



APR 24 2006

BY REGISTERED MAIL

Halacha L'Moshe Talmudic Institute
129 Bannockburn Avenue
Toronto, Ontario N5M 2N2

Attention: Mr. Akiva Stefansky, Director

BN: 89231 3842 RR0001
File #: 0633941

SUBJECT: Notice of Intent to Revoke
Halacha L'Moshe Talmudic Institute

Dear Mr. Stefansky:

I am writing to you further to our letters of June 8 and August 8, 2005 (copies attached), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of Halacha L'Moshe Talmudic Institute (hereinafter, the "Institute") in accordance with subsection 168(1) of the *Income Tax Act* (hereinafter, the "Act").

We have reviewed your written response of July 19, 2005 and have considered the comments made and the additional information provided. However, our view remains unchanged in light of this information, and I wish to advise you that pursuant to the authority granted to the Minister in subsection 168(1) of the Act, and delegated to me, I propose to revoke the registration of the Institute. By virtue of subsection 168(2) of the Act, the 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)(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.

File Number	Business Number	Name
0633941	89231 3842 RR0001	Halacha L'Moshe Talmudic Institute

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

.../2

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

Consequences of a Revocation

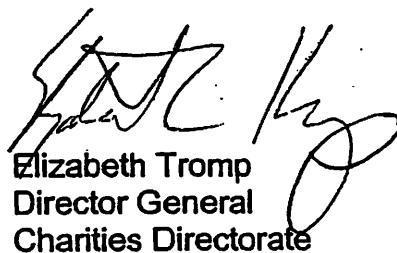
As of the date of revocation of the registration of the Institute, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Institute will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts**.

Additionally, the Institute may be subject to tax pursuant to Part V, section 188 of the Act. For your reference, I have attached a copy of the relevant provisions of the Act (Appendix "A") concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

Additionally, by virtue of section 188 of the Act, the Halacha L'Moshe Talmudic Institute will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Charity's registration. This revocation tax is calculated on prescribed form T2046 "Tax Return Where Registration of a Charity is Revoked". The return must be filed and the tax must be paid on or before the day that is one year from the date of the Notice of Intention to Revoke a Charity's Registration. Form T-2046, along with the related Guide RC-4424 are also attached for your information.

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 therefore, be filed with the Minister in prescribed form containing prescribed information.

Yours sincerely,



Elizabeth Tromp
Director General
Charities Directorate

Enclosures

- The Agency's letters of June 8 and August 8, 2005
- Appendix "A", Relevant provisions of the Act
- Form T-2046 and Guide RC 4424



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

REGISTERED MAIL

August 8, 2005

Halacha L'Moshe Talmudic Institute
Director
129 Bannockburn Ave.
Toronto, ON M5M 2N2

Your file / Votre référence

Our file / Notre référence
BN 892313842 RR0001
REG 0633941

Attention: Akiva Stefansky

Dear Mr. Stefansky:

Re: **Charity Audit**

This is in reply to your letter dated July 19, 2005, in which you responded to the concerns we noted in our letter to you of June 8, 2005.

Although some of the responses to our concerns were considered adequate, it is our view that there are still some serious deficiencies that need to be addressed. The balance of this letter describes the Canada Revenue Agency's (CRA's) concerns, which relate to **Charitable Activities Outside Canada**.

You have provided a copy of an agency agreement dated March 1, 2001, which appears to contain the information required in accordance with the CRA's publication RC4106 entitled "Registered Charities: Operating Outside Canada", which was previously provided to you.

However, you have provided no evidence that the terms of the agency agreement have been adhered to. For example, no records were provided to show that the funds of Halacha L'Moshe Talmudic Institute (the "Organization") were kept segregated and apart from the funds of the Agent.

You also did not provide evidence of some system of continuous and comprehensive documented reporting, including expense vouchers, to your Organization (on at least a quarterly or semi-annual basis) concerning its ongoing activities that are carried out on your behalf.

The following excerpt from RC4106 sets out the CRA's requirements in this respect:

Canada

"What books and records must a registered charity have in Canada?"

The *Income Tax Act* sets standards for the books and records that registered charities must keep. Among other things, these books and records must contain sufficient information to allow us to determine if the charity is operating in accordance with the provisions of the *Income Tax Act*.

Note

Failure to keep adequate books and records constitutes, in itself, grounds for revocation of the charity's registration.

A registered charity operating abroad through structured arrangements with others should take steps to obtain reasonable reports on the progress of its projects and programs. This serves as evidence for itself, its donors, the public, and us that its funds have been properly applied.

These reports should be supported with documentary evidence such as:

- copies of written agreements;
- deeds;
- financial statements;
- invoices;
- photos;
- minutes of meetings; and
- any other materials that reflect the charity's ongoing participation and that show how the charity's funds are used.

Different kinds of arrangements can call for different kinds of records, for example:

Agents

As mentioned earlier, a Canadian charity carrying out its activities through an agent should ensure that its funds and property are kept separately from those of the agent and that the agent keeps separate books and records relating to the expenditures on behalf of the charity. Copies of these books and records should be forwarded regularly to the charity, and the originals should be available for inspection at the place where they are being kept by the agent. These records should include details on exactly how the agent is carrying out instructions issued by the charity."

With respect to the "Library staff" (\$25,000 U.S.) and "Building renovation" (\$25,000 U.S.) expenses included on the lists of expenses provided, we would expect to see detailed information regarding these expenses i.e. the names and addresses of the payees, payroll records, invoices, etc. Please note that payments to the Jerusalem organization to help offset its expenses are not considered to be a devotion of resources to charitable activities that the Canadian Organization carries on itself.

With respect to the scholarships, we would also expect to see full details to support these expenses. Where the charity chooses to administer scholarships to students attending a foreign school or university through an agent, the following criteria are necessary to maintain full control and accountability.

- The selection criteria for scholarship should be set down by the Canadian charity and it should be the Canadian charity that reviews the applications and decides who will receive the scholarships.
- There should be assurance that the student actually attended the school for which they received the scholarship by a statement of attendance provided by the school.
- A receipt should be provided by the student, for which the scholarship was intended, that they received the funds.
- Approval should be obtained by the agent prior to the undertaking of such programs as the translation of books and purchase of equipment.
- Receipts should be provided for all expenses and confirmation of receipt of funds for intended purposes.

Other expenses noted on the lists provided should be supported by invoices and/or cancelled cheques.

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

Pursuant to paragraph 168(1)(b) of the *Act*, the Minister may give notice to a registered charity that he proposes to revoke its registration where a registered charity ceases to comply with the requirements of the *Act* for its registration as such.

Conclusion

Based on the information that we have been provided with to date, it is still our position that there are grounds for revocation of the Organization's status as a registered charity.

The consequences to a registered charity of losing its registration were noted in our previous letter.

However, we are prepared to wait another 30 days from the date of this letter, in order for you to address each of the concerns we have noted above. Subsequent to this date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a Notice of Intention to Revoke Registration of Halacha L'Moshe Talmudic Institute in the manner described in section 168 of the *Act*.

If you require further information, clarification, or assistance, please contact the undersigned at Canada Revenue Agency at the address or telephone number noted below.

Yours truly,



Henry Brunsfeld
Verification and Enforcement Division

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

cc: Zeifman & Company
Chartered Accountants
201 Bridgeland Avenue
Toronto, ON M6A 1Y7

Attention: Gary A. Kipper, C.A.



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

REGISTERED MAIL

June 8, 2005

Halacha L'Moshe Talmudic Institute
Director
129 Bannockburn Ave.
Toronto, ON M5M 2N2

Your file / Votre référence

Our file / Notre référence
BN 892313842 RR0001
REG 0633941

Attention: Akiva Stefansky

Dear Mr. Stefansky:

Re: Charity Audit

This letter is further to our audit of the books and records of account of Halacha L'Moshe Talmudic Institute (the "Organization"). The audit related to the operations of the Organization for its fiscal periods ended February 28, 2003 and February 28, 2004.

The results of this audit and review indicate that the Organization is in contravention of certain provisions of the *Income Tax Act* (the "Act"). In order for a registered charity to retain its registration, it is required to comply with the provisions of the *Act* applicable to registered charities. If these provisions are not complied with, the Minister may revoke the Organization's registration in the manner described in section 168 of the *Act*. The balance of this letter describes the Canada Revenue Agency's (CRA's) concerns.

Charitable Activities Outside Canada

In order to meet the definition of a charitable organization under subsection 149.1(1) of the *Act*, a registered charity must devote all of its resources to charitable activities it carries on itself. In order to view an organization as carrying on its own charitable activities, the charitable activities must be conducted by an employee or agent of the organization, or through the organization's participation 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 the CRA's satisfaction that it at all times, maintains control and full accountability over the use of its monies transferred to the agent.

Canada

If a charity chooses to administer its work in this fashion, the following conditions must be met.

- The charity should establish some sort of current, formal, written declaration that would state in each case that the organization/individual to be funded in this manner would be carrying out certain stated activities that the charity wishes to see accomplished on its behalf during the term of the agreement.
- Each organization or individual so funded should provide some system of continuous and comprehensive documented reporting, including expense vouchers, to the charity (on at least a quarterly or semi-annual basis) concerning its ongoing activities that are carried out on behalf of the charity. Such written reports should be supplemented at least yearly by a financial report reflecting the use of funds transferred to the agent.
- The charity's funds should remain apart from those of its representative so that the charity's role in any particular project or endeavor is separately identifiable as its own charitable activity.
- Financial statements submitted in support of its annual information returns should provide a detailed breakdown of expenditures made in respect of its own charitable activities including those performed by its agents, and the names of all qualified donees to which funds have been gifted in the year covered by the return.

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

Based on our review, it is our opinion that the above conditions were not met with respect to the following payments to [REDACTED]:

2003	\$35,000
2004	78,400

There was also an additional payment of \$49,900 U.S. in the 2004 fiscal period that was not recorded.

There was no evidence provided to show that the Canadian organization was carrying on its own charitable activities in Jerusalem. For example:

- It appears that there was no agency agreement between the Canadian Organization and the Jerusalem organization.

- There were no supporting invoices, financial statements or books and records kept by the Canadian organization to show how the Jerusalem organization spent the Canadian funds it received.
- There was no indication that the Canadian funds sent to Jerusalem were kept separately from the Jerusalem organization's funds.
- No minutes of meetings were provided (of either the Canadian or Jerusalem organization) that would indicate how the Canadian funds were being used.

Based on the information provided, it is therefore our view that the payments to [REDACTED] [REDACTED] were payments to a non-qualified donee. As such, they are not considered to be a devotion of resources to charitable activities carried on by the Organization.

The attached publication RC4106 entitled "Registered Charities: Operating Outside Canada" sets out guidelines that must be met in order for a charity to carry on charitable activities outside Canada.

Pursuant to paragraph 168(1)(b) of the *Act*, the Minister may give notice to a registered charity that he proposes to revoke its registration where a registered charity ceases to comply with the requirements of the *Act* for its registration as such.

Books and Records

Subsection 230(2) of the *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 CRA with the information required by the *Act* as well as enable CRA 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, section 230(4) also states that, "every person required by this section to keep books of account shall retain

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

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.

It was found during the audit that the Organization's books and records were inadequate as follows:

- The transactions in TD Canada Trust bank account # [REDACTED] were not recorded. This included a donation deposit of \$50,000 U.S. and a payment to [REDACTED] of \$49,900 U.S.

Under paragraph 168(1)(e) of the *Act*, the Minister may, by registered mail, give notice to a registered charity that he proposes to revoke its registration if it fails to comply with or contravenes section 230 of the *Act* dealing with Books and Records.

Official Donation Receipts

The audit indicates that the donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the *Act* and Interpretation Bulletin IT-110R3 as follows:

- The Organization did not keep copies of all of its official donation receipts, e.g. June 25/03 receipt # 4072 apparently issued to the Friedman Family Foundation for \$10,000.
- The receipts did not contain the address of the Organization, and often did not contain the full name of the donor, contrary to the requirements of paragraph 16 of IT-110R3 Regulation 3501 of the *Act*.
- The original copy of some of the void receipts was not kept, e.g. # 4069 and # 5011. See paragraph 20 of IT-110R3 for the requirements with respect to lost or spoiled receipts.

Paragraph 168 (1)(d) of the *Act* provides that where a registered charity issues an official receipt for a gift or donation otherwise than in accordance with the *Act* and Regulations, the Minister may give notice to the registered charity that he proposes to revoke its registration.

Information Return

Subsection 149.1(14) of the *Act* requires every registered charity to file a Registered Charity Information Return, (form T3010), without notice or demand, within six months from the end of each fiscal period. This return must be in prescribed form and contain prescribed information. A charity is not properly meeting its information return filing requirements when it fails to exercise due care with respect to insuring the accuracy thereof.

The audit results indicated that the Organization did not properly complete the Information Return in the following way:

- As we noted above, the transactions for the U.S. bank account were not recorded in the Organization's books and records, resulting in the understatement of "Total tax-receipted gifts" (line 4500 of the 2004 Registered Charity Information Return) as well as an understatement of the expenditures.

Paragraph 168 (1)(c) of the *Act* provides that where a registered charity fails to file an information return as and when required under the Act or a regulation, the Minister may give notice to the registered charity that he proposes to revoke its registration.

Conclusion

For each of the reasons indicated above, it appears to us that there are grounds for revocation of the Organization's status as a registered charity.

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

1. The loss of its tax exempt status as a registered charity, which means that the charity would become a taxable entity under Part I of the *Income Tax Act* unless, in the opinion of the Director of the applicable Tax Services Office, it qualifies as a non-profit organization as described in paragraph 149(1)(l) 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 at 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 a tax payable under Part V, subsection 188(1) of the *Act*.

For your reference, we have attached a copy of the relevant provisions of the *Income Tax Act* (Appendix "A") concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister should not revoke the registration of Halacha L'Moshe Talmudic Institute in accordance with subsection 168(2) of the *Act*, you are invited to submit your representations within 30 days from the date of this letter. Subsequent to this date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a Notice of intention to revoke registration of the charity in the manner described in section 168 of the *Act*.

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

If you require further information, clarification, or assistance, please contact the undersigned at Canada Revenue Agency at the address or telephone number noted below.

Yours truly,



Henry Brunsfeld
Verification and Enforcement Division

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

cc: Zeifman & Company
Chartered Accountants
201 Bridgeland Avenue
Toronto, ON M6A 1Y7

Attention: Gary A. Kipper, C.A.

Enclosures.