



Revenue Canada  
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REGISTERED MAIL

Mr. Thomas F. O'Shaughnessy  
Secretary & Treasurer  
Canadian Scholarship Trust General Fund  
CST Foundation  
200-240 Duncan Mill Road  
Don Mills, Ontario  
M3B 3P1

0376236

September 23, 1998

Dear Mr. O'Shaughnessy :

**Subject: CHARITY TAX AUDIT**

This letter is further to an audit of the books and records of the account of the Canadian Scholarship Trust General Fund (the "Charity") which was conducted by a representative of the Department. The audit related to the operations of the Charity for fiscal period November 1, 1995 to October 31, 1996. We apologize for not formally communicating sooner the results from this audit due to workload demands of the Charities Division.

The results of this audit indicate that the Charity may be in contravention of 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 how the Department considers that the Charity contravened the Law.

**Information Return T3010**

Every registered charity is required by subsection 149.1(14) of the Act to file a *Registered Charity Information Return and Public Information Return* with applicable schedules for each taxation year of the charity.

The total amount of official receipts, reported on line 100 of the 1995 T3010 excluded a donation of \$200,000 received from [REDACTED]

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A charity is not properly meeting its information return filing requirements if it fails to exercise due care with respect to ensuring the accuracy thereof.

Under paragraph 168(1)(c) 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 file an information return as required under the *Act* and the Regulations.

#### Official Donation Receipts

Contrary to Regulation 3501(1)(a) of the *Act* the full name of the Charity as registered with Revenue Canada was not stated on the official donation receipt.

Under paragraph 168(1)(d) of the *Act*, the Minister may, by registered mail, give notice to the registered charity that he proposes to revoke its registration if it issues a receipt otherwise than in accordance with the *Act* and the Regulations.

#### Activities

To recognize an organization as a charity, it must be constituted and operated exclusively for charitable purposes. The *Act* does not define the term "charitable" and it is therefore necessary to rely on the jurisprudence in the Common Law.

In determining whether an organization is eligible for registration as a charitable organization, the courts look first to the wording of the objects as stated in the constituting documents. The drafting of "exclusively charitable purposes" constitutes the criteria used by the courts to distinguish a charitable organization from other organizations. In order to be considered charitable, the formal objects as set out in the Constitution must be clear and precise so as to reflect exclusively charitable purposes.

According to our records, the objects of the Charity are set out in the Statement As To The Aims, Objectives and Structure of The Canadian Scholarship Trust General Fund read as follows:

1. The "Canadian Scholarship Trusts" were established by a Deed of Trust dated February 1, 1961 between C.S.T. Foundation and the Eastern Trust Company.

2. The objects of the Canadian Scholarship Trusts are set out in paragraph (1) of Section II of the Trust Deed as follows:

“ The Trustee shall hold the Trust Funds IN TRUST FOR THE ADVANCEMENT OF EDUCATION IN CANADA by way of scholarships or otherwise in such manner as the Trustee may from time to time determine.”

3. By a Supplementary Trust Agreement dated March 23, 19961 between C.S.T. Foundation and The Eastern Trust Company, The Eastern Trust Company, acting as the Trustee of the Canadian Scholarship Trusts, agreed to maintain a separate account to be known as the Canadian Scholarship Trust General Fund Account and to credit such account with all monies received by it for the Canadian Scholarship Trust General Fund and to disburse such monies for the advancement of education in Canada by way of scholarships or otherwise in such manner as it may determine, after consultation with C.S.T. Committee.

As a result of the audit and review of the Scholarship Agreement - Millennium Plan, the Scholarship Agreement - Optional Plan, and the Canadian Scholarship Trust Plans the organization fails to meet the public benefit criterion in regards to the advancement of education.

Where those entitled to benefits are restricted to the relatives and descendants of a specific individual, the employees of a particular company, or there exists some other criterion which is linked to the contributor of the funds, the Department will consider that the requirement for public benefit has not been met.

As set out in the Scholarship Agreements; Subscribers enter into an Agreement to purchase an education savings plan for a Nominated Child. Scholarships are approved by the Trustee and withdrawn by a Qualified Student under the Agreement. A Qualified Student means a Nominated Child. A Nominated Child is a Family Member.

The Canadian Scholarship Trust General Fund is the last branch of the organization known as the Canadian Scholarship Trust, which is a valid Registered Education Savings Plan (RESP). The Charity was set up in order to receive any surplus monies from the RESP Scholarship Trust. These monies are then redistributed to Qualified Students as an income supplement to the Trust's RESP Education Assistance Payments. The condition to receive supplementary payments is that the recipient be an RESP beneficiary or Qualified Student. There is no poverty criterion for the selection of recipients

We conclude that the Charity would not qualify to retain its charitable registration as it lacks the public benefit criterion. 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.

### **Conclusion**

For all of the reasons indicated above, it appears to us that there are grounds for revocation of the Charity'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 Charity would become a taxable entity under Part I of the *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. the loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Charity would not be allowable as a tax credit to individual donors as provided at subsection 118.1(3) of the *Act* or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the *Act*; and
3. the possibility of a tax payable under Part V, subsection 188(1) of the *Act*.

For your reference, we 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.

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 Charity in accordance with subsection 168(2) of the *Act*, we invite you to submit your representations within 30 days from the date of this letter. Subsequent to this date, the Director of the Charities Division will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the Charity 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 that individual.

Should you have any questions on these matters, please telephone Cindy Drozda-Lahache at [REDACTED] or myself at [REDACTED], or write to Place de ville, 320 Queen Street, Tower A, 18th Floor, Ottawa, Ontario, K1A 0L5. Our fax number is [REDACTED].

Yours sincerely,

Rhéal Dorval, C.G.A.  
Assistant Director - Audit  
Charities Division

REGISTERED MAIL

Mr. Thomas F. O'Shaughnessy  
Secretary & Treasurer  
Canadian Scholarship Trust General Fund  
CST Foundation  
200-240 Duncan Mill Road  
Don Mills, Ontario  
M3B 3P1

REG 0376236  
BN 89028645

May 16 1999

Dear Mr. O'Shaughnessy:

Subject: Notice of intent to revoke

We acknowledge receipt of your letter dated May 10, 1999. In our letter of September 23, 1998, we invited you to submit representations to us within 30 days as to why the Minister of National Revenue (the "Minister") should not revoke the registration of the Canadian Scholarship Trust General Fund (the "Fund") in accordance with subsection 168(1) of the *Income Tax Act* (the "Act"). On May 10, 1999 the Fund agreed to a revocation of their charitable registration.

Attached please find a copy of the Department's September 23, 1998 letter outlining the reasons why we have determined that the Fund lacks the element of the public benefit criterion in regards to the advancement of education and ceases to comply with the requirements for it registration.

In addition the Fund failed to prepare the Information Return and issue Official Donation Receipts in accordance with the Act and the Regulations.

Therefore, I wish to advise that pursuant to the authority granted to the Minister in subsections 149.1(4.1) and 168(1) of the Act and delegated to me in subsection 900(8) of the Regulations to the Act, I propose to revoke the registration of the CANADIAN SCHOLARSHIP TRUST FOUNDATION. 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)(l) and 168(d) 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.

Registration number: 0376236

Business number: 89028645RR0001

Name: CANADIAN SCHOLARSHIP TRUST GENERAL FUND  
Don Mills, Ontario

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 the organization filing an appeal - the appellant - to be met within restricted time frames. In particular, the appellant is responsible for filling the documents that will form the case material for the Court's review. You can obtain information about these Rules from the Court.

As of the date of revocation of the registration of the organization, which is the date upon which the above-noted notice is published in the Canada Gazette, 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.

Additionally, the organization may be subject to tax pursuant to Part V, section 188 of the Act. For your reference, I have attached a copy of the relevant provisions of the Income Tax Act concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

I wish to advise you that pursuant to subsection 150(1) of the Act a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefor, be filed with the Minister in prescribed form containing prescribed information. Also we draw your attention to paragraph 149(1)(l) of the Act which states the definition of a non-profit organization and subsection 149(12) which states the filing requirements of a non-profit organization.

Yours truly,

  
Neil Barclay  
Director  
Charities Division

Attachments