

## CANADA INCOME TAX ACT

### Article 188.1

#### Undue Benefits

(4) A registered charity that, at a particular time in a taxation year, confers on a person an undue benefit is liable to a penalty under this Part for the taxation year equal to

- (a) 105% of the amount of the benefit, except if the charity is liable under paragraph (b) for a penalty in respect of the benefit; or
- (b) if the Minister has, less than five years before the particular time, assessed a liability under paragraph (a) or this paragraph for a preceding taxation year of the charity and the undue benefit was conferred after the assessment, 110% of the amount of the benefit.

#### Meaning of Undue Benefits

(5) For the purpose of this Part, an undue benefit conferred on a person (referred to in this Part as the “beneficiary”) by a registered charity includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity that is paid, payable, assigned or otherwise made available for the personal benefit of any person who is a proprietor, member, shareholder, trustee, or settler of the charity who has contributed or paid into the charity more than 50% of the capital of charity, or who deals not at arm’s length with such a person or with the charity, as well as any benefit conferred on a beneficiary by another person, at the direction or with the consent of the charity, that would, if it were not conferred on the beneficiary, be an amount in respect of which the charity would have a right, but does not include a disbursement or benefit to the extent that it is

- (a) an amount that is reasonable consideration or remuneration for property acquired by or services rendered to the charity;
- (b) a gift made, or a benefit conferred, in the course of a charitable act in the ordinary course of the charitable activities carried on by the charity, unless it can reasonably be considered that the eligibility of the beneficiary for the benefit relates solely to the relationship of the beneficiary to the charity; or
- (c) a gift to a qualified donee.