



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

REGISTERED MAIL

June 15, 2006

Senior Assist Association of Canada
2017 Danforth Ave. Unit E.
Toronto ON. M4C 1J7

Your file / Votre référence
87224 3415 RR0001

Attention: Tina Hellier

Dear Ms. Hellier:

Re: **Charity Audit**

This letter is further to our audit of the books and records of account of Senior Assist Association of Canada (the "Organization"). The audit related to the operations of the Organization for its fiscal periods ended November 30, 2002, November 30 2003 and November 30 2004.

The results of this audit and review indicate that the Organization is in contravention of certain provisions of the *Income Tax Act* (the "Act"). In order for a registered charity to retain its registration, it is required to comply with the provisions of the *Act* applicable to registered charities. If these provisions are not complied with, the Minister may revoke the Organization's registration in the manner described in section 168 of the *Act*. The balance of this letter describes the Canada Revenue Agency's (CRA) concerns.

Devotion of Resources to Non-Charitable Activities

A fundamental aspect of the definition of a charitable organization is that all of its resources must be devoted to charitable activities carried on by the organization itself (subsection 149.1(1) of the *Act*), 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.

Fundraising Expenditures

Excessive amounts appear to be spent on fundraising. The audit found that in the 2004 fiscal year the organization dedicated approximately 76% of all expenditures to fundraising and only 3% of its expenditures to its charitable activities. In addition the solicitors (i.e. the door to door canvassers) retained approximately 60% of all funds raised at source and the remainder was deposited into the charity bank account. This system

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made it impossible for the charity to meet its requirements and devote all its resources to its charitable activity.

Gifts to Non-qualified Donees

Funds disbursed to qualified donees are deemed to be charitable activities carried on by the organization itself provided that they total not more than 50% of its income. The term "qualified donee" is defined to include specific donees to which a Canadian taxpayer may make a charitable donation (i.e. mostly registered Canadian charities).

Audit evidence indicates that the Organization disbursed funds to the following organizations that do not meet the definition of a "qualified donee" per paragraph 149.1(1) of the *Income Tax Act*:

[REDACTED]

Disbursements to these organizations were recorded as charitable expenditures on the T3010.

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

Books and Records

Subsection 230(2) of the *Act* requires every registered charity to maintain adequate records and books of account at an address in Canada recorded with the Minister. The purpose of this requirement is to enable the charity to accurately provide CRA with the information required by the *Act* as well as enable CRA to verify the accuracy of reported information through the conducting of audits.

In addition to the retention of copies of the donation receipts that section 230(2) explicitly requires, subsection 230(4) also states that, "every person required by this section to keep books of account shall retain:

- a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as prescribed; and

b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the date of the last taxation year to which the records and books relate".

A charity is not meeting its requirement to maintain adequate books and records if it fails to exercise due care with respect to ensuring the accuracy thereof.

It was found during the audit that:

- Most of the expenses had no backup documentation other than cancelled cheques, and therefore it could not be determined what the expenses were for or whether they were incurred for a charitable purpose.
- The charitable purpose of many of the expenses could not be verified, as they were of a type that could easily be considered personal, e.g. expenses at [REDACTED] [REDACTED] (the directors personal address at the time), vehicle repair expenses (the organization does not list a vehicle as an asset).

Paragraph 168 (1)(e) of the *Act* provides that where a registered charity fails to comply with or contravenes any of the sections 230 to 231.5, the Minister may give notice to the registered charity that he proposes to revoke its registration

Information Return

Subsection 149.1(14) of the *Act* requires every registered charity to file a Registered Charity Information Return, (form T3010), without notice or demand, within six months from the end of each fiscal period. This return must be in prescribed form and contain prescribed information. A charity is not properly meeting its information return filing requirements when it fails to exercise due care with respect to insuring the accuracy thereof.

The audit results indicated that the Charity did not file the 2003 and 2004 Information returns until demanded to in March 2006.

Paragraph 168 (1)(c) of the *Act* provides that where a registered charity fails to file an information return as and when required under the *Act* or a regulation, the Minister may give notice to the registered charity that he proposes to revoke its registration

Official Donation Receipts

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

The Organization issued a number of donation receipts for gifts in kind with respect to works of art donated to it (\$889,550 in 2003). A large number of donation receipts were issued that contained the notation "Original Works of Art" with no further explanation. According to paragraph 16 of Interpretation Bulletin IT-110R3, where the donation is a gift of property other than cash, the receipt must contain the fair market value of the property at the time the gift was made, the date of the gift, a description of the property, and the name and address of the appraiser (if any) of the property. Also, no appraisal records were provided nor were there any records to indicate which works of art were donated by which donor. Without these records, it appears that the Organization would not have known whether the values provided were accurate.

It was also subsequently determined that most if not all of the prints for which receipts were issued in 2003 were not actually received until 2005, and there is no way to tell if all the art has been received to date.

According to Interpretation Bulletin IT-297R2, the fair market value of a gift in kind as of the date of the donation (the date on which beneficial ownership is transferred from the donor to the donee) must be determined before an amount can be recorded on a receipt for tax purposes. It is therefore our view that the Organization should not have issued official receipts before determining what the works of art were, that they had been received, and that they were properly appraised, so that their fair market value could be determined.

Paragraph 168 (1)(d) of the *Act* provides that where a registered charity issues an official receipt for a gift or donation otherwise than in accordance with the *Act* and regulations, the Minister may give notice to the registered charity that he proposes to revoke its registration.

Conclusion

For each of the reasons indicated above, it appears to us that there are grounds for revocation of the Charity's status as a registered charity.

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

The loss of its tax exempt status as a registered charity which means that the charity would become a taxable entity under Part I of the *Income Tax Act* unless, in the opinion

of the Director of the applicable Tax Services Office, it qualifies as a non-profit organization as described in paragraph 149(1)(l) of the *Act*;

Loss of the right to issue official donation receipts for income tax purposes, which means that gifts made to the charity would not be allowable as a tax credit to individual donors as provided at subsection 118.1(3) of the *Act* or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the *Act*; and

The possibility of a tax payable under Part V, subsection 188(1) of the *Act*.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister should not revoke the registration of SENIOR ASSIST ASSOCIATION OF CANADA in accordance with subsection 168(2) of the *Act*, you are invited to submit your representations **within 30 days from the date of this letter**. Subsequent to this date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a Notice of Intention to Revoke Registration of the charity in the manner described in section 168 of the *Act*.

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

If you require further information, clarification, or assistance, please contact the undersigned at Canada Revenue Agency at the address or telephone number noted below.

Yours truly,



Jason Davison
Verification and Enforcement Division
Kitchener/Waterloo Tax Service Office

Telephone: 519 - 896-3597
Facsimile: 519 - 585-2803
Address: 166 Frederick Street
Kitchener, ON N2G 4N1



AVR. 23 2007

BY REGISTERED MAIL

Senior Assist Association of Canada
2017 Danforth Ave. Unit E
Toronto, Ontario M4C 1J7

Attention: Ms. Tina Hellier, Director

BN: 87224 3415 RR0001

**SUBJECT: Notice of Intention to Revoke
Senior Assist Association of Canada**

Dear Ms. Hellier:

I am writing further to our letter dated June 15, 2006 (copy enclosed), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of Senior Assist Association of Canada (the "Association") in accordance with subsection 168(1) of the *Income Tax Act* (the "ITA").

We have reviewed your written response of July 20, 2006 and have considered the comments made. However, our view with regards to the Association's devotion of resources to non-charitable activities, inadequate books and records, failure to file *Registered Charity Information returns* and breaches of *Regulations* with regards to donation receipting, remains unchanged. Some of our reasons are as follows:

Books and records

In your letter of July 10, 2006, you blame the previous Director for the lapses in the books and records. You, as the new Director, took over in fiscal year 2003, however, the books and records have remained inadequate under your direction. Please note that the periods covered by our audit were fiscal years 2003 and 2004.

Fundraising

You state that you were unaware of the inflated proportion of funds devoted to fundraising. You mention that commissions given to canvassers and telemarketers have now been capped at 20%. Your lack of knowledge, as a Director, of the way funds were used by the Association (especially during your tenure) reveals a lack of diligence on your part since this information was readily available to you. Even if you have been in place since fiscal year 2003, the situation continued to prevail. In light of our findings, it is our opinion that the Association's primary focus is fundraising.

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Information returns

You state in your letter that the previous Director did not file the missing returns. However, since taking over as Director, you failed to file the 2003 and 2004 information returns until requested by the auditor in March 2006.

Donation receipts

You blame the previous Director for the non-compliance items observed. The audit revealed that the Association was in possession of several time-share certificates for Young Island Resorts. There was no other documentation provided regarding these certificates. When questioned about them, you stated that you did not know anything about them, that the former director took care of that. The time-share certificates (and the artwork) appear to be tax-shelter schemes that were initiated by the former director. You were involved with the Association's finances at the time. Your lack of knowledge of these schemes appears unlikely.

The Association's issuance of donation receipts for \$889,550 in 2003 for artwork without support for the fair market value and without even having taken possession of the artwork represent a severe abuse of your receipting privilege.

Conclusion

Consequently, for each of the reasons outlined in our letter dated June 15, 2006, I wish to advise you that, pursuant to the authority granted to the Minister in subsection 149.1(2) of the ITA, and delegated to me, I propose to revoke the registration of the Association. By virtue of subsection 168(2) of the ITA, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(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 under subsection 149.1(2) of the Income Tax Act and that the revocation of registration is effective on the date of publication of this notice.

Business Number
87224 3415 RR0001

Name
Senior Assist Association of Canada
Toronto, Ontario

In accordance with subsection 168(2) of the ITA, you can suspend this process (i.e. seek an extended period before revocation) by applying to the Federal Court of Appeal or a judge of that court for a stay. The Court will acknowledge your application and provide you with an action number. We require a copy of the Court acknowledgement of your request for a stay to stop the revocation process.

Should you wish to appeal this Notice of Intention to Revoke the Association's registration in accordance with subsection 168(4) of the ITA, you are advised to file a Notice of Objection within 90 days from the mailing of this letter. This notice is a written statement that sets out the reasons for the objection and all the relevant facts. The Notice of Objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
25 Nicholas Street
Ottawa, ON K1A 0L5

Please note that, notwithstanding the filing of a Notice of Objection, the Charity must seek the above-noted stay to prevent revocation from occurring. Unless the Canada Revenue Agency receives notice that an application for a stay has been filed to the Federal Court of Appeal or judge of that court regarding this revocation, we intend to proceed with the publication of the above notice in the *Canada Gazette* in 30 days thereby affecting the revocation of the organization's registration.

Consequences of a Revocation

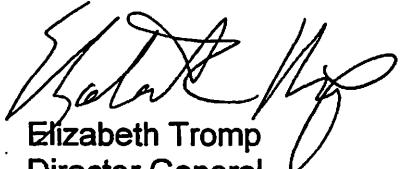
As of the date of revocation of the registration of the Association, which is the date upon which the above-noted notice is published in the *Canada Gazette*, the Association will no longer be exempt from Part I Tax as a registered charity and will no longer be permitted to issue official donation receipts.

Additionally, by virtue of section 188 of the ITA, the Association will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Association's registration. This revocation tax is calculated on prescribed form T-2046 "*Tax Return Where Registration of a Charity is Revoked*". The return must be filed and the tax must be paid on or before the day that is one year from the date of the Notice of Intention to Revoke a charity's registration. For your reference, I have attached a copy of the relevant provisions of the ITA in Appendix "A" concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation. Form T-2046, along with the related Guide RC-4424, "*Completing the Tax Return Where Registration of a Charity is Revoked*", are also attached for your information.

Also, the Association will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (the "ETA"), effective on the date of revocation. As a result, it may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. The relevant ETA provisions are attached in Appendix "B". If you have any questions about your GST/HST obligations and entitlements, please call GST/HST Rulings at 1-800-959-8287.

Furthermore, I wish to advise you that pursuant to subsection 150(1) of the ITA, a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall without notice or demand therefore, be filed with the Minister in prescribed form containing prescribed information.

Yours sincerely,



Elizabeth Tromp
Director General
Charities Directorate

Attachments

- Our letter dated June 15, 2006
- Appendix "A", Relevant Provisions of the *Income Tax Act*;
- Appendix "B", Relevant Provisions of the *Excise Tax Act*;
- Form T-2046, *Tax Return Where Registration of a Charity is Revoked*;
- Guide RC-4424, *Completing the Tax Return Where Registration of a Charity is Revoked*.