



REGISTERED MAIL

The Judah Weinstock Memorial Foundation  
55 Shelbourne Avenue  
Toronto ON M5N 1Y9

JUN - 8 2017

Attention: Mr. Morris Alon

BN : 890072663RR0001  
File #: 0570010

**Subject: Notice of Intention to Revoke**  
**The Judah Weinstock Memorial Foundation**

Dear Mr. Alon:

We are writing further to our letter dated June 29, 2016 (copy enclosed), in which you were invited to submit representations as to why the registration of The Judah Weinstock Memorial Foundation (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 September 1, 2016. However, notwithstanding your reply, our concerns with respect to the Organization's non-compliance have not been alleviated. Our position is fully described in Appendix "A" attached.

### **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 did not devote all of its resources to its own charitable activities, lacked direction and control over its activities outside of Canada, failed to maintain adequate books and records, failed to issue official donation receipts in accordance with the Act, and failed to file an accurate charity information return. 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 June 29, 2016, we wish to advise you that, pursuant to subsection 168(1) 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, 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**  
890072663RR0001

**Name**  
The Judah Weinstock Memorial Foundation  
Toronto, Ontario

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

Notwithstanding the filing of an objection, 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.

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 "B", 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 "B". Form T2046 and the related Guide RC4424, Completing the Tax Return Where Registration of a Charity is Revoked, are available on our Web site at [www.cra-arc.gc.ca/charities](http://www.cra-arc.gc.ca/charities);

- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the Excise Tax Act. 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).

Finally, we wish to advise that subsection 150(1) of the Income Tax 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:

- Administrative Fairness Letter dated June 29, 2016
- Appendix A: Response to representation of September 1, 2016
- Appendix B: Relevant provisions of the Act

c.c.: Audrey Alon, Baruch Leiter  
55 Shelbourne Avenue  
Toronto ON M5N 1Y9

Place de Ville, Tower A  
220 Queen Street, 5th Floor  
Ottawa ON K1A 0L5



CANADA REVENUE  
AGENCY

AGENCE DU REVENU  
DU CANADA

JUL -

MAIL EXAM  
examen du courrier

**REGISTERED MAIL**

The Judah Weinstock Memorial Foundation  
55 Shelbourne Avenue  
Toronto, Ontario  
M5N 1Y9

Attention: Morris Alon

BN: 89007 2663 RR0001

File #:0570010

June 29, 2016

**Subject: The Judah Weinstock Memorial Foundation**

Dear Mr. Alon:

This letter is further to the audit of the books and records of The Judah Weinstock Memorial Foundation (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2012 to December 31, 2013.

During our conversation with your accountant on September 24, 2015, he was 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 devote all of its resources to its own charitable activities: a) Undue benefits b) Funding non-qualified donees	149.1(1), 149.1(2), 168(1)(b), 188.1(4), 188.1(5)
2.	Activities outside of Canada	149.1(1), 149.1(6), 168(1)(b)
3.	Inadequate books and records	149.1(4), 230(2), 168(1)(e)

4.	Issuing receipts not in accordance with the Act	149.1(2), 168(1)(d), Regulations 3500, 3501(1), 3501(1.1)
5.	Failure to file an accurate charity information return	149.1(2), 168(1)(c)

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.

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

### **Identified areas of non-compliance**

#### **1. Failure to Devote Resources to Charitable Activities**

Under subsection 149.1(1) of the Act, a "charitable organization" is defined as "an organization...all the resources of which are devoted to charitable activities carried or by the organization itself...".

In order for an organization to be recognized as a charity, it must be constituted exclusively for charitable purposes, and devote its resources to charitable activities in furtherance thereof.<sup>1</sup> In the Supreme Court decision of *Vancouver Society of Immigrant and Visible Minority Women v. M.N.R.* [1999] 1 S.C.R. 10, Iacobucci J. speaking for the majority, summarized the requirements for charitable registration at paragraph 159, as follows:

*"In conclusion, on the basis of the Canadian jurisprudence, the requirements for registration under s. 248(1) come down to two:*

*(1) the purposes of the organization must be charitable, and must define the scope of the activities engaged in by the organization; and*

*(2) all of the organization's resources must be devoted to these activities,..."*

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<sup>1</sup> *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10, at page 110 (paragraph 152, 154, 156)

The term "charitable" is not defined in the Act therefore it is necessary to rely on the jurisprudence in the common law. The courts have recognized four general categories of charitable purposes: (1) the relief of poverty; (2) the advancement of religion; (3) the advancement of education; and (4) other purposes beneficial to the community as a whole (or a sufficient section thereof) in a way that the law regards as charitable. This last category identifies an additional group of purposes that have been held charitable at law rather than qualifying any and all purposes that provide a public benefit as charitable.

In order to accomplish its charitable purposes, a registered charity may only use its resources (funds, personnel and/or property) in two ways, both inside and outside of Canada: for charitable activities undertaken by the charity itself under its continued supervision, direction and control; and for gifting to "qualified donees" as defined in the Act.

The objects of the Organization at the time of registration were as follows:

1. To provide food, shelter and/or financial assistance to the poor and needy
2. To establish and administer an interest-free loan fund for the assistance of those in financial need so as to enable such persons to become financially independent
3. To establish and administer a scholarship program for studies in Jewish religion and education in general
4. To assist and promote programs of Jewish religious studies and education in general
5. To collect monies by way of donation, dues or otherwise, and to hold and expend the same in furtherance of the objects of the Trust provided that, save as hereinafter provided, at least 90% of the Trust's income collected in any one year shall be expended in furtherance of the objects of the Trust in that year
6. To co-operate with other organizations within the meaning of the Income Tax Act of Canada, whether incorporated or not, which have objects the same as or similar to the objects of the Trust

The activities at the time of registration were to assist poor and needy persons, whether by way of outright gift of funds or by way of interest-free loans. The method of selection is that the Committee carefully considers the financial status of the applicant. If immediate assistance is required, then a financial gift is made. Otherwise, an interest-free loan would be given to the applicant. Each applicant must be interviewed by the Committee and present his case to them. There are no restrictions to assistance. Any party who is in a legitimate need for assistance will be assisted.

In a written response to our query dated August 26, 2015, the President, Mr. Morris Alon, stated that there have been no changes to the Organization's activities since registration. The Organization's activities are to give money and interest-free loans to needy persons.

Based on our audit findings, the Organization has demonstrated that it does not operate for purely charitable purposes. In fact, a review of the documentation provided by the organization demonstrates that the preponderance of the effort and resources of the Organization are devoted to providing a private benefit to the President's family. Providing a private benefit is not a charitable purpose at law. In fact, as illustrated below, most of the Organization's expenditures are not charitable.

a) Undue Benefit

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 fiscal year 2014, \$248,003 of the Organizations total expenditures of \$479,146 were paid for the personal benefit of the President, Mr. Morris Alon. Please see Appendix 1 for a breakdown of the total undue benefits. The payments were recorded as donations paid to qualified donees and loans receivable from his family members in the Organizations books and records. However, we traced to cancelled cheques and found that the money was paid to various private schools in Canada, the United States and Israel for the benefit of Mr. Alon's children and grandchildren. The money was directed to the schools to cover the children's and grandchildren's tuition payments, as the auditor noted the names of the children and grandchildren under the "memo section" of the cheques. Mr. Alon confirmed the names of his children and grandchildren in a correspondence dated August 26, 2015. The auditor further confirmed that the \$248,003 was a private benefit to Mr. Alon in 2014 by obtaining third-party confirmations from the Organizations the funds were gifted to.

The same analysis for the fiscal year 2013 expenditures was completed. Similarly, in fiscal year 2013, \$155,479 of the Organizations total expenditures of \$601,712 were paid for the personal benefit of the President, Mr. Morris Alon. Please see Appendix 1 for a breakdown of the total undue benefits. The payments were

recorded as donations paid to qualified donees in the Organizations books and records. However, we traced the cancelled cheques and found that the money was paid to various private schools in Canada, the United States and Israel for the benefit of Mr. Alon's children and grandchildren. The money was directed to the schools to cover the children's and grandchildren's tuition payments, as the auditor noted the names of the children and grandchildren under the "memo section" of the cheques. Mr. Alon confirmed the names of his children and grandchildren in correspondence dated August 26, 2015. The auditor further confirmed that the \$155,479 was a private benefit to Mr. Alon in 2013 by obtaining third-party confirmations from the Organizations the funds were gifted to.

Our audit findings also indicate that the Organization issued three loans to family members of the Organization's key officials during the audit period without documentation to support how the loan recipients qualified as "needy recipients" of the loans. The loan details are as follows:

- A loan of \$28,972 to the President's family member [REDACTED] on December 4, 2013. The Organization has not provided any loan agreement or details about the nature and purpose of loan. There is no documentation to indicate how the loan recipient was determined to be a needy recipient.
- A loan of \$4,000 to the President's family member [REDACTED] on December 20, 2013. The Organization has not provided any loan agreement or details about the nature and purpose of loan. There is no documentation to indicate how the loan recipient was determined to be a needy recipient.
- A loan of \$5,000 to the President's family member [REDACTED] on July 22, 2014. The Organization has not provided any loan agreement or details about the nature and purpose of loan. There is no documentation to indicate how the loan recipient was determined to be a needy recipient.

As a result of the above audit findings, it is our position that the Organization has, at a minimum<sup>2</sup>, conferred \$248,003 and \$155,479 of benefits to Mr. Alon in fiscal years 2014 and 2013, respectively. It is our further position that the Organization has transferred charitable assets for the private gain of a member and therefore has failed to demonstrate that it meets the test for continued registration under subsection 149.1(1) of the Act 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, it appears to us that there are

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<sup>2</sup>This is the minimum undue benefit that could be verified through audit.



grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

In cases where a registered charity is involved in serious non-compliance, or for repeated or multiple infractions, the Canada Revenue Agency (CRA) may impose intermediate sanctions (that is, financial penalties or suspensions) as outlined in section 188.1(4)(a) of the Act. The penalty applicable to a registered charity that provides an undue benefit to any person or entity, on first offense, is 105% on the amount of the undue benefit. However, given the serious nature of non-compliance, we are of the opinion that revocation of the Organization's charitable status is a more appropriate measure as explained above.

#### b) Funding Non-Qualified Donees

A charity may only use its resources for charitable activities undertaken by the charity itself (usually carried out using its own staff or through an intermediary), or for gifting to "qualified donees."<sup>3</sup> If a charity chooses to conduct its own activities through an intermediary it must still direct and control the use of its resources.

Though made in reference to an agency relationship, the underlying principles enunciated by the Federal Court of Appeal in *The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*<sup>4</sup> are applicable to most intermediary arrangements:

"Under the scheme of the Act, it is open to a charity to conduct its overseas activities either using its own personnel or through an agent. However, it cannot merely be a conduit to funnel donations overseas." (para.30)

and

"Pursuant to subsection 149.1(1) of the *[Income Tax Act]*, a charity must devote all its resources to charitable activities carried on by the organization itself. While a charity may carry on its charitable activities through an agent, the charity must be prepared to satisfy the Minister that it is at all times both in control of the agent, and in a position to report on the agent's activities..." (para. 40)

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<sup>3</sup> For the purpose of this compliance agreement, the term "intermediary" will also refer to partners.

<sup>4</sup> A "qualified donee" means a donee described in subsection 149.1(1) of the Act.

As re-iterated by the Court in *Bayit Lepletot v. Minister of National Revenue*,<sup>5</sup> it is not enough for an organization to fund an intermediary that carries on certain activities. The Act requires that the intermediary actually conduct those activities on the organization's behalf.

Where a registered charity undertakes an activity through an intermediary, it must be able to substantiate that it has actually arranged for the carrying out of that specific activity on its behalf and has not simply made a transfer of funds to a non-qualified donee. It must also be able to demonstrate that it maintains direction and control over, and is fully accountable for, the use of its resources. To this end, a charity would be expected to:

- select the activity that it will carry out with or through an intermediary based on the fact that it will further the charity's charitable purposes, after being satisfied that the intermediary is capable of conducting the activity on the charity's behalf; and

- supervise/direct, and make significant decisions in regard to the carrying out of, the activity on an ongoing basis.

If acting through an intermediary, the charity must establish that the activity to be conducted will further its charitable purposes, and that it maintains continued direction and control over the activity and over the use of the resources it provides to the intermediary to carry out the activity on its behalf.<sup>6</sup>

Although there is no legal requirement to do so, and the same result might be achieved through other arrangements or means, entering into a written agreement can be an effective way to help meet the own activities test. However, the existence of an agreement is not enough to prove that a charity meets the own activities test. The charity must be able to show that the terms establish a real, ongoing, active relationship with the intermediary,<sup>7</sup> and are actually implemented. A charity must record all steps taken to exercise direction and control as part of its books and records, to allow the CRA to verify that the charity's funds have been spent on its own activities. While the nature and extent of the required direction and control may vary based on the particular activity and circumstances, the absence of appropriate direction and control indicates that an organization is resourcing a non-qualified donee in contravention of the Act.

A registered charity cannot merely contribute to, or act as a financial conduit for, the activities of a non-qualified donee.

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<sup>5</sup> *The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*, 2002 FCA 72 (Canadian Committee for the Tel Aviv Foundation), note 11.  
2006 FCA 128.

<sup>6</sup> For more information, see Guidance CG-002, *Canadian Registered Charities Carrying Out Activities Outside Canada* and Guidance CG-004, *Using an Intermediary to Carry Out Activities Within Canada*.

As stated above, in order for an Organization to be recognized as a charity, it must be constituted and operated exclusively for charitable purposes, and it must devote all of its resources to charitable activities carried on by the Organization itself.

Focusing on "devotion of resources", a registered charity may only use its resources (funds, personnel and/or property) in two ways, both inside and outside Canada – for charitable activities undertaken by the charity itself, under its continued supervision, direction and control; and for gifting to "qualified donees" as defined in the Act.

A qualified donee is defined in paragraph 110.1(1)(a) and the definitions "total charitable gifts" and "total crown gifts" in subsection 118.1(1). Qualified donees are as follows:

- A registered charity;
- An RNASO (Registered Arts Service Organization) [(since under 149.1(6.4) it should be treated as a registered charity and classified as a charitable organization]
- An RCAA (Registered Amateur Athletic Association);
- Certain housing corporations;
- A municipality in Canada;
- The United Nations or one of its agencies;
- A university outside Canada found in Schedule VII of the Act;
- A charitable organization outside Canada to which Her Majesty in the right of Canada or a province has donated (found in IC 84-3R5, "Gifts to Certain Charitable Organizations Outside Canada");
- Her Majesty in the right of Canada.

#### Audit Findings

Based on our detailed audit review of the Organization's expenditures the Organization had given \$150,971 and \$149,729 to non-qualified donees in fiscal years 2014 and 2013, respectively. The money was paid to various individuals and organizations within Canada, Israel, and the United States. There was no documentation to support that the Organization had carried out its activities through agents or intermediaries. Please see Appendix 2 for a list of expenditures paid to non-qualified donees in fiscal years 2014 and 2013.

Per a response letter dated Aug 26, 2015, Mr. Alon stated that the Organization had given money to [REDACTED] because they were poor people in need. However, there was no documentation to support how the beneficiaries were chosen. The organization had no selection criteria in choosing which individuals to help. These individuals are non-

qualified donees as the Organization did not demonstrate how it had helped needy people as stated in one of its objects.

Also, the Organization did not provide a response to the auditor's letter dated June 30, 2015 regarding payments made to the following individuals/organizations that are not qualified donees:

[REDACTED] (Outside of Canada - US)  
[REDACTED] (Outside of Canada - US) [REDACTED] (Outside of  
Canada - US)  
[REDACTED] (Outside of Canada - US),  
[REDACTED] (Outside of Canada - US)

[REDACTED] (Outside of Canada - US). There was no documentation to support whether these individuals were beneficiaries of the organization's programs and how they were chosen as "needy". These individuals are non-qualified donees as the Organization did not demonstrate how it had helped needy people as stated in one of its objects.

Moreover, Mr. Alon stated in a response letter dated Aug 26, 2015 that the Organization had paid money to fund the following religious schools in the United States:

[REDACTED]

The Organization, as a private foundation, must carry on its own charitable activities, specifically, to give money or loans to needy people and/or funds other qualified donees. These U.S. organizations are non-qualified donees as they do not fit into the definition of a qualified donee as stated above. Also, we found cancelled cheques and donation receipts issued from the above organization stating that the money was applied toward the tuitions of Mr. Alon's family. Therefore, these payments to the various U.S. schools were not charitable, nor was it given to qualified donees.

Lastly, Mr. Alon stated in a response letter dated August 26, 2015 that the Organization had paid money to the following individuals to assist poor people in Israel:

[REDACTED] The  
organization did not give details about who and how the money were distributed in Israel and how the beneficiaries were chosen. This prevents us from making an assessment as to whether the Organization had carried out appropriate activities to assist the "needy". Therefore, we conclude that the Organization had given money to non-qualified donees in Israel.

It is our view, by gifting to a non-qualified donee, the Organization has failed to demonstrate that it meets the test for continued registration under subsection 149.1(1) of the Act. For this reason, it appears to us that there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

## **2. Activities Outside of Canada**

The Income Tax Act permits a registered charity to carry out its charitable purposes both inside and outside Canada, in only two ways:

- It can make gifts to other Organizations that are on the list of qualified donees set out in the Act. It can carry on its own activities. In contrast to the relatively passive transfer of money or other resources involved in making gifts to qualified donees, carrying on one's own activities implies that the Canadian charity is an active and controlling participant in a program or project that directly achieves a charitable purpose.

In order to give meaning and effect to the Income Tax Act, a charity must continue to meet all of its obligations whether the activities are undertaken directly, through agency agreements or through any other arrangements. Since the Act requires a charity to show that it effectively directs and actually controls its own activities, the agency agreement that a charity puts in place and the manner in which the charity implements that agreement must allow the charity to discharge its statutory obligations.

The existence of either a written or verbal agency agreement is only one example of evidence required to show that a sufficient principal-agent relationship truly exists. The charity through documented evidence, must demonstrate that actual events transpired which prove the continued existence of the principal-agent relationship. Thus, the charity must provide the CRA with a means of examining the internal decision making mechanisms within the charity's own structure through records, such as: minutes of board meetings; internal communications (i.e., memoranda, emails); as well as, policies and procedures that show that the charity, by directing and controlling each of its activities, acted as the guiding-mind in the principal-agent relationship. In addition, the charity must provide source documentation, reports, and the various other instruments it received from its agent showing that throughout the life of the principal-agent relationship, the agent reported back to the principal in such a manner and frequency as to allow the principal to make informed decisions about the resources and projects for which the principal was responsible.

It is the CRA's view that this type of reporting mechanism is necessary for the charity to clearly demonstrate that it maintains an adequate level of control and accountability over the use of its funds. These reports would have to be kept with the charity's other records and books of account at the address recorded with the CRA.

For purposes of the Act, when a registered charity merely transfers its resources to another entity (assuming the entity is a non-qualified donee), but fails to maintain effective direction and actual control over those resources, the result is the same as a gift to a non-qualified donee. Allowing a non-qualified donee to take near total control of the resources of a registered charity nullifies the purpose and intent of the Act.

A charitable organization is not at liberty to transfer funds or resources to other individuals or entities unless the recipient is an employee of the charity, an agent of the charity under contract, or a qualified donee. To this end, the charity must be able to demonstrate to the CRA's satisfaction that it maintains control over, and is fully accountable for, the use of resources provided to the intermediary, at all times.

#### Audit Findings

The organization has given a total of \$46,560 in U.S. dollars (\$49,191 of Canadian dollars with exchange rate applied) in fiscal year 2014 and \$29,630 in U.S. dollars (\$30,223 of Canadian dollars with exchange rate applied) in fiscal year 2013 to various Jewish organizations in the United States.

The organization has given a total of \$81,250 in U.S. dollars (\$85,841 of Canadian dollars with exchange rate applied) in fiscal year 2014 and \$102,550 in U.S. dollars (\$104,601 of Canadian dollars with exchange rate applied) in fiscal year 2013 to various individuals in Israel.

All funds were transferred overseas by cheques. Funds were paid in U.S. dollars from the CIBC U.S. bank account. We determined from reviewing the organization's books and records that in total, the Organization paid \$135,031 and \$134,824 in 2014 and 2013, respectively on activities carried on outside of Canada. Please see Appendix 3 for all expenditures paid by the Organization outside of Canada during the audit period.

The organization has given money directly to the organizations in the United States. There was no intermediary for money given to organizations in the United States.

The organization has given money to individuals in Israel to assist poor people in the local community.

In fiscal year 2014, the organization has given the following by cheques:

\$10,500 USD  
\$35,750 USD  
\$35,000 USD



In fiscal year 2013, the organization gave the following by cheques:

\$27,500 USD  
\$13,250 USD  
\$12,800 USD  
\$49,000 USD



These individuals live in Israel and were intermediaries to the organization. The Organization indicated that the individuals were to distribute the money in Israel.

Mr. Alon stated that this money was provided to assist poor people in the community in Israel. The organization did not give details to explain how the money was distributed in Israel and how the beneficiaries were chosen. Furthermore, there were no written agreements with these intermediaries.

The organization has made no effort to assess the needs of the beneficiaries of its programs. The Organization did not establish a set of selection criteria and selection process to evaluate the need of each applicant. In order to properly assess whether each applicant qualifies for help, the Organization should have established a list of criteria and assess each applicant against such criteria. When the organization first filed for registration for its charity status, it stated on its application that it will have a selection committee to select recipients of its programs. However, the Organization never established a selection committee since registration. Beneficiaries chosen were determined by word of mouth and by recommendations by community leaders in the local Jewish community.

Furthermore, the Organization failed to demonstrate proper direction and control of its money sent abroad to the United States and Israel. The organization did not provide any documentation to show that it had followed up on how the money was spent overseas. The organization had also failed to demonstrate proper monitoring and supervision of the money sent overseas. The organization did not provide any documentation to show that it had monitored how the money was spent overseas.

The audit revealed certain deficiencies, as there is little evidence to show that the Organization had any pertinent control over its resources. A review of the documentation provided revealed significant portions of the organization's donations were distributed to persons outside of Canada and we are unable to verify the funds were being used for charitable purposes. The Organization could not provide us with any documentation related to the direction and control of its resources due to the lack of board meetings and the resulting lack of recorded minutes.

For the reasons outlined above, it does not appear the Organization has maintained effective control and direction over the use of its resources and thereby, in our opinion, has distributed its resources to non-qualified donees. Under subsection 149.1(2) of the Act, the Minister may revoke the Organization because it has failed as described at paragraph 168(1)(b) of the Act to comply with the requirements of the Act for its registration as such.

### **3. Failure to Maintain Adequate Books and Records**

Subsection 230(2) of the Act requires that every registered charity maintain adequate books and records, and books of account, at an address in Canada recorded with the Minister. In addition to retaining copies of donation receipts, as explicitly required by subsection 230(2), subsection 230(4) provides that "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 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 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, which have held that:

- it is the responsibility of the registered charity to prove that its charitable status should not be revoked;<sup>8</sup>
- 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;<sup>9</sup> and
- 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.<sup>10</sup>

#### **Audit Findings**

The audit revealed that the Organization has failed to maintain adequate books and records to support the activities and income and expenses it reported on its Registered Charity Information Returns (T3010) for the 2013 and 2014 years. As a result, the Organization's books and records are considered to be inadequate.

<sup>8</sup> The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen, 2002 FCA 72 (FCA)

<sup>9</sup> Supra, footnote 3; The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada (2004) FCA 397

<sup>10</sup> (College Rabbiniqne de Montreal Oir Haclaiim D'Tash v. Canada (Minister of the Customs and Revenue Agency, (2004) FCA 101; Act section 168(1)



Our review of the Organization's overall books and records noted the following concerns:

- The Organization did not maintain a list of selection criteria for selecting beneficiaries for its gifts and loans
- The Organization did not maintain applications showing the information of each applicant including a description of his/her financial situation
- The Organization did not maintain documentation to support how each recipient was selected for the gift or loan
- The Organization did not maintain board meeting minutes
- The Organization did not provide loan agreements or details of the loans given to [REDACTED] (\$28,972), [REDACTED] (\$4,000) and [REDACTED] (\$5,000)
- The Organization did not maintain documentation to demonstrate proper direction and control over activities outside of Canada

The Organization's primary object is to relief poverty by assisting the poor by means of gifts and loans. The auditor was unable to verify whether the recipients, in Canada or outside of Canada, who received gifts and loans from the Organization are "poor" given there was no pre-established selection criteria, selection committee, formal application process, and documents to support how each recipient was selected.

Moreover, the auditor was unable to assess the validity of the loans issued by the Organization to Mr. Alon's family. The lack of loan agreements and details prevented the auditor from evaluating whether the loans were interest-bearing loans with reasonable interest rates and repayment terms, or whether the family members were determined as "needy" recipients of interest-free loans.

Lastly, the auditor was unable to verify that the Organization carried out charitable activities that were consistent with its registered objects without any board minutes kept. For example, well-documented board minutes would include important discussions regarding how gift and loan were given out and why each beneficiary was chosen. Board minutes should also include details of money transferred outside of Canada, and steps taken by the Organization at various stages to monitor its use. This would help the auditor better determine if the Organization had used its resources appropriately and assess whether the activities were carried out according to its registered objects.

It is our view that the Organization failed to maintain adequate books and records and to provide complete access to its records for our inspection, pursuant to subsection 230(2) of the Act. Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it

ails to comply with or contravenes section 230 of the Act dealing with books and records..

#### **I. Issuing Receipts Not in Accordance with the Act**

Pursuant to subsection 118.1(2) of the Act, a registered charity can issue tax receipts for income tax purposes for donations that legally qualify as gifts. The Act requires the registered charity to ensure the information on its official donation receipts is accurate. The requirements for the content of the receipts are listed in Regulation 3501 of the Act. A registered charity could have its registered status revoked under paragraph 168(1)(d) of the Act for issuing tax receipts that contain false information.

Additionally, we would like to inform you that certain amendments to the Act were introduced as part of Bill C-33 *tabled in Parliament on March 23, 2004, that came into force May 13, 2005*. As part of the amendments, a registered charity that issues an official donation receipt that includes incorrect information is liable to a penalty equal to 5% of the eligible amount stated on the receipt. This penalty increases to 10% for a repeat infraction within 5 years.

A registered charity that issues an official donation receipt that includes false information is liable to a penalty equal to 125% of the eligible amount stated on the receipt, where the total does not exceed \$25,000. Where the total exceeds \$25,000, the charity is liable to a penalty equal to 125% and the suspension of tax-receipting privileges. However, given the serious nature of non-compliance, we are of the opinion that revocation of the Organization's charitable status is a more appropriate measure as explained below.

#### **Audit Findings**

The audit reveals that the donation receipts issued by the Organization do not comply with the requirements of Regulation 3501 of the Act and IT-110R3 as follows:

- Receipts did not contain a statement that it is an official receipt for income tax purposes.
- Receipts did not contain the charity's registration number as recorded with CRA.
- Receipts did not contain the name, Canada Revenue Agency, and the website address [www.cra-arc.gc.ca/charities](http://www.cra-arc.gc.ca/charities).

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. Issuing a

donation receipt where there is no gift, no donative intent or the information on the receipt is false, is not in accordance with the Act. It is our position that the Organization has issued receipts otherwise than in accordance with the Act and the Regulations. For each reason identified above, there may be grounds for revocation of the Organization's charitable status.

#### **5. Failure to File an Accurate charity Information Return**

Pursuant to subsection 149.1(14) of the Act, every registered charity must, within six months from the end of the charity's fiscal period (taxation year), without notice or demand, file a Registered Charity Information Return (T3010) with the applicable schedules.

It is the responsibility of the Organization to ensure that the information that is provided in its T3010, schedules and statements, is factual and complete in every respect. A charity is not meeting its requirement to file an Information Return if it fails to exercise due care with respect to ensuring the accuracy thereof.

The Organization improperly completed the T3010s for the fiscal periods ending September 30, 2013 and September 30, 2014 as follows:

- Line 1600 indicates that the Organization is not a private foundation even though it is designed as a private foundation
- On line 200 of Schedule 2, the total expenditures on activities carried on outside of Canada, excluding gifts to qualified donees were reported as \$0 on the T3010s. However, the audit indicates the Organization had paid \$135,031 and \$134,824 in 2014 and 2013, respectively on activities carried on outside of Canada
- The Directors Worksheets state that all three directors are at arm's length with each other, but they are all related

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it fails to file a charity information return as 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 may be grounds to revoke the registered status of the Organization.

**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



Winnie Lo, CPA, CMA  
Audit Division  
Kitchener Tax Service Office

Telephone: (519) 896-5994  
Facsimile: (519) 585-2803  
Address: 166 Frederick Street  
Kitchener, Ontario  
N2H 0A9

C.C.:



Encl.: Appendices 1 to 3

## Appendix 1 – Details of Undue Benefits

### Undue Benefits in Fiscal year 2014

Canadian Dollars [REDACTED] Cdn Account)					
Date	Payer	Description	Amount	Chq #	Signature
31-Oct-13	[REDACTED]	[REDACTED]	\$6,000.00	chq	signed by Baruch Leite
19-Nov-13	[REDACTED]	[REDACTED]	\$12,600.00	chq	signed by Baruch Leite
19-Nov-13	[REDACTED]	[REDACTED]	\$47,360.00	chq	signed by Baruch Leite
19-Nov-13	[REDACTED]	[REDACTED]	\$12,600.00	chq	signed by Baruch Leite
20-Nov-13	[REDACTED]	[REDACTED]	\$25,000.00	chq	signed by Baruch Leite
19-Nov-13	[REDACTED]	[REDACTED]	\$5,700.00	chq	signed by Baruch Leite
26-Nov-13	[REDACTED]	[REDACTED]	\$12,500.00	chq	signed by Baruch Leite
04-Dec-13	[REDACTED]	[REDACTED]	\$28,972.50	chq	signed by Baruch Leite
20-Jan-14	[REDACTED]	[REDACTED]	\$9,455.00	chq	signed by Baruch Leite
02-Sep-14	[REDACTED]	[REDACTED]	\$1,000.00	chq	signed by Baruch Leite
03-Sep-14	[REDACTED]	[REDACTED]	\$750.00	chq	signed by Baruch Leite
02-Sep-14	[REDACTED]	[REDACTED]	\$1,000.00	chq	signed by Baruch Leite
02-Sep-14	[REDACTED]	[REDACTED]	\$4,000.00	chq	signed by Baruch Leite
06-Sep-14	[REDACTED]	[REDACTED]	\$750.00	chq	signed by Baruch Leite
02-Sep-14	[REDACTED]	[REDACTED]	\$1,000.00	chq	signed by Baruch Leite
02-Sep-14	[REDACTED]	[REDACTED]	\$1,000.00	chq	signed by Baruch Leite
Total in Canadian dollars			169,688	(A)	

US Dollars [REDACTED] US Account)					
Date	Payer	Description	Amount	Chq #	Signature
13-Dec-13	[REDACTED]	[REDACTED]	\$3,200.00	chq	signed by Baruch Leite
13-Dec-13	[REDACTED]	[REDACTED]	\$6,700.00	chq	signed by Baruch Leite
13-Dec-13	[REDACTED]	[REDACTED]	\$9,555.00	chq	signed by Baruch Leite
13-Dec-13	[REDACTED]	[REDACTED]	\$3,700.00	chq	signed by Baruch Leite
20-Dec-13	[REDACTED]	[REDACTED]	\$4,000.00	chq	signed by Baruch Leite
13-May-14	[REDACTED]	[REDACTED]	\$100.00	chq	signed by Baruch Leite
04-Apr-14	[REDACTED]	[REDACTED]	\$3,000.00	chq	signed by Baruch Leite
24-Apr-14	[REDACTED]	[REDACTED]	\$1,500.00	chq	signed by Baruch Leite
20-Apr-14	[REDACTED]	[REDACTED]	\$21,400.00	chq	signed by Baruch Leite
24-Apr-14	[REDACTED]	[REDACTED]	\$9,000.00	chq	signed by Baruch Leite
25-Mar-14	[REDACTED]	[REDACTED]	\$72.00	chq	signed by Baruch Leite
27-Jul-14	[REDACTED]	[REDACTED]	\$4,400.00	chq	signed by Morris Alon
22-Jul-14	[REDACTED]	[REDACTED]	\$5,000.00	chq	signed by Baruch Leite
29-Apr-14	[REDACTED]	[REDACTED]	\$2,400.00	chq	signed by Audrey Alon
02-Sep-14	[REDACTED]	[REDACTED]	\$100.00	chq	signed by Baruch Leite
Total in US Dollars			74,127		
Total translated to Canadian dollars at 5.65% (exchange rate used by accountant)			78,315	(B)	

Personal benefits recorded as donations paid	\$206,170	
Personal benefits recorded as loan receivables (money to family members)	\$41,832	
Total 2014 personal benefits	\$248,003	(A)+(B)

Appendix 1 -- Details of Undue Benefits Continued

Undue Benefits in Fiscal year 2013

Canadian Dollars [REDACTED] Cdn Account)

<u>Date</u>	<u>Payee</u>	<u>Description</u>	<u>Amount</u>	<u>Chq #</u>	<u>Signature</u>
30-Sep-13	[REDACTED]	[REDACTED]	\$8,000.00	chq	signed by Audrey A
10-Oct-12	[REDACTED]	[REDACTED]	\$43,000.00	chq	signed by Baruch L
10-Oct-12	[REDACTED]	[REDACTED]	\$36,000.00	chq	signed by Baruch L
11-Oct-12	[REDACTED]	[REDACTED]	\$24,500.00	chq	signed by Baruch L
19-Dec-12	[REDACTED]	[REDACTED]	\$9,000.00	chq	signed by Morris Al
26-May-13	[REDACTED]	[REDACTED]	\$1,800.00	chq	signed by Baruch L
08-Mar-13	[REDACTED]	[REDACTED]	\$7,500.00	chq	signed by Baruch L
28-Apr-13	[REDACTED]	[REDACTED]	\$1,500.00	chq	signed by Morris Al
28-May-13	[REDACTED]	[REDACTED]	\$100.00	chq	signed by Baruch L
15-Jul-13	[REDACTED]	[REDACTED]	<u>\$4,500.00</u>	chq	signed by Morris Al
Total in Canadian dollars			\$135,900	(C)	

US Dollars [REDACTED] US Account)

<u>Date</u>	<u>Payee</u>	<u>Description</u>	<u>Amount</u>	<u>Chq #</u>	<u>Signature</u>
06-May-13	[REDACTED]	[REDACTED]	\$2,000.00	chq	signed by Audrey A
06-May-13	[REDACTED]	[REDACTED]	\$1,830.00	chq	signed by Audrey A
03-Jul-13	[REDACTED]	[REDACTED]	\$8,350.00	chq	signed by Morris Al
03-Jul-13	[REDACTED]	[REDACTED]	\$3,600.00	chq	signed by Baruch L
03-Jul-13	[REDACTED]	[REDACTED]	\$2,200.00	chq	signed by Baruch L
03-Jul-13	[REDACTED]	[REDACTED]	<u>\$1,215.00</u>	chq	signed by Baruch L
Total in US Dollars			\$19,195		
Total translated to Canadian dollars at 2% (exchange rate used by accountant)			\$19,579	(D)	

Total 2013 personal benefits

\$155,479 (C)+(D)

Appendix 2 – Fiscal Year 2014 Total Expenditures Paid to Non-Qualified Donees

Expenditures Paid in Canadian Dollars

[REDACTED]	200
[REDACTED]	1,000
[REDACTED]	3,950
[REDACTED]	1,250
[REDACTED]	110
<b>Total Canadian Dollars paid to non-qualified donees</b>	<b>6,510 (A)</b>

Expenditures Paid in U.S. Dollars

[REDACTED]	25
[REDACTED] (Outside of Canada - US)	3,940
[REDACTED] (Outside of Canada - US)	6,000
[REDACTED] (Outside of Canada - Israel)	10,500
[REDACTED]	50
[REDACTED] (Outside of Canada - US)	2,400
[REDACTED]	800
[REDACTED] (Outside of Canada - Israel)	35,750
[REDACTED]	500
[REDACTED] (Outside of Canada - Israel)	35,000
[REDACTED]	1,650
[REDACTED]	4,400
[REDACTED] (Outside of Canada - US)	9,630
[REDACTED]	1500
[REDACTED] Outside of Canada - US)	3550
[REDACTED] Outside of Canada - US)	3700
[REDACTED] Outside of Canada - US)	100
[REDACTED] Outside of Canada - US)	985
[REDACTED] Outside of Canada - US)	6700
[REDACTED] (Outside of Canada - US)	9555
<b>Total U.S. Dollars paid to non-qualified donees</b>	<b>136,735</b>
<b>Translated to Canadian Dollars at 5.65% used by accountant</b>	<b>144,461 (B)</b>
<b>Total 2014 expenditures paid to non-qualified donees</b>	<b>150,971 (A)+(B)</b>



Appendix 2 Continued – Fiscal Year 2013 Total Expenditures Paid to Non-Qualified Donees

Expenditures Paid in Canadian Dollars

	500
<b>Total Canadian Dollars paid to non-qualified donees</b>	<b>500 (C)</b>

Expenditures Paid in U.S. Dollars

	324
(Outside of Canada - US)	5,800
(Outside of Canada - US)	2,950
(Outside of Canada - US)	1,830
	180
	50
(Outside of Canada - US)	3,050
	750
(Outside of Canada - US)	300
(Outside of Canada - Israel)	27500
	100
(Outside of Canada - Israel)	13250
(Outside of Canada - US)	100
	1000
	72
	800
(Outside of Canada - Israel)	12800
(Outside of Canada - Israel)	49000
	1850
	9000
(Outside of Canada - US)	3600
(Outside of Canada - US)	12000
<b>Total U.S. Dollars paid to non-qualified donees</b>	<b>146,306</b>
<b>Translated to Canadian Dollars at 1.9979% used by accountant</b>	<b>149,229 (D)</b>
<b>Total 2013 expenditures paid to non-qualified donees</b>	<b>149,729 (C)+(D)</b>

### Appendix 3 – Expenditures Paid Outside of Canada

#### 2014 Expenditures paid outside of Canada

##### Money to United States

[REDACTED] (Outside of Canada - US)	3940
[REDACTED] (Outside of Canada - US)	6000
[REDACTED] (Outside of Canada - US)	2400
[REDACTED] (Outside of Canada - US)	9630
[REDACTED] (Outside of Canada - US)	3550
[REDACTED] (Outside of Canada - US)	3700
[REDACTED] (Outside of Canada - US)	100
[REDACTED] (Outside of Canada - US)	985
[REDACTED] (Outside of Canada - US)	6700
[REDACTED] (Outside of Canada - US)	9555
Total US dollars paid to organizations/individuals in United States	46560
Exchanged to Canadian dollars at 5.65% (determined by accountant)	<u>49,191</u>

##### Money to Israel

[REDACTED] (Outside of Canada - Israel)	10500
[REDACTED] (Outside of Canada - Israel)	35750
[REDACTED] (Outside of Canada - Israel)	35000
Total US dollars paid to organizations/individuals in Israel	81250
Exchanged to Canadian dollars at 5.65% (determined by accountant)	<u>85,841</u>

##### Total paid outside of Canada in fiscal year 2014

135,031

#### 2013 Expenditures paid outside of Canada

##### Money to United States

[REDACTED] (Outside of Canada - US)	5800
[REDACTED] (Outside of Canada - US)	2950
[REDACTED] (Outside of Canada - US)	1830
[REDACTED] (Outside of Canada - US)	3050
[REDACTED] (Outside of Canada - US)	300
[REDACTED] (Outside of Canada - US)	100
[REDACTED] (Outside of Canada - US)	3600
[REDACTED] (Outside of Canada - US)	12000
Total US dollars paid to organizations/individuals in United States	29630
Exchanged to Canadian dollars at 2% (determined by accountant)	<u>30,223</u>

[REDACTED] (Outside of Canada - Israel)	27500
[REDACTED] (Outside of Canada - Israel)	13250
[REDACTED] (Outside of Canada - Israel)	12800
[REDACTED] (Outside of Canada - Israel)	49000
Total US dollars paid to organizations/individuals in Israel	102550
Exchanged to Canadian dollars at 2% (determined by accountant)	<u>104,601</u>

##### Total paid outside of Canada in fiscal year 2013

134,824

COLLINS JES  
SERVICES AND EQUIPMENT

JUL 25 2016

RECEIVED / RECD  
EMPLOYEE SERVICE

**FAX COVERING PAGE****Thursday, September 1, 2016**

TO:	FAX #	PHONE #
Winnie Lo	1-519-585-2803	1-519-896-5994

**FROM:****RE:** Judah Weinstock Memorial Foundation**FILE NO:****ORIGINAL WILL BE: Retained**Total number of pages being transmitted, including this page 3

Please call [REDACTED] if there are any difficulties with this transmission.

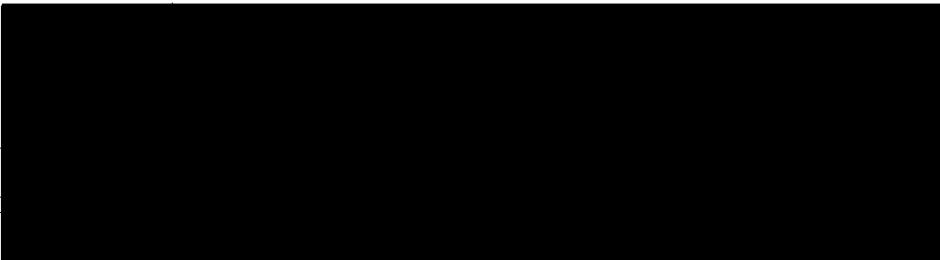
**COMMENTS:**

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[REDACTED]



September 1<sup>st</sup>, 2016

**Delivered Via Fax**

Canada Revenue Agency  
166 Frederick Street  
Kitchener, ON  
N2H 0A9

Attention: Winnie Lo

Dear Ms. Lo:

**Re: The Judah Weinstock Memorial Foundation  
Our File No.: 50845**


---

Thank you for your letter to the Judah Weinstock Memorial Foundation (the "Foundation") dated June 29, 2016.

It is the Foundation's position and belief that it acted in good faith, and believed it was acting to further its stated objects:

- 1) To provide food, shelter and/or financial assistance to the poor and needy;
- 2) To establish and administer an interest-free loan fund for the assistance of those in financial need so as to enable such persons to become financially independent;
- 3) To establish and administer a scholarship program for studies in Jewish religion and education in general;
- 4) To assist and promote programs of Jewish religious studies and education in general;
- 5) To collect monies by way of donation, dues or otherwise, and to hold and expend the same in furtherance of the objects of the Trust provided that, save as hereinafter provided, at least 90% of the Trust's income collected in any one year shall be expended in furtherance of the objects of the Trust in that year;
- 6) To co-operate with other organizations within the meaning of the Income Tax Act of Canada, whether incorporated or not, which have objects the same as or similar to the objects of the Trust.

One of the objects of the Foundation is to assist and promote programs of Jewish religious studies and education in general. The Foundation made disbursements to Jewish educational facilities and rabbis, who it believed would be in the best position to determine the ultimate recipients. If the Foundation did not provide the requisite oversight of these persons, it was not because the Foundation did not intend that the funds be used in accordance with its stated



Page 2

objectives, but that it relied on the decision-making abilities of the persons to whom the funds were disbursed.

The Foundation always believed and intended the funds were to be used in accordance with its objects.

We hope this assists you in your decision.

Yours truly,

CC: [REDACTED]

## APPENDIX A

The audit conducted by Canada Revenue Agency (CRA) identified that Judah Weinstock Memorial Foundation (the Organization):

1. Failed to devote all of its resources to its own charitable activities;
2. Failed to maintain direction and control of activities undertaken outside Canada;
3. Failed to maintain adequate books and records;
4. Failed to issue donations receipts in accordance with the Income Tax Act (the Act); and
5. Failed to file an Information Return as and when required by the Act.

### **1. Failure to devote all of its resources to its own charitable activities**

In our letter dated June 29, 2016, we discussed the failure of the Organization in devoting its resources to its own charitable activities. Specifically, the benefits conferred on the President, Mr. Morris Alon, as well as the significant funds donated to non-qualified donees during the audit period.

The benefits conferred on Mr. Alon represented 26% and 52% of total reported expenditures for the 2013 and 2014 fiscal years respectively. The benefits were for tuition fees paid for Mr. Alon's children and grandchildren as well as loans made to his family members. In addition, the Organization gave 25% and 32% of its total reported expenditures to non-qualified donees in the 2013 and 2014 fiscal years respectively.

#### **Representations:**

In the representations, the Organization states that the "Organization acted in good faith... to further its stated objects" and that it "relied on the decision-making abilities of the persons to whom the funds were distributed". No additional information or documentation was provided to the auditor to validate these claims.

#### **Conclusion:**

The representations provided do not alleviate our concerns and as a result the Organization has failed to demonstrate that it meets the test for continued registration as a charitable organization under subsection 149.1(1) of the Act as it has not devoted all of its resources to charitable activities. As such, it remains our position that there are grounds for revocation of charitable registration under paragraph 168(1)(b) of the Act.

## **2. Failure to maintain direction and control of activities undertaken outside Canada**

In our letter dated June 29, 2016, we noted that the Organization disbursed \$134,824 and \$135,031 for the 2013 and 2014 fiscal years, respectively, on activities outside of Canada. These amounts represent 22% and 28% of the Organization's total expenditures. Our audit determined that the Organization lacked the required direction and control over the use of these funds.

### **Representations:**

The representations provided confirm that the Organization lacked direction and control of its resources outside of Canada by the following statement, "the Foundation did not provide the requisite oversight of these persons".

### **Conclusion:**

The Organization has failed to demonstrate direction and control over its foreign activities and thus, has failed to satisfy the criteria that enable it to be registered as a charitable organization under subsection 149.1(1) of the Act. Consequently, it is our position the Organization's registered charity status should be revoked under paragraph 168(1)(b) of the Act.

## **3. Failure to maintain adequate books and records**

In our letter dated June 28, 2016, we noted the following examples of instances in which the Organization failed to maintain adequate books and records pursuant to subsection 230(2) of the Act:

- a) The Organization did not maintain a list of selection criteria for selecting beneficiaries for its gifts and loans
- b) The Organization did not maintain applications showing the information of each applicant including a description of his/her financial situation
- c) The Organization did not maintain documentation to support how each recipient was selected for the gift or loan
- d) The Organization did not maintain board meeting minutes
- e) The Organization did not provide loan agreements or details of the loans given to Mr. Alon's family members
- f) The Organization did not maintain documentation to demonstrate proper direction and control over activities outside of Canada

### **Representations:**

The Organization's representations did not address this concern.



### **Conclusion:**

Under paragraph 168(1)(e) of the Act, a charity may be revoked because it fails to comply with or contravenes section 230 of the Act. It is our position that the Organization has failed to comply with the requirements set out in section 230 of the Act. As such, it remains CRA's position that the charitable registration of the Organization should be revoked.

#### **4. Failure to issue donation receipts in accordance with the Act**

In our letter dated June 28, 2016, we determined that the official donation receipts issued by the Organization did not comply with the requirements of Regulation 3501 of the Act as follows:

- a) Receipts did not contain a statement that it is an official receipt for income tax purposes.
- b) Receipts did not contain the charity's registration number as recorded with CRA.
- c) Receipts did not contain the name, Canada Revenue Agency, and the website address [www.cra-arc.gc.ca/charities](http://www.cra-arc.gc.ca/charities).

### **Representations:**

The Organization's representations did not address this concern.

### **Conclusion:**

The representations provided did not alleviate our concerns and we conclude that the donation receipts were inadequate and did not contain the information required under Regulation 3501 of the Act.

#### **5. Failure to file an Information Return as required by the Act**

In our letter dated June 28, 2016, we noted the following examples of erroneous information that the Organization submitted in its T3010 Information Returns:

- a) Line 1600 indicates that the Organization is not a private foundation even though it is designated as a private foundation
- b) On line 200 of Schedule 2, the total expenditures on activities carried on outside of Canada, excluding gifts to qualified donees were reported as \$0 on the T3010s. However, the audit indicates the Organization had paid \$135,031 and \$134,824 in 2014 and 2013, respectively, on activities carried on outside of Canada

- c) The Directors Worksheets state that all three directors are at arm's length with each other, but they are all related

**Representations:**

The Organization's representation did not address this concern.

**Conclusion:**

The representations provided did not alleviate our concerns and we conclude that the return filed by the Organization contained incorrect information.

## **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.