



**REGISTERED MAIL**

Mr. William Checkley  
Executive Director  
The Sir William Top Hat Society  
[REDACTED]

BN: 810145649 RR0001  
File #: 3051057

**JUN 27 2018**

**Subject: Notice of Intention to Revoke  
The Sir William Top Hat Society**

Dear Mr. Checkley:

We are writing further to our letter dated July 26, 2017 (copy enclosed), in which The Sir William Top Hat Society (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA), and explain why the registration of the Organization should not be revoked in accordance with subsection 168(1) of the *Income Tax Act* (the Act).

During our meeting date of July 26, 2017, you advised that the Organization does not have any additional representation to submit, and asked that we accept your letter dated May 1, 2017, in which you have requested the charity be closed (copy enclosed). We have accepted the letter as your final submission. However, notwithstanding your reply, our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity were not alleviated.

**Conclusion**

The audit by the CRA found 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; failed to devote all of its resources to its own charitable activities; provided a personal benefit to a proprietor, member, shareholder, trustee or settler; and failed to issue donation receipts in accordance with the Act. 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.

For each of the reasons mentioned in our letter dated July 26, 2017, pursuant to subsections 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)(d), 168(1)(e), and subsection 149.1(2), of the Income Tax Act, that I propose to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof the revocation of registration is effective on the date of publication of this notice in the Canada Gazette.*

<b>Business number</b>	<b>Name</b>
810145649RR0001	The Sir William Top Hat Society Westport ON

Should the Organization choose 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, with 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 **90 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

c.c.: Mary Ryback  
Director  
[REDACTED]

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 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 [canada.ca/charities-giving](http://canada.ca/charities-giving);
- 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 *Excise Tax Act* 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 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:

- CRA letter dated July 26, 2017
- Appendix A, Relevant provisions of the Act
- Organization's response letter dated May 1, 2017



CANADA REVENUE AGENCY AGENCE DU REVENU DU CANADA

REGISTERED MAIL

The Sir William Top Hat Society  
ATTN: William Checkley, Executive Director  
[REDACTED]

BN: 81014 5649 RR0001

File #: 3051057

July 26, 2017

**Subject: Audit of The Sir William Top Hat Society**

Dear Mr. Checkley:

This letter is further to the audit of the books and records of The Sir William Top Hat Society (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2014 to December 31, 2015.

At our meeting of May 3, 2017, you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* (the 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), 168(1)(e), 230(2), 230(4)
2.	Failure to devote all of its resources to its own charitable activities	149.1(1), 149.1(2), 168(1)(b)
3.	Providing personal benefit to a proprietor, member, shareholder, trustee or settler	149.1(1), 149.1(2), 168(1)(b)
4.	Providing undue benefit to a person	188.1(4), 188.1(5)

5.	Failure to issue donation receipts in accordance with the Act	118.1, R.3500, R.3501, 168(1)(d)
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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 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;
- 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; 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.

Audit findings:

The Organization was unable to provide adequate books and records. In the course of the audit, the following deficiencies were noted:

- The 2014 and 2015 total revenue reported could not be verified. The Organization did not deposit all of the money it received into its bank account, and therefore, total revenue could not be confirmed through a bank deposit analysis.
- The 2015 revenue amounts recorded in the general ledger did not reconcile to the financial statements and T3010 return.

Total revenue as per the T3010 return filed:

Line 4500 - Tax receipted revenue	\$10,836
Line 4510 - Revenue from other QDs	1,000
Line 4530 - Non-Tax receipted revenue	<u>9,323</u>
Total revenue reported	<u>\$21,159</u>

Total Donations as per the GL	\$11,155
Total Sales at the Thrift Store	5,586
Total Revenue per the General Ledger	<u>\$16,741</u>

- The Organization did not provide a 2014 general ledger.
- As per the 2014 T3010 filed, the total revenue received was \$10,129 (line 4500 tax-receipted gifts). As per a review of the bank deposit, total revenue deposited to the bank was \$5,154.17. Due to the lack of a general ledger and adequate books and records, we could not determine if the sources of revenue have been reported correctly and completely in the T3010 return.
- The Organization operated a thrift shop in 2015 from July through to November. The Organization did not have a system in place to support the sales from the thrift store. Neither the sales reported from the thrift shop that were recorded in the general ledger nor the proceeds of sale that were deposited into the bank account were accounted for in the books and therefore, we were unable to confirm the total amounts received from this course of income. Daily cash balancing sheets were not completed and maintained, and there were no Z tape totals or record keeping system in place to support the daily sales. Executive director, William Checkley had control over the funds received and he advised us that he paid expenses of the Organization from the cash received at the thrift shop. Other than Mr. Checkley's testimony, there are no documents which support the expenses related to the thrift store.

- The 2014 and 2015 expenses audited were not incurred to further the activities of the Organization. There are no internal controls in place to account for cash taken from the bank account and cash sales at the thrift shop, and no system in place for the authorization of the expenses paid. We were advised by William Checkley that the thrift shop only accepted cash as payment for items purchased, and so the lack of any controls to ensure adequate reporting of the sales is concerning.
- The 2014 expense receipts submitted for audit were personal in nature and not an expense incurred to carry out the charitable activities of the Organization. In the 2014 fiscal year, personal amounts expensed were \$1,467.96<sup>1</sup>.
- The 2015 expense receipts submitted for audit were personal in nature and not an expense incurred to carry out the charitable activities of the Organization. In the 2015 fiscal year, personal amounts expensed \$6,789.02<sup>2</sup>.
- The 2015 cancelled cheques identified as personal expenses of William Checkley were paid with the resources of the Organization.

* Personal Rent - [REDACTED]	\$8,500
Cheques payable to William Checkley and cashed by William Checkley	1,700
Cheques payable to cash and cashed by William Checkley	1,400
In-branch cheques cashed	2,905
Transfer of funds to landlord, [REDACTED]	4,400
[REDACTED]	446
[REDACTED]	390
<b>Total</b>	<b><u>\$19,741</u></b>

\* William Checkley, his partner (and treasurer of the Organization in 2015) Raymond Verbeem, and board member Roderick McAvoy reside at [REDACTED].

- The 2014 cancelled cheques were reviewed and it was determined that resources of the Organization were taken by William Checkley with no explanation provided. Details or expense receipts were not provided to substantiate what the funds were used for.

Cheques payable to cash and cashed by William Checkley	\$6,300
In – branch cheques cashed	1,700
<b>Total</b>	<b><u>\$8,000</u></b>

<sup>1</sup> See Appendix "A"

<sup>2</sup> See Appendix "B"

- The Organization did not have signed agreements to substantiate the purported amounts owing to non-arm's length persons.

Fiscal year 2014 amounts owing to non-arm's length persons	<u>\$9,917</u>
Fiscal year 2015 amounts owing to non-arm's length persons	<u>\$12,730</u>

The transactions carried out between the Organization and William Checkley, Roderick McAvoy and other board member Mary Ryback, have not been recorded properly in the books and records and cannot be verified. Furthermore, the Organization was unable to provide documentation to substantiate what the purported loans were spent on.

- The internal controls of the Organization were not adequate in that there was an inadequate segregation of duties; inadequate authorization of transactions, inadequate access restriction to resources and records of the Organization. The operations of the Organization were conducted by William Checkley and Raymond Verbeem, both of whom sit on the board of directors. This lack of control, and review by an arm's length board of directors, contributes to our concern that an extraordinary amounts of expense appear to be personal in nature and cash has been taken for personal use.
- The accounts payable recorded in the books and records is compensation owed to William Checkley for his services as executive director. The amounts are recorded as an accrual at year-end. The Organization had no ability to pay the salary, yet it was still expensed. William Checkley advised he is issuing a letter to the Organization forgiving the amount paid as there is no money to pay it. Furthermore, as per Bylaw - Article IV - Board of Directors, it states, "The board receives no compensation other than reasonable expenses." William Checkley is the executive director and listed as a director on the Directors/Trustees and Like Officials Worksheet and therefore is not entitled to a salary.

2014 Accounts Payable	<u>\$73,501</u>
2015 Accounts Payable	<u>\$75,503</u>

- The donation receipts issued in fiscal year 2014 and 2015 could not be confirmed. The official donation receipts on hand did not reconcile to the amount reported on line 4500 of the T3010 return. As per a review of the 2014 and 2015 bank deposits and minutes, it is difficult to determine or understand whether the Organization received loans or donations.

Fiscal yearend 2014 discrepancy	<u>\$ 100</u>
Fiscal yearend 2015 discrepancy	<u>\$40,686</u>

- The internal controls surrounding the issuance of a donation receipt are weak and inadequate. There was no system in place for the acceptance, counting and recording of the donations. William Checkley received the 2015 donations, recorded the donations in

the manual ledger and performed all of the banking. Mr. Checkley also had complete control over the Organization's finances. As per a review of the 2015 bank deposits and minutes, it is difficult to determine or understand if whether the Organization received loans or donations.

- The donation receipts submitted for audit were not signed.

**Other deficiencies:**

- No bank reconciliations for fiscal year 2015 were performed.
- The T3010 returns were filled out incorrectly. For example, as per the 2015 T3010 return filed, the organization completed Section D: Financial Information and Schedule 6 to report its' financial information. Schedule 6 is to be completed only if any of the following applies to the charity:
  - i) The charity's revenue exceeds \$100,000.
  - ii) The amount of all property not used in charitable activities in more than \$25,000.
  - iii) The charity has permission to accumulate funds during the fiscal period.
- The revenue and expense figures reported in each section were different which is concerning.
- The Organization did not maintain an up-to-date director's registry, accompanied with corresponding resolutions and meeting minutes, to be able to verify all changes to its organizational structure.
- Complete set of the director's meeting minutes were not made available for our review.

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. 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 fails to comply with or contravenes section 230 of the Act dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone there are grounds to revoke the registered status of the Organization.

**2. Failure to devote all of its resources to its own charitable activities:**

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..

The term "charitable" is not defined in the ITA and it is therefore 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 merely 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 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.

The Organization was registered effective November 29, 2013 to "relieve a condition associated with the aged and sick, by providing therapeutic clown services, singing and dance performances to the aged and to sick children and adults, and to undertake activities ancillary and incidental to the attainment of the aforementioned charitable purpose."

We do not dispute that the wording of these objects could possibly be seen in a charitable manner; however, our audit has revealed that few of these activities are currently being conducted and that the Organization's effort and resources were devoted to non-charitable activities. A charitable organization may only use its resources (funds, personnel and/or property) in two ways, both inside and outside Canada – for charitable activities undertaken by the Organization itself, under its continued supervision, direction and control; and for gifting to "qualified donees" as defined in the ITA.

Results of our audit showed that the Organization did not devote its entire resources in furtherance of its charitable activities. Following is a listing of our findings:

- The Organization did not provide evidence or proof of any charitable activity that took place in the fiscal years 2014 and 2015. When asked for a listing of the charitable activities that were performed, William Checkley provided undated pictures of him dressed up as a clown posing with the elderly and children.
- As noted in section one above, the 2014 and 2015 expenses audited were not incurred to further the activities of the Organization.

- Resources of the Organization were spent by William Checkley to support his personal living expenses. Please refer to Appendix "A" and Appendix "B" for details.
- Several cheques made to payable cash, William Checkley, and in-branch cheques had no supporting documentation as to their purpose. Given the Organization's inability to demonstrate that the funds from these cheques were used in support of the Organization's charitable activities, we are of the view that the funds were used to pay for Mr. Checkley's personal expenses. As such, the Organization has failed to show through its programs and activities it devoted all of its resources to its own charitable activity.
- In the fiscal year 2015, most of the Organization's time and resources were spent on the operation of a thrift store in Brockville, ON. However, the Organization did not appear to maintain any books and records in support of this activity.
- There were allegations by employees (of the thrift store) of non-charitable activity taking place by William Checkley, complaints from individuals regarding bad cheques being issued, and unhealthy relationships with business owners in the community that led to a police investigation and involvement. The non-charitable activity the Organization was involved in clearly does not further the activities of the Organization, and is a misuse of the Organization's funds. Furthermore, the actions of William Checkley demonstrates that he was not acting in the best interest of the charity.

The Organization has not shown that through its programs and arrangements for the undertaking of activities, it devotes all of its resources to its own charitable activities. Based upon our findings, the Organization has not shown that the activities are charitable and that charitable activities have taken place. As such, it appears that William Checkley was using the Organization's funds for his own personal use.

Under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act for its registration, under paragraph 149.1(1). It is our position the Organization has failed to comply with and has contravened section 149.1(1) of the Act. For this reason alone there are grounds to revoke the registered status of the Organization.

**3. Providing personal benefit to a proprietor, member, shareholder, trustee or settlor:**

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:

The audit revealed that the Organization paid for the personal expenses of William Checkley, which does not further the charitable activities of the Organization and constitutes a personal benefit to William Checkley<sup>3</sup>. Also, donation receipt # 1111 that was issued to board member, Roderick McAvoy, is ineligible and constitutes a private benefit, as the amount (\$700) related to an amount paid for a flight for a volunteer to attend her brother's memorial. The personal expenses identified are as follows (as detailed in section one of this letter):

Personal expense receipts – 2014	1,468
Unsubstantiated cheques cashed	<u>8,000</u>
Total 2014 personal benefit	<u>9,468</u>
Personal expenses – 2015	
Receipts	6,789
Cancelled cheques	19,741
Personal flight	<u>700</u>
Total 2015 personal benefit	<u>27,230</u>

The Organization is in contravention of the requirement that "no part of its income is payable or otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settler thereof", under paragraph 149.1(1) of the Act. This also supports that the Organization does not devote its resources to its own charitable activities. For this reason alone, there are grounds for revoking the registered status of the Organization, pursuant to paragraph 168(1)(b) of the Act.

Furthermore, under paragraph 149.1(2) of the Act, the Minister may, in the manner described in section 168 of the Act, revoke the registration of a charitable organization for making 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 who is a qualified donee at the time of the gift. It is our position that paragraph 149.1(2)(c) of the Act applies to the Organization for having provided the personal benefits described above. For this reason alone there are grounds to revoke the registered status of the Organization.

**4. Providing undue benefit to a person:**

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<sup>3</sup> Our concerns regarding personal benefits received by William Checkley have been noted in the above section.

Paragraph 188.1(5) of the Act stipulates that "an undue benefit conferred on a person (the "beneficiary") by a registered charity...includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity...that is paid, payable, assigned or otherwise made available for the personal benefit of any person who is a proprietor, member...of the charity...or who deals not at arm's length with such a person or with the charity..."

Paragraph 188.1(4) of the Act stipulates that a charity that confers on a person an undue benefit is liable to a penalty equal to 105% of the amount of the benefit or 110% of the amount of the benefit where the charity was assessed an undue benefit penalty within the previous five years.

Audit findings:

The Organization paid personal expenses of and issued cheques without substantiated reasons for them to persons that did not deal at arm's length with it, as detailed in section one of this letter – Failure to maintain adequate books and records – above. The amounts of personal benefits outlined in section one qualify as undue benefits per paragraph 188.1(5) of the Act. As such, the Organization could be liable to an undue benefit penalty under paragraph 188.1(4)(a) of the Act. The calculation of the penalty would be as follows:

Personal expense receipts – 2014	1,468
Unsubstantiated cheques cashed	<u>8,000</u>
Total 2014 undue benefit	9,468
Penalty under par. 188.1(4)(a) of the Act	105%
<b><u>Undue benefit penalty</u></b>	<b><u>\$9,941</u></b>

Personal expenses – 2015	
Receipts	6,789
Cancelled cheques	<u>19,741</u>
Personal Flight	700
Total 2015 undue benefit	27,230
Penalty under par. 188.1 (4)(a) of the Act	105%
<b><u>Undue benefit penalty</u></b>	<b><u>\$28,592</u></b>

Please note that we could consider the application of the above listed sanction (see "undue benefit penalty") under subsection 188.1(4) and 188.1(5) of the Act, however, due to the seriousness of the non-compliance we are not considering this compliance measure at this time. Rather, we are proposing to revoke the Organization's registration as a charitable organization under paragraph 149.1(2)(c) and subsection 168(2) of the

Act as it has made disbursements by way of gifts to non-qualified donees which were not (made) in the course of its own charitable activities (i.e. the Organization's funds were used to pay for Mr. Checkley's personal expenses).

### **5. Failure to issue donation receipts 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.

It is of particular importance that the registered charity reports the correct value of the gift on the tax receipts. Given the potential uncertainty over their valuation, the Act stipulates that the "fair-market value" (FMV) of a gift of non-cash property to be reported on the tax receipts. The CRA recognizes the complexity of valuating non-cash property and recommends the use of an independent appraiser where a registered charity issues a tax receipt of significant value for gift-in-kind. We recognize that appraisals are not required under the Act or its Regulations; however, it is our view that the onus remains with the charity to ensure the value assigned to non-cash gifts received is reflective of the factual fair market value of the goods being received. For property with a value in excess of \$1,000, we strongly recommend that the property be appraised by an independent third party. The person determining the fair market value of the item should be competent and qualified to evaluate the particular property being donated, as well as be knowledgeable about the marketplace for the specific property. They should be knowledgeable about the principles, theories, and procedures of the applicable valuation discipline and follow the Uniform Standards of Professional Appraisal Practice or the standards of the profession.

#### Audit findings:

- The Organization failed to calculate the eligible amount, if any, for the donation of items to the thrift shop. In 2015, William Checkley issued 57 donation receipts totaling \$39,307 for miscellaneous items donated to the thrift shop. The value placed on the items received and subsequently receipted is difficult to determine as he could not possibly or reasonably know what would be the highest price obtainable in an open and unrestricted market between informed and prudent parties, acting at arm's length, under no compulsion to act, expressed in terms of money, or money's worth, as required to establish the value of the donation receipt to be issued. The items donated included, but are not limited to, used clothing, toys, kitchen items, books, hats, furniture, etc.
- Official donation receipts issued for gifts in kind of value greater than \$1,000 did not contain the required information, - i.e. name of an appraiser, address of the appraiser,

FMV of the property and an appropriate appraisal document for valuation purposes. In fiscal year 2015, the following donation receipts were issued for gifts-in-kind that were not properly valued. The fair market value was determined by William Checkley, and there was no documentation or analysis to support the value given.

<u>Date</u>	<u>Receipt #</u>	<u>Amount</u>	
05-Aug-15	1061	\$2,000	boat motor and trailer - no appraisal provided
05-Aug-15	1062	\$4,000	misc. items for thrift store - no appraisal provided
08-Aug-15	1063	\$1,250	misc. items for thrift store - no appraisal provided

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 are grounds for revocation of the Organization's charitable status.

**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 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, Gary Huenemoeder, may also be contacted at [REDACTED].

Yours sincerely,



Karen Lockridge  
Audit Division  
East Central Ontario Tax Service Office

Telephone: [REDACTED]  
Toll Free: 1-800-588-8035  
Facsimile: 613-541-7440  
Address: 102-1475 John Counter Blvd.,  
Kingston, ON K7M 0E6

Enclosures

Appendix "A"  
Appendix "B"

c.c.: Mary Ryback, Director



## Appendix "A"

Fiscal Year 2014 Personal Amounts Expensed

Date	Payee	Amount	Details
06-Jan-14	[REDACTED]	27.74	groceries
14-Jan-14	[REDACTED]	23.45	candles, sponges
12-Jan-14	[REDACTED]	30.00	gas, no vehicle log maintained
05-Feb-14	[REDACTED]	9.25	fast food
13-Feb-14	[REDACTED]	17.49	fast food
04-Feb-14	[REDACTED]	29.85	groceries
04-Feb-14	[REDACTED]	6.81	juice
24-Feb-14	[REDACTED]	11.02	fast food
02-Feb-14	[REDACTED]	66.00	gas, no vehicle log maintained, lottery ticket
06-Feb-14	[REDACTED]	97.47	prescriptions
06-Feb-14	[REDACTED]	75.00	doctor visit
05-Mar-14	[REDACTED]	69.94	restaurant
11-Mar-14	[REDACTED]	35.91	restaurant
28-Mar-14	[REDACTED]	129.00	[REDACTED] examination and diagnosis
04-Apr-14	[REDACTED]	60.60	gas, no vehicle log maintained
Apr-14	[REDACTED]	1.60	coffee
04-Apr-14	[REDACTED]	24.06	food
21-Apr-14	[REDACTED]	2.44	fast food
02-Apr-14	[REDACTED]	70.50	gas, no vehicle log maintained
10-Apr-14	[REDACTED]	15.12	fast food
10-Apr-14	[REDACTED]	26.75	fast food
17-Apr-14	[REDACTED]	24.26	medication
28-Apr-14	[REDACTED]	97.47	prescriptions
21-Apr-14	[REDACTED]	19.16	groceries
25-Apr-14	[REDACTED]	35.63	medication
21-Jun-14	[REDACTED]	55.04	gas, no vehicle log maintained
01-Jun-14	[REDACTED]	39.53	gas, no vehicle log maintained
30-Jul-14	[REDACTED]	12.32	fast food
30-Jul-14	[REDACTED]	54.38	gas, no vehicle log maintained
30-Jul-14	[REDACTED]	14.67	fast food
30-Jul-14	[REDACTED]	14.44	restaurant
06-Aug-14	[REDACTED]	49.89	gas no vehicle log maintained, lottery
26-Sep-14	[REDACTED]	40.00	gas, no vehicle log maintained
01-Oct-14	[REDACTED]	56.17	gas no vehicle log maintained, drink
15-Nov-14	[REDACTED]	113.00	Bill's cell phone
10-Dec-14	[REDACTED]	12.00	groceries
Total		1,467.96	

## Appendix "B"

### Fiscal Year 2015 Personal Amounts Expensed

Date	Payee	Amount	Details
31-Jan-15	[REDACTED]	272.91	Inv to [REDACTED] vehicle repairs
28-Feb-15	[REDACTED]	24.65	coffee mug, [REDACTED] gift set, Easter basket, etc.
20-Feb-15	[REDACTED]	51.70	groceries
04-Apr-15	[REDACTED]	87.48	groceries
14-Apr-15	[REDACTED]	50.00	gas, no vehicle log maintained
18-Apr-15	[REDACTED]	115.00	boy bike, supercycle
08-May-15	[REDACTED]	40.05	gas, no vehicle log maintained
24-May-15	[REDACTED]	21.00	gas, no vehicle log maintained
18-May-15	[REDACTED]	10.70	gas, no vehicle log maintained
18-May-15	[REDACTED]	20.00	gas, no vehicle log maintained
21-May-15	[REDACTED]	25.06	gas, no vehicle log maintained
16-May-15	[REDACTED]	100.00	gas, no vehicle log maintained
10-May-15	[REDACTED]	59.00	gas, no vehicle log maintained
26-Jun-15	[REDACTED]	15.29	fast food, no details
14-Jun-15	[REDACTED]	30.46	fast food, no details
07-Jun-15	[REDACTED]	20.85	fast food, no details
29-Jun-15	[REDACTED]	25.00	gas, no vehicle log maintained
26-Jun-15	[REDACTED]	44.00	gas, no vehicle log maintained
27-Jun-15	[REDACTED]	2.95	fast food, no details
27-Jun-15	[REDACTED]	11.91	groceries
24-Jun-15	[REDACTED]	6.30	fast food, no details
24-Jun-15	[REDACTED]	7.45	fast food, no details
24-Jun-15	[REDACTED]	38.75	fast food, no details
23-Jun-15	[REDACTED]	3.15	fast food, no details
23-Jun-15	[REDACTED]	26.18	fast food, no details
22-Jun-15	[REDACTED]	8.48	groceries
22-Jun-15	[REDACTED]	12.97	fast food, no details
22-Jun-15	[REDACTED]	9.45	fast food, no details
22-Jun-15	[REDACTED]	7.40	fast food, no details
21-Jun-15	[REDACTED]	20.66	flowers
21-Jun-15	[REDACTED]	26.44	fast food, no details
21-Jun-15	[REDACTED]	30.00	gas, no vehicle log maintained
20-Jun-15	[REDACTED]	30.00	gas, no vehicle log maintained
15-Jun-15	[REDACTED]	25.38	groceries
15-Jun-15	[REDACTED]	44.14	pop, Snack mix, coffee
07-Jun-15	[REDACTED]	19.10	food
14-Jun-15	[REDACTED]	118.91	candy, ink, mouse
14-Jun-15	[REDACTED]	23.95	fast food, no details
14-Jun-15	[REDACTED]	22.50	fast food, no details
13-Jun-15	[REDACTED]	26.20	gas, no vehicle log maintained
13-Jun-15	[REDACTED]	27.50	fast food, no details
11-Jun-15	[REDACTED]	26.07	groceries
10-Jun-15	[REDACTED]	10.00	gas, no vehicle log maintained
10-Jun-15	[REDACTED]	26.00	gas, no vehicle log maintained
09-Jun-15	[REDACTED]	25.00	gas, no vehicle log maintained
08-Jun-15	[REDACTED]	40.00	gas, no vehicle log maintained
07-Jun-15	[REDACTED]	25.00	gas, no vehicle log maintained

07-Jun-15 [REDACTED]  
06-Jun-15 [REDACTED]  
30-Jun-15 [REDACTED]

23.05 gas, no vehicle log maintained  
80.39 pasta, snacks, roasted chicken  
151.02 vehicle rental

10-Jul-15 Unknown

17-Jul-15 [REDACTED]  
20-Jul-15 [REDACTED]  
16-Jul-15 [REDACTED]  
23-Jul-15 [REDACTED]  
23-Jul-15 [REDACTED]  
23-Jul-15 [REDACTED]  
23-Jul-15 [REDACTED]  
26-Jul-15 [REDACTED]  
26-Jul-15 [REDACTED]  
27-Jul-15 [REDACTED]  
27-Jul-15 [REDACTED]  
30-Jul-15 [REDACTED]  
30-Jul-15 [REDACTED]  
08-Jul-15 [REDACTED]  
09-Jul-15 [REDACTED]  
10-Jul-15 [REDACTED]  
12-Jul-15 [REDACTED]  
10-Jul-15 [REDACTED]  
15-Jul-15 [REDACTED]  
15-Jul-15 [REDACTED]  
16-Jul-15 [REDACTED]  
15-Jul-15 [REDACTED]  
16-Jul-15 [REDACTED]  
06-Jul-15 [REDACTED]  
17-Jul-15 [REDACTED]  
17-Jul-15 [REDACTED]  
17-Jul-15 [REDACTED]  
06-Jul-15 [REDACTED]  
06-Jul-15 [REDACTED]  
05-Jul-15 [REDACTED]  
04-Jul-15 [REDACTED]  
03-Jul-15 [REDACTED]

28-Jul-15 City of Brockville

9.89 no details  
35.00 gas, no vehicle log maintained  
20.53 fast food, no details  
6.43 fast food, no details  
6.72 fast food, no details  
146.75 clothes, food, washcloths  
118.45 flowers, flower pots  
35.00 gas, no vehicle log maintained  
7.89 keys  
11.30 as is item  
5.65 fast food, no details  
1.69 fast food, no details  
11.96 fast food, personal lunch  
133.88  
40.00 gas, no vehicle log maintained  
22.35 fast food, no details  
26.23 fast food, no details  
35.14 food  
6.77 fast food, no details  
45.03 gas, no vehicle log maintained  
42.90 groceries  
78.00 prescription  
7.77 fast food, no details  
46.50 dinner  
3.17 fast food, no details  
8.97 laundry detergent  
23.25 coloring book, gum, misc. items  
22.32 pinwheels  
28.25 mattress cover, throw  
328.62 misc. items, clothing, toys, art  
47.00 gas, no vehicle log maintained  
7.23 fast food, no details  
1.13 fast food, no details  
25.00 gas, no vehicle log maintained  
8.98 fast food, no details  
20.00 [REDACTED]

25-Aug-15 [REDACTED]  
29-Aug-15 [REDACTED]  
29-Aug-15 [REDACTED]  
23-Aug-15 [REDACTED]  
15-Aug-15 [REDACTED]  
16-Aug-15 [REDACTED]  
16-Aug-15 [REDACTED]  
18-Aug-15 [REDACTED]  
18-Aug-15 [REDACTED]  
30-Aug-15 [REDACTED]  
30-Aug-15 [REDACTED]  
30-Aug-15 [REDACTED]  
30-Aug-15 [REDACTED]  
30-Aug-15 [REDACTED]  
31-Aug-15 [REDACTED]  
29-Aug-15 [REDACTED]

49.97 shoes, memory stick  
95.67 groceries  
17.61 fast food, no details  
17.28 fast food, no details  
25.05 fast food, no details  
30.02 gas, no vehicle log maintained  
20.34 groceries  
20.80 fast food, no details  
40.00 gas, no vehicle log maintained  
117.02 groceries, clothes  
60.89 misc. wears  
40.00 gas, lottery  
16.10 candles  
17.80 gift bags, wreath  
9.61 [REDACTED] Blanket  
28.59 fast food, no details

12-Aug-15	2.26	notebook
03-Aug-15	143.04	groceries
03-Aug-15	47.03	fast food, no details
03-Aug-15	6.69	drinks
03-Aug-15	48.96	food, misc. items
20-Sep-15	31.00	gas, no vehicle log maintained
19-Sep-15	26.10	fast food, no details
15-Sep-15	22.50	phone case
18-Sep-15	7.48	fast food, no details
17-Sep-15	5.86	fast food, no details
04-Sep-15	32.00	gas, no vehicle log maintained
08-Sep-15	35.50	gas, lottery ticket
08-Sep-15	10.15	worms
08-Sep-15	33.90	fishing rod
06-Sep-15	36.00	gas, lottery ticket
06-Sep-15	39.50	car cleaning products
06-Sep-15	11.23	████████ can
04-Sep-15	14.62	fast food, no details
04-Sep-15	54.46	groceries
04-Sep-15	26.96	
02-Sep-15	9.70	fast food, no details
27-Sep-15	30.00	gas, no vehicle log maintained
21-Sep-15	27.00	gas, no vehicle log maintained
11-Sep-15	4.85	fast food, no details
01-Sep-15	77.80	William Checkley
02-Oct-15 Unknown	9.04	no details
18-Oct-15	17.22	fast food, no details
27-Oct-15	17.84	groceries
25-Oct-15	15.27	seal, gun caulking cradle
22-Oct-15	30.00	gas, no vehicle log maintained
19-Oct-15	11.30	fixudent
17-Oct-15	20.00	gas, no vehicle log maintained
17-Oct-15	7.06	birthday candles, balloon etc.
16-Oct-15	12.80	fast food, no details
16-Oct-15	20.00	gas, no vehicle log maintained
16-Oct-15	16.70	groceries
15-Oct-15	8.77	paper, drinks
15-Oct-15	1.90	fast food, no details
14-Oct-15	30.00	gas, no vehicle log maintained
14-Oct-15	13.80	fast food, no details
12-Oct-15	20.00	gas, no vehicle log maintained
01-Oct-16	18.25	card, misc. items
10-Oct-15	34.00	gas, lottery
09-Oct-15	6.75	Kleenex
05-Oct-15	7.91	food containers
04-Oct-15	20.00	gas, no vehicle log maintained
05-Oct-15	63.14	groceries
01-Oct-15	10.60	fast food, no details
07-Nov-15	30.00	gas, no vehicle log maintained
26-Nov-15	5.00	gift card
27-Nov-15	19.51	groceries
12-Nov-15	5.90	groceries
03-Nov-15	12.14	groceries
21-Nov-15	28.67	████████

26-Nov-15	30.00	gas, no vehicle log maintained
28-Nov-15	39.57	gas, lottery ticket, air freshener
22-Dec-15	229.22	no invoice
26-Dec-15	25.00	gas, no vehicle log maintained
20-Oct-15	28.14	groceries
26-Dec-15	79.33	groceries, misc. items
22-Dec-15	30.54	groceries
11-Dec-15	35.00	gas, no vehicle log maintained
04-Dec-15	27.12	clothes
15-Dec-15	75.04	Christmas stuff
11-Dec-15	46.53	misc. wears
12-Dec-15	115.02	Christmas stuff
12-Dec-15	42.38	craft supplies
05-Dec-15	49.30	men's clothes
06-Dec-15	35.00	gas, no vehicle log maintained
12-Dec-15	107.98	clothes, bath supplies food
17-Dec-15	268.06	clothes, food etc.
17-Dec-15	65.82	Christmas stuff
18-Dec-15	11.30	gift packs
19-Dec-15	44.52	kids clothes, toys, books
26-Dec-15	21.75	groceries, misc. stuff
13-Dec-15	22.62	groceries, Christmas stuff
13-Dec-15	16.77	groceries
18-Dec-15	40.90	groceries
	<hr/> <u>6,789.02</u>	

Total

## APPENDIX "A" Relevant Provisions of the Act

### **Section 149.1: [Charities]**

#### **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; or
- (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.

#### **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;
- (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 (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;
- (c) since June 1, 1950, acquired control of any corporation; or
- (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 the registered charity has made a gift to another registered charity and it can reasonably be considered that one of the main purposes of making the gift was to unduly delay the expenditure of amounts on charitable activities;
- (b) of the other charity referred to in paragraph (a), if it can reasonably be considered that, by accepting the gift, it acted in concert with the registered charity to which paragraph (a) applies; and
- (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.

**Section 168: Notice of intention to revoke registration**

168(1) Where a registered charity or a registered Canadian amateur athletic association

- (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 as such,
- (c) fails to file an information return as and when required under this Act or a regulation,
- (d) issues a receipt for a gift or donation 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 or donation the granting of which was expressly or impliedly conditional on the

association making a gift or donation to another person, club, society or association, the Minister may, by registered mail, give notice to the registered charity or registered Canadian amateur athletic association that the Minister proposes to revoke its registration.

**168(2) Revocation of Registration**

Where the Minister gives notice under subsection (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 that is or was registered as a registered charity or is an applicant for registration as a registered charity that objects to a notice under subsection (1) or any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) 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.

**Section 172: Appeal from refusal to register, revocation of registration, etc.**

**172(3) Appeal from refusal to register, revocation of registration, etc.**

Where the Minister

- (a) refuses to register an applicant for registration as a Canadian amateur athletic association,
- (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,
- (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) refuses to issue a certificate of exemption under subsection 212(14),
- (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, or
- (g) refuses to accept for registration for the purposes of this Act any retirement income fund, the applicant or the organization, foundation, association or registered charity, as the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (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), or the administrator of the plan or an employer who participates in the plan, in a case

described in paragraph (f) or (f.1), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

### **Section 180: Appeals to 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) the mailing of notice to a registered Canadian amateur athletic association under subsection 168(1),
- (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), or
- (c) the time the decision of the Minister to refuse the application for acceptance of the amendment to the 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
- (d) 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) applies.

**188(4) Idem**

Where 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 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”

“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”

“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.

### **Section 189**

#### **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 mailed 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 registered charity in respect of the charity'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 charity after the day on which the Minister first assessed that liability and before the particular time 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 total of

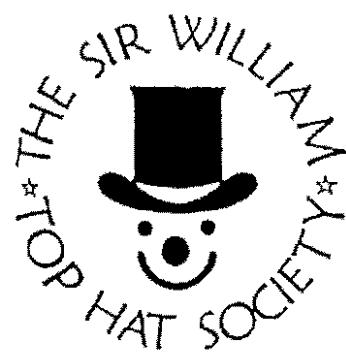
- (a) the consideration given by the person for the transfer, and
- (b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

**189 (7) Minister may assess**

Without limiting the authority of the Minister to revoke the registration of a registered charity, 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.

THE SIR WILLIAM TOP HAT SOCIETY

34 Buell St.  
P.O. Box 243  
Brockville ON, K6V 5V5  
613-340-5056  
[swtophatsociety@yahoo.com](mailto:swtophatsociety@yahoo.com)  
[www.tophatsociety.org](http://www.tophatsociety.org)



1 May 2017.

To Whom It May Concern:

This letter confirms that the Board of Directors met on 29 April 2017 and voted unanimously to close down all operations of The Sir William Top Hat Society. The Executive Director was asked to inform Revenue Canada and the Ontario Ministry of Consumer and Corporate Affairs of this decision, and to complete all necessary paperwork pursuant to this closure.

The Society has no assets or property at the time of closure.

Sincerely,

Roderick McAvoy  
Corporate Secretary