



REGISTERED MAIL

Russian Torah Programs
210 Torresdale Avenue
Toronto ON M2R 3E6

MAY 05 2014

BN: 82727 1545RR0001
File #: 3031801

Attention: Maxim Etingen

**Subject: Notice of Intention to Revoke
 Russian Torah Programs**

Dear Mr. Etingen:

I am writing further to our letter dated March 6, 2014 (copy enclosed), in which you were invited to submit representations as to why the registration of Russian Torah Programs (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act*.

The Organization has responded to our concerns in their letter dated March 27, 2014 where the Organization has indicated that it does not wish to provide any further representations and has instructed the Canada Revenue Agency to proceed with revocation.

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 devote all of its resources to charitable purposes; failed to maintain adequate books and records; issued receipts not in accordance with the Act; and failed to file an accurate annual information return as and when required by the Act and/or its regulations. 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 March 6, 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), and subsection 149.1(2), 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

827271545RR0001

Name

Russian Torah Programs
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 "A", 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 "A". 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 charity. 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 1-800-959-8287.

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 March 6, 2014;
- Your letter dated March 27, 2014; and
- Appendix "A", Relevant provisions of the Act

c.c.: Vera Shlaifer



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



March 6, 2014

REGISTERED MAIL

Russian Torah Programs
c/o: Maksim Etingen
210 Torresdale Avenue
Toronto ON
M2R 3E6

Attention: Maksim Etingen

BN: 827271545 RR0001
File #: 3031801

Subject: Audit of Russian Torah Programs

Dear Mr. Etingen:

This letter is further to the audit of the books and records of Russian Torah Programs (the Organization) by the Canada Revenue Agency (the CRA). The audit related to the operations of the Organization for the period from January 1, 2010 to December 31, 2011.

At our final meeting on March 14, 2013, the Organization was advised that 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. | Purposes and Activities | 149.1(2), 188.1(4), 149.1(4.1), 168(1) |
| 2. | Lack of Direction and Control Over the Use of the Charity's Resources | 149.1(2), 168(1)(b) |
| 3. | Failure to Maintain Adequate Books and Records | 149.1(2) 230(2), 168(1)(b), 168(1)(e) |
| 4. | Failure to Issue Receipts in Accordance with the Act. | 149.1(2), 168(1)(d), Reg.3501(1), 230(2)(c) |
| 5. | Failure to File Information Returns As and When Required by the Act | 149.1(14), 168(1)(c) |

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. In order for a registered charity to retain its registration, legislative and common law compliance is mandatory, absent which the Minister of National Revenue (the Minister) may revoke the Organization's registration in the manner described in section 168 of the Income Tax Act.

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

Identified Areas of Non-Compliance:

1) Purposes and Activities

Pursuant to 149.1(1) of the Act, registered charities are required to devote their resources to activities in furtherance of the purposes for which they were registered.

To qualify for registration as a charity under the Act, an organization must be established for charitable purposes that oblige it to devote all its resources to its own charitable activities. This is a two-part test. First, the purposes it pursues must be wholly charitable and second, the activities that a charity undertakes on a day-to-day basis must support its charitable purposes in a manner consistent with charitable law. Charitable purposes are not defined in the Act and it is therefore necessary to refer, in this respect, to the principles of the common law governing charity. An organization that has one or more non-charitable purposes or devotes resources to activities undertaken in support of non-charitable purposes cannot be registered as a charity.

Common law courts have grouped charitable purposes into four categories: the relief of poverty, the advancement of education, the advancement of religion, and other purposes beneficial to the community as a whole which have been identified as charitable by the courts. The fourth category merely identifies an additional group of specific purposes that have been held charitable at law, rather than qualifying as charitable every purpose that provides a public benefit. It is important to note that not all endeavours that directly or indirectly benefit the community are necessarily charitable at law. Many endeavours must be denied charitable status because they do not meet the definition or criteria of "charitable" as established by common law.

Once registered, a charity must only pursue activities in furtherance of the specific charitable purposes as approved by the CRA. The implicit understanding is that the charity will not undertake any activity beyond those described in the application for charitable registration. This is necessary to ensure that the charity will operate within the limitations imposed by the Act.

The Organization was registered effective December 24, 2005 and was designated upon registration as a "charitable organization". Pursuant to subsection 149.1(1) of the *Income Tax Act* (the Act), a "charitable organization means an organization, whether or not incorporated,

- a) all the resources of which are devoted to charitable activities carried on by the organization itself;
- b) 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; and
- c) more than 50% of the directors, trustees, officers or like officials of which deal with each other and with each of the other directors, trustees, officers or like officials at arm's length."

In our opinion, when an organization receives registered status as a charitable organization at the registration stage by providing its stated objects and proposed activities, these are the only true objectives of the Organization and that any and all activities that the Organization devotes its resources to should be in pursuit of that purpose. If the charity chooses to pursue different purposes other than those it was registered for, it must seek additional approval from the Charities Directorate before engaging in any activity that might support the proposed purpose. Failure to do so will put the Organization offside and may threaten its continued registration.

Operating Ultra Vires

As stated above, registered charities are required to pursue activities in furtherance of the purposes for which they are established. There is some concern that the Organization is operating outside of its stated objects as approved by CRA upon registration. As per the Organization's Letters Patent dated July 29, 2005, it was founded to pursue the following charitable objectives:

1. To preach and advance the teachings of the Jewish faith and the religious tenets, doctrines, observances and culture associated with Judaism.
2. To establish, maintain, and support a house of worship with services conducted in accordance with the tenets and doctrines of the Jewish faith.
3. To support and maintain missions and missionaries in order to propagate the Jewish faith.
4. To establish and maintain a religious school of instruction for children, youths and adults.

In the Organization's original application, it was the CRA's understanding that the Organization's primary purpose fell under the third category of charitable purposes, the advancement of religion, and registration was granted based on this understanding as outlined in our letter dated February 2, 2006. We acknowledge however, that the "Statement of Activities for the Russian Torah Program" document submitted with the original application for registration included the activity of "relief of poverty, including home visitations, assessment of need and donation of money or other requirements" among the intended activities the Organization wished to pursue in fulfilment of its purposes. It is unclear how these specific activities would further the stated charitable purposes as listed above which in our opinion are firmly rooted in the advancement of religion. Further, evidence in the file would suggest that CRA was under the implicit understanding that the only charitable purpose the Organization would pursue are as listed above and are in support of the advancement of religion.

At the initial interview, the Organization advised the CRA of the following:

- The organization's primary objectives are to provide religious needs and the wisdom of Judaism.
- The organization hosts monthly religious lectures at the nearby Synagogue.
- These lectures are limited to the members of the organization.
- In the period under audit, there were 10 to 12 members (families) in the organization.
- Most of these families are new immigrants (from the former Soviet Union) and have very little money to live.
- The organization helps the members by providing financial assistance, food, and spiritual guidance.

Based on our audit findings, the Organization has demonstrated that it participated in activities which they were not registered for. In fact, the audit evidence, as outlined below, indicates a majority of the Organization's activities do not appear to be conducted for the purpose of advancing religion, but rather demonstrates that the preponderance of the Organization's efforts and resources are devoted activities which appear to support the relief of poverty, objects of which the Organization was not registered for.

Documentary evidence obtained during the audit suggests that the Organization engaged in activities that were outside of its stated purposes such as providing money and foods for its members. Audit evidence has revealed that cheques (totalling \$3,530 in 2010 and \$3,055 in 2011) were written to members of the Organization and appear to be for the purpose of relieving poverty. In addition, the Organization advised the CRA that it provides food to the members at every religious service. The Organization claimed expenditures for food purchased in the amount of \$50,587 in 2010 and \$52,038 in 2011. This represents approximately 60% of the total expenditures which indicates that the majority of expenditures were spent on activities outside the Organization's approved objects.

Further, the Organization provided documentary evidence through bank statements, cancelled cheques and letters of acknowledgement from members of the Organization that appear to support that the majority of its activities relate to the relief of poverty. Relief of poverty through providing financial assistance and other necessities such as food is considered a charitable purpose at law; however, the Organization was not registered with such a purpose. As such, the Organization is not permitted to conduct, support or fund any activities in support of such purpose, without the explicit written consent of the CRA.

Therefore, it is our opinion that based on our audit findings; the Organization has failed to pursue the purposes for which it was registered subsequently pursued activities in support of the unapproved purpose. Although, the purposes as described above may be charitable at law, they were not the purposes for which the Organization was granted its registration. As a result, the Organization is in direct contravention of the Act.

2) Lack of Direction and Control over the Use of the Charity's Resources:

As mentioned above, determining an organization's eligibility for registered charitable status is based upon a two part test. Firstly, the purposes it pursues must be wholly charitable and secondly, the activities that a charity undertakes on a day-to-day basis must support its charitable purposes in a manner consistent with charitable law. Our concerns with the first part of this test were discussed above. The second part of this test, devotion of resources, also causes CRA to have concerns.

CRA acknowledges that it is not always practical for a registered charity to become directly involved in charitable activities because of limited financial resources, the size of the project or because the charity lacks the necessary expertise to operate effectively in a particular area of interest. Accordingly, CRA will consider that a registered charity is involved in its own charitable activities if the charity demonstrates that it maintains the same degree of control and

responsibility over the use of its resources by another entity as it would if its activities were conducted by the charity itself.

Documentary evidence or lack thereof, provided to CRA during the audit raises some serious concerns with respect to the level of direction and control the board of directors of the Organization exhibits over the activities conducted by the Organization as a whole. During our initial interview, the auditor was informed that the Organization's Board of Directors were only involved at the initial start-up. The day-to-day operations were run by Rabbi [REDACTED] and the accountant - [REDACTED]. The Rabbi is in charge of all the religious activities while the accountant is in charge of all the financial aspects of the Organization. It remains quite clear, however, that the Organization and its Board of Directors did not maintain the necessary control over its activities and funds as required by the Act. We provide the following comments in this regard.

a) Beneficiary Selection

As stated previously, it is clear from the evidence on the file that the Organization is devoting a significant portion of its effort and resources to activities in support of the charitable purpose of relieving poverty. Although, we remain of the opinion that this is not one of the Organization's registered objects, it is a charitable purpose at law as has already been established through the courts. We would like to comment however, that had the Organization been registered to pursue this purpose on initial registration, the Organization did not demonstrate the effective direction and control needed when pursuing such an activity.

To relieve poverty in the charitable sense means to bring relief of the poor. The poor are not simply the destitute, but anyone lacking essential amenities available to the general population. Keeping this in mind, the Organization must have a concrete set of selection criteria for determining whether an individual is in fact, impoverished as well as a defined procedure for evaluating each beneficiary in this regard. Without defined parameters and an evaluation process, the Organization runs the risk of providing benefits to individuals who are not truly impoverished. The Organization must demonstrate that they conducted their due diligence in establishing poverty prior to using any of its funds in this regard, should they have been registered to do so.

During the audit, the Organization failed to provide documentary evidence to suggest that an established set of criteria defining poverty ever existed nor was it able to provide any evidence that it evaluated its beneficiaries to determine whether they were impoverished prior to providing them with either monetary funds or food. Documentation such as board meeting minutes, applications for assistance, an operations manual outlining procedures or evidence of evaluations of beneficiary selection were not provided. As such, it could not be determined that the Organization's Board of Directors mandated such a program, controlled such expenditures or that they were even aware of who was being helped.

b) Financial Controls

A registered charity and the directors, officers and trustees who act on its behalf should ensure that proper controls and reporting are in place within the organization, to ensure that all revenues and expenses are accounted for. The law clearly places an onus on the organization to satisfy the

Minister that monies are accounted for, and in this respect, the charity should take whatever steps are necessary to reasonably satisfy itself and CRA that funds are properly received and applied to genuinely charitable uses.

At the initial interview, the Organization advised the CRA of the following facts:

- The tax-receipted donations per the donation summary were received all in cash.
- Cash donations were not deposited into the organization's bank account. Instead, the cash was kept in the safe at the accountant's personal residence.
- The accountant prepares all the donation receipts including his own donation receipts.
- The cash donations were used to pay for cash paid expenses as requested by Rabbi [REDACTED].
- No temporary receipts were used for the period under audit.
- Cash receipts journal was not maintained.
- The Organization reported total revenue of \$82,000 in 2010 and \$80,849 in 2011 of which \$20,000 in 2010 and \$25,000 in 2011 were reported to have been donated by the accountant in cash. There was no documentary evidence to support when and how the cash donations were made by the accountant.
- When asked how much cash does the organization currently have and where the cash is being kept, the Organization advised that cash on hand was roughly \$19,500 and cash was kept at the accountant's residence.

In light of the facts outlined above, it is evident that the Organization lacks the necessary direction and control over its funds at all times as required by the Act. There appears to be insufficient internal controls for reporting cash received by the Organization as cash receipts are undocumented in a journal or record. The cash appears to be in the sole control of the accountant, without employing the appropriate procedures for its control as should be outlined in an operations manual or similar board approved document. Further, the Organization has failed to keep the necessary supporting documentation to demonstrate that maintained control of its funds at all times. There were no Board of Director's meeting minutes provided that outlined any such control procedures were in place or even suggested. As such, the auditor was unable to determine if the Organization's Board of Directors exercised any of the necessary control over the Organization's activities and funds.

It is the CRA's view that the board of directors clearly did not demonstrate that it has direction and control over its assets and activities as the Rabbi and the accountant were the only ones in charge. There was no documentary evidence by way of and/or board meeting minutes to substantiate that the board of directors was involved in any of decision making activities of the Organization nor was there any evidence that suggests that the Rabbi and the accountant were required to report back to the Board of Directors in a timely manner with respect to the daily activities and operations of the Organization.

Pursuant to paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it did not comply with the requirements of the Act for its registration as such. It is our position that Russian Torah Programs has failed to comply with and has contravened section 149.1(1) of the Act. For this

reason, it appears to us there may be grounds for revocation of the charitable status of Russian Torah Programs.

3) Failure to Maintain Adequate Books & Records

Subsection 230(2) of the Act requires that every registered charity maintain adequate books and records, and books of account, at an address in Canada recorded with the Minister. The purpose of this requirement is to enable the charity to accurately provide the CRA with the information required by the Act and enables them to verify the accuracy of reported information through the conduct of audits. In addition to retaining copies of donation receipts as explicitly required by subsection 230(2), subsection 230(4) provides that:

“Every person required by this section to keep records and books of account shall retain:
(a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as prescribed; and
(b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the end of the last taxation year to which the records and books of account relate.”

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

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked (*Canadian Committee for the Tel Aviv Foundation v. Canada*);
- a registered charity must maintain, and make available to the CRA at the time of an audit, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto (*Canadian Committee for the Tel Aviv Foundation v. Canada*; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397); and
- the failure to maintain proper books, records and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke an organization's charitable status (*College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada* (Minister of the Customs and Revenue Agency, (2004) FCA 101; section 168(1) of the Act).

The audit revealed the Organization did not maintain adequate books and records to permit the verification of revenue and expenses. The following deficiencies were noted during the course of the audit:

Revenue:

The revenue was reported as follows:

| | <u>2010</u> | <u>2011</u> |
|---|-----------------|-----------------|
| Total tax-receipted revenue per Line 4500 | \$82,000 | \$80,849 |
| Summary of donation receipts | <u>\$66,450</u> | <u>\$74,290</u> |
| Discrepancy | <u>\$15,550</u> | <u>\$6,559</u> |

The amounts reported on Line 4500 as tax-receipted revenue did not reconcile to the official donation receipts issued as outlined above. The accountant explained that the discrepancy in the revenue reported was as a result of cash donations from the cash boxes and donations in the form of cheques. The donations from cash boxes were \$820 in 2010 and \$1,423 in 2011. The donations in the form of cheques were \$14,730 in 2010 and \$5,136 in 2011. However, a review of bank statements revealed total deposits of \$14,230 in 2010 and \$5,136 in 2011, showing a discrepancy of \$500 in 2010 and nil in 2011. No further explanation was provided. This appears to indicate that donation receipts were not issued for cheques received.

The total of the donations purportedly made via cash (from the cash boxes) and cheques to the Organization equals the amount the discrepancy identified above. As such, it would appear that the Organization included this amount at Line 4500 but failed to record the amount in its summary of donation receipts. As a result, it remains unclear whether these amounts represent receipted donations received by the Organization or whether receipts were even issued for these amounts.

In addition, the Organization advised CRA that the donations for which tax receipts were issued were all made in cash and that cash donations were kept to pay for expenses. The amounts receipted could not be verified as there was insufficient documentation provided during the audit that recorded the cash given and/or the amounts deposited into the Organization's bank account.

Due to the audit findings outlined above, the CRA was unable to rely on the accuracy of the amounts recorded on the donation receipts issued and the completeness of the total tax-receipted revenue reported as the actual donation received by the Organization could not be verified.

Expenditures:

A review of the total expenditures reported (of \$82,000 in 2010 and \$80,849 in 2011) indicated that revenue reported equals the expenditures claimed for the period under audit. As such, it would appear that the amounts reported as the expenditures were plugged figures since there was insufficient documentary evidence provided during the audit to validate the amounts claimed.

Further, the documentation provided did not support the expenditures reported on the T3010 returns. The particulars are as follows:

- a) **Professional and Consulting Fees** – the amount of \$15,120 in 2010 and \$15,520 in 2011 appear to represent payments made to Rabbi [REDACTED] in exchange for services rendered. It should be noted that when the Organization makes payments for services rendered to an individual (who is not an employee), the Organization is required to issue T4A slips for amounts that are in excess of \$500 per year. It appears that there were no T4/T4A slips issued for these amounts nor was there documentation provided in terms of service contract and/or invoices to

support the amounts paid. In addition, the Organization advised CRA that these payments were made in cash however; the auditor was unable to verify when and how the payments were made or if the amounts recorded were accurate due to lack of documentation.

- b) **Travel and Vehicles** – the amounts of \$16,293 in 2010 and \$13,291 in 2011 were reported as cash payments made to [REDACTED], Rabbi [REDACTED], and Rabbi [REDACTED] for the services rendered. It is unclear why these payments were being reported under “Travel and Vehicle” as the Organization had advised CRA that these payments were issued as honorariums. Although the Organization provided CRA with letters of acknowledgement stating that these payments were received by the recipients, there were no T4/T4A slips issued for these amounts.

In addition, a review of the documentation provided only accounted for total payments of \$15,000 in 2010 and \$12,000 in 2011, resulting in a discrepancy of \$1,293 in 2010 and \$1,291 in 2011. The details are as follows:

| <u>Honorariums</u> | <u>[REDACTED]</u> | <u>[REDACTED]</u> | <u>[REDACTED]</u> | <u>Total</u> |
|--------------------|-------------------|-------------------|-------------------|--------------|
| 2010 Cash Payments | 3,900.00 | 3,900.00 | 7,200.00 | 15,000.00 |
| 2011 Cash Payments | 2,400.00 | 2,400.00 | 7,200.00 | 12,000.00 |

2010 Honorariums (12 lectures at \$325 per lecture per Rabbi = \$3,900)

2011 Honorariums (12 lectures at \$200 per lecture per Rabbi = \$2,400)

Transporation for 2 Montreal Rabbis (24 trips per year at \$300 per trip = \$7,200)

- c) **Other Expenditures** – the amount of \$50,587 in 2010 and \$52,038 in 2011 were reported as other expenses by the Organization. A review of summary of expenses provided by the accountant revealed the following:

| <u>2010 Expense Summary</u> | <u>Meals</u> | <u>Grocery</u> | <u>LCBO</u> | <u>Total</u> |
|--------------------------------------|--------------|----------------|-------------|--------------|
| Expenses from bank statement | 28.01 | 5,794.35 | 162.70 | 5,985.06 |
| Cash paid Expenses (Kosher Foods) | - | 12,085.32 | - | 12,085.32 |
| Expenses from credit card statements | 350.88 | 19,211.46 | 572.55 | 20,134.89 |
| Cash paid Expenses (misc. grocery) | - | 12,381.73 | - | 12,381.73 |
| Total expenses | | | | 50,587.00 |
| Amount reported on Line 4920 | | | | 50,587.00 |
| Variance | | | | - |

| <u>2011 Expense Summary</u> | <u>Meals</u> | <u>Grocery</u> | <u>LCBO</u> | <u>Total</u> |
|--------------------------------------|--------------|----------------|-------------|--------------|
| Expenses from bank statement | - | 2,601.93 | 84.50 | 2,686.43 |
| Cash paid Expenses (Kosher Foods) | - | 24,234.51 | - | 24,234.51 |
| Expenses from credit card statements | 656.01 | 21,232.06 | 727.95 | 22,616.02 |
| Cash paid Expenses (misc. grocery) | - | 2,701.29 | | 2,701.29 |
| Total expenses | | | | 52,238.25 |
| Amount reported on Line 4920 | | | | 52,038.00 |
| Variance | | | | 200.25 |

- A review of the Organization's bank statements indicated various Interac purchases were made – all appear to be related to food purchases. The Organization provided summary of expenses and bank statements, however, no actual purchase receipts were provided during the course of the audit. As a result, the CRA was unable to verify the amount claimed nor was it able to determine whether the expenses were incurred for charitable purposes.
- A review of credit card statements (Rabbi [REDACTED] personal Visa account) and a summary of expenses provided by the accountant indicate that only food purchase transactions were selected, summarized and claimed as expenditures of the Organization. There was no purchase receipts provided for any of the purchases claimed from the credit card statements. We are therefore unable to determine if and how these expenses form part of the Organization's charitable expenditures as there was no documentary evidence to substantiate that these expenditures were in fact incurred on behalf of the Organization nor has there been record of reimbursement of such expenses to Rabbi [REDACTED].
- Although, the Organization provided documentation to support the cash-paid expenses claimed, this information was not made available at the commencement of the audit. When we asked to review the cash paid summary at the initial interview, the accountant advised CRA that these records were not available as he had not prepared the summary. If the summary had not been prepared, how did the Organization determine what amount to include in the expenditures claimed on the T3010 returns? It would appear that the amount reported as cash-paid expenses was a plug figure as the reported revenue were the same as the reported expenses for the years under review.

Generally, the CRA does not specify the records you need to keep. However, your records, whether in paper or electronic format, have to:

- be reliable and complete;
- provide you with the correct information you need to assist you in fulfilling your tax obligations, to calculate the credits you are entitled to or maintain registration;
- be substantiated by supporting documents to verify the information contained in the records; and
- include other documents, such as appointment books, logbooks, income tax and GST/HST returns, and certain accountants' working papers, that assist in determining your obligations and entitlements.

Records are accounting and other financial documents that should be kept in an organized way. Records can include a statement of account, a book, a chart or table, or a return. The records can be either in writing, on paper, or in an electronic format created by a computer system.

Supporting documents provide documentary evidence of transactions. To the extent that they record binding agreements, they can be relied upon when disagreements arise between transacting parties. Supporting documents include, but are not limited to the following:

- sales invoices;
- purchase receipts, contracts;
- guarantees;
- bank deposit slips, cancelled cheques;
- cash register slips, credit card receipts;
- purchase orders;
- work orders;
- delivery slips emails; and
- General correspondence in support of the transaction.

The documentation provided during the audit did not include any of the types of supporting documents outlined above. Further the Organization failed to provide any financial statements, general ledgers, contracts, minute books, receipts and disbursement journals, operations manuals, payroll records or accounting working papers.

The minimal books and records that were provided did not permit the verification of the reported financial information; the tax-receipted donations reported could not be reconciled to the actual donation receipts issued, the expenditures claimed could not be verified due to lack of supporting documentation as outlined above.

The audit revealed that the books and records maintained by the Organization are not adequate to meet the requirements under subsection 230(2) of the Act. Failure to maintain and provide proper books, records and records of account in accordance with the requirements of the Act constitutes sufficient reason to revoke the Organization's charitable status under paragraph 168(1)(e) of the Act.

It is evident from the specific examples listed above that the Organization's books and records are inadequate for CRA's purposes. The Organization has failed to provide adequate documentation so that the auditor could complete a comprehensive analysis of the activities and expenditures of the Organization in order for them to maintain their registered charitable status.

Further, in cases where a registered charity is involved in serious non-compliance, or for repeat or multiple infractions, the Canada Revenue Agency (CRA) may impose intermediate sanctions (that is, financial penalties or suspensions) as outlined in section 188.1 and 188.2 of the Act. A registered charity is liable to a suspension under subsection 188.2(2) of the Act which states "that the authority of the person to issue an official receipt referred to in Part XXXV of the Income Tax Regulations is suspended for one year from the day that is seven days after the day on which the notice is mailed" for any contraventions of any part of section 230 of the Act.

Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the Act dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone there may be grounds to revoke the registered status of Russian Torah Program.

4) Issuing Receipts not 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. These requirements are further explained in Interpretation Bulletin IT-110R3 *Gifts and Official Donation Receipts*. A registered charity could have its registered status revoked under paragraph 168(1)(d) of the Act for issuing tax receipts that contain false information.

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

The audit reveals that the donation receipts issued by the Organization do not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as follows:

- A statement that it is an "official receipt for income tax purposes" was not noted on the donation receipts.
- The name, "Canada Revenue Agency", and the website address www.cra-arc.gc.ca/charities were not noted on the donation receipts.
- There was only one date listed on the receipts - no reference as to date the donation received vs. the date the donation receipts were issued.
- The donation receipts issued were not sequentially numbered and as a result, the auditor was unable to reasonably determine how many donation receipts were actually issued by the organization.
- None of the donation receipts issued bears the signature of the authorized person.
- The middle initial of the donor's names were missing.

In addition to the missing required elements, the audit also reveals that the Organization's internal controls were non-existent as the accountant prepared all the donation receipts of the Organization including his own donation receipts. There was no evidence to suggest that the board of directors reviewed the donation receipts prior to them being issued or that they reconciled the funds received with the donation receipts issued as evidenced by our review. The donation receipts provided did not reconcile with the donation amounts reported on Line 4500 as noted previously in this letter.

Further, the donations of \$66,450 in 2010 \$74,290 in 2011 for which the organization issued tax receipts could not be verified as there was no documentary evidence provided during the audit to support that the donations in questions were deposited in the bank account or that the receipts were issued in any sequential manner to enable the auditor to determine with a degree of certainty that all donation receipts could be accounted for.

As a result, the Organization failed to exercise due care with respect to issuing tax receipts and ensuring the accuracy of donation receipts issued. There was no evidence provided to suggest that actual donations were received by the Organization as they were not deposited in the Organization's bank account nor could they be reconciled to the cash expenses purportedly paid. This constitutes sufficient reason to revoke the Organization's charitable status.

Under paragraph 168(1) (d) of the Act, 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. 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, it appears to us that there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1) (d) of the Act

5) Failure to File an Information Return As Required by the Act:

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 with the applicable schedules.

It is the responsibility of the charity to ensure that the information that is provided in its Return, schedules and statements, is factual and complete in every respect. 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.

Filing of Return – the Organization did not file a majority of its Registered Charity Information (T3010) Returns within six months of its fiscal period ending as summarized below:

Filing of T3010 Returns

| <u>Year</u> | <u>Due Date</u> | <u>Date Filed</u> | <u>Days Late</u> |
|-------------|-----------------|-------------------|------------------|
| 2005 | June 30, 2006 | July 13, 2006 | 13 days |
| 2006 | June 30, 2007 | April 30, 2007 | On time |
| 2007 | June 30, 2008 | August 12, 2008 | 43 days |
| 2008 | June 30, 2009 | October 5, 2009 | 97 days |
| 2009 | June 30, 2010 | October 5, 2010 | 97 days |
| 2010 | June 30, 2011 | August 24, 2011 | 55 days |
| 2011 | June 30, 2012 | August 28, 2012 | 59 days |

The Organization was advised during the audit of its repeated late filing issue and its obligations under the Act to file its annual returns on time. Despite this verbal warning, the Organization remains delinquent in the filing of its 2012 T3010 Information Return for the period ending June 30, 2012.

Completion of Return – the Organization improperly completed the Registered Charity Information Return (T3010A) for the fiscal periods ending December 31, 2010 and 2011 in that many items reported were incorrectly identified or omitted. Specifically, the following items:

- Section C1 should be marked "Yes" instead of "No" as the Organization was active for the period under which it filed its annual return.
- Section C7 Line 2700 was marked "Yes", however, the commission on Line (b) was left blank.
- Section C8 should be marked "Yes" instead of "No" as Rabbi [REDACTED] claimed that he had received compensation in cash from the Organization in the

amount \$15,120 in 2010 & and \$15,520 in 2011 as reported on Line 4860 as Professional & Consulting Fees.

- Line 4860 should be reported on Line 4880 as Compensation and not as Professional & Consulting Fees.
- Section F1, physical location of the charity as well as the location of the books and records were not accurately reported. Rabbi [REDACTED] uses the basement of his residence (located at [REDACTED] in [REDACTED]) to hold the daily services and the nearby synagogue for the special religious events. The books and records were kept at the accountant's residence not at the location listed on the Charity Information Returns.
- Schedule 3 should be completed as there were numerous payments made to individuals for whom T4A slips were not issued.
- Schedule 6, Balance Sheet section was left blank. The Organization should have had a surplus of \$40,000 brought forward from 2009 T3010 return. There was no surplus listed on the balance sheet in 2010 & 2011 as the Organization had claimed to have spent all of its revenue received in those years.
- The allocation of expenditures from Line 5000 to Line 5040 was not completed.
- The Director's Worksheet was incomplete: arm's length party, telephone numbers, and date of birth of the directors sections were not filled out.
- There were no financial statements filed with the returns. Despite repeated requests, none were provided during the audit.

The Organization has failed to exercise due care with respect to the filing of its Annual Information Returns accurately and within the prescribed time. This is sufficient reason to revoke the Organization's charitable status.

Further, Budget 2012 introduced new measures to ensure that charities are accurately reporting all the activities in which they engage. The CRA was granted the authority to suspend the tax-receipting privileges of a charity that provides inaccurate or incomplete information in its annual information return until the charity provides the required information.

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it fails to file a charity information return as an when required under the Act. It is our position the Organization has failed to comply with the Act by failing to file an accurate T3010. For this reason there may be grounds to revoke the registered status of Russian Torah Program.

The Organization's Options:

a) No Response

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

b) Response

Should you choose to respond, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate will decide on the appropriate course of action, which may include:

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

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

If you have any questions or require further information or clarification, please do not hesitate to contact the undersigned at the numbers indicated below. My team leader, Gary Huenemoeder, may also be reached at 519-584-3982.

Yours truly,

[REDACTED]
Audit Division
Kitchener Tax Services Office

Telephone: [REDACTED]
Fax: (519) 585-2803
Address: 166 Frederick St.
Kitchener, ON N2G 4N1

Toll free: 1-800-267-2384 (English)
1-888-892-5667 (Bilingual)
Internet: www.cra-arc.gc.ca

cc: [REDACTED]
Vera Shlaifer – [REDACTED]
David Modylevsky – [REDACTED]

RUSSIAN TORAH PROGRAMS

Attention [REDACTED]

Mar 27, 2014

To Whom It May concern:

On behalf of Russian Torah Programs I would like to request the CRA to proceed with revocation of the Charitable Status of our organization.

As well I wish to extend my gratitude to CRA team worked on our file.

Truly yours,

Rabbi [REDACTED]

Senior Rabbi & Founder



**Центр Еврейских
Программ и Проект**
מרקז קירוב ליהדות

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David Modelevsky
Vera Shleifer

Executive Committee

Rabbi [REDACTED]

Rabbi [REDACTED]

Rabbi [REDACTED]

Members

[REDACTED]

Rabbi & Founder

Rabbi [REDACTED]

Programs & Projects: Food Bank • Hot Meals • Pnei Zaken programs for seniors • Holiday Programs
Kolel Lekutei Shoshanim - Institute of Jewish Studies

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 ⁴
- (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.