



REGISTERED MAIL

Harvest Christian Church Canada
114 Royal Valley Drive
Caledon ON L7C 1A5

BN: 897668810RR0001
File #: 3015694

OCT 31 2017

Attention: Mr. Moses Sarpong

Subject: Notice of Intention to Revoke
Harvest Christian Church Canada

Dear Mr. Sarpong:

We are writing further to our letter dated March 27, 2017 (copy enclosed), in which you were invited to submit representations as to why the registration of Harvest Christian Church Canada (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act* (Act).

We have now reviewed and considered your written response dated May 12, 2017. However, our concerns with respect to the Organization's failure to maintain adequate books and records, provision of a personal benefit, issuance of receipts not in accordance with the Act, and failure to file an information return as and when required by the Act and/or its Regulations, have not been alleviated. The basis for our concerns is explained below.

Both our March 27, 2017, letter and the 15-day extension letter dated April 26, 2017, requested that the Organization provide a written response to the findings outlined in our March 27, 2017, letter. However, when we arrived to meet with the Organization and its representative on May 12, 2017, a written response had not been prepared. During the meeting, when asked for a specific response to our letter and audit findings, the Organization indicated that it did not dispute any of our findings. The discussion mainly focused on improvements that the Organization and its representative planned to make to its record keeping practices.

During this meeting the Organization's representative prepared a written response, after we requested that they do so. This response did not directly address or comment on any of our audit findings. Rather, it acknowledged: "after a careful review of the files of Harvest Christian church, we found gaps." The Organization then indicated "going forward, the church will ensure the books and records are in compliance with CRA requirements and regulations". A second page attached to this response listed a

number of books and records keeping practices and internal controls that the Organization plans to implement on a go-forward basis.

Essentially, the Organization has requested an opportunity to make improvements during future years. We do not believe it would be appropriate to provide the Organization with this opportunity due to the following considerations:

- The Organization had previously signed a compliance agreement on March 22, 2010, that included six corrective actions regarding inadequate books and records. During the course of our current audit, it was found that the Organization had fully complied with only one of these six corrective actions which was that the Organization would not participate in any further tax shelter arrangements. We were unable to determine compliance with one corrective action due to a lack of adequate books and records. There were varying levels of non-compliance for each of the other four corrective actions, details of which can be found in the attached copy of our letter of March 27, 2017. As such, it is evident from the audit findings that the Organization failed to remedy all of the non-compliance issues found in the previous audit.
- Included as an attachment to the compliance agreement of March 22, 2010, was a copy of RC4409 – “Keeping Records” (this publication is no longer available). Therefore, the Organization was provided with the information that it needed in order to determine if the records that it was keeping were adequate.
- The Organization has been a client of its current representative since April 2016 but both the Organization and the representative have acknowledged that they have not made any of the changes referred to in their May 12, 2017, letter. During our meeting on May 12, 2017, the representative indicated that a busy tax season had delayed implementation of these new practices and systems. This explanation does not account for the full period, in excess of one year, that the representative had been working with the Organization.

In summary, the written response provided by the Organization did not adequately address our audit findings or put in place a detailed plan of action to ensure that such non-compliance does not occur in the future. Based on our current audit findings and the findings of the previous audit, we are concerned about the Organization’s ability to comply in the future, particularly given its failure to remedy its areas of non-compliance in accordance with the corrective measures outlined in the agreement dated March 22, 2010. As such, it remains our position that the Organization’s charitable registration status should be revoked.

Conclusion

The audit by the Canada Revenue Agency (CRA) has revealed that the Organization is not complying with the requirements set out in the Act. In particular, it was found that

the Organization: failed to maintain adequate books and records; provided a personal benefit; issued receipts not in accordance with the Act; and failed to file an 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 27, 2017, we wish to advise you that, pursuant to subsection 168(1) and 149.1(2) of the Act, we 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), 168(1)(e), and subsection 149.1(2), and paragraph 149.1(2)(c) 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	Name
897668810RR0001	Harvest Christian Church Canada Caledon 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

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, unless the CRA receives an objection to this notice of intention to revoke within this timeframe.

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.

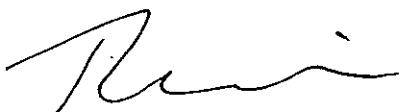
Consequences of revocation

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 T2046, *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 T2046 and the related Guide RC4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our website at cra.gc.ca/charities;
- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the *Excise Tax Act* (ETA). As a result, the Organization may be subject to obligations and entitlements under the ETA that apply to organizations other than charities. 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 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

Additionally, we 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.

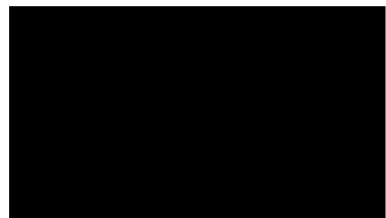
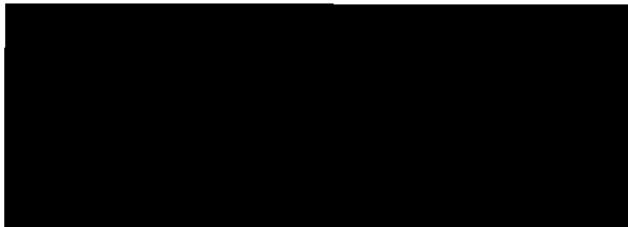
Yours sincerely,



Tony Manconi
Director General
Charities Directorate

Attachments:

- CRA letter dated March 27, 2017
- Organization's response dated May 12, 2017
- Appendix A, Relevant provisions of the Act





Mr. Moses Sarpong
Director
Harvest Christian Church Canada
114 Royal Valley Drive
Caledon ON L7C 1A5

BN: 897668810RR0001
File #: 3015694

March 27, 2017

Subject: Audit of Harvest Christian Church Canada

Dear Mr. Sarpong:

This letter is further to the audit of the books and records of the Harvest Christian Church Canada (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2013, to December 31, 2014.

At our meeting of September 8, 2016, you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* in the following areas.

AREAS OF NON-COMPLIANCE	
Issue	Reference
1. Failure to maintain adequate books and records	149.1(2), 230(2), 168(1)(b), 168(1)(e), 188.2(2)(a)
2. Providing a personal benefit	149.1(2), 168(1)(b)
3. Issuing receipts not in accordance with the Act	149.1(2), 168(1)(d), 188.1(7) Regulation 3500, 3501
4. Failure to file an information return as and when required by the Act and/or its Regulations	149.1(2), 149.1(14) 168(1)(c), 188.1(6)

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.

Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act.

Background

A compliance agreement was signed on March 22, 2010, and related to an audit covering the period from January 1, 2007, to December 31, 2008. In that compliance agreement, the Organization agreed to put in place all corrective measures no later than April 1, 2010.

The two individuals who signed the compliance agreement remain the two primary administrators/pastors of the Organization and one is also a director.

The audit identified continued non-compliance relating to the majority of the corrective actions outlined in the compliance agreement. These areas of non-compliance are addressed in more detail below. The following is an abbreviated assessment of the Organization's compliance with each corrective action:

1. Tax shelter participation –objects and activities and issuance of official donation receipts (ODRs)

There are a number of corrective actions listed under this heading. The Organization had cancelled all ODRs and was in the process of cancelling its contract with the tax shelter facilitator at the conclusion of the previous audit, as a condition to avoid revocation. We found no indication that the Organization had begun participation in any other tax shelter arrangements. Therefore, it has implemented these corrective actions.

2. Failure to maintain adequate books and records

- i. The Organization must record in its books of account all monetary transactions, including cash transactions, that occur with use of the Organization's funds. This will include all revenue and expense transactions.

The Organization has provided no books of account for the audit period.

- ii. Books of account must reconcile to the related source documents and the annual Registered Charity Information Return (T3010)

As noted above, books of account have not been provided for the audit period. During the course of our audit, we attempted to summarize the source documents provided by the Organization and have noted that these do not reconcile to the financial statements (F/Ss) or T3010s filed by the Organization.

iii. An exact copy of all donation receipts issued by the Organization must be maintained.

The Organization provided summary listings of all donation revenue purportedly received by the Organization and electronic copies of some ODRs.

The summary sheet does not indicate which donors received ODRs. When we reviewed copies of the ODRs, they did not reconcile to total amounts included on the summary listings or to the amount of received donations reported on Line 4500 of the T3010s.

We were unable to determine if the Organization has maintained exact copies of all ODRs due to a lack of adequate books and records and poor internal controls.

iv. Official donation receipts must include the donor's mailing address

The Organization has complied with this corrective action, with only one minor concern, a missing postal code.

v. The Organization must maintain a record that lists all donations made to the Organization. This record must include, the donor's name and address, donation amount, date donation was made, receipt number, date receipt was issued and description of non-cash gifts.

The Organization has provided us with such a listing for both years under audit, but we have concerns with the reliability and accuracy of this listing. For example, a review of one donor who donated primarily by cheque showed multiple instances where the donation listing included amounts that were recorded as received from the donor when there were no corresponding cheques listed on bank deposit slips, and multiple instances where a cheque from the donor was deposited into the bank account but was not recorded on the listing.

For 2013:

Requirement	Assessment
Donor Name	Yes
Donor Address	Yes for 1/3 of donors for which we were provided with copies of ODRs
Donation Amount	Yes, but 1/3 did not match figures on ODRs
Date of Donation	No
ODR Number	No
Date ODR Was Issued	No
Description of Non-Cash Gifts	N/A

For 2014:

Requirement	Assessment
Donor Name	Yes
Donor Address	Yes for 1/3 of donors for which we were provided with copies of ODRs
Donation Amount	Yes
Date of Donation	Yes but reliability of this information of concern
ODR Number	No
Date ODR Was Issued	No
Description of Non-Cash Gifts	N/A

vi. The Organization must retain all documentation, such as invoices, receipts, cancelled cheques, bank statements, contracts, agreements or other such documents that will substantiate how the Organization makes use of its funds

The Organization has not maintained the required documentation. The Organization did not provide supporting documents for the majority of expenses paid directly by debit card from the bank account of the Organization. Two bank statements were missing and the Organization provided no copies of cancelled cheques. The Organization rents their building to third parties but has not provided contracts for these transactions. Source documents for most other expenses were not available during our initial review; but, for rent and utilities amounts the Organization has been able to provide this documentation in response to our queries. In the case of utilities amounts, it appears that the Organization was not maintaining complete records but was able to secure a second copy of invoices from their service providers. For non-occupancy costs, expenses were primarily unsupported.

vii. Adequate details of purchases and related receipts must be maintained for all payments made by the Organization for credit card transactions

N/A – The Organization has indicated that it does not have a credit card.

viii. The Organization must maintain proper record of funds spent on Ghana Ministry in addition to the related cancelled cheque, such as a summary of what the funds were used for, or a related purchase invoice.

N/A – The Organization has not devoted any cash resources to this ministry during the audit period.

ix. The Organization must maintain proper payroll records for all funds paid to individuals for services rendered to the Organization. Payroll records for salary, housing benefits, allowances, honorariums or any other form of remuneration must be maintained. This shall include: opening a payroll account with CRA,

making proper withholdings as required by the Act, issuing the required information slips (T4, T4A), reporting and filing all summaries and other reports as required by the Act.

N/A – The Organization has not provided compensation to any individuals during the audit period.

In summary, of the six applicable corrective actions relating to books and records, we have found that the Organization complied fully with one item and did not comply with four items in varying degrees. We were unable to determine the degree of compliance with the final item. Our primary concerns relate to a continued lack of books of account, significant issues with the reliability of the donation receipting process and records, and cash withdrawals for which a charitable purpose cannot be established.

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

Identified areas of non-compliance

1. Failure to maintain adequate books and records

Legislation and jurisprudence

Pursuant to subsection 230(2) of the Act, every registered charity “shall keep records and books of account [...] at an address in Canada recorded with the Minister or designated by the Minister containing:

- a) information in such form as will enable the Minister to determine whether there are any grounds for revocation of its registration under the Act;
- b) a duplicate of each receipt containing prescribed information for a donation received by it;
- c) other 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.”

In addition, subsection 230(4) also states “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 a period as is prescribed;

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 and the law, which have held that:

- i. it is the responsibility of the registered charity to prove that its charitable status should not be revoked;¹
- ii. 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;² and
- iii. 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 in the case of material or repeated non-compliance.³

Audit findings

Internal controls

The Organization receives a high percentage of its donations in cash, and makes large cash withdrawals from its bank account. Where an organization is involved in cash transactions, the presence of adequate internal controls is essential to ensure the completeness of reported revenues, safeguarding of the organization's assets and the existence and charitable nature of reported expenses.

The internal controls of the Organization are considered inadequate for the following reasons:

- limited segregation of duties;
- lack of internal or external oversight;
- limited control over the assets and resources of the Organization; and
- inadequate supporting documentation.

¹ See *Canadian Committee for the Tel Aviv Foundation*, 2002 FCA 72 at paras 26-27, [2002] 2 CTC 93.

² *Canadian Committee for the Tel Aviv Foundation*, 2002 FCA 72 at para 39, [2002] 2 CTC 93. Furthermore, failing to comply with the requirements of section 230 of the Act by refusing to make documents available can lead to a fine and imprisonment, in addition to the penalty otherwise provided. See subsection 238(1) of the Act.

³ See *Prescient Foundation v MNR*, 2013 FCA 120 at para 51, [2013] FCJ no 512.

Offerings

The Organization has indicated that offerings for which ODRs are issued are collected in numbered envelopes. There are three volunteers who regularly count cash, of which a minimum of two participate for each collection. The volunteers complete and sign a count sheet, enter the amounts into a spreadsheet by donor, and complete the bank deposit slip. Use of the same two people for each of these steps could allow these individuals to remove cash from the offering plate without reporting it, particularly loose cash offerings which are not associated with a particular donor. In addition, the Organization has not maintained with its records any of the used collection envelopes or count sheets for the audit period. Count sheets were available for the current year, but our review of these count sheets showed multiple instances where there was only one signature on the sheet. Where a single individual is responsible for counting offerings, entering donations into a summary spreadsheet and preparing the bank deposit slip, there is significant risk that donations will not be completely reported.

Cash withdrawals

The Organization regularly withdraws cash. There is no petty cash system in place, and no other system or documentation to allow for verification of the purpose for each of these withdrawals. Source documentation to support disbursements made by the Organization is inadequate as discussed further in item e) Expenses, in the Books and records section below. The Organization has indicated that signing authority on the bank account is held by Moses Sarpong and [REDACTED]. Access to the debit card(s) for the bank account is limited to Moses Sarpong and [REDACTED]. These individuals are all non-arm's length with each other.

Bank deposits and withdrawals

During the 2013 year, bank deposits were \$21,069 higher than expected based on the amount of income reported by the Organization for that year. This represents a variance of 23.4% between the reported revenues on the 2013 T3010 and deposits to the bank account of the Organization. Withdrawals from the Organization's bank account are \$18,446 higher than expected based on expenses reported during the year. This represents a variance of 20.4% between reported expenses on the 2013 T3010 and withdrawals from the bank account of the Organization. During the 2014 year these variances are immaterial, but we have concerns with the reliability of the figures reported as discussed further in item c) Bank deposit analysis within the Books and records heading in this section below, and in item a) Bank account variance, in section 2. Providing a personal benefit.

Oversight

The board of directors includes three members per the Directors Worksheet filed with the T3010s for 2013 and 2014. Based on the responses of the Organization to our initial interview, there are six board members, but two of the six did not attend any board meetings during the audit period and have since resigned. Of the four remaining, three are those listed on the Directors Worksheet while the fourth is the spouse of another director. Where two of the four directors are non-arm's length, the Organization has not met the requirements of its designation as a Charitable Organization,⁴ which include a requirement that more than 50% of its governing officials must be at arm's length with each other.

The Board of Directors meets twice per year. Meeting minutes contain minimal details of the topics discussed at these meetings. Minutes are a half to three-quarters of a page in length and primarily contain basic information such as attendees, approval of previous minutes, and opening and closing of the meeting.

One of the two arm's length directors, Georgina Owusu, confirmed during a phone conversation on May 27, 2016, that she was no longer involved as a director of the Organization and has not been involved for a number of years. She was unfamiliar with the previous charity audit covering the 2007 and 2008 fiscal periods, conducted from June 2009 to April 2010.

Financial statements

The Organization has stated that F/Ss and T3010s are completed by an external accountant. We have noted that Section F2 of the T3010s indicates that the Organization completed its own T3010s. There is no documentation to suggest that the external accountants completed an audit or review engagement. The F/Ss contain errors including a revenue amount for "Service and Gift-in-Kind" which the new accountant has indicated is actually loose offerings, an "Inventory" asset which the new accountant has indicated is actually a cash balance held in a savings account, and a "Motor vehicle" asset which the Organization does not own.

Summary – internal controls

While the CRA does not specify what types of books and records the Organization must keep, the lack of documentation to support the existence of adequate internal controls, particularly for cash transactions, prevents us from determining whether any of the revenue and expense figures reported by the Organization are reliable. As a result:

- the books and records of the Organization are inadequate, as outlined in more

⁴ <http://www.cra-arc.gc.ca/chrts-gvng/chrts/glossy-eng.html>

detail in the following subsection, Books and records;

- we are unable to verify that the Organization has not provided personal benefits as outlined in the section 2. Providing a personal benefit;
- we cannot verify that charitable ODRs have been issued properly as outlined in section 3. Issuing receipts not in accordance with the Act, and
- we cannot determine whether the T3010 has been completed accurately, as outlined in section 4. Failure to file an information return as and when required.

Specific books and records issues and consequences relating to these inadequacies in internal controls are further outlined below.

Books and records

We have the following specific concerns:

a) No books of account

The Organization has acknowledged that it did not keep books of account summarizing all monetary transactions, including cash transactions, which occur with use of the Organization's funds, despite agreeing to do so in its compliance agreement.

b) Unreliable financial statements

The Organization has indicated that it used the same accountant for both years under audit, but that it has since switched to a new accountant. During a discussion on December 8, 2016, the new accountant confirmed the following errors:

- i. A revenue amount for "Service and Gift-in-Kind" is actually loose offerings;
- ii. An "Inventory" asset is actually a cash balance held in a savings account; and
- iii. A "Motor vehicle" asset is listed but the Organization does not own this asset.

In addition, in response to our request for supporting documentation to establish the existence of a "Due to Individual Member" liability, the Organization provided documentation to show the purchase of two televisions purportedly purchased by the Organization during the 2012 year, and paid for by a director. These televisions were purchased for \$12,058.06. The 2012 F/Ss show no additions of assets, and the "Due to Individual Member" liability amount decreased by \$11,114, indicating that loans were reduced not increased during that year.

The Organization itself was unsure what the "Service and Gift-in-Kind" and "Inventory" amounts represented and identified only one chequing account when we asked for bank account details. The accountant who completed the F/Ss did not return our calls to provide any additional explanations. While we are not certain that the explanations of the current accountant are correct, the uncertainty around the nature of various figures

on the F/Ss reduces their reliability. We also have concerns with the accuracy of other figures reported on the F/Ss which will be addressed below.

c) Bank deposit analysis

We reviewed total deposits and total withdrawals from the bank account⁵ of the Organization and noted variances between activity in the bank account of the Organization and amounts reported by the Organization as revenues and expenses for the 2013 year, as outlined in more detail in our review of internal controls above. Our concerns about internal controls notwithstanding, the Organization has indicated that all revenue collected by the Organization is deposited into its bank account. The Organization has not provided an explanation for why its books and records do not fully capture the activity in its bank account.

d) Revenues

During the 2013 year, the only detail to support the amount of revenue reported on the F/Ss was a donation summary listing including the first name, last name, address and total amount donated per donor. Total revenue reported on this listing is \$55,893 compared to \$90,091 (\$55,893/\$90,091=62%) reported in Section D of the T3010. The summary listing does not appear to include other revenue streams such as loose offerings and rental income. The revenue listing also does not reconcile to a summary of actual ODRs issued. The total of ODRs provided by the Organization was only \$35,547 (\$35,547/\$55,893=64%).

During the 2014 year, the Organization maintained a more detailed listing of donations received from donors on approximately a weekly basis. Total revenue reported per the listing is \$66,119.60 compared to \$114,759 (\$66,119.60/\$114,759=58%) reported as total revenue on Schedule 6 of the T3010. The total of received donations as calculated by reviewing electronic copies of ODRs was only \$51,753.60 (\$51,753.60/\$66,119.60=78%) and we noted a number of ODRs which were not included on the summary listing. We completed a detailed review of the donations of one donor who donated primarily by cheque. When we compared the bank deposit slips which listed each of her cheques, with the amounts recorded on the summary listing we noted numerous discrepancies, including instances where cheques from the donor were deposited but not recorded in the summary listing, and where the donor was credited with a donation in the summary listing but there was no corresponding cheque.

The Organization receives only a copy of the F/Ss and T3010 back from its accountant and is unsure how the accountant arrives at the revenue figures reported on these

⁵ Note that the Organization has not confirmed the existence of, or provided statements for, the savings account referenced by their current accountant. If there is activity in a savings account it has not been captured in this analysis.

documents. We are concerned with the reliability and completeness of revenue figures included on the donation summary listings, F/Ss and T3010s.

e) Expenses

i. Lack of supporting documentation

For the 2013 year, the Organization does not have any summary of expenses beyond the information that is included on its F/Ss and T3010. On these statements, the Organization reported \$90,317.92 in expenses. We were able to review source documentation to support \$76,119.46 ($\$76,119.46/\$90,317.92=84\%$). Source documents were primarily a rent invoice and hydro and gas bills. After removing these items and depreciation, the remaining reported expenses were \$15,867.19 of which we could only identify supporting documentation for 21% ($\$3,386.68/\$15,867.19 = 21\%$).

For the 2014 year, the Organization provided a one page spreadsheet summarizing expenses by category such as occupancy, utilities, etc. Expenses reported per this spreadsheet of \$86,094.58 did not reconcile to expenses reported per the F/Ss and T3010 of the Organization in the amount of \$108,145.38. We were able to review source documentation to support \$75,807.67 ($\$75,807.67/\$108,145.38=70\%$). Again, source documents were primarily a rent receipt and gas and hydro bills. After removing these items and depreciation, the remaining reported expenses were \$29,624.33 of which we could only identify supporting documentation for 6% ($\$1,706.79/\$29,624.33 = 6\%$).

We are also concerned with the variance between the 2014 expense summary spreadsheet and expenses reported on the F/Ss and T3010. We were able to identify that these variances related to additional expenses reported for bank fees, advertising, depreciation and "Program and Donation." While the first three items were either immaterial or normal end of year accounting adjustments, the final expense for "Program and Donation" is \$16,550.11 ($\$16,550.11/\$108,145.38=15\%$), 15% of total reported expenses. The Organization provided no source documentation to support this expense, and was unsure what charitable activity this expense related to.

ii. Cash withdrawals

During the 2013 year, we identified cash withdrawals in the amount of \$12,578.70 and email money transfers out of the bank account of the Organization in the amount of \$5,970. During the 2014 year, we identified cash withdrawals in the amount of \$23,535.15 and email money transfers out of the bank account of the Organization in the amount of \$4,775. Due to inadequate internal controls and books and records we are unable to verify what purpose these funds were used for.

iii. Lack of supporting documentation - personal expenses

Automobile expenses – The Organization has confirmed that it does not own an automobile. During the 2013 year the Organization reports “Maintenance, Gas and Repairs” of \$1,156.75 and “Vehicle Insurance” estimated at \$1,414.07. During the 2014 year, the Organization has reported “Vehicle Gas” of \$2,080 (estimate of \$40 per week), “Vehicle Maintenance” of \$808.75 and “Vehicle Insurance” of \$2,416.20. The Organization has indicated that it uses a personal vehicle of the administrator for charitable purposes but has provided no documentation to support this assertion. The only source documentation to support any of the automobile expenses is a set of gas receipts in the amount of \$534.95 for the 2013 year, representing 6.8% of the total amount claimed during the audit period $[\$534.95 / (\$1,156.75 + \$1,414.07 + \$2,080 + \$808.75 + \$2,416.20)] = 6.8\%$. The payment method for these receipts appears to be a variety of personal debit cards and there are no notes on the receipts indicating the charitable purpose for these outlays.

Organization debit card purchases – Numerous purchases were made using the debit card of the Organization. During the audit period we identified 84 purchases of which we located supporting documentation for only three. These purchases were for a total of \$5,866.76 and the three associated receipts were for \$428.64. Included among the purchases were numerous restaurant expenses, grocery expenses, and purchases at [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

Receipts – Non-automobile receipts for which a charitable purpose could not be established include various [REDACTED] items, a [REDACTED] purchased at [REDACTED], a trumpet purchased and shipped to a member of the congregation, and [REDACTED] fees.

Conclusion

Under paragraph 168(1)(e) of the Act, the registration of a charity may be revoked if it fails to comply with or contravenes subsection 230(2) of the Act dealing with books and records. It is our position that the present case consists of material non-compliance to an extent that warrants revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

Under paragraph 188.2(2)(a), an Organization may receive a notice of suspension of delivering official receipts if it contravenes subsection 230(2). It is our position the Organization has failed to comply with this subsection of the Act by failing to maintain adequate books and records. For this reason, there are grounds for suspending the Organization’s authority to issue official receipts, under paragraph 188.2(2)(a) of the Act. We do not believe that this sanction is an appropriate alternative, given the serious nature of the non-compliance identified in our audit.

2. Providing a personal benefit

Legislation and jurisprudence

The Organization is registered as a charitable organization. In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization" is defined as, "an organization.... no part of the income of which is payable to, or otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settler thereof...."

Audit findings

In addition to the concerns outlined in the Inadequate Books and Records section above, the audit has identified a number of specific situations where it is our position that the Organization has conferred a personal benefit. These are as follows:

a) Bank account variance

As outlined in paragraph 1(e)(ii), the audit has identified a variance between total deposits and withdrawals into and out of the bank account of the Organization, and total revenues and expenses reported by the Organization for the 2013 year. Based on our review of the bank statement activity, total expected expenses were calculated to be \$108,764 while total reported expenses were \$90,318, a difference of \$18,446. The audit also identified \$12,578.70 in cash withdrawals and \$5,970 in email money transfers ($\$12,579 + \$5,970 = \$18,549$) from the bank account of the Organization. Based on a conversation with the Organization on September 8, 2016, only [REDACTED] and Moses Sarpong have access to the debit card of the Organization. Based on the responses to our initial interview, Moses [REDACTED] are the only signatories on the bank account of the Organization. As such, it is our position that these outlays represent a personal benefit provided to [REDACTED] Moses [REDACTED]
[REDACTED]

b) Automobile expenses

As outlined in more detail in paragraph 1(e)(iii), the Organization has indicated that it uses a personal vehicle of the administrator for charitable purposes but has provided no documentation to support this assertion. Automobile expenses claimed by the Organization are \$2,570.82 and \$5,304.95 in 2013 and 2014 respectively. It is our understanding, based on a conversation with the Organization on September 8, 2016, that the vehicle in question is owned by [REDACTED] the administrator of the Organization. As such, it is our position that these outlays represent a personal benefit provided to [REDACTED]
[REDACTED]

c) Organization debit card purchases

The Organization makes numerous purchases using the debit card of the Organization. During the audit period we identified 84 purchases of which we located supporting documentation for only 3. Unsupported purchases were for a total of \$5,438.12 and included numerous restaurant expenses, grocery expenses, and purchases at [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Based on a conversation with the Organization on September 8, 2016, only [REDACTED] and Moses Sarpong have access to and make purchases using the debit card(s) of the Organization. As such, it is our position that these outlays represent a personal benefit provided to [REDACTED] Moses Sarpong.

d) Receipts

Non-automobile receipts for which a charitable purpose could not be established include various [REDACTED] items, a [REDACTED] purchased at [REDACTED], and [REDACTED] fees. As with item c) above, it is our position that these outlays represent a personal benefit provided to [REDACTED] Moses Sarpong

Conclusion

In summary, as a result of that the issues identified above, it is our position that the Organization has permitted the use of its charitable assets for personal benefit and, therefore, has failed to demonstrate that it meets the test for continued registration under 149.1(1) as a charitable organization that "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". For this reason, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

3. Issuing receipts not in accordance with the Act

Legislation and jurisprudence

From Income Tax Folio S7-F1-C1, Split-receipting and Deemed Fair Market Value⁶: Under the common law, "a gift is a voluntary transfer of property owned by a donor to a donee, in return for which no benefit or consideration flows to the donor" (*The Queen v Friedberg*, [1992] 1 CTC 1, 92 DTC 6031 (FCA)). Generally, for purposes of sections 110.1 and 118.1, a gift under common law is made if a taxpayer has donative intent, and all three of the following conditions are satisfied:

⁶ <http://www.cra-arc.gc.ca/tx/tchnc1/ncmtx/fls/s7/f1/s7-f1-c1-eng.html>

- there must be a voluntary transfer of property to a qualified donee;
- the property transferred must be owned by the donor; and
- no benefit or consideration must flow to the donor.

The law provides various requirements with respect to the issuing of official donation receipts by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Income Tax Act and are described in some detail in Income Tax Folio S7-F1-C1, Split-receipting and Deemed Fair Market Value and in P113 – Gifts and Income Tax⁷. In addition, subsection 230(2)(b) requires that an Organization maintain a duplicate of each receipt containing prescribed information for a donation received by it at an address in Canada recorded with the Minister or designated by the Minister.

Audit findings

Inadequate books and records

The Organization is required to maintain adequate books and records to allow CRA to verify that a gift has been received by the Organization. Inadequacies within the books and records of the Organization limit our ability to make this determination. In particular:

- a) Numbered offering envelopes and offering collection count sheets are not available for the audit period;
- b) We identified multiple count sheets from the current year where there was only one signature;
- c) ODRs are not numbered in a logical sequence;
- d) The same volunteers are responsible for counting donations, entering gift amounts into a summary spreadsheet, and preparing the bank deposit slip; and
- e) We identified a number of concerns with the summary listings of donations maintained by the Organization:
 - i) The listings do not identify which donors received ODRs and which did not;
 - ii) The listing does not include addresses for most donors, including a number of donors for which ODRs appear to be issued;
 - iii) In one case in 2013 and four cases in 2014, the name on the ODR does not match the name on the summary listing;
 - iv) The listings do not reconcile to copies of ODRs or to F/Ss and T3010s.

⁷ <http://www.cra-arc.gc.ca/E/pub/tg/p113/README.html>

For 2013, we received copies of 19 ODRs. The amounts listed on seven of these ODRs did not match the amounts listed on the summary listing. Total received donations per the ODRs were \$35,547, while total revenue reported on the listing was \$55,893. The listing also does not reconcile to reported revenue figures on the F/S of the Organization. Total received revenue per Line 4500 of Section D of the T3010 was \$77,591, which reconciles to the "Contribution" amount from the Statement of Operations

For 2014, total revenue recorded on the summary listing of \$66,119.60 does not reconcile to total revenue per the ODRs of \$51,753.60 or total revenue per Line 4500 of Schedule 6 of the T3010 of \$114,759; and

- v) For 2014, we completed a detailed review of the donations of one donor who donated primarily by cheque. When we compared the bank deposit slips which listed each of her cheques, with the amounts recorded on the summary listing we noted numerous discrepancies. We identified nine cheques from this donor recorded on bank deposit slips and 25 entries for the same donor recorded in the summary spreadsheet. Of the nine donations made by cheque, four corresponded to entries in the summary spreadsheet, three did not correlate to entries in the spreadsheet, and two corresponded to entries in the spreadsheet that were for different amounts.

Given the lack of internal controls identified in items a) through d) and the lack of reliable books and records identified in item e) above, we have significant concerns with the reliability and accuracy of all ODRs issued by the Organization. Of particular concern is the accounting for donations purportedly made in cash. We identified \$26,945 and \$25,025 in deposits made by cheque in 2013 and 2014 respectively. We did not verify that these cheques all represent received donation gifts. However, even if ODRs were issued for all amounts received by cheque, these amounts still represent only 34.7% ($\$26,945/\$77,591=34.7\%$) and 21.8% ($\$25,025/\$114,759 = 21.8\%$) of total received donations in 2013 and 2014 respectively, as reported on T3010s. We also continue to be concerned with the completeness of records provided by the Organization. For example, copies of the ODR issued to the largest single donor were only provided after we identified that these ODRs were missing from the original documentation provided by the Organization.

Other issues

During the 2014 year, the Organization issued ODRs in the format "2014-HCC-XX" where the unique identifier was a one or two digit number ranging from 1-68. The Organization also issued a parallel range of ODRs with an alpha character attached to the unique identifier. For example, the donor who received ODR 2014-HCC-08 also received ODR 2014-HCC-08A. These second receipts were all issued to individuals

who had already received an ODR, and were generally issued in increments of \$165 (i.e.: either for \$165 or \$330). In total, \$1,470 in receipts were issued in this series. The Organization has not provided an explanation for why some donors received a second ODR or for why these ODRs were in \$165 increments.

The F/Ss of the Organization include revenue amounts for "Service and Gift-in-Kind," in the amounts of \$12,500 and \$7,080 in 2013 and 2014 respectively. During the 2014 year, this amount was reported as received revenue. We have been unable to determine the nature of this revenue but note that gifts of service do not constitute a transfer of property. As a result, no ODR can be issued for a gift of service. If a portion of this amount represents a gift-in-kind (GIK), we note that none of the ODRs provided by the Organization contain the necessary additional information required to be included on ODRs that are for a GIK.

In addition, we identified a number of concerns with the practices of the Organization as they relate to the issuance of donation receipts and the requirements outlined in Regulations 3500 and 3501 of the Act and in Income Tax Folio S7-F1-C1. Our concerns are as follows based on a review of ODR 2014-HCC-05:

- a) The ODR does not contain the exact phrase "official receipt for income tax purposes";
- b) The name of the Organization on the ODR is "Harvest Christian Church" whereas the official name of the Organization is "Harvest Christian Church Canada";
- c) The address on the ODR, 196 Toryork Drive, Toronto, does not match the official address of [REDACTED]
- d) The CRA website reference is the main CRA website rather than www.cra-arc.gc.ca/charities;
- e) The place or locality where the receipt was issued is not included;
- f) ODRs are not issued in a logical manner with respect to numbering – In 2014, the Organization has not provided copies of a number of ODRs including numbers 3, 4, 17, 22, 43-61 and others, and has issued a second ODR to a number of individuals with an alpha-numeric number. In 2013, some ODRs include only a numeric number while others include various alpha-numeric combinations. For example ODR numbers included "2013 – 00SE6," "2013 – 00AA8," and "2013 – 0006." As a result, we are unable to determine if we have been provided with copies of all ODRs issued by the Organization; and
- g) The Organization has indicated that, where replacement ODRs are necessary, it issues a second copy of the same receipt rather than replacing it with a different ODR with a unique identifying number.

Conclusion

Under paragraph 168(1)(d), 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 this reason alone, there are grounds for revocation of the Organization's charitable status.

An organization that issues donation receipts that are incomplete or incorrect could also be liable for a penalty of 5% of the eligible amount stated on the receipts under subsection 188.1(7). This penalty increases to 10% for a repeat infraction within 5 years under subsection 188.1(8). We do not believe that this sanction is an appropriate alternative, given the serious nature of the non-compliance identified in our audit.

4. Failure to file an information return as and when required by the Act and/or its Regulations

Legislation and jurisprudence

Subsection 149.1(14) of the Act states that:

Every registered charity and registered Canadian amateur athletic association shall, within six months from the end of each taxation year of the charity or association and without notice or demand, file with the Minister both an information return and a public information return for the year in prescribed form and containing prescribed information.

It is the responsibility of the Organization to ensure that the information provided in its T3010 returns, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirements to file an information return in prescribed form if it fails to exercise due care with respect to ensuring the accuracy thereof. The Federal Court of Appeal has confirmed that major inaccuracies in a T3010 are a sufficient basis for revocation.⁸

Subsection 188.1(6) of the Act provides that a charity could be liable for a \$500 penalty if it fails to file a return for a taxation year as and when required by subsection 149.1(14) of the Act. Further, to ensure that charities are accurately reporting all the activities in which they engage, the CRA has 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

⁸ *Opportunities for the Disabled Foundation v MNR*, 2016 FCA 94 at paras 48-51.

Audit findings

Unless otherwise specified, the following concerns apply to both the 2013 and 2014 T3010s of the Organization:

- a) Amounts reported on Line 4500 as receipted donations do not reconcile to copies of ODRs or to internal donation summaries as outlined in both the Inadequate Books and Records and the Issuing of Receipts Not In Accordance with the Act sections above;
- b) Amounts reported as receipted donations appear to include non-receiptable revenue such as rental revenue, property tax rebates, gifts of service and loose offerings;
- c) The Organization has reported a material amount of inventory but could not identify the nature of this inventory. A recently hired accountant has indicated that this amount is actual cash in a savings account;
- d) The Organization does not own a motor vehicle but has reported a motor vehicle asset;
- e) The Organization has not provided adequate supporting documentation to establish the existence of a liability listed as "Due to Individual Members";
- f) In the T3010 for 2013, the Organization has reported only \$5,500 on line 5000 as charitable expenditures and reports \$74,894 of its total expenses of \$90,318 as management and administration expenses on Line 5010. During the 2014 year, the Organization has reported only \$16,550 on Line 5000 as a charitable expenditure and has reported expenses primarily on Line 5040 as other expenditures. These allocations do not appear accurate based on our understanding of the activities of the Organization;
- g) In the T3010 for 2014, the Organization has reported 26% of its total expenses ($\$27,922/\$108,144=26\%$) on Line 4920. A number of these expenses could have been included on other more specific expense categories. Line 4920 should include only expenses which cannot easily be allocated to other lines;
- h) In the T3010 for 2014, the Organization reported accumulated amortization of \$67,655 as a positive figure on Line 4166, leading to an overstatement of assets by \$135,310;
- i) The Organization engages in fundraising activity (collection plate/boxes), but no fundraising activities were reported on Lines 2500-2660;

- j) The Organization has stated that an accountant completed its T3010s, but in section F it has indicated that it completed its own T3010s;
- k) In the T3010 for 2013, the Organization indicated on Schedule 5, that it received GIK of clothing/furniture/food, machinery/equipment/computers/software and books but did not assign a value to these items. We could identify no ODRs issued related to these gifts and the Organization indicated that it did not receive any GIK on Line 4000. Schedule 5 should only be used to identify gifts for which ODRs were issued;
- l) The Directors/Trustees and Like Officials Worksheet (T1235) does not match to information contained within board of directors meeting minutes provided by the Organization; and,
- m) In the T3010 for 2013, the Organization did not attach the Registered Charity Basic Information worksheet (TF725) to its T3010.

Conclusion

Under subsection 168(1)(c) of the Act, the registration of a charity may be revoked if it fails to file a charity information return 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 are also grounds for revocation of the registered status of the Organization, under paragraph 168(1)(c) of the Act.

Under subsection 188.2(2.1), an Organization may receive a notice of the suspension of its privilege to issue donation receipts for failing to meet their obligations under subsection 149.1(14). It is our position the Organization has failed to comply with this subsection of the Act by failing to file an accurate T3010. For this reason, there are grounds for suspension of the Organization's authority to issue official receipts, under subsection 188.2(2.1) of the Act. We do not believe that this sanction is an appropriate alternative, given the serious nature of the non-compliance identified in our audit.

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;
- the application of penalties and/or suspensions provided for in sections 188.1 and/or 188.2 of the Act; or
- giving notice of its intention to revoke the registration of the Organization by issuing a notice of intention to revoke 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 me at the numbers indicated below. My team leader, Maria Grieco, may also be reached at (519) 584-3974.

Yours sincerely,

Luke Jantzi
Audit Division
Kitchener Tax Services Office

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c.c.: Bismark Adjie Bediako

c.c.:

[REDACTED]

May 12, 2017

After a careful review of the files of Harvest Christian church, we found gaps which we have advised the leader [REDACTED] on.

Please find the attach recommendations by [REDACTED] based on the review of the financial statement of Harvest Christian Church.

Please be informed that going forward, the church will ensure the books and records are in compliance with CRA requirements and regulations.

Counting on your co-operation on this matter.

Sincerely,

[REDACTED]

Executive Director

[REDACTED]

Future Recommendation for Harvest Christian Church

Weekly Duties

1. Enter the weekly contributions and other cash receipts into your accounting system
2. Pay all accounts and invoices that are due.

Monthly Duties

1. Pay all accounts and invoices that are due
2. Balance all accounts and reconcile general accounts to sub-ledgers
3. Post ledgers where applicable
4. Prepare financial reports for files/ and or meetings
5. Reconcile all bank accounts (very important)
6. It is recommended that another competent person review the bank reconciliation and initial it

Annual Duties

1. Prepare annual financial statements
2. Assist in the preparation of the budget for the ensuing year

Checks & Balances

1. Have two signatory on cheques
2. Have a petty cash ledger account in place
3. Create a reimbursement form to cater for reimbursement expenses
4. No cash withdrawal unless it has necessary documents to back it.

APPENDIX A

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;
- (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; or
- (c) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift.

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;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (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 149.1(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;
- (b.1) makes a disbursement by way of a gift, other than a gift made
 - (i) in the course of charitable activities carried on by it, or
 - (ii) to a donee that is a qualified donee at the time of the gift;
- (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

The Minister may, by registered mail, give notice to a person described in any of paragraphs (a) to (c) of the definition "qualified donee" in subsection 149.1(1) that the Minister proposes to revoke its registration if the person

- (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;
- (c) in the case of a registered charity or registered Canadian amateur athletic association, fails to file an information return as and when required under this Act or a regulation;
- (d) issues a receipt for a gift 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 the granting of which was expressly or implicitly conditional on the association making a gift to another person, club, society or association.

168(2) Revocation of Registration

Where the Minister gives notice under subsection 168(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,

(d) [Repealed, 2011, c. 24, s. 54]

(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,

(g) refuses to accept for registration for the purposes of this Act any retirement income fund,

(h) refuses to accept for registration for the purposes of this Act any pooled pension plan or gives notice under subsection 147.5(24) to the administrator of a pooled registered pension plan that the Minister proposes to revoke its registration, or

(i) refuses to accept an amendment to a pooled registered pension plan,

the person 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), the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), or the administrator of the plan in a case described in paragraph (h) or (i), 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),

(b) [Repealed, 2011, c. 24, s. 55]

(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),

(c.2) the mailing of notice to the administrator of the pooled registered pension plan under subsection 147.5(24), or

(d) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan or pooled 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

If 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, or solidarily, 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”

« *montant de l’actif net* »

“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”

« *valeur nette* »

“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

(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.