

**COPY****BY REGISTERED MAIL**AUG
AOUT - 4 2006

North End Children's Centre (Hamilton) Inc.
75 Hillyard Street
Hamilton, Ontario L8L 6B3

Attention: Ms. Gwynneth Hawes Cook,
Executive Director

BN: 11905 9673 RR 0001
File #: 0746222

SUBJECT: Notice of Intention to Revoke
North End Children's Centre (Hamilton) Inc.

Dear Ms. Hawes Cook:

I am writing to you further to our letters dated April 5, and June 15, 2005, (copies attached for your convenience) in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of North End Children's Centre (Hamilton) Inc. (hereinafter, the "Centre") in accordance with subsection 168(1) of the *Income Tax Act* (hereinafter, the "Act").

As we have not received a response to our letter, I wish to advise you that for each of the reasons outlined in our letter of June 15, 2005, and 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 North End Children's Centre (Hamilton) Inc. By virtue of section 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 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
0746222	11905 9673 RR 0001	North End Children's Centre (Hamilton) Inc. Hamilton, Ontario

.../2

Should you wish to appeal this Notice of Intention to Revoke the Centre'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:

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 Centre, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Centre 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, by virtue of section 188 of the Act, the Centre will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Centre's registration. This revocation tax is calculated on prescribed form T-2046 "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. 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. Form T-2046, along with the related Guide RC-4424, "Completing the Tax Return Where Registration of a Charity is Revoked", are also attached for your information.

Furthermore, 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



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

REGISTERED MAIL

June 15, 2005

Paul Kwiatkoski
Chartered Accountant
853 Main Street East
Hamilton, ON L8M 1L8

Your file / Votre référence

Our file / Notre référence
BN 11905 9673 RR0001
REG 0746222

Dear Mr. Kwiatkoski:

Re: North End Children's Centre (Hamilton) Inc. Charity Audit

This is in reply to your letter dated May 16, 2005, which was in response to our letter of April 5, 2005 to North End Children's Centre (Hamilton) Inc. (the "Centre"). In our letter we noted that the Centre was in contravention of certain provisions of the *Income Tax Act* (the "Act"), and that there were grounds for revocation of its status as a registered charity.

We have taken note of your statements about the history of the Centre and the commendable work that it has performed in the community in the past. We also noted your statement that [REDACTED] has contributed considerable effort over the years in running the Centre.

You also commented that the closing of the Centre would be a great loss to the community. However, during the period that the Centre was being audited, it appears that the day care centre was not operating and that the only charitable work that was being done was at the thrift store, which has now closed.

The concerns in our letter related to the operations of the Centre at the present time, rather than in the past. The fact remains that there have been some very serious deficiencies with respect to the issuance of official donation receipts for what appears to be either grossly overstated or fictitious amounts.

We have noted that the amounts for which "donation in kind" receipts were issued (and for which no documentation exists) have increased considerably over the years 2001 to 2003 (from \$218,247 to \$503,686). As [REDACTED] stated during our initial interview that the Thrift Store had been closed for over a year during this period due to a

fire (from December 2002), one would have expected a decrease in the number and amount of receipts issued for gifts in kind during this period.

At the same time, the amounts reported on the T3010 Registered Charity Information Returns as both "Total tax-receipted gifts" and as non-cash gifts for each of those years remained negligible, as we pointed out in our previous letter. We therefore find it difficult to accept that the problems were simply caused by [REDACTED] weakness in the area of administration, or by poor record keeping. As [REDACTED] was responsible for signing and issuing the donation receipts, and as she also signed the charity return each year certifying that the information therein was correct and complete to the best of her knowledge, she should have been aware of the discrepancies.

As the matter of the "donation in kind" receipts remains the main issue, we will not comment on the other items noted in your letter, which are of relatively minor importance.

It is not our practice to revoke the registrations of charities in cases where there have been minor issues of non-compliance and the charity has expressed a willingness to make the corrections necessary to comply. However, this is not usually the case in situations where we consider the contraventions of the *Act* to be of major significance and/or of a recurring or wilful nature. To allow such organizations to continue to operate without consequences could be an encouragement to other charities to be neglectful in complying with the provisions of 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 by a particular registered charity, the Minister of National Revenue may revoke its registration in the manner described in section 168(2) of the *Act*.

For the above reasons and those indicated in our letter of April 5, 2005, it appears to us that there are grounds for revocation of the Centre's status as a registered charity.

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

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister of National Revenue should not revoke the registration of the Charity in accordance with subsection 168(2) of the *Act*, you are again invited to submit your representations, **within 30 days from the date of this letter**. If you wish to obtain an extension, please contact the undersigned. 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 the registration of the Charity in the manner described in subsection 168(1) of the *Act*.

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

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: North End Children's Centre (Hamilton) Inc.
75 Hillyard Street
Hamilton, ON L8L 6B3

Attention: Gwynneth Hawes Cook

REGISTERED MAIL

April 5, 2005

North End Children's Centre (Hamilton) Inc.

Your file / Votre référence

Gwynneth Hawes Cook

Our file / Notre référence

75 Hillyard St.

BN 11905 9673 RR0001

Hamilton, ON L8L 6B3

REG 0746222

Attention: Gwynneth Hawes Cook

Dear Ms. Cook:

Re: **Charity Audit**

This letter is further to our audit of the books and records of account of North End Children's Centre (Hamilton) Inc. (the "Charity"). The audit related to the operations of the Charity for its three fiscal periods ended December 31, 2001 to December 31, 2003.

The results of this audit and review indicate that the Charity 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 Charity'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.

Official Donation Receipts

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

- A large number of donation receipts were issued that contained the notation "Donation in kind" with no further explanation. According to paragraph 16 of Interpretation Bulletin IT-110R3, where the donation is a gift of property other than cash, the receipt must contain the fair market value of the property at the time the gift was made, the date of the gift, a description of the property, and the name and address of the appraiser (if any) of the property. Receipts issued for gifts in kind for which no descriptions were given and for which no supporting documentation was provided totalled the following amounts:

2001	\$223,151
2002	281,086
2003	503,686

- Most of the receipts issued did not contain the full address of the donor, as required by paragraph 16 of IT-110R3.
- Receipts were apparently issued for \$100 per bag of used clothing. However, paragraph 6 of IT-297R2 states that property of little or only nominal value to the donor, such as used clothing, will not qualify as a gift in kind, and therefore receipts should ordinarily not have been issued for used clothing.
- There appeared to be poor control over the storage and issuance of donation receipts. Volunteers were apparently given receipts already signed by the authorized official, and they filled in the amounts. During the audit, a number of blank receipts were encountered that had already been signed. Many receipts were also issued out of sequence, and a number of them could not be accounted for (e.g. # 1301 to #1350, #1401 to #1500).

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 or that contains false information, the Minister may give notice to the registered charity that he proposes to revoke its registration.

T3010 Registered Charity 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 Charity did not comply with subsection 149.1(14) in the following ways:

- “Total tax-receipted gifts” (line 100 on 2001, 2002 returns) was understated as follows:

	<u>2001</u>	<u>2002</u>	<u>2003</u>
Per listing of receipts provided	\$230,381	\$302,963	\$512,790
Per T3010 return	<u>8,888</u>	<u>8,832</u>	<u>8,978</u>
Difference	<u><u>\$221,493</u></u>	<u><u>\$294,131</u></u>	<u><u>\$503,812</u></u>

- The amount of non-cash gifts for which tax receipts were issued was also understated:

	<u>2001</u>	<u>2002</u>	<u>2003</u>
Per listing of receipts provided	\$218,247	\$281,086	\$503,686
Per T3010 return	<u>8,888</u>	<u>64,654</u>	<u>0</u>
Difference	<u><u>\$209,359</u></u>	<u><u>\$216,432</u></u>	<u><u>\$503,686</u></u>

- Due to the above discrepancies, the disbursement quota was also calculated incorrectly each year.
- The returns for each of the years 2001 to 2003 were filed late, as was each previous year since at least 1996.
- The Charity owns two properties, at 75 Hillyard Street and 663 Barton Street East, as well as other assets such as vehicles. However, the only asset reported on the 2002 charity return was the bank account, and no balance sheet was provided. The liabilities related to the properties were also not shown on the charity return.

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.

Books and Records

Section 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 Charity's books and records were inadequate in the following areas:

- The charitable purpose of many of the expenses could not be verified, as they were of a type that could easily be considered personal, e.g. restaurant invoices and grocery bills. There was nothing noted on the invoices to indicate the purpose of the expenses.
- The bank deposit records usually did not identify who or where funds came from and what they were for.
- The books and records for 2003 were incomplete as all of the January records (bank records, invoices, etc.) were missing. Therefore, the 2003 financial statements do not reflect the revenue and expenses for the month.
- As was mentioned earlier, a number of donation receipts could not be accounted for.
- The Charity operated a Thrift Store where goods were also distributed to the needy. However, no sales records were available for any sales that were made by the store, nor was there any indication that the funds were deposited in the Charity's bank account. There were no records that would verify which goods were received for which donation receipts were issued, nor were there any records to show which goods, if any, were given away and to whom they were given.

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

Devotion of Resources to Non-Charitable Activities

A fundamental aspect of the definition of a charitable organization is that all its resources are devoted to charitable activities carried on by the organization itself, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof.

The audit revealed that some of a director's personal expenses were paid by the Charity, and that those expenses were not reported as taxable benefits, e.g.:

- The personal portion of cell phone expenses for [REDACTED]
- Some hydro expenses for [REDACTED] (\$385.01 in October 2003).
- Expenses related to the personal use of the Charity's vehicles.

It also appears that a director may have appropriated some of the Charity's funds, as it appears that none of the sales from the Thrift Store were deposited in the Charity's bank account, and it also appears that any store expenses were paid out of other withdrawals from the Charity's bank account.

Under paragraph 168(1)(b) of the *Act* the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the *Act* relating to its registration as such.

Conclusion

For each of the reasons indicated above, it appears to us that there are grounds for revocation of the Charity'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 North End Children's Centre (Hamilton) Inc. 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 Charity'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

Enclosures

cc: Paul Kwiatkoski
Chartered Accountant
853 Main Street East
Hamilton, ON L8M 1L8