



COPY

JUL. 25 2006

BY REGISTERED MAIL

The Ukrainian Catholic Eparchy of Toronto
and Eastern Canada
940 The East Mall, Suite #201
Toronto, Ontario M9B 6J7

Attention: Most Rev. Stephen V. Chmilar

BN: 89592 0247 RR 0001
File #: 0048702

**SUBJECT: Notice of Intention to Revoke
St-George's Ukrainian Catholic Church**

Dear Most Rev. Chmilar:

I am writing to you further to our letter dated September 26, 2005 (copy attached), in which you were invited to submit representations to us as to why the Minister of National Revenue should not revoke the registration of St-George's Ukrainian Catholic Church (hereinafter, the "Charity") in accordance with subsection 168(1) of the *Income Tax Act* (hereinafter, the "Act").

We have reviewed your written response of November 18, 2005 and since you agree that the organization no longer needs its charitable registration number, we will proceed with its revocation. You will find the procedures for winding up under the heading of *Consequences of a Revocation* on the next page of this letter.

Consequently, I wish to advise you that, pursuant to the authority granted to the Minister in subsection 168(1) of the Act, and delegated to me, I propose to revoke the registration of the Charity. 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 paragraph 168(1)(b), 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.

File Number	Business Number	Name
0048702	89592 0247 RR 0001	St-George's Ukrainian Catholic Church, Timmins, Ontario

.../2

Should you wish to appeal this Notice of Intention to Revoke the charity's registration in accordance with subsection 168(4) of the Act, 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 of the relevant facts. This Notice of Objection should be sent to:

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

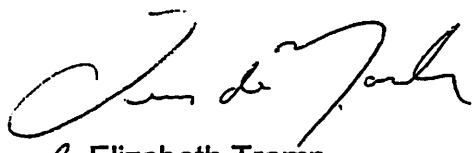
Consequences of a Revocation

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, by virtue of section 188 of the Act, the Charity will be required to pay a tax within one year from the date of the Notice of Intention to Revoke the Charity'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 Act (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.

Furthermore, 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 therefore, be filed with the Minister in prescribed form containing prescribed information.

Yours sincerely,



Elizabeth Tromp
Director General
Charities Directorate



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

BY REGISTERED MAIL

Most Rev. Stephen V. Chmilar
The Ukrainian Catholic Eparchy of
Toronto and Eastern Canada
940 The East Mall, Suite #201
Toronto, Ontario
M9B 6J7

R RT 846 436 845 CA

September 26, 2005

Dear Most Rev. Chmilar:

Re: St-George's Ukrainian Catholic Church
BN # 89592 0247 RR0001

This letter is further to an audit of the books and records of the St-George's Ukrainian Catholic Church (the "Charity"), which was conducted by a representative of the Canada Revenue Agency (the "CRA"). The audit related to the operations of the Charity for its fiscal period ended December 31, 2003

The results of this audit and review indicate that the Charity 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 Charity's registration in the manner described in section 168 of the *Act*.

The balance of this letter describes how the CRA considers that the Charity contravened the *Act*.

1) Objects and activities

St-George's Ukrainian Catholic Church has not operated as per its objectives since 2001. During this period, the parish assets including money and investments were used to maintain the building and properties owned by The Ukrainian Catholic Eparchy of Toronto and Eastern Canada. During that period, there was no priest working for the

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Charity in Timmins. [REDACTED] was then living in Southern Ontario where had found other employment.

The Charity's properties were sold and The Ukrainian Catholic Eparchy of Toronto and Eastern Canada requested in writing to use the Charity's registration number to apply it to another organization. This request was denied on the ground that there is no intention to re-establish St-Georges Ukrainian Catholic Church in Timmins or to operate any charitable program. Since the Charity is not operating and does not intend to operate a charity anymore, we are of the opinion that it should be revoked and its assets distributed to qualified donees.

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

2) Requirement to Maintain Proper 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 the CRA with the information required by the *Act* as well as enables the CRA to verify the accuracy of reported information through the conduct of audits.

In addition to the retention of copies of the donation receipts that subsection 230(2) explicitly requires, subsection 230(4) also states "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.

The audit of the books and records concluded that they were not complete; there were no general ledger, journals or summaries. The reconciliation of revenues and expenses from the records to the financial statements and to the T3010 – Registered Charity Information Return was difficult. The revenues and larger expenses were reconciled using cheque stubs and invoices; however we could not match certain expenses.

Audit Findings

The review indicated that the T3010 – Registered Charity Information Return was incorrectly filed for the 2002 and 2003 fiscal periods. The T3010, attached financial statements and the supporting documentation do not reconcile. Significant discrepancies in revenues and minor discrepancies in expenses were identified.

In 2003, revenues reported were as follows:

T3010	\$ 0
Statement of Loss/ Profit	\$ 16,803
Deposit Book	\$ 1,259 (plus GST rebate of \$596)
Donation Receipts	\$ 230

Notes: (a) A Bank Deposit Analysis was not done because no bank statements were provided for the 2003 year-end.

(b) As per the balance sheet, all money and investments have been withdrawn; the assets have a negative balance due to the bank.

In 2002, revenues reported were as follows

T3010	\$ 4,752
Statement of Loss/ Profit	\$ 20,425
Deposit Book	\$ 18,210
Bank Deposit Analysis	\$ 37,363
Donation Receipts	\$ 1,595

Note: As per balance sheet no investments were withdrawn in 2002.

It was found during the audit that no books of account were maintained and that supporting documents for donations, revenues and expenditures were incomplete.

- No receipts or disbursement journals, reconciliations or listing of the charitable donation receipts issued were maintained.
- The 2003 bank statements, all cancelled cheques, supporting documentation for certain expenditures and the T4 slips and summaries were not provided for our review.

- We could not reconcile the following expenses: Travel, Gas, Entertainment, Insurance, Miscellaneous, Employee Benefits (not included on T4), Supplies and Professional Fees.
- The lack of controls, no proper accounting system, missing journals, working papers, expense receipts and invoices, and incomplete books and records have made the financial review very difficult. As indicated in the review of income above, precise figures are not available.

The Charity's books and records and the internal accounting controls supporting them are inadequate. As a result, the auditor was unable to confirm revenue and expenditures as recorded, the accounting of receipts and the charitable nature of expenditures as reported in the Information Return.

A different bookkeeper prepared the financial statements and T3010 Registered Charity Information Returns in the last three years reviewed. None of the three bookkeepers had any working papers to provide.

As per paragraph 230(2)(c), it is the Charity's obligation to provide "information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under this Act. A review of the official donation receipts indicated weak controls because of the absence of pre-printed serial numbers, the receipt book is torn apart and no list of receipts issued was maintained. It is therefore impossible to determine if official donation receipts were properly issued or if due care was exercised to prevent misuse of receipts.

Under paragraph 168(1)(e), the Charity's registration may be revoked if it fails to comply with or contravenes any of sections 230 to 231.5 of the *Act*.

3) Devotion of Resources to Non-Charitable Activities

A fundamental aspect of the definition of a charitable organization is that all of the Charity's resources must be devoted to charitable activities carried on by the organization itself and no part of the income is to be available for the personal benefit of its members (subparagraph 149.1(1)(a) and 149.1(1)(b) of the *Act*).

A review of Line 5000 of the T3010 indicated that no resources were used in 2001, 2002 or 2003 "to promote the advancement of Ukrainian religion instruction and ministry"; the Charity's stated program. All monies spent were dedicated to managing and administering the church building and land belonging to another charitable organization, "The Ukrainian Catholic Eparchy of Toronto and Eastern Canada", until the properties

were sold. No church services were rendered in this time period; as discussed, the parish priest, ██████████ ██████████ in Southern Ontario and the land and building were vacant.

Private benefit

The audit also indicated that the parish priest, ██████████ ██████████ received personal benefits from administering the Charity's finances. The Charity has conferred benefits on an individual, the value of which has not been included on the Statement of Remuneration, Form T4 issued. Specifically, personal expenses were paid through the charity's bank account.

In 1999 and previous years, there were two members of the board of directors. When ██████████ ██████████ became parish priest of St-Georges Catholic Ukrainian Church, he also became the only board member. ██████████ ██████████ had access to the church's finances including signing authority on bank accounts, investments, donation receipts, and books and records. We could not calculate the total amount of personal benefits received because there were no controls in place and the books and records are not complete. However personal expenses for travel, entertainment, computer supplies and his residential telephone line have been paid through the church's bank account. Considering the church's limited resources, we estimate that the benefits would be material in comparison to the revenues reported on the financial statements.

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

4) Funds Sent Overseas

The requirement in the *Act* is not met where a charitable organization transfers funds to individuals without a formally established arrangement (contract) under which those individuals are legally obliged to carry out certain specified activities on the charity's behalf. In other words, if the charitable organization does not actually direct the actions of the individuals to whom it is transferring funds, and has little, if any, control over or accountability for the application of those funds, then it is not possible to view the activities performed by the individuals to be the charity's activities.

Accordingly, a charitable organization is not at liberty to transfer funds for the benefit of the work of a missionary or another organization (mission) unless the recipient is an employee of the charity, or agent of the charity under contract, or a "qualified donee". The *Act* law requires a charity to devote its resources to its own activities.

The Charity did not maintain adequate documentation to support expenditures for its overseas "donations". The parish priest purchased several money transfers and sent them to individuals in the Ukraine. The transfers totalled \$6,135 in 2002 and \$4,109 in 2003. No written agreements or contracts have been made that would indicate that the funds sent overseas are part of the Charity's program.

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

5) Disbursement Shortfall

In order to maintain its status as a charitable organization within the meaning of paragraph 149.1(1)(b) of the *Act*, a registered charity must, in any taxation year, expend amounts that are equal to at least 80% of the aggregate amounts for which it issued donation receipts in its immediately preceding taxation year. Subsection 149.1(2) of the *Act* provides for the revocation of a charity's registered charity status if it does not meet its disbursement quota for that year.

The audit results indicate that the Charity failed to meet its disbursement quota of 80% for years 2001, 2002 and 2003. Expenditures used to meet the disbursement quota must be expended directly on a charitable activity. As stated above, the Charity has not devoted any of its resources to its charitable activities in the three years reviewed.

The charity's disbursement quota has been calculated using the T3010 – Registered Charity Information Returns for the last three years filed. St-George's Catholic Ukrainian Church has realized shortfalls in their disbursement quotas: \$6,714, \$1,778 and \$800 for the 2001, 2002 and 2003 respectfully. The amounts are significant considering that the charity has issued very few donation receipts in the period in question.

Conclusion

For each of the reasons listed above, it appears that there are grounds to revoke St-George's Ukrainian Catholic Church's status as a registered 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 Foundation 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*;

2. Loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Foundation 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, section 188(1.1) 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. (Refer to Appendix A)

If you do not agree with the facts outlined above, or if you wish to present reasons why the Minister should not revoke the registration of St-George's Ukrainian Catholic Church 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 of Charities will decide whether or not to proceed with the issuance of a Notice of intention to revoke the registration of St-George's Ukrainian Catholic Church 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 written authorization naming that individual and explicitly authorizing that individual to discuss your Charity's file with us.

Should you have any questions regarding these matters, I may be contacted at (705) 670-5372, or write to the address below.

Yours truly,

Natalie Gervais
Verification and Enforcement Division
Sudbury Tax Services Office

Attachments