greater than 16 cents in 2007.

Eligible Amount

[26] As set out above, generally the definition of “charitable gifts” totals the “eligible amount” of each of the individual’s gifts.

[27] Also as set out above, subsection 248(31) of the Act provides that “[t]he eligible amount of a gift or monetary contribution is the amount by which the fair market value of the property that is the subject of the gift or monetary contribution exceeds the amount of the advantage, if any, in respect of the gift or monetary contribution”. As I have found that the fair market value of each Licence was not more than 16 cents, I find that if the Licences were gifts made by the Appellant to the Charity, the eligible amount of the 65 Licences purported to have been donated was not more than \$10.40 in total, regardless of whether the Appellant received any advantage in respect of the purported gift.

Documentation Requirements

[28] Subsection 118.1(2)(a) of the Act provides that an “eligible amount” is not included in “total charitable gifts” of an individual unless the making of the gift is evidenced by a receipt containing prescribed information that is filed with the Minister. The prescribed information is set out in sections 3500 and 3501 of the

Regulations. Paragraph 3501(1)(h) of the Regulations requires that the amount of a cash gift, or, for other property, the fair market value of that property at the time the gift is made, is information required to be provided to the Minister. As stated recently in *Osborne v. The King*, 2023 TCC 98, at paragraph 23, “[r]egulations 3500 and 3501, referenced in section 118.1 of the Act, provide mandatory, inescapable requirements for the form and content of charitable donation receipts. Receipts must be retained and produced to the Minister in compliant form in order for a successful charitable donation deduction to be made.” [footnotes omitted] See also *Kueviakoe v. The Queen*, 2021 FCA 64.

[29] In this case the Minister argues that this requirement has not been met because the actual fair market value of the Licences was not stated on the relevant receipt. I agree. Accordingly, I find that if the Licences were donated by the Appellant to the Charity, the eligible amount of the Licences is not included in “total charitable gifts” of the Appellant for the 2007 taxation year as the documentation requirements have not been met.

[30] For the reasons set out above, I dismiss the appeal, without costs.

Signed this 22nd day of December 2025.

“Lara Friedlander”

Friedlander J.

CITATION: 2025 TCC 196
COURT FILE NO.: 2021-986(IT)I
STYLE OF CAUSE: KARLENE ROWE AND HIS MAJESTY
THE KING
PLACE OF HEARING: Oakville, Ontario
DATE OF HEARING: November 26, 2025
REASONS FOR JUDGMENT BY: The Honourable Lara G. Friedlander
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APPEARANCES:

For the Appellant: The Appellant herself
Counsel for the Respondent: Sean Karmali

COUNSEL OF RECORD:

For the Appellant:

Name: N/A

Firm: N/A

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