



REGISTERED MAIL

Mr. Donald Atkinson, Director
Canadian Association of the Blind
233 Church Street
Liverpool, NS
B0T 1K0

JUN 29 2001

**Subject: Notice of intent to revoke
Canadian Association of the Blind**

Dear Mr. Atkinson:

Further to the audit conducted by a representative of the Canada Customs and Revenue Agency (hereinafter, the "CCRA"), we invited you in our letter dated August 14, 2000, (attached) to submit representations as to why the Minister of National Revenue should not revoke the registration of Canadian Association of the Blind (hereinafter, "CAB") in accordance with subsection 168(1) of the *Income Tax Act* (hereinafter, the "Act").

This letter is in response to the conference call with your representative, [REDACTED] on April 9, 2001, as well as to the letters dated November 24, 2000, December 22, 2000, March 30, 2001, and May 2, 2001, (attached) sent by your representative. It is my conclusion that these representations do not provide sufficient reason why CAB's status as a registered charity should not be revoked. The following specific areas are of concern:

1. Devotion of resources to charitable activities:
 - a) Advancement of education,
 - b) Promotion of health,
 - c) Fundraising,
 - d) Personal benefits;
2. Books and records;
3. Statement of remuneration; and,
4. Disbursement quota.

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1. Devotion of Resources to Charitable Activities and Personal Benevolence

As discussed during our conference call of April 9, 2001, charitable purposes have been categorized by the courts under the following four headings: the relief of poverty, the advancement of education, the advancement of religion and, other purposes beneficial to the community as a whole in a way which the law regards as charitable. This latter category merely identifies an additional group of specific purposes that have been held charitable at law rather than qualifying as charitable purposes that provide a public benefit.

a) *Advancement of education:*

In advancing education, a charity must have a genuinely educational purpose (i.e. to train the mind, to advance the knowledge or abilities of the recipient). Please refer to the draft discussion paper *RC4107E "Registered Charities: Education, Advocacy, and Political Activities"* attached for additional information in this regard. Until the recent judgment of the *Vancouver Society of Immigrant and Visible Minority Women v. MNR*, (hereinafter, "*Minority Women*") the definition of education in the charitable sense was restricted to "the formal training of the mind' or 'the improvement of a useful branch of human knowledge.'" The Supreme Court has expanded this definition; according to Mr. Justice Iacobucci:

"To my mind, the threshold criterion for an educational activity must be some legitimate, targeted attempt at educating others, whether through formal or informal instruction, training, plans of self-study, or otherwise. Simply providing an opportunity for people to educate themselves, such as by making available materials with which this might be accomplished but need not be, is not enough. Neither is "educating" people about a particular point of view in a manner that might more aptly be described as persuasion or indoctrination."

Although this decision may have enlarged the charitable concept of education, there definitely remains a framework within which educational activity must fall. Normally, pamphlets, leaflets, newsletters, magazines and newspapers of general interest and even those that specialize in particular subject areas do not qualify as educational endeavours. These types of publications tend to lack the educational content that the courts have deemed necessary in order to consider them scholarly works.

In previous decisions, the courts have commented that to advance education an organization's activities must be directed toward the formal training of the mind or the improvement of a useful branch of human knowledge. Furthermore, information or training must be provided "in a structured manner"

such that the knowledge imparted generally has a goal or thesis, and presents an argument or train of thought.

Under the advancement of education, simply providing an opportunity for people to inform themselves by making materials available for study (i.e., pamphlets, newsletters, magazines, documentary films or other media) is not sufficient. There must be a teaching and learning component with a targeted attempt to educate others. An educational charity must actively engage the participants.

A charity's use of its resources to merely transmit information or commentary is not considered a devotion of resources to charitable activities. As such, any expenditures of this nature form part of the charity's management and general administration, fundraising or political expenditures.

Finding:

The literature distributed and the information provided by CAB lacked many of the elements that are required to be considered as being educational in the charitable sense. The information presented lacked structure and could not be considered educational for the purposes of charity law, given that a cohesive body of knowledge is not being conveyed.

Conclusion:

I conclude that the literature in the pamphlets distributed for the purpose of fundraising by the third-party fundraisers does not meet the common-law requirements to be considered as educational for the purposes of subsection 149.1(1) of the Act

b) Promotion of health:

I have also reviewed the material to determine if it may be considered as promotion of health, which would bring it under the fourth head as previously mentioned. Although some statistics were provided concerning the blind in Canadian society, this seems to have been done only in an attempt to highlight the magnitude of the problem and to buttress the legitimacy and urgency of the fundraising campaign.

Finding:

In our opinion, the material does not satisfy the requirements of the common law with regard to the promotion of health. For instance, the courts would more aptly consider an instructional pamphlet that explains how to perform self-examinations of the breast in order to detect lumps as being the promotion of health, as opposed to a media campaign aimed at convincing the population to give to breast cancer research. Although a charity could engage in both of the aforesaid activities, only the expenditures directly associated with the instructional pamphlet would be considered as expenditures on charitable activities for the purposes of the *Act*.

Conclusion:

I conclude that the literature in the pamphlets distributed for the purpose of fundraising by the third-party fundraisers does not meet the common-law requirements to be considered promotion of health for the purposes of subsection 149.1(1) of the *Act*.

c) Fundraising

The CCRA recognizes that organizations may incur fundraising costs as part of their overall effort in achieving their charitable goals. These costs, including human and physical resources are acceptable as long as they remain reasonable. However, under the *Act*, fundraising costs are not charitable expenditures, but rather are administrative expenses.

You indicate the following with regard to "contract" vs. "in-house" fundraising: "There is no distinction in the law to suggest that one approach is less charitable than the other." I agree with your comment. What the *Act* is concerned with is who benefits from the fundraising being conducted and whether the charity has the ability to devote all its resources to charitable activities.

As you noted in your letter of May 2, 2001, in *Minority Women* the Supreme Court of Canada, Iacobucci JJ., for the majority, established the analytical framework that must be followed when deciding if activities are to be considered charitable.

"While the definition of "charitable" is one major problem with the standard in s. 149.1(1), it is not the only one. Another is its focus on "charitable activities" rather than purposes. The difficulty is that the character of an activity is at best ambiguous; for example, writing a letter to solicit donations for a dance school might well be considered charitable, but the very same activity might lose its charitable character if the donations were to go to a group disseminating hate literature. In other words, it is really the purpose in furtherance of which an activity is carried out, and not the character of the activity itself, that determines whether or not it is of a charitable nature. Accordingly, this Court held in *Guaranty Trust, supra*, that the inquiry must focus not only on the activities of an organization but also on its purposes."

Therefore, one must establish if the activity in question furthers charitable purposes; such as those for which CAB was registered; or rather, if the activity furthers a non-charitable purpose; such as merely acting as a vehicle by which fundraisers could profit. In other words, has fundraising become the predominant or even a collateral purpose that CAB pursues? As I have determined that the overwhelming majority of CAB's efforts and resources have been devoted to fundraising, I conclude that the ultimate purpose of CAB's fundraising was not to further the charitable purposes for which it was registered, but rather, to raise funds.

Your correspondence indicates that the amount of resources that CAB spends on equipment given to visually impaired individuals in 2000 was \$8,000, an increase of 400% over the amount spent in 1999.

Finding:

The audit revealed that CAB devoted an overwhelming portion of its financial, physical and, and human resources to fundraising efforts as opposed to pursuing charitable purposes. By devoting a substantial portion of its resources to fundraising and other non-charitable purposes, CAB has not shown that it has devoted its resources to achieving charitable purposes pursuant to section 149.1 of the Act.

The audit showed that the primary activity of CAB was canvassing donors (fundraising). Of the \$169,178 raised in 1998, \$142,302 (84.11%) was returned to the fundraising organizations and a further \$21,143 (12.50%) was spent on management and administration. Therefore, after having paid the fundraising organizations and expenditures for management and administrative expenses, only \$5,733 (3.39%) was available for CAB to pursue its charitable purposes.

The financial statements for 1999 indicate that \$730,930 was raised; with \$1,585 being spent on visual aid devices.

To bring the quantum of resources into perspective, only .22% of the total funds raised in 1999 went toward purchasing these visual aid items. An increase of 400% would only bring the total resources devoted to charitable purposes to 1.09% when compared to the 1999 year.

In your correspondence dated November 24, 2000, March 30, 2001, and May 2, 2001, you indicate that you disagree with our position that the cost of fundraising should not be considered an expenditure on a charitable activity. Further, you provided the case *Alberta Institute on Mental Retardation v. Her Majesty The Queen* (hereinafter, "*Alberta Institute*") to support your position.

Finding:

I agree that charities are allowed to expend some of their resources on fundraising activity. However, I do not support CAB's position that a charity can devote substantially all of its resources exclusively for the purpose of fundraising. In the *Alberta Institute* case, the Federal Court of Appeal had to deal with a situation where an organization was transforming donated goods to cash. Then, the cash, a very important amount of the charity's total resources, was used to fulfil its otherwise charitable purposes. As such, the purpose of the fundraising was subsidiary to the main charitable purposes for which that entity was registered. In that case the charity established that it was in fact fulfilling its charitable purposes. Consequently, in the *Alberta Institute* case, fundraising was found to be a means of achieving charitable ends. As pointed out by Heald J.:

"all monies collected were given to charitable organizations as set out in the objects of the appellant. Accordingly, I conclude that the appellant's charitable purposes as described in the Memorandum of Association were being fulfilled" (emphasis as found)

In contrast, as I have already shown, less than 4% of CAB's financial resources were directly available to achieve its stated charitable purposes.

Conclusion:

Therefore, I must conclude that CAB is not meeting the requirements of section 149.1 of the Act in that CAB has not devoted its resources to charitable purposes.

d) **Personal Benefits:**

Section 149.1 of the Act stipulates that a charitable organization means an organization, whether or not incorporated,

- a) all the resources of which are devoted to charitable activities carried on by the organization itself,
- b) no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof.

Finding:

As indicated in our letter of August 14, 2000 we have concerns that [REDACTED] owner of the fundraising entity, [REDACTED] was involved in the registration of CAB, thereby, benefiting from its registration. During the registration phase [REDACTED] provided additional information to the CCRA concerning the nature of CAB in order to complete the application. This involvement by [REDACTED] would suggest that he had an interest *ab initio* in making certain CAB obtained charitable status.

Your response identifies that [REDACTED] raised only 4% of the total donations for the year 2000. I would like to point out that for 1998, a letter from [REDACTED] indicates that they raised \$115,943, representing 68.5% of the \$169,178 total donations raised. In addition, [REDACTED] hired [REDACTED] to perform fundraising activities in Northern Ontario. Based on the invoices, [REDACTED] received a 15% commission from this venture as well. Accordingly, Mr. [REDACTED] obtained significant personal benefits by assisting with the registration of CAB and that his participation was purely to obtain the profit associated with fundraising.

In addition, as noted in our letter of August 14, 2000, as director of CAB, you have received personal benefits from CAB.

Conclusion:

Accordingly, I conclude that CAB is in violation of subsection 149.1(1) of the Act in that personal benefit was obtained from registering CAB as a registered charity.

2. Books and records

In your letter you indicate, "We acknowledge subsection 230(2) of the Act and submit that CAB is in compliance thereof. Although the records were perhaps not as neat and tidy as would have been preferred, particularly in the first years of operation, the same did not give rise to violation of that provision of the Act." I can appreciate the difficulties associated with starting a new organization; however, our comments were not relative to the orderliness of the existing records, but rather to the accuracy thereof.

Finding:

In particular, CAB did not exercise control over official donation receipts as evidenced by the fact that there was no confirmation of the accuracy, quality, quantity, or the actual dollar amount of receipts issued. In addition, the copies of the receipts were not even located with the charity, but rather with the fundraising organizations.

There was \$21,000 in cheques made out to cash with absolutely no documentation to verify the purpose of these expenditures. In addition, there is a \$28,577 discrepancy in the bank account between the books and records and financial statements.

I would like to point out that the 1999 return was returned to CAB, as it was incomplete. This demonstrates that CAB is still not exercising due care with respect to the accuracy of books and records.

Conclusion:

I therefore conclude that CAB is not in compliance with the requirements of subsection 230(2) of the Act.

3. Statement of Remuneration Paid

You indicate that the CAB is reviewing the status of its workers to ensure that the requirements of the Act are met. As noted in our letter dated August 14, 2000, where salaries or wages are paid, the Act requires that annual "T4 Summaries" and T4 Statements of Remuneration Paid" are prepared by the employer [regulation 200(1) of the Act]. Furthermore, in addition to the salaries and wages actually paid, the T4 summaries and T4 statements of remuneration paid must also include the value of all taxable benefits conferred on employees in the year [paragraph 6(1)(a) of the Act]. T4 summaries and statements of remuneration paid must always be based on the calendar year.

In addition to the foregoing annual reporting requirements, where an employer pays an amount in respect of an individual's salary, that employer is required to withhold certain amounts from such payments [subsection 153(1) of the Act]. These amounts are in respect of income tax, Canada pension plan, employment insurance, etc. and the withholdings must be remitted to the Receiver General of Canada.

Finding:

Based on discussions with Mr. Atkinson, the auditor determined that payments were made for salary. The audit findings indicate that the office manager, bookkeeper and CFC Tele-Fundraising canvassers received payments of over \$75,000 for the audit period.

Conclusion:

Therefore, I conclude that CAB is not meeting the requirements of subsection 153(1) and 6(1)(a) the *Act* with regard to issuing statements of remuneration.

4. Disbursement quota

In your letter of March 30, 2001 you refer to subsection 149.1(20) of the *Act* with respect to the disbursement quota. In particular your letter indicates "This subsection seems to contemplate a situation where a shortfall in the amount expended on charitable activities, as compared to that taken in by the organization on the whole, can be rectified for a period of up to five years. This is done by carrying back any excess the organization spends on charitable activities beyond its disbursement quota. Based on the foregoing, it is my view that the law seems to therefore anticipate expenditure shortfalls".

I would comment however, that although the following does not form part of our decision, registered charities are required in each year of operation to meet or exceed a disbursement quota. This quota relates to expenditures that must be made during the year and that are of a charitable nature. In the case of a charitable organization, the *Act* stipulates that this minimum annual disbursement quota is equal to eighty percent of the prior year's officially receipted donations less certain types of gifts received (paragraph 149.1(2)(b) of the *Act*). Disbursing funds to third parties who are not qualified donees (as defined by subsection 149.1(1) of the *Act*) is not considered a charitable activity.

Finding:

In the first year of operation the disbursement quota was zero. For 1999, based on your T3010 Public Information Return, your disbursement quota should have been approximately \$135,342 (\$169,178*80%). Considering that CAB only spent \$1,585 on visual aid devices, there would have been a disbursement quota shortfall of close to \$133,757. The disbursement quota required for the 2000 year is around \$584,744 (\$730,930*80%). As of the date of your letter, CAB had spent approximately \$8,000 on charitable activities in 2000. Accordingly, CAB would have an additional disbursement quota shortfall of over half a million dollars for the 2000 year.

Conclusion:

Had this been a ground for revocation, paragraph 149(2)(b) of the *Act* could have been invoked to revoke CAB's registration because it failed to expend in the 2000 taxation year its disbursement quota.

Conclusion

I therefore conclude that CAB does not meet the requirements of a charitable organization under subsection 149.1(1) of the *Act*.

Therefore, I wish to advise that for the reasons outlined above and pursuant to the authority granted to the Minister in subsection 168(1) of the *Act* and delegated to me, I propose to revoke the registration of Canadian Association of the Blind. By virtue of subsection 168(2) of the *Act*, 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)(c), 168(1)(d) and 168(1)(e) of the *Income Tax Act*, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

Business Number	Name
868694563 RR0001	Canadian Association of the Blind Liverpool, Nova Scotia

Should you wish to appeal this notice of intention to revoke the charity registration in accordance with subsections 172(3) and 180(1) of the *Act*, you are advised to file a Notice of Appeal with the Federal Court of Appeal within 30 days from the mailing of this letter. The address of the Federal Court of Appeal is:

Supreme Court Building
Wellington Street
Ottawa, Ontario
K1A 0H9

Please note that the Federal Court Rules impose particular obligations upon an appellant to be met within restricted time frames. In particular, the appellant is responsible for filing the documents that will form the case material for the Court's review. You can obtain information about these Rules from the Court.

Consequences of a revocation

As of the date of revocation of the registration of CAB, which is the date upon which the above-noted notice is published in the Canada Gazette, CAB 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, CAB may be subject to tax exigible pursuant to Part V, section 188 of the *Act*. For your reference, I have attached a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation (Appendix).

By virtue of subsection 188(1) of the *Act*, CAB will be required to pay a tax within one year after the effective date of revocation. This revocation tax is calculated on prescribed form T2046 "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 after the effective date of revocation.

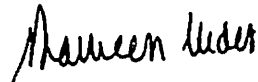
The amount of revocation tax payable will be equal to the total fair market value of CAB's assets on valuation day plus the amount of receipted donations and gifts from other charities received by the charity after that day. Valuation day is 120 days before the date of mailing of this Notice of Intent to Revoke. The amount of tax payable will then be reduced by the value of any assets or funds that the organization transferred to qualified donees, disbursed on its own charitable activities, used to repay its debts and/or used to cover reasonable expenses in the period from the valuation day to one year from the date on which the revocation is effective. A copy of form T2046 has been included for your information.

I also wish to advise you that organizations that lose their registered charity status may be subject to the requirements of section 150 of the *Act* for filing returns of income. Accordingly, a return of income that is in prescribed form and that contains prescribed information shall be filed with the Minister, without notice or demand for the return, for each taxation year of a taxpayer.

However, CAB might be eligible for non-profit organization status which is defined in paragraph 149(1)(l) of the Act. Subsection 149(12) states the filing requirements for a non-profit organization. Determination of an organization's status as a non-profit organization is the responsibility of our Tax Services Offices. I would stress that such recognition does not convey authority to issue official donation receipts for income tax purposes.

If you need further information with regard to non-profit status, please contact your local Tax Services Office directly at 1256 Barrington Street, Halifax (NS) B3J 2T5.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Maureen Kidd".

Maureen Kidd
Director General
Charities Directorate

Attachments
c.c. Charles W. Demond, CA

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REGISTERED MAIL

Your file / Votre référence

Our file / Notre référence

Mr. Donald Atkinson
Director
Canadian Association of the Blind
233 Church Street
Liverpool, NS
B0T 1K0

BN 86869 4563 RR 0001
REG 3004928

August 14, 2000

Dear Mr. Atkinson:

Re: Charity Tax Audit

This is further to an audit of the records and books of account of Canadian Association of the Blind (hereinafter the "Association") conducted by a representative of the Canada Customs and Revenue Agency (hereinafter the "CCRA"). The audit related to the operations of the Association for the period ended December 31, 1998. The Auditor, Mr. Michael E. Gray, discussed certain non-compliance issues with you, during the final meeting. However, due to their importance, he referred his concerns for our review. This letter addresses issues identified during the audit and our review of the Association's file.

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The review has raised serious concerns about the Association's compliance with certain provisions of the *Income Tax Act* (the "Act"). In order for a registered charity to retain its registration, it is required to comply with the provisions of the *Act* applicable to registered charities. If these provisions are not complied with by a particular registered charity, the Minister of National Revenue (the "Minister") may revoke its registration in the manner described in section 168 of the *Act*.

The balance of this letter describes in our opinion how the Association has contravened the law.

1. Devotion of charitable resources and personal benevolence

Section 149.1 stipulates that a charitable organization means an organization, whether or not incorporated,

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- a) all the resources of which are devoted to charitable activities carried on by the organization itself,
- b) no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof.

We base our determination of whether an organization qualifies for continued registration not only on a charity's constituted objects but also on the activities undertaken in pursuit of those objects.

The Association was registered, on April 28, 1998, based on your representations that the Association would keep visually impaired persons apprised on existing and new products and technologies, plus provide visual aid products free of charge, or subsidizing their cost to low income visually impaired persons.

During 1998, you reported no monies spent on charitable activities on line 120 of your Information return (T3010) and advised the auditor that you issued three (3) digital magnifiers with a total value of \$1,635 during 1999.

Further, the audit revealed that the primary activity of the Association was canvassing donors (fund-raising), door to door. According to your Information Return (T3010), you issued official donation receipts totalling \$169,178. You reported expenditures of \$142,302 (84.11%) for fund-raising on line 123 and an additional \$21,143 (12.50%) was spent on Management and general administration on line 122. The remaining \$5,733 (3.39%) was available for charitable activities.

You indicated to the auditor that part of cost of the fund-raisers relates to public education and public awareness, which is performed by these entities during their fund-raising endeavours.

In order to be educational in a charitable sense, information or training must be provided in a structured manner such that the knowledge imparted generally has a goal or thesis, and presents an argument or train of thought. We have examined the pamphlet distributed by canvassers and concluded that the primary purpose is to aid fund-raising. The mere dissemination of information, or public education, is not recognized as a charitable activity. As such, the pamphlet provided to the auditor does not appear to be educational.

We have also reviewed the material to determine if it may be considered as promotion of health. In our opinion, the material does not satisfy the requirements of the common law with regard to the promotion of health.

The CCRA recognizes that there are fund-raising costs involved in running a charity. These costs and the devotion of human and physical resources to fund-raising activity, are acceptable if they are reasonable. The audit revealed that the Association devoted an overwhelming portion of its annual income and human resources to fund-raising as opposed to charitable activities.

A review of the initial registration and correspondence on file indicates that the Association was advised of its charitable status on April 28, 1998, with an effective registration date of January 1, 1998. In the process of obtaining registration, additional information was requested on March 10, 1998 by an Applications Examination Officer for the Charities Directorate. The faxed response was provided on March 31, 1998, from [REDACTED] in Vancouver, British Columbia. Based on a review of the information on file it appears that [REDACTED] is the owner of [REDACTED]. Fund-raising was conducted and co-ordinated for the Association by [REDACTED]. As 84.11% of all the funds raised were retained for cost associated with fund-raising, it appears that there is significant personal benefit to [REDACTED], who was involved in obtaining charitable status for the Association.

The audit also revealed that the Association had its office in a director's (Mr. Don Atkinson) residence and assumed the following expenses:

- Rent of \$375 per month;
- The entire cost of the electricity (\$1,312), water (\$297) and cable (\$392) for the residence; and
- The Association was registered effective January 1, 1998 and the audit revealed that the Charity paid \$209.86 for electricity as per the meter reading on Dec 16, 1997 and \$56.61 for water as per the meter reading on Jan 14, 1998;
- Moreover, the audit revealed that the Association paid \$178.97 for the repair of the director's vehicle on May 25, 1998, and in November 1998, the director sold the vehicle to the Association.

In our opinion it appears that the director, Mr. Donald Atkinson, obtained a personal benefit.

While [REDACTED] is not listed as a director of the Association, audit evidence clearly indicates he was instrumental in securing the charitable status of the Association. As a result of setting up the Association his fundraising company obtained a client. Since he was the principle fund-raiser he received significant personal benefit from this arrangement - 84.11% of all money raised (\$142,302) were pocketed by the fund-raisers. Therefore, in our opinion the Association was set up to be a little more than a shell for parties interested in profit from fund-raising.

For the above reasons, we conclude that the Association would not qualify to retain its charitable registration. Therefore, under paragraph 168(1)(b) of the *Act*, the Minister may, by registered mail, give notice to the Charity that he proposes to revoke its registration because it ceases to comply with the requirements of the *Act* relating to its registration as such.

2. Books and records

Subsection 230(2) of the *Act* requires every registered charity to keep records and books of account at an address in Canada as recorded with the Minister. These records and books of account shall contain:

- a) information in such form as will enable the Minister to determine whether there are any grounds for the revocation of the Charity's registration in accordance with the *Act*;
- b) a duplicate of each receipt containing prescribed information for a donation received by it; and
- c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under the *Act*.

The purpose of this requirement is to enable the Charity to accurately provide CCRA with the information required by the *Act* as well as enable CCRA to verify the accuracy of reported information through the conducting of audits. In addition, subsection 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 is 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.

The audit revealed that record keeping in support of bank and cash transactions, plus expenditures were inadequate and incomplete. Accordingly, the Association was not exercising due care with respect to the accuracy of their books and records.

Some of the deficiencies noted by the auditor are:

- The Association was unable to reconcile the total official tax receipts issued to the T3010;
- Official receipts were not kept in numerical order. Consequently, the Association was unable to ensure the proper use of them;
- The Association did not exercise control over the official receipts. They were at various locations across the country with the fund-raising organizations when requested by the auditor. Consequently, there were no procedures in place to confirm the accuracy of the receipts, the quality or quantity of receipts issued, plus, there is no way to confirm the actual dollar amount of receipts issued.
- The Association did not exercise control over the issuance of donation receipts to donors.
- There were in excess of \$21,000 in cheques made out to cash which could not be associated to any expense set up as an account payable;
- The Association could not provide a reconciliation of the telemarketing expense with the amount reported in the financial statements;
- A cheque of \$1,200 was not entered in the General ledger; and
- The Association could not explain the discrepancy of \$28,577 in the bank account between the books and records and the financial statements.

Pursuant to paragraph 168(1)(e) of the *Act*, the Minister may, by registered mail, give notice to the registered charity that he proposes to revoke its registration if it fails to comply with or contravenes section 230 of the *Act* dealing with books and records.

3. Statement of Remuneration Paid

Where salaries or wages are paid, the *Act* requires that annual "T4 Summaries" and "T4 Statements of Remuneration Paid" be prepared by the employer [Regulation 200(1)]. In addition to the salaries and wages actually paid, the T4 summaries and T4 statements of remuneration paid must also include the value of all taxable benefits conferred on employees in the year [paragraph 6(1)(a)]. T4 summaries and statements of remuneration paid must always be based on the calendar year.

In addition to the foregoing annual reporting requirements, where an employer pays an amount in respect of an individual's salary, that employer is required to withhold certain amounts from such payments [subsection 153(1)]. These amounts are in respect of income tax, Canada pension plan, unemployment insurance, etc. and the withholdings must be remitted to the Receiver General of Canada.

The audit evidence indicated that the office manager received payments totalling \$4,834, the bookkeeper received payments amounting to \$1,837, and various other payments totalling more than \$70,000 were made to [REDACTED] canvassers. No T4As were issued for any of these payments.

Should you require more information on the preparation of T4's or similar information slips, please contact your local Taxation Services Office.

Conclusion

For all of the reasons indicated above, it appears to us that there are grounds for revocation of the Association'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 Association would become a taxable entity under Part I of the *Income Tax Act* unless, in the opinion of the Director of the applicable Tax Services office, it qualifies 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 Association 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, we 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 Minister of National Revenue should not revoke the registration of the Association in accordance with subsection 168(2) of the *Act*, you are invited to submit your representations within 30 days from the date of this letter. If you wish to obtain an extension, please contact the undersigned. Subsequent to this date, the Director 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 foundation in the manner described in subsection 168(1) of the *Act*.

If you wish to appoint a third party to represent your interests, please notify us in writing.

If you have any questions, please contact me at (613) 946-2414 or by fax at (613) 946-2423. You may also write to Place de Ville, 320 Queen Street, Tower A, 12th Floor, Ottawa, Ontario, K1A 0L5. Please indicate your business number and registration number on your correspondence.

Thank you for the assistance and co-operation provided during the audit.

Yours truly,

Kendall Miller, CGA
Audit Advisor
Audit Section
Charities Directorate

Attachments