



Agence du revenu  
du Canada

Canada Revenue  
Agency

**REGISTERED MAIL**

Hope Church of God Deliverance Ministries  
65 Trueman Avenue  
Etobicoke ON M8Z 5A3

Attention: Clover Tuah

BN: 84869 5367

File #: 3033527

January 23, 2012

**Subject:      Revocation of Registration**  
**Hope Church of God Deliverance Ministries**

Dear Mrs. Tuah:

The purpose of this letter is to inform you that a notice revoking the registration of Hope Church of God Deliverance Ministries (the Organization) was published in the *Canada Gazette* on January 21, 2012. 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* (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 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](http://www.cra-arc.gc.ca/E/pub/tg/rc4424).

**Canada**

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



Canada Revenue  
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du Canada

NOV 29 2011

**REGISTERED MAIL**

Hope Church of God Deliverance Ministries  
65 Trueman Avenue  
Etobicoke ON M8Z 5A3

BN: 848695367 RR0001

Attention: Clover Tuah

File #: 3033527

**Subject: Notice of Intention to Revoke  
Hope Church of God Deliverance Ministries**

Dear Mrs. Tuah:

I am writing further to our letter dated June 17, 2011 (copy enclosed), in which you were invited to submit representations as to why the registration of Hope Church of God Deliverance Ministries (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

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

**Conclusion:**

Our audit concluded that the Organization failed to devote its resources exclusively to its own charitable activities by participating in a promoted donation arrangement in 2009. As a result, the Organization issued over \$2 million in tax-receipted donations related to this promoted donation arrangement. It is our position the property for which these tax receipts were issued did not legally qualify as gifts; that the Organization failed to demonstrate that it had actually received the tax-receipted property; and that the Organization failed to report the fair market value of the property purportedly gifted.

Our audit also revealed that the Organization failed to maintain adequate books and records as required by section 230 of the Act; that it failed to issue tax receipts in accordance with Regulation 3501 of the Act; and that it failed to file a T3010, *Registered Charity Information Return* containing the prescribed information.

Consequently, for each of the reasons mentioned in our letter dated June 17, 2011, 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*:

**Canada**

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

*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**  
848695367RR0001

**Name**  
Hope Church of God Deliverance Ministries  
Etobicoke, 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 45 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:

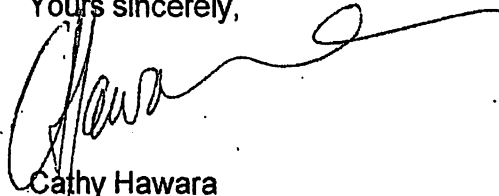
- a) the Organization will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate 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](http://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 June 17, 2011
- Appendix "A", Relevant provisions of the Act

c.c.: Marcelle Malcolm

[Redacted]  
[Redacted]

**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.

**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.



CANADA REVENUE  
AGENCY

AGENCE DU REVENU  
DU CANADA

June 17, 2011

**BY COURIER**

Hope Church of God Deliverance Ministries  
65 Trueman Avenue  
Etobicoke, ON M8Z 5A3

BN: 848695367 RR0001  
File #: 3033527

Attention: Mrs. Clover Tuah

**Subject: Audit of Hope Church of God Deliverance Ministries**

Dear Mrs. Tuah:

This letter is further to the audit of the books and records of Hope Church of God Deliverance Ministries (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, 2007 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.	Books and Records	230(2), 168(1)(e)
2.	Official Donation Receipts	118.1, 230(2), Reg. 3501, 168(1)(d)
3.	Devotion of Resources to Charitable Activities	149.1(1), "charitable organization", 168(1)(b)
4.	T3010 Information Return	149.1(14), 168(1)(c)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act.

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

## **Identified Areas of Non-Compliance:**

### **1. Books & Records**

#### **Legislation:**

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

Subsection 230(2) of the Act requires that every registered charity maintain adequate books and records, 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 prescribed; and
- (b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the end of the last taxation year to which the records and books of account relate."

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

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked (*Canadian Committee for the Tel Aviv Foundation v. Canada*);
- a registered charity must maintain, and make available to the CRA *at the time of an audit*, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto (*Canadian Committee for the Tel Aviv Foundation v. Canada*; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397); and
- the failure to maintain proper books, records and records of account in accordance with the requirements of the Act is in and of itself sufficient reason to revoke an organization's charitable status (*College Rabbiniqque de Montreal Oir*



*Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency, (2004) FCA 101; section 168(1) of the Act).*

Audit Findings:

The Organization's books and records were found to be inadequate in the following areas:

- No accounting records were provided to the CRA auditor to support the revenue and expenses as reported on the 2007 and 2008 T3010 Information Returns and Income Statements.
- The CRA auditor attempted to reconstruct the revenue and expenses for 2008 from the records provided, including bank records, offering records, expense invoices. However, due to the lack of accounting records and other missing documentation, he was unable to reconcile the amounts determined from these records to the T3010 and Income Statement. For example, the October 2008 envelope that should have contained offering records, bank records, expense invoices, etc., was missing.
- The CRA is aware of the following 2008 donation receipts issued by the Organization that were not provided to the CRA auditor:

Dec. 31 - # 121	[REDACTED]	\$42,000
Dec. 31 - # 122	[REDACTED]	35,000
Dec. 31 - # 123	[REDACTED]	41,000
Dec. 31 - # 124	[REDACTED]	18,500
Dec. 31 - # 125	[REDACTED]	19,000
Dec. 31 - # 126	[REDACTED]	31,500
		<u>\$187,000</u>

These amounts were also not reported on the T3010 Registered Charity Information Return as revenue nor as tax-receipted gifts on line 4500. The Organization was only able to provide a list showing the latter four receipts after the CRA auditor presented copies of the first two receipts to the president of the Organization.

- For 2009, apart from the donation receipts issued for church offerings (\$28,986), the Organization provided a list of donation receipts related to the "Sounds Good" music project that totalled \$2,179,350. The CRA auditor compared the actual receipts issued to the list, and determined that the total should have been \$2,207,350. However, the total amount of deposits into the Organization's bank account in December 2009 and January 2010 (apart from deposits that appeared to be related to church offerings) was only \$187,125, which is \$2,020,225 less the total tax-receipted amount. As all of the donation receipts contained the description "Cash donation", it would appear that the donation receipts were significantly inflated, or that significant amounts had been appropriated from the Organization.

- According to a list of donation receipts obtained from Triple Tower Inc's records, the Organization issued donation receipts amounting to \$243,330 for cash amounts related to the "Sounds Good" music project, but, as noted above, total deposits into the Organization's bank account amounted to only \$187,125.
- The CRA auditor was able to reconstruct (more or less) the expenditures claimed for 2009, based on documents that were provided to him. However, it wasn't clear whether a number of the expenses were even incurred by the Organization, e.g.:

Dec. 10/09 Hedge Stone	\$65,000
(This amount was paid by [REDACTED] and was noted as "Triple Tower Loan Re Pay")	
Dec. 21/09 Hedge Stone	10,000
(This was paid by Triple Tower Inc.)	
Oct/09 [REDACTED] - invoice # 02	48,200
(It isn't known who paid this, but it is billed to Triple Tower Inc.)	
Oct. 20/09 [REDACTED] - invoice # 03	44,400
(This was billed to and paid by Triple Tower Inc.)	
Nov/09 [REDACTED] - invoice # 04	31,800
(This was billed to and paid by Triple Tower Inc.)	
Dec/09 [REDACTED] - invoice # 05	72,000
(It isn't known who paid this, but it is billed to Triple Tower Inc.)	
Dec. 16/09 [REDACTED]	76,500
(As [REDACTED] is not a ministry of Hope Church of God, it isn't clear why this was the Organization's expense)	
Jan/10 [REDACTED] - invoice # 06	93,000
(This was billed to and paid by Triple Tower Inc.)	
Jan. 12/10 [REDACTED] - invoice # 091	15,600
(This was billed to and paid by Triple Tower Inc.)	
Jan. 12/10 [REDACTED] - invoice # 092	22,200
(This was billed to and paid by Triple Tower Inc.)	
Dec. 9/10 [REDACTED]	25,000
(It isn't known who paid this, but it is billed to Triple Tower Inc.)	
Jan. 20/10 [REDACTED]	34,160
(This was billed to and paid by Triple Tower Inc.)	
No date [REDACTED] - re "Sound Good Production"	49,000
(This appears to be Triple Tower Inc's expense)	

- It appears that in order to make the financial statements balance, the accountant made an entry to record an investment in shares of [REDACTED] of \$1,385,000. However, the stock certificates provided in support of the investment were issued to Triple Tower Inc. or [REDACTED] and were not issued until March 12, 2010. There is also no documentation to show what the shares were worth, if anything.

- Subsequent to the CRA auditor's initial contact with the Organization, the CRA sent a number of letters to individuals who had received donation receipts from the Organization, requesting documentation to support their donation receipts. This resulted in a significant number of documents being sent to the CRA that purported to support the amounts for which the receipts were issued (partnership agreements, pledge undertakings, etc.). None of this documentation, which is considered to be part of the Organization's books and records, was provided to the CRA auditor by the Organization during the audit.

Based on the foregoing, it is our position that the Organization failed to comply with the relevant requirements of sections 230 to 231.5 of the Act. Therefore, there may be grounds to revoke the revocation of the Organization's charitable status under 168(1)(e) of the Act.

## **2. Official Donation Receipts**

### Legislation:

Pursuant to subsection 118.1(2) of the Act, a registered charity can issue tax receipts for income tax purposes for donations that legally qualify as gifts. The Act requires the registered charity to ensure the information on its official donation receipts is accurate. The requirements for the content of the receipts are listed in Regulation 3501 of the Act. These requirements are further explained in Interpretation Bulletin IT-110R3 *Gifts and Official Donation Receipts*. A registered charity could have its registered status revoked under paragraph 168(1)(d) of the Act for issuing tax receipts that contain false information.

Pursuant to paragraph 230(2)(b) of the Act, a registered charity is required to keep, as part of its books and records, a duplicate of each donation receipt containing prescribed information for a donation received by it.

### Audit Findings:

Our audit revealed that the Organization participated in an arrangement with the Joint Venture known as Triple Tower Inc., "Sounds Good Musical Series" ("Arrangement"). As previously mentioned, the Organization had issued tax receipts totaling in excess of \$2 million in relation to the Arrangement. Based on the limited information provided for our audit, we are able to confirm the following facts about the Arrangement:

- Participants in the Arrangement paid a cash amount to one of three registered charities (or to another entity involved in the arrangement), for which they received a donation receipt.
- Participants made a pledge undertaking to pay to one of the three registered charities an amount that was usually equal to four or five times the amount of the cash payment plus the cash amount. Sometimes the pledge undertaking was made to only one charity, while at other times there were two pledge undertakings – one for the cash amount and the other for the amount that was four or five times the cash amount.

- Participants received or purchased a partnership interest in the joint venture known as Triple Tower Inc., "Sounds Good Musical Series".
- The participants transferred their partnership interest to one of the three registered charities, for which they received a donation receipt that was usually equal to four or five times the amount of cash that they paid. It is assumed that the assignment of their partnership interest was considered to fulfill the amount of their pledge undertaking.

All of the above transactions occurred on the same day or within the same short span of time. Although the Arrangement was not registered with CRA, it is our position that, based on the facts as listed above, the Arrangement fits the definition of a tax shelter under subsection 237.1(1) of the Act.

#### Lack of Donative Intent

It is our position that the Organization has contravened the *Income Tax Act* by accepting and issuing receipts for transactions that do not qualify as gifts. As mentioned, a registered charity may only issue receipts for income tax purposes for donations that legally qualify as gifts.

An essential element of a gift is that there be an intent to give. It must be clear that the donor intends to enrich the donee, by giving away property, and to grow poorer as a result of making the gift.

In the court decision of *Her Majesty The Queen (Plaintiff) v. Dr. F. Bruce Burns (Defendant)* 88 DTC 6101 Justice J. Pinard of the Federal Court, Trial Division, discussed the concept of animus donandi:

*"I would like to emphasize that one essential element of a gift is an intentional element that the Roman law identified as animus donandi or liberal intent ... The donor must be aware that he will not receive any compensation other than pure moral benefit; he must be willing to grow poorer for the benefit of the donee without receiving any such compensation."*

Justice J. Bowie further clarifies in *Dwight Webb (Appellant) v. Her Majesty the Queen (Respondent)* 2006 DTC 148,

*"These cases make it clear that in order for an amount to be a gift to charity, the amount must be paid without benefit or consideration flowing back to the donor, either directly or indirectly, or anticipation of that. The intent of the donor must, in other words, be entirely donative."* [Emphasis added]

It is our view, based on the transactions summarized above for the Arrangement, that the primary motivation of the participants was not to make a gift to charity; rather it was an attempt to enrich themselves through the tax credits obtained as a result of their participation. We observed that a participant, by making a cash payment, would receive one donation receipt for the value of the cash payment and a second donation

receipt for four to five times the value of the cash payment. As will be explained later, there was no documentation to support the valuation of the property for which the second donation receipt was issued or that any property had even been donated. Therefore, it is our position that the series of transactions was pre-arranged with the result that, for a cash payment, a participant would claim a donation credit that was greater than his initial cash outlay.

We have contacted a large number of participants in the Arrangement who received donation receipts for amounts that they did not pay in cash, in order to determine how the Arrangement was structured, what they were told about the Arrangement by promoters, how they obtained the property other than cash that they gave to the charity, etc. They all either refused to provide the requested information or were unaware of how the Arrangement worked. The president of the Organization, Clover Tuah, who is also the current owner of Triple Tower Inc. and signed a number of documents on behalf of Triple Tower Inc., was also unable or unwilling to explain how the arrangement worked.

Based on the information available, it is our position that the individuals involved in the Arrangement did not make the payments to the Organization with the intention of making a gift within the meaning assigned by section 118.1 of the Income Tax Act, but rather to profit from the payment by becoming entitled to tax credits that were in excess of the amounts that they paid. As such, these transactions did not qualify for tax receipting purposes under section 118.1 of the Act. There appears to be grounds for the revocation of the Organization's charitable status, as it had failed to issue donation receipts in accordance with the Act.

#### Fair Market Value

Under Regulation 3501(1)(h)(ii) of the Act, a registered charity must report the fair market value of the property received on the tax receipts issued for gifts of property other than cash. Our audit indicated that the Organization failed to satisfy this requirement as follows:

- As noted above under **Books and Records**, the Organization issued donation receipts amounting to \$187,000 for 2008 that were not provided to the CRA auditor. It was determined that the receipts represented gifts of shares purportedly donated to the Organization, but there was no documentation to support that the shares had any value.
- All of the donation receipts issued for the 2009 fiscal period show that they were issued for cash donations. However, our audit had shown that the majority of the donation receipts cannot be matched to any cash donation per the books and records provided by the Organization. Based on the available information, it is our position that these donation receipts were actually issued for the donors' partnership share of profits pertaining to the Arrangement. The amount determined for this non-cash "donation" was usually an amount equal to four or five times the amount of cash given to one of the several participant

organizations in the arrangement. There was no documentation to support that the share of the partnership transferred had any value.

- With respect to the purported profits that were purportedly donated to the Organization, we are aware of some instances where shares of a corporation, e.g. [REDACTED] were purported to have been transferred by Triple Tower Inc. to the Organization on December 31, 2009, as proof that the donor's share of the "profits" had been paid to the Organization. However, we were not provided with any documentation to show that the shares had been transferred to the Organization, nor is there any documentation to support the value of those shares, if any. Also, as there were no "profits" from the partnership at December 31, 2009, we consider this to be a sham transaction. The information available supports neither the value of the property purportedly donated nor the occurrence of any donation or property to the Organization.

It is our position that the Organization failed to report the fair market value of the gift of property on the donation receipts issued as required by Regulation 3501(1)(h)(ii). As such, there appears to be sufficient grounds to revoke the charitable status of the Organization under 168(1)(d) of the Act.

#### No Transfer of Property

A gift at law means a voluntary transfer of property without consideration to the transferor. Our audit indicated that the Organization had issued donation receipts where the documentation did not support any transfer of property:

- As described in the previous section, "Fair Market Value", the Organization had issued donation receipts for shares and partnership profits purportedly transferred to it. However, there was no documentation that any such property had been transferred.
- Some of the participants in the Arrangement did not make their cash payments to the Organization but to Triple Tower Inc. or to another entity that was involved in the Arrangement. In all or most of those instances, the funds paid to the other entity could not be traced through to deposits in the Organization's bank account. There was no documentation that the Organization actually received the said cash payments.
- In reply to our request for information pertaining to the Arrangement, a few of the participants did not provide any documentation related to a gift of partnership profits to the Organization. Instead, they attempted to show that they had made cash payments in 2010 to honour the pledge undertaking for which the 2009 donation receipts were issued. However, a pledge to make a later payment is not legally enforceable and does not constitute a property. Thus even if it could be shown that the 2010 payments were made to the Organization and were related to the 2009 pledge, donation receipts should not have been issued for such pledges. Furthermore, despite the assertion of the participants, we did not

receive any documentation (such as cancelled cheques) that supports that they had made payments to honour the pledge in 2010. We note that, by contrast, the payments made by the same participants in 2009 were supported by cancelled cheques.

- A 2008 receipt (# 15-2009) to Mrs. Tuah initially issued for \$1,000 was subsequently changed to \$3,333 to account for an airfare of \$2,333 paid by Mrs. Tuah for a return trip to Barbados by herself and two others. However, there was no evidence that this expense was incurred for the Organization's charitable activities, nor does it appear that the expense was claimed on the 2008 T3010 return and Income Statement. As such, the information available does not support that the amount of \$2,333 represented a property transferred to the Organization as a gift.

#### Other requirements of Regulation 3501

In addition to the foregoing, our audit also revealed the following instances where the Organization failed to issue tax receipts in accordance with Regulation 3501 of the Act:

- As the majority of the amounts for which official receipts were issued represent amounts that were not paid in cash, this should have been indicated on the receipts. Reg. 3501(1)(e.1) states that where the donation is a gift of property other than cash, the receipt must show the day on which the property was received, a brief description of the property and the name and address of the property if an appraisal is done.
- The duplicate copies of receipts that were signed by "Godevar", which appear to be for weekly "tithes" received, did not contain the address of the donor, nor of the Organization, nor did they contain a statement that it is an official receipt for income tax purposes.

### **3. Devotion of Resources to Charitable Activities:**

#### Legislation:

The Organization is registered as a "charitable organization". Under subsection 149.1(1) of the Act, a "*charitable organization*" is required to devote all of its resources to charitable activities carried on by itself. A charitable organization may satisfy this requirement, by virtue of paragraph 149.1(6)(b) of the Act, by disbursing no more than 50% of its income to qualified donees.

A qualified donee is defined in paragraph 110.1(1)(a) and the definitions "total charitable gifts" and "total crown gifts" in subsection 118.1(1). Qualified donees are as follows:

- A registered charity;
- An RNASO (Registered Arts Service Organization) [(since under 149.1(6.4) it should be treated as a registered charity and classified as a charitable organization]
- An RCAA (Registered Amateur Athletic Association);

- Certain housing corporations;
- A municipality in Canada;
- The United Nations or one of its agencies;
- A university outside Canada found in Schedule VII of the ITA;
- A charitable organization outside Canada to which Her Majesty in the right of Canada or a province has donated (found in IC 84-3R5, "Gifts to Certain Charitable Organizations Outside Canada");
- Her Majesty in the right of Canada.

A charitable organization may choose to undertake charitable activities through an appointed agent or representative ("intermediary"). In such cases, the charitable organization must be able to substantiate that it has arranged for the conduct of certain specific activities on its behalf. To this end, the charitable organization must be able to demonstrate to the CRA's satisfaction that it maintains control over, and is fully accountable for, the use of funds provided to the intermediary, at all times.

**Audit Findings:**

Our audit indicated that the Organization had expended significant resources that did not appear to be related to its charitable activities.

[REDACTED]

In 2009, the Organization reported an expense of \$76,500 with respect to an invoice from [REDACTED] for "TV Commercial Production for [REDACTED]". In 2008, the Organization reported expenses of \$14,157 under "Women Ministry". Our review of the Organization's records suggested that the aforementioned expenses were incurred for or on behalf of another organization known as [REDACTED]

Although Mrs. Tuah is involved in the [REDACTED], the records we have reviewed to date indicated that [REDACTED] does not form part of the Organization, as the Organization and [REDACTED] were separately incorporated. Further, we note that [REDACTED] is not a qualified donee. Finally, there was no documentation that [REDACTED] was undertaking any activities on the Organization's behalf, nor that the Organization retains any direction and control over the resources transferred to [REDACTED]

It is therefore our position that the Organization failed to devote its resources exclusively on charitable activities carried on by itself by incurring expenses for or on behalf of [REDACTED]

**Other Issues**

As noted above under **Books and Records**, the Organization also paid a number of other expenses that do not appear to be the Organization's own expenses, but rather those of Triple Tower Inc.



It is also CRA's position that the Organization's participation in the tax shelter or gifting arrangement referred to above is not a charitable activity.

#### **4. T3010 Information Return**

##### Legislation:

Pursuant to subsection 149.1(14), every registered charity shall, within 6 months from the end of each taxation year of the charity, file with the Minister both an information return and a public information return for the year, each in prescribed form and containing prescribed information, without notice or demand therefor.

##### Audit Findings:

The Organization improperly completed its Information Returns as follows:

- The amount reported as tax-receipted gifts (line 4500) on the 2008 T3010 return was \$27,374, but the actual amount has been determined to be \$212,722, a difference of \$185,348. See Appendix A attached.
- The Organization reported that it did not receive any non-cash gifts in either 2008 or 2009. However, the CRA has determined that receipts issued for non-cash gifts amounted to \$189,333 in 2008 and \$1,964,020 in 2009. See Appendix A attached.
- The Directors/Trustees Worksheet (Form T1235) for 2007 was left blank. On the T1235 forms for 2008 and 2009, the required information (address, date of birth, telephone number) was provided for only one of the four directors/trustees listed.
- As the Organization has a taxation year ending December 31, it is required to file its T3010 Information Return by June 30 of the following year. The audit revealed that the Organization has not met this requirement for its 2006, 2008 and 2009 taxation years.

##### The Organization's Options:

###### **a) No Response**

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

###### **b) Response**

Should you choose to respond, please provide your written representations and any additional information regarding the findings outlined above

**within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate will decide on the appropriate course of action, which may include:

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

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

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

Yours truly,

Henry Brunsveld  
Audit Division  
Kitchener/Waterloo Tax Services Office

Telephone: [REDACTED]  
Facsimile: [REDACTED]  
Address: 166 Frederick Street  
Kitchener, ON N2G 4N1

cc: Marcelle Malcolm  
[REDACTED]  
[REDACTED]

Enclosures – Interpretation Bulletin IT-110R3  
Appendix A

## APPENDIX "A"

### Tax-receipted gifts (line 4500) – 2008

Total receipts issued re church offerings – #1 to # 65	\$25,722
Other receipts issued in exchange for shares:	
# 121	42,000
# 122	35,000
# 123	41,000
# 124	18,500
# 125	19,000
# 126	31,500
Total receipts issued for 2008	212,722
Tax-receipted gifts per line 4500 of T3010 return	27,374
Discrepancy	<u>\$185,348</u>

### Tax-receipted Non-Cash Gifts – 2008

Receipts issued in exchange for shares - # 121 to # 126	\$187,000
Cost of [REDACTED] invoice included on Clover Tuah's receipt # 15	2,333
Total receipts issued for non-cash gifts	189,333
Tax-receipted non-cash gifts reported on line 5600 of T3010 return	0
Discrepancy	<u>\$189,333</u>

### Tax-receipted Non-Cash Gifts – 2009

Receipts issued for "TTI Pledge Amount" per list obtained from Triple Tower Inc. records (represents gifts of partnership interests)	\$1,936,020
Discrepancies found by comparing actual receipts to the list:	
# 2009131	\$2,500
# 2009142	1,000
# 2009177	(4,000)
# 2009254	1,000
# 2009256	7,500
# 2009275	20,000
Total receipts issued for non-cash gifts	1,964,020
Tax-receipted non-cash gifts reported per line 4000 of T3010 return	0
Discrepancy	<u>\$1,964,020</u>