



Revenue Canada

Consulting and Audit Canada  
112 Kent Street, 12th Floor  
Tower B, Place de Ville  
Ottawa, Ontario  
K1A 0S5

Your file Votre référence

Our file Notre référence

310562-7001-30205

March 31, 1995

Mr. Henry Poetker, President  
God Has Spoken Ministries  
10803 - 50 Street  
Edmonton, Alberta  
T6A 2E3

Dear Sir:

**Re: Charity Income Tax Audit - 1993 Fiscal Period  
Registration Number 0823070-47**

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We have now completed the audit of the books, records and activities of God Has Spoken Ministries (the "Charity").

In order to maintain its registration, a registered charitable organization must comply with all the requirements of the Income Tax Act and Regulations that pertain to registered charities. Audit results indicate that the Charity has failed to do this in the following respects.

Official Receipts

The audit indicates that the donation receipts issued by the Charity did not comply with the requirements of Regulation 3501 of the Income Tax Act and IT-110R2 as follows.

- The donation receipts did not include a serial number.
- Receipts did not show the address of the Charity in Canada as recorded with Revenue Canada, Taxation.
- The date the donation was received.

.../2

Canada

You state that the purpose of the renewed organization will be "education and developmental". The educational work will be to work with donors, via seminars and one-on-one visits, and you will seek to include "creative giving" as a course in the work of other educational institutions and professionals. You have stated that the secondary purpose, being projects of development in the third world, will probably be in the area of education, although this is not yet firm.

It is a basic tenet of charity law that in order for a purpose to be regarded as charitable, it must not be so vaguely or broadly stated as to permit the pursuit of non-charitable objects or activities. To be charitable, an educational activity must either train the mind, prepare a person for a career or broaden the sphere of human knowledge (as in scientific research). The provision of information is not in and of itself a charitable activity unless it can be demonstrated that this activity is directed to the accomplishment of a charitable purpose.

The Charity was registered effective January 1, 1989 with an object "To further the work of the Lord." Your proposals are of a diverse general nature and bear little, if any, relationship to the purpose of the organization as established on registration. For this reason and due to the fact that the Charity's previous activities (as outlined in our attached letters) have not met the requirements for registration, we cannot give further consideration to your representations.

Paragraph 168(1)(b) of the *Act* provides that for a registered charity to be entitled to retain its registered status, it is required to comply with the requirements of the *Act* relating to its registration as such. If a registered charity ceases to comply with these requirements, the Minister may give notice to the charity that he proposes to revoke its registration.

I wish to advise you that for the reasons outlined above and pursuant to the authority granted to the Minister in subsection 168(1) of the *Act* and delegated to me in subsection 900(8) of the Regulations to the *Act*, I propose to revoke the registration of God Has Spoken Ministries. By virtue of subsection 168(2) of the *Act*, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

Notice is hereby given, pursuant to paragraph 168(1)(b) of the *Income Tax Act*, that I propose to revoke the registration of the charity listed below and that the revocation of registration is effective on the date of publication of this notice.

0823070-47 God Has Spoken Ministries  
Edmonton, Alberta

*Should* you wish to appeal this notice of intention to revoke the Charity registration in accordance with subsections 172(3) and 180(1) of the *Act*, you are advised to file a notice of appeal with the Federal Court of Appeal within 30 days from the mailing of this letter. The address of the Federal Court of Appeal is:

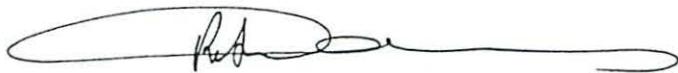
Supreme Court Building  
Wellington Street  
Ottawa, Ontario  
K1A 0H9

As of the date of revocation of the registration 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 1 Tax as a registered Charity and will no longer be permitted to issue official donation receipts.

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

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

Yours truly,



R.A. Davis, CGA  
Director  
Charities Division

Enclosures

ATTACHMENT TO NOTICE OF INTENT  
TO REVOKE OF March 18, 1966

BY REGISTERED MAIL

God Has Spoken Ministries  
c/o Gunter Flemke  
Box 5427 WECC  
Edmonton, Alberta  
T5P 4C9

82307  
Tel. (613) 954-1362

Attention: Mr. Gunter Flemke  
Treasurer/Secretary of the Board

OCT 31 1995

Dear Sir:

Re: Charity Audit

This letter is further to an audit of the books and records of account of God Has Spoken Ministries (the "Charity"), and your representations dated June 3, 1995. We also refer to our letter of March 31, 1995, a copy of which is attached.

The audit has raised serious concerns about the Charity's compliance with certain provisions of the *Income Tax Act* (the "Act"). For a registered charity to retain its registration, it must comply with the provisions of the Act. If a particular registered charity does not comply with these provisions, the Minister may revoke that charity's registration in the manner described in subsection 168(2) of the Act. Your representations did not alleviate our concerns with respect to your charitable activities which are discussed in our aforementioned letter commencing on page three under the title "Missionary Activities".

CHARITABLE ACTIVITIES

In order to meet the definition of a charitable organization under subsection 149.1(1) of the Act, a registered charity must devote all its

resources to charitable activities carried on by itself. In order to view an organization as carrying on its own charitable activities, it is necessary that the charitable activities be carried on by an employee or agent of the organization, or through the participation by the organization in a joint venture or partnership-like enterprise.

Where a registered charity chooses to administer one or more of its activities through an appointed agent or representative, it must be able to substantiate, by documentary evidence, that it has arranged for the conduct of certain specific activities on its behalf and not simply made an outright transfer of funds to a non-qualified donee. The charity must also be able to demonstrate to our satisfaction that it at all times maintains control and full accountability over use of its monies transferred to the agent.

Your response does not state how the Charity intends to carry out its charitable purpose, but rather indicates that your board of directors has not agreed on the charity's future purpose and activities. Your response also fails to indicate how the Charity will fully implement the requirements of the Act.

In addition, the audit results indicate that the charity's resources have been given to organizations which are not qualified donees: Village of Hope, Mission Possible U.S.A. and various missions in India.

As a result, it appears that the Charity has failed to devote all its resources to charitable activities, and therefore does not meet the definition of a charitable organization pursuant to subsection 149.1(1) of the Act.

Paragraph 168(1)(b) of the Act provides that for a registered charity to be entitled to retain its registered status, it is required to comply with the requirements of the Act relating to its registration as such. If a registered charity ceases to comply with these requirements, the Minister may give notice to the charity that he proposes to revoke its registration.

#### CONCLUSION

The consequences to a registered charity of losing its registration include:

1. the loss of its tax exempt status as a registered charity which means that the Charity would become a taxable entity under Part I of the Act

unless, in the opinion of the Director of the applicable District Taxation Office, it qualifies as a non-profit organization as described under paragraph 149(1)(1) of the Act;

2. 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 by subsection 118.1(3) of the Act or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the Act; and
3. the possibility of tax exigible under Part V, subsection 188(1) of the Act.

The appeal provisions from the Minister's issuance of a notice of intention to revoke a registered charity's registration are outlined in Subsection 172(3) and Section 180 of the Act (copy attached, together with sections 168 and 188).

If you do not agree with the above, or if you wish to present your reasons as to why the Minister of National Revenue should not revoke the registration of the Charity in accordance with subsection 168(2) of the Act, you are invited to submit your representations to us within sixty days from the date of this letter. Subsequent to this date, the Director, Charities Division, will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the Charity in the manner described in subsection 168(1) of the Act.

If you appoint a third party to represent you in this matter, please notify us in writing.

If you have any questions on these matters, please telephone me at [REDACTED] or J. Shelvock at [REDACTED], or write to 400 Cumberland Street, Room 5004C, Ottawa, Ontario, K1A 0L8.

Yours sincerely,



Richard Labelle, CGA  
Assistant Director  
Audit Section  
Charities Division

Enclosure



God Has Spoken Ministries  
c/o Gunter Flemke  
Box 5427 WECC  
Edmonton, Alberta  
TSP 4C9

ATTACHMENT TO NOTICE OF INTENT  
TO REVOKE OF

March 18, 1996

*Your file Votre référence*

*Our file Notre référence*

82307  
Tel. (613) 954-1362

Attention: Mr. Gunter Flemke  
Treasurer/Secretary of the Board

JAN 24 1996

Dear Sir:

Re: Charity Audit

We are writing this letter in response to your representations made on behalf of God Has Spoken Ministries (the "Charity") in a letter dated November 14, 1995, which we received from you by fax on January 22, 1996.

You have requested that the Charity's registered status be changed to a private foundation. We have reviewed the registration file and note that although the Charity has been filing its T3010 Charity Information Returns as a charitable organization, the Charity was originally registered with the Department as a private foundation. As the 1994 Charity Information Return indicates that the Charity has only two Directors and it appears that the Charity receives more than 50% of its funding from Mr. Poetker, we have also examined the Charity file with a view to determining whether it qualifies for registration as a private foundation. For your information, we enclose our publication entitled *Information on the Income Tax Act and Registered Charities*.

In order to meet the definition of a charitable foundation under subsection 149.1(1) of the *Income Tax Act* (the "Act"), an organization must be constituted and operated exclusively for charitable purposes. We would point out that besides carrying on its own charitable activities, a Foundation may gift funds only to organizations that are "qualified donees".

Canada

The term "charitable" is not defined in the Act and we must therefore refer to the principles of common law to determine whether a particular purpose or activity is charitable. The courts have recognized four general categories of charitable purposes: the relief of poverty, the advancement of religion, the advancement of education and other purposes beneficial to the community as a whole in a way which the law regards as charitable. We would comment that this last category merely identifies an additional group of specific purposes which have been held charitable at law rather than qualifying any and all purposes which provide a public benefit as charitable.

As indicated in our letter of October 31, 1995, the audit results indicate that the Charity has been gifting funds to organizations that are not qualified donees: Village of Hope, Mission Possible U.S.A. and various missions in India. Your representations do not state how the Charity intends to carry out its charitable purpose, but rather indicates that the Charity's future purpose and activities will be renewed.

You have stated that you would like the "Foundation to support the potential givers. To hold seminars and training sessions to offer ways to make giving an important part of life and a part of a quality life. To my knowledge there is no organization in Canada today doing this. We would like to have in our statement of purpose the freedom to support projects overseas which we would control and manage directly."

We do not believe that these proposals serve a charitable purpose. On the contrary, it appears that the Charity has failed to devote all its resources to charitable activities. As a result, the Charity does not meet the definition of either a charitable organization or charitable foundation pursuant to subsection 149.1(1) of the Act.

Paragraph 168(1)(b) of the Act provides that for a registered charity to be entitled to retain its registered status, it is required to comply with the requirements of the Act relating to its registration as such. If a registered charity ceases to comply with these requirements, the Minister may give notice to the charity that he proposes to revoke its registration.

Should you wish to make additional representations, please ensure that they are received by our office within thirty days from the date of this letter. Subsequent to this date, the Director, Charities Division, will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the Charity in the manner described in subsection 168(1) of the Act.

Please also note that our address on your November 14, 1995 letter was incorrect. You should contact our office by writing to the Charities Division, 400 Cumberland Street, Room 5004C, Ottawa, Ontario, K1A 0L8. You may also telephone me at [REDACTED] or J. Shelvock at [REDACTED] or contact our office by fax at [REDACTED].

Yours sincerely,



Richard Labelle, CGA  
Assistant Director  
Audit Section  
Charities Division

Enclosure



BY REGISTERED MAIL

Mr. Gunter Flemke  
God Has Spoken Ministries  
Box 5427 WECC  
Edmonton, Alberta  
T5P 4C9

Your file   Votre référence

Our file   Notre référence

82307  
Tel.(613)954-1362

March 18, 1996

Dear Sir:

Re: Charity Audit

I refer to the Department's letters of October 31, 1995 and January 24, 1996, in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of God Has Spoken Ministries (the "Charity") in accordance with subsection 168(2) of the *Income Tax Act* (the "Act").

We have reviewed representations made by you in your letters dated November 14, 1995 and February 14, 1996. We must advise that the submissions did not alleviate our concerns. A copy of the Department's October 31, 1995 and January 24, 1996 letters are attached, outlining the reasons why we have determined that the Charity does not satisfy the definition of either a charitable foundation or charitable organization in accordance with subsection 149.1(1) of the *Act*.

Your recent representations, as stated in your January 24 letter, request that the Charity be allowed to proceed to change its name, board of directors and stated purpose.

Canada

### Books and Records

Section 230(2) of the Income Tax Act requires every registered charity to maintain adequate records and books of account at an address in Canada recorded with the Minister. The purpose of this requirement is to enable the charity to accurately provide Revenue Canada with the information required by the Act as well as enable Revenue Canada to verify the accuracy of reported information through the conducting of audits.

In addition to the retention of copies of the donation receipts that section 230(2) explicitly requires, such books and records should include as a minimum standard:

- a book of account into which is entered the details (names, dates, amounts, etc.) in respect of all receipts and disbursements;
- all bank statements, pass books, duplicate deposit slips, cancelled cheques and any other notes or memos that may have been supplied by the bank; and
- all bills, invoices, statements, etc. in support of expenditures made.

A charity is not meeting its requirement to maintain adequate books and records if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Charity's books and records and the internal accounting controls supporting them are considered to be inadequate. As a result, the auditor was unable to confirm revenue and expenditures as recorded, the accounting of receipts and the charitable nature of expenditures as reported in the Information Return.

The Charity must prepare and keep on file a list of official donation receipts issued which reconcile to the annual Information Return (T3010), the financial statements and the bank deposit slips.

### Information Return

The audit results also indicated that the Charity is improperly completing the Information Return in that many of the items reported were incorrectly identified or omitted. Among other things, the Charity failed to submit the required Schedules 4 and 5. There was also inadequate and conflicting disclosure of the Charity's activities regarding its foreign activities.

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.

### Missionary Activities

It appears that the Charity does not maintain adequate documentation to support the expenditure of its funds on its overseas missionary activities.

Where a charity transfers funds to an individual (such as a missionary or field agent) it will meet the Income Tax Act's requirements if the relationship between the charity and the individual is that of an employer/employee. Where this relationship does not exist, the charity must be able to substantiate, by documentary evidence, that it has arranged for the conduct of activities on its behalf and not simply made a gift to the individual.

The requirement in the Act is not met where a charitable organization transfers funds to individuals without a formally established arrangement (contract) under which those individuals are legally obliged to carry out certain specified activities on the charity's behalf. In other words, if the charitable organization does not actually direct the actions of the individuals to whom it is transferring funds, and has little, if any, control over or accountability for the application of those funds, then it is not possible to view the activities performed by the individuals to be the charity's activities.

The Department recognizes that a charity may wish to fund the programs and activities of an individual who is involved in work which the charity wishes to see accomplished because it is in line with the charity's own charitable objectives. However, it is not possible given the requirements of the Income Tax Act, for a charity to transfer funds it receives and receipts merely on the basis that the individual receiving its monies will devote those resources to efforts that are bona fide and in line with the charity's own objectives.

These same restrictions apply when the recipient of the charity's funds is another organization (for example, a foreign charity, a foreign government, or an international aid agency) unless such a recipient organization is a "qualified donee".

Accordingly, a charitable organization is not at liberty to transfer funds for the benefit of the work of a missionary or another organization (mission) unless the recipient is an employee of the charity, or agent of the charity under contract, or a "qualified donee".

Accountability - The law requires a charity to devote its resources to its own activities. Where a charity transfers funds or resources to contractors, agents or partners, the Department is prepared to view the transfer as a devotion of the charity's resources to its own charitable activities, where:

- the charity retains reasonable assurance before funding/entering into the

arrangement with the agent, partner or contractor that the agent, partner or contractor will be able to deliver the services required by the charity (by virtue of the other party's reputation, expertise, etc.);

- all expenditures are intended to further the Canadian charity's purposes;
- an adequate agreement is in place (the Department recommends a written agreement (see requirements below) that is available to it for public release);
- the charity regularly monitors the progress of the project through adequate reports and records of expenditures received from the other party and makes periodic payments on the basis of this monitoring, maintaining the right to discontinue payments should the charity not be satisfied, and
- the charity provides satisfactory evidence that it has properly monitored the contract.

Where a charity's arrangements do not satisfy those guidelines, the charity must otherwise satisfy the Department that it retains the degree of control required by law over the ultimate use of the resources passed to another party. An organization that cannot clearly demonstrate the necessary degree of control is unlikely to qualify for registered charitable status. If registered, the organization may be subject to loss of its charitable status.

**Written Agreements** - The minimum elements in a written agreement are:

- names and addresses of all parties;
- the duration of the agreement;
- a description of the specific activities for which funds have been transferred, in sufficient detail to enable the recipient to determine the extent of his authority;
- provision of written progress reports (or other written documentation from the funding recipient or through an on-site visit, minutes of meetings, etc.) and/or provision for the Canadian charity to inspect the project on a reasonable basis;
- provision for periodic payments on evidence of reasonable progress (Board

meetings, letters, reports, visits, etc.) that demonstrates that the funds are being applied for the specific activities outlined in the agreement;

- provision for the Canadian charity's discretion in withdrawing funds and controlling the use of its funds provided to the contractor;
- provision for the maintenance of adequate records in Canada;
- in the case of agency agreements, provision for the charity's funds to be segregated from those of the agent and for the agent to keep separate books and records, and
- the signatures of both parties/dates.

You are requested to forward within 60 days of the date of this letter an undertaking as to how the Charity plans to address the problems described above. Please mail the undertaking to:

Mr. Richard Labelle  
Assistant Director, Audit Section  
Charities Division  
Revenue Canada, Customs, Excise and Taxation  
400 Cumberland Street  
Ottawa, Ontario  
K1A 0L8

We also wish to advise you that the completion of the audit should not be considered permission to destroy any of the Charity's books and records.

Finally, we wish to thank you for the assistance and cooperation provided during the audit.

Yours sincerely,



R.G. Bond  
Manager  
Consulting and Audit Canada