

DOUBLE REGISTERED

Polish Canadian Centre Association
of Windsor
5085 South National Street
Windsor, Ontario
N8Y 2G2

59594
Tel: (613) 954-1193

Attention: Mr. Ted Gajewski
President

January 17, 1992

Dear Sir:

Re: Charity Audit

This letter is further to an audit of the books and records of account of Polish Canadian Centre Association of Windsor ("Association") which was conducted by a representative of the Department. The audit related to the operations of the Association for its fiscal period ended December 31, 1988.

The audit results indicate that the Association may be in contravention of certain provisions of the Income Tax Act ("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 ("Minister") may revoke its registration in the manner described in subsection 168(2) of the Act.

Charitable Activities

A review of the file indicates that the primary objective of the organization at the time of registration was to provide housing to persons or families of low income.

The audit indicates that 81 units out of a total of 169 units examined or 48% are rented to tenants who belong to the moderate to middle, as opposed to low, income levels based on Canada Mortgage and Housing Corporation's "Core Need Income Thresholds". The remaining 52% of the tenants qualify as persons in need of charitable relief.

In common law, corporations established to provide low-cost rental housing exclusively to low income individuals and families are eligible for registration as charities. Their intention is to relieve poverty and to provide a general public benefit. However, where the tenants of a housing project include those not in need of charitable relief i.e. moderate or middle income families, the organization providing such housing is not regarded as having devoted all of its resources to charitable activities.

Accordingly, it appears that the Association 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 paragraph 149.1(1)(b) 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.

Consequences of Revocation

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

1. Loss of its tax exempt status as a registered charity which means that the Association would become a taxable entity under Part I of the Act unless, in the opinion of the Director of the applicable District Taxation Office, it qualifies as a non-profit organization as described under paragraph 149(1)(1) of the Act;
2. Loss of the privilege of being able to issue official donation receipts for income tax purposes which means that gifts made to the Association would be neither tax deductible nor capable of being credited against a donor's tax liability; and
3. The possibility of tax exigible under Part V, subsection 188(1) of the Act.

Enclosed is a copy of Information Circular No. 80-10R entitled "Registered Charities: Operating a Registered Charity" for your reference. Please note Appendices C and D which describe the provisions of the Act concerning revocation of registration, the tax applicable to revoked charities and the appeal provisions from the Minister's issuance of a notice of intention to revoke a registered charity's registration.

Conclusion

If you do not agree with the above, or if you wish to present your reasons as to why the Minister should not revoke the registration of the Association, you are invited to submit your representations by March 17, 1992. Subsequent to this date, the Director of Charities Division will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the Association in the manner described in subsection 168(1) of the Act.

Should you wish to appoint a third party to represent your interests, please notify us in writing.

If you have any questions on these matters, please contact Allan Wong at [REDACTED] or write to 400 Cumberland Street, Room 5004C, Ottawa, Ontario, K1A 0L8.

Yours sincerely,

RMacdonald

Robbie Macdonald
Manager, Audit Section
Registration Directorate

Enclosure

REGISTERED MAIL

Mr. Ted Gajewski, President
Polish Canadian Centre Association of Windsor
5085 South National Street
Windsor (Ontario)
N8Y 2G2

JUL 17 1995

Dear Mr. Gajewski :

Subject : Polish Canadian Centre Association of Windsor

This will refer to a previous exchange of correspondence with your organization and with your accountant, Mr. E.J. Herbert. You will recall that an initial letter (copy attached) was sent to you on January 17, 1992, proposing revocation of the organization. Following this exchange of correspondence, and after numerous discussions, the annulment of the charity was proposed; however, we understand that this is not an option your organization wishes to pursue. Since that time, we have been corresponding with Mr. E.J. Herbert, in order to confirm that the outstanding mortgages owed by the charity would be considered as debts paid and, therefore, could be used in the calculation of the tax on revocation (copies also attached).

We still maintain that the charity does not satisfy the definition of a charitable organization in accordance with paragraph 149.1(1) of the *Income Tax Act*. In view of the above, we are proceeding with the revocation process in the manner described in subsection 168(2).

I wish to advise you that, for the reasons outlined in our letter to you, dated January 17, 1992, 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, I propose to revoke the registration of the Polish Canadian Centre Association of Windsor. 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.

0595942-09 Polish Canadian Centre Association of Windsor
Windsor (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 date 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, the date upon which the above-noted notice is published in the Canada Gazette, the charity will no longer be exempt from Part 1 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.

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. 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.

I trust that my comments have explained the Department's position on this matter.

Yours sincerely,

ORIGINAL SIGNED BY
ORIGINAL SIGNÉ PAR
R.A. DAVIS

R.A. Davis, CGA
Director
Charities Division

AS
Attachment