



Canada Revenue Agency Agence du revenu du Canada

REGISTERED MAIL

Children's Leukemia Research Association Canada
4025 Dorchester Road, Suite 302
Niagara Falls ON L2E 7K8

BN: 80856 9941

Attention: Ms. Courtney Bell

File #: 3032126

March 29, 2011

Subject: Revocation of Registration
Children's Leukemia Research Association Canada

Dear Sir:

The purpose of this letter is to inform you that a notice revoking the registration of Children's Leukemia Research Association Canada (the Organization) was published in the Canada Gazette on March 26, 2011. 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 Huppe-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.: Drache Aptowitzer Professional Corporation
226 MacLaren Street
Ottawa ON K2P 0L6



Canada Revenue Agency Agence du revenu du Canada

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REGISTERED MAIL

Children's Leukemia Research Association Canada
4025 Dorchester Rd, Suite 302
Niagara Falls ON L2E 7K8

BN: 80856 9941RR0001
File #: 3032126

Attention: Ms. Courtney Bell

Subject: Notice of Intention to Revoke
Children's Leukemia Research Association Canada

Dear Ms. Bell:

I am writing further to our letter dated July 15, 2010 (copy enclosed), in which you were invited to submit representations as to why the registration of Children's Leukemia Research Association Canada (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 September 7, 2010. However, notwithstanding your reply, our concerns with respect to the Organization's failure to devote all of its resources to its charitable purposes, its books and records, and donation receipts, have not been alleviated. The basis for our concerns is explained below.

Failure to Devote Resources to Charitable Purposes:

The audit conducted by the Canada Revenue Agency (CRA) identified that the Organization, based on its activities and the level of financial activity and resources devoted, was not devoting its resources to entirely charitable purposes. Rather, the Organization has devoted a substantial portion of its efforts and resources to fundraising.

The CRA's audit has concluded that from March 1, 2006 to December 31, 2007, the Organization received over \$1.56 million in donations and paid over \$1.41 million, or 90% of total fundraising revenues, in telemarketing services while devoting the remaining donations to administrative expenses.¹ During the years audited, there was no evidence of any funds being devoted to charitable programs. Your response of September 7, 2010, did not provide any additional evidence to negate our findings but rather argues that the Organization was not given prior warning to the CRA's new fundraising policies and that, had the audit taken place after these guidelines were released "then perhaps revocation would have been warranted". Your representations also did not address our findings that the amounts paid represent a significant portion of the Organization's resources. The June 2009 Guidance on Fundraising by Registered Charities states that "the CRA has not changed its position on fundraising by

charities. This guidance updates and replaces Policy Statement CPS-001." The May 1989 Policy Statement CPS-001 for Applicants that are Established to Hold Periodic Fundraisers states that "The use of professional fundraisers and the costs associated with fundraising are an intrinsic part of raising funds, however, these costs must remain *reasonable* and must be clearly made for the benefit of the charity in accomplishing its charitable purpose". In our view the amounts devoted to actual charitable activities are insufficient to demonstrate that the Organization devoted all of its resources to charitable activity when the vast majority of the amounts received were devoted to fundraising and administration.

As described in our July 15, 2010 letter, "The CRA's position is outlined in our publication 'Completing the Registered Charity Information Return – T4033B', which stipulates that total fundraising costs are the total expenses a registered charity pays out for fundraising activities whether carried out by the charity or by contracted third parties. Our position is expanded further to consider the purpose behind the expenditure when determining whether the expenditure is a qualifying expenditure for purposes of the disbursement quota. It is our position that the third party fundraisers were engaged solely to solicit funds and accordingly, all amounts paid to the third party fundraisers should have been reported as fundraising expenditures only."

The Organization further states that it was in its infancy at the time of the audit, was organized with objects greater than its capacity to fulfil and that its activities during the audit do not reflect the activities of the Organization today. We respectfully disagree. A review of the Organization's annual information returns clearly demonstrates a continued devotion of resources to fundraising and administrative expenses from 2007 to 2009. We do note that the Organization has devoted some resources to charitable activities; however, since the Organization's inception, it has devoted over \$3.4 million to fundraising and administration while devoting only \$680,000 or 16% of its total expenditures to charitable activities. We also note that while the percentage of fundraising funds being retained by the Organization has increased from 16% in 2007 to 32% in 2009, this does not alleviate the fact that the Organization was not operating for purely charitable purposes and failed to devote all its resources to charitable activities.

Our letter of July 15, 2010, also expressed our concerns that the service agreement between the Organization and [REDACTED] allowed for [REDACTED] to provide an Executive Director at its "sole discretion" to the Organization. Specifically, the service agreement allowed for the President of [REDACTED] to assume this senior position in the Organization. We further expressed our concerns that such an arrangement indicates that the Organization has relinquished direction and control of the operations of the Organization to [REDACTED]. As such, it is our position that the Organization has failed to show that it has full direction and control of its own resources and activities.

While your representations of September 7, 2010, provided an unsigned copy of the service agreement, it still allows for this arrangement to exist, and as such, has not alleviated our previously expressed concerns.

We would also point out that the Organization has failed to alleviate concerns regarding the private benefit of [REDACTED] and [REDACTED]. The Organization has not demonstrated that, in selecting [REDACTED] and [REDACTED] through what appears to be a "sole-sourced" contract process, it has paid no more than market value for the services rendered. When one engages in a process of public tendering for services, one assumes that the Organization would obtain the best market value for services. Where one engages in a "sole-sourced" contract process, this is less certain. The Organization has not shown that it engaged in a process which supports the conclusion that it pays no more than market value for the respective services provided by [REDACTED] and [REDACTED]. As a result, it is our position that the Organization has not shown that it devoted all of its resources to charitable activities.

Moreover, we are unable to conclude that the Organization has devoted all of its resources to charitable activities given that the vast majority of the amounts received were devoted to fundraising and administration. For this reason, we continue to be of the position that the Organization was not devoting all of its resources to charitable activities and therefore 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 is our position that the Organization has not devoted all of its resources to charitable activities carried on by the organization itself. For this reason alone, there are grounds to revoke the charitable status of the Organization under paragraph 168(1)(b) of the Act.

Books and Records, Information Return & Official Donation Receipts

Our audit revealed the Organization's books and records were inadequate in several areas and we identified variances between the Organization's source records and the figures reported on its annual return. The Organization has not submitted any representations as to how it investigated, addressed or will be resolving the issues identified in our audit. The Organization maintains its position that it "did not have the benefit of knowing the CRA's position when filing the T3010". May we respectfully point out that information on how to correctly complete the *Registered Charity Information Return*, form T3010 has always been publicly available and accessible on our website as well as in our printed guide T4033A, *Completing the Registered Charity Information Return*. As such, it remains our position that the Organization's records are not sufficient to support the information, financial and otherwise, reported on its annual return and that the annual return was improperly completed for each of the reasons outlined in our July 15, 2010 letter.

Your letter stated that "Regulation 3501 requires that receipts be numbered not that they be pre-numbered by a printing press or numbering machine". We concur that Regulation 3501(1)(c) of the Act states that receipts shall contain a serial number; however, Regulation 3501(3) of the Act states that receipts may bear a facsimile signature if all the information described in paragraphs (a), (b), and (c) are met. The Organization's receipts contain a

Disbursement Quota

The Organization maintains that the re-classification of a portion of its total fundraising expenditures as charitable expenditures is legitimate and that the CRA is applying an *ex post facto* interpretation of our fundraising guidelines. Again, may we point out that information on how to correctly complete *Registered Charity Information Return*, Form T3010, has always been publicly available and accessible on our website as well as in our printed guide. It remains our position that amounts reported by the Organization as education and advocacy expenditures are fundraising expenditures and impact the disbursement quota, as we do not deem the expenditures to be incurred for a charitable purpose.

As described in our previous letter, we remain of the view that the Organization is in a shortfall position. The 2010 Budget proposals, recently passed into law, applies to fiscal periods ending after March 4, 2010 therefore under paragraph 149.1(2)(b) of the Act, the CRA may propose, by registered mail, to revoke its registration because it fails to meet its annual disbursement quota.

While the Organization submits that it will apply for a disbursement quota reduction, we do not believe the Organization's stated circumstances and reasoning for the reduction would be agreed to. We do note that the Organization has amended its tax-receipting policies in an effort to reduce its disbursement quota obligations by only issuing official donation receipts for gifts over \$50 and when the receipt is specifically requested by the donor. The amendment creates the impression the Organization is meeting its disbursement quota because it is only receipting for a fraction of total fundraising revenue received². As such, it remains the CRA's position that the Organization failed to meet its annual disbursement quota. For this reason, it appears to us that there are grounds for revocation of the charitable status of Children's Leukemia Research Association.

Conclusion:

The audit of Children's Leukemia Research Association Canada (the Organization) has revealed serious issues of non-compliance. In particular, the Canada Revenue Agency (CRA) has found that the Organization has devoted the majority of its resources to fundraising and administrative expenses rather than on charitable activities. The Organization received \$1.56 million in cash donations. Of this amount, nearly \$1.4 million was directed to fundraising and administrative fees while \$0 was spent on its own charitable activities. Based on the amounts devoted by the Organization to activities that do not promote or advance its own charitable purposes, it is our position that the Organization devotes a preponderance of its resources to furthering non-charitable activities.

As such, it is our view that the Organization has failed to demonstrate that it meets the definition of a charitable organization all the resources of which are devoted to charitable activities carried on by it.

Our audit also found that the Organization failed to maintain adequate books and records; filed an inaccurate information return; issued official donation receipts otherwise than in accordance with the Act; and failed to meet its annual disbursement quota. For each of these reasons, and for each of these reasons alone, it is the position of the CRA that the Organization's registration should be revoked.

Consequently, for the reasons mentioned in our letter dated July 15, 2010, 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*:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(d), 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	Name
808569941RR0001	Children's Leukemia Research Association Canada Niagara Falls 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

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 "A". 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,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- Your letter dated September 7, 2010;
- CRA letter dated July 15, 2010; and
- Appendix "A", Relevant provisions of the Act

c.c.: Drache Aptowitzer Professional Corporation
226 MacLaren Street
Ottawa ON K2P 0L6



July 15, 2010

REGISTERED MAIL

The Children's Leukemia Research Association Canada
4025 Dorchester Rd, Suite 302
Niagara Falls, ON L2E 7K8

Attention: Mr. Bill Courtney

BN: 808569941 RR0001
File #: 3032126

Re: Audit of Children's Leukemia Research Canada

Dear Mr Courtney:

This letter is further to the audit of the books and records of Children's Leukemia Research Canada (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period of March 1, 2006 to December 31, 2007.

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 All of Its Resources to its Charitable Purposes	149.1(1), 168(1)(b)
2.	Failure to Maintain Adequate Books and Records	168(1)(e)
3.	Failure to File an Information Return as Required by the Act	149.1(14), 168(1)(c)
4.	Failure to Issue Donation Receipts in Accordance with the Act	Regulation 3501
5.	Failure to Satisfy the Disbursement Quota Requirement	149.1(1); 149.1(2); 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 and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. In order for a registered charity to retain its registration, legislative and common law compliance is mandatory, absent which the Minister of National Revenue (the Minister) may revoke the Organization's registration in the manner described in section 168 of the Act.

Below we provide an overview of the requirements for registration and identify the areas of non-compliance.

Identified Areas of Non-Compliance:

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

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 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.

The objects of the Organization are:

- to inform the Canadian public concerning issues related to the causes, treatments, effects and potential cures of leukemia in children;
- to encourage all Canadian citizens to take action leading towards prevention of and a cure for leukemia in children;
- to provide financial and material assistance to medical institutions to support medical research and related health services associated with leukemia in children;

- to provide financial assistance and other forms of care to families who have become impoverished as a result of their children having developed leukemia; and
- to enlist volunteers throughout Canada and assist volunteer groups to carry out activities in local communities that will contribute to the finding of a cure for leukemia in children and to the supporting of children and families in their local area who are affected by leukemia in children.

We do not dispute that the wording of these objects could possibly be seen in a charitable vein; however, our audit has revealed that none of these activities are currently being conducted. Our audit has revealed all of the Organization's effort and resources were devoted to non-charitable activities. The Organization has devoted a substantial portion of its efforts and resources to fundraising, which in and of itself is not charitable, with the balance being devoted to management and administrative activities. The audit found no evidence of any resources being devoted to charitable activities during the audit period.

Turning to the "devotion of resources", 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. Our specific concerns in this regard, are expressed below.

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 receives and devotes a substantial portion of its actual cash contributions to fundraising. The Organization has employed the professional fundraising services of ~~to raise funds for the~~ Organization and compensates them on an agreed rate per hour or per presentation. During the audit period, the Organization has received over \$1,562,371 in third party fundraising income and has paid over \$1,318,980 or over 85% of total fundraising revenues, for these telemarketing services, with the remainder of the revenue being applied to other expenditures incurred in 2006 and 2007 such as computer software, postage, board meetings, wages and benefits paid to the executive director's son, etc.

In reviewing the Organization's records, it has reduced its total third party fundraising

expenditures on the annual information returns filed. The Organization's rationale for reducing gross fundraising expenses is a belief that a portion of the scripts used to solicit funds contained information about the Organization's purpose.

The CRA's position is outlined in our publication "Completing the Registered Charity Information Return - T4033B", which stipulates that total fundraising costs are the total expenses a registered charity pays out for fundraising activities whether carried out by the charity or by contracted third parties. Our position is expanded further to consider the purpose behind the expenditure when determining whether the expenditure is a qualifying expenditure for purposes of the disbursement quota. It is our position that the third party fundraisers were engaged solely to solicit funds and accordingly, all amounts paid to the third party fundraisers should have been reported as fundraising expenditures only.

Management and Administrative Activities

During the audit period, \$74,160 was paid to _____ for management fees. We would take this opportunity to point out that _____ is a sole proprietorship owned by _____ who is also one of the Organization's founders and board member. _____ also currently occupies the position of Executive Director of the Organization. The inter-connection between _____ and the Organization, by virtue of their relationship to _____ provides an opportunity, real or perceived, for an individual, and/or a for-profit entity to receive a private benefit. Any benefit obtained by a for-profit entity by virtue of its relationship with a registered charity is considered to be a private benefit, the presence of which may undermine the otherwise charitable character of a charity. The fact that a for-profit entity may generate regular income for the charity does not sufficiently offset the private benefit, namely a potential to enhance the commercial and financial aspects of _____ and _____ and reinstate the charitable character of the Organization.

Further, it appears that such arrangements as noted above could indicate that the Organization has abdicated control of the operations of the Organization over to _____. As such, it appears that the Organization has not shown, that it is operated in part for the benefit of _____.

Finally, we were unable to find evidence that the Organization exercised "due diligence" in the tendering process for the Executive Director position and/or that the fees charged by _____ are at fair market value. The Organization has not demonstrated that, in selecting _____ and _____ through what appears to be a "sole sourced" provider action, it has paid no more than market value for the services rendered. When one engages in a process of public tendering for services, one assumes that the Organization would obtain the best market value for services. Where one engages in a "sole sourced" provider action, this is less certain. The Organization has not shown that it engaged in a process which supports any conclusion that it pays no more than market value for the respective services provided by _____ and _____. It is our position that in not doing so, the Organization has not shown that it devotes all of its resources to charitable activities.

charitable organization "all the resources of which are devoted to charitable activities". For this reason, it appears to us that there are grounds for revocation of the charitable status of The Children's Leukemia Research Association Canada under subsection 168(1)(b) of the Act.

2. Failure to Maintain Adequate Books and Records:

Subsection 230(2) of the Act requires that every registered charity maintain adequate books and records, and books of account, at an address in Canada recorded with the Minister.

"every person required by this section to keep books of account shall retain:

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

It is our view that the Organization has failed to maintain adequate books and records to support that it devoted all of its resources to its charitable programs. The Organization's books and records and the internal accounting controls supporting them are considered to be inadequate. In fiscal 2006, we were unable to reconcile the Xentel revenue "Activity Reports" to the T3010 return and to the general ledger journal entries. The audit also noted it was difficult to trace expenditures (as reported on the Registered Charity Information Return (T3010)) to the general ledger and vice versa, because the account number and charitable nature of expenditures was not recorded. Additionally, the donor database information provided did not reconcile to the T3010 annual information returns filed. The variances are noted below:

	31-Dec-2006	31-Dec 2007
Amounts per donor database	\$71,750.00	\$398,613.00
Amounts per T3010 (line 4500)	\$110,162.00	\$398,146.00
Variance	- \$38,412.00	\$467.00

As a result, the Organization appears to have failed to meet the requirements of subsection 230(2) of the Act.

3. Failure to File an Information Return As Required by the Act:

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 the Registered Charity Information Return (T3010A) for the fiscal periods ending December 31, 2006 and 2007 in that many items reported were incorrectly identified or omitted. Specifically, the following items:

- Organization incorrectly allocated fundraising, administration and management expenses to "charitable programs" on line 5000 by \$41,620 (2006) and \$30,173 (2007). The impact of associating this level of management services as charitable expenditures would result in an "over-reporting" of charitable expenditures in the Organization's annual returns, which would impact the disbursement quota requirement calculations.

- The lines in field F2 were incorrectly reported as follows:

	2006	As filed	Revised per audit
5450 Gross revenue collected		\$110,162.00	\$110,161.51
5460 Amounts paid/retained by fundraiser		<u>65,402.00</u>	<u>91,886.29</u>
5470 Net revenue received by charity		<u>44,760.00</u>	<u>18,275.22</u>

	2007	As filed	Revised per audit
5450 Gross revenue collected		1,452,209.00	1,435,559.09
5460 Amounts paid/retained by fundraiser		<u>1,224,620.00</u>	<u>1,227,093.99</u>
5470 Net revenue received by charity		<u>227,589.00</u>	<u>208,465.10</u>

- In fiscal 2006, the Directors/Trustee Worksheet (T1235) is missing the individual's address, phone number, and date of birth.
- In fiscal 2006, the total of lines 5000, 5010, 5020, 5030 and 5040 does not equal total expenditures reported on line 4950.

4. Failure to Issue Receipts in Accordance with the Act

The law provides various requirements with respect to the issuing of official donation

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 in that the pre-printed official donation receipts containing a facsimile signature were not pre-numbered by a printing press or numbering machine.

5. Failure to Meet Disbursement Quota

In order to maintain its status as a charitable organization within the meaning of paragraph 149.1(2)(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 findings, the Organization has failed to satisfy its disbursement quota requirement for the fiscal periods ending December 31, 2007 based on our findings that the Organization had not undertaken any charitable activities and the fact that the Organization erroneously included a portion of its third party fundraising expenses as charitable expenses. We acknowledge that proposed changes to the disbursement quota would eliminate the Organization's disbursement quota obligations; however, the proposed amendments would only apply to fiscal periods commencing after March 4, 2010. We have calculated the Organization's cumulative disbursement quota shortfall, a product resulting from the reclassification fundraising expenses charitable program expenses to non-charitable expenses as follows:

	2007-12-31
Tax-receipted gifts from previous fiscal period (line 4500)	\$ 110,162
Disbursement quota requirement for fiscal period (80% of above)	88,130
Total amount spent on charitable programs (line 5000) as revised by CRA audit	0
Disbursement SHORTFALL	\$ 88,130

The Organization'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 Organization by issuing a Notice of Intention in the manner described in subsection

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 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 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 contact the undersigned at the numbers indicated below.

Sincerely,

Audit Division
Kitchener Tax Services Office
166 Frederick Street
Kitchener, Ontario N2G 4N1

Telephone:
Fax:
Internet: www.cra-arc.gc.ca

ITR APPENDIX "A"

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.