

REGISTERED MAIL

APR 27 2000

Mr. Donald Carr, Q.C.

Solicitor

The Canadian Committee for the Tel Aviv Foundation  
Suite 2300, 200 King Street West  
Toronto, Ontario  
M5H 3W5

BN 11921 8857 RR 0001  
REG 0705889-09

Dear Mr. Carr:

**Subject: Notice of intent to revoke The Canadian Committee for the Tel Aviv Foundation**

We invited you in our letter dated December 15, 1999 (Appendix 1) to submit representations as to why the Minister of National Revenue should not revoke the registration of The Canadian Committee for the Tel Aviv Foundation (hereinafter the "Charity"). This is in response to your letter of February 25, 2000.

We have carefully reviewed the representations included in your letter and it is our conclusion that these representations do not provide sufficient reason why the Charity's status as a registered charity should not be revoked. We offer the following explanations to help you understand our decision:

**Foreign Activities**

1. The audit identified the repeat of deficiencies noted in our previous audit for the fiscal year ending December 31, 1993 and for which the Charity had given an undertaking per a letter dated July 19, 1996 to conform with the requirements of the *Act*. The problem of interrelation between the Municipality of Tel Aviv-Yafo and The Tel Aviv Foundation and your undertaking are similar to the Charity's last undertaking and to the same problem. Considering the lack of improvement noted during the audit, we are of the opinion that the same problem and the same results could happen in the future. Since the Charity was unable to improve the situation in the past, we have serious concerns about its undertakings.
2. The Agent did not demonstrate that he maintained detailed records of all amounts received from or for the account of the Charity and all expenditures incurred on

behalf of the Charity in accordance with Paragraph 8 of the Agency Agreement. The separate bank account [REDACTED] kept by the Agent appears to be a transfer account.

3. As mentioned in page 2, item 4, of your letter, Paragraph 9 of the Agency Agreement was neglected.
4. Your statement that the Agent complied with Paragraph 10 of the Agency Agreement was not supported by documentary evidence of [REDACTED] visit with the Agent, or his working papers relating to any reviews conducted by him.
5. You provided to us an updated written report entitled "Canadian Projects-1997 Expenses" and a brochure of the Tel Aviv Foundation in order to support the affirmation that the Agent has no discretion whatsoever as to the expenditure of funds and that the Charity has the direction and control on how the funds are utilized (page 3, item 6).

The above written report was not available at time of audit, which was contrary to the requirements of Paragraph 9 of the Agency Agreement. The audit disclosed that the Charity did not comply to Paragraphs 5 and 6 of the Agency Agreement meaning that the Charity failed to demonstrate that it authorized the projects and the amount for each project.

In addition, our examination of the brochure of the Tel Aviv Foundation disclosed that specific Canadian donors are mentioned for projects claimed in the above written report as Charity's projects. As example, [REDACTED] This reinforces our view that the Charity is acting as a conduit.

6. On page 3, item 7, of your letter, you mentioned that the \$20,000 was the one-time grant made to the [REDACTED] At time of the audit, this grant was reported in the books and records of the Charity as scholarships, which was misleading and was hiding the fact that the Agent's activities are supposed to be in Tel Aviv only. We concur with you that the [REDACTED] is located within the internationally recognized borders of the State of Israel.

We remain convinced that the Charity appears to have no direction or control on how the funds are utilized.

#### **Official Donation Receipts**

Our letter dated December 15, 1999 indicated spoiled receipts were not marked cancelled nor were they retained by the Charity. Our letter also mentioned that donation receipts could not be reconciled with the T3010 and the financial statements. Your letter dated February 25, 2000, did not propose corrective action.

**T3010 Information Return**

Your comment that the Information return was prepared on the computer program did not address the discrepancies noted in our letter dated December 15, 1999.

**Remuneration - T4A**

We noted your intention to comply in the future but we also noted that a similar situation occurred in the previous audit whereas salary paid to an employee was not reported on a T4 slip.

**Conclusion**

We therefore conclude that the Charity does not meet the requirements of a charitable organization under subsection 149.1(1) of the *Act*.

Therefore, I wish to advise that for the reasons outlined above and pursuant to the authority granted to the Minister in subsection 168(1) of the *Act* and delegated to me in subsection 900(8) of the Regulations to the *Act*, I propose to revoke the registration of The Canadian Committee for the Tel Aviv Foundation. By virtue of subsection 168(2) of the *Act*, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), and 168(1)(d) 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.

| <b>Registration number</b> | <b>Business Number</b> | <b>Name</b>   |
|----------------------------|------------------------|---|
| 0705889-09                 | 11921 8857 RR 0001     | The Canadian Committee for the Tel Aviv Foundation<br>North York, Ontario |

Should you wish to appeal this notice of intention to revoke the charity registration in accordance with subsections 172(3) and 180(1) of the *Act*, you are advised to file a Notice of Appeal with the Federal Court of Appeal within 30 days from the mailing of this letter. The address of the Federal Court of Appeal is:

Supreme Court Building  
Wellington Street  
Ottawa, Ontario  
K1A 0H9

Please note that the Federal Court Rules impose particular obligations upon an appellant to be met within restricted time frames. In particular, the appellant is responsible for filing the documents that will form the case material for the Court's review. You can obtain information about these Rules from the Court.

**Consequences of a revocation**

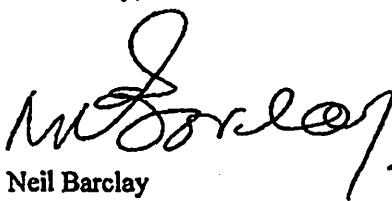
As of the date of revocation of the registration of the Charity, which is the date upon which the above-noted notice is published in the Canada Gazette, the Charity will no longer be exempt from Part I Tax as a registered charity and will no longer be permitted to issue official donation receipts.

Additionally, the Charity may be subject to tax exigible pursuant to Part V, section 188 of the *Act*. For your reference, I have attached a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation (Appendix 2).

I wish to advise you that pursuant to subsection 150(1) of the *Act*, a return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) shall, without notice or demand therefor, be filed with the Minister in prescribed form containing prescribed information. Also, we draw your attention to paragraph 149(1)(l) of the *Act* which states the definition of a non-profit organization and subsection 149(12) which states the filing requirements of a non-profit organization.

The Charity might be eligible for non-profit organization status under paragraph 149(1)(l) of the *Act*. Determination of such status is the responsibility of our Tax Services Offices. If you need further clarification in this respect, you may contact the local Tax Services Office. I would stress, however, that such recognition does not convey authority to issue official donation receipts for income tax purposes.

Yours truly,



Neil Barclay  
Director  
Charities Division

Attachments

000310



REGISTERED

Mr. Aaron Milrad

Treasurer

The Canadian Committee for the Tel-Aviv Foundation

5300 Yonge Street

North York, Ontario

M2N 5R2

Your file. Votre référence

Our file. Notre référence

BN:11921 8857 RR0001

Reg:0705889 - 09

Ph:(613) 954 1362

December 15, 1999

Dear Mr. Milrad:

Re: Charity Tax Audit

As stated in our letter of March 08, 1999, we audited the books and records of The Canadian Committee for the Tel Aviv Foundation (hereinafter the "Charity") for its fiscal period January 01, 1997 to December 31, 1997. The auditor discussed certain non-compliance issues with your accountant, [REDACTED], during the debriefing meeting at the end of the audit. However, the results from this audit were not formally communicated to you because of the workload demands in the Charities Division. We apologize for this delay. This letter addresses issues identified during the field audit and the review of the *Charity's* file.

This review has raised serious concerns about the *Charity's* compliance with certain provisions of the Income Tax Act (the "Act"). For a registered charity to retain its registration, it must comply with the provisions of the Act. If a particular registered charity does not comply with these provisions, the Minister of National Revenue (the Minister) may revoke that charity's registration in a manner described in subsection 168 of the Act.

The audit identified the repeat of deficiencies noted in our previous audit for the fiscal year ending December 31, 1993 and for which you had given an undertaking per your letter dated July 19, 1996 to conform with the requirements of the Act. Explanation of the repeat of the deficiencies are as follows:

### 1. Foreign Activities:

The requirements for an Agency Agreement with a foreign agent (hereinafter the *Agent*) to manage the *Charity*'s charitable activities overseas was explained to you in our letter dated March 26, 1996. Audit evidence indicated that the *Charity* has once again violated clauses 7 - 10 of the Agency Agreement dated July 10, 1986 in that there appears to be no evidence that the *Charity* maintains any control or accountability over the funds disbursed to and by its *Agent*.

It appears that the *Charity* has no activities in Canada other than fundraising. Approximately 80% of all funds raised are sent to the *Agent* in Israel. The funds are expended at the sole discretion of the *Agent*, and the *Charity* appears to have no direction or control on how the funds are utilized. In a report dated October 27, 1996, the *Agent* outlined a list of donations made by the *Charity* to the City of Tel-Yafo. This list lacks detailed explanations of all the expenses similar to explanations given in the letter dated June 23, 1996 from the *Agent* to the *Charity*. The list also shows that \$20,000 was expended on scholarships. No detail was given for the purpose of this scholarship, the names and addresses of the recipient, their qualification, or selection criteria in the granting of such scholarships. No details was provided for other expenses as well.

The *Charity* was unable to provide the presence of any system of continuous and comprehensive documented reporting as required in the Agency Agreement. With the exception of the aforementioned report dated October 27, 1996, the *Agent* failed to send and the *Charity* failed to maintain any expense vouchers or any financial reports reflecting the ongoing activities and use of funds by the *Agent*.

*Charity*'s funds, once transferred to the *Agent*, do not remain apart from those of its representative and there is no evidence that the *Charity*'s role in any project or endeavour is separately identifiable as its own charitable activity. The financial statements submitted in support of the *Charity*'s annual information returns do not provide a detailed breakdown of the *Agent*'s activities and expenditures.

At the debriefing meeting, the *Charity*'s accountant, [REDACTED] informed the auditor that he ([REDACTED]) personally verified the activities and vouchers during his personal visits to Israel, as did the major donors. He further added that notwithstanding our letter of March 26, 1996, maintenance of any further documentation on the *Agent*'s activities was not deemed necessary. The seriousness of such a statement are as follows:

1. Violation of subsection 230(2) of the *Act*.
2. Violation of clauses 5 to 10 of the Agency Agreement.
3. No documentary evidence of [REDACTED] visit with the *Agent*, or his working papers relating to any reviews conducted by him;

4. Review by donors: The administration and controllability on the usage of the donations should be the responsibility of the *Charity* which must exercise due care in the proper execution of the goodwill of the donors.

While the *Agent's* activities are supposed to be in Tel Aviv only, the auditor was verbally informed by [REDACTED] that one of the funded projects, a war museum, was in fact located outside Tel Aviv. [REDACTED] would not provide the address of this museum to the auditor, therefore it was not possible to identify if this museum was located within Israel's 1967 borders. It was also not possible to locate the addresses of the students receiving scholarships or the address of schools where such education was received.

The Government of Canada's long standing position with respect to Israeli settlements in the Occupied Territories is that it does not recognize permanent control over territories occupied in 1967 (the Golan Heights, the West Bank, East Jerusalem and the Gaza Strip), and opposes all unilateral actions intended to predetermine the outcome of negotiations concerning these territories. This includes the establishment of Israeli settlements in the territories and Israel's unilateral moves to annex East Jerusalem and the Golan Heights, which Canada regards as being contrary to international law and unhelpful to peace process. This policy is grounded in Canada's support for the United Nation's Security Council Resolutions 242, 338 and 478 and in the belief that the Geneva Convention Relative to the Protection of Civilian Persons in the Time of War of August 12, 1949 (the "Fourth Geneva Convention") is applicable to the Occupied Territories and imposes certain obligations on Israel, as the occupying power.

Resolutions 242 and 338 call for Israeli withdrawal from territories occupied in 1967 in exchange for secure and recognized boundaries. Resolution 478 censures the annexation of East Jerusalem by Israel, reaffirms the Fourth Geneva Convention to Jerusalem, and determines that any measures taken by Israel and altering the character of Jerusalem are null and void.

Article 49 of the Fourth Geneva Convention (which both Canada and Israel have ratified) provides that the "Occupying Power shall not deport or transfer part of its own civilian population into the territory it occupies". Canada has also ratified the 1977 Protocols to the Geneva Conventions. Article 85 of Protocol I makes "the transfer by the Occupying Power of parts of its own civilian population into the territory it occupies" a grave breach of that Protocol.

Consistent with these instruments, and with the position articulated by successive Canadian governments since 1967, it is the Department's view that providing assistance to Israeli settlements in the Occupied Territories, including assistance in establishing and maintaining physical and social infrastructure elements, serves to encourage and enhance the permanency of settlements and therefore is contrary to Canada's public policy on this issue. Consequently, it is our position that Canadian organizations that wish to sustain or augment services provided by the institutions

located within Israeli settlements outside Israel's 1967 borders are not eligible for registration as charities for Canadian income tax purposes.

Based on the above, a Canadian charity may operate in Israel, other than in the Occupied Territories under an agency agreement.

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

## **2 - Official Donation Receipts**

The Act provides various requirements in respect of official donation receipts issued by registered charities. The donation receipts issued by the *Charity* did not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as follows:

1. The receipts did not show the full address of the *Charity* as recorded with Revenue Canada, Charities Division.
2. The spoiled receipts were not marked cancelled nor were they retained by the *Charity*.
3. Donation receipts could not be reconciled with T3010 and the financial statements.

Under paragraph 168(1)(d) of the Act, the Minister may, by registered mail, give notice to the *Charity* that he proposes to revoke its registration because it issues receipts otherwise than in accordance with the Act and the Regulations.

## **3 - T3010 - Information Return**

Every registered charity is required by subsection 149.1(14) of the Act to file a Registered Charity Information and Public Information Form T3010, with applicable schedules for each taxation year of the *Charity*.

Audit evidence and our review indicated that the *Charity* improperly completed the Information Return in that many of the items reported were incorrectly identified or omitted. Specifically, fundraising and administration costs were purported to be charitable expenses and included in the disbursement quota calculation. Also a donation receipt to another charity for \$5,000 was reported at Line 100 of the Return thus affecting the disbursement quota for the following year.

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 return must include all

- relevant confidential schedules, and
- financial statements for the corresponding period.

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the Charity that he proposes to revoke its registration because it fails to file an information return as required under the Act or its Regulations.

#### 4 - Remuneration - T4A

Audit evidence indicated that the *Charity* paid fees to an entertainer, [REDACTED] for a fund raising event. Apparently, no T4A was issued to this entertainer, nor was any invoice from the entertainer provided.

#### Conclusion:

In your letter of July 19, 1996, by giving reasons for non-revocation of registration, you stated that... *"the years in question referred to in your letter relate to a time when the management of both the Canadian charity and the Tel Aviv Foundation, its agent was in different hands from now. While the provisions of the Agency Agreement (and the requirements of Revenue Canada) were not strictly adhered to, we submit that in fact, all the funds disbursed by the Canadian charity have been accounted for and have been used for charitable purposes which do conform to the requirements of Revenue Canada.*

*Both the Canadian charity and the agent have committed to conform strictly to the requirements of Revenue Canada, including the specific provisions of the Agency Agreement, which is still in force and in effect.*

*The omissions in the Information Returns were inadvertent and will not occur again.*

*The address on the official donation receipts has been corrected some considerable time ago.*

*The failure to conform to the requirements of the Income Tax Act with respect to salaries has been explained. If, as and when the Canadian charity has an employee in the future, the provisions of the Statute will be strictly adhered to.*

*.....and, by this letter and by June 27<sup>th</sup> enclosure from The Tel Aviv Foundation, there is an undertaking to conform strictly to the requirements of Revenue Canada and the Agency Agreement in the future".*

It appears that the Charity failed to observe any of the aforementioned undertakings. For all of the reasons and discrepancies indicated above, it appears to us that there are grounds for revocation of charitable status of the Charity.

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

1. the loss of its tax exempt status as a registered charity which means that the charity would become a taxable entity under Part I of the *Income Tax Act* unless, in the opinion of the Director of the applicable Tax Services Office, it qualifies as a non-profit organisation as described in paragraph 149(1)(l) of the *Act*;
2. loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Charity would not be allowable as a tax credit to individual donors as provided at subsection 118.1(3) of the *Act*, or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the *Act*; and
3. the possibility of a tax payable under Part V, subsection 188(1) of the *Act*.

For your reference, we have attached a copy of the relevant provisions of the *Income Tax Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

If you do not agree with the facts outlined above, or if you wish to present any reasons why the Minister of National Revenue should not revoke the registration of the *Charity* 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**. If you wish to obtain an extension, please contact the undersigned. Subsequent to this date, the Director of the Charities Division will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the *Charity* in the manner described in subsection 168(1) of the *Act*.

If 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 your *Charity's* file with us.

Should you have any questions on these matters, please contact Antonietta Chiocchio at (613) 946-2420 or myself at (613) 954-0939, or write to Charities Division, 320 Queen Street, 18th Floor, Ottawa, Ontario, K1A 0L5.

Yours sincerely,



Rhéal Dorval, CGA.  
Assistant Director - Audit  
Charities Division

enclosures: