



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

OCT 19 2007

REGISTERED MAIL

Christ Healing Prayer Centre Ministry
1181 Finch Avenue West, Unit 18
North York, ON M3J 2V8

BN: 883859605 RR0001
File #: 3026839

Attention: Pastor Joseph Prempeh

**Subject: Notice of Intent to Revoke
Christ Healing Prayer Centre Ministry**

Dear Pastor Prempeh:

I am writing further to our letter dated March 30, 2007 (copy enclosed), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of Christ Healing Prayer Centre Ministry (the "Charity") in accordance with subsection 168(1) of the *Income Tax Act* (the "ITA").

We have reviewed the correspondence provided on your behalf from your authorized representative, [REDACTED] Accounting Services, and have considered the comments and explanations he has provided. After careful review of the representations made in his letter dated April 16, 2007 (sent under cover of his letter dated May 15, 2007 – copy attached), it is our conclusion that they do not provide sufficient reason why the Charity's status as a registered charity should not be revoked.

The audit conducted by the Canada Revenue Agency (the "CRA") identified that:

- the Charity failed to maintain adequate records to support the information reported on the *Registered Charity Information Return* (the "T3010"),
- official donation receipts did not comply with Regulation 3501 of the ITA in several respects,
- the T3010 return was improperly completed, and
- the Charity did not demonstrate that it maintained adequate direction and control over charitable activities in Ghana.

In our letter dated July 4, 2007 (copy attached), we stated reasons why the representations made in the April 16, 2007 letter did not adequately address these concerns.

Consequently, for each of the reasons mentioned in our letters dated March 30, 2007 and July 4, 2007, I wish to advise you that, pursuant to the authority granted to the Minister in subsection 149.1(2) of the ITA, and delegated to me, I propose to revoke the registration of the Charity. By virtue of subsection 168(2) of the ITA, the revocation will be effective on the date of publication in the *Canada Gazette* of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(d) and 168(1)(e) of the Income Tax Act, that I propose to revoke the registration of the organization listed below under subsection 149.1(2), of the Income Tax Act and that the revocation of registration is effective on the date of publication of this notice.

Business Number	Name
883859605 RR0001	Christ Healing Prayer Centre Ministry North York, Ontario

In accordance with subsection 168(2) of the ITA, you can suspend this process (i.e. seek an extended period before revocation) by applying to the Federal Court of Appeal or a judge of that court for a stay. The Court will acknowledge your application and provide you with an action number. We require a copy of the Court acknowledgement of your request for a stay to stop the revocation process.

Should you wish to appeal this notice of intention to revoke the Charity's registration in accordance with subsection 168(4) of the ITA, you are advised to file a Notice of Objection within 90 days from the mailing of this letter. This notice is a written statement that sets out the reasons for the objection and all the relevant facts. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
25 Nicholas Street
Ottawa, ON K1A 0L5

Please note that, notwithstanding the filing of a Notice of Objection, the Charity must seek the above-noted stay to prevent revocation from occurring. Unless the Canada Revenue Agency receives notice that an application for a stay has been filed to the Federal Court of Appeal or judge of that court regarding this revocation, we intend to proceed with the publication of the above notice in the *Canada Gazette* in 30 days thereby affecting the revocation of the organization's registration.

Consequences of a Revocation:


As of the date of revocation of the Charity, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Charity will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts.**

Additionally, the Charity may be subject to tax pursuant to Part V, section 188 of the ITA. By virtue of section 188 of the ITA, the Charity will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Charity's registration. This revocation tax is calculated on prescribed form T2046 "*Tax Return Where Registration of a Charity is Revoked*". The return must be filed and the tax must be paid on or before the day that is one year from the date of the Notice of Intention to Revoke a Charity's Registration. For your reference, I have attached a copy of the relevant provisions of the ITA in Appendix "A" concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation. Form T-2046, along with the related Guide RC-4424, "*Completing the Tax Return Where Registration of a Charity is Revoked*", are also attached for your information.

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

I wish to advise you that pursuant to subsection 150(1) of the ITA, a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefore, be filed with the Minister in prescribed form containing prescribed information.

Yours sincerely,


for Terry de March
A/Director General
Charities Directorate

Attachments:

- Our letter dated March 30, 2007
- Stephen Accounting Services letter dated May 15, 2007, with attached letter dated April 16, 2007
- Our letter dated July 4, 2007
- Appendix "A", Relevant provisions of the *Income Tax Act*
- Form T2046 – Tax Return Where Registration of a Charity is Revoked
- Guide RC4424E Completing the Tax Return Where Registration of a Charity is Revoked



July 4, 2007

Christ Healing Prayer Centre Ministry
1181 Finch Avenue West, Unit 18
North York, ON M3J 2V8

BN: 883859605 RR0001
File #: 3026839

Attention: Pastor Joseph Prempeh

Subject: Audit of Christ Healing Payer Centre Ministry

Dear Pastor Prempeh:

We are writing further to our letter of March 30, 2007, in which you were invited to submit representations as to why the Director General of the Charities Directorate should not revoke the registration of Christ Healing Prayer Centre Ministry (the Charity) in accordance with subsection 168(1) and (2) of the *Income Tax Act* (the *ITA*).

While we have reviewed and considered the representations provided on your behalf by Mr. [REDACTED] Accounting Services in a letter dated May 15, 2007, it is our view that many of the concerns noted in our letter remain.

Mr. [REDACTED] has stressed the critical need for an organization such as yours to have a permanent establishment in the Jane & Finch community, and contends that there is a lack of effective similar organizations in the area. Although we are unable to comment on this assertion, regardless of whether it is true, the Charity is still required to comply with the provisions of the *ITA* in order to remain registered as a charity.

The issues that are still of concern to us that have not been adequately addressed by Mr. [REDACTED] letter are detailed below.

Books & Records

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

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked (*Canadian Committee for the Tel Aviv Foundation v. Canada*, (2002) FCA 72);
- a registered charity must maintain, and make available to the CRA *at the time of an audit*, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and

records subsequent thereto (*Canadian Committee for the Tel Aviv Foundation v. Canada*; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397); and

- the failure to maintain proper books, records and records of account in accordance with the requirements of the *ITA* is itself sufficient reason to revoke an organization's charitable status (*College Rabbiniq de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency*, (2004) FCA 101; section 168(1) of the *ITA*).

The deficiencies noted in our previous letter are still a major concern for the following reasons:

- The Charity was first contacted by the auditor on October 12, 2006, advising the Charity that he hoped to start the audit on October 23, 2006. However, the audit was postponed by the Charity until December 18, 2006, during which time it is apparent that [REDACTED] Accounting Services prepared a new set of books and financial statements that bore no resemblance to the financial statements and T3010 Registered Charity Information Return that were filed originally. The fact that the Charity was unwilling or unable to provide the original books and records, and that the revised amounts of revenue and expenses were significantly higher than reported (in particular, total tax-receipted gifts, line 4500, differed by \$781,986) are sufficient reasons, in our view, to revoke the Charity's registration.
- As we noted in our previous letter, the individual records provided showed only monthly donations of cash and gifts in kind, and the monthly amounts were often for exactly the same even amounts. Although the individual records show that the Charity received \$398,231 in cash donations during 2005, only \$26,570 was deposited in the Charity's bank account. Also, there were no records to show what, if anything had been donated as gifts in kind. In our experience, it is unlikely that a church of this modest size would have received and distributed mostly used goods with a value of \$1,216,767 in one year, as it reported for the calendar year 2005. It is our view that the amounts reported as cash donations and as gifts in kind were probably inflated, and with no records whatsoever to support the reported amounts, there are grounds for revoking the Charity's registration on this basis alone.
- Mr. [REDACTED] has stated that all donation receipts have been accounted for. However, the following is only a small sample of the serial numbers of receipts that were not accounted for:
 - 2004: #1 to 45, 64 – 72, 234 - 261
 - 2005: # 2, 4, 8, 86, 87, 90, 110 to 114, 221 to 223, 395 to 398, 415 to 418, 487 to 489
- Mr. [REDACTED] contends that occupancy costs and repairs and maintenance costs were not estimated but could be verified through common auditing practices. However, he did not provide any specifics. For example, he did not provide the names and addresses of those who were paid cleaning

- costs of \$1,000 per month, occupancy costs of \$1,880 per month, for building a new church room, for painting, wiring, drywall, etc. It was also noted that he did not provide any explanation for the other undocumented expenses that appear to have been estimated, such as Community
- Service Program (\$29,550), Women's Programs (\$8,500), Mothers' & Fathers' Day Appreciation (\$5,000) and Overseas Mission Shipments (\$452,281).
 - Mr. [REDACTED] has not stated specifically how the deficiencies with respect to Books and Records have been or will be corrected in the future.

Failure to maintain proper books, records and records of account in accordance with *ITA* requirements constitutes sufficient reason to revoke the Charity's charitable status.

Official Donation Receipts

It isn't clear why the Charity would have been told by CRA that it could issue donation receipts for donations received up to six months prior to the registration date. According to Policy Commentary CPC – 009, a charity is allowed to issue donation receipts for all cash gifts received during the calendar year that it was registered, provided its objects and activities were charitable throughout the year. We therefore apologize for giving incorrect information in our letter of March 30, 2007 in this respect.

However, the same Policy Commentary also states that a registered charity cannot issue an official receipt for a gift in kind received prior to the registration date. The Charity issued donation receipts for gifts in kind received in July through October 2004, and was therefore in violation of Regulation 3501(1).

As we noted in our previous letter, it is still our view that none of the donation receipts issued for 2004 and 2005 were valid due to the lack of documentation to support the amounts reported. This alone is grounds for revocation.

Information Return

It appears that, based on Policy Commentary CPC – 009 referred to above, we were incorrect in stating that the financial statements and T3010 return should have covered only the period from the registration date onward. However, the Charity did err by reporting its revenue and expenses for an 18 month period. According to Summary Policy CSP – F04, a registered charity's taxation year is a fiscal period, which is 12 months (or, for incorporated organizations, a period up to 53 weeks). Therefore, the Charity should have either reported its results for the calendar year ended December 31, 2004 (in which case its first T3010 return was due by June 30, 2005) or it should have reported its results for the 12 month period ended June 30, 2005.

Mr. [REDACTED] contends that the T3010 return was filed pursuant to subsection

149.1(14) of the *ITA*. However, as we noted in our previous letter, the amounts reported on the original return were obviously incorrect. As noted above, the amendments filed by [REDACTED] Accounting Services were also incorrect in that they reported the results for 18 months. Both the original return and the amended return were incorrect in that the amount reported on line 5600 (gifts in kind) was \$Nil, whereas the records provided show that an amount in excess of \$750,000 should have been reported. This is a very significant discrepancy.

Activities Outside Canada

If the Charity does have documentation to support that it is currently in control of the operations in Ghana, as Mr. [REDACTED] states in his letter, this could have been reviewed during the audit in order to ensure that the guidelines in the Guide RC4106E "*Registered Charities: Operating Outside Canada*" were being met. It appears that the guidelines were not met for the audit period. However, as noted above under **Books and Records** and **Official Donation Receipts**, our main concern lies with the apparently excessive value that was put on the goods that were shipped to Ghana, for which donation receipts were issued.

Conclusion:

After considering the representations submitted by Mr. [REDACTED] it is still our view that there are grounds for revocation of the Charity's status as a registered charity. We will therefore be referring your file to the Director General of the Charities Directorate, who will decide on the appropriate course of action, which may include the issuance of a Notice of Intention to Revoke the registration of the Charity in the manner described in subsection 168(1) of the *ITA*. Should you receive a Notice of Intention to Revoke, you will be given a further opportunity to respond at that time.

Yours truly,



Henry Brunsveld
Audit Division
Kitchener/Waterloo Tax Services Office

Telephone: (519) 896-5933
Facsimile: (519) 585-2803
Address: 166 Frederick Street
Kitchener, ON N2G 4N1

Internet: www.cra-arc.gc.ca/tax/charities/menu-e.html

July 4, 2007

cc: [REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Enclosures



CANADA REVENUE
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REGISTERED MAIL

March 30, 2007

Christ Healing Prayer Centre Ministry
1181 Finch Avenue West, Unit 18
North York, ON, M3J 2V8

BN: 883859605 RR0001
File #: 3026839

Attention: Pastor Joseph Prempeh

Subject: Audit of Christ Healing Prayer Centre Ministry

Dear Pastor Prempeh:

This letter is further to the audit of the books and records of Christ Healing Prayer Centre Ministry (hereinafter, the "Charity") by the Canada Revenue Agency (hereinafter, the "CRA"). The audit related to the operations of the registered charity for the fiscal period ended June 30, 2005. However, our comments also relate to donation receipts that were issued for the calendar years 2004 and 2005.

The results of this audit indicate that the Charity appears to be in contravention of certain provisions of the *Income Tax Act* (hereinafter, the "ITA") or its Regulations. In order for a registered charity to retain its registration, it is required to comply with the provisions of the ITA applicable to registered charities. If these provisions are not complied with, the Minister of National Revenue (hereinafter the "Minister") may revoke the Charity's registration in the manner prescribed in section 168 of the ITA.

The balance of this letter describes how the CRA considers that the Charity contravenes the ITA.

Books & Records:

Legislation:

Pursuant to subsection 230(2) of the ITA, every registered charity must keep records and books of account at an address in Canada recorded with the Minister or designated by the Minister containing (a) information in such form as will enable the Minister to determine whether there are any grounds for revocation of its registration under the Act (b) a duplicate of each receipt containing prescribed information for a donation received by it, and (c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under the ITA.

Audit Findings:

In the course of the audit, the following deficiencies were noted:

- No records were provided to show how the amounts reported on the original T3010 return and financial statements were arrived at.
- The records provided to support the amounts reported on the revised financial statements and to support the revised amounts for the T3010 return, appear to be mostly based on estimates, with very little documentation to support the reported revenue and expenditures.
- A large number of donation receipts were not accounted for. 106 receipt numbers were unaccounted for with respect to the 2005 receipts issued, as well as a larger number of the 2004 receipts.
- The charity issued donation receipts for the following approximate amounts:

	<u>2004</u>	<u>2005</u>
Cash received	\$103,977	\$398,231
Gifts in kind	<u>288,226</u>	<u>1,216,767</u>
Total	<u>\$392,203</u>	<u>\$1,614,998</u>

Approximately 440 receipts were issued for calendar year 2005 and about 140 for 2004. However, the accuracy of the amounts recorded on the receipts issued could not be verified for any of the receipts. Although individual records were provided that purported to show that individuals had made monthly donations of cash and gifts in kind, there was no evidence to show that the charity had received any of these amounts. If the above amounts were given as cash donations, only \$7,915 was deposited in the charity's bank account in 2004 and only \$26,870 in 2005. With respect to gifts in kind, no record was kept to show what, if anything, had been donated by any individual.

- Very little documentation was provided to support the expenses reported, and much of the documentation provided was considered inadequate. Some expenses were obviously estimated with no documentation to support them, e.g. Cleaning Cost at \$1,000 per month, Community Service Program expenses amounting to \$29,550, Women's Programs (\$8,500), Mothers' & Fathers' Day Appreciation (\$5,000), etc. Other expenses appear to be significantly overstated, e.g. Occupancy costs of \$1,880 per month (when it appears that only \$750 per month was paid) and Overseas Mission Shipments of \$452,281. Some of the receipts that purported to support the expenses claimed were also inadequate, e.g. a receipt from an unknown individual for \$5,000 "for building new church room", others from "Sam", "James" and "Peter" for painting, wiring and drywall, etc. There were also numerous other invoices (from grocery stores, Canadian Tire, Shoppers Drug Mart, WalMart, etc.), where there was no description of the items purchased nor their charitable purpose if any.

Conclusion:

Our review of the books and records of the Charity indicates the books and records are not acceptable under section 230 of the ITA. Under subsection 149.1(2) of the ITA, the Minister may revoke the registration of the Charity, because it has failed to comply with or contravened any section of 230 to 230.5 as described at paragraph 168(1)(e) of the ITA.

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 ITA 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 Charity did not comply with the requirements of Regulation 3501 of the ITA and IT-110R3 as follows:

- None of the receipts issued for gifts in kind contained the required information for such receipts (date and fair market value of the gift, a description of the property, etc.), as required by paragraph 16 of IT-110R3.
- There appears to be a lack of control over the donation receipts, as evidenced by the numerous missing receipts, as noted above.
- The receipts issued for both 2004 and 2005 did not contain the proper registration number of the charity (i.e. 883859605 RR0001).
- Donation receipts were issued for amounts purportedly received for the full year 2004. However, the Charity was registered effective November 5, 2004, and therefore any donations received before that date should not have been acknowledged by an official receipt. The amount received before November 5, 2004 that was included on tax receipts was approximately \$284,349.
- As noted previously, there was no evidence to support the amounts for which any of the donation receipts were issued in 2004 and 2005, whether made by cash or by gifts in kind. It is our view that all receipts were invalid and should not have been issued.

Conclusion:

Under subsection 149.1(2) of the ITA, the Minister may revoke the registration of the Charity, because it issued a receipt for a gift or donation otherwise than in accordance with the ITA as described at paragraph 168(1)(d) of the ITA.

Information Return (Form T3010):**Legislation:**

Pursuant to subsection 149.1(14) of the ITA, 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 containing prescribed information.

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.

Audit Findings:

The Charity improperly completed the Information Return for the fiscal period ending June 30, 2005 as follows:

- The amounts reported as revenue and as tax-receipted gifts on the T3010 return as filed and as amended were incorrect. Total tax-receipted gifts (line 4500) reported on the original return was \$302,004, while the amended amount was \$1,083,990. However, the amount reported for the year ended June 30, 2005 included the period from January to June, 2004 which, depending on which record is relied upon (the receipts and disbursements journal or the monthly summary of contributions) amounted to either \$65,625 (journal) or \$189,278 (monthly summary). Apart from the fact that the amended amounts included the results for 18 months rather than twelve, it should have reported the results for only the period after it was registered – i.e. from November 5, 2004.
- The amounts reported as expenditures on the T3010 return as filed and as amended were also inaccurate. Total expenditures of \$295,048 were reported on the original return, while \$646,783 was reported as the amended amount. However, the amended amount included expenditures for 18 months (i.e. it included the period from January to June, 2004), and it also included expenditures incurred for the period from July 1, 2004 to November 5, 2004, during which time it was not a registered charity.
- The amount reported as tax-receipted non-cash gifts (line 5600) was \$Nil. However, again depending on which record is relied upon (the receipts and disbursements journal or the monthly summary of contributions), the actual amount of tax-receipted non-cash gifts was either \$787,017 (journal) or \$757,402 (monthly summary).

Conclusion:

Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the Charity because it has failed to file an information return as and when required by the ITA or a Regulation as described at paragraph 168(1)(c) of the ITA.

Activities Outside Canada

Legislation:

The ITA permits a registered charity to carry out its charitable purposes both inside and outside Canada, in only two ways:

- It can make gifts to other organizations that are on the list of qualified donees set out in the ITA. Qualified donees include Canadian registered charities, certain universities outside Canada, the United Nations and its agencies and a few foreign charities.
- It can carry on its own activities. In contrast to the relatively passive transfer of money or other resources involved in making gifts to qualified donees, carrying on one's own activities implies that the Canadian charity is an active and controlling participant in a program or project that directly achieves a charitable purpose.

In order to give meaning and effect to the Act, a charity must continue to meet all of its obligations whether the activities are undertaken directly, through agency agreements or through any other arrangements. While we have never insisted on the absolute need for a written instrument, we recommend it as a means of meeting the requirements of the ITA. Notwithstanding the manner by which a charity chooses to meet its obligations, it must provide documentation or other tangible evidence to substantiate that it met the requirements of the ITA with respect to the direction and control of its resources.

Since the ITA requires a charity to show that it effectively directs and actually controls its own activities, the agency agreement that a charity puts in place and the manner in which the charity implements that agreement must allow the charity to discharge its statutory obligations.

From time to time the Charities Directorate has suggested certain guidelines for agency agreements in order to help charities understand all the requirements of the ITA. For a number of years, we discussed these guidelines with individual charities on a case-by-case basis. As we identified a growing need in the charities sector for more information on this subject, guidelines have been made available to the public and the sector as a whole through our Internet site.

By observing these guidelines and by keeping proper books and records, a charity should be able to discharge its evidentiary burden of establishing that its principal-agent relationship existed in fact, and that it maintained effective direction and actual control over its resources at all times. In the final analysis, the true test of whether a charity was responsible in a direct, effectual, and constant manner over its resources and activities is not shown by how well it has crafted an agreement but rather, how well it has implemented it through time. Therefore, it is incumbent upon the charity to show that it has properly implemented any agreement it claims is in place.

The existence of either a written or verbal agency agreement is only one example of evidence required to show that a sufficient principal-agent relationship truly exists. The charity through documented evidence, must demonstrate that actual events transpired which prove the continued existence of the principal-agent relationship. Thus, the charity must provide the CRA with a means of examining the internal decision making mechanisms within the charity's own structure through records, such as: minutes of board meetings; internal communications (i.e., memoranda); as well as, policies and procedures that show that the charity, by directing and controlling each of its activities, acted as the guiding-mind in the principal-agent relationship. In addition, the charity must provide source documentation, reports, and the various other instruments it received from its agent showing that throughout the life of the principal-agent relationship, the agent reported back to the principal in such a manner and frequency as to allow the principal to make informed decisions about the resources and projects for which the principal was responsible.

It is the CRA's view that this type of reporting mechanism is necessary for the charity to clearly demonstrate that it maintains an adequate level of control and accountability over the use of its funds. These reports would have to be kept with the charity's other records and books of account at the address recorded with the CRA.

For purposes of the ITA, when a registered charity merely transfers its resources to another entity (assuming the entity is a non-qualified donee), but fails to maintain effective direction and actual control over those resources, the result is the same as a gift to a non-qualified donee. Allowing a non-qualified donee to take near total control of the resources of a registered charity nullifies the purpose and intent of the ITA.

We have also attached a copy of our Guide RC4106E "*Registered Charities: Operating Outside Canada*" which includes a set of guidelines that we use to help us assess how much effective direction and actual control a registered Canadian charity exercises in greater detail.

Where an agreement exists only in verbal form, or where some of the elements outlined in the aforementioned guidelines are not explicitly expounded in a written agreement, the CRA will look at all supporting documentation as well as the conduct of both parties to ascertain whether or not the registered Canadian charity maintained effective direction and actual control through its relationship with the other organization. The registered Canadian charity must not only show that an appropriate agreement existed (written or otherwise), it must also show that the agreement was implemented in a manner that clearly demonstrates that the registered Canadian charity exercised direct, effectual, and constant responsibility for undertaking the charitable activities to which its resources were applied. In effect, the registered Canadian charity must show that it acted as the principal through the implementation of the agreement.

Audit Findings:

The audit has raised serious concerns with respect to the Charity's foreign activities. According to the audit, the Charity has not demonstrated adequate direction and control over its foreign activities.

The largest expense reported by the charity (\$452,281) relates to work done in Ghana. However, the only documentation provided to support this expense were bills of lading, which we consider to be inadequate, as the quantity and value of the goods shipped are uncertain and were determined by the charity. There was no documentation to support the type, quantity and value of the goods shipped as noted on the bills of lading, and it appears likely that values are significantly overstated.

However, even if it could be determined that the quantities and values shipped were as stated, this is not sufficient to show that the goods shipped were used for charitable purposes, nor that they were under the control of the Charity. There should also be documentation to show that the goods were received in Ghana, and that they were used in a charitable program that was under the control of the Charity.

As the Charity apparently has no employees working in Ghana, the distribution of goods in a charitable program must have been undertaken by an agent. If such was the case, then it appears that the guidelines that a charity must follow, as summarized in the CRA publication RC4106, have not been followed. For example, there was no agency agreement, no regular reports from the agent, etc.

Conclusion:

Based on the lack of documentation and tangible evidence, it does not appear the Charity has maintained effective control and direction over the use of its resources and thereby, has distributed its resources to a non-qualified donee. Under subsection 149.1(2) of the ITA, the Minister may revoke the registration of the Charity, because it has failed as described at paragraph 168(1)(b) of the ITA to comply with the requirements of the ITA for its registration as such.

Conclusion:

For each of the reasons listed above, it appears that there are grounds to revoke the Charity's status as a registered charity. The consequences to a registered charity of losing its registration include:

- 1) the loss of its tax-exempt status as a registered charity, which means that the Charity would become a taxable entity under Part I of the ITA, provided it does not qualify as a non-profit organization as described in paragraph 149(1)(l) of the ITA;

- 2) the loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Charity would not be allowable as a tax credit to individual donors as provided at subsection 118.1(3) of the ITA or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the ITA;
- 3) the possibility of a tax payable under Part V, section 188 of the ITA; and
- 4) the loss of the Charity's status as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (hereinafter, the ETA), which means that
 - its supplies will no longer be exempt from the Goods and Services Tax/Harmonized Sales Tax (hereinafter, the "GST/HST") under Part V.1 of Schedule V to the ETA;
 - it may, if not currently, have to register for GST/HST purposes under subsection 240(1) of the ETA;
 - it may no longer calculate its net tax for GST/HST purposes using the calculation method set out under subsection 225.1(2) of the ETA;
 - it will no longer qualify for the public service body rebate under subsection 259(3) of the ETA as a charity; and
 - it may be subject to obligations and entitlements under the ETA that apply to organizations other than charities.

For your reference, we have attached in Appendix "A", a copy of the relevant provisions of the ITA concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation. The relevant ETA provisions are also attached in Appendix "B". 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).

If you do not agree with the facts outlined above, or if you wish to present any reasons why the CRA should not revoke the registration of the Charity in accordance with subsection 168(2) of the ITA, we invite you to submit your representations **within 30 days from the date of this letter**. Subsequent to that date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a Notice of Intention to Revoke the registration of Charity in the manner described in subsections 168(1) and (2) of the ITA.

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 call the undersigned at the numbers indicated below.

Yours truly,



Henry Brunsveld
Audit Division
Kitchener/Waterloo Tax Services Office

Telephone: (519) 896-5933
Facsimile: (519) 585-2803
Address: 166 Frederick Street
Kitchener, ON N2G 4N1

Internet: www.cra-arc.gc.ca/tax/charities/menu-e.html

cc: [REDACTED] Accounting Service

Attention: [REDACTED]

Enclosure

-Appendix "A", Relevant provisions of the *Income Tax Act*
-Appendix "B", Relevant portions of the *Excise Tax Act*