



REGISTERED MAIL

Friends and Skills Connection Centre
20 Millwick Drive, Unit #2
North York ON M9L 1Y3

JUL 24 2014

BN: 876915406RR0001

Attention: Duke Oliogu

File #:3024717

**Subject: Notice of Intention to Revoke
 Friends and Skills Connection Centre**

Dear Mr. Duke Oliogu:

I am writing further to our letter dated February 7, 2014 (copy enclosed), in which you were invited to submit representations as to why the registration of Friends and Skills Connection Centre (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

As of this date, we still have not received any response to our letter.

Conclusion

The audit by the Canada Revenue Agency (CRA) revealed that the Organization has not complied with the requirements set out in the *Income Tax Act* (the Act). In particular, the Organization failed to maintain adequate books and records, failed to file an accurate T3010 Information Return, and failed to operate within the Organization's charitable mandate. In this regard, none of its reported expenditures were charitable in nature, nor was there any proof that these expenditures were actually made.

In addition, serious breaches were identified with respect to the Organization's receipting practices. The audit showed that the Organization significantly under-reported the value of the receipts it issued, relative to amounts claimed by taxpayers. The CRA was unable to verify the full amount of receipts issued, as the Organization failed to maintain any substantiating documentation. Of further concern, the Organization's records did not support that the gifts were, in fact, made, as bank deposits did not match the donations purportedly made. In addition, third-party verifications did not reveal evidence that the individuals had made these donations.

Finally, one of the Organization's directors during the audit period was previously a director of Faith Assemblies Mission International, at a time when it engaged in conduct which constituted a serious breach of the requirements for registration under the Act, for which its registration was revoked in 2009. As such, this director is an "ineligible individual" as defined in the Act. The Organization's banking and other records, in fact, continue to be in the name of that organization.

For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated February 7, 2014, 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 subparagraph 149.1(4.1)(e) of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

Business Number	Name
876915406RR0001	Friends and Skills Connection Centre Toronto, Ontario

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

Notwithstanding the filing of an Objection, 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.

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intent to revoke registration can be found in Appendix "A", attached.

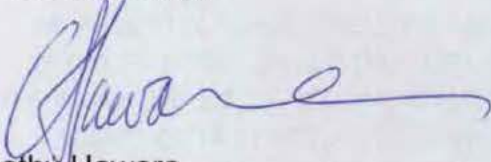
Consequences of Revocation

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. The relevant provisions of the Act concerning the tax applicable to revoked charities can also 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 Web site 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*. As a result, the Organization may be subject to obligations and entitlements under the *Excise Tax Act* that apply to organizations other than charities. If you have any questions about your goods and services tax/harmonized sales tax (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:

- CRA letter dated February 7, 2014
- Appendix "A", Relevant provisions of the Act

c.c.: Duke Oliogu, 11 Elson St, Markham ON L3S 2C4
Augusta Elabor, 11 Elson St, Markham ON L3S 2C4
Roseline Ironbar, c/o Febuta Global Services, 45 Countryman Circle,
Etobicoke ON M9V 4M8



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

REGISTERED MAIL

Friends and Skills Connection Centre
20 Millwick Drive, Unit 2
North York, ON M9L 1Y3

BN: 876915406RR0001

Attention: Duke Oliogu

File #:3024717

February 7, 2014

Subject: Audit of Friends and Skills Connection Centre

Dear Mr. Oliogu:

This letter is further to the audit of the books and records of the Friends and Skills Connection Centre (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2009 to December 31, 2011.

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 Maintain Adequate Books and Records	149.1(2), 168(1)(e), 230(2)
2.	Failure to Issue Receipts in Accordance with the Act	Regulation 3501, 149.1(2), 168(1)(d)
3.	Failure to Operate within the Organizations Charitable Mandate	149.1(1), 168(1)(b)
4.	Failure to file an Accurate T3010 Information Return	149.1(2), 168(1)(c)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information.

Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act.

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

Identified Areas of Non-Compliance

1. Failure to Maintain Adequate Books and Records

Legislation:

Paragraph 231.1(1) of the Act permits an authorized person to inspect, audit or examine the books and records of a taxpayer and any document of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer or to any amount payable by the taxpayer under the Act.

Subsection 230(2) of the Act requires that every registered charity maintain adequate books and records, as well as books of account, at an address in Canada recorded with the Minister. In addition to retaining copies of donation receipts, as explicitly required by subsection 230(2), subsection 230(4) provides that:

"Every person required by this section to keep records and 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 end of the last taxation year to which the records and books of account relate."

The policy of the CRA relating to the maintenance of books and records, as well as books of account, is based on several judicial determinations which have held that it is the responsibility of the registered charity to demonstrate 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);
- the failure to maintain proper books, records and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke an organization's charitable status (*College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency)*, (2004) FCA 101; *Income Tax Act*, RSC 1985, c1, section 168(1)).

Audit Findings

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

- There were no accurate records to support the amounts entered at Line 4500 (Total tax-receipted gifts) and Line 4700 (Total revenue), as reported on the Registered T3010 Charity Information Returns for 2010 and 2011 (2009 was filed as a nil return). A summary of donors was provided for 2010, but not for 2011.
- In the summary provided for 2010, Mr. Oliogu has noted that donation receipt number 49, along with numbers 51 through 61 (totaling \$36,265.65), were issued for donations of gifts in kind and had previously not been reported on the filed T3010 Return. Through third party verification, carried out on a sample of these purported gift in kind receipts, CRA was able to determine that these individuals had not donated gifts in kind, but instead had donated cash. Furthermore, it was revealed that these individuals believed they were donating to an organization known as Faith Assemblies Mission - an organization, whose status as a registered charity had been revoked for cause in November, 2009. Mr. Oliogu was previously a director of that organization.
- It was noted that there was unreported revenue, based on the discrepancy between revenue reported on the T3010 and funds that were deposited in the Organization's bank account. During the initial interview with Mr. Oliogu, he indicated that the only bank account being used by the Organization was still in the name of the revoked organization mentioned previously - Faith Assemblies Mission. There were no bank statements provided for 2011.

Total revenue reported/tax-receipted gifts per T3010 (2010)	\$60,000
Total bank deposits	\$76,181
Discrepancy	<u>\$16,181</u>

- The official donation receipts issued by the Organization for 2011 were not provided during the audit, although they were requested on several occasions between November 2012 and April 2013. To date, CRA has found that when comparing the total revenue reported on the T3010 Information Return versus the Official Donation Receipts retrieved through our tax services offices, the total donation receipts were significantly underreported (see comparison below).

Total Reported Revenue on T3010 Information Return (2011)	\$100,000
Total received by CRA through taxpayers	<u>\$263,433</u>
Difference	<u>\$163,433</u>

The amount of underreported revenue noted above may still be significantly understated as there is no way to determine how many official donation receipts were issued.

- Very little documentation was provided to support the reported expenses, almost all of which were purported to have been paid in cash, and much of the documentation provided was considered inadequate. Several of the receipts were also hand written, for large amounts, with no supporting documentation that would serve to confirm that these payments had been made.

	Per Financial Statements	Per Source Documents	Discrepancy
Advertising	\$2,500.00	\$2,506.00	-\$6.00
Supplies	1,100.42	0.00	\$1,100.42
Musicians	18,000.00	25,000.00	-\$7,000.00
Equipment Rental	3,500.00	0.00	\$3,500.00
Banquet Hall	5,500.00	0.00	\$5,500.00
Dinner	5,000.00	7,000.00	-\$2,000.00
Rent	24,000.00	24,000.00	\$0.00
Telephone & Internet	624.17	369.87	\$254.30
	<u>\$60,224.59</u>	<u>\$58,875.87</u>	<u>\$1,348.72</u>

Of the expenditures listed above, none appear to further the charitable programming of the Organization. We note that the expenditure of \$24,000 for rent was paid to Faith Assemblies Mission (revoked for cause in November, 2009, as explained above). The telephone and internet bills were also in the name of Faith Assemblies Mission. The other large expenditures (\$25,000 and \$7,000) were described by Mr. Oliogu as being directed towards a concert held by the Organization – an activity which does not further any of

the purposes for which the Organization was originally registered.

- During the audit, Mr. Oliogu stated that the Organization was registered to assist persons with disabilities by providing vocation assessment, as well as life skills training (including cooking, communication, hygiene and grooming). However, no documentation was provided to substantiate that the Organization undertook these stated activities.

Conclusion:

Our review of the Organization's books and records revealed that they do not appear to meet the requirements described in section 230 of the Act. Under subsection 149.1(2) of the Act, 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 Act.

2. Failure to Issue Donation Receipts in Accordance with the Act

Legislation:

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

Audit Findings:

The audit revealed that the official donation receipts issued by the Organization did not comply with the requirements of Regulations 3500 and 3501, as follows:

- There was little evidence to support that any of the individuals who received donation receipts had actually made gifts to the Organization - therefore, it is CRA's position that none of the receipts should have been issued. The Organization only provided a monthly summary, which did not give details as to the dates the donations were made and how the monthly amounts were arrived at. Even if the monthly summary was taken as an accurate reflection of the donations made, an analysis was completed for a 3 month period between the monthly summary and the bank statements revealed that the deposits did not match the donations purportedly made.
- There appears to be a lack of control over the donation receipts, as evidenced by the numerous additional receipts received by CRA that were not reported

by the Organization. As explained in the Books and Records section above, the Organization underreported their revenue by a minimum of \$163,433 in 2011. For further clarification, refer to paragraph 18 of Interpretation Bulletin IT-110R3 *Gifts and Official Donation Receipts*.

- The Organization purportedly issued donation receipts to individuals who had donated gifts in kind, as described above. This amount was not reported on the T3010 Information Return, but was disclosed during the audit to total \$36,265.65. No evidence was provided to show that donors had in fact donated goods to the Organization, nor were any donation receipts found containing a statement to the effect that the donation was for a gift of property other than cash (clothing, equipment, goods), as required. Finally, no donation receipts purported to have been issued for non-cash gifts displayed the specific date of donation, which is also required.
- The majority of the donation receipts did not contain the full name and address of the donor.
- The donation receipts did not contain the name and Internet website of Canada Revenue Agency
- The donation receipts did not contain the place or locality where the donation receipts were issued
- An exact copy of each donation receipt was not maintained. The receipts that were provided by the Organization did not contain the signature of an authorized individual.
- There was no safeguard of the receipt numbers. Several donation receipts contained the serial number 001 but had it scratched out and a hand written number above it. Given the evidence of unreported donations, there is no way to account for how many donation receipts were issued.

Conclusion:

Our review of the Organization's donation receipts and receipting practices revealed that the organization appears to have issued receipts other than in accordance with the Act. Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the Organization because it issued a receipt for a gift or donation otherwise than in accordance with the Act, as described at paragraph 168(1)(d).

3. Failure to Operate within the Organization's Charitable Mandate

Legislation:

The Organization is registered as a charitable organization. In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization" means an organization.... "All the resources of which are devoted to charitable activities carried on by the organization itself".

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

Audit Findings:

As indicated above, registered charities are required to pursue activities in furtherance of the purposes for which they are established.

The Organization was registered for the following purposes:

- 1) To provide life management counselling and other support services to assist persons with disabilities to become more independent in the community.
- 2) To provide training for, and to assist in, the placement of persons with disabilities in employment.
- 3) To provide support and encouragement to persons with disabilities by offering programs in individual development and integration into the community.
- 4) To provide relief to persons with disabilities by developing and implementing recreation, education and social integration program for the disabled.

During the audit, the Organization did not provide proof of the activities purportedly undertaken to fulfill its purposes. As noted above under **Books and**

Records, there was limited documentation to support any of the expenditures reported on the information returns. As well, no explanation was provided as to what the Organization does on a day-to-day basis or the relevance of the expenditures incurred.

The only documentation provided was for one concert purportedly held to raise awareness and money for the Organization, but which does not further any of the purposes for which the Organization was originally registered. The documentation provided to substantiate this were two hand-written expense receipts - there was no advertising or program information given to review.

Conclusion:

Based on the lack of documentation, the CRA could not conclude that the Organization devoted all of its resources to charitable activities carried on by the Organization itself. Further, it appears that the Organization carried on activities outside its charitable mandate. As such it appears that there are grounds to revoke the registration of the Organization, because it has failed to comply with the requirements of the Act, as described at paragraph 168(1)(b).

4. Failure to file an accurate T3010 Information Return

Legislation:

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity's fiscal period (taxation year), without notice or demand, file a Registered Charity Information Return 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 Returns for the 2009 to 2011 fiscal periods as follows:

- The amounts reported as revenue and as tax-receipted gifts on the T3010 returns were incorrect. As noted above under **Books and Records**, the amount of tax-receipted gifts (amounts for which donation receipts were issued) was considerably understated due to the fact that numerous donation receipts were not being recorded in the Organization's books and records.

The amounts reported as expenditures on the T3010 returns were also likely incorrect. As noted above under **Books and Records**, there was very little documentation to support the majority of the expenses claimed. As well, the Organization failed to correctly complete the expenditure section of the T3010 and have claimed no amounts at Line 4950 (Total Expenditures). The only indication that the Organization had expenditures was due to entries at Line 5000 (\$45,000), and Line 5010 (\$15,000)

- While the amount reported at Line 580 (Tax-Receipted non-cash Gifts) for 2010 was Nil, Mr. Oliogu has stated that the Organization does issue receipts for gifts in kind. As noted above under **Official Donation Receipts**, receipts totalling \$36,265 were purportedly issued for gift in kind donations in 2010.

Conclusion:

Under subsection 149.1(2) of the Act, the Minister may revoke the registration of the Organization 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.

Other Issues:

Ineligible Individual

Paragraph 149.1(4.1)(e) of the Act states that:

"The Minister may, in the manner described in section 168, revoke the registration . . . of a registered charity, if an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever".

Subsection 149.1(1) defines an ineligible individual in part as:

"ineligible individual," at any time, means an individual who has been . . .

(c) a director, trustee, officer or like official of a registered charity or a registered Canadian amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act

and for which the registration of the charity or association was revoked in the five-year period preceding that time,"

The application to register Friends and Skills Connection Centre as a charity was received by our office on September 23, 2003. The application named Duke Charles Oliogu, Violet Edigbonya Aideyan, Julia Odoko and Lilian Edigbonya as members of the Organization's board of directors. During a meeting with a CRA auditor on September 5, 2012, it was confirmed that at that time the current board of directors was comprised of Duke Oliogu, Augusta Elabor and Roseline Ironbar. This is consistent with the T3010 returns filed by the Organization for the audit period.

Our records indicate that Duke Oliogu was a Director of the revoked charities listed below, during a period in which the charities engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act and for which their charitable status was revoked:

Faith Assemblies Mission International was revoked for cause on November 14, 2009. As revealed by a CRA audit, Faith Assemblies Mission International engaged in conduct which can reasonably be considered to have constituted a serious breach of the Act, during its fiscal periods ending December 31, 2002, 2003 and 2004, and which led to the revocation of its charitable registration.

Per the Notice of Revocation published in the Canada Gazette, Faith Assemblies Mission International was revoked in accordance with paragraphs 168(1)(b), (d), and (e) of the Act. In particular, the serious non-compliance uncovered during the audit of that organization included:

- issuing receipts when no gift was made and lack of control over the issuance of official donation receipts, and
- maintaining inadequate, non-existent, or falsified books and records, including
 - failure to provide adequate records in support of expenditures that had reportedly been spent on foreign programs,
 - and failure to provide adequate documentation showing that the programs undertaken were charitable in nature.

Duke Oliogu was variously listed as a Director, Pastor, Senior Pastor, President or General Overseer of the Organization in the Organization's T3010 Information Returns for the period during which the charity engaged in conduct that constituted a serious breach and for which the charity's registration was revoked. Duke Oliogu was therefore a person who controlled or managed the charity and a like official during the period in which the serious conduct leading to revocation occurred. Consequently, for

this reason, Duke Oliogu is currently an ineligible individual within the meaning of S.149.1(1) of the Act.

Mission Against Poverty Shelter was revoked for cause on July 25, 2009. As revealed by a CRA audit, Mission Against Poverty Shelter engaged in conduct which can reasonably be considered to have constituted a serious breach of the Act, during its fiscal periods ending December 31, 2005, and December 31, 2006, and which led to the revocation of its charitable registration.

Per the Notice of Revocation published in the Canada Gazette, the registration of Mission Against Poverty Shelter was revoked in accordance with paragraphs 168(1)(b), (d), and (e) of the Act. In particular, the serious non-compliance uncovered during the audit of that organization included:

- maintaining inadequate (or non-existent) books and records, and;
- improperly issuance of receipts, including issuing receipts when no gift was made.

Duke Oliogu was a director of Mission Against Poverty Shelter throughout the time it operated as a registered charity, including 2005-2006 - the period during which the charity engaged in conduct that constituted a serious breach and for which the charity's registration was revoked. Consequently, for this reason also, Duke Oliogu is currently an ineligible individual within the meaning of s.149.1(1) of the Act.

Given the serious and repeated nature of the non-compliance discovered during the audits of Faith Assemblies Mission International and Mission Against Poverty Shelter, It is our view that the assets of the charity and the integrity of the charitable sector are at significant risk with Mr. Oliogu serving as director of the current registered charity - Friends and Skills Connection Centre. Having taken these concerns into consideration it is the CRA's intention to exercise its discretion to revoke the registration of Friends and Skills Connection Centre.

Should the Organization wish to provide reasons why the CRA should not exercise its discretion in this regard, it should do so in its reply to this letter, in the manner described below.

The Organization's Options:

a) No Response

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

b) Response

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

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

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

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

Yours sincerely,

[Redacted]
Audit Division
Kitchener/Waterloo TSO

Telephone:
Facsimile:
Address:

[Redacted]
166 Frederick Street
Kitchener ON N2H 0A9

c.c.: Duke Oliogu
Roseline Ironbar
Augusta Elabor

Section 149.1 Qualified Donees

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;
- (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; or
- (c) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift.

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;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (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 149.1(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;

(b.1) makes a disbursement by way of a gift, other than a gift made

(i) in the course of charitable activities carried on by it, or

(ii) to a donee that is a qualified donee at the time of the gift;

(c) has, in respect of a class of shares of the capital stock of a corporation, a divestment obligation percentage at the end of any taxation year;

(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 it has entered into a transaction (including a gift to another registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities;

(b) of a registered charity, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered charity to which paragraph (a) applies was to assist the other registered charity in avoiding or unduly delaying the expenditure of amounts on charitable activities;

(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;

(d) of a registered charity, if it has in a taxation year received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those taxation years, an amount that is less than the fair market value of the property, on charitable activities carried on by it or by way of gifts made to qualified donees with which it deals at arm's length; and

(e) of a registered charity, if an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever.

Section 168:

Revocation of Registration of Certain Organizations and Associations

168(1) Notice of intention to revoke registration

The Minister may, by registered mail, give notice to a person described in any of paragraphs (a) to (c) of the definition "qualified donee" in subsection 149.1(1) that the Minister proposes to revoke its registration if the person

- (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;
- (c) in the case of a registered charity or registered Canadian amateur athletic association, fails to file an information return as and when required under this Act or a regulation;
- (d) issues a receipt for a gift 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 the granting of which was expressly or implicitly conditional on the association making a gift to another person, club, society or association.

168(2) Revocation of Registration

Where the Minister gives notice under subsection 168(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 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, if

(a) in the case of a person that is or was registered as a registered charity or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(2) to (4.1), (6.3), (22) and (23);

(b) in the case of a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.2) and (22); or

(c) in the case of a person described in any of subparagraphs (a)(i) to (v) of the definition "qualified donee" in subsection 149.1(1), that is or was registered by the Minister as a qualified donee or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.3) and (22).

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

Where the Minister

(a) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.2) and (22) and 168(1) by the Minister, to a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for registration as a registered Canadian amateur athletic association, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,

(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,

(a.2) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.3), (22) and 168(1) by the Minister, to a person that is a person described in any of subparagraphs (a)(i) to (v) of the definition "qualified donee" in subsection 149.1(1) that is or was registered by the Minister as a qualified donee or is an applicant for such registration, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,

(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) [Repealed, 2011, c. 24, s. 54]

(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,

(g) refuses to accept for registration for the purposes of this Act any retirement income fund,

(h) refuses to accept for registration for the purposes of this Act any pooled pension plan or gives notice under subsection 147.5(24) to the administrator of a pooled registered pension plan that the Minister proposes to revoke its registration, or

(i) refuses to accept an amendment to a pooled registered pension plan,

the person described in paragraph (a), (a.1) or (a.2), the applicant in a case described in paragraph (b), (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), the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), or the administrator of the plan in a case described in paragraph (h) or (i), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the 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) [Repealed, 2011, c. 24, s. 55]

(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),

(c.2) the mailing of notice to the administrator of the pooled registered pension plan under subsection 147.5(24), or

(d) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan or pooled 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

(c) 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) or (12) applies

188(4) Transfer of property tax

If 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, or solidarily, 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”

« *montant de l'actif net* »

“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”

« *valeur nette* »

“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.

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 sent 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 particular person in respect of the particular person'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 particular person after the day on which the Minister first assessed that liability and before the particular time to another person that was at the time of the transfer an eligible donee in respect of the particular person, 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 other 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 or registered Canadian amateur athletic association, 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.