



JUN 15 2012

REGISTERED MAIL

Childhope Foundation Canada
128 Queen Street South
Box 42282
Mississauga ON L5M 4Z0

Attention: Albert Morrison

BN: 888215845 RR0001
File #: 0832410

**Subject: Notice of Intention to Revoke
 Childhope Foundation Canada**

Dear Mr. Morrison:

I am writing further to our letter dated December 19, 2011 (copy enclosed), in which you were invited to submit representations as to why the registration of Childhope Foundation Canada (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

We have now reviewed and considered the written response submitted by your representative, Mike Holloway, C.A. Professional Corporation, dated February 8, 2012. However, notwithstanding his 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 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, nor did it exercise proper control over the issuance of its donation receipts. 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 December 19, 2011, I wish to advise you that, pursuant to subsection 168(1) 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*:

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
888215845RR0001

Name
Childhope Foundation Canada
Mississauga, ON

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

Consequences of Revocation

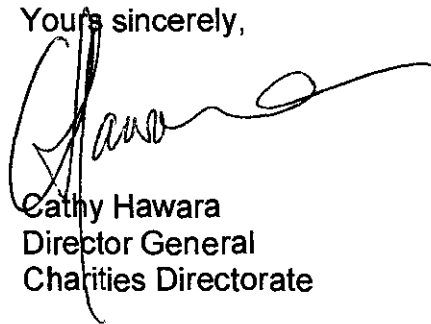
As of the effective date of revocation:

- 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 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

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,

A handwritten signature in black ink, appearing to read 'Cathy Hawara', with a long horizontal flourish extending to the right.

Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated December 19, 2011
- Letter from Mike Holloway C.A. Professional Corporation dated February 8, 2012
- Appendix "A", Response to representation of February 8, 2012
- Appendix "B", Relevant provisions of the Act

c.c.: Mike Holloway, CA
Mike Holloway C.A. Professional Corporation
57 Mill Street North, Suite 204
Brampton, ON L6X 1S9



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

December 19 2011

REGISTERED MAIL

Childhope Foundation Canada
128 Queen Street South
Box 42282
Mississauga ON L5M 4Z0

Attention: Albert Morrison

BN: 888215845 RR0001
File #: 0832410

Subject: Audit of Childhope Foundation Canada

Dear Mr. Morrison:

This letter is further to the audit of the books and records of Childhope Foundation Canada (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period from July 1, 2008 to June 30, 2009.

The CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* (the Act) and/or its *Regulations* in the following areas:

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Failure to devote resources to charitable purposes	149.1(1), 168(1)(b)
2.	Official Donation Receipts	230(2), Reg. 3501, 168(1)(d)
3.	Information Return (Form T3010)	149.1(14), 168(1)(c)
4.	Remuneration and Benefits Reporting	153(1), Reg. 200, 168(1)(c)

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 and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act. The balance of this letter describes the identified areas of non-compliance in further detail.

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Identified Areas of Non-Compliance:

1. Failure to Devote all of its Resources to its Charitable Purposes:

Legislation:

The Organization is registered as a charitable organization. Under subsection 149.1(1) of the Act, a "charitable organization" is defined as "*an organization...all the resources of which are devoted to charitable activities carried on by the organization itself...*"

In order for an organization to be recognized as a charity, it must be constituted exclusively for charitable purposes, and devote its resources to charitable activities in furtherance thereof.^{1[1]} In the Supreme Court decision of *Vancouver Society of Immigrant and Visible Minority Women v. M.N.R.* [1999] 1 S.C.R. 10, Iacobucci J. speaking for the majority, summarized the requirements for charitable registration at paragraph 159, as follows:

"In conclusion, on the basis of the Canadian jurisprudence, the requirements for registration under s. 248(1) come down to two:

- (1) the purposes of the organization must be charitable, and must define the scope of the activities engaged in by the organization; and*
- (2) all of the organization's resources must be devoted to these activities."*

The term "charitable" is not defined in the Act therefore it is necessary to rely on the jurisprudence in the common law. The courts have recognized four general categories of charitable purposes: (1) the relief of poverty; (2) the advancement of religion; (3) the advancement of education; and (4) other purposes beneficial to the community as a whole (or a sufficient section thereof) in a way that the law regards as charitable. This last category identifies an additional group of purposes that have been held charitable at law rather than qualifying any and all purposes that provide a public benefit as charitable.

In order to accomplish its charitable purposes, a registered charity may only use its resources (funds, personnel and/or property) in two ways, for charitable activities undertaken by the charity itself under its continued supervision, direction and control; and for gifting to "qualified donees" as defined in the Act.

^{1[1]} *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10, at page 110 (paragraph 152, 154, 156)

Audit Findings:

Fundraising Activities

Fundraising is not a charitable activity. A registered charity can raise funds to support its charitable purposes, but:

- If the fundraising activity becomes the primary emphasis of the charity, then it is not operating for exclusively charitable purposes; and
- If a substantial portion of the charity's revenues is devoted to the fundraising activity, it is not considered to be devoting its resources to charitable activities.

A registered charity that engages in fundraising as a primary activity, or that devotes a substantial portion of its revenue to fundraising activities, is putting its registered status in jeopardy.

Our audit findings reveal that the Organization devotes a substantial portion of its actual cash contributions to fundraising activities, as indicated by the following results for the 2009 fiscal year:

- | | |
|---|--------|
| - Fundraising expenses as a proportion of funds raised by door to door soliciting, telemarketing and donation boxes | 74.45% |
| - Fundraising expenses as a proportion of total revenue | 64.10% |

It was noted that during the previous audit, which related to the Organization's 2004 fiscal period, this issue was also raised as a serious concern, and it is apparent from a review of the Organization's T3010 Registered Charity Information Returns and financial statements that fundraising expenses during the 2005, 2006 and 2007 fiscal periods remained excessively high. As a result of the audit of the 2004 fiscal period, the Organization entered into a Compliance Agreement with the CRA, in which the Organization agreed to spend at least 80% of tax-receipted revenue on charitable activities, and to restrict its administrative and fundraising expenses to no more than 20% of its previous year's receipted donations.

While it appears that the objective of spending at least 80% of the previous year's tax-receipted donations on charitable activities was met in some years, it appears that this was achieved by deliberately not issuing receipts to most donors unless they requested one. This was done despite the notation on the temporary receipts issued that "Childhope Foundation Canada will automatically issue an official tax receipt for all donations exceeding \$20.00".

Although it could be argued that the objective of restricting administrative and fundraising expenses to 20% of the previous year's tax-receipted donations was unrealistic, the Organization nevertheless agreed to this provision of the Compliance Agreement, and has not met it in any year. The only year in which fundraising expenses were kept to a more reasonable level was in the 2008 fiscal period, a year during which the Organization relied less heavily on professional fundraisers to raise funds. Fundraising expenses for that year were 40.8% of related donations, or 33.7% of total revenue, but as this was the only year the ratio of costs to revenue was at a more reasonable level, the CRA still has concerns about the overall fundraising ratios.

Further, after the 2008 fiscal period the Organization again relied heavily on professional fundraisers, resulting in excessive amounts being spent on fundraising expenses. It entered into an agreement with Semog Marketing Services on August 5, 2008 that was contracted to end on December 31, 2010. This agreement resulted in the Organization paying 75% of gross receipts (plus GST) to Semog during the period from September 1, 2008 to December 31, 2008. According to the agreement, the percentage was to be reduced to 72.5% in the 2009 calendar year, and to 70% in the 2010 calendar year. The Organization also signed a new one year agreement with Hefford and Associates on October 28, 2009, apparently on the same terms as the previous agreement. During the fiscal year ended June 30, 2009, the Organization paid fundraising expenses amounting to 78% of gross receipts (plus GST) to Hefford.

Conduct Contrary to the Public Interest

Registered charities, or third parties acting on their behalf, are not permitted to engage in conduct that is contrary to public policy. Fundraising activities can be contrary to public policy if they result in unquestionable harm to the public interest. The courts have held that fundraising contracts can be harmful to the public interest if the terms of the contract are such that the charity does not retain the greater share of the amount collected and/or if they result in misrepresentation to the public about whether donated amounts go to the charity or to pay the fundraising company collecting them.²

Misrepresentation can be in the form of non-disclosure. Where the costs of a fundraising activity are not, on their face, in reasonable proportion to the funds raised or to the funds subsequently available to the charity to support its charitable activities, the need for disclosure in order to ensure that donors are not inadvertently misled has been emphasised by the courts.³

² See, for example, *Ontario Public Guardian and Trustee v. Aids Society for Children (Ontario)*, [2001] O.J. No. 2170 (QL) (OSCJ); *Innovative Gifting Inc. v. House of the Good Shepherd et al.*, [2010] O.J. No. 2210; *Public Guardian and Trustee (Ontario) v. National Society for Abused Women and Children et al.*, [2002] O.J. No. 607 (OSCJ)

³ See cases cited *supra* footnote 2, where third party fundraisers received at least 70% of all amounts raised, without disclosing this fact to the public. The court held that the contracts harmed the public interest due to a misrepresentation to the public.

Further, in cases whereby a charity uses a third party to carry out fundraising on its behalf, and the associated costs with the fundraising were high, the Courts have ruled against the validity of the contracts between charities and professional fundraisers where, in the courts opinion, such contracts were contrary to public policy. *Innovative Gifting v. House of the Good Shepherd et. al.* [OSC 2010] is the most recent demonstration of the Courts' willingness to intervene in private contractual matters between charities and fundraisers to ensure that the public interest is protected.⁴ For example, Justice Roberts reasoned:

The agreements are also repugnant on the ground that they are against the public interest because monies raised for charitable purposes do not go to the intended beneficiaries. The applicant does not disclose its fees on its website. A reasonable person would expect that there would be some administrative cost associated with charitable fund-raising and that the cost would be proportionate to the amount of money raised for charitable purposes. The applicant's demanded fees of 90 per cent of the amounts raised cannot be accepted as reasonable.

In another decision, *Public Guardian and Trustee v. The Aids Society for Children (Ontario) et al* (9 May 2002) the Courts held that:

Since the donors were not advised that between seventy and eighty (70%-80%) percent of the donations would be deducted for fundraising expenses, the fundraising contracts could be voided as being contrary to public policy as well as for misrepresentation to donors concerning the amount of monies that were actually going to fulfill the charitable purposes of the Aids Society.⁵

Further;

The Aids Society and its directors were responsible as fiduciaries to the public for all funds collected from the public as donations, including the gross amount of funds received by the two fundraising companies in question and as such the court found that both the Aids Society and all 3 directors were liable for the amount of unreasonable fundraising costs.⁶

In keeping with the spirit of the aforementioned court decisions, it is our view that the Organization has entered into contracts that could be viewed as contrary to public

⁴ <http://www.millerthomson.ca>: Court Orders that Tax Shelter Promoter Returns Commissions to Charities.

⁵ <http://www.Carters.ca>: Ontario Court Declares Fundraising Contract Void and Imposes Penalty.

⁶ <http://www.Carters.ca>: Ontario Court Declares Fundraising Contract Void and Imposes Penalty.

policy. It is the Organization's responsibility to ensure that it retains a greater share of the proceeds from third party fundraising arrangements. We would also suggest that the higher the costs for a fundraising activity, the more there is a need for disclosure in order to ensure that donors are not inadvertently misled.

The Organization should keep in mind that when it enters into arrangements in which it devotes its financial and human resources to for-profit entities such as a 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 excessive or disproportionate private benefit that makes the fundraising unacceptable and could jeopardize the Organization's registered status. It is the Organization's responsibility to ensure that all contracts for services are thoroughly researched, that the revenue to expenses are reasonable and that they represent fair value for services rendered.

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(1) as a charitable organization "all the resources of which are devoted to charitable activities".

2. Official Donation Receipts

Legislation:

The law provides various requirements with respect to the issuing of official donation receipts by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Act and are described in some detail in Interpretation Bulletin IT-110R3 *Gifts and Official Donation Receipts*.

Audit Findings:

The audit reveals that the donation receipts issued by the Organization do not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as follows:

- There were gaps in the sequential numbers of the receipt books provided, and therefore it could not be determined whether all of the receipts issued for the fiscal period were accounted for. This was also an issue during the last audit, and is of particular concern as all of the printed receipts contained the facsimile signature of the Organization's chairman. Charities are expected to guard against the unauthorized use of official receipts.
- The Organization allowed one of its fundraisers (Semog Marketing Services) to produce and issue official receipts on its behalf based on a specimen copy containing the chairman's signature. Duplicate copies of these receipts were not available at the Organization's office during the CRA audit. This is another example of the Organization's lack of control over the use of its receipts.

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- The receipts issued by Semog Marketing Services did not contain the full name and address of the Organization as recorded with the CRA. Only the name "Childhope" appeared on the receipt, and no address was shown.
- The temporary receipts issued did not contain the notation "this copy is for your information only and is not an official receipt for income tax purposes", as required per paragraph 17 of IT-110R3. The CRA is aware that some of the temporary receipts were claimed by donors on their tax returns.
- The receipts did not contain the date on which they were issued, as required when the date differs from the date the donation was received. Receipts were apparently issued after the end of the calendar year, but contained only the date on which the donation was received.
- The new donation receipts purchased by the Organization did not contain the CRA's name and Web site address.

3. Information Return (Form T3010)

Legislation:

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.

Audit Findings:

The Organization filed its T3010 returns for 2007, 2008 and 2009 after the expiration of the six month period referred to above.

4. Remuneration and Benefits Reporting

Legislation:

Where salaries or wages are paid, the Act requires annual T4 Summaries and T4 Statements of Remuneration Paid be prepared by the employer. Where payments are made for fees, commissions or other amounts for services a T4A slip and T4A Summary must be prepared where those payments amount to \$500 or more during the year for an individual. [Regulation 200(1)].

Audit Findings:

During its 2009 fiscal year, the Organization paid [REDACTED] \$8,649 for teaching, but did not issue a T4 or T4A to him in either 2008 or 2009.

(111)

The Organization's Options:

a) No Response

You may choose not to respond. In that case, the Director General of the Charities Directorate may give notice of its intention to revoke the registration of the Organization 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 Organization, the 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
- giving notice of its intention to revoke the registration of the Organization 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 do not hesitate to contact the undersigned at the numbers indicated below.

Yours truly,



Audit Division
Kitchener/Waterloo Tax Services Office
Telephone: 
Facsimile: (519) 585-2803
Address: 166 Frederick Street
Kitchener, ON N2G 4N1

(112)

Mike Holloway C.A. Professional Corporation
57 Mill Street North, Suite 204
Brampton, Ontario
L6X 1S9

FAX TRANSMISSION

FROM: Mike Holloway
TO: [REDACTED]
Canada Revenue Agency
[REDACTED]
DATE: February 8, 2012
PAGES: 1 of 4
SUBJECT: Childhope Foundation Canada
BN 88821 5845 RR 0001

Good afternoon [REDACTED]

As we discussed, I am writing in response to your letter dated December 19, 2011. I appreciate your patience in waiting for this response. Thank you.

Regarding the 4 areas of non-compliance highlighted in your letter,

- 1 - Failure to devote resources to charitable purposes

My client is a small charitable organization operating on a very tight budget. As highlighted in your letter, over the years Childhope has made use of independent fundraising agents under agreements that provide for the agent to receive a significant portion of the gross proceeds received. My client has repeatedly tried to renegotiate these agreements and has at times stopped working with these agents. Without the net proceeds that these agents provide to Childhope, the Foundation would not be able to survive.

I have prepared an analysis of the donation revenue and charitable activities expenses which suggests that charitable activities expenses represent 74% of receipted donation revenue in 2009. I know that this would not exceed the 80% disbursement quota applicable to 2009 but I understand that the quota requirement has been revised for 2010 and future years.

***Mike Holloway C.A. Professional Corporation
57 Mill Street North, Suite 204
Brampton, Ontario
L6X 1S9***

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I spoke to my client about the statement on the unofficial receipts that "official donation receipts would be issued automatically for donations exceeding \$20". They maintain that this was an error and that the intention was to have the unofficial receipts state that "an official receipt is available for donations over \$20 upon request". Assuming that this approach is acceptable to the Agency, my client would commit to make this change going forward. Alternatively, they are willing to comply with whatever direction the Agency would provide on this issue.

I do not believe that my client deliberately did not issue donation receipts to manage it's was around the disbursement quota. Instead I believe that they operate on such a tight budget that administration resources are minimal and they did not find the time to address this issue properly. They could also not afford to have the unofficial donation receipts reprinted to correct the error discussed above. As discussed in the preceding paragraph, my client is committed to correct this situation going forward and is willing to take direction from the Agency on this issue.

I also want to note that Childhope has not been involved in any of the various donation related schemes that numerous other charitable organizations have participated in. They are just a small charitable organization trying to survive in very tight economic circumstances.

2 - Official donation receipts

As discussed above, I have a commitment from my client to adhere to whatever direction the Agency would be willing to provide regarding the content of unofficial and official donation receipts going forward.

They are committed to correcting all of the points raised in this section of your letter.

3 - Information Return

My client acknowledges that Information Returns have been filed late in some years. Once again, this issue has been caused by the limited resources available to the Foundation. Please note that the 2011 Information Return was mailed to the Agency on December 22, 2011 within the filing deadline and that my client intends to continue filing its returns within the filing deadline in future years.

Telephone: (905) 453-7878 Fax: (905) 453-7876 Email: mikeh@on.albn.com

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Mike Holloway C.A. Professional Corporation
57 Mill Street North, Suite 204
Brampton, Ontario
L6X 1S9

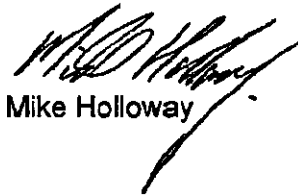
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4 - Remuneration and benefits reporting

My client has traditionally issued T4 slips to its employees on an annual basis as required. [REDACTED] provides computer training services to Childhope as an independent contractor. I do not believe that Childhope is actually required to issue [REDACTED] a T4A slip documenting the gross payments to his business on an annual basis under Regulation 200(1). Based on the Agency's request for this reporting, Childhope is prepared to issue [REDACTED] and any other similar service provider an annual T4A slip quantifying their gross billings to Childhope. Please indicate the calendar year that the Agency wishes this process to begin in. I am not clear whether the Agency wants Childhope to issue these slips for years that have already been completed or whether they should be prepared on a go forward basis.

In summary, I want to once again state that Childhope is a small charitable organization attempting to survive in difficult economic times. I also want to confirm that Childhope is very willing to take direction from the Canada Revenue Agency on how to address all of the issues raised in your December 19, 2011 letter.

Please contact me if you have any questions or require any additional information.



Mike Holloway

CHILDHOPE FOUNDATION CANADA

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	TOTAL FISCAL 2009	RECEIPTED DONATIONS	
DONATIONS VIA AGENTS	230,585		
FUNDRAISING COSTS	<u>171,680</u>		
NET AGENCY FUNDRAISING REVENUE	58,905		
DONATIONS RECEIVED DIRECTLY	36,221		
FUNDS FROM THE REGION OF PEEL	<u>2,225</u>		
TOTAL REVENUE	<u>97,351</u>	<u>88,000</u>	
CHARITABLE ACTIVITIES (PROGRAM)	65,153	<u>65,153</u>	74.04%
ADMINISTRATION	<u>30,712</u>		
EXCESS OF REVENUE (EXPENDITURE)	<u>1,486</u>		

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APPENDIX "A"

Below please find:

- (1) A summary of the issues raised by the Canada Revenue Agency (CRA) in our letter to Childhope Foundation Canada (the Organization) of December 19, 2011;
- (2) The response provided by the Organization's representative, Mike Holloway C.A., Professional Corporation in letter dated February 8, 2012; and
- (3) The CRA's conclusion.

Issue: Failure to devote resources to charitable purposes

Our audit findings revealed that the Organization devoted a substantial portion of its actual cash contributions to fundraising activities, as indicated by the following results for the 2009 fiscal year:

- | | |
|---|-----|
| - Fundraising expenses as a proportion of funds raised by door to door soliciting, telemarketing and donation boxes | 74% |
| - Fundraising expenses as a proportion of total revenue | 64% |

The prior audit relating to the 2004 fiscal period indicated that this issue was also raised as a serious concern. As a result, the Organization had entered into a Compliance Agreement with the CRA, in which the Organization agreed to spend at least 80% of tax-receipted revenue on charitable activities, and to restrict its administrative and fundraising expenses to no more than 20% of its previous year's tax-receipted donations. It was noted that the Organization's T3010, Registered Charity Information Returns and financial statements had reported fundraising expenses during the 2005, 2006 and 2007 fiscal periods that were also excessively high.

While it appears that the objective of spending at least 80% of the previous year's tax-receipted donations on charitable activities was met in some years, it appears that this was achieved by deliberately not issuing official donation receipts to most donors unless they requested one. This was done despite the notation on the temporary receipts issued stating that "Childhope Foundation Canada will automatically issue an official tax receipt for all donations exceeding \$20.00".

Although it could be argued that the objective of restricting administrative and fundraising expenses to 20% of the previous year's tax-receipted donations was unrealistic, the Organization nevertheless agreed to this provision of the Compliance Agreement, and has not met it in any fiscal period subsequent to 2004. The only year in which fundraising expenses were kept to a more reasonable level was in the 2008 fiscal period, a year during which the Organization relied less heavily on professional fundraisers to raise revenue. Fundraising expenses for that year were 40.8% of related

donations, or 33.7% of total revenue, but as this was the only year the ratio of costs to revenue was at a more reasonable level, the CRA still has concerns about the overall fundraising ratios.

Subsequent to the 2008 fiscal period, the Organization again relied heavily on professional fundraisers, resulting in excessive amounts being spent on fundraising expenses. It entered into an agreement with Semog Marketing Services (Semog) on August 5, 2008 (just 7 months after signing the Compliance Agreement) that was contracted to end on December 31, 2010. This agreement resulted in the Organization paying 75% of gross receipts (plus GST) to Semog during the period from September 1, 2008 to December 31, 2008. According to the agreement, the percentage was to be reduced to 72.5% in the 2009 calendar year, and to 70% in the 2010 calendar year. The Organization also signed a new one year agreement with Hefford and Associates (Hefford) on October 28, 2009, apparently on the same terms as the previous agreement. During the fiscal year ended June 30, 2009, the Organization paid fundraising expenses amounting to 78% of gross receipts (plus GST) to Hefford.

Response:

The Organization appears to acknowledge that fundraising expenses are high in relation to the amounts of revenue raised by the fundraisers. However, although the Organization has tried to renegotiate the agreements and has also stopped working with the fundraisers for a time, it has come to rely on this type of fundraising in order to survive.

The representative has noted that the Organization's expenses on charitable activities during 2009 represented 74% of tax-receipted revenue for 2009 which, although less than the disbursement quota requirement of 80% applicable to 2009, would be in excess of the requirement for 2010 and future years. He also stated that the note on the temporary receipts advising donors that they would automatically receive an official donation receipt for donations over \$20 was an error, and that the intention was to state that "an official receipt is available for donations over \$20 upon request". The correction to the temporary receipts was not made because of a tight budget and a lack of time to address the issue properly. The correction would be made going forward if the CRA found this acceptable.

It was also noted that the Organization had not been involved in any of the various donation schemes that numerous other organizations had participated in.

Conclusion:

Although the CRA acknowledges that the Organization might be able to meet the disbursement quota in future years based on the revised requirements of the Act and the Organization's intention to issue official receipts for only donations over \$20 and only if requested by the donor, this is not the CRA's main concern.

As noted in our letter of December 19, 2011, the courts have held that fundraising contracts can be harmful to the public interest if the terms of the contract are such that the charity does not retain the greater share of the amount collected and/or if they result in misrepresentation to the public about whether donated amounts go to the charity or to pay the fundraising company collecting them. Where the costs of a fundraising activity are not, on their face, in reasonable proportion to the funds raised or to the funds subsequently available to the charity to support its charitable activities, the need for disclosure to ensure that donors are not inadvertently misled has been emphasized by the courts. The Organization has stated its intention to continue to rely on professional fundraisers for the majority of its revenue, which will likely result in over 70% of such funds raised being kept by the fundraisers.

It is our view that donors expect the majority of funds they donate to be expended on charitable activities, regardless of whether or not they request an official donation receipt. Also, the contracts entered into by the Organization could be viewed as contrary to public policy, and that it has devoted significant resources towards non-charitable activities. As a result, it is our position the Organization has failed to demonstrate that it meets the test for continued registration under subsection 149.1(1) of the Act as a charitable organization "all the resources of which are devoted to charitable activities".

It was also noted that as a result of the CRA audit of the 2004 fiscal period, the Organization signed a Compliance Agreement on January 4, 2008 (the date was shown as January 4, 2007), in which it agreed "that in any tax year, no less than 80% of tax-receipted revenue is devoted to charitable activities...". It also agreed to limit its fundraising expenses to no more than 20% of its previous year's receipted donations. Neither of these conditions was met in the 2009 fiscal period.

The Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(b) of the Act because the registered charity has failed to comply with the requirements of the Act for its registration as such.

Issue: Official Donation Receipts

The audit reveals that the official donation receipts issued by the Organization do not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as follows:

- There were gaps in the sequential numbers of the donation receipt books provided, and therefore it could not be determined whether all of the donation receipts issued for the fiscal period were accounted for. This was also an issue during the last audit, and is of particular concern as all of the printed donation receipts contained the facsimile signature of the Organization's chairman. Charities are expected to guard against the unauthorized use of official receipts.
- The Organization allowed one of its fundraisers (Semog) to produce and issue official donation receipts on its behalf based on a specimen copy containing the chairman's signature. Duplicate copies of these donation receipts were not

available at the Organization's office during the CRA audit. This is another example of the Organization's lack of control over the use of its donation receipts.

- The receipts issued by Semog did not contain the full name and address of the Organization as recorded with the CRA. Only the name "Childhope" appeared on the receipt and no address was shown.
- The temporary receipts issued did not contain the notation "this copy is for your information only and is not an official receipt for income tax purposes", as required per paragraph 17 of IT-110R3. The CRA is aware that some of the temporary receipts were claimed by donors on their tax returns.
- The receipts did not contain the date on which they were issued, as required when the date differs from the date the donation was received. Receipts were apparently issued after the end of the calendar year, but contained only the date on which the donation was received.
- The new donation receipts purchased by the Organization did not contain the CRA's name and website address.

Response:

The Organization has committed to correcting all of the above points raised in our letter of December 19, 2011.

Conclusion:

During the CRA audit of the 2004 fiscal year, control over the donation receipts was also found to be a problem. There were gaps in the sequential numbering of the donation receipt books. As a result, the Organization signed the Compliance Agreement referred to above, agreeing to exercise proper control over the donation receipts given to canvassers.

However, in spite of agreeing to take corrective action, the problem has continued and has been aggravated by allowing one of the fundraising companies to produce and issue donation receipts in the Organization's name containing the chairman's facsimile signature. These donation receipts were not available at the Organization's address.

Subsection 230(2) of the Act states that every registered charity and registered Canadian amateur athletic association shall keep ... "a duplicate of each receipt containing prescribed information for a donation received by it; and 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 Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(d) of the Act because the registered charity has issued a receipt for a gift or donation otherwise than in accordance with the Act and the regulations or that contains false information.

The Minister may revoke the registration of the registered charity in the manner as described at paragraph 168(1)(e) of the Act because the registered charity has failed to comply with or contravenes any of sections 230 to 231.5 of the Act.

Issue: Information Return (Form T3010)

The Organization filed its T3010 returns for 2007, 2008 and 2009 after the expiration of the six month period referred to above.

Response:

The Organization acknowledges the late filing of its returns, but states that it filed its 2011 Information Return within the filing deadline and intends to continue filing its returns within the filing deadline in future years.

Conclusion:

The late filing of the T3010 Registered Organization Information Returns is not a determining factor in our decision to revoke the Organization's registration.

Issue: Remuneration and Benefits Reporting

During its 2009 fiscal year, the Organization paid [REDACTED] \$8,649 for teaching, but did not issue a T4 or T4A to him in either 2008 or 2009.

Response:

The Organization did not believe that it was required to issue a T4 or T4A to [REDACTED] because he provided computer training services as an independent contractor. However, it is prepared to issue a T4A slip for annual amounts paid for his services on a go forward basis.

Conclusion:

This issue is also not a determining factor in our decision to revoke the Organization's registration.

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.