



JUL 20 2007

BY REGISTERED MAIL

Adzena Fund Canada
358 Danforth Avenue, Suite 160
Toronto, Ontario M4K 1N8

Attention: Frederick Kwasi Dunyo

Account Number:
87492 3709RR0001

SUBJECT: Notice of Intention to Revoke
Adzena Fund Canada

Dear Mr. Dunyo:

I am writing further to our letter dated February 23, 2007 (copy enclosed), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of Adzena Fund Canada (the "Charity") in accordance with subsection 168(1) of the *Income Tax Act* (the "ITA").

After careful review of the representations included in your letter of March 26, 2007, it is our conclusion that sufficient reasons have not been provided as to why the Charity's status as a registered charity should not be revoked. The Charity issued official donation receipts in contravention of the ITA and failed to demonstrate it maintained adequate records to support the income and expenditures reported.

Consequently, for each of the reasons mentioned in our letter of February 23, 2007, I wish to advise you that, pursuant to the authority granted to the Minister in subsection 149.1(2) and 149.1(4.1) of the ITA, and delegated to me, I propose to revoke the registration of the Charity. By virtue of subsection 168(2) of the ITA, the revocation will be effective on the date of publication in the *Canada Gazette* of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(d) and 168(1)(e) of the Income Tax Act, that I propose to revoke the registration of the organization listed below under subsection 149.1(2), and paragraph 149.1(4.1) of the Income Tax Act and that the revocation of registration is effective on the date of publication of this notice.

Account Number
87492 3709 RR 0001

Name
Adzena Fund Canada
Toronto, Ontario

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In accordance with subsection 168(2) of the ITA, you can suspend this process (i.e. seek an extended period before revocation) by applying to the Federal Court of Appeal or a judge of that court for a stay. The Court will acknowledge your application and provide you with an action number. We require a copy of the Court acknowledgement of your request for a stay to stop the revocation process.

Should you wish to appeal this Notice of Intention to Revoke the Charity's registration in accordance with subsection 168(4) of the ITA, you are advised to file a Notice of Objection within 90 days from the mailing of this letter. This notice is a written statement that sets out the reasons for the objection and all the relevant facts. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
25 Nicholas Street
Ottawa, ON K1A 0L5

Please note that, notwithstanding the filing of a Notice of Objection, the Charity must seek the above-noted stay to prevent revocation from occurring. Unless the Canada Revenue Agency receives notice that an application for a stay has been filed to the Federal Court of Appeal or judge of that court regarding this revocation, we intend to proceed with the publication of the above notice in the *Canada Gazette* in 30 days thereby affecting the revocation of the organization's registration.

Consequences of a Revocation

As of the date of revocation of the registration of the Charity, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Charity will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts**.

Additionally, by virtue of section 188 of the ITA, the Charity will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Charity's registration. This revocation tax is calculated on prescribed form T-2046 "*Tax Return Where Registration of a Charity is Revoked*". The return must be filed and the tax must be paid on or before the day that is one year from the date of the Notice of Intention to Revoke a charity's registration. For your reference, I have attached a copy of the relevant provisions of the ITA in Appendix "A" concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation. Form T-2046, along with the related Guide RC-4424, "*Completing the Tax Return Where Registration of a Charity is Revoked*", are also attached for your information.

Also, the Charity will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (the "ETA"), effective on the date of revocation. As a result it may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. The relevant ETA provisions are attached in Appendix "B". If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-800-959-8287.

Furthermore, I wish to advise you that pursuant to subsection 150(1) of the ITA, a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefore, be filed with the Minister in prescribed form containing prescribed information.

Yours sincerely,



Terry de March
A/Director General
Charities Directorate

Attachments

- Our letter dated February 23, 2007;
- Your letter dated March 26, 2007;
- Appendix "A", Relevant Provisions of the *Income Tax Act*;
- Appendix "B", Relevant Provisions of the *Excise Tax Act*;
- Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*; and
- Form T-2046, *Tax Return Where Registration of a Charity is Revoked*.



REGISTERED MAIL

February 23, 2007

Adzena Fund Canada
358 Danforth Avenue Suite 160
Toronto Ontario M4K 1N8

Your file / Votre référence
874923709RR0001
Our file / Notre référence
3024802

Attention: Frederick Kwasi Dunyo

Dear Sir:

**Re: Audit of Registered Charity Information Return
For the Fiscal Period September 30, 2005
Business Number: 874923709 RR0001**

The audit of Adzena Fund Canada (hereinafter, the "Charity") was subject to an internal quality assurance review by senior Charities Directorate staff. This review resulted in the discovery of some conflicting conclusions between the issuance of the initial Administrative Fairness Letter (AFL) and the subsequent issuance of the Compliance Agreement (CA).

The review of this audit indicate that the Charity was in contravention of certain provisions of the *Income Tax Act* (hereinafter, the "ITA") or its Regulations as reflected in the initial AFL. The subsequent issue of the CA resulted from a miss-communication between the Auditor and a Charities Directorate staff member. The senior Charities Directorate staff determined from their review that the problems identified were clearly in contravention of the *ITA* and were of such relative significance such as to negate the issuance of the CA.

We are therefore retracting the Compliance Agreement and revising the AFL dated August 16, 2006 as follows.

This letter is further to the audit of the books and records of the Charity by the Canada Revenue Agency (hereinafter, the "CRA"), related to the operations of the Charity for the period ended September 30, 2005

The audit raised concerns about the Charity's compliance with certain provisions of the ITA. Full compliance with these provisions is necessary for continued registered status. The balance of this letter describes CRA's concerns

Gifts in Kind

The audit results indicate that the Charity has issued receipts for gifts of property other than cash and for which a fair market value of the gifts has not been established. Regulation 3501 of the Act requires that where the donation is a gift of property other than cash, the amount that represents the fair market value of the property at the time the gift was made preferably by way of independent appraisal for gifts exceeding \$1,000, must be included on the receipt. Furthermore such receipts must show clearly

- (i) the date on which the donation was received,
- (ii) a brief description of the property, and
- (iii) the name and address of the appraiser of the property if an appraisal was performed.

In this case, the receipts do not state that property was donated or contain a brief description of the property donated or the date on which the donation was received.

In your letter dated October 15, 2006, you stated that Mr. Hodzi wrote the receipts for gifts-in-kind donations and you were not able to substantiate what he collected. In a conversation with Janis Mudie on September 20, 2006, she stated that receipts were written by you for amounts in excess of the amounts donated because you were told to do so by a trusted elder who indicated to you that all charities were writing such receipts.

Those conflicting accounts of how receipts were issued for the noted amounts suggests that donation receipts were issued for funds/gifts not received in clear violation of the general rule of IT-110R3 which clearly states:

Generally a gift is made if all three of the conditions listed below are satisfied:

- (a) some property — usually cash — is transferred by a donor to a registered charity;
- (b) the transfer is voluntary; and
- (c) the transfer is made without expectation of return. No benefit of any kind may be provided to the donor or to anyone designated by the donor, except where the benefit is of nominal value.

In this case, the Charity issued donation receipts where the conditions for gifting were not met.

However laudable your objectives are, giving receipts for charitable donations far in excess of the amount actually given is illegal.

Under subsection 149.1 of the ITA, the Charity's registration may be revoked if it fails to comply or contravenes paragraph 168(1)(d) of the ITA.

Books and Records

Section 230(2) of the ITA requires every registered charity to maintain adequate records and books of account at an address in Canada recorded with the Minister. The purpose of this requirement is to enable the charity to accurately provide CRA with the information required by the Act as well as enable CRA to verify the accuracy of reported information through the conducting of audits.

In addition to the retention of copies of the donation receipts that section 230(2) explicitly requires, section 230(4) also states that "every person required by this section to keep books of account shall retain

- (a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as prescribed; and
- (b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the date of the last taxation year to which the records and books relate".

A charity is not meeting its requirement to maintain adequate books and records if it fails to exercise due care with respect to ensuring the accuracy thereof.

It was found during the audit that no such book of account was maintained and that record retention in support of bank transactions and expenditures was incomplete. Receipts were not provided for all expenditures reported on T3010.

The Charity's books and records and the internal accounting controls supporting them are considered to be inadequate. As a result, the auditor was unable to confirm revenue and expenditures as recorded, the accounting of receipts and the charitable nature of expenditures as reported in the Information Return.

In your letter dated October 15, 2006, you stated that Bankay Financial Services prepared the annual statement and T3010 based on information provided by Mr. Hodzi. Also, you stated that you signed the T3010 without review but relying on Bankay's assurance that the return was a true reflection of the organization's activities. You claim that the errors made by Charity and reported in the T3010 are the responsibility of third parties without any evidence to substantiate your claim. There is no indication that the T3010 was prepared by a third party and no financial statement was provided for review. Also, there is no indication of the existence of Mr. Sam Hodzi.

In a conversation on June 2, 2006, you stated that what was listed under ongoing programs on the T3010 was incorrect that you did not assist 300 students in 1,555 elementary schools. However, you did not correct that statement or seek to ascertain that the other information contained on the T3010 was correct and factual.

Under subsection 168(1)(e) of the ITA, the Charity's registration may be revoked if it fails to comply or contravenes any of the sections 230 to 231.5 of the ITA

Official Donation Receipts

The audit indicates that the donation receipts issued by the Charity did not comply with the requirements of Regulation 3501 of the Act and Information Bulletin IT110-R3 entitled, "Gifts and Official Donation Receipts" as follows:

- the place or locality where the receipt was issued;
- the day on which or the year during which the donation was received or, where property other than cash is received, the actual date of receipt;
- the day on which the receipt was issued when it differs from the date of the donation.

Also, the donation receipts are pre-signed before being issued by a third party, which indicates a lack of control over the issuance of donation receipts.

In your letter dated October 15, 2006, you did not address the issued about the donation receipts not complying with the requirements of the ITA but stated that the Charity is a young organization which does not excuse the Charity from complying with the ITA and all Regulations. Irrespective of how long the Charity has been operational, the Charity has to adhere to the requirements of the ITA and its Regulations, all of which are easily accessed on our website.

In your submission to the Charities Directorate, you indicated that the Charity will fund a bursary program where candidates' recommendations will be collected by village elders committee and school teachers committee and forward to Dasi Adzena Dunyo Memorial Foundation (DADMF) (Ghana) and their recommendations based on financial need, scholastics or promise will be forward to the Charity for selection of candidates. However, during the audit no documentation was made available to show that process is being followed or that there is any selection process to determine which students should receive assistance.

In the agency agreement between the Charity and DADMF dated May 22, 2004, the agent agreed to maintain separate books and records for funds received from the Charity and to provide written reports on how funds are being disbursed. However, during the audit no such reports were made available and there was no indication that separate accounts were being maintained.

Under subsection 149.1(2) of the ITA, the Charity's registration may be revoked if it fails to comply with or contravenes paragraph 168(1)(b) of the ITA.

Conclusion

For each of the reasons listed above, it appears that there are grounds to revoke Adzena Fund Canada's status as a registered charity. The consequences to a registered charity of losing its registration include:

1. The loss of its tax-exempt status as a registered charity, which means that the Adzena Fund Canada would become a taxable entity under Part I of the Act, provided it does not qualify as a non-profit organization as described in Paragraph 149(1)(l) of the Act;
2. Loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Charity would not be allowable as a tax credit to individual donors as provided at subsection 118.1(3) of the Act or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the Act; and
3. The possibility of a tax payable under Part V, subsection 188(1) of the Act.

For your reference, I have attached a copy of the relevant provisions of the *Income Tax Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the CRA should not revoke the registration of the Adzena Fund Canada in accordance with subsection 168(2) of the Act, we invite you to submit your representations **within 30 days from the date of this letter**. Subsequent to that date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a Notice of Intention to Revoke the registration of the Adzena Fund Canada in the manner described in subsections 168(1) and (2) of the Act. If you appoint a third party to represent you in this matter, please send us written authorization naming that individual and explicitly authorizing that individual to discuss your Charity's file with us.

Should you have any questions regarding these matters, I may be contacted at 416-410-5307, or write to me at the address below.

Yours truly,

Nadia Murray
Verification and Enforcement Division
Telephone: (416) 410-5307
Fax: (416) 954-6015
Address: 1 Front St West
Toronto ON M5J 2X6

Toll free: 1-800-959-8281 (Individual)
1-800-959-5525 (Business)
Internet: www.ccra-adrc.gc.ca

Enclosure

- Appendix "A", Relevant provisions of the *Income Tax Act*
- Appendix "B", Relevant portions of the *Excise Tax Act*