



REGISTERED MAIL

Grace Christian Assembly
36 South Station Street
Toronto ON M9N 2B3

BN: 86016 7758

Attention: Mr. Samuel Setsofiah

File #: 3035910

July 12, 2011

**Subject: Revocation of Registration
Grace Christian Assembly**

Dear Sir:

The purpose of this letter is to inform you that a notice revoking the registration of Grace Christian Assembly (the Organization) was published in the *Canada Gazette* on July 9, 2011. Effective on that date, the Organization ceased to be a registered charity.

Consequences of Revocation:

- a) The Organization is no longer exempt from Part I Tax as a registered charity and **is no longer permitted to issue official donation receipts**. This means that gifts made to the Organization are no longer allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the *Income Tax Act*, respectively.
- b) By virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke. This revocation tax is calculated on prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the Notice of Intention to Revoke. A copy of the Return is enclosed. The related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, is available on our website at www.cra-arc.gc.ca/E/pub/tg/rc4424.

Section 188(2) of the Act stipulates that a person (other than a qualified donee) who receives an amount from the Organization is jointly and severally liable with the Organization for the tax payable under section 188 of the Act by the Organization.

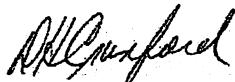
c) The Organization no longer qualifies as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

In accordance with *Income Tax Regulation* 5800, the Organization is required to retain its books and records, including duplicate official donation receipts, for a minimum of two years after the Organization's effective date of revocation.

Finally, we wish to advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a *Return of Income* with the Minister of National Revenue (the Minister) in the prescribed form, containing prescribed information, for each taxation year. The *Return of Income* must be filed without notice or demand.

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

Yours sincerely,



Danie Huppé-Cranford
Director
Compliance Division
Charities Directorate
Telephone: 613-957-8682
Toll free: 1-800-267-2384

Enclosures

- Copy of the Return (form T-2046)
- Canada Gazette publication

c.c.: Emma Nyarkoh



MAY 27 2011

REGISTERED MAIL

Grace Christian Assembly
36 South Station Street
Toronto, ON M9N 2B3

BN: 86016 7758RR0001
File #:3035910

Attention: Mr. Samuel Setsofiah

**Subject: Notice of Intention to Revoke
Grace Christian Assembly**

Dear Mr. Setsofiah:

I am writing further to our letter dated November 15, 2010 (copy enclosed), in which you were invited to submit representations as to why Grace Christian Assembly (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

On December 13, 2010, you requested an extension and, while we were unable to reach you by phone, an extension was granted. As of January 13, 2011, we still had not received any information and thus are proceeding with the revocation of the Organization.

Conclusion:

The Canada Revenue Agency's (CRA) audit has revealed that the Grace Christian Assembly (the Organization) was not complying with the requirements set out in the *Income Tax Act*. It was found that the Organization failed to maintain adequate books and records to permit the verification of the reported financial information. Consequently, we were unable to determine if the Organization satisfied its legal obligations under the Act and operated for charitable purposes. The Organization did not maintain a general ledger, lacked source documentation supporting reported revenue and expenses and was unable to substantiate the programs purportedly being undertaken. Finally, the Organization was unable to provide evidence that it had received gifts from the donors equivalent to the amount indicated on the official donation receipts issued.

In addition, the Organization did not demonstrate that through its programs and arrangements for the undertaking of its activities, it devoted all of its resources to its own charitable activities. The Organization stated that it made in-kind donations to other organizations, however, only one of them was a registered charity. The Organization

Canada

Place de Ville, Tower A
320 Queen Street, 13th Floor, R350 E (08)
Ottawa ON K1A 0L5

made gifts to organizations that are not considered to be "qualified donees" under the Act.

For each of these reasons and other concerns identified during the course of the audit, it is the CRA's view that the Organization no longer meets the requirements necessary for charitable registration.

Consequently, for each of the reasons mentioned in our letter dated November 15, 2010, I wish to advise you that, pursuant to subsection 168(1) of the Act, I propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

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

Business Number	Name
860167758RR0001	Grace Christian Assembly Toronto, ON

Should you wish to object to this notice of intention to revoke the Organization's registration in accordance with subsection 168(4) of the Act, a written Notice of Objection, which includes the reasons for objection and all relevant facts, must be filed within **90 days** from the day this letter was mailed. The Notice of Objection should be sent to:

**Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
250 Albert Street
Ottawa ON K1A 0L5**

A copy of the revocation notice, described above, will be published in the *Canada Gazette* after the expiration of 30 days from the date this letter was mailed. The Organization's registration will be revoked on the date of publication, unless the Canada Revenue Agency (CRA) receives an order, **within the next 30 days**, from the Federal Court of Appeal issued under paragraph 168(2)(b) of the Act extending that period.

Please note that the Organization must obtain a stay to suspend the revocation process, notwithstanding the fact that it may have filed a Notice of Objection.

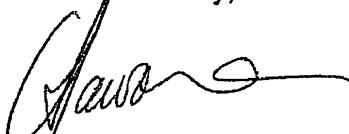
Consequences of Revocation

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the Notice of Intention to Revoke. This revocation tax is calculated on prescribed form T-2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the Notice of Intention to Revoke. A copy of the relevant provisions of the Act concerning revocation of registration, the tax applicable to revoked charities, and appeals against revocation, can be found in Appendix "A", attached. Form T-2046 and the related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our website at www.cra-arc.gc.ca/charities;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

Finally, I wish to advise that subsection 150(1) of the Act requires that every corporation (other than a corporation that was a registered charity throughout the year) file a *Return of Income* with the Minister in the prescribed form, containing prescribed information, for each taxation year. The *Return of Income* must be filed without notice or demand.

Yours sincerely,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated November 15, 2010
- Appendix "A", Relevant provisions of the Act

c.c.: Samuel Setsofiah

Emma Nyarkoh

"COPY"



CANADA REVENUE AGENCY AGENCIE DU REVENU
DU CANADA

Grace Christian Assembly
36 South Station Street
Toronto, ON M9N 2B3

REGISTERED MAIL

BN: 86016 7758RR0001
FILE #: 3035910

Attention: Mr. Sam Setsofiah

November 15th, 2010

date sent

Dear Mr. Setsofiah,

Subject: Audit of Grace Christian Assembly

This letter is further to the audit of the books and records of Grace Christian Assembly (the Organization) conducted by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period from January 1, 2008 to December 31, 2009.

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

AREAS OF NON-COMPLIANCE:	
Issue	Reference
1. Failure to Maintain Adequate Books and Records	149.1(2), 168(1)(e), 230(2)
2. Issuing Receipts not in Accordance with the Act or its Regulations	149.1(2), 168(1)(d), Reg. 3501
3. Errors/Omissions on Information Return	149.1(2), 149.1(14), 168(1)(c)
4. Gifts to Non-Qualified Donees	149.1(1), 168(1)(b)
5. Charitable Purpose & Activities	168(1)(b)

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

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

(b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the date of the 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, 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 revoked¹;
- 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 status², and
- 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.³

¹ *The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*, 2002 FCA 72 (FCA)

² *(College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency*, (2004) FCA 101; ITA section 168(1)

³ *Supra*, footnote 3; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397

The audit revealed that the Organization failed to maintain adequate books and records to permit the verification of the reported financial information, and that the Organization is satisfying its legal obligations under the Act and is operating for charitable purposes. The Organization did not maintain a general ledger, lacked source documentation to support reported revenue and expenses, and could not account for the number of donation receipt books printed or used during the period under audit.

In our letter dated July 30th, 2010, the Organization was requested to provide the following information:

- Copies of the official donation receipts for the 2009 year as well as the donation book containing receipts numbered 51 through to 100;
 - Receipts for the 2009 taxation year were provided. The Organization indicated that the receipt book containing receipted numbered 51 through to 100 could not be located.
- A hardcopy of the excel spreadsheet that summarized the donations;
 - An excel spreadsheet was provided that listed the name of the donor, the amount of cash donations, the amount of In-Kind donations as well as a total. The title of the spreadsheet indicated that it was charitable contributions for 2009; however, some of the donations on that list agreed to official donation receipts issued in 2010 that were provided by the Organization.
- A reconciliation from the excel spreadsheet to the amount claimed at Line 4500 - Tax-Receipted Gifts;
 - There were two spreadsheets provided; one for 2008 and one for 2009. The spreadsheet for 2008 contained the name of the donor, the address and the contribution made. The total contributions made were \$148,495.00 which did not agree to Line 4500 of the T3010 for 2008 which showed \$302,213.00 in receipted donations. The spreadsheet for 2009 contained the name of the donor, the amount of cash donations, the amount of In-kind donations, as well as the total donation made. The total of the cash donations was \$17,897.00 and the total of In-Kind donations was \$194,259.00 for a total of \$212,156.00. This does not agree to Line 4500 of the T3010 fro 2009 which showed \$172,000.00.

- A reconciliation of total gifts of artwork and/or gifts in kind to the amount claimed at Line 5600; as well as details as to how the fair market value of the gifts was determined;
 - On the excel spreadsheet submitted, the Organization provided a breakdown of the purported cash and gifts-in-kind received for the donation receipts issued. There was not an itemized list of the gifts-in-kind and there was no documentation to support how the fair market value of the goods was determined.
- A reconciliation of total disbursements reported on the T3010;
 - This was not provided.
- A reconciliation and breakdown of total disbursements reported by the Organization in carrying out its activities and charity work as reported on Line 5000;
 - This was not provided.
- Monthly banking statements;
 - The Organization provided Internet copies of the bank statements for the period January 2010 to September 2010, but not for the period January 2009 to June 2009. Mr. Setsofiah stated the Organization had opened a bank account in 2009, but it is not clear what month this was done. The auditor was unable to confirm the date the bank account was in fact opened.
 - The auditor inquired as to where the money was kept prior to the opening of the bank account and the Organization stated that it had in fact been spent on the expenses of the Organization. The reported revenue for 2008 was \$302,000.00 which expenses of \$238,000.00 therefore there is \$68,000.00 that appears to be unaccounted for.
- A list of volunteers including names, and list of duties and/or responsibilities;
 - This was not provided.
- Copies of all minutes of board meetings to date;
 - This was provided.

As of the date of this letter, the CRA has been provided very limited information regarding the expenses claimed. The expenses could not be reconciled to the T3010 and, as such, we were unable to verify the expenditures being claimed or in what way they related to the activities of the Organization.

It is our position that the Organization has failed to meet the requirements of subsection 230(2) of the Act.

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

2. Issuing Receipts Not in Accordance with the Act and/or its Regulations:

Regulation 3501 sets out the content requirements for an official receipt issued by a charity to acknowledge a donation.

For non-cash gifts (gifts in kind), these additional elements must be identified:

- day on which the donation was received (if not already indicated);
- brief description of the property transferred to the charity;
- name and address of the appraiser (if property was appraised); and
- (pending amendment) deemed fair market value of the property in place of amount of gift above.

When a registered charity issues a receipt to acknowledge a gift of non-cash property, the charity is responsible to ensure that the value on the receipt is accurate. Generally, a member of a charity, or another individual, can attest to the value of the property if the value of the property is less than \$1,000 and as long as the member or individual has sufficient knowledge of the property.

In those circumstances where the value of the property exceeds \$1,000, we strongly recommend that the property be appraised by an independent third party. An independent party is one who is not affiliated with the charity or the donor. The person should be knowledgeable about the principles, theories, and procedures of the applicable valuation discipline and follow the *Uniform Standards of Professional Appraisal Practice* or the standards of the profession.

We recognize that appraisals are not required under the *Act* or its *Regulations*. However, it is our view that the onus remains with the charity to ascertain that the value assigned to non-cash gifts received is reflective of the fair market value of the goods being donated, whether an official donation receipt is issued or not.

In each scenario, the person determining the fair market value of the item should be competent and qualified to evaluate the particular property being donated. Also, he should be knowledgeable about and active in the marketplace for the specific property.

The fair market value of a gift in kind as of the date of the donation (the date on which beneficial ownership is transferred from the donor to the donee) must be determined before an amount can be recorded on a receipt for tax purposes. If the property was owned on Valuation Day (December 31, 1971), a valuation as of that date may also be required for capital gains purposes. The person who determines the fair market value of the property must be competent and qualified to evaluate the particular property being transferred by way of a gift. Property of little or only nominal value to the donor will not qualify as a gift in kind. Used clothing of little value would be an example of a non-qualifying contribution.

The Organization stated that in its donation policy, in-kind donations shall be valued according to the Fair Market Value guidelines set out by the Canada Revenue Agency. The policy states that the Organization will develop a fair market value manual to value in-kind donations. This manual was not produced for review during the audit, but a sheet was provided that set out the values for used men's and women's clothing. CRA's opinion is that the used clothing is in fact of little value.

The majority of the official donation receipts issued indicated that the donation purportedly consisted of both a cash and an in-kind element. The Organization submitted a spreadsheet providing a breakdown between the cash amount and the in-kind amount. A detailed breakdown of the non-cash items donated was not provided. The donation receipts did not contain the date on which the donation was received. The Organization was unable to provide evidence that it had received gifts from donors for the amounts of the donation receipts issued.

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

3. (I) Errors/Omissions on Information Return:

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity's fiscal year end, file a Registered Charity Information Return with the applicable schedules.

It is the responsibility of the charity to ensure that the information that is provided in its return, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirements to file an Information Return if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Organization has improperly completed the T3010 return for the December 31, 2009 and December 31, 2008 fiscal periods, as there were numerous errors and omissions.

Line 4500 – Total eligible tax-receipted amounts (See Appendix "B")

- The T3010 for 2009 reported \$172,000.00, whereas the books and records showed \$114,654.00 in tax-receipted revenue. There were discrepancies between the spreadsheet showing monies (donations?) received and the actual donation receipts issued. The cash component of the donations received was not deposited into the bank account.
- It is unclear how many receipts books were printed and/or used during the audit period. Therefore, the actual amount of donations cannot be determined.
- There is no documentation to support the gifts in kind that are included in the donation amounts.
- The T3010 for 2008 reported \$302,213.00, whereas the books and records showed \$293,792.00 in tax-receipted amounts.

The expenses reported on the 2009 T3010 were not adequately supported with proper documentation to substantiate the amounts claimed.

Line 4800 – Advertising

- The T3010 reported \$6,260.00, which could not be reconciled to the books and records of the Organization.

Line 4810 – Travel and Vehicle

- The T3010 reported \$9,670.00, which could not be reconciled to the books and records of the Organization.

Line 4820 – Interest and Bank Charges

- The T3010 reported \$71.00, which could not be reconciled to the books and records of the Organization.

Line 4840 – Office Supplies and Expenses

- The T3010 reported \$4,415.00, which could not be reconciled to the books and records of the Organization.

Line 4850 – Occupancy Costs

- The T3010 reported \$7,200.00, which could not be reconciled to the books and records of the Organization.

Line 4860 – Professional and Consulting Fees

- The T3010 reported \$8,355.00, which could not be reconciled to the books and records of the Organization.

Line 4880 – Total Expenditure on all Compensation

- The T3010 reported \$1,850.00, which could not be reconciled to the books and records of the Organization. We have noted that the Organization does not have a payroll account registered with the CRA.

Line 4890 – Donated and Purchased Supplies and Assets

- The T3010 reported \$137,000.00 which could not be reconciled to the books and records of the Organization. If this amount is to represent the amount of non-cash gifts, then compared to what was reported on Schedule 5: Non-Cash Gifts, there is a discrepancy since the amount reported is \$119,000.00. There isn't any supporting documentation to support the fair market value of the donated items.

Line 4900 – Amortization of Capitalized Assets

- The T3010 reported \$4,043.00 as an amortization expense. However, the actual amount of assets could not be determined as they are listed as other assets on the financial statements.

Line 5000 and Line 5040 also could not be reconciled.

- The expenses reported on the 2008 T3010 were not adequately supported with proper documentation to substantiate the amounts claimed.

Line 4800 – Advertising and promotion

- The T3010 reported \$9,610.00, which could not be reconciled to the books and records of the Organization

Line 4810 – Travel and Vehicle

- The T3010 reported \$13,750.00, which could not be reconciled to the books and records of the Organization.

Line 4840 – Office Supplies and Expenses

- The T3010 reported \$6,420.00, which could not be reconciled to the books and records of the Organization.

Line 4850 – Occupancy Costs

- The T3010 reported \$7,200.00, which could not be reconciled to the books and records of the Organization.

Line 4860 – Professional and Consulting Fees

- The T3010 reported \$13,840.00, which could not be reconciled to the books and records of the Organization.

Line 4880 – Salaries, Wages, Benefits, and Honoraria

- The T3010 reported \$21,600.00, which could not be reconciled to the books and records of the Organization. The Organization does not have a payroll account registered with the CRA.

Line 4890 – Donated and Purchased Supplies and Assets

- The T3010 reported \$165,600.00, which could not be reconciled to the books and records of the Organization. If this amount is to represent the amount of non-cash gifts, then compared to what was reported on Section F: F4 Non-Cash Gifts, there is a discrepancy since the amount shown is \$110,200.00. There isn't any supporting documentation to support the fair market value of the donated items.

Line 4920 – Other Expenditures

- The T3010A reported \$17,000, which could not be reconciled to the books and records of the Organization.

Line 5000 and Line 5010 could not be reconciled.

As a result, the Organization failed to exercise due care with respect to ensuring the accuracy of its Charity Information Returns. This constitutes sufficient reason to revoke the Organization's charitable status.

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

4. Gifts to Non-Qualified Donees

The Act permits a registered charity designated as a charitable Organization to carry out its charitable purposes, both inside and outside Canada, in the following manner:

- It can carry on its own activities. Unless donations received are transferred to qualified donees, money and property donated to a charitable Organization must be used by the Organization itself in the conduct of its own activities.⁴

⁴ See the Federal Court of Appeal decisions on *Canadian Committee for the Tel Aviv Foundation v. Canada*, 2002 FCA 72 (CanLII) and *Bayit Lepletot v. Canada (Minister of National Revenue)*, 2006 FCA 128 (CanLII). Accessed on 2009-08-28.

- Except where a charity gifts its funds to a qualified donee, the CRA requires a charity to show that it effectively directs and actually controls the use of its resources on an ongoing basis.
- As part of carrying out its charitable purpose, a charity can make gifts to other Organizations defined as qualified donees in sections 110.1, 118.1 and 149.1(1) of the Act. Qualified donees include Canadian registered charities, certain universities outside Canada, the United Nations and its agencies, and a few foreign charities.

A charitable Organization cannot act as an intermediary providing tax receipts to donors for amounts that are to be transferred to other Organizations that are not qualified donees. In other words, a registered charitable Organization may not act as a channel or conduit through which tax receipts are provided for donations that are intended for the use of another Organization. This is true even if the charity believes that an individual or Organization receiving the charity's funds will devote those resources to efforts that are *bona fide* and in line with the charity's own objectives. When a registered charity merely transfers its resources to another entity that is not a qualified donee, and fails to maintain effective direction and actual control over those resources, the charity has, in effect, made a gift to a non-qualified donee. This contravenes the purpose and intent of the charitable registration provisions of the Act.

The audit revealed that significant amounts of the Organization's resources were distributed to and through non-qualified donees within Canada. The Organization made gifts in 2008 and 2009 to the non-qualified donees listed below:

- **Gomarj Community Services (Garnier Fructis Hair conditioners)**
- **Urban Promise (Shoes, Boots, Winter Coats & Winter Wear)**
- **Horizons for Youth (Linens)**
- **Artists to Artists Foundation (Health Products)**
- **Consulate General of St. Vincent and the Grenadines (Computers, Clothing & Toys)**
- **United Achievers' Non-Profit Housing Corporation (125 boxes of health care products)**

The amount reported on Line 5600 on the T3010 for 2008 indicated the non-cash gifts to be \$110,200.00; and the amount reported on Schedule 5:Non-Cash Gifts for 2009 was \$119,000.00. The amounts claimed at Line 4890 (Donated and purchased supplies and assets) were \$165,600.00 and \$137,000.00 for those years respectively. Those figures could not be reconciled to the summary spreadsheet provided by the Organization or the official donation receipts. The Organization failed to identify the gifts-in-kind received in any manner, and the value of the

items cannot be determined. A dollar value was not attached to the amounts donated to the Organizations listed above.

According to its own Donations Policy, the Organization will make direct donations to other charitable entities and not-for-profit entities. It indicates that the activities carried out by the groups are consistent with the mandate of the Organization. There was no indication that the Organization knew the donated items were going to be used in the capacity that would further the objectives of the Organization. It is not clear that the Organization had any direction or control over the items donated.

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

5. Charitable Purpose & Activities:

The Charity 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".

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. Firstly, the purposes it pursues must be wholly charitable and secondly, the activities that a charity 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.

One of the approved objects of the Organization at the time of registration is to establish, maintain and support a food bank, soup kitchen and a non-profit enterprise to supply free clothing, furniture and appliances for needful congregants and members of the community.

The Organization stated it had purportedly donated goods consisting of used clothing, hair products, health products, linens, shoes, winter clothing and boots to other charitable entities and not-for-profit entities. It indicates that the activities carried out by the groups should be consistent with the mandate of the Organization. There was no indication that the Organization knew the donated items were going to be used in the capacity that would further the objectives of the Organization. It is not clear that the Organization had any direction or control

over the items donated. Also the goods were in fact donated to non-qualified donees.

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

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
- the Minister giving notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the *Act*.

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

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

Yours sincerely,



Sherry Head - Auditor
Compliance Programs Branch
Kitchener TSO
Telephone: 1-519-896-5970
Toll Free: 1-800-267-2384
Facsimile: 1-519-585-2803
Address: 166 Frederick Street
Kitchener, ON N2G 4N1

Grace Christian Assembly

DETAILS RELATED TO THE AUDIT

	2009-12-31	2008-12-31
Reported on T3010 Return		
Total eligible amount of		
Tax-receipted gifts (Line 4500)	302,213.00	172,000.00
Official Donation Receipts		
Cash Donations ¹	83,371.00	10,241.00
Gift-in-Kind Donations ²	<u>210,421.00</u>	<u>104,413.00</u>
	<u>293,792.00</u>	<u>114,654.00</u>
Discrepancy	8,421.00	57,346.00

¹ Amounts from the Organization's Actual Donation Receipts

² Gift-in-Kind donations taken from the spreadsheet prepared by Organization listing the breakdown between the cash and the in-kind donations

A page from a handwritten manuscript in a traditional script, likely Tamil, featuring dense text arranged in two columns. The text is written in black ink on a light-colored background. The script is a form of Tamil used in manuscripts, with characters that often resemble Devanagari. The layout consists of two columns of text, with a horizontal line separating the two columns. The text is written in a cursive style, with some variations in the characters. There are a few small red marks or corrections visible in the text.

ITR APPENDIX "A"

Section 149.1: [Charities]

149.1(2) Revocation of registration of charitable organization

The Minister may, in the manner described in section 168, revoke the registration of a charitable organization for any reason described in subsection 168(1) or where the organization

- (a) carries on a business that is not a related business of that charity; or
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the organization's disbursement quota for that year.

149.1(3) Revocation of registration of public foundation

The Minister may, in the manner described in section 168, revoke the registration of a public foundation for any reason described in subsection 168(1) or where the foundation

- (a) carries on a business that is not a related business of that charity;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (c) since June 1, 1950, acquired control of any corporation;
- (d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities; or
- (e) at any time within the 24 month period preceding the day on which notice is given to the foundation by the minister pursuant to subsection 168(1) and at a time when the foundation was a private foundation, took any action or failed to expend amounts such that the Minister was entitled, pursuant to subsection (4), to revoke its registration as a private foundation.

149.1(4) Revocation of registration of private foundation

The Minister may, in the manner described in section 168, revoke the registration of a private foundation for any reason described in subsection 168(1) or where the foundation

- (a) carries on any business;
- (b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;
- (c) since June 1, 1950, acquired control of any corporation; or
- (d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities.

149.1(4.1) Revocation of registration of registered charity

The Minister may, in the manner described in section 168, revoke the registration

- (a) of a registered charity, if the registered charity has made a gift to another registered charity and it can reasonably be considered that one of the main purposes of making the gift was to unduly delay the expenditure of amounts on charitable activities;
- (b) of the other charity referred to in paragraph (a), if it can reasonably be considered that, by accepting the gift, it acted in concert with the registered charity to which paragraph (a) applies; and
- (c) of a registered charity, if a false statement, within the meaning assigned by subsection 163.2(1), was made in circumstances amounting to culpable conduct, within the meaning assigned by that subsection, in the furnishing of information for the purpose of obtaining registration of the charity.

Section 168: Notice of intention to revoke registration

168(1) Where a registered charity or a registered Canadian amateur athletic association

- (a) applies to the Minister in writing for revocation of its registration,
- (b) ceases to comply with the requirements of this Act for its registration as such,
- (c) fails to file an information return as and when required under this Act or a regulation,
- (d) issues a receipt for a gift or donation otherwise than in accordance with this Act and the regulations or that contains false information,
- (e) fails to comply with or contravenes any of sections 230 to 231.5, or
- (f) in the case of a registered Canadian amateur athletic association, accepts a gift or donation the granting of which was expressly or impliedly conditional on the association making a gift or donation to another person, club, society or association, the Minister may, by registered mail, give notice to the registered charity or registered Canadian amateur athletic association that the Minister proposes to revoke its registration.

168(2) Revocation of Registration

Where the Minister gives notice under subsection (1) to a registered charity or to a registered Canadian amateur athletic association,

- (a) if the charity or association has applied to the Minister in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy of the notice in the *Canada Gazette*, and
- (b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette*,

and on that publication of a copy of the notice, the registration of the charity or association is revoked.

168(4) Objection to proposal or designation

A person that is or was registered as a registered charity or is an applicant for registration as a registered charity that objects to a notice under subsection (1) or any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) may, on or before the day that is 90 days after the day on which the notice was mailed, serve on the Minister a written notice of objection in the manner authorized by the Minister, setting out the reasons for the objection and all the relevant facts, and the provisions of subsections 165(1), (1.1) and (3) to (7) and sections 166, 166.1 and 166.2 apply, with any modifications that the circumstances require, as if the notice were a notice of assessment made under section 152.

Section 172: Appeal from refusal to register, revocation of registration, etc.

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

Where the Minister

- (a) refuses to register an applicant for registration as a Canadian amateur athletic association,
- (a.1) confirms a proposal, decision or designation in respect of which a notice was issued by the Minister to a person that is or was registered as a registered charity, or is an applicant for registration as a registered charity, under any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) and 168(1), or does not confirm or vacate that proposal, decision or designation within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal, decision or designation,
- (b) refuses to accept for registration for the purposes of this Act any retirement savings plan,
- (c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan,
- (d) refuses to issue a certificate of exemption under subsection 212(14),
- (e) refuses to accept for registration for the purposes of this Act an education savings plan,
- (e.1) sends notice under subsection 146.1(12.1) to a promoter that the Minister proposes to revoke the registration of an education savings plan,
- (f) refuses to register for the purposes of this Act any pension plan or gives notice under subsection 147.1(11) to the administrator of a registered pension plan that the Minister proposes to revoke its registration,
- (f.1) refuses to accept an amendment to a registered pension plan, or
- (g) refuses to accept for registration for the purposes of this Act any retirement income fund, the applicant or the organization, foundation, association or registered charity, as the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (e) or (g), a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), the promoter in a case described in paragraph (e.1), or the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

Section 180: Appeals to Federal Court of Appeal

180(1) Appeals to Federal Court of Appeal

An appeal to the Federal Court of Appeal pursuant to subsection 172(3) may be instituted by filing a notice of appeal in the Court within 30 days from

- (a) the day on which the Minister notifies a person under subsection 165(3) of the Minister's action in respect of a notice of objection filed under subsection 168(4),
- (b) the mailing of notice to a registered Canadian amateur athletic association under subsection 168(1),
- (c) the mailing of notice to the administrator of the registered pension plan under subsection 147.1(11),
- (c.1) the sending of a notice to a promoter of a registered education savings plan under subsection 146.1(12.1), or
- (c) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan was mailed, or otherwise communicated in writing, by the Minister to any person,

as the case may be, or within such further time as the Court of Appeal or a judge thereof may, either before or after the expiration of those 30 days, fix or allow.

Section 188: Revocation tax

188(1) Deemed year-end on notice of revocation

If on a particular day the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) or it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available,

- (a) the taxation year of the charity that would otherwise have included that day is deemed to end at the end of that day;
- (b) a new taxation year of the charity is deemed to begin immediately after that day; and
- (c) for the purpose of determining the charity's fiscal period after that day, the charity is deemed not to have established a fiscal period before that day.

188(1.1) Revocation tax

A charity referred to in subsection (1) is liable to a tax, for its taxation year that is deemed to have ended, equal to the amount determined by the formula

$A - B$

where

A is the total of all amounts, each of which is

- (a) the fair market value of a property of the charity at the end of that taxation year,
- (b) the amount of an appropriation (within the meaning assigned by subsection (2) in respect of a property transferred to another person in the 120-day period that ended at the end of that taxation year, or
- (d) the income of the charity for its winding-up period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 as if that period were a taxation year; and

B is the total of all amounts (other than the amount of an expenditure in respect of which a deduction has been made in computing income for the winding-up period under paragraph (c) of the description of A, each of which is

- (a) a debt of the charity that is outstanding at the end of that taxation year,
- (b) an expenditure made by the charity during the winding-up period on charitable activities carried on by it, or
- (c) an amount in respect of a property transferred by the charity during the winding-up period and not later than the latter of one year from the end of the taxation year and the day, if any, referred to in paragraph (1.2)(c) to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

188(1.2) Winding-up period

In this Part, the winding-up period of a charity is the period, that begins immediately after the day on which the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) (or, if earlier, immediately after the day on which it is determined, under subsection 7(1) of the Charities Registration (Security Information) Act, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available), and that ends on the day that is the latest of

- (a) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,
- (b) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and
- (c) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

188(1.3) Eligible donee

In this Part, an eligible donee in respect of a particular charity is a registered charity

- (a) of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity;
- (b) that is not the subject of a suspension under subsection 188.2(1);
- (c) that has no unpaid liabilities under this Act or under the Excise Tax Act;
- (d) that has filed all information returns required by subsection 149.1(14); and
- (e) that is not the subject of a certificate under subsection 5(1) of the Charities Registration (Security Information) Act or, if it is the subject of such a certificate, the certificate has been determined under subsection 7(1) of that Act not to be reasonable.

188(2) Shared liability — revocation tax

A person who, after the time that is 120 days before the end of the taxation year of a charity that is deemed by subsection (1) to have ended, receives property from the charity, is jointly and severally, or solidarily, liable with the charity for the tax payable under subsection (1.1) by the charity for that taxation year for an amount not exceeding the total of all appropriations, each of which is the amount by which the fair market value of such a property at the time it was so received by the person exceeds the consideration given by the person in respect of the property.

188(2.1) Non-application of revocation tax

Subsections (1) and (1.1) do not apply to a charity in respect of a notice of intention to revoke given under any of subsections 149.1(2) to (4.1) and 168(1) if the Minister abandons the intention and so notifies the charity or if

- (a) within the one-year period that begins immediately after the taxation year of the charity otherwise deemed by subsection (1) to have ended, the Minister has registered the charity as a charitable organization, private foundation or public foundation; and
- (b) the charity has, before the time that the Minister has so registered the charity,
 - (i) paid all amounts, each of which is an amount for which the charity is liable under this Act (other than subsection (1.1)) or the Excise Tax Act in respect of taxes, penalties and interest, and
 - (ii) filed all information returns required by or under this Act to be filed on or before that time.

188(3) Transfer of property tax

Where, as a result of a transaction or series of transactions, property owned by a registered charity that is a charitable foundation and having a net value greater than 50% of the net asset amount of the charitable foundation immediately before the transaction or series of transactions, as the case may be, is transferred before the end of a taxation year, directly or indirectly, to one or more charitable organizations and it may reasonably be considered that the main purpose of the transfer is to effect a reduction in the disbursement quota of the foundation, the foundation shall pay a tax under this Part for the year equal to the amount by which 25% of the net value of that property determined as of the day of its transfer exceeds the total of all amounts each of which is its tax payable under this subsection for a preceding taxation year in respect of the transaction or series of transactions.

188(3.1) Non-application of subsection (3)

Subsection (3) does not apply to a transfer that is a gift to which subsection 188.1(11) applies.

188(4) Idem

Where property has been transferred to a charitable organization in circumstances described in subsection (3) and it may reasonably be considered that the organization acted in concert with a charitable foundation for the purpose of reducing the disbursement quota of the foundation, the organization is jointly and severally liable with the foundation for the tax imposed on the foundation by that subsection in an amount not exceeding the net value of the property.

188(5) Definitions

In this section,

“net asset amount”

“net asset amount” of a charitable foundation at any time means the amount determined by the formula

A - B

where

A is the fair market value at that time of all the property owned by the foundation at that time, and

B is the total of all amounts each of which is the amount of a debt owing by or any other obligation of the foundation at that time;

“net value”

“net value” of property owned by a charitable foundation, as of the day of its transfer, means the amount determined by the formula

A - B

where

A is the fair market value of the property on that day, and

B is the amount of any consideration given to the foundation for the transfer.

Section 189

189(6) Taxpayer to file return and pay tax

Every taxpayer who is liable to pay tax under this Part (except a charity that is liable to pay tax under section 188(1)) for a taxation year shall, on or before the day on or before which the taxpayer is, or would be if tax were payable by the taxpayer under Part I for the year, required to file a return of income or an information return under Part I for the year,

- (a) file with the Minister a return for the year in prescribed form and containing prescribed information, without notice or demand therefor;
- (b) estimate in the return the amount of tax payable by the taxpayer under this Part for the year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under this Part for the year.

189(6.1) Revoked charity to file returns

Every taxpayer who is liable to pay tax under subsection 188(1.1) for a taxation year shall, on or before the day that is one year from the end of the taxation year, and without notice or demand,

- (a) file with the Minister
 - (i) a return for the taxation year, in prescribed form and containing prescribed information, and
 - (ii) both an information return and a public information return for the taxation year, each in the form prescribed for the purpose of subsection 149.1(14); and
- (b) estimate in the return referred to in subparagraph (a)(i) the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year; and
- (c) pay to the Receiver General the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year.

189 (6.2) Reduction of revocation tax liability

If the Minister has, during the one-year period beginning immediately after the end of a taxation year of a person, assessed the person in respect of the person's liability for tax under subsection 188(1.1) for that taxation year, has not after that period reassessed the tax liability of the person, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of

- (a) the amount, if any, by which
 - (i) the total of all amounts, each of which is an expenditure made by the charity, on charitable activities carried on by it, before the particular time and during the period (referred to in this subsection as the "post-assessment period") that begins immediately after a notice of the latest such assessment was mailed and ends at the end of the one-year period exceeds
 - (ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and
- (b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

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189(6.3) Reduction of liability for penalties

If the Minister has assessed a registered charity in respect of the charity's liability for penalties under section 188.1 for a taxation year, and that liability exceeds \$1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the charity after the day on which the Minister first assessed that liability and before the particular time to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

- (a) the consideration given by the person for the transfer, and
- (b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

189 (7) Minister may assess

Without limiting the authority of the Minister to revoke the registration of a registered charity, the Minister may also at any time assess a taxpayer in respect of any amount that a taxpayer is liable to pay under this Part.

