



REGISTERED MAIL

R.A Whyte World Deliverance Ministry Inc.
3615 Weston Road, Unit #9
Toronto ON M9L 1V8

OCT 27 2014

BN:119109429

Attention: Jermaine McLaughlin

File #: 0756411

**Subject: Notice of Intention to Revoke
R.A Whyte World Deliverance Ministry Inc.**

Dear Mr. McLaughlin:

I am writing further to our letter dated January 13, 2014 (copy enclosed), in which you were invited to submit representations as to why the registration of R.A Whyte World Deliverance Ministry Inc. (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

We have now reviewed and considered your written response dated March 28, 2014. However, notwithstanding your reply, our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity have not been alleviated. Our position is fully described in Appendix "A" attached.

Conclusion

The audit by the Canada Revenue Agency (CRA) has revealed that the Organization is not complying with the requirements set out in the *Income Tax Act*. In particular, it was found that the Organization failed to maintain adequate books and records, failed to devote all of its resources to its charitable purposes, provided undue benefits, failed to issue receipts in accordance with the *Income Tax Act* and failed to accurately file a Registered Charity Information Return (T3010). For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated January 13, 2014, I wish to advise you that, pursuant to subsection 168(1) and 149.1(2) 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*:

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
119109429RR0001

Name
R.A Whyte World Deliverance
Ministry Inc.
Toronto 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

Notwithstanding the filing of an Objection, 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.

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intent to revoke registration can be found in Appendix "B", attached.

Consequences of Revocation

As of the effective date of revocation:

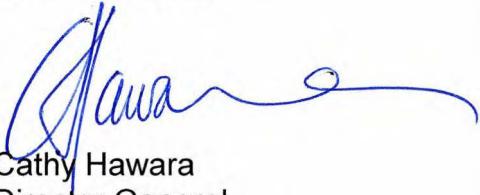
- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be

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. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix "B". Form T-2046 and the related Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our Web site at 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*. As a result, the Organization may be subject to obligations and entitlements under the *Excise Tax Act* that apply to organizations other than charities. If you have any questions about your Goods and services tax/harmonized sales tax (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 January 13, 2014
- Appendix A – Comments on Representations
- Appendix "B", Relevant provisions of the Act

c.c.: Jermaine McLaughlin



c.c.: Rudolph Whyte



c.c.: Judith Cooper



*Place de Ville, Tower A
320 Queen Street, 13th Floor
Ottawa ON K1A 0L5*

**REGISTERED MAIL**

R.A. Whyte World Deliverance Ministries
3615 Weston Road, Unit #9
Toronto, ON
M9L 1V8

Attention: Jermaine McLaughlin

BN: 119109429RR0001
File #: 0756411

January 13, 2014

Subject: Audit of R.A. Whyte World Deliverance Ministries

Dear Sir:

This letter is further to the audit of the books and records of R.A. Whyte World Deliverance Ministries (the "Organization") by the Canada Revenue Agency (the "CRA"). The audit related to the operations of the Organization for the fiscal periods ended December 31, 2010 and December 31, 2011.

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. Failure to Maintain Adequate Books and Records	168(1)(e) 230(2)
2. Failure to Devote All of Its Resources to its Charitable Purposes	149.1(1), 168(1)(b)
3. Providing an Undue Benefit	149.1(1)
4. Failure to Issue Receipts in Accordance with the Act.	168(1)(d), Regulations 3500, 3501(1)
5. Registered Charity Information Return (T3010).	149.1(14), 168(1)(c)

The purpose of this letter is to describe the areas of non-compliance identified by 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 Charity'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. Failure to Maintain Adequate Books and Records

Section 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 section 230(2), section 230(4) provides 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.”

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

- a registered Charity must maintain, and make available to 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 thereto¹; and
- the failure to maintain proper books, records and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke a charity's registration²

Our audit found the Organization did not maintain adequate books and records. In particular, the Organization failed to:

- a) Maintain duplicate copies of all official donation receipts issued; receipts #176-177, #179-199, #202-254, #256-260, #264-269, #271-276, #278, #281-321, #325-419 for the fiscal period ending December 31, 2010 were

¹ The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen, 2002 FCA 72 (FCA)

² Supra, footnote 3; The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada, (2004) FCA 397

missing from the organizations books and records. Furthermore, receipts #176, #184, #220-226, #230, #247, #250 and #251 for the fiscal period ending December 31, 2011 were missing from the organizations books and records.

- b) During the audit it was noted that the Organization maintained one chequing account with Scotiabank. Detailed review of the account revealed that minimal deposits were made into the account since the Organization used cash from weekly collections to pay for the organizations expenses. However, reviews of vouchers were not sufficient in proving that cash amounts were actually used for the organizations expenses. Furthermore, the Organization used a batch entry system for common expenses making it difficult to determine which expenses were actually supported by individual receipts and the individual receipts that were available often referred to items that were determined to be non-charitable expenses.
- c) The revenue figures reported on the T3010 returns could not be reconciled to the amounts recorded in the organizations books and records.
- d) Review of the Organizations revenue accounts revealed that in addition to tithes and offerings received on a weekly basis the Organization also accepted 'pledges' from congregation members throughout the year. Review of the accounting entries revealed that the pledges were recorded as revenue despite funds not actually being received. As a result, pledges were recorded as revenue as well as tithes made throughout the year which were to offset the pledge amount. At the end of the year, the donor was issued a receipt for all amounts recorded including pledge and tithes amounts resulting in an overstated receipted. Specifically in 2010, one particular donor made pledges of \$7,500 and made tithes of \$6,088.49. Throughout the year she did not reach her pledged amount made at the beginning of the year. Nevertheless, at the end of the year she was issued receipt #169 for the total amount of \$13,588.49.
- e) During the audit it was also determined that there was a lack of internal controls in place to safeguard against the unauthorized issuance of official donation receipts. The audit concluded that electronic receipts were issued by the Organization's accountant who prepared all receipts and provided them to the director, Jermaine McLaughlin, for his electronic signature. Review of receipts revealed that some receipts had a faded electronic signature while Pastor McLaughlin confirmed that in fact it was his signature. It was also noted that multiple individuals have access to the template used to issue official donation receipts.

Based on the above findings, it is CRA's position that the Organization failed to maintain adequate books and records as required under subsection 230(2) of the

Act. A charity that fails to maintain adequate books and records may be liable to a penalty under the Act, or have its registered status revoked.

2. Failure to Devote all of its Resources to its Charitable Purposes

The Organization was registered as a charitable organization on January 1, 1987. The Organization was registered with the objective to spread the gospel of Jesus Christ and to establish churches, missions and other organizations and facilities for that purpose and for general religious purposes. At the time of registration, some concerns were noted with respect to the Organization declaring that they wish to 'send trained pastors and evangelists or missionaries to oversee the flock at established churches in Jamaica, Grenada, Nigeria and the United States'.

Under subsection 149.1(1) of the ITA, a "charitable organization" is defined as "an organization...all the resources of which are devoted to charitable activities carried on by the organization itself...". For the purposes of the Act, the gifting of funds to qualified donees, usually other registered charities, can be considered the devotion of a charity's resources to its own charitable activities.

If the Organization were to transfer funds or resources to individuals who are not employees, while complying with the requirements of the Act, it would be necessary to prove that the Organization has full direction over the use of those resources transferred to such third parties. Therefore, the Organization must enter into a separate written contract with each third party it funds, which evidences that funds are used under the direction and control of the Organization.

During the audit it was noted that the Organization travelled to various churches around the world to preach the gospel as well as hosting revival meetings. It was further determined that the Organization has a 'mobile church' which includes a large tent, podium and sound equipment. Throughout the audit, it was unclear who had possession of the mobile church, however the Organization advised that it was being stored in Jamaica. In order to be compliant with paragraph 149.1(1) of the Act the Organization is required to monitor and supervise resources that are being used for its own activities. Furthermore, the Organization was never registered to proceed with foreign activities of any kind. Review of the books and records revealed no documentation (ie. photographs, progress reports) relating to the events held in the mobile church or at revivals. The Organization did incur the expenses for travel to multiple locations for the pastors (and spouses, at times), however there is no evidence that such expenses were in fact incurred for charitable purposes.

In summary, the Organization failed to devote all of its resources to its own charitable activities or by way of gifts to qualified donees, and as a result, the Charity has failed to meet the requirements of subsection 149.1(1) of the Act.

3. Providing an Undue Benefit

At common law, and by statute, a registered charity cannot be established to confer a private benefit on non-charitable beneficiaries or non-qualified donees. Private benefits that occur during the normal operations of a charity - when a charity pursues activities that further its charitable purpose, such as salaries, fees for services and office expenses, are acceptable provided they:

- arise directly through the pursuit of the charity's purposes or are incidental and ancillary to the achievement of those purposes;
- are unavoidable and necessary to the achievement of the charity's purposes; and
- are reasonable or not disproportionate compared to the public benefit achieved in all circumstances.

If the activities that a registered charity conducts confer a private benefit that does not meet these criteria, it will be considered an undue benefit.

The audit revealed that the Organization had incurred numerous expenses which were non-charitable. Examples of expense items included general grocery items in single quantities, diapers, baby food, beauty products, men's underwear, prescription drugs, alcohol, gardening equipment, pet food and movie tickets. In addition to the above-mentioned miscellaneous items, larger purchases for electronics were also made during the audit period including tablets, laptops and large televisions. One of the largest purchases during the audit period was mixing and editing equipment purchased in order to air church services on the internet. The equipment was purchased in 2011 however during the audit there was no evidence that the equipment has been used to record or stream church services.

Throughout the audit the Organization failed to demonstrate that in fact any of the above mentioned expenses were incurred to further its own charitable purposes. Furthermore, much of the electronic equipment was unavailable for verification since items were stored at the homes of numerous individuals, specifically the director's homes implying the personal use of equipment. In addition to specific expenses, review of the bank records also revealed that cheques were made out to directors as reimbursement for the organizations expenses, however there was insufficient supporting documentation proving that expenses were incurred for charitable purposes.

As a result it is CRA's view that undue benefits were conferred to the following three directors:

2010 Undue Benefit	
Jermaine McLaughlin	\$12,826.89
Judith Cooper	\$12,826.89
Rudolph A. Whyte	\$12,826.89
Total Undue Benefit	\$38,480.67

2011 Undue Benefit	
Jermaine McLaughlin	\$23,168.08
Judith Cooper	\$13,497.51
Rudolph A. Whyte	\$50,953.16
Total Undue Benefit	\$87,618.75

See Appendix 1 for a detailed breakdown of the undue benefit determined for each director. A charity that delivers an undue private benefit is not using all of its resources for charitable purposes, and may be liable to a penalty under the Act, or have its registered status revoked.

For each reason identified above, there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

4. Failure to Issue Receipts in Accordance with the Act

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. 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.

Additionally, we would like to inform you that certain amendments to the Act were introduced as part of Bill C-33 tabled in Parliament on March 23, 2004, that came into force May 13, 2005. As part of the amendments, a registered charity that issues an official donation receipt that includes incorrect information is liable to a penalty equal to 5% of the eligible amount stated on the receipt. This penalty increases to 10% for a repeat infraction within 5 years.

A registered charity that issues an official donation receipt that includes false information is liable to a penalty equal to 125% of the eligible amount stated on the receipt, where the total does not exceed \$25,000. Where the total exceeds \$25,000, the charity is liable to a penalty equal to 125% and the suspension of tax-receiving privileges.

Our audit found that the donation receipts issued by the Organization did not comply with the requirements as follows:

- The Organization must retain a duplicate copy of each official donation receipt issued (paper or electronic). Gaps were noted in the sequence of receipts issued resulting in not all numbered receipts being accounted for.
- Review of receipts revealed that some receipts were issued to multiple individuals with the same receipt number. A unique serial number is required on all official donation receipts.
- Receipts were missing a statement that it is an “official receipt for income tax purposes”.
- The donation template has a spelling mistake within the name of the Organization, which means that the receipts do not match the name of the Organization as registered with the Minister.
- Receipt(s) in alternative formats were issued in a name other than the official name of the Organization as registered with the Minister. The name registered with the Minister is “R.A. Whyte World Deliverance Ministries”
- Some official donation receipts were missing the full address of the donor.

Under paragraph 168(1)(d), the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it issues a receipt otherwise than in accordance with the Act and its Regulations. Issuing a donation receipt where there is no gift, no donative intent or the information on the receipt is false, is not in accordance with the Act. It is our position that the Organization has issued receipts otherwise than in accordance with the Act and the Regulations. For each reason identified above, there may be grounds for revocation of the Organization’s charitable status.

5. Registered Charity Information Return

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity’s fiscal period (taxation year), without notice or demand, file a *Registered Charity Information Return* (T3010) with the applicable schedules.

It is the responsibility of the Organization to ensure that the information that is provided in its T3010, schedules and statements, is factual and complete in every aspect. A charity is not meeting its requirement to file an information return if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Organization improperly completed its 2010 and 2011 information returns as follows:

Question C4 on the T3010 information return asks the Organization to indicate whether the charity did carry on, fund, or provide any resources through employees, volunteers, agents, joint ventures, contractors, or any other

individuals, intermediaries, entities, or means (other than qualified donees) for any activity/program/project outside of Canada. In both years under review, “no” was selected and Schedule 2, Activities Outside Canada was not completed, when in fact the Organization did conduct foreign activity.

- a) The amount reported as tax-receipted gifts on line 4500 in 2010 was \$123,245, but the total receipts issued based on receipts provided to the CRA auditor was \$159,372, a difference of \$36,127.
- b) The amount reported as tax-receipted gifts on line 4500 in 2011 was \$128,060, but the total receipts issued based on receipts provided to the CRA auditor was \$224,067, a difference of \$96,007
- c) In 2011, lines 5000, 5010 and 5100 were incorrectly reported and did not reconcile to line 4950 - Total expenditures before gifts to qualified donees.
- d) On the director's worksheet, the arm's length question was incorrectly answered in both periods.

The figures reported on the T3010 returns could not be reconciled to the amounts recorded in the Organization's books and records. When the Organization filed an amended return for 2011, the amount on line 4700 was decreased from \$128,060 to \$122,957. Total revenue was underreported by \$101,110. As a result, the Organization failed to exercise due care with respect to ensuring the accuracy of its T3010 Charity Information Returns.

The Minister may revoke the registration of the registered charity in the manner described at paragraph 168(1)(c) of the Act because the registered charity has failed to file an information return as required under the Act.

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;
- the application of penalties and/or suspensions provided for in sections 188.1 and/or 188.2 of the Act; or
- giving notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention to Revoke 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 me at the numbers indicated below.

Yours sincerely,

Jessica Villafuerte, CMA
Audit Division
Kitchener Tax Services Office

Telephone: [REDACTED]
Facsimile: [REDACTED]
Address: 166 Frederick St.
Kitchener, ON
N2H 0A9

APPENDIX 1

	Total Expense	Undue Benefit
Automobile Expense	12,985.72	9,739.29
Miscellaneous Expense	24,381.19	24,381.19
Mission Expense	8,209.95	2,604.98
Repairs & Maintenance	12,255.65	1,755.21
	\$ 57,832.51	\$ 38,480.67

2010 Undue Benefit (Per Director)

Pastor Jermaine McLaughlin	12,826.89
Pastor Judith Cooper	12,826.89
Pastor R.A. Whyte	12,826.89
	\$ 38,480.67

Total Expense Undue Benefit

Conference & Meeting	1,815.15	1,815.15
Gas Expense	8,713.31	6,534.98
Ministry Expense	27,628.25	24,865.43 <i>**undue benefit based on trips/</i>
Miscellaneous Expense	1,705.12	1,705.12 <i>passengers</i>
Mission Expense	15,968.54	7,984.27
Printing and Reproduction	1,047.00	1,047.00
Professional Fees	5,043.60	5,043.60
Repairs & Maintenance	10,492.83	2,623.21
Video Department	36,000.00	36,000.00 <i>**undue benefit specific to R.A</i>
	108,413.80	87,618.76 <i>Whyte</i>

2011 Undue Benefit (Per Director)

Pastor Jermaine McLaughlin	23,168.08
Pastor Judith Cooper	13,497.51
Pastor R.A. Whyte	50,953.16
	\$ 87,618.75

R.A WHYTE WORLD DELIVERANCE MINISTRY INC.
Comments on Representations

The audit by the Canada Revenue Agency (CRA) has revealed that the Organization is not complying with the requirements set out in the Income Tax Act. In particular, it was found that the Organization failed to maintain adequate books and records, failed to devote all of its resources to its charitable purposes, provided undue benefit, failed to issue receipts in accordance with the Income Tax Act and failed to file an accurate Registered Charity Information Return (T3010).

In a written response received on March 28, 2014, the Organization provided assurances that they would improve their record keeping. In their representations, they have discussed how they intend to operate in the future. However, it remains our position that the identified areas of non-compliance with the provisions of the Income Tax Act (the "Act") and/or its Regulations described in our letter dated January 13, 2014, warrant revocation of the Organization's registration. The Organization has failed to provide additional documentation or reasonable explanations in support of their position. We remain concerned about the Organization's future compliance. As such, while we have considered the Organization's wishes to comply, it is our opinion, that the Organization's registration should be revoked.

The basis for our position is described in further detail below:

1. Failure to Maintain Adequate Books and Records

In representations received March 28, 2014, the Organization makes the following points:

- a) The Organization was "uninformed about new legislation" and "believed that the accountant was knowledgeable enough to organize the books and records";
- b) They were not aware that copies of voided receipts needed to be kept, that skipped receipt numbers were the result of human error, and that these errors were not deliberate or falsified;
- c) Cash was not deposited due to difficulty with the bank including non-issuance of a debit card, refusal of branches other than the home branch to take deposits, and delays in receiving money into the bank account when deposited at other branches, leading to cash flow challenges;
- d) That they were aware of and working to correct inconsistencies between the T3010 and books and records of the Organization;
- e) That pledges were only recorded and receipted when the actual funds were received;
- f) That internal controls around access to receipt templates are sufficient;

Our responses:

- a) The responsibility for keeping adequate books and records rests with the Organization. The position that full reliance was placed on a bookkeeper and a professional accountant does not excuse the Organization from maintaining adequate books and records. The first page of representations indicates that an accounting firm, [REDACTED] was engaged to review the books and records following our audit. However, this accounting firm no longer represents the Organization.
- b) The Organization failed to keep duplicate copies of all receipts. Many gaps in the sequencing of receipts were noted and several receipts were issued with the same serial number. Additionally, several official donation receipts obtained by the CRA were not included in the books and records of the Organization. Finally, the amounts reported as revenue from donations could not be reconciled to the Organization's books and records and the amounts deposited in the bank. The Organization is not disputing the fact that record keeping in the area of official donation receipts was inadequate.
- c) Bank statements, along with duplicate deposit slips, form part of the Organization's books and records. These documents are required to verify official donations receipts issued and revenue reported. Since cash was not deposited in the bank on a regular basis, but was instead used to pay for the expenses, we were not able to reconcile amounts deposited with total donations revenue received and reported. Audit findings indicate that according to the cash count sheets, the total amount of revenue was understated by \$40,862 in 2010 and \$102,552 in 2011. Due to the absence of proper depositing practices and lack of supporting documentation, the auditor was not able to verify that the amounts reported as revenue and recorded as expenses on the T3010 Returns were accurate.
- d) We acknowledge that amendments to T3010 Returns had been submitted; however the amended amounts could not be reconciled to the Organization's books and records. Due to lack of supporting documentation, the CRA was not able to ascertain what the correct figures should have been.
- e) The Organization has not provided sufficient supporting documents that would allow us to verify that entries recorded as pledges were indeed only recorded when the funds were received. In some cases, single entries for pledges were for amounts as large as \$5,000. The Organization made a reference to "a separate record...kept for pledges that were not honored," but no documentation to support this assertion was provided.
- f) Audit findings indicate that Mr. McLaughlin, Mr. Crooks, and Ms. Cooper had access to receipt books/templates. We have also noted per our initial interview that Mr. Whyte, Mr. McLaughlin and Ms. Cooper all have the authority to sign official donation receipts. The onus is on the Organization to ensure the official donations receipts are issued and retained as required.

The representation submitted does not address the inadequacy of the documentation maintained and does not alter our findings. The Organization did not provide any additional documentation with the representations to alleviate concerns raised by CRA with respect to inadequate books and records. It is our position that the Organization failed to maintain adequate records to support its activities, revenue, and expenses.

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

2. Failure to Devote all of its Resources to Charitable Purposes

In representations received March 28, 2014, the Organization makes the following points:

- a) The Organization does adequately monitor its activities by sending officers of the board to Jamaica;
- b) The tent in Jamaica is being borrowed by another missionary church, and any revenue generated by activities are kept by them as the Organization is a guest under its own tent;
- c) The Organization does have documentation to verify these activities in the form of videos and invitation and thank you letters;
- d) Spouses of the pastors sometimes come along on trips because they are certified counsellors; they deal with “personal issues” of attendees so that the pastors can focus on delivering their messages;
- e) That they are fulfilling their purposes which include “missions”.

Our responses:

- a) While sending directors of the Organization is one form of monitoring, it is not sufficient to establish direction and control. Apart from these visits and the video/pictures taken during these visits, there is no documentation to show what activities are being carried out using the resources of the Organization (tent, podium, sound system etc.) in Jamaica. We also noted that there were flights taken to England, Nigeria and South Africa. The only reference to these activities in the response of the Organization is one small picture, purportedly of a church visited in Africa. There is no supporting documentation (narrative/financial reports etc.) related to these activities.
- b) The position that the tent is being borrowed by another missionary entity was not previously mentioned. The Organization does not clarify whether this entity is Jamaican, Canadian or other and/or whether it is a registered charity for the purposes of the Act. Unless this entity is a qualified donee, the Organization is required to maintain direction and control over the use of its resources. With such limited documentation available to clarify the relationship between the Organization and the other entity that it is lending

the assets to, our opinion is that the Organization is not maintaining direction and control of its assets.

- c) Video recordings are not sufficient to establish direction and control. There are no written agreements between the Organization and any partner organizations using its assets. There are also no narratives or financial reports available relating to activities carried out in Jamaica. The only other documentation provided was two letters of invitation and corresponding thank you letters from two separate Jamaican organizations. We did not identify any letters specifically thanking the spouses of the pastors for their services within the representations of the Organization. We have also not received any documentation to establish the credentials of these individuals as counsellors and there is no documentation available to establish that any such counselling services were provided in any of the locations where spouses travelled.
- d) The word "missions" does not automatically include foreign activities. Mission work can occur both within and outside of Canada. In order to carry out activities outside of Canada, an Organization should explicitly state this as part of their objects and activities.

A registered charity must be able to demonstrate that it was responsible for the charitable activity overseas, that the charitable activity actually occurred and that it occurred on the scale represented. In the representation letter the Organization stated that "We were and is always fulfilling our charitable purpose by spreading the gospel of Jesus Christ by means of preaching, teaching and missions. When we travel this is what we are doing". It is simply not sufficient to make these statements without providing sufficient proof as to specific activities, events, agreements and cost involved. Absent of any such supporting documentation, CRA has no means of determining exactly what activities were performed, what was the value of the goods/services and whether the expenses incurred were, in fact, for charitable activities. It is our position the Organization has not demonstrated that international activities were programs executed and controlled by the Organization.

In addition, as stated in our letter dated January 13, 2014, the audit revealed that we were unable to determine the nature of a substantial amount of expenses due to the lack of supporting documentation.

It is our view that the Organization has failed to demonstrate that it meets the test for continued registration under 149.1(1) as a charitable organization "all the resources of which are devoted to charitable activities" and there are grounds for revocation of the charitable status of the Organization.

3. Providing Undue Benefits

In the representations received March 28, 2014, the Organization makes the following points:

- a) Food items are provided to the needy without charge rather than handing out cash;
- b) Items such as feminine hygiene products, deodorants, over the counter medication and perfumes are on hand to be distributed as needed;
- c) Wine and any other alcohol would be used in cooking to preserve cakes, and for other cooking of vegetables and desserts. Drunkenness is forbidden under the code of conduct of the Organization;
- d) Editing equipment is kept at the personal office of Sean Whyte and Judith Cooper because of inadequate space. Edited video is available for review;
- e) Other electronic equipment used to record and stream services has been brought back to the church. Pictures of these pieces of equipment are attached;
- f) A camcorder was shown to auditors and is among items that have been considered for personal use;
- g) Conference and Meeting, Gas Expense, Ministry Expense, Miscellaneous, Mission Expense, Printing and Reproduction, Professional Fees, Repairs and Maintenance, Video Department, and Automobile Expense are all exclusively charitable.

Our responses:

- a) In addition to their statement that food and other items of a personal nature are distributed to needy individuals, the Organization attached a list of individuals who indicated that "RA Whyte World Deliverance Ministry Inc. has help me by providing standard necessities of life, such as food, or clothing or assisted in providing some form of care for me in 2010 and 2011." While relief of poverty is a charitable purpose, under this category of charity, the recipients must be shown to be poor.
- b) To relieve poverty in the charitable sense means providing the basic necessities of life. For instance, providing food, clothing, and other basic amenities to persons of low income is considered charitable activity. However, items such as expensive cosmetics would not be considered basic necessities. For example, we identified a receipt for the purchase of eye make-up remover and shine free hydration cream for a total cost of \$80.80. Purchasing and distributing such items is not considered charitable activity.
- c) Due to lack of supporting documentation, we could not ascertain that expenses related to purchases of wine were incurred for charitable purposes.
- d) The Organization has indicated that it uses the equipment for charitable purposes, but continues to store it at various personal residences where it could also be used for personal purposes. The Organization did not provide details of the usage such as how many hours of edited tape are available. No adequate supporting documentation was provided to substantiate that the purchase of editing equipment costing \$36,000 was an expenditure incurred for charitable purposes.
- e) We note that many of the pictures are small and provide no assurance as to the location of the equipment. The explanation provided did not contain sufficient information and detail to demonstrate that the Organization exercised requisite

level of direction and control for all its assets. Further, the Organization has failed to demonstrate that the assets have been purchased and used for charitable activities.

- f) No adequate supporting documentation was provided that would allow us to determine where the camcorder was or how it was used during the audit period.
- g) The Organization has provided a brief, high level explanation as to why each item should be considered charitable, but has not provided any supporting documentation in the form of actual receipts in order to assist us in verifying their claims. Almost all expenses were paid by cash which was collected from offerings and disbursed without first being deposited into the bank. Accounting entries were done in batches and receipts were not organized in such a way as to identify which batch they belong to. As a result of these batch entries, there was minimal detail in the electronic records to identify details of individual expenditures. It was not possible to determine whether any given receipt contained within the records has been included or not and/or whether there are any receipts to support the expenses claimed.

Specific Examples:

Gas Expense

The Organization maintained no documentation to support the charitable usage of vehicles. Without any type of log or other listing of trips made for charitable purposes, we have no evidence to support charitable usage of vehicles.

Ministry Expenses

Among other expenses there are plane tickets and accommodation expenses for a pastor and his spouse related to their travel to South Africa. The Organization has not provided any information as to the purpose of this trip, nor is there any documentation to indicate what activities they carried out while in South Africa.

The final entry into Ministry Expense for 2011 is \$3,000 with a note "Petty cash fund – expenses to be entered by Jermaine." The Organization has provided no explanation as to what this outlay was for.

Mission Expense

Much of the expense in this category is listed as "Food and Other" with batch entries as high as \$1,454.45. No batches of receipts were identified totaling to these figures and single receipts that were available did not include an explanation for what the food was used for.

As a result of the above concerns with adequacy of records, it is not possible to determine whether expenses have been recorded accurately and whether each of the outlays was for charitable or personal purposes. As such, we are not prepared to

recognize the amounts for gas, groceries, personal items, travel as expenses incurred for charitable purposes. Based on these concerns and numerous others, we continue to assert that the books and records of the Organization are not adequate for us to determine that these expenses do not represent undue benefits to the pastors of the Organization.

For the reason identified above, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d).

4. Failure to Issue Receipts in Accordance with the Act

In representations received March 28, 2014, the Organization makes the following points:

- a) It was a system error that resulted in duplicated receipts and gaps in receipt numbering;
- b) The Organization believes its name to be "R.A Whyte World Deliverance Ministry Inc.;"
- c) Receipts without addresses were for internal purposes and were not intended to be issued.

Our response:

- a) The Organization is required to number all receipts in a logical and sequential manner, and to maintain copies of all receipts whether those receipts are issued or voided. If the Organization implements a system for issuing and storing donation receipts, it is responsible for properly using that system.
- b) The name of the Organization listed on the charitable donation receipts is correct.
- c) The Organization has provided us with electronic copies of their official donation receipts, many of which do not have full addresses on them. For example, receipts number 184, 191, 194, 198, 199, 201 do not contain full addresses and had been issued to donors. The Organization was required to retain an exact duplicate copy of each receipt issued. In respect of the amounts shown as pledges (our response in 1. e) above), pledges cannot be receipted as no property has been transferred to the organization. The organization has issued receipts for the amounts recorded as pledges in the Books and Records.

The audit revealed that the official donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the Act and IT-110R3 and did not contain all the required elements. The Organization failed to keep duplicate copies of all receipts. Many gaps in the sequencing of receipts were noted and several receipts were issued with the same serial number. Several official donation receipts obtained by the CRA were not included in the books and records of the Organization.

A registered charity can have its registered status revoked under paragraph 168(1)(d) of the Act for issuing tax receipts otherwise than in accordance with the requirements of the Act and the regulations.

5. Failure to file an information return as and when required by the ITA and/or its Regulations

In representations received March 28, 2014, the Organization makes the following points:

- a) Answering no to question C4 of the T3010 was not intentional and was done with reliance on professional accountants;
- b) The answer to question C4 is accurate because no funds were received or disbursed during travel to these foreign countries;
- c) Inaccuracies on schedule 6 of the T3010 were done with a reliance on professional accountants and they were attempting to revise the return to more accurate figures;
- d) That the board has approximately 6 people per year who are not at arm's length.

Our response:

- a) The Organization is responsible for accurate filing of the T3010 returns.
- b) The fact that the Organization did not report any income or disburse any funds while overseas would not mean that no activities had occurred overseas. The Organization has confirmed that it sent members overseas to preach and that it owns assets that are being used in Jamaica. This alone would be sufficient to require an answer "Yes" to question C4 of the T3010.
- c) See a) above.
- d) Per the T3010s filed, the Organization had 5 and 7 directors in 2011 and 2010 respectively. If the directors are at arm's length with other directors, the answer should be "Yes". However, if the members of the board are related and are not dealing with each other at arm's length, the T3010 return should reflect that and the answer on the Schedule of Trustees and Officials should be "No".

Your representations did not address our findings with respect to the allocation of expenses between charitable and non-charitable nor did they address the errors identified on the T3010.

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because the charity fails to file a Registered Charity Information Return as and when required under the Act or a Regulation.

For the reasons outlined above, it remains CRA's position that the charitable registration of the Organization should be revoked.

Section 149.1 Qualified Donees

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) has, in respect of a class of shares of the capital stock of a corporation, a divestment obligation percentage at the end of any taxation year;
- (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 it has entered into a transaction (including a gift to another registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities;
- (b) of a registered charity, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered charity to which paragraph (a) applies was to assist the other registered charity in avoiding or unduly delaying the expenditure of amounts on charitable activities;
- (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;
- (d) of a registered charity, if it has in a taxation year received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those taxation years, an amount that is less than the fair market value of the property, on charitable activities carried on by it or by way of gifts made to qualified donees with which it deals at arm's length; and
- (e) of a registered charity, if an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever.

Section 168:

Revocation of Registration of Certain Organizations and Associations

168(1) Notice of intention to revoke registration

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 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, if

- (a) in the case of a person that is or was registered as a registered charity or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(2) to (4.1), (6.3), (22) and (23);
- (b) in the case of a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.2) and (22); or
- (c) in the case of a person described in any of subparagraphs (a)(i) to (v) of the definition "qualified donee" in subsection 149.1(1), that is or was registered by the Minister as a qualified donee or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.3) and (22).

172(3) Appeal from refusal to register, revocation of registration, etc.

Where the Minister

- (a) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.2) and (22) and 168(1) by the Minister, to a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for registration as a registered Canadian amateur athletic association, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,
- (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,

- (a.2) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.3), (22) and 168(1) by the Minister, to a person that is a person described in any of subparagraphs (a)(i) to (v) of the definition "qualified donee" in subsection 149.1(1) that is or was registered by the Minister as a qualified donee or is an applicant for such registration, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,
- (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,
- (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 person in a case described in paragraph (a), (a.1) or (a.2), the applicant in a case described in paragraph (b), (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.

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),
- (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
- (d) 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
- (c) 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) or (12) applies

188(4) Transfer of property tax

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” 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” 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.

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 sent 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 particular person in respect of the particular person'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 particular person after the day on which the Minister first assessed that liability and before the particular time to another person that was at the time of the transfer an eligible donee in respect of the particular person, 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 other 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 or registered Canadian amateur athletic association, 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.