



Canada Revenue
Agency

Agence du revenu
du Canada

REGISTERED MAIL

Canadian Burn Foundation
2051, 47 Street North West
Edmonton AB T6L 2V5

Attention: Barry Peachy

BN: 87422 2540

File #: 3002663

August 2, 2012

**Subject: Revocation of Registration
 Canadian Burn Foundation**

Dear Sir:

The purpose of this letter is to inform you that a notice revoking the registration of Canadian Burn Foundation (the Organization) was published in the *Canada Gazette* on July 28, 2012. Effective on that date, the Organization ceased to be a registered charity.

Consequences of Revocation:

- a) The Organization is no longer exempt from Part I Tax as a registered charity and **is no longer permitted to issue official donation receipts**. This means that gifts made to the Organization are no longer allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the *Income Tax Act*, respectively.
- b) By virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke. This revocation tax is calculated on prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the Notice of Intention to Revoke. A copy of the Return is enclosed. The related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, is available on our website at www.cra-arc.gc.ca/E/pub/tg/rc4424.

Section 188(2) of the Act stipulates that a person (other than a qualified donee) who receives an amount from the Organization is jointly and severally liable with the Organization for the tax payable under section 188 of the Act by the Organization.

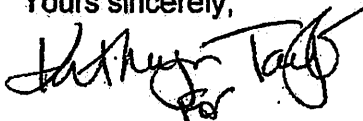
- c) The Organization no longer qualifies as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

In accordance with *Income Tax Regulation* 5800, the Organization is required to retain its books and records, including duplicate official donation receipts, for a minimum of two years after the Organization's effective date of revocation.

Finally, we wish to advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a *Return of Income* with the Minister of National Revenue (the Minister) in the prescribed form, containing prescribed information, for each taxation year. The *Return of Income* must be filed without notice or demand.

If you have any questions or require further information or clarification, please do not hesitate to contact the undersigned at the numbers indicated below.

Yours sincerely,



Danie Huppé-Cranford
Director
Compliance Division
Charities Directorate
Telephone: 613-957-8682
Toll free: 1-800-267-2384

Enclosures

- Copy of the Return (form T-2046)
- Canada Gazette publication

c.c.: Shannon Julien





Canada Revenue
Agency

Agence du revenu
du Canada

JUN 15 2012

REGISTERED MAIL

Canadian Burn Foundation
2051 47 Street Northwest
Edmonton AB T6L 2V5

BN: 87422 2540RR0001

Attention: Barry Peachy

File #: 3002663

**Subject: Notice of Intention to Revoke
Canadian Burn Foundation**

Dear Mr. Peachy:

I am writing further to our letter dated January 5, 2011 (copy enclosed), in which you were invited to submit representations as to why the registration of Canadian Burn Foundation (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

We have now reviewed and considered your written response dated January 31, 2011. However, notwithstanding your reply, our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity have not been alleviated. Our position is fully described in the Appendix "A" attached.

Conclusion:

The Canada Revenue Agency's (CRA) audit has revealed that the Organization is not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization did not devote all its resources to charitable purposes and activities, failed to maintain proper books and records, failed to meet its annual disbursement quota and provided a personal benefit to a member of the Organization. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated January 5, 2011, I wish to advise you that, pursuant to subsection 168(1) and 149.1(2) of the Act, I propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

Canada

Place de Ville, Tower A
320 Queen Street, 13th Floor R350 E (08)
Ottawa ON K1A 0L5

Notice is hereby given, pursuant to paragraphs 168(1)(b) and 168(1)(e), subsection 149.1(2) and paragraph 149.1(2)(b), 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
874222540RR0001

Name
Canadian Burn Foundation
Edmonton AB

Should you wish to object to this notice of intention to revoke the Organization's registration in accordance with subsection 168(4) of the Act, a written Notice of Objection, which includes the reasons for objection and all relevant facts, must be filed within **90 days** from the day this letter was mailed. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
250 Albert Street
Ottawa ON K1A 0L5

A copy of the revocation notice, described above, will be published in the *Canada Gazette* after the expiration of 30 days from the date this letter was mailed. The Organization's registration will be revoked on the date of publication, unless the Canada Revenue Agency (CRA) receives an order, **within the next 30 days**, from the Federal Court of Appeal issued under paragraph 168(2)(b) of the Act extending that period.

Please note that the Organization must obtain a stay to suspend the revocation process, notwithstanding the fact that it may have filed a Notice of Objection.

Consequences of Revocation

As of the effective date of revocation:

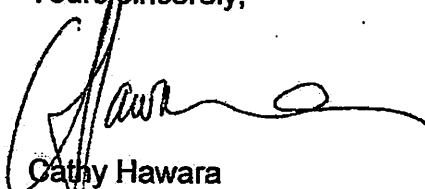
- a) the Organization will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke. This revocation tax is calculated on prescribed form T-2046, *Tax Return Where*

Registration of a Charity is Revoked (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the Notice of Intention to Revoke. A copy of the relevant provisions of the Act concerning revocation of registration, the tax applicable to revoked charities, and appeals against revocation, can be found in Appendix "B", attached. Form T-2046 and the related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our website at www.cra-arc.gc.ca/charities;

- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-800-959-8287.

Finally, I wish to advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a *Return of Income* with the Minister in the prescribed form, containing prescribed information, for each taxation year. The *Return of Income* must be filed without notice or demand.

Yours sincerely,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated January 5, 2011
- Canadian Burn Foundation letter of January 31, 2011
- Appendix "A", Comments on Representations of January 31, 2011
- Appendix "B", Relevant Provisions of the Act

c.c.: Shannon Julien, Vice President





January 5, 2011

REGISTERED MAIL

Canadian Burn Foundation
2051 - 47 Street NW
Edmonton, AB T6L 2V5

BN: 87422 2540RR0001
File #: 3002663

Attention: Steven Williams

Re: Audit of Canadian Burn Foundation

Dear Mr. Williams:

This letter is further to the audit of the books and records of Canadian Burn Foundation (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period of January 1, 2006 to December 31, 2007. The audit is a follow-up to our audit of the Organization's 2003 year end.

As per our discussions, the Organization was advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issue	Act Reference
1.	Failure to Devote Resources to Charitable Activities	149.1(3), 168(1)(b).
2.	Failure to Maintain Adequate Books and Records	168(1)(e), 230(2)
3.	Failure to File an Accurate Registered Charity Information Return (T3010)	149.1(3), 168(1)(c)
4.	Failure to Meet Disbursement Quota	149.1(3)(b), 168(1)(d)
5.	Providing a Personal Benefit to a Member of the Organization	149.1(3), 168(1)(b)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative provisions applicable to registered charities, and to provide the Charity with the opportunity to address our concerns. In order for a registered charity to retain its registration, it is required to comply with the provisions of the Act and common law applicable to registered charities. Failure to comply with these provisions may lead to the revocation of the Organization's charitable registration under the Act.

The balance of this letter describes the areas of non-compliance in further detail.

Identified Areas of Non-Compliance:

1. Failure to Devote Resources to Charitable Activities:

The Organization is registered as a Public Foundation. Pursuant to subsection 149.1(1) of the Act, "charitable foundation" means a corporation or trust that is constituted exclusively for charitable purposes...."

To qualify for registration as a charity under the Act, an organization must be established for charitable purposes that oblige it to devote their resources to its own charitable activities and making gifts to qualified donees. This is a two-part test. First, the purposes it pursues must be wholly charitable and second, the activities that a charity undertakes on a day-to-day basis must support its charitable purposes in a manner consistent with charitable law. Charitable purposes are not defined in the Act and it is therefore necessary to refer, in this respect, to the principles of the common law governing charities. An organization that has one or more non-charitable purposes or devotes resources to activities undertaken in support of non-charitable purposes cannot be registered as a charity.

As above, registered charities are required to pursue activities or gifting to qualified donees in furtherance of the purposes for which they are established. There is some concern that the Organization is operating outside of its corporate mandate.

The main objects of the Organization are:

1. "To provide funding for educational purposes,
2. To provide funding to organizations who assist in the rehabilitation of burn survivors,
3. To provide for the relief of poverty,
4. To provide education to the public on burn awareness,
5. To promote volunteers in burn awareness and rehabilitation".

We would consider the above objects to be charitable. However, our audit indicated that only a minor portion of the total expenditures was devoted to activities in support of the objects. The amount spent on providing clothing for burn victims was \$680 and gifting to organizations that assist in the rehabilitation of burn survivors was \$3,000 in 2007. In addition, \$2,431 on program spending was also verified. These amounts were verified to source documents. Verified charitable expense of \$6,111 out of a total expenditure of \$2,117,497¹ is less than 1% (.0029%) of total expenses. Although the Organization reported charitable program spending of \$1,717,733, this amount mostly consists of fundraising expenses. We further note that the majority of the expenses other than fundraising and administration were

¹ The total expenditures as per the Organization's financial records were \$2,117,497 instead of the \$2,018,613 reported on the T3010 return.

unsupported. Overall, we were only able to verify \$6,111 of expenses as being devoted to charitable activities or gifting to qualified donees.

As detailed in issue #5 below, our audit indicated the Organization had conferred significant personal benefits on a staff member, including reimbursement for personal purchases on a credit card and inflated rental payments for the use of a house. To highlight the significance of the personal benefit, we note that the amount of questionable reimbursements for credit card purchases was over \$185,000, representing 26% of the Organization's total spending (net of fundraising) of \$700,797.

Based on our audit, the Organization had only expended a small portion of its resources for charitable purposes. Further, our audit indicated the Organization had conferred significant benefit on a private individual. It is therefore our view that the Organization did not operate exclusively for charitable purposes and failed to meet the requirement for its registration as a charitable foundation under 149.1(1) of the Act.

Fundraising Activities

Notwithstanding the common law requirement that registered charities have exclusively charitable purposes and the Act's requirement that a registered charity devote all of its resources to charitable purposes and activities, it is permissible for a charity to use a modest amount of resources for fundraising without breaching common law or statutory rules. Therefore, fundraising must clearly be ancillary and incidental to the charity's charitable purposes. The courts have determined that fundraising (whether undertaken as a purpose or activity) is not in-and-of-itself charitable. Consequently, fundraising activities are not normally treated as advancing the charitable purposes of a charity. When fundraising becomes a primary emphasis of the charity, either through its activities or expenses allocated to fundraising, then it may no longer qualify for continued registered status.

In keeping with the above, in 2007, the Organization spent 69% of the total funds raised through a third party fundraiser on fundraising costs. It is our position the third party fundraiser was engaged solely to solicit funds and accordingly, all amounts paid to the third party fundraiser should have been reported as fundraising expenditures.

Based on our review, the following data is applicable to third party fundraising:

Year	Total Fundraising Revenue	Third Party Fundraising Revenue	Third Party Fundraising %	Paid to Fundraiser	Percentage Fundraiser Cost
2007	\$2,117,255.00	\$1,914,034.15	90.4%	\$1,320,816.98	69%
2003	\$2,119,132.22	\$1,971,827.00	93%	\$1,032,361.25	52.4%

The figures from 2007 were generated from the current audit and the data for 2003 was obtained from the previous audit. These figures illustrate our position that the Organization has devoted a major portion of its resources to non-charitable purposes. Third party fundraising costs have risen 16.6% from 2003 to 2007.

It is the Organization's responsibility to ensure that it retains a greater share of the proceeds from third party fundraising arrangements, which was not the case for the years under audit.

The Organization should keep in mind that when it enters into arrangements in which it devotes more of its financial and human resources to for-profit entities such as third party fundraisers/contractors, event planners, etc., we would consider that it has devoted resources towards non-charitable activities. We would also like to point out that such arrangements with third parties could be viewed as providing an undue benefit to a for-profit entity. Such arrangements, as currently those in place, could jeopardize the Organization's registered status.

Besides ensuring that the Organization retains substantially all revenues from its arrangements with third parties, we would like to remind you that it is the Organization's responsibility to find ways to reduce its overall expenses as they relate directly to all of its fundraising activities, not just those associated with third party fundraisers. It is up to the Organization to establish a framework to assess each of its fundraisers to ensure the best possible use of its resources. It is our view that by pursuing these non-charitable purposes, the Organization has failed to demonstrate that it meets the test for continued registration under 149.1 (3) as a charitable foundation.

The Organization had devoted the majority of its resources towards fundraising activities. It therefore is our view that fundraising activities had become a primary purpose for the Organization, and that the Organization failed to operate exclusively for charitable purposes.

2. Failure to Maintain Adequate Books and Records

Pursuant to paragraph 230(2)(a), every registered charity shall keep records and books of account at an address in Canada recorded with the Minister containing information in such form as will enable the Minister to determine whether there are grounds for revocation of its registration under this Act. In addition to retaining copies of donation receipts as explicitly required by subsection 230(2), subsection 230(4) provides 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 herein, 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."

The policy of the CRA relating to the maintenance of books and records, and books of account, is based on several judicial determinations, which have held that:

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked¹;
- a registered charity must maintain, and make available to the CRA *at the time of the audit*, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto²; and
- the failure to maintain proper books, records and records of account in accordance with the requirements of the ITA is itself sufficient reason to revoke an organization's charitable status³.

It is our view the Organization has failed to maintain adequate books and records. The Organization's books and records and the internal accounting controls supporting them are considered to be inadequate. As a result, the Organization appears to have failed to meet the requirements of subsection 230(2) of the Act.

After the audit was performed on the year 2003, the Organization provided the CRA an Undertaking Letter in which the CEO Stephen Williams wrote in part:

1) "To rectify the situation of inadequate records the CEO has designated the office manager to maintain all records in the office on a monthly basis and has taken steps to have key personnel educated in this area. There will also be an electronic copy of records kept off site and duplicates of all cancelled cheques and bank statements will be made and kept off site also. It is felt that this precaution is necessary because of our past experience and the cost of off site storage will be minimal in comparison to the work caused by not having records adequately kept.

5) During and after the audit it became very clear that the finances and record keeping of the Canadian Burn Foundation were indeed inadequate.

This matter was discussed at a Board meeting after the audit and the Board felt it would benefit us to change the job description of our Executive Assistant and train her more in business management. It was also felt that although we are ultimately responsible for all records, we should work closer with the accountant to learn better ways of financial record keeping and be more appropriate in this area.

¹ The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen, 2002 FC (FCA); International Charity Association Network vs. Her Majesty the Queen, 2008 TCC 3

² Supra, footnote 3; The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada, (2004) FCA 397

³ College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada, Minister of the Customs and Revenue, (2004) FCA 101

It should be noted that the discussion was around learning and getting opinions and not trying to give the job or responsibility to an outside party. It is recognized that we are responsible for determining amounts and categorizing our expenditures properly but also to use proper assistance when necessary.

As a lot of this was done by me as the CEO in the past the Board requested that I read and become better acquainted with CCRA charity requirements and report to them after I have done so. They also committed to educate themselves in the same manner and determined that we are to seek advice and information on all matters we are not clear on.

The audit findings for 2007 revealed the majority of purchase invoices, receipts, and statements were missing and unavailable for our audit. With the exception of salary expense (\$247,585) and \$21,177 in other expenses, the remaining expenses of \$432,035 (\$700,797 - 268,762 = \$432,035) were unsupported with only cancelled cheques available. The expenses noted above do not include fundraising expenses.

A large amount of purchases were made on the CEO's (Stephen Williams) VISA cards. In 2007 approximately \$185,000 in VISA expenditures were not supported. Mr. Williams provided the auditor with a copy of the VISA statements as requested (the statements for 2007 were not available initially with books and records but obtained later from CIBC) but very few invoices or receipts. Purchases made by Mr. Williams were reimbursed by the Organization with no supporting documentation (vouchers) to detail the purchases made. Mr. Williams would reimburse himself for the monthly VISA bill and allocate the purchases under different general ledger (GL) account titles. This information would then go to the external accountant who would produce the GL. Thus only a cancelled cheque along with its allocation would be received by the external accountant. Mr. Williams issued all cheques thereby controlling all expenditures. Based on our audit findings, it appears that there is a lack of internal controls and sufficient supporting documents for the expenses.

Expenses incurred for third party fundraising were allocated to expenditures other than fundraising, thus distorting expenses. In 2007, \$1,320,817 was remitted to Xentel DM Incorporated (fundraiser) but only \$168,520 was reported as such.

It was noted on the 1999 audit findings that credit cards belonging to Mr. Williams were used to pay for a majority of expenses. Credit card statements were not available to the auditor for review. When asked for clarification, Mr. Williams indicated that he never saw the need to keep the statements. It was also noted in the 1999 audit that invoices for purchases were not kept by the Organization.

To summarize, the individual who authorizes expenditures is also the same individual who controls the finances and records the transactions. This same individual does not keep credit card statements or invoices for expenses. The two previous audits, for 1999 and 2003, produced similar audit findings as the current 2007 audit. No changes have been made by the Organization to rectify problem areas identified in the two previous audits. The

Organization is still reclassifying third party (Xentel) fundraising expenses into different accounts to obscure the true nature of the expenses. Private benefits bestowed on staff are not included as benefits on issued T4 slips.

Under the Act, failure to comply with sub-section 230(2) (keeping proper books and records) may result in the suspension of a registered charity's tax receipting privileges or revocation of its charitable status. Due to the seriousness of the areas of non-compliance identified during the audit, we feel there are sufficient grounds for revocation of the Charity's registered status and as such, suspension of the Charity's receipting privileges will not be applied at this time.

Under paragraph 168(1)(e) of the ITA, the Minister may, by registered mail, give notice to the charity that he proposes to revoke its registration because it fails to comply with or contravenes section 230 of the ITA dealing with Books and Records. For this reason, it appears to us that there are grounds for revocation of the charitable status of Canadian Burn Foundation.

3. Failure to File an Accurate Registered Charity Information Return (T3010)

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity's fiscal period (taxation year), without notice or demand, file a Registered Charity Information Return with the applicable schedules.

It is the responsibility of the Charity to ensure that the information that is provided in its return, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirement to file an Information Return if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Organization has improperly completed T3010A returns for years 2003 through 2007. The majority of fundraising expenses are being allocated to program expenses.

In 2003 \$500,200 was reported for fundraising expenses whereas \$1,032,230 was actually incurred (the latter figure provided by Xentel – third party fundraiser). In 2007, \$168,520 was reported for fundraising expenses and the actual amount was \$1,320,817 as per the Xentel revenue/expense report.

The filed Information Statements (T3010) are not accurate, due to the misclassification of fundraising expenditures. Due to insufficient records (see #2 Failure to Maintain Adequate Books and Records), the auditor was unable to verify most charitable expenditures reported.

It is our view that the Organization failed to file a T3010 information returned as required under 149.1(14) of the Act.

4. Failure to Meet Disbursement Quota

In order to maintain its status as a public foundation within the meaning of paragraph 149.1(3)(b) of the Act, a registered charity must, in any taxation year, expend amounts that are equal to at least 80% of the aggregate amounts for which it issued donation receipts in its immediately preceding taxation year. A charity is allowed by virtue of 149.1(20) of the Act to offset any shortfalls in its disbursement quota by applying any excesses in its disbursement quota from its immediately preceding taxation year and 5 or less of its immediately subsequent taxation years.

In considering the application of expenditures used to meet the disbursement quota, a charity must ensure that it is expensed directly on charitable activities and/or programs. This would include such payments as salaries to persons performing duties directly related to a charitable program, but would not include amounts paid for purely administrative expenses such as fundraising costs, legal or accounting fees and the like.

Based on our calculations, and for the reasons described in detail above, the Organization has not met its disbursement quota (DQ) for the fiscal period ending December 31, 2007 and several prior years.

The DQ had a shortfall of \$1,109,043 in 2007 as per the table below:

Year	Total Receipted Prior Year	80% of Total Receipted	Current Year Program Delivery	Short Fall in DQ
2007	\$2,134,350	\$1,707,480	\$598,437	\$1,109,043

Since fundraising expenses have exceeded 50% of receipted donations it is not possible to meet the DQ.

As per paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act related to its registration as such. For this reason, it appears to us that there are grounds for revocation of the charitable status of the Canadian Burn Foundation.

5. Providing a Personal Benefit to a Member of the Charity

The Organization is registered as a public foundation. In order to satisfy the definition of a "charitable foundation" under subsection 149.1(1) of the Act, the Organization must ensure its resources are not made available for the personal benefit of any proprietor, member, shareholder, trustee, etc., that is not a charitable organization.

Our review of the reported expenditures showed that the Organization's funds were made available for the personal benefit of a staff member:

- A new Mercedes B200 was purchased for \$24,607.20 in 2007 by the Organization. During the field audit the auditor noticed the staff member used this vehicle to go to and from work with no standby charges being assessed on his T4. Board minutes provided to the auditor made no mention of authorization for the purchase of this vehicle. Further, the insurance policy in 2007 on a 2000 Dodge Caravan, the Organization's previously owned vehicle, indicates the use of the vehicle is for business and pleasure.
- A staff member received \$19,000 in 2000 which was used as a down payment to purchase real estate at [REDACTED] for \$183,500 which was then sold in 2003 for \$218,000. There appear to be no records showing that the funds were paid back to the Organization. The property was always in the staff member's name.
- A staff member is receiving \$2,100 per month rent for a house leased (June 1, 2007 to May 31, 2012) to the Organization for office space. Although this lease was approved by the Board no appraisal was done to determine the market value for this type of rent. Our real estate division has placed the value for rent of this type of property at \$1,500 in the low end and \$1,800 at the high end. It appears a benefit is being bestowed on this staff member.
- A staff member's 2007 VISA bills were reimbursed almost in their entirety by the Organization even though few invoices or receipts were provided. Approximately \$185,000 of this staff member's VISA bills was unsupported. Without invoices and receipts, the Organization was not able to support that all the purchases were made for charitable purposes instead of the personal benefits of the staff member.

Our review and analysis of the reported expenditures show that the Organization's funds were made available for the personal benefit of an employee. For this reason, it appears to us that this is an additional grounds for revocation of the charitable status of the Canadian Burn Foundation.

The Charity's Options:

a) No Response

You may choose not to respond. In that case, the A/Director General of the Charities Directorate may give notice of its intention to revoke the registration of the Charity by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

b) Response

Should you choose to respond, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Charity, the A/Director General of the Charities Directorate will decide on the appropriate course of action, which may include:

- no compliance action necessary;
- the issuance of an educational letter;
- resolving these issues through the implementation of a Compliance Agreement; or
- the Minister giving notice of its intention to revoke the registration of the Charity by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

If you appoint a third party to represent you in this matter, please send us a written authorization naming the individual and explicitly authorizing that individual to discuss your file with us.

If you have any questions or require further information or clarification, please contact the undersigned at the numbers indicated below.

Sincerely,

W. Lasek
Dec 21/10

Walter Lasek
Audit Division
Edmonton Tax Services Office
9700 Jasper Avenue
Edmonton, Alberta T5J 4C8

Telephone:

Fax:

Internet:

www.cra-arc.gc.ca

Enclosure: Appendix A

CANADIAN BURN FOUNDATION

COMMENTS ON REPRESENTATIONS OF JANUARY 31, 2011

Failure to Devote Resources to Charitable Purposes:

The audit conducted by the Canada Revenue Agency (CRA) identified that Canadian Burn Foundation (the Organization), based on the activities of the Organization and the level of financial activity and resources devoted, is not devoting its resources to entirely charitable purposes. In our view, the Organization's original purpose, which is to provide funding and education aimed at burn awareness, has been side-tracked by its devotion of resources to third party fundraising and conferring benefits upon a member with residual funds devoted to its charitable activities.

Fundraising Activities:

Per our previous letter, and not disputed in your representations, third party fundraising expenses were not accurately reported on the information returns filed thereby distorting the true amount incurred for third party fundraising and the amounts devoted to the Organization's charitable activities. In 2007, the Organization incurred fundraising fees of \$1.3 million yet reported only \$168,520 as being incurred for fundraising. The bulk of the third party fundraising was shown as "other expenditures" on the information return filed. These audit findings are consistent with our 2003 audit findings wherein the Organization incurred \$1 million in third party fundraising fees yet reported \$500,230. Our review of your most recently filed information returns seemingly indicates the Organization continues to use a third party fundraiser and continues to misrepresent the actual amounts incurred.

Our review of these information returns demonstrate that the amounts reported for total fundraising continue to be under reported. Per our estimations based on audit results and the Organization's identified misrepresentations in this area, it is our position total fundraising expenses continue to be under reported. We found that in 2008, 2009 and 2010, the Organization reports between 5 – 8% of its total expenses as fundraising expenses on the information returns filed; however, it is reasonable to assume that the Organization should be reporting approximately 55 – 65% of its total tax-receipted revenues as fundraising expenditures. Based on our calculations, the Organization under reported its fundraising expenses in these years, on average, by \$965,000 per year and thusly over reported its charitable expenses by the same amount.

For these reasons, and those set out in our letter of January 5, 2011, we continue to be of the view that the Organization is not devoting substantially all of its resources to its own charitable activities. Under paragraph 168(1)(b) of the *Income Tax Act*, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act related to its registration as such. It is our position that Canadian Burn Foundation has not demonstrated that it devoted all of its resources to charitable activities carried on by it. For this reason, there are grounds to revoke the charitable status of Canadian Burn Foundation

Failure to Maintain Adequate Books and Records:

The CRA's audit has concluded that the Organization has failed to not only maintain adequate books and records but has also failed to improve the adequacy of their records. Our previous audits in 2003 and 1999 identified the same concerns with the Organization's books and records to which the Organization assured the CRA it would improve its record keeping. Following the 2003 audit, the Organization promised "In future all records will be kept adequately and within requirements and proper operating procedures." The Organization also stated that it "shall in the very near future rent at a reasonable cost, an off-site facility to store dated and copied records. Expense forms have been re-designed to be kept electronically as well a hard copy and we shall purchase a photo-copier and ensure all records are copied appropriately". It is our position that the Organization failed to maintain adequate records and failed to comply with the undertakings as assured in August 2005.

The audit findings for 2007 demonstrated inadequacies with the books and records. The auditor was unable to determine how funds were spent since minimal supporting documentation (invoices, receipts, statements) were provided.

Your representations of January 31, 2011, do not disagree with our audit findings.

Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that he proposes to revoke its registration because it fails to comply with or contravenes section 230 of the Act. For this reason, there are grounds for revocation of the charitable status of Canadian Burn Foundation under paragraph 168(1)(e) of the Act.

Providing a Personal Benefit to a Member of the Charity:

In order to satisfy the definition of a "charitable foundation" under subsection 149.1(1) of the Act, the Organization must ensure its resources are not made available for the personal benefit of any proprietor, member, shareholder, trustee, etc., that is not a charitable organization.

Our audit demonstrated a lack of due diligence regarding many of the items that can be viewed as personal expenditures. The Organization paid for a staff member's use of a business vehicle, provided a down payment for a personal residence, paid rent exceeding fair market value to a staff member for use of the staff member's home and reimbursed a staff member for expenditures allegedly incurred on the Organization's behalf without proper supporting documentation. Per our previous correspondence, we were able to ascertain only \$6,111 of the Organization's total expenditures for 2007 as being devoted to charitable activities. While \$1.3 million of the Organization's expenditures were verified as being incurred for third party fundraising and \$268,000 in salaries and other expenses, the remaining \$432,000 reported could not be associated with a charitable purpose or activity.

Our position remains unchanged with regard to the issue of the personal benefit. Your representations may be applicable concerning the business use of vehicle but its reasonableness is unjustifiable as no supporting documentation, such as the purchase agreement, mileage logs and/or standby calculations were provided. Furthermore, the

Organization failed to provide any supporting documentation for the nearly \$185,000 paid to the staff member for expenditures allegedly incurred on its behalf.

It is our position by pursuing this non-charitable purpose, and by operating for the private gain of its member, the Organization has failed to demonstrate it meets the test for continued registration as a charitable organization under subsection 149.1(1) of the Act "operated exclusively for charitable purposes" or as a charitable organization that "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". For this reason, there are grounds for revocation of the Canadian Burn Foundation's registered charity status under paragraph 168(1)(b) of the Act.

Other Concerns

Our position remains unchanged with regard to the remaining areas of non-compliance identified in our January 5, 2011, letter. No further information has been provided by the Organization and the representations submitted do not alter our findings. It is our position the Organization filed an inaccurate *Registered Charity Information Return* and failed to meet its annual disbursement quota.

Under paragraphs 168(1)(b) and 149.1(2)(b) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration because it fails to file an information return as and when required and fails to meet its annual disbursement quota. It remains the CRA's position that the Organization failed to file an information return as and when required and failed to meet its annual disbursement quota. For this reason, there are grounds for revocation of the charitable status of Canadian Burn Foundation under 168(1)(b) and 149.1(2)(b) of the Act.

Section 149.1: [Charities]

149.1(2) Revocation of registration of charitable organization

The Minister may, in the manner described in section 168, revoke the registration of a charitable organization for any reason described in subsection 168(1) or where the organization

- (a) carries on a business that is not a related business of that charity; or
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the organization's disbursement quota for that year.

149.1(3) Revocation of registration of public foundation

The Minister may, in the manner described in section 168, revoke the registration of a public foundation for any reason described in subsection 168(1) or where the foundation

- (a) carries on a business that is not a related business of that charity;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (c) since June 1, 1950, acquired control of any corporation;
- (d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities; or
- (e) at any time within the 24 month period preceding the day on which notice is given to the foundation by the minister pursuant to subsection 168(1) and at a time when the foundation was a private foundation, took any action or failed to expend amounts such that the Minister was entitled, pursuant to subsection (4), to revoke its registration as a private foundation.

149.1(4) Revocation of registration of private foundation

The Minister may, in the manner described in section 168, revoke the registration of a private foundation for any reason described in subsection 168(1) or where the foundation

- (a) carries on any business;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (c) since June 1, 1950, acquired control of any corporation; or
- (d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities.

149.1(4.1) Revocation of registration of registered charity

The Minister may, in the manner described in section 168, revoke the registration

- (a) of a registered charity, if the registered charity has made a gift to another registered charity and it can reasonably be considered that one of the main purposes of making the gift was to unduly delay the expenditure of amounts on charitable activities;
- (b) of the other charity referred to in paragraph (a), if it can reasonably be considered that, by accepting the gift, it acted in concert with the registered charity to which paragraph (a) applies; and
- (c) of a registered charity, if a false statement, within the meaning assigned by subsection 163.2(1), was made in circumstances amounting to culpable conduct, within the meaning assigned by that subsection, in the furnishing of information for the purpose of obtaining registration of the charity.

Section 168: Notice of intention to revoke registration

168(1) Where a registered charity or a registered Canadian amateur athletic association

- (a) applies to the Minister in writing for revocation of its registration,
 - (b) ceases to comply with the requirements of this Act for its registration as such,
 - (c) fails to file an information return as and when required under this Act or a regulation,
 - (d) issues a receipt for a gift or donation otherwise than in accordance with this Act and the regulations or that contains false information,
 - (e) fails to comply with or contravenes any of sections 230 to 231.5, or
 - (f) in the case of a registered Canadian amateur athletic association, accepts a gift or donation the granting of which was expressly or impliedly conditional on the association making a gift or donation to another person, club, society or association,
- the Minister may, by registered mail, give notice to the registered charity or registered Canadian amateur athletic association that the Minister proposes to revoke its registration.

168(2) Revocation of Registration

Where the Minister gives notice under subsection (1) to a registered charity or to a registered Canadian amateur athletic association,

- (a) if the charity or association has applied to the Minister in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy of the notice in the *Canada Gazette*, and
- (b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette*,

and on that publication of a copy of the notice, the registration of the charity or association is revoked.

168(4) Objection to proposal or designation

A person that is or was registered as a registered charity or is an applicant for registration as a registered charity that objects to a notice under subsection (1) or any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) may, on or before the day that is 90 days after the day on which the notice was mailed, serve on the Minister a written notice of objection in the manner authorized by the Minister, setting out the reasons for the objection and all the relevant facts, and the provisions of subsections 165(1), (1.1) and (3) to (7) and sections 166, 166.1 and 166.2 apply, with any modifications that the circumstances require, as if the notice were a notice of assessment made under section 152.

Section 172: Appeal from refusal to register, revocation of registration, etc.

172(3) Appeal from refusal to register, revocation of registration, etc.

Where the Minister

- (a) refuses to register an applicant for registration as a Canadian amateur athletic association,
- (a.1) confirms a proposal, decision or designation in respect of which a notice was issued by the Minister to a person that is or was registered as a registered charity, or is an applicant for registration as a registered charity, under any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) and 168(1), or does not confirm or vacate that proposal, decision or designation within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal, decision or designation,
- (b) refuses to accept for registration for the purposes of this Act any retirement savings plan,
- (c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan,
- (d) refuses to issue a certificate of exemption under subsection 212(14),
- (e) refuses to accept for registration for the purposes of this Act an education savings plan,
- (e.1) sends notice under subsection 146.1(12.1) to a promoter that the Minister proposes to revoke the registration of an education savings plan,
- (f) refuses to register for the purposes of this Act any pension plan or gives notice under subsection 147.1(11) to the administrator of a registered pension plan that the Minister proposes to revoke its registration,
- (f.1) refuses to accept an amendment to a registered pension plan, or
- (g) refuses to accept for registration for the purposes of this Act any retirement income fund, the applicant or the organization, foundation, association or registered charity, as the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (e) or (g), a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), the promoter in a case described in paragraph (e.1), or the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

Section 180: Appeals to Federal Court of Appeal

180(1) Appeals to Federal Court of Appeal

An appeal to the Federal Court of Appeal pursuant to subsection 172(3) may be instituted by filing a notice of appeal in the Court within 30 days from

- (a) the day on which the Minister notifies a person under subsection 165(3) of the Minister's action in respect of a notice of objection filed under subsection 168(4),
- (b) the mailing of notice to a registered Canadian amateur athletic association under subsection 168(1),
- (c) the mailing of notice to the administrator of the registered pension plan under subsection 147.1(11),
- (c.1) the sending of a notice to a promoter of a registered education savings plan under subsection 146.1(12.1), or
- (c) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan was mailed, or otherwise communicated in writing, by the Minister to any person,

as the case may be, or within such further time as the Court of Appeal or a judge thereof may, either before or after the expiration of those 30 days, fix or allow.

Section 188: Revocation tax

188(1) Deemed year-end on notice of revocation

If on a particular day the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) or it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available,

- (a) the taxation year of the charity that would otherwise have included that day is deemed to end at the end of that day;
- (b) a new taxation year of the charity is deemed to begin immediately after that day; and
- (c) for the purpose of determining the charity's fiscal period after that day, the charity is deemed not to have established a fiscal period before that day.

188(1.1) Revocation tax

A charity referred to in subsection (1) is liable to a tax, for its taxation year that is deemed to have ended, equal to the amount determined by the formula

$$A - B$$

where

A is the total of all amounts, each of which is

- (a) the fair market value of a property of the charity at the end of that taxation year,
- (b) the amount of an appropriation (within the meaning assigned by subsection (2) in respect of a property transferred to another person in the 120-day period that ended at the end of that taxation year, or
- (d) the income of the charity for its winding-up period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 as if that period were a taxation year; and

B is the total of all amounts (other than the amount of an expenditure in respect of which a deduction has been made in computing income for the winding-up period under paragraph (c) of the description of A, each of which is

- (a) a debt of the charity that is outstanding at the end of that taxation year,
- (b) an expenditure made by the charity during the winding-up period on charitable activities carried on by it, or
- (c) an amount in respect of a property transferred by the charity during the winding-up period and not later than the latter of one year from the end of the taxation year and the day, if any, referred to in paragraph (1.2)(c) to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

188(1.2) Winding-up period

In this Part, the winding-up period of a charity is the period, that begins immediately after the day on which the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) (or, if earlier, immediately after the day on which it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available), and that ends on the day that is the latest of

- (a) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,
- (b) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and
- (c) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

188(1.3) Eligible donee

In this Part, an eligible donee in respect of a particular charity is a registered charity

- (a) of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity;
- (b) that is not the subject of a suspension under subsection 188.2(1);
- (c) that has no unpaid liabilities under this Act or under the Excise Tax Act;
- (d) that has filed all information returns required by subsection 149.1(14); and
- (e) that is not the subject of a certificate under subsection 5(1) of the Charities Registration (Security Information) Act or, if it is the subject of such a certificate, the certificate has been determined under subsection 7(1) of that Act not to be reasonable.

188(2) Shared liability — revocation tax

A person who, after the time that is 120 days before the end of the taxation year of a charity that is deemed by subsection (1) to have ended, receives property from the charity, is jointly and severally, or solidarily, liable with the charity for the tax payable under subsection (1.1) by the charity for that taxation year for an amount not exceeding the total of all appropriations, each of which is the amount by which the fair market value of such a property at the time it was so received by the person exceeds the consideration given by the person in respect of the property.

188(2.1) Non-application of revocation tax

Subsections (1) and (1.1) do not apply to a charity in respect of a notice of intention to revoke given under any of subsections 149.1(2) to (4.1) and 168(1) if the Minister abandons the intention and so notifies the charity or if

- (a) within the one-year period that begins immediately after the taxation year of the charity otherwise deemed by subsection (1) to have ended, the Minister has registered the charity as a charitable organization, private foundation or public foundation; and
- (b) the charity has, before the time that the Minister has so registered the charity,
 - (i) paid all amounts, each of which is an amount for which the charity is liable under this Act (other than subsection (1.1)) or the Excise Tax Act in respect of taxes, penalties and interest, and
 - (ii) filed all information returns required by or under this Act to be filed on or before that time.

188(3) Transfer of property tax

Where, as a result of a transaction or series of transactions, property owned by a registered charity that is a charitable foundation and having a net value greater than 50% of the net asset amount of the charitable foundation immediately before the transaction or series of transactions, as the case may be, is transferred before the end of a taxation year, directly or indirectly, to one or more charitable organizations and it may reasonably be considered that the main purpose of the transfer is to effect a reduction in the disbursement quota of the foundation, the foundation shall pay a tax under this Part for the year equal to the amount by which 25% of the net value of that property determined as of the day of its transfer exceeds the total of all amounts each of which is its tax payable under this subsection for a preceding taxation year in respect of the transaction or series of transactions.

188(3.1) Non-application of subsection (3)

Subsection (3) does not apply to a transfer that is a gift to which subsection 188.1(11) applies.

188(4) Idem

Where property has been transferred to a charitable organization in circumstances described in subsection (3) and it may reasonably be considered that the organization acted in concert with a charitable foundation for the purpose of reducing the disbursement quota of the foundation, the organization is jointly and severally liable with the foundation for the tax imposed on the foundation by that subsection in an amount not exceeding the net value of the property.

188(5) Definitions

In this section,

"net asset amount"

"net asset amount" of a charitable foundation at any time means the amount determined by the formula

$A - B$

where

A is the fair market value at that time of all the property owned by the foundation at that time, and

B is the total of all amounts each of which is the amount of a debt owing by or any other obligation of the foundation at that time;

"net value"

"net value" of property owned by a charitable foundation, as of the day of its transfer, means the amount determined by the formula

$A - B$

where

A is the fair market value of the property on that day, and

B is the amount of any consideration given to the foundation for the transfer.

Section 189

189(6) Taxpayer to file return and pay tax

Every taxpayer who is liable to pay tax under this Part (except a charity that is liable to pay tax under section 188(1)) for a taxation year shall, on or before the day on or before which the taxpayer is, or would be if tax were payable by the taxpayer under Part I for the year, required to file a return of income or an information return under Part I for the year,

- (a) file with the Minister a return for the year in prescribed form and containing prescribed information, without notice or demand therefor;
- (b) estimate in the return the amount of tax payable by the taxpayer under this Part for the year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under this Part for the year.

189(6.1) Revoked charity to file returns

Every taxpayer who is liable to pay tax under subsection 188(1.1) for a taxation year shall, on or before the day that is one year from the end of the taxation year, and without notice or demand,

- (a) file with the Minister
 - (i) a return for the taxation year, in prescribed form and containing prescribed information, and
 - (ii) both an information return and a public information return for the taxation year, each in the form prescribed for the purpose of subsection 149.1(14); and
- (b) estimate in the return referred to in subparagraph (a)(i) the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year.

189 (6.2) Reduction of revocation tax liability

If the Minister has, during the one-year period beginning immediately after the end of a taxation year of a person, assessed the person in respect of the person's liability for tax under subsection 188(1.1) for that taxation year, has not after that period reassessed the tax liability of the person, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of

- (a) the amount, if any, by which
 - (i) the total of all amounts, each of which is an expenditure made by the charity, on charitable activities carried on by it, before the particular time and during the period (referred to in this subsection as the "post-assessment period") that begins immediately after a notice of the latest such assessment was mailed and ends at the end of the one-year period exceeds
 - (ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and
- (b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

189(6.3) Reduction of liability for penalties

If the Minister has assessed a registered charity in respect of the charity's liability for penalties under section 188.1 for a taxation year, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the charity after the day on which the Minister first assessed that liability and before the particular time to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

- (a) the consideration given by the person for the transfer, and
- (b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

189 (7) Minister may assess

Without limiting the authority of the Minister to revoke the registration of a registered charity, the Minister may also at any time assess a taxpayer in respect of any amount that a taxpayer is liable to pay under this Part.