



Your file *Voile reference*

The Christmas Gift Foundation
P.O. Box 8004
Saskatoon, Saskatchewan
S7K 4R7

Our file *Notre référence*

91779

Tel. [REDACTED]

Attention: Pat McNeil
President

December 8, 1994

Dear Sir:

Re: Charity Tax Audit

This letter is further to an audit of the books and records of account of The Christmas Gift Foundation (the "Foundation") which was conducted by a representative of the Department. The audit related to the operations of the Foundation for its fiscal period ended December 31, 1993.

The audit results indicate that the charity may be 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 by a particular registered charity, the Minister of National Revenue (the "Minister") may revoke its registration in the manner described in subsection 168(2) of the Act.

The following will explain why the Department considers that the organization contravened the Law.

Devotion of resources to Non-Charitable Activities

The foundation is registered as a charitable organization. In order to satisfy the definition of a charitable organization pursuant to paragraph 149.1(1) of the Act, a charity must devote all its resources to "charitable activities carried on by the organization itself".

.../2

Canada

December 8, 1994

The results of the audit and our review of the 1992 T3010 information return indicate that the main activity of the foundation is fund-raising. In fact, we have determined that for the two fiscal years of operation, namely 1992 and 1993, the resources expended for fund raising represent 79% and 75% respectively of the total revenues. Considering that another portion of resources is used for administration purposes, the remaining portion of these resources available for charitable activities represents but a fraction of the total resources of the organization, namely 19% and 11% for 1992 and 1993 fiscal years (please refer to Schedule 1). We therefore conclude that your foundation does not meet the requirements of a charitable organization under subsection 149.1(1) of the Act.

Disbursement Quotas

Registered charities are required in each year of operation to meet or exceed a disbursement quota. It is noted that the Information Return for fiscal period ended December 31, 1993 did not contain the prescribed information relative to the calculation of the Disbursement Quota (Schedule 2). This quota relates to expenditures that must be made during the year and that are charitable in nature. In the case of a charitable organization, the Act stipulates that this minimum annual disbursement quota is equal to eighty percent of the prior year's officially received donations (paragraph 149.1(2)(b) of the Act). This allows up to twenty percent of the amount of these donations to cover fund-raising costs and other related administration expenditures.

In calculating the Disbursement Quota of your organization, fund-raising costs must be excluded. By following this formula, your organization has incurred a disbursement shortfall in the amount of \$ 135,141 for the fiscal period ending December 31, 1993 (please refer to Schedule 2).

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 Christmas Gift Foundation would become a taxable entity under Part I of the Income Tax Act unless, in the opinion of the Director of the applicable District Taxation Office, it qualifies as a non-profit organization as described under paragraph 149(1)(1) of the Act;
2. loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Christmas Gift Foundation would not be allowable as a tax credit to individual donors as provided by subsection 118.1(3) of the Act, nor as a deduction in computing the taxable income of corporate donors under paragraph 110.1(1)(a) of the Act; and

December 8, 1994

3. the possibility of tax exigible under Part V, subsection 188(1) of the Act.

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

If you do not agree with the above, or if you wish to present your reasons as to why the Minister of National Revenue should not revoke the registration of the Christmas Gift Foundation in accordance with subsection 168(2) of the Act, you are invited to submit your representations by February 8, 1995. Subsequent to this date, the Director, Charities Division, will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the Foundation in the manner described in subsection 168(1) of the Act.

If you appoint a third party to represent you in this matter, please notify us in writing.

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

Yours sincerely,

Richard Labelle

R. Labelle C.G.A.
Assistant Director Audit
Charities Division

Enclosure

Schedule 1

The Christmas Gift Foundation

Analysis of Resources Available for Charitable Activities (1)

	<u>1992</u>	<u>1993</u>
Total Revenues	<u>\$ 180,557</u>	<u>\$ 249,368</u>
Fund-Raising Costs	142,628	187,362
Management and General Administration Costs	<u>3,624</u>	<u>35,554</u>
Total Costs Not Related to Charitable Activities	<u>\$ 146,252</u>	<u>\$ 222,916</u>
Costs Not Related to Charitable Activities as Percentage of Revenues	81 %	89 %
Total Fund-Raising Costs as Percentage of Revenues	79 %	75 %
Portion of Revenues Available for Charitable Activities	19 %	11 %

(1) Based on figures reported on the T3010 Information Returns.

Schedule 2

The Christmas Gift Foundation

Calculation of Disbursement Quota Shortfall

1993

Prior Year Officially Received
Donations \$ 177,611

80 Percent Thereof 142,089

Expenditures of a Charitable
Nature 6,948

Disbursement Quota Shortfall \$ 135,141



REGISTERED MAIL

The Christmas Gift Foundation
P.O. Box 8004
Saskatoon, Saskatchewan
S7K 4R7

M. Lalonde
91779
Tel.: [REDACTED]

Attention: Pat McNeil
President

OCT - 3 1995

Dear Sir:

Re: The Christmas Gift Foundation

This letter is further to an undated letter signed by yourself in response to our letter of December 8, 1994 in which you were invited to submit representations to us within sixty days as to why the Minister of National Revenue should not revoke the registration of The Christmas Gift Foundation (the "Organization") in accordance with subsection 168(2) of the *Income Tax Act* (the "Act"). This letter also follows a letter dated May 12, 1995 received from Ron Lizee, Certified General Accountant, on your behalf. Photocopies of both letters are attached for your information. A copy of the Department's December 8, 1994 letter is also attached.

We have carefully reviewed your submissions included in both letters as well as the information contained in the T3010 Information Return and accompanying financial statements that you filed for the fiscal period from January 1, 1994 to December 31, 1994.

The main contention for revocation in our letter of December 8, 1994 is that the main activity of the organization is fundraising and that the organization is not spending sufficient amounts for charitable purposes as the resources applied to charitable

.../2

Canada

activities represent but a fraction of the total resources of the organization. Given these circumstances, it follows that the organization is not meeting its disbursement quota. You claim, in your undated letter, that the organization has met the disbursement quota requirements in the 1994 fiscal year. Mr. Lizee, in his letter of May 12, 1995, also claims that the distribution of the expenses for 1993 has been adjusted, that the organization had not been properly allocating the expenses for charitable programming which caused deficiencies for the disbursement quota for that year. The table below shows the expenses for "charitable programming" as originally filed for 1993, and the adjusted 1993 figures included for comparison in the 1994 financial statements.

CHARITABLE PROGRAMMING FOR 1993

	As adjusted in the comparative statement	As originally filed
Travel awards	\$ 6,948	\$ 6,948
Promotion and awareness fees	39,217	(1)
Printing	1,684	(1)
Rental offices	2,205	(1)
Telephone	5,760	(1)
Postage and office	1,398	(1)
Couriers and delivery	3,496	(1)
Travel	303	(1)
Advertising	<u>152</u>	<u>(1)</u>
	<u>\$ 61,163</u>	<u>\$ 6,948</u>

(1) These amounts were originally included under the headings "Fundraising" and "Administration".

The above reclassification of expenses, however arbitrary it may be, still results in a low ratio of charitable expenditures for 1993. The adjusted figures give a ratio of 23% (61,163/229,864x100) while fund raising and administration expenses represent 77% of total expenses.

The trend appears to improve in 1994. To that effect, the Charitable Program expenses represent 36% (288,649/796,177x100) while Fund Raising and

Administration represents 64%. It is an improvement with 1993 however somewhat minuscule.

In any event, the estimation that certain disbursements are for charitable purposes is questionable, in particular the Promotion and Awareness Fees expense which, by the description obtained from your representative, Mr. Lizée, includes activities such as an initial group of people going out and explaining what the charity is, another group going out looking for potential children, and yet a third group going out to collect money. This description of activities includes an unjustifiably high number of activities which have very little bearing on the actual charitable action of sending sick children to Disneyland.

The figures in the 1994 financial statements show the Travel Awards expenses engaged in sending children to Disneyland in the amounts of \$78,653 out of total expenses of \$796,177 in 1994 (10%) and \$6,948 out of total expenses of \$229,864 in 1993 (3%). These amounts actually spent on charitable activities are clearly too low to ensure the maintaining of registered status under the Income Tax Act.

We maintain that the resources available for charitable activities are unacceptably low (please refer to Schedule 1). We therefore conclude that the organization 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 Christmas Gift 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) and 168(1)(e) of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

0917799-09 The Christmas Gift Foundation
Saskatoon, Saskatchewan

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

As of the date of revocation of the registration of the organization, which is the date upon which the above-noted notice is published in the Canada Gazette, 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.

Additionally, the organization 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 Income Tax Act concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

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.

Yours truly,

**ORIGINAL SIGNED BY
ORIGINAL SIGNÉ PAR
R.A. DAVIS**

R.A. Davis, CGA
Director
Charities Division


Enclosures

Schedule 1

The Christmas Gift Foundation

Analysis of Resources Available for Charitable Activities (1)

	<u>1994</u>	<u>1993 (2)</u>	<u>1992</u>
Total Revenues	<u>\$ 753,495</u>	<u>\$ 249,368</u>	<u>\$ 180,557</u>
Fund-Raising Costs	459,163	139,750	142,628
Administration Costs	<u>48,365</u>	<u>28,951</u>	<u>3,624</u>
Total Costs Not Relating to Charitable Activities	<u>\$ 507,528</u>	<u>\$ 168,701</u>	<u>\$ 146,252</u>
Costs Not Relating to Charitable Activities as Percentage of Revenue	<u>75 %</u>	<u>68 %</u>	<u>81 %</u>
Total Fund-Raising Costs as Percentage of Revenues	<u>61 %</u>	<u>56 %</u>	<u>79 %</u>
Portion of Revenues Available for Charitable Activities	<u>25 %</u>	<u>32 %</u>	<u>19 %</u>

(1) Based on figures reported on the T3010 Information Returns.

(2) Figures as amended.