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Customs, Excise and Taxation

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Head Office

Bureau principal

Your file Votre référence

Our file Notre référence

BY REGISTERED MAIL

Human Life International
in Canada Inc.
P.O. Box 7400, Station V
Vanier, Ontario
K1L 8E4

69103

Tel. [REDACTED]

Attention: Fr. Matthew Habiger, O.S.B.
President

Dear Fr. Habiger:

Re: Human Life International in Canada Inc.

I refer to the Department's letter of April 18, 1994 in which you were invited to submit additional representations to us within thirty days as to why the Minister of National Revenue should not revoke the registration of Human Life International in Canada Inc. (HLIC) in accordance with subsection 168(2) of the Income Tax Act (the "Act"). We have not received any representations on your behalf.

I enclose copies of the Department's letters dated July 16, 1993 and April 18, 1994 which outline the reasons why we have determined that HLIC does not satisfy the definition of a charitable organization in accordance with subsections 149.1(1) and 149.1(6.2) of the Act.

Charitable Activities

To be a registered charity under law, an organization must be constituted for and devote its resources exclusively to charitable activities, or other ancillary activities. In this connection, it has been established that in order to be charitable, an organization's purposes and activities must fall within one or more of the following categories:

1. The relief of poverty;
2. The advancement of religion;

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3. The advancement of education; and
4. Other purposes beneficial to the community as a whole in a way which the law regards as charitable.

HLIC indicated on registration that it would be advancing education and good health. Our review has concluded that HLIC's activities do not fall under any of the above four categories.

We have therefore determined that the charity has failed to devote all of its resources to charitable activities carried on by itself, and as a result, does not meet the definition of a charitable organization pursuant to subsection 149.1(1) of the Act.

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

Political Activities

The courts have established that activities which are designed essentially to sway public opinion on a controversial social issue are not charitable, but are political in the sense understood by law. An organization may devote a limited amount of its resources including volunteer help, to political activity of a non-partisan nature provided that such activity is both incidental and ancillary to an organization's objects. Our review has concluded that HLIC is devoting substantial resources on political activities which are not incidental and ancillary to charitable objects.

We have determined that HLIC has not devoted substantially all of its resources to charitable activities, and therefore has failed to meet the requirements of subsections 149.1(6.2) and 149.1(1) of the Act.

Once again, failure to comply with the provisions of the Act relative to a charity's registration may cause the Minister to propose revocation pursuant to paragraph 168(1)(b) of the Act.

I wish to advise you that for the reasons outlined above and pursuant to the authority granted to the Minister in subsection 168(1) of the Act and delegated to me in subsection 900(8) of the Regulations to the Act,

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I propose to revoke the registration of Human Life International in Canada Inc. (HLIC). By virtue of subsection 168(2) of the Act, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

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

0691030-09 Human Life International in Canada Inc. (HLIC)
Vanier, Ontario

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

For your reference, I have attached a copy of subsections 172(3) and 180(1) of the Act; and advise that the address of the Federal Court of Appeal is:

Supreme Court Building
Wellington Street
Ottawa, Ontario
K1A 0H9

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

Additionally, the charity may be subject to tax exigible pursuant to Part V, section 188 of the Act. I refer you to Information Circular No. 80-10R, "Registered Charities: Operating a Registered Charity", copy attached, and draw your attention to Appendices C and D thereof which describe the provisions of the Act concerning the revocation of the registration of registered charities, the tax applicable to revoked charities and the appeal provisions from the Minister's notice to revoke a charity's registration.

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

Yours truly,

R.A. Davis, CGA
Director
Charities Division

Enclosures

RA
2-1-74

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Our file Notre référence
69103
Tel. [REDACTED]

Attention: Fr. Matthew Habiger, O.S.B.
 President

April 18, 1994

Dear Fr. Habiger:

Re: Human Life International in Canada Inc.

We are writing in response to your letter dated January 10, 1993 [sic] concerning our audit of Human Life International in Canada Inc. ("HLIC"). After considering the points raised in your letter, we are unable to agree with your position that the majority of the activities of HLIC would qualify as charitable activities.

To retain its registered status, an organization must devote its resources to exclusively charitable activities, or other ancillary activities. The determination of what types of activities would qualify as charitable activities is decided by the courts.

You are concerned that the Department has not handled your case fairly. The purpose of our letter dated July 16, 1993 was to inform you of the conclusion of the audits and provide you with an opportunity to respond. To this end, extensions of time were given at your request to allow you to review the evidence and make submissions respecting your activities prior to any final decision being made concerning your registered status. We are of the opinion that your organization has been treated fairly.

With respect to political activities, the courts have established that activities which are designed essentially to change public attitudes and beliefs on a controversial social issue are not charitable, but are political in the sense understood at law.

On October 6, 1993, [REDACTED] and [REDACTED] attended at our office and were provided with photocopies of the audit report and

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working papers outlining details of HLIC's political activities. These activities include articles in your newsletters, literature, conference activities, and various publications, brochures and advertisements, which we perceive are intended to change public attitudes and beliefs.

Further, the courts have held that advancing education in the charitable sense means a formal training of the mind or the improvement of a useful branch of human knowledge, as opposed to providing selected items of information and opinions on a particular topic. Where information is provided to persuade the general public to adopt a certain attitude of mind, rather than to allow individuals to form an independent opinion based on a full and unbiased presentation of facts, the courts do not regard such a process as educational in the charitable sense. In other words, it must be apparent that the intent behind the ostensibly educational process is not simply to sway public opinion.

You refer in your "letter to the Federal Court of Appeal decision in Everywoman's Health Centre Society. In our opinion, the activities of HLIC are not analogous to those of the Society. The Court of Appeal decision states that the true purpose of Everywoman's Health Centre Society was "to benefit women receiving a legally recognized health care service in a legally constituted clinic."

Your letter addresses the point that HLIC is also advancing religion. We note that the directors and many supporters of HLIC also participate as a result of their religious convictions in the Roman Catholic faith. However, the courts have drawn a distinction between organizations which are related to religion and those which actually advance religion in a charitable sense.

Within the 'advancement of religion' category of charitable purposes, the courts have held that an organization's efforts must be directed to the promotion of spiritual teaching, the maintenance of doctrines on which it rests and the spiritual observances that serve to promote and manifest it. We also note that none of HLIC's objects mentions or refers to the advancement of religion.

You indicated in your letter that there had been some overzealousness in HLIC's criticism of various organizations, which you believe had been corrected. We confirm that we have on file HLIC's February 11, 1992 "Apologies" newsletter concerning Proctor & Gamble Inc. which states:

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"The publication & dissemination of these falsehoods we now know to be a criminal offence....Human Life International in Canada apologizes for any harm caused by its earlier publication and hopes that this letter will be spread by and to everyone in the hope that the matter at hand might soon be laid to rest."

We do not, however, have any facts on file which indicate that HLIC has ceased its publicity campaigns that persuade the public to reject the values and/or products of the following organizations:

UNICEF
Planned Parenthood
The United Way
Petro Canada
Encouraging the picketing of abortion clinics for the purpose of putting them out of business

We do not consider these activities to be a devotion of resources to charitable activities.

You say in your letter that environmental groups are registered as charities in spite of their advocacy activities. Many volunteer organizations concerned with the environment are registered charities while others are denied registration. The question is not whether these organizations deal with environmental matters, rather it is whether they meet the requirements of charity law. The legal requirements to be met for registration are the same for all organizations.

When deciding whether or not an advocacy activity is acceptable, the Department considers the means and extent of the advocacy, how directly the activity achieves the charity's overall charitable goals, the extent of bias involved, and the effect of the activities. All complaints received by the Department about particular registered charities are treated seriously and those complaints that have substance are closely examined. Where the charity's activities do not comply with the law, the registration of the charity may be revoked.

We regret that we are unable to provide you with a more favourable response. If you wish to present additional reasons as to why the Minister of National Revenue should not revoke the registration of HLIC in accordance with subsection 168(2) of the Act, you are invited to submit your representations to us within thirty days of the date of this letter. Subsequent to this date, the Director, Charities Division, will decide whether or not to issue a notice of intention to revoke the

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registration of HLIC in the manner described in subsection 168(1) of the Act. Should this be the case, you then have the right to appeal to the Federal Court of Appeal pursuant to sections 172(3) and 180 of the Income Tax Act.

If you have any questions on these matters, please contact either the writer at 613-954-0930 or J. Shelvock at [REDACTED] or write to 400 Cumberland Street, Room 5004C, Ottawa, Ontario, K1A 0L8.

Yours sincerely,



Richard Labelle, C.G.A.
Assistant Director
Audit Section
Charities Division