



REGISTERED MAIL

United Macedonian Diaspora (Canada) /
Diaspora macédoniens unis (Canada)

MAR 09 2015

[REDACTED]
[REDACTED]

BN: 824548564RR0001

Attention: Jim Daikos, Director

File #: 3037735

Subject: Notice of Intention to Revoke
United Macedonian Diaspora (Canada) / Diaspora macédoniens unis (Canada)

Dear Mr. Daikos:

I am writing further to our letter dated June 24, 2014 (copy enclosed), in which you were invited to submit representations as to why the registration of United Macedonian Diaspora (Canada) / Diaspora macédoniens unis (Canada) (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act* (Act).

We have now reviewed and considered your written response dated September 23, 2014. 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 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 *Income Tax Act*. In particular, it was found that the Organization did not devote its resources to charitable activities that it carried on itself, lacked direction and control over use of its resources, provided funds to non-qualified donees, conducted non-charitable activities, conducted non-incidental and ancillary political activities, conducted partisan political activities, did not maintain adequate books and records, failed to maintain proper donation receipts, and inaccurately completed its charity 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 24, 2014, I wish to advise you that, pursuant to subsection 168(1) of the Act, I propose to revoke the registration

of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(d), 168(1)(e), and subsection 149.1(2) of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

Business number	Name
824548564RR0001	United Macedonia Diaspora (Canada) / Diaspora macédoniens unis (Canada) Scarborough ON

Should you wish to object to this notice of intention to revoke the Organization's registration in accordance with subsection 168(4) of the Act, a written notice of objection, which includes the reasons for objection and all relevant facts, must be filed within **90 days** from the day this letter was mailed. The notice of objection should be sent to:

Tax and Charities Appeals Directorate
Appeals Branch
Canada Revenue Agency
250 Albert Street
Ottawa ON K1A 0L5

A copy of the revocation notice, described above, will be published in the *Canada Gazette* after the expiration of 90 days from the date this letter was mailed. The Organization's registration will be revoked on the date of publication, unless the Canada Revenue Agency 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 "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 website at 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 *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, I 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,

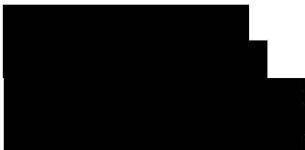


Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated June 24, 2014
- Organization's response dated September 23, 2014
- Appendix "A", CRA's position
- Appendix "B", Relevant provisions of the Act

c.c.:





CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

REGISTERED MAIL

United Macedonian Diaspora (Canada) /
Diaspora macédoniens unis (Canada)

[REDACTED]

BN: 824548564RR0001

Attention: Jim Daikos, Director

File #:3037735

June 24, 2014

**Subject: Audit of the United Macedonian Diaspora (Canada) / Diaspora
macédoniens unis (Canada)**

Dear Mr Daikos:

This letter is further to the audit of the books and records of the United Macedonian Diaspora (Canada) / Diaspora macédoniens unis (Canada) (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2011, to December 31, 2012.

At our meeting on August 15, 2013, you were advised that the CRA had identified specific areas of non-compliance with the provisions of the *Income Tax Act* (Act) and/or its *Regulations* in the following areas.

AREAS OF NON-COMPLIANCE:		
	Issue	Act Reference
1.	Failure to devote resources to charitable activities carried on by the Organization itself: a) Lack of direction and control over the use of resources b) Funding non-qualified donees c) Conduct of other non-charitable activities d) Conduct of non- incidental and ancillary political activities e) Conduct of partisan political activities	149.1(1) and (6.2), 168(1)(b)
2.	Failure to maintain books and records as required including T4As not issued for scholarships	230(2), 168(1)(e) Regulation 200(2)

3	Failure to maintain proper donation receipts	118.1(2), Regulation 3501(1)
4.	Failure to complete an accurate charity information return (Form T3010): a) Inaccurate reporting of liabilities b) Inaccurate reporting of revenue and expenses c) Inaccurate reporting of political activities d) Inaccurate reporting of gifts to non-qualified donees	149.1(14), 168(1)(c)

This letter describes the specific identified areas of non-compliance as they relate to the legislative and common law requirements applicable to registered charities,¹ and provides the Organization with the opportunity to make additional representations or present additional information. As a registered charity, the Organization must comply with all legislative and common law requirements on an ongoing basis, failing which its 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.

General legal principles

In order to maintain charitable registration under the Act, Canadian law requires that an organization demonstrate that it is constituted exclusively for charitable purposes (or objects), and that it devotes its resources to charitable activities carried on by the organization itself in furtherance thereof.² To be exclusively charitable, a purpose must fall within one or more of the following four categories (also known as "heads") of charity³ and deliver a public benefit:

- relief of poverty (first category);
- advancement of education (second category);

¹ The audit encompassed an enquiry into all aspects of the Organization's operations, including activities conducted subsequent to the audit period. These activities have been considered to assess ongoing and current legal compliance.

² See subsection 149.1(1) of the Act, which requires that a charitable organization devote all of its resources to "charitable activities carried on by the organization itself" except to the extent that an activity falls within the specific exemptions of subsections 149.1(6.1) or (6.2) of the Act relating to political activities, and *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10 (Vancouver Society) at paras. 155-159. A registered charity may also devote resources to activities that, while not charitable in and of themselves, are necessary to accomplish their charitable objectives (such as expenditures on fundraising and administration). However, any resources so devoted must be within acceptable legal parameters and the associated activities must not become ends in and of themselves.

³ The Act does not define charity or what is charitable. The exception is subsection 149.1(1) which defines charitable purposes/objects as including "the disbursement of funds to qualified donees." The CRA must therefore rely on the common law definition, which sets out four broad categories of charity. The four broad charitable purpose/object categories, also known as the four heads of charity, were outlined by Lord Macnaghten in *Commissioners for Special Purposes of the Income Tax v. Pemsel*, [1891] A.C. 531 (PC) (Pemsel). The classification approach was explicitly approved of by the Supreme Court of Canada in *Guaranty Trust Co. of Canada v. Minister of National Revenue*, [1967] S.C.R. 133, and confirmed in *Vancouver Society*, *supra* note 2.

- advancement of religion (third category); or
- certain other purposes beneficial to the community in a way the law regards as charitable (fourth category).

The public benefit requirement involves a two-part test:

- The first part of the test requires the delivery of a **benefit** that is recognizable and capable of being proved, and socially useful. To be recognizable and capable of being proved, a benefit must generally be tangible or objectively measurable. Benefits that are not tangible or objectively measurable must be shown to be valuable or approved by "the common understanding of enlightened opinion for the time being."⁴ In most cases, the benefit should be a necessary and reasonably direct result of how the purpose will be achieved and of the activities that will be conducted to further the purpose, and reasonably achievable in the circumstances.⁵ An "assumed prospect or possibility of gain" that is vague, indescribable or uncertain, or incapable of proof, cannot be said to provide a charitable benefit.⁶
- The second part of the test requires the benefit be directed to the **public** or a sufficient section of the public. This means a charity cannot:
 - have an eligible beneficiary group that is negligible in size, or restricted based on criteria that are not justified based on the charitable purpose(s); or
 - provide an unacceptable private benefit. Typically, a private benefit is a benefit provided to a person or organization that is not a charitable beneficiary, or to a charitable beneficiary that exceeds the bounds of charity. A private benefit will usually be acceptable if it is incidental, meaning it is necessary, reasonable, and not disproportionate to the resulting public benefit.⁷

The question of whether an organization is constituted exclusively for charitable purposes cannot be determined solely by reference to its stated purposes, but must take into account the activities in which the organization currently engages. In *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*,⁸ the Supreme Court of Canada stated as follows:

⁴ See, generally, *Vancouver Society*, supra note 2 at para. 41 per Mr. Justice Gonthier (dissenting in the result); *Gilmour v. Coats et al.*, [1949] 1 All ER 848 (*Gilmour*); and *National Anti-Vivisection Society v. I.R.C.*, [1947] 2 All ER 217 (HL) (*National Anti-Vivisection Society*) per Lord Wright at p. 224.

⁵ See, for example, *In re Grove-Grady, Plowden v. Lawrence*, [1929] 1 Ch. 557 per Russell L.J. at p.588; *National Anti-Vivisection*, supra note 4 per Lord Wright at p. 49; *I.R.C. v. Oldham Training and Enterprise Council*, [1996] B.T.C. 539 (*Oldham*); and *Pemsel*, supra note 3 at p.583.

⁶ *National Anti-Vivisection Society*, supra note 4 per Lord Wright at p.49. See also, for example, *In re Shaw decd.*, [1957] 1 WLR 729; and *Gilmour*, supra note 4 per Lord Simonds at pp. 448-447.

⁷ See CRA Policy Statement CPS-024, *Guidelines for Registering a Charity: Meeting the Public Benefit Test* for more information about public benefit.

⁸ *Vancouver Society*, supra note 2 at para. 194. See also *A.Y.S.A. Amateur Youth Soccer Association v. Canada (Revenue Agency)* [2007] 3 S.C.R. 217 at para. 42.

"But the inquiry cannot stop there. In *Guaranty Trust*, *supra* at p.144, this Court expressed the view that the question of whether an organization was constituted exclusively for charitable purposes cannot be determined solely by reference to the objects and purposes for which it was originally established. It is also necessary to consider the nature of the activities presently carried on by the organization as a potential indicator of whether it has since adopted other purposes. In other words, as Lord Denning put it in *Institution of Mechanical Engineers v. Cane*, [1961] A.C. 696 (H.L.), at p. 723, the real question is, "for what purpose is the Society *at present* instituted?"

A charitable activity is one that directly furthers a charitable purpose – which requires a clear relationship and link between the activity and the purpose it purports to further. If an activity is, or becomes, a substantial focus of an organization, it may no longer be in furtherance of a stated purpose. Instead, the activity may further, or even form, a separate or collateral purpose. An organization with a collateral non-charitable purpose is ineligible for registration under the Act.

To comply with the requirement that it devote all of its resources to charitable activities carried on by the organization itself, a registered charity may only use its resources (funds, personnel and/or property) in two ways:

- for its *own 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.⁹

A charity's own charitable activities may be carried out by its directors, employees or volunteers, or through intermediaries (a person or non-qualified donee that is separate from the charity, but that the charity works with or through, such as an agent, contractor, or partner). 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.¹⁰

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

⁹ A "qualified donee" means a donee described in any of paragraphs 110.1(1)(a) and (b) and the definitions "total charitable gifts" and "total Crown gifts" in subsection 118.1. As per subsection 149.1(6)(b), a charitable organization shall be considered to be devoting its resources to charitable activities carried on by it to the extent that, in any taxation year, it disburses not more than 50% of its income for that year to qualified donees.

¹⁰ For more information, see CRA Guidance CG-002, *Canadian Registered Charities Carrying Out Activities Outside Canada* and Guidance CG-004, *Using an Intermediary to Carry Out Activities Within Canada*.

intermediary,¹¹ 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.

Political activities are not charitable activities, regardless of how they are conducted. An organization is not eligible for registration where it engages in:

- partisan political activities, which are defined as activities that include the direct or indirect support of, or opposition to, any political party or candidate for public office, and are prohibited by the Act; or
- non-partisan political activities, except where an organization devotes substantially all of its resources to charitable purposes/activities carried on by it, and the non-partisan political activities are ancillary and incidental to its charitable activities/purposes.¹² A registered charity cannot exceed these parameters and/or be constituted for an unstated collateral non-charitable political purpose.

To summarize, the CRA must be satisfied that the Organization's purposes are exclusively charitable in law, and that its activities directly further these charitable purposes in a manner permitted under the Act. In making a determination, we are obliged to take into account all relevant information.

Background on the Organization

The Organization was originally incorporated under the Canada Corporations Act as Nasha Seela Inc. on February 5, 2007, with the following objects:

- a) To educate about and conduct research into the maintenance and observance of human rights, with a focus on Macedonian human rights ("Human Rights"), develop policies and guidelines related to such Human Rights research, and communicate the results therefrom to interested members of the public, groups, organizations, academics, industry and governments.
- b) To educate about and increase public awareness of racial and/or ethnic discrimination and positive relations between racial and/or ethnic communities, with a focus on the Macedonian community ("Positive Relations").
- c) To develop, organize, conduct and provide programs, classes, meetings, training seminars, on-site visits, field trips, workshops,

¹¹ See, for example, *The Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*, 2002 FCA 72 (*Canadian Committee for the Tel Aviv Foundation*) at para. 30.

¹² See subsections 149.1 (6.1) and (6.2) of the Act.

seminars, conferences, resource materials and study materials for individuals, groups and organizations interested in Human Rights and Positive Relations in accordance with the objects herein.

- d) To promote, support, facilitate and co-ordinate dialogue, joint activities, programs and initiatives between individuals, groups and organizations interested in Human Rights and Positive Relations in accordance with the objects herein.
- e) To give donations, scholarships and bursaries for charitable, educational or religious purposes in accordance with the objects of the Corporation.

On [REDACTED], the Organization applied to be a registered charity under the Act. It is our understanding that at the time of registration, the Organization's proposed activities were limited to education about human rights, advancing the Eastern Orthodox religion, and relieving poverty for poor immigrants.

Based on a review of its activities, the CRA determined that the Organization could qualify as a registered charity if it amended its objects and restricted its activities to those stated at registration. On November 7, 2008, the Organization was registered as a charitable organization under the Act with the following revised objects.¹³

- a) To educate the importance of proper maintenance and observance of human rights, as set forth in the Canadian Charter of Rights and Freedoms, through communication with interested members of the public, organizations, academics, and governments.
- b) To educate and increase public awareness issues of racial and/or ethnic discrimination, and promote positive relations between racial and/or ethnic communities of like-minded groups.
- c) To advance and teach religious tenets, doctrines, observances and culture associated with the Eastern Orthodox religion.
- d) To assist poor immigrants in locating; training for jobs, immigrated family members, education, information, official language courses, workshops to prepare them for employment for already attained certifications, and other services of benefit to aid in the betterment of becoming Canadian citizens.
- e) To relieve poverty by providing the basic amenities to those in financial need.

The Organization's board of directors remained the same for 2008 and 2009, and no revenue or expenses were reported for those years. In 2010 a new board of directors was in place and the Organization changed its name from Nasha Seela Inc. to United Macedonian Diaspora (Canada) / Diaspora macédoniens unis (Canada) on November 4, 2010, and reported revenue and expenses. It is our understanding that the Organization has not made changes to their amended objects, and those objects currently are the Organization's purposes.

¹³ See Supplementary Letters Patent of Nasha Seela Inc. dated November 7, 2008.

Although it is our understanding that the Organization has not amended the objects found in its governing document,¹⁴ our audit has revealed a change of focus with the Organization, since the time of its registration. For example, we note the following changes:

- On its website,¹⁵ the Organization states its purposes are to:
 - 1) Foster unity among Macedonians
 - 2) Educate the public on the proper maintenance and observance of human rights, as set forth in the Canadian Charter of Rights and Freedoms
 - 3) Educate and increase public awareness of issues of racial and/or ethnic discrimination, and promote positive relations between racial and/or ethnic communities of like-minded groups
 - 4) Promote and protect Macedonian heritage and culture
 - 5) Support educational development
 - 6) Assist those in need
- In its Form T3010, *Register Charity Information Return*, the Organization changed its description of its programs (section C2) from educating about human rights, advancing Orthodox religion and relieving poverty for poor immigrants, to advocating a united Macedonia.¹⁶
- Jim Diakos, Director of the Organization, stated "objects (c) to (e) are not being carried out because other organizations are doing these activities." Mr. Diakos advised us that the Organization's overall object was to keep the Macedonian Community together.¹⁷
- Mark Branov, Director of Communications, stated the Organization's object was to educate the public, government, and Macedonian people about their human rights and about the injustice currently taking place, and to educate the public about Macedonian peoples' history, culture, and language.¹⁸

Since its registration, it would appear the Organization has changed its name to United Macedonian Diaspora (Canada) / Diaspora macédoniens unis (Canada) and expanded the scope of its activities.

¹⁴ See Supplementary Letters Patent of Nasha Seela Inc. dated November 7, 2008.

¹⁵ <http://umdiplaspora.org/index.php/en/umd-global/canada>.

¹⁶ The Organization's 2008 and 2009 T3010's reported its activities as educating about human rights, advancing Orthodox religion, and relieving poverty for poor immigrants. The Organization's 2010, 2011, and 2012 T3010's report its activities as advocating a united Macedonia.

¹⁷ As stated during the initial meeting on August 13, 2013.

¹⁸ As discussed during an interview on August 14, 2013.

Identified Areas of Non-Compliance

1) Failure to devote resources to charitable activities carried on by the Organization itself

a) Lack of direction and control over the use of resources

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" (a qualified donee is defined in s. 149.1(1) of the Act).¹⁹ 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*²⁰ 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)

As re-iterated by the Court in *Bayit Lepletot v. Minister of National Revenue*,²¹ 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 conduct of that specific

¹⁹ Qualified donees include the following: a registered charity (including a registered national arts service organization); a registered Canadian amateur athletic association; a listed housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged; a listed Canadian municipality; a listed municipal or public body performing a function of government in Canada; a listed university outside Canada that is prescribed to be a university, the student body of which ordinarily includes students from Canada; a listed charitable organization outside Canada to which Her Majesty in right of Canada has made a gift; Her Majesty in right of Canada or a province; and the United Nations and its agencies.

²⁰ *Canadian Committee for the Tel Aviv Foundation*, supra note 11.

²¹ 2006 FCA 128.

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 conduct with or through an intermediary based on the fact that it will further the charity's charitable purposes, and 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 conduct of, the activity on an ongoing basis.

A registered charity cannot merely contribute to, or act as a financial conduit for, the programs of another organization.

We note the Organization is the Canadian operation of United Macedonia Diaspora (UMD Global), [REDACTED] with operations in countries including the [REDACTED], [REDACTED], and Canada. Although UMD Global does not appear to be a [REDACTED], our review of its website, www.umdiaspora.org, and the 2011 UMD Annual Report of UMD Global, along with information provided to us during the audit, revealed the following:

- [REDACTED]
- The 2011 UMD Annual Report combines financial information for the [REDACTED], [REDACTED], and Canadian operations of UMD Global;²²
- The Organization under audit is the Canadian operation of UMD Global, referred to as "UMD (Canada)"; and
- According to job descriptions provided [REDACTED], [REDACTED], the Director of Canadian Operation's responsibilities include, but are not limited to, managing all of the Organization's operations, and ensuring the Organization executes projects furthering UMD Global's goals in addition to its own.

The Organization shares several activities [REDACTED], [REDACTED], and the [REDACTED], which include:

- hosting a shared website (www.umdiaspora.org);
- publishing a magazine;

²² "2011 UMD Annual Report", pp. 5 and 19. (accessed at www.umdiaspora.org)

²³ "2011 UMD Annual Report", p. 6. (accessed at www.umdiaspora.org)

- providing conferences; and
- holding gala events.

During the audit we examined the relationship between the Organization and [REDACTED], and the joint activities they undertook, and found that the Organization failed to maintain direction and control over its resources provided to [REDACTED]. Rather, it appears that [REDACTED] exercised direction and control over the use of the Organization's resources by:²⁴

- Directing the Organization to wire funds to [REDACTED], for [REDACTED] use;²⁵
- Directing the Organization to pay invoices made out to [REDACTED], [REDACTED];²⁶
- Directing the Organization to pay for hotels for conferences [REDACTED];²⁷
- Choosing the recipients of the Organization's scholarships;
- Controlling and issuing the Organization's donation receipts;
- Controlling and maintaining the Organization's donation receipting records and not provide copies to this Organization; and
- Controlling and maintaining other records of the Organization such as minutes to meetings and incorporating documentation.

Our audit found that the Organization relies on [REDACTED] to explain and provide details on the Organization's purported activities. For example, during a meeting on August 15, 2013, Mr. Daikos referred us to [REDACTED] of [REDACTED] to explain why the Organization's funds were wired to the [REDACTED], and to provide information about the legal expenses paid by the Organization.

²⁴ The below points were explained to us by Jim Diakos, Director of Canadian Operation and person responsible for the Canadian resources, in response to our questions about the Organization's wire transfers to the US, donation receipts, and minutes to meetings during various conversations from August 13 to 15, 2013. These points were further supported by wires, cheques, invoices, emails and the fact we had to [REDACTED] during our audit. A conversation with [REDACTED] on August 21, 2013 reveal he was able to explain expenses of the Organization, where Jim Diakos, Director of Canadian Operation could not.

²⁵ For example, wire # [REDACTED] for \$5,000 US dated April 12, 2012, through the [REDACTED] in Scarborough, ON and wire [REDACTED] for \$8,000 US dated October 29, 2012, through the [REDACTED] in Scarborough, ON. Mr. Daikos explained that these wires were monies to replenish [REDACTED] account.

²⁶ For example, cheque # 22 and #23 and attached invoices in April and May 2011 showed the Organization paid for invoices addressed to [REDACTED]. Both organizations use the name UMD; however, reviewing the addresses distinguished [REDACTED] and the Organization. Email dated September 21, 2011, shows [REDACTED] directing Mr. Daikos to pay for [REDACTED] (invoice pertaining to UMD Voice Magazine).

²⁷ Emails dated June 21 and November 11, 2011 showed [REDACTED] directing Mr. Diakos to pay hotel bills.

Forty eight percent of the Organization's expenses in 2012 and 50% in 2011 represented wire transfers to [REDACTED] or to hotels [REDACTED] where the previous years' conferences were held, under the direction of [REDACTED].²⁸

We have considered whether the Organization and [REDACTED] are undertaking their shared activities (such as holding galas and conferences, maintaining a website, and publishing a magazine) through a joint venture agreement.²⁹ Under the Guidelines for joint ventures agreement laid out in Appendix E of the CRA's Policy Guidance CG-002, *Canadian Registered Charities Carrying Out Activities Outside Canada*, it is recommended that registered charities ensure that they maintain joint control over the hiring and firing of personnel involved in the venture, maintain a presence in the field, have joint ownership of assets and property, and have access to complete financial information for the venture, so that they are able to identify how their resources have been applied and ensure that their resources have been devoted to activities that further their charitable purposes.

During our audit, the Organization reported involvement in the galas and conferences to varying degrees, but indicated to us that it did not control and direct these functions. The galas were the Friday nights before the conferences on Saturday and Sunday. The number of attendees and the total revenues and expenses of these conferences could not be made available by the Organization during the audit. The conferences and the supporting records are controlled and maintained by [REDACTED]. Over half the total revenue from the October 27, 2012 Toronto Gala, which the Organization was purportedly to have control over, was wired to [REDACTED] on October 29, 2012.³⁰

Mark Branov stated that despite being the Director of Communication of the Organization, he does not control what is in the magazine or on the website.³¹ He said he is only one of three people who can update the website. He edits the magazine, writes some stories, but also accepts other stories from other UMD locations and individuals with little to no editing. Mr. Branov is paid solely by the Organization to edit the magazine, update the website and help with other communication pieces; however the magazine is for UMD Global ([REDACTED]).

Our review of the magazine showed that the issues begin with a letter from the president, which is [REDACTED], [REDACTED]. In addition, the magazine layout and design person is not from the Organization. Moreover, we found that when the magazine was late being published, it was [REDACTED], that was recorded in the minutes as insisting that this magazine get published on time. The noted involvement of [REDACTED], the blind acceptance of other

²⁸ Expenditures on the financial statements were understated in 2012. The percentages here are based on the review of actual expenses incurred determined by the review of the bank account and supporting invoices, where available.

²⁹ Or any other type of written agreement such as an agency agreement or contract.

³⁰ The support for the October 27, 2012 Toronto Gala provided during the audit showed the Gala's total revenue was \$16,060. After accounting for expenses including the rental of the [REDACTED], net income was only \$7,153, yet \$8,000 Canadian, \$8,266 American, was wired to [REDACTED] on October 29, 2012.

³¹ A personal interview was held with Mark Branov on August 14, 2013.

individual and organization letters, and the fact the [REDACTED] is for UMD Global and all its areas of operations, indicates direction and control from outside the Organization.

It does not appear that the Organization is involved in a joint venture. Rather, it appears that the Organization is subordinate and controlled, at least in part, by [REDACTED]. We were advised that there are no structured agreements between the Organization and [REDACTED], despite their many common activities. While there is no legal requirement to have a written agreement, it can be one mechanism to show the Organization maintains direction and control over its own activities. The absence of any structured agreements combined with our audit findings described above indicates the Organization does not maintain direction and control of the funds that it provides to [REDACTED].

The Organization has not demonstrated that the hosting a shared website, publishing a magazine, organizing conferences and holding gala events are, in fact, its own activities. Wiring funds directly to [REDACTED] and to other parties on behalf of [REDACTED], such as hotels and printing companies, which accounted for 48% and 50% of the Organization's total expenditures in 2012 and 2011, does not demonstrate direction and control over the Organization's funds.

Hence it is our position that the Organization has failed to establish compliance with the requirement that it maintain direction and control over its resources. As a result, it is our view that the Organization is resourcing non-qualified donees in contravention of the Act (more details on funding to non-qualified donees is dealt with below).

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" (a qualified donee is defined in s. 149.1(1) of the Act). If a charity chooses to conduct its own activities through an intermediary it must still direct and control the use of its resources.

When a registered charity fails to maintain effective direction and control over the resources that it transfers to a non-qualified donee, the result is the same as gifting to a non-qualified donee. Based on our analysis of the records as explained in the above section, the Organization has not maintained control and direction of all its funds. It has made payments to various non-qualified donees. In particular, the Organization:

- wired funds directly to [REDACTED] and other parties such as hotels and printing companies on behalf of [REDACTED], which accounted for 48% and 50% of the Organization's total expenditures in 2012 and 2011; and
- gifted \$500 to [REDACTED]³² also a non-qualified donee.

³² Cheque dated June 21, 2012.

A brochure for a fundraiser on [REDACTED] to support the [REDACTED] was also provided during the audit. We note that a letter from Jim Daikos, Director, UMD Canada inviting people to join a fundraiser for the [REDACTED] on [REDACTED], was posted on a third party website, [REDACTED].³³ No further information on these events was provided despite our request for such information. Due to the condition of the books and records we were unable to determine the amount raised and if the funds raised for [REDACTED] were wired directly to it, or if funds were wired to [REDACTED] for [REDACTED]. Regardless, we were able to confirm that there was no written arrangements between the Organization and the [REDACTED] regarding how the funds given were to be spent, and there was no reporting back to the Organization on how the funds were spent. This lack of documentation along with the fact that the [REDACTED] is not a qualified donee, makes any funds given to them a payment to a non-qualified donee.

c) *Conduct of non-charitable activities*

In our opinion, even should the Organization be able to establish that it directs and controls the activities it participates in with UMD Global and/or [REDACTED] on its behalf, the majority of the activities to which its resources have been applied are non-charitable.

A charitable activity is one that directly furthers a charitable purpose - which requires a clear relationship and link between the activity and the purpose it purports to further. The stated purposes of the Organization relate to educating about human rights and racial and/or ethnic discrimination, the advancement of religion, and the relief of poverty. We have considered the Organization's activities to determine whether they further its stated purposes.³⁴

i) The UMD Voice Magazine

During the fiscal period ending 2012-12-31, \$7,393 of the Organization's funds (8% of its expenditures for the fiscal period) were devoted to the publication and distribution of the UMD Voice Magazine. In 2011, \$7,798 of the Organization's funds (14% of its expenditures for the fiscal period) were devoted to this magazine.

According to the information obtained during the audit, the magazine is published quarterly, and circulation is limited to members of the Organization and UMD Global and is available on the website. A review of the issues published during the period under audit indicates that the magazine does not educate readers about human rights and discrimination in the charitable sense. Each issue advertises upcoming events, fundraisers, and conferences. Most of the articles are

³³ [REDACTED]

³⁴ We have proceeded with our consideration on the premise that the Organization's stated purposes are charitable under the first three categories of charitable purposes, that of relief of poverty, advancement of education, and advancement of religion.

about events involving the Macedonian community around the world or focus on celebrating the successes of Macedonians. Some references to human rights or racial issues were presented in issues of the magazine, but they appeared to be informative in nature and not educational in the charitable sense. It is not sufficient to simply inform people or exchange ideas on a particular subject. To advance education in the charitable sense means formal training of the mind, advancing the knowledge or abilities of the recipient, raising the artistic taste of the community, or improving a useful branch of human knowledge through research.³⁵ Simply providing an opportunity for people to educate themselves by reading an article in a magazine does not advance education in the charitable sense.³⁶

As the information contained in the magazine focuses on non-educational narratives and does not directly further the Organization's charitable purposes, it is our position that the publication of the magazine is not a charitable activity.

ii) Scholarships

Granting scholarships can be a charitable activity when there is a sufficient element of public benefit. One way to test the presence of public benefit is to look at the criteria that will be used to select the recipients of scholarships. The criteria used to determine eligibility for the scholarship cannot be so narrow or restrictive that the benefit granted would only be to a private group of persons.³⁷

The Organization awards scholarships each year to students of Macedonian descent enrolled in full-time undergraduate studies. The student, or his/her parent, must be a member of UMD to be eligible. As the scholarship program is restricted to benefit members of UMD, or their children, it lacks the element of public benefit to be a charitable activity.

Even should the Organization establish that the scholarships were offered to a sufficient segment of the public, the Organization does not choose the recipients of the scholarships, [REDACTED] does. As such, the Organization does not exercise the necessary direction and control over this activity to demonstrate that this is its own activity. Rather, it would appear that the Organization is funding an activity under the direction and control of [REDACTED], which is not a charitable expenditure.

iii) Fundraising

Although registered charities are permitted to devote some of their resources toward fundraising activities, it is the CRA's position that fundraising is not a charitable purpose in itself, nor is it a charitable activity that directly furthers a charitable purpose. Fundraising is generally considered acceptable provided it

³⁵ See CRA Summary Policy CPS-E01, *Advancing Education*.

³⁶ For more information, see CRA Policy Commentary CPC-027, *Publishing a Magazine*.

³⁷ For more information see CRA Policy Statement CPS-024, *Guidelines for Registering a Charity: Meeting the Public Benefit Test*.

does not deliver an unacceptable benefit to a private individual or corporation, it is within acceptable cost ratios, and it supports charitable activities carried out by the charity.³⁸

During the audit we examined two fundraising events of the Organization:

- the October 27, 2012, Toronto Gala, and
- the May 11, 2012, fundraiser for the [REDACTED]

With respect to the October 2012 fundraising event, we found it had a fundraising cost ratio of 55%.³⁹ This ratio is high and raises our concern whether the fundraising activity is acceptable. We requested more detailed information about the nature of this expenditure. However, the Organization was not able to provide an explanation for the costs. In addition, two days after the event was held the Organization wired \$8,266 to [REDACTED] with no explanation other than [REDACTED] requested these funds.

Turning to the May 2012 fundraising event, the Organization maintained no supporting documentation, so revenues, expenses, and the cost ratio cannot be determined. However, it was clearly advertised as an event for the benefit of another organization, [REDACTED].

It is our position that the proceeds from these fundraising events were provided to [REDACTED] and/or [REDACTED]. We consider this to be an unacceptable benefit because the recipients are non-qualified donees. As the Organization appears to be fundraising for the benefit of non-qualified donees, we are also unable to ascertain what charitable activity the fundraising supports (more details on funding to non-qualified donees was dealt with above).

Our review showed fundraising was 9% of total 2012 expenses.⁴⁰ Although this appears reasonable on the surface, given the high fundraising ratio of the one event we were provided supporting documentation on, combined with the fact that the majority of the proceeds from the Organization's fundraising are for the benefit of non-qualified donees, we have determined that the fundraising cost are non-charitable activities and unacceptable.

The Organization's non-charitable expenditure percentages in 2012 and 2011 based on actual expenditures⁴¹ and as stated above are; gifts to non-qualified donee 48% and 50% (which includes payments for conferences and galas), the magazine 8%

³⁸ CG-013 *Fundraising by Registered Charities*.

³⁹ Cost including [REDACTED] (\$6,279) were \$8,907 over total revenue of \$16,060 equals cost ratio of 55%.

⁴⁰ UMD Canada's cost of independent smaller fundraisers in 2011 and 2012 were expensed together in 2012 because the hall rental in 2011 was not actually paid until the 2012 fiscal period.

⁴¹ Expenditures on the financial statements were understated in 2012. The percentages here are based on the review of actual expenses incurred determined by the review of the bank account and supporting invoices where available.

and 14% (which includes the website updates), scholarships 4% and 15% and fundraising 9%.

Therefore, based on our audit findings, the Organization devoted 69%⁴² and 79%⁴³ of its total expenditures to non-charitable activities in 2012 and 2011.

d) *Conduct of non- incidental and ancillary political activities*

A registered charity is required to devote substantially all of its resources to charitable purposes and activities. Notwithstanding this general rule, the Act does allow charitable organizations to allocate a small portion of their resources to political activity. The CRA presumes an activity to be political if a charity:

1. explicitly communicates a call to political action (that is, encourages the public to contact an elected representative or public official and urges them to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country);⁴⁴
2. explicitly communicates to the public that the law, policy, or decision of any level of government in Canada or a foreign country should be retained (if the retention of the law, policy or decision is being reconsidered by a government), opposed, or changed;
3. explicitly indicates in its materials (whether internal or external) that the intention of the activity is to incite, or organize to put pressure on, an elected representative or public official to retain, oppose, or change the law, policy, or decision of any level of government in Canada or a foreign country; or
4. makes a gift to another qualified donee that is specifically intended to support the political activities carried out by that qualified donee.

A registered charity may not take part in any illegal activity or partisan political activity. A partisan political activity is any activity that directly or indirectly supports, or opposes, any political party or candidate for public office. When a registered charity supports or opposes a policy, it should focus on the policy itself, and must not explicitly connect its views to any political party or candidate for public office.

During our audit, we conducted a review of the resources the Organization spent on political activities. In its Form T3010 for the fiscal periods ending December 31, 2011

⁴² (48% + 8% + 4% + 9% = 69%)

⁴³ (50% + 14% + 15% = 79%)

⁴⁴ See, for example, *Actions By Christians For The Abolition of Torture (ACAT) v. Her Majesty the Queen*, (2003) D.T.C. 4394 (FCA); *Positive Action Against Pornography v. M.N.R.*, [1988] 2 F.C. 340 (CA), approving *McGovern v. Attorney General*, [1981] 3 All ER 493 (ChD); *Human Life International in Canada Inc. v. M.N.R.*, [1998] 3 F.C. 202 (C.A.); *Alliance For Life v. M.N.R.*, [1999] 3 FC 504 (CA); *N.D.G. Neighbourhood Assn. v. Canada (Revenue, Taxation Department)*, [1988] 2 C.T.C. 14 (FCA); and *Scarborough Community Legal Services v. Canada (Minister of National Revenue - M.N.R.)*, [1985] 1 C.T.C. 98 (FCA), where the Court held participation in a rally to protest against a proposal by the Government to bring changes to the Family Benefits program, and involvement with a committee to improve property standards by-laws, to be political activities.

and 2012, the Organization indicated that approximately \$54,000 of its total expenses in both 2011 and 2012 was expended on political expenses (Section C5 line 5030). This accounted for 98.2% and 72.3% of its total expenses in 2011 and 2012. Our review showed the Organization's advocacy total on the financial statements equalled the political expenses in 2011 but was higher than the political expense in 2012. No reconciliation of the political amount in 2012 could be provided, but our review showed advocacy included scholarships, fundraising, and advertising expenses. While our review noted political activities in the Organization's advertising expenses (press releases, website, and newspapers), scholarships and fundraising are not political expenses. Thus it appears the Organization has overstated its political expenses and not identified some of its prohibited partisan political activity.

Through the course of our audit, we also examined the shared website, which the Organization helps fund. As noted above, it is our opinion that the Organization does not maintain direction and control over hosting this website. Nevertheless, the Organization provides funds and pays bills on behalf of [REDACTED] and its affiliated entities to share in this activity. In the absence of any documentation to demonstrate direction and control, funds provided to support [REDACTED] or its affiliated entities are considered to be distributed to their activities. This includes the shared website. It is our view that the political activities on the website are funded by the Organization. While not an exhaustive list, the following examples demonstrate political activities found on the website.



47



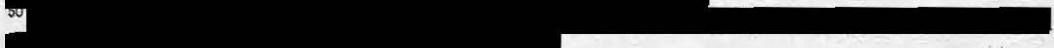
48



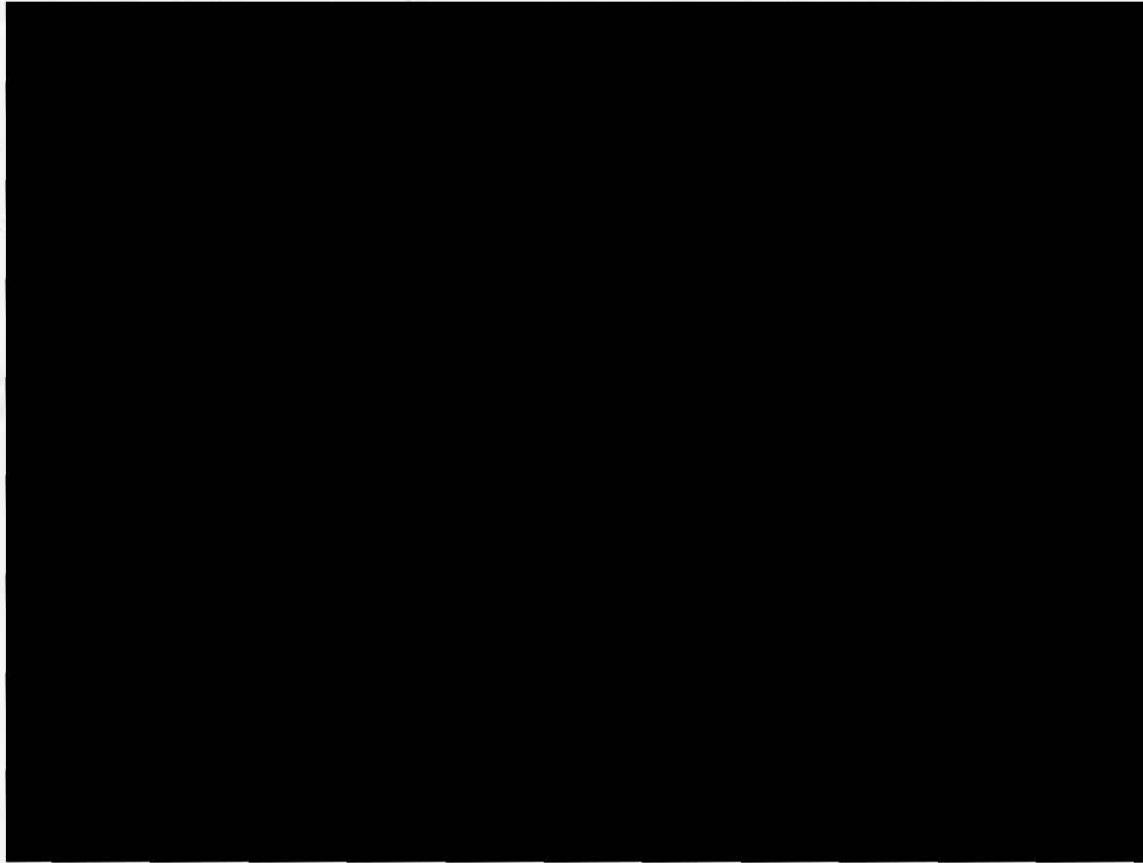
49



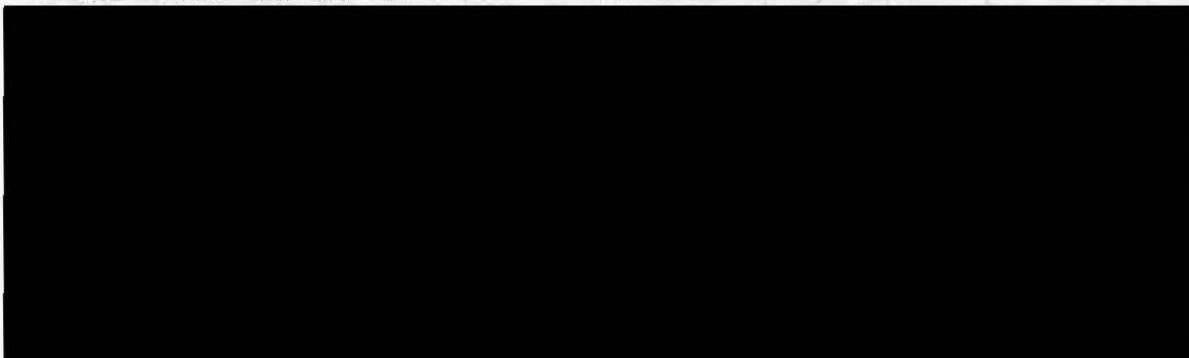
50



Although outside the audit period, the following examples demonstrate ongoing political activities found on the website:



While it is our opinion that the Organization does not maintain direction and control over the shared website, in our view, even should the Organization establish that it maintains direction and control over this activity, the political activities would not appear to further the Organization's charitable purposes, nor do they appear to be incidental.



When a registered charity makes a well-reasoned representation to elected representatives or public officials, it is considered a charitable activity provided that the representation is a reasonable way to achieve the charity's charitable purpose and provided the representations remain a minor focus of the charity.

During the course of our audit, Mr. Daikos advised us that the Organization meets with Canadian Members of Parliament. He advised that the Organization held approximately 14 of these meetings over the last five years. On its shared website, one of the Organizations' accomplishments was identified as "[leading] four delegations to Canada's Parliament in Ottawa."⁵⁷ The website also advised that "Over the last several years, the Canadian arm of the United Macedonian Diaspora has held numerous meetings with the Rt. Hon. Prime Minister Stephen Harper, the Hon. Foreign Minister John Baird, the Hon. National Defence Minister Peter MacKay, the Hon. Citizenship, Immigration and Multiculturalism Jason Kenney and with various MPs at their offices on Parliament Hill in Ottawa, and at MP constituency offices across southern Ontario."⁵⁸

We requested additional supporting material such as samples of letters requesting these meetings or a list of discussion topics for these meetings. However, these were not provided, so we are unable to clearly determine what activities were undertaken. We did find additional information about these meetings on the Organization's website, which described these as discussions that included "the re-establishment of the Canadian-Macedonian Parliamentary Friendship Group, promotion of economic ties between Canada and Macedonia, and current human rights problems facing the Macedonian communities in Greece, Bulgaria and Albania."⁵⁹

When a representation is connected to a charity's charitable purposes and is based on objective and factual information, it is considered to be a charitable activity, even if it advocates for the law, policy, or decision of any level of government to be retained, opposed, or changed. Resources devoted to activities like these are not calculated toward the allowable limit for political activities; rather they should be reported as expenditures on charitable programs. It is our opinion that the Organization's meetings with representatives of government could be charitable. However, the Organization has not clearly demonstrated how these meetings further its charitable purposes.

In addition to meeting with elected officials, our audit and review of the Organization's shared website revealed that the Organization and UMD Global released text of representations made to elected representatives and a public official. The following are examples of these:

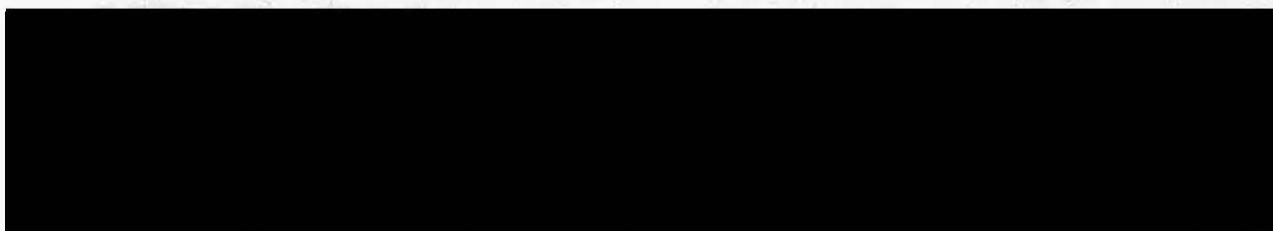
- The Organization paid for a news release to be issued on May 25, 2011, to disseminate a copy of a letter addressed to Prime Minister Stephen Harper from

⁵⁷ <http://umdiaspora.org/index.php/en/about/what-we-have-accomplished>. (accessed 2014-03-28)

⁵⁸ <http://umdiaspora.org/index.php/en/unity-issues-contents/772-umd-celebrates-re-establishment-of-canada-macedonia-parliamentary-friendship-group>. (accessed 2014-03-28)

⁵⁹ Ibid.

We consider releasing the text of a representation before or after delivering it to elected representatives and public officials to be a charitable activity provided the entire text is released and there is no explicit call to political action either in the text or in reference to the text. However, to be considered charitable, the communication with the elected representative or public official must relate to an issue that is connected to the



charity's charitable purposes. It is our position that the Organization has not clearly demonstrated how these releases of text further its charitable purposes.

As the Organization was unable to support all its expenses and could not account for all the resources that it provides to [REDACTED] or expended on behalf of [REDACTED], we have been unable to determine the exact amount of the Organization's resources that were used to conduct political activities. Regardless, as the Organization has failed to devote substantially all of its resources to charitable activities that it carries out itself, the provisions of subsection 149.1(6.2) do not apply, and any devotion of the Organization's resources to political activities would exceed the limits set in place by the Act.

e) Conduct partisan political activities:

Subsection 149.1(6.2) of the Act prohibits a registered charity from engaging in partisan political activities. A partisan political activity is one that directly or indirectly supports or opposes any political party or candidate for public office.

If a charity is praising or criticizing the performance of an elected representative or government, the charity can likely be considered to be providing indirect support or opposition to a political party.

In our examination of the Organization's shared website, we identified some partisan political activities. The following is not an exhaustive list; rather, it identifies some examples of partisan political activities:

[REDACTED]

[REDACTED]

It is our view that even should the Organization be able to establish that it directs and controls the activities on its shared website, the website contains partisan political material, which is prohibited under the Act.



In summary, it is our opinion that the Organization has failed to devote substantially all of its resources to charitable activities that it carries out itself due to:

- a. the absence of sufficient direction and control over the use of its resources;
- b. funding non-qualified donees;
- c. conduct of non-charitable activities;
- d. conduct of non- incidental and ancillary political activities; and
- e. conduct of partisan political activity.

Based on our analysis of the information made available during the audit of the fiscal periods ending December 31, 2012 and 2011, the Organization appears to have devoted 48% and 50% of its financial resources to supporting the activities of [REDACTED] which is not a qualified donee, and over which the Organization exercises little to no direction and control. Further, as we have noted above, another 21% and 29% of the Organization's financial resources have been applied to other non-charitable expenses such as producing a magazine, issuing restrictive scholarships, and fundraising.

Accordingly, it is our position that the Organization has failed to meet the requirements of subsections 149.1(1) and 149.1(6.2) of the Act that it devote substantially all its resources to charitable activities carried on by the Organization itself. For this reason it appears there may be grounds for the revocation of the Organization's charitable status under paragraph 168(1)(b) of the Act.

2) Failure to maintain books and records as required

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 books of account, who does so electronically, shall retain in an electronically readable format;
- 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
- all other records and books of account referred to in this section together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the date of the last taxation year to which the records and books relate."

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;⁶⁹
- 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;⁷⁰ 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.⁷¹

The Organization did not maintain its own books and records (such as donation receipts, government documents, joint meeting notes, legal expense invoices and complete details regarding wire transfers). These were maintained by [REDACTED]. The Organization had to rely on [REDACTED] to provide details regarding some of its own expenses, including legal expenses.

We were able to reconcile revenue and expenses from the Organization's Form T3010 with the financial statements. However, the support for revenue and expenses was lacking. For example:

- donation receipts could not be cross referenced or reconciled with amounts deposited in the bank account or reports received from Canada Helps; and
- records for fundraising events lacked details such as number of people in attendance and amount paid by each person.

Expense invoices were for the most part maintained; however, the amount of expenses claimed in both years was not supported by the invoices. For example:

- the Organization's bookkeeper advised that she under reported expenses in 2012 to allow the net income to equal the bank balance; and
- the Organization reported the 2011 expenses on a cash basis even though it indicated on its Form T3010 that it reports financial information on an accrual basis.

Furthermore, the audit indicated that the Organization did not prepare and issue proper Statements of Remuneration (T4As) to individuals who received scholarships. Under subsection 200(2) of the Regulations, every payer of a research grant, scholarship, fellowship, bursary or prize (other than a prescribed prize) must report the

⁶⁹ *Canadian Committee for the Tel Aviv Foundation vs. Her Majesty the Queen*, 2002 FCA 72 (FCA)

⁷⁰ *Canadian Committee for the Tel Aviv Foundation v. Canada*, supra footnote 2; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397

⁷¹ *College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency)*, (2004) FCA 101; subsection 168(1) of the Act

amount on a T4A Slip, Statement of Pension, Retirement, Annuity and Other Income.⁷² Every payer of an amount that is required by paragraph 56(1)(r) to be included in computing a taxpayer's income must report the amount on either a T4A Slip or a T4E Slip, Statement of Employment Insurance and Other Benefits,⁷³ as appropriate. Scholarship expenses were noted in both years and no T4A slips were prepared by the Organization.

It is our opinion that the Organization has not maintained adequate books and records within the meaning ascribed by the Act, and as a result is not in compliance with subsection 230(2) of the Act.

3. Failure to maintain proper donation receipts

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 our position that the Organization has contravened the *Income Tax Act* by allowing [REDACTED] to prepare UMD Canada's donation receipts and for not maintaining copies of these receipts at a Canadian address that the Organization would have on file with us.

Our review of a sample of receipts obtained from [REDACTED] showed the donation receipts did not include:

- The address of the Organization in Canada as recorded with CRA. The address on file with CRA [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] The address on the donation receipt is [REDACTED]
- The name, Canada Revenue Agency, and the website address www.cra-arc.gc.ca/charities.
- A description of the property donated and the fair market value of the Gifts in Kind. In the sample of donation receipts we reviewed, two receipts were for the donation of shares. However, neither donation receipt included a description of the property. Additionally, neither donation receipt could be reconciled with the closing market value of the shares for the corresponding dates on a designated stock exchange.

⁷² You can get this form at www.cra-arc.gc.ca/E/pbg/tf/t4a/README.html or by calling 1-800-959-5525.

⁷³ You can get this form at www.cra-arc.gc.ca/E/pbg/tf/t4e/README.html or by calling 1-800-959-5525.

- Serial number of the receipt. Donation receipts must have a sequential ordering system and we were informed by Mr. Diakos, that no sequential ordering system is followed.

The Organization has no control over its donation receipts or the director's electronic signature because it allows [REDACTED] to write the receipts. The Organization does not require [REDACTED] to provide copies of the receipts issued, thus the Organization has no direct knowledge of the number of receipts issued or the amounts of those receipts. No summary list of the donation receipt details was maintained. There was an incomplete summary donation list provided in 2011 that could not be reconciled to bank deposits, nor to other rough donation list maintained on envelopes from evening functions. No other donation summary was provided when requested.

Under paragraph 168(1)(d) 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 issues a receipt otherwise than in accordance with the Act and its Regulations. For this reason, it appears there may be grounds for revocation of the Organization's charitable status under paragraph 168(1)(d) of the Act.

4) Failure to complete an accurate charity return

Under the Act, a registered charity must file a completed copy of Form T3010, *Registered Charity Information Return*, including any required attachments, within six months of the charity's fiscal period end. A registered charity that provides incomplete or inaccurate information on its Form T3010 could have its tax-receipting privileges under the Act suspended until the required information is provided.

a) Inaccurate reporting of liabilities

In its Form T3010 for the fiscal period ending 2011-12-31 and 2012-12-31, the Organization reported no liabilities at lines 4350. In both years the accrual base of accounting was indicated as being used at line 4020 and evidence of accounts payable were revealed by our review. In 2011, expenses with supporting invoices were recorded as expensed in the financial spreadsheet but they were not paid. In this regard, accrual accounting would require accounts payable to be set up. In February 2012 a visa account in the name of the Organization was activated and monthly payments were being made, but no accounts payable were set up or reported on the Form T3010.

b) Inaccurate reporting of revenue and expenses

In its Form T3010 for the fiscal period ending 2011-12-31 and 2012-12-31, the Organization reported \$74,144 and \$78,893 as total receipted revenues on line 4500. However, this amount included amounts receipted by Canada Helps which is another registered charity. The amount received from Canada Helps should have been reported on line 4510, amounts received from other registered charities. The amount also included non-receipted donations that should have been reported on line 4530 and fundraising

amounts that should have been reported on line 4630. In addition, line 4500 included the gain on sale of shares that should have been reported as other amounts on line 4650.

c) Inaccurate reporting of political activities

As noted in section 1d) above, we conducted a review of the resources that the Organization expends on political activities. In its Form T3010 for the fiscal periods ending 2011-12-31 and 2012-12-31, the Organization indicated at line 5030, section C, that it expended most of its financial resources on political activities. As previously noted, it appears that the Organization may have misunderstood what constitutes a political expense. In 2011, the Organization reported spending \$54,249 on its programs of advocating for a united Macedonia (line 5000, section D). These expenses, which included scholarship and advertising expenses, were claimed as expenditures on political activities. In 2012, the Organization reported spending \$72,210 on its advocacy programs (line 5000, section D) and \$54,261 was claimed as expenditures on political activities, but no explanation for the difference could be provided. We attempted to reconcile the reduction of \$17,949 with the scholarships expenditures, but this only accounted for \$3,576.40. It appears that the Organization was claiming amounts wired to, or paid on behalf of [REDACTED], as political expenses, but the totals could not be reconciled due to the inadequate books and records.

Our review of the Organization's financial spreadsheet, news releases, statements issued on its shared website, and other available information and documentation, as detailed above, concluded that the Organization did incur a number of expenses that should have been considered political expenditures, including advertising, printing and publication costs (both print and electronic media). The Organization should have indicated at line 2400 that it had devoted some of its resources to political activities, and then reported the accurate expenses on line 5030. However, we were unable to determine the exact amount of the Organization's resources that were used to engage in political activities as the Organization did not record these expenses.

d) Inaccurate reporting of gifts to non-qualified donees

As discussed in section 1b) above, the Organization made gifts and payments to non-qualified donees. These accounted for approximately half of the total expenses in both years. However, these amounts should not have been included as charitable expenditures. A gift to a non-qualified donee is not a charitable expenditure and is cause for revocation of an organization's registered charity status.

As all assets, liabilities, revenues, and expenses must be properly reported on the Organization's statement of operations it is our opinion that the Organization is not in compliance with s. 149.1(14) of the Act, and for this reason there could be grounds for revocation of the Organization's charitable status under paragraph 168(1)(c).

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.

Yours sincerely,



Belinda Hatton
Audit Division
Halifax TSO

Telephone: 1-902-426-3385
Facsimile: 1-902-426-1431
Address: 1557 Hollis Street
PO Box 638
Halifax NS B3J 2T5

FAX

Date: 09/24/2014

Pages including cover sheet: 8

To:	Belinda Hatton
	Halifax Tax Services Office
<i>Phone</i>	
Fax Number	+1 (902) 426-1431

From:	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
<i>Phone</i>	[REDACTED] ■ [REDACTED]
Fax Number	[REDACTED] ■ [REDACTED]

NOTE:

Please find enclosed seven (7) pages in regards to United Macedonian Diaspora.

[REDACTED]

Belinda Hatton
Audit Division
Halifax Tax Services Office
1557 Hollis St.
P.O. Box 638
Halifax, Nova Scotia
B3J 2T5

Via Fax: (902) 426 - 1431

September 23, 2014

Dear Ms. Hatton:

Re: United Macedonian Diaspora ("UMD" or the "Organization")

Your File Number: 3037735

We are writing this letter in response to your letters of June 24, 2014 to Jim Daikos of the above organization. As a preliminary note we thank you for your courtesy in extending your deadline to respond to your letter.

While we read with interest your commentary on general legal principles we take no position on it and do not consider it necessary to respond in order to deal with the specific issues in question here.

We begin our submission by making some comments which undermine the entirety of your analysis. The rest of our comments are made more or less in the same order as your original comments.

First, your letter makes it clear that you rely on an interview with Mr. Mark Branov for support of some of your positions. The T3010 filed by the Organization for the 2012 year states that Mr. Branov ceased being a director of the Organization prior to the time of your audit. While Mr. Branov was a director for the period being audited he was no longer in a position to speak for the Organization after his resignation in December 2012. Given that this information was available to you prior to your audit it is unclear to us why Mr. Branov was interviewed as all. None of his comments can be considered to bind the Organization nor do they necessarily represent the factual situation. Further, it appears that there may be a misunderstanding about Mr. Branov's role on the production of the umdiaspora.org website referred to in your letter.

Second, much if not most of your position is predicated on information gleaned from what you cite as UMD Canada's website. In note 15 of your letter you cite a specific page (<http://umdiaspora.org/index.php/en/umd-global/canada>) for your review of the site. However you cite no evidence for the proposition that the site is actually that of UMD Canada. In fact, the site

[REDACTED]

itself is not registered to UMD Canada (see www.whois.org), it is not run by UMD Canada, is not identified as an instrument of UMD Canada and the content of the site does not lead one to believe that it is created or maintained by UMD Canada. Indeed, you identified it as the website of UMD Global on page 9 of your letter and as a shared website elsewhere. That some small paragraphs details the operations of UMD Canada is not evidence that the rest of the site (or even that page) is a mouthpiece for UMD Canada. Consequently, the statements made on a third party website cannot be taken as evidence of the Organization's position.

Third, while it is true that [REDACTED] is the [REDACTED] (which you seem to refer to at times as [REDACTED] he also acts as a *de facto* officer of UMD Canada. His role as such could have been confirmed by simply asking Mr. Daikos but it seems that this may have escaped your attention. [REDACTED] has been [REDACTED] of the Organization during the entire audit period. Your audit has already uncovered the evidence that [REDACTED] acted as an officer of the Organization and we believe the truth of the proposition is self – evident. However, should you require a statement from the Organization or Mr. Daikos confirming such we would be pleased to provide it.

Expanded Scope of Activities

You begin your letter with a discussion of the Organization's scope of activities. As much of your evidence of this proposition comes from the umdiaspora.org website we trust many of your concerns have now been alleviated. That said, clearly the T3010 filed by the Organization and cited by your letter would pose some cause for concern. However, it should be understood that educating about human rights, advancing Orthodox religion and relieving poverty for poor immigrants is part of the overall effort to unite the Macedonian community. It is not an expansion of activities so much as a different means of stating the same set of activities as reiterated by Mr. Daikos.

Devotion of Resources Carried On By the Organization

On page 9 of your letter you begin to cite your evidence for the proposition that the Organization acts as a financial conduit of funds for UMD Global. You begin with an analysis of UMD Global and information from UMD Global's annual report. To begin, we see no relevance between the comments of a third party making statements to its own audience for its own purposes and the truth necessary to justify your auditing position.

With respect to [REDACTED] comments quoted on page 9 of your letter, we would point out that the Organization is entitled to pursue its activities as outlined in its objects. That they also further the aims of UMD Global is irrelevant. This same principle holds true for the other activities listed on pages 9 and 10 (although the Organization adamantly maintains that it does not host, control, nor participate in anything but the provision of some specific content to the website).

On page 10 of your letter you cite a number of instances which you hold that [REDACTED] exercised direction and control over the use of the Organization's resources. We would begin by pointing out that your use of the word 'directing' as in [REDACTED] 'directed' the Organization to undertake certain activities is overstated. To begin, as outlined earlier [REDACTED] is an officer of the

Organization. Moreover, [REDACTED] did not control and direct as that term is used in law if he had to request the Organization to do the activity stated. For example, his 'direction' to the Organization to make certain payments actually required Mr. Daikos to undertake that specific activity so obviously [REDACTED] did not control the organization.

Secondly, the payment of hotels for conference [REDACTED] were for the Organization's own charitable activities. Specifically, the reimbursement of expenses related to the use of a hotel for a conference attended by invitees of the Canadian Organization. This was a predetermined expense of the Organization approved by the directors. The same is true of expenses for the gala you cite on page 11. The wiring of amounts to the [REDACTED] was the reimbursement of expenses incurred by [REDACTED] on behalf of UMD Canada. Please feel free to let us know what evidence of this would be acceptable to you and we would be pleased to forward it.

Recipients of scholarships from the Organization are most definitely made with the involvement of, at least Mr. Daikos, in his capacity as a director along with [REDACTED]. [REDACTED] vets the candidates and brings the list to Mr. Daikos for his approval. Moreover, our understanding is that the scholarships are not paid to the individual recipient but rather are paid out to the post secondary institution in question which we understand are all prescribed Schedule VIII institutions and thus qualified donees for purposes of the Income Tax Act.

You also comment about control and direction over the Organization in the context of the Organization's records. Even if your statement about the control and direction of records of the Organization is true (which is not admitted) – those are not resources for purposes of the control and direction test. Specifically, control and direction over records does not mean that the Organization does not maintain control and direction over its resources.

Finally, we believe your concerns about [REDACTED] involvement in the Organization have been answered.

With respect to Mr. Branov, the reason he does not control the content of the website or the magazine is because these are not projects of the Organization. There seems to be some level of miscommunication regarding Mr. Branov's role. As Director of Communication he communicates the Organization's messaging to the world where necessary. Your assertion that he takes on other pieces with little to no editing would seem to denote that little to no resources are expended on managing communications from other sources and this would then not denote a problem. Do we understand your position correctly?

With respect to the magazine itself, your concern that sufficient control and direction is not exerted over this activity is both untrue and moot. Specifically, the Organization looks on the publication of the Magazine not as part of its charitable activity but rather as a related business. Clearly, the communication of ideals related to Macedonian activity and community is related to the Organization's activity. The publication of the magazine, as you pointed out, constitutes roughly 10% of the Organization's expenses in each of the year's in question. The selling of advertising in the magazine has not been very successful but the activity itself clearly falls within the related business exemption.

[REDACTED]

The test for maintaining control and direction over the Organization's resources grows from the requirement that a charity devote its resources to its own activities. We trust that the derivation of the test is unnecessary as you have cited much of the legal reasoning in your letter. As the related business test is essentially an exception to an Organization's obligation to carry out its charitable activities it is also exempt from the control and direction test. Under these circumstances we see no reason to correct your factual inaccuracies regarding the control and direction of the magazine. We trust that this fully elucidates the information outlined in this section of your letter.

Funding Non-Qualified Donees

It seems clear that you have assumed that the amounts repaid to [REDACTED] and other parties for the hotels and printing companies were actually expenses of [REDACTED]. That is factually inaccurate. We trust the explanation provided above sufficiently explains the situation. If you have questions about specific expenses we would be happy to provide you with an explanation.

With respect to the contribution to the [REDACTED] and the [REDACTED]. We take your point, these were likely inappropriate expenditures.

Conduct of Non-Charitable Activities

UMD Voice

We have explained above that the publication of UMD Voice is a related business to the operations of the Organization. We trust that sufficiently satisfies your concerns.

Scholarships

While we understand your concerns about the scholarships the fact is that Messrs. Daikos and [REDACTED] jointly make the decision about bestowing scholarships. And, when scholarships are in fact given, the funds are transferred to other qualified donees. That said, it may be that the pool of recipients from which the winners are chosen is unnecessarily restrictive. The Organization would be quite prepared to increase the pool of prospective winners.

Fundraising

You have cited the Charities Directorate's own fundraising guidelines for the proposition that the fundraising expenses related to two events had an unacceptably high fundraising cost ratio. Respectfully, we believe you have misunderstood the guidelines. The calculation of the fundraising cost is not done on a per event basis but rather per year. Thus the fundraising ratio must be calculated relative to the Organization's revenue for the year and not just this event. Moreover, as you have not provided your calculations we are unable to provide submissions on them. We would appreciate it if you could please forward them to us for comment.

Furthermore, there seems to be a mixing of issues in your presentation of your position regarding fundraising. From a legal perspective there is a distinct difference between a contention that the fundraising expenses were unacceptably high and the position that there was a transfer to a non-qualified donee. That the funds from an event went to a non-qualified donee would have no impact on the fundraising ratio (although we do not admit either point). There seems to be some further confusion in your contention that fundraising cost is a non charitable activity and therefore

[REDACTED]
[REDACTED]
unacceptable. Fundraising is widely accepted as being a non-charitable activity but it is still an acceptable evil for charities to engage in it. (On this last point we think there must be a typo in the second last paragraph of page 15 as it is non-sensical and so we would appreciate some confirmation of your position).

As a result of the above information we could summarize our comments on your final paragraph in the fundraising section (page 15 and 16) as follows. The Organization did not make any gifts to non-qualified donees to [REDACTED]. The amounts you cite as 48% and 50% were in fact reimbursements of expenses incurred by the Organization but originally paid by [REDACTED]. Indeed you admit that this includes payments for conferences and galas. We would be happy to provide any documentation you need on the point but as you have already audited the Organization this may be in your files.

Spending on the magazine is in fact spending on a related business and so it is a non – charitable expenditure but entirely allowable within the context of the CRA's guidance on the matter. We take no position on the spending related to the website as the website is not in fact owned by the Organization. You may be referring to general communication by the Organization but this would fall into its charitable spending as would the transfers to qualified donees explained in the scholarship section above.

Finally, you cite fundraising expenses of 9% which as you admit in the context of your letter is entirely acceptable.

We trust this answers your concerns on this matter.

Non Partisan Political Activity

As a preliminary point we would agree with your statement that there seems to have been an error (in our submission innocent) on the T3010; specifically, that charitable activities were inadvertently classified as a political activities. We would also agree that the Organization does not maintain control and direction over the website because it is not their website. However, it also does not fund the website and so this is not an issue.

Your comment that the Organization does not maintain control and direction over the website leads us to question your reliance on the website as evidence of the Organization's alleged political activities. This reliance is even more questionable given that much of the political activity in question is not even in Canada. While the political activity restriction is not qualified on the basis of geography it does lead one to question why a Canadian organization would be attempting to influence policy in another jurisdiction – particularly when you believe the website is 'shared' amongst different groups. On what basis are you ascribing the activities you cite to UMD Canada? There is simply no evidence for that proposition because these are not the activities of the Organization.

We would also point out that the examples you cite of political activity on the bottom of page 17 of your letter do not qualify as a political activity based on your understanding of the law as outlined

[REDACTED]

on page 16 of your letter. Specifically, congratulating individuals on their achievements or policies does not qualify as political activity.

Your specific citations on pages 17 – 19 of statements taken from the website need not be answered. We agree that the Organization does not have control and direction over the entire website and these political statements are simply not the statements of the Organization.

Beginning on page 20 you discuss meetings between the Organization and elected Canadian officials. While there may be room for discussion as to whether or not these activities were charitable we do not think this is truly necessary. Even if these are political activities they are the only political activities of UMD Canada. You have (quite properly) not alleged that these are partisan acts and so we take it that it is only a question of the resources dedicated to this activity that is in question. As you may imagine, the resources dedicated to a meeting of this type are very slight. You have obviously reviewed the Organization's financial records and have seen that there are very few financial resources dedicated to this activity. Similarly, volunteer and other resources dedicated to random meetings with political leaders are minute.

Partisan Political Activities

For the reasons cited above we make no detailed submissions on the so-called partisan political activities. They simply are not the activities of the Organization and they were gleaned from a website that you admit is at most shared between the various UMD groups.

Maintaining Books and Records

Upon review of your position in this regard the Organization agrees that its recordkeeping (including receipting) could be improved. However, the Organization submits that given the extent of the errors and that they were not committed with malice that this issue is better dealt with by way of a Compliance Agreement.

The Organization would also submit that to the extent that there were errors with the issuance of T4A forms the remedy for this does not involve revocation of the Organization's tax status.

Finally, your comments about an inaccurate T3010 having been filed seem self – evident. However, the extent of those inaccuracies is obviously based on the interpretation of evidence gathered during your audit. We trust that many of these issues have now been satisfactorily explained and that the extent of the difficulties with the T3010 have been reduced.

Conclusion

The allegations made in your letter are indeed serious and the Organization takes them as such. However, we believe that the evidence underlying many of them simply does not apply to UMD Canada. We also submit that much of the other evidence has been based on a misunderstanding of the nature of the funds sent by the Organization to [REDACTED]

[REDACTED]

As you have completed a thorough audit we take it that much of the evidence for our submissions is already available to you in your files. However, we would be quite prepared to forward anything else that you need.

In our submission this is a matter that can best be dealt with by way of a Compliance Agreement rather than through revocation. The Organization in question thought that by working with [REDACTED] [REDACTED] it could enhance efficiencies and maintain a more professional office. While the logic may have been sound it is clear to them now that this approach has caused significant confusion and in fact has led to breaches in the Organization's compliance with the charity regulation regime. We would propose that a Compliance Agreement be struck addressing your remaining concerns so that the Organization can continue its good work while remaining compliant.

We look forward to your response.

Yours truly,

[REDACTED]

[REDACTED]

United Macedonian Diaspora (Canada) / Diaspora macédoniens (Canada)**COMMENTS ON REPRESENTATIONS OF SEPTEMBER 23, 2014**

The audit conducted by the Canada Revenue Agency (CRA) identified that the United Macedonian Diaspora (Canada) / Diaspora macédoniens unis (Canada) (the Organization) is not devoting its resources to charitable activities carried out by the Organization itself. Specifically, the audit concluded that the Organization:

- did not devote its resources to charitable activities that it carried on itself;
- failed to maintain books and records as required;
- failed to maintain proper donation receipts; and
- failed to complete an accurate charity information return (Form T3010).

We have reviewed the Organization's representations dated September 23, 2014, and we maintain our position that the non-compliance issues identified during the audit represent a serious breach of the requirements of the *Income Tax Act* (Act) and that, as a result of this non-compliance the Organization's registration should be revoked.

These reasons are described in greater detail in this Appendix, which addresses the CRA's responses to the Organization's representations regarding the non-compliance issues identified in the CRA's Administrative Fairness Letter (AFL), sent to the Organization on June 24, 2014. Below please find:

- A summary of the issues raised by the CRA in our AFL dated June 24, 2014;
- A summary of the representations provided by the Organization's representative, [REDACTED], dated September 23, 2014; and
- The CRA's conclusions.

1. Failure to devote resources to charitable activities carried on by the Organization itself**1. a) Lack of direction and control over use of resources**

The CRA audit found that the Organization is the Canadian operation of United Macedonia Diaspora (UMD Global), which operates in countries including the [REDACTED], [REDACTED] and Canada. The audit revealed that the Organization shares several activities with [REDACTED], and the [REDACTED], which include:

- Hosting a shared website (www.umdiaspora.org);
- publishing a magazine;
- providing conferences; and
- holding gala events.

Our AFL dated June 24, 2014, noted that it appears [REDACTED] exercised direction and control over the use of the Organization's resources, which included:

- Directing the Organization to wire funds to [REDACTED], for [REDACTED] use;¹
- Directing the Organization to pay invoices made out to [REDACTED], [REDACTED];²
- Directing the Organization to pay for hotels for conferences [REDACTED];³
- Choosing the recipients of the Organization's scholarships;
- Controlling and issuing the Organization's donation receipts;
- Controlling and maintaining the Organization's donation receipting records and not provide copies to this Organization; and
- Controlling and maintaining other records of the Organization such as minutes to meetings and incorporating documentation.

In addition, our audit found that:

- the Organization relied on [REDACTED], [REDACTED], to explain and provide details of the Organization's activities; and
- 48% of the Organization's expenses in 2012 and 50% in 2011 represented wire transfers to [REDACTED] or payments to hotels [REDACTED], under the direction of [REDACTED].

Our AFL dated June 24, 2014, stated that:

"The Organization has not demonstrated that the hosting a shared website, publishing a magazine, organizing conferences and holding gala events are, in fact, its own activities. Wiring funds directly to [REDACTED] and to other parties on behalf of [REDACTED], such as hotels and printing companies, which accounted for 48% and 50% of the Organization's total expenditures in 2012 and 2011, does not demonstrate direction and control over the Organization's funds."⁴

¹ For example, wire # [REDACTED] for \$5,000 US dated April 12, 2012, through the [REDACTED] in Scarborough, ON and wire [REDACTED] for \$8,000 US dated October 29, 2012, through the [REDACTED] in Scarborough, ON. Mr. Daikos explained that these wires were monies to replenish [REDACTED] account.

² For example, cheque # 22 and # 23 and attached invoices in April and May 2011 showed the Organization paid for invoices addressed to [REDACTED]. Both organizations use the name UMD; however, reviewing the addresses distinguished [REDACTED] and the Organization. Email dated September 21, 2011, shows [REDACTED] directing Mr. Daikos to pay for [REDACTED] (invoice pertaining to UMD Voice Magazine).

³ Emails dated June 21 and November 11, 2011 showed [REDACTED] directing Mr. Diakos to pay hotel bills.

⁴ Charities Directorate Administrative Fairness Letter dated June 24, 2014, p. 12.

Consequently, we concluded the Organization failed to maintain direction and control over its resources and it was our view that the Organization was resourcing non-qualified donees in contravention of the Act.

We have reviewed the material provided in the Organization's September 23, 2014, representations, and we respectfully advise that our concerns regarding the lack of direction and control over the use of the Organization's resources have not been alleviated. We have addressed the points the Organization raised in its representations as follows:

1. a) i. The Organization's representations dated September 23, 2014, advised that our audit should not rely on information provided in an interview with Mr. Mark Branov because he ceased to be a director of the Organization as of December 2012. Your representations also asserted that "[t]he T3010 filed by the Organization for the 2012 year states that Mr. Branov ceased being a director of the Organization prior to the time of [the CRA's] audit. While Mr. Branov was a director for the period being audited he was no longer in a position to speak for the Organization after his resignation in December 2012."

When the CRA conducts an audit, we rely on a variety of information provided to us during the process. This may include information obtained through discussions with directors, employees, and contractors to help the auditors understand the organization's activities and operations.

The annual information returns filed and reviewed during the audit listed Mr. Branov as a director. It was only the Organization's 2013 annual information return filed on June 19, 2014, which showed that Mr. Branov ceased to be a director of the Organization on December 31, 2012.

During our initial audit interview in August 2013, Mr. Jim Daikos, Director, advised us that the directors have not changed since the filing of the Organization's 2010 annual T3010 return and that Mr. Branov was still an active director on the board. Additionally, Mr. Daikos arranged a meeting with the CRA auditors, Mr. Branov, and himself, on August 14, 2013, to discuss the activities and operations of the Organization.

Although Mr. Branov may not have been a director of the Organization at the time of the audit interview, he was still a contractor employed by the Organization, and a former director, who had knowledge about the activities undertaken. The fact that Mr. Branov is no longer a director of the Organization does not negate the information he provided as a contractor working for the Organization with knowledge of its activities.

Therefore, we respectfully disagree with your position that the information provided to us by Mr. Branov during the audit interview is not reliable and does not represent the factual situation. The representations provided no reasoning as to why Mr. Branov was not a reliable source of information concerning the activities conducted by the Organization during the period audited therefore we will continue to rely upon the statements made by Mr. Branov.

1. a) ii. The Organization's September 23, 2014, representations argued that the website www.umdiaspora.org is a third party website belonging to UMD Global, and "[t]hat some small paragraphs details the operations of UMD Canada [the Organization] is not evidence that the rest of the site (or even that page) is a mouthpiece for UMD Canada [the Organization]." The representations stated that the CRA cited no evidence for the proposition that the website is actually that of the Organization. The representations further stated that the website is not registered to the Organization, it is not run by the Organization, is not identified as an instrument of the Organization, and the content of the website does not lead one to believe that it is created or maintained by the Organization.

As stated in our AFL dated June 24, 2014, the CRA's position has been that this website is a shared activity of the Organization, [REDACTED], and the [REDACTED] that comprise UMD Global. As further evidence to support this position, we provide the following:

- During the audit interview with Mr. Jim Daikos on August 13, 2013, Mr. Daikos discussed the joint activity of the shared website. Mr. Daikos stated that the Organization and [REDACTED] shared expenses for this activity. He advised that [REDACTED] sends him emails specifying the amounts required for the Organization's portion of this activity and he pays the funds by wire to [REDACTED]
- During the audit interview, Mr. Daikos provided his business card to us, which specifically identified this website.
- In a subsequent interview with Mr. Daikos on August 13, 2013, Mr. Daikos confirmed that a contract exists to pay Mr. Mark Branov \$833 per month to produce the UMD Voice Magazine and help with other communication issues which included website support.
- During the interview with Messrs. Daikos and Branov on August 14, 2013, Mr. Branov advised that he was under contract with the Organization to produce the UMD Voice Magazine, help out with the website, and other communication functions. Mr. Branov advised that the website was mostly maintained by the webmaster in Macedonia. However, he provides Canadian content and sometimes edits other articles. Mr. Branov advised that [REDACTED], [REDACTED], is responsible for the [REDACTED].
- On August 21, 2013, we received consent from Mr. Daikos to talk with [REDACTED], [REDACTED]. A telephone conversation with [REDACTED] followed in which [REDACTED] provides instruction to us on how to navigate the www.umdiaspora.org website to find answers about the content of conferences which UMD Canada participated in. [REDACTED] also advised that [REDACTED], [REDACTED] contribute to the website.

We do not dispute the fact that the website is not registered to the Organization and that other parties involved with UMD Global have input and control over the content on the website. However, the Organization has shown that it supports the website by providing funds, content, and web support. Therefore, our position remains that the website,

www.umdiaspora.org, is a shared activity of the Organization, [REDACTED], and the [REDACTED] operations.

1. a) iii. The Organization's representations stated that [REDACTED] is the [REDACTED] UMD Global, which also operates as [REDACTED]. The representations also advised that [REDACTED] is a [REDACTED] and [REDACTED] of the Organization and that "[h]is role as such could have been confirmed by simply asking Mr. Daikos..."

We take no issue with your position that [REDACTED] acted as a [REDACTED] of the Organization. As noted above, and described in more detail in our AFL of June 24, 2014, our position has been that [REDACTED] exercised direction and control over the use of the Organization's resources.

However, we take this opportunity to clarify our understanding of the relationship between the Organization, [REDACTED] the [REDACTED] operations, and UMD Global. On August 21, 2013, our auditor had a telephone conversation with [REDACTED] in which we asked for clarification on his role and the relationship between the different entities. [REDACTED] explained that he is the [REDACTED] of UMD Global which he described as overseeing the other three entities (the Organization, [REDACTED], and the [REDACTED] operations). He explained that UMD Global was not a separate legal entity, but simply a name used to represent the three entities. [REDACTED] did not identify himself as a [REDACTED] of the Organization.

Additionally, we acknowledge the Organization's representations dated September 23, 2014, raised the point that UMD Global and [REDACTED] operates as one indistinguishable entity. While our earlier discussions with Messrs. [REDACTED], Daikos, and Branov led us to believe the two entities were in fact separate and distinct operations, we accept the representations that both entities operate as one.

Furthermore, we would advise that during the initial audit interview of August 13, 2013, Mr. Daikos advised us that the directors have not changed since the filing of the Organization's 2010 annual T3010 return. Therefore, we had no prior knowledge or reason to believe that an officer existed outside those formally recognized by the Organization.

We agree that [REDACTED] acted as a [REDACTED] of the Organization. However, the existence of [REDACTED] as an undisclosed officer does not alleviate our concerns about direction and control of the Organization's resources.

1. a) iv. The Organization's representations claimed that:

- payment to hotels were reimbursement of expenses related to the use of hotel for conferences attended by invitees of the Organization;
- amounts wired to the [REDACTED] were reimbursement of expenses incurred by [REDACTED] on behalf of the Organization; and
- proceeds from the October 27, 2012, Toronto Gala, which were wired to [REDACTED], were a predetermined expense.

As explained in our AFL of June 24, 2014, a charity must be able to substantiate that it has actually arranged for the conduct of the specific activities it undertakes to further its charitable purposes. The representations that funds paid to [REDACTED] and other parties are reimbursements and/or predetermined expenses does not show how these resources have been applied to the Organization's own activities in furtherance of its charitable purposes.

1. a) v. CRA's analysis relied, in part, on information obtained from the 2011 UMD Annual Report. The Organization's representations argued that it "see(s) no relevance between the comments of a third party making statements to its own audience for its own purposes and the truth necessary to justify [the CRA's] auditing position."

We would advise that the 2011 UMD Annual Report was provided to us by the Organization during the audit interview on August 15, 2013, as information in support of its own activities, structure, and operations. We acknowledge that this report represents combined annual reporting for UMD Global, which comprises the Organization, [REDACTED] and the [REDACTED] operations. However, the report was used to substantiate that [REDACTED] represents itself as the headquarters of UMD Global and that the Organization, [REDACTED] and the [REDACTED] operations provide combined reporting of their financial information.

Moreover, as we noted above, [REDACTED], [REDACTED] and [REDACTED] of the Organization, advised us on August 21, 2013, that UMD Global is the overseer of the Organization, [REDACTED] and the [REDACTED] operations.

Therefore, our view is that the 2011 UMD Annual Report is relevant because it shows how the Organization represents itself publicly in relation to UMD Global, [REDACTED] and the [REDACTED] operations.

1. a) vi. The Organization's representations claim it is irrelevant that the job description for the Director of the Canadian Operation of the Organization contains a combined objective, which is ensuring the Organization executes projects furthering UMD Global's goals in addition to its own.

The reference to the job description for the Director of the Canadian Operation of the Organization was included in our AFL dated June 24, 2014, to illustrate the relationship between the Organization and UMD Global and show that a director of the Organization was expected to undertake projects furthering UMD Global's goals. We agree with the Organization's representations that the Organization is entitled to undertake activities in pursuit of its charitable objects; however, the job description provided to us does not show that the Organization is free to pursue its charitable objects. Rather, it appears the Director of the Canadian Operation of the Organization is obligated to not only ensure the Organization achieves its own goals, but also the goals of UMD Global. Therefore, it is our view that job description is relevant and that it, in conjunction with information contained in the 2011 UMD Annual Report and information provided by Messrs. [REDACTED], Daikos, and Branov, supports our position that UMD Global exercises direction and control over the Organization.

1. a) vii. The Organization's representations advised that [REDACTED], [REDACTED] and [REDACTED] of the Organization, vets candidates for scholarships and brings the list

to Mr. Daikos for his approval. The representations also stated that "it may be that the pool of recipients from which the winners are chosen is unnecessarily restrictive. The Organization would be quite prepared to increase the pool of prospective winners."

As noted above, we accept the position that [REDACTED] was a [REDACTED] of the Organization. However, we still have concerns with respect to lack of public benefit which is dealt with in detail under the "scholarships" heading below.

1. a) viii. The Organization's representations stated that "Even if your statement about the control and direction of records of the Organization is true (which is not admitted) – those are not resources for the purposes of the control and direction test. Specifically, control and direction over records does not mean that the Organization does not maintain control and direction over its resources."

Our AFL dated June 24, 2014, outlined our position that [REDACTED] appears to exercise direction and control over the Organization's resources by directing it to provide funds to, and pay invoices on behalf of, [REDACTED]. In addition, our AFL explained [REDACTED] issued, controlled, and maintained the Organization's donation receipts. As well, [REDACTED] controlled other records of the Organization such as minutes to meetings and incorporating documents.

The Organization's representations did not provide information to challenge our position that [REDACTED] controls records of the Organization. Rather, the representations purport that control over records does not equate to control over resources.

We would advise that a registered charity must maintain direction and control over its resources (for example, funds, personnel, and property) and activities. A registered charity must be careful about how it carries on its activities and it must ensure that it keeps sufficient direction and control over its resources, or it could possibly be transferring money to non-qualified donees, which is not a charitable activity.

With respect to the Organization, it did not control its donation receipts, had no knowledge of the number of donation receipts issued, and could not account for the amounts received. Therefore, it was unable to demonstrate direction and control over the funds it received through donations. Additionally, the Organization did not maintain some of its corporate records and relied on [REDACTED] to provide these records.

Consequently, it remains the CRA's position that the Organization has not demonstrated that it maintained adequate direction and control over its resources, and that in effect, the Organization acted as a conduit, supporting the activities of [REDACTED] and its [REDACTED]. As such, it is the CRA's conclusion that the Organization has failed to meet the requirements of subsection 149.1(1) of Act, namely that it devote substantially all its resources to charitable activities carried out by the Organization itself. For this reason there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

1. b) Funding non-qualified donees

Our audit found that the Organization made payments to various non-qualified donees, which included:

- wired funds directly to [REDACTED] and other parties on behalf of [REDACTED], which accounted for 48% and 50% of the Organization's total expenditures in 2012 and 2011;
- gifted \$500 to [REDACTED]⁵, also a non-qualified donee; and
- contribution of an undetermined amount to [REDACTED]
[REDACTED].

As noted in our AFL dated June 24, 2014, if a charity chooses to conduct its own activities through an intermediary it must still direct and control the use of its resources. When a registered charity fails to maintain effective direction and control over the resources that it transfers to a non-qualified donee, the result is the same as gifting to a non-qualified donee.

We have reviewed the Organization's representations dated September 23, 2014, and agree with the Organization's representations that the contribution of resources to the

[REDACTED] and the [REDACTED] are inappropriate expenditures. We accept this as the Organization's confirmation that these were gifts to non-qualified donees.

The representations of the Organization also claimed that the CRA's position with respect to amounts paid by Organization to [REDACTED] and other parties for expenses incurred by [REDACTED] is factually inaccurate. To substantiate this claim, the representations relied on its assertion that funds paid to [REDACTED] and other parties are in fact reimbursement and/or predetermined expenses. However, no additional documentation was submitted to us to support that these were expenses incurred by the Organization in the course of carrying out its own activities. In the absence of documentation to the contrary, the Organization appears to be providing funds to non-qualified donees.

It therefore remains our position that the Organization has not demonstrated it is able to account for the use of its funds to carry out charitable activities under its direction and control where it has transferred funds to non-qualified donees. The Organization has failed to meet the requirements of subsection 149.1(1) of the Act that it devote substantially all its resources to charitable activities carried on by the Organization itself. For these reasons there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

1. c) Conduct of non-charitable activities

Our AFL dated June 24, 2014, advised that even should the Organization be able to establish that it directs and controls the activities it participates in with UMD Global and/or [REDACTED], the majority of these activities to which resources have been applied are non-charitable.

⁵ Cheque dated June 21, 2012.

1. c) i. The UMD Voice Magazine

In our AFL we advised that the information contained in the UMD Voice Magazine focused on non-educational narratives and does not directly further the Organization's charitable purposes. It was our position that the publication of the magazine is not a charitable activity.

The Organization's representations of September 23, 2014, agreed with our position that the publication of the magazine is not a charitable activity. However, the representations advised that the publication of the magazine should be reclassified as a related business.

We acknowledge that under the Act, charitable organizations can carry on related businesses that accomplish or promote their charitable purposes. There are two kinds of related businesses⁶:

- businesses that are run substantially by volunteers; and
- businesses that are linked to a charity's purpose and subordinate to that purpose.

As the magazine is not run substantially by volunteers, we have considered the Organization's representations that it should be reclassified as a related business because it communicates ideas "related to Macedonian activity and community" in relation to the Organization's activity. While the publishing of this magazine may be related to the activities of the Organization, it is our position that a significant amount of the Organization's activities are not charitable and do not advance charitable purposes. Regardless, even if the CRA had enough information to reclassify these from magazine publishing expenses to related business expenses, the expenses would remain non-charitable. As we agree with the Organization's representations that the magazine is a non-charitable activity, reclassifying the expenses does not alter the agreed position that this is a non-charitable activity.

1. c) ii. Scholarships

As stated in our AFL, the scholarship program is restricted to benefit members of UMD or their children, which lacks the element of public benefit to be a charitable activity. While the Organization's representations of September 23, 2014, recognized that the scholarships are not offered to a sufficient segment of the public to be considered a charitable activity, the proposal of being "prepared to increase the pool of prospective winners" does not explain how this will be achieved. We have not been provided with additional information or documentation to show how scholarships are open to a sufficient section of the public to be charitable.

Additionally, the representations stated that "scholarships are not paid to the individual recipient but rather are paid out to the post secondary institution in question which we

⁶ Refer to CRA policy statement CPS-019, *What is a Related Business?*

understand are all prescribed Schedule VIII institutions and thus qualified donees for the purposes of the Income Tax Act.”⁷

We acknowledge that charities can distribute scholarship funds through prescribed institutions for the intended beneficiaries. However, making scholarship payments through a prescribed institution does not equate to making a donation to a qualified donee. The scholarship is provided to the student, through the institution, not to the institution itself. The fact that scholarships may be paid to prescribed institutions on behalf of the recipients, does not alleviate our concerns that the group of potential beneficiaries is too restrictive to be charitable.

1. c) iii. Fundraising

Our AFL advised that it is the CRA’s position that fundraising is not a charitable purpose in itself, nor is it a charitable activity that directly furthers a charitable purpose. During the audit we examined two fundraising events of the Organization:

- the October 27, 2012, Toronto Gala, and
- the May 11, 2012, fundraiser for the [REDACTED]
[REDACTED].

Our audit found that October 2012 fundraising event had a fundraising cost of 55%⁸ for this single event. We requested more detailed information about the nature of this expense; however, the Organization was not able to provide an explanation for the costs. In addition, two days after the event was held the Organization wired \$8,266 to [REDACTED] with no explanation other than [REDACTED] requested the funds.

With respect to the May 2012 fundraising event, the Organization maintained no supporting documentation, so revenues, expenses, and the cost ratio could not be determined. In addition, the fundraiser was clearly advertised as a benefit for [REDACTED], a non-qualified donee.

Our position was that these fundraising events are not charitable activities, and that these events also delivered an unacceptable benefit because they provided funds to non-qualified donees.

We have reviewed the Organization’s representations of September 23, 2014, and respectfully disagree with the representations statement that we have misunderstood the CRA’s guidance publication, CG-013, *Fundraising by Registered Charities*. Specifically, the representations purport that “fundraising cost is not done on a per event basis but rather per year. Thus fundraising ratio must be calculated relative to the Organization’s revenue for the year and not just this event.” In addition, the representations claimed that the CRA did not provide information used to calculate fundraising ratios, thereby leaving the Organization’s representations unable to provide additional information and supporting documentation.

⁷ The publicly available information returns filed by the Organization do not report any gifts to qualified donees for the periods audited.

⁸ Total expense \$8,907, total revenue \$16,060.

With respect to the understanding of CG-013, we would direct the Organization to paragraph 86, which states that “a high fundraising ratio for an individual event may, on its own, be an indicator of unacceptable fundraising where the event forms a collateral non-charitable purpose, delivers a more than incidental private benefit, or is contrary to public policy or deceptive.”

Therefore, our view remains that the Organization’s fundraising ratio for its October 2012 fundraising event is indicative of unacceptable fundraising because the individual ratio was high and the event appears to have delivered a private benefit by provided funds to a non-qualified donee.

Turning to the representations that it was unable to provide submissions about the calculations on fundraising costs, we would advise that all our calculations were based on information provided by the Organization during the course of the audit.

As noted in our AFL, the calculation of fundraising costs for the one event we were provided amounts for was as follows:

Total expense	\$8,907
-----	=
Total revenue	\$16,060

Throughout the audit, we requested more detailed information from the Organization about both fundraising events. However, the Organization was only able to provide limited information and documentation to support its October 2012 fundraising event and no information or supporting documentation on its May 2012 fundraising event.

The Organization’s representations of September 23, 2014, included no additional information or documentation to explain the fundraising costs. Therefore, our concern about high fundraising ratio remains.

Moreover, as the majority of the proceeds from the Organization’s fundraising are for the benefit of non-qualified donees, our position remains that this activity is non-charitable and unacceptable.

1. c) iv. Shared website

The Organization’s representations stated that it takes no position on the spending related to the website, www.umdiaspora.org, as it contends that the website is not in fact owned by the Organization. The representations also proposed that the CRA “may be referring to general communications by the Organization but this would fall into its charitable spending.”

However, for the reasons detailed in our AFL dated June 24, 2014, and the sections above, our position remains that:

- the website is a shared activity of the Organization, [REDACTED], and the [REDACTED] operations (see section 1. a) ii. above); and
- the Organization provided funds directly to [REDACTED] without maintaining direction and control (see section 1. b) above).

As the Organization's representations of September 23, 2014, included no additional information or documentation to identify or explain the costs incurred to support the shared website, our view remains that funds provided to [REDACTED] in this regard would be a gift to a non-qualified donee, which is a non-charitable activity.

In our AFL dated June 24, 2014, we summarized, based on our audit finding, the Organization's non-charitable expenditure percentages in 2012 and 2011 were as follows:

Non-charitable expenditures	2012	2011
Gifts to non-qualified donees (includes payments for conferences and galas)	48%	50%
Magazine (includes website updates)	8%	14%
Scholarships	4%	15%
Fundraising	9%	0%
Total	69%	79%

Consequently, based upon the information and documentation that has been provided, it remains our position that the Organization has failed to meet the requirements of subsection 149.1(1) of the Act, namely that it devote substantially all its resources to charitable activities carried on by the Organization itself. For this reason, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

1. d) Conduct of non-incidental and ancillary political activities

Our audit found that the Organization reported spending a significant amount of its resources on political expenses on its Form T3010, *Registered Charity Information Return*, in 2011 and 2012. Our review noted political activities in the Organization's advertising expenses (press releases, website, and newspapers); however, it was our opinion that the Organization overstated its political expenses and did not identify some of its prohibited partisan political activity.

Through the course of our audit, we also examined the shared website, which the Organization helps fund. As stated in our AFL dated June 24, 2014:

"[I]t is our opinion that the Organization does not maintain direction and control over hosting this website. Nevertheless, the Organization provides funds and pays bills on behalf of [REDACTED] and its affiliated entities to share in this activity. In the absence of any documentation to demonstrate direction and control, funds provided to support [REDACTED] its affiliated entities are considered to be distributed to their activities. This

includes the shared website. It is our view that the political activities on the website are funded by the Organization.”

The Organization’s September 23, 2014, representations agreed that the Organization does not maintain direction and control over hosting the website. However, the representations stated that the Organization “does not fund the website and so this is not an issue.” The representations also claimed that our reliance on the website as evidence as the Organization’s activities is questionable because it is a shared activity among different groups.

We have reviewed the information provided by the Organization’s September 23, 2014, representations, and we must respectfully advise that our concerns regarding the Organization’s provision of funds to, and payment of bills on behalf of, [REDACTED] and its affiliated entities has not been alleviated. The Organization has not provided support to show how the funds provided to [REDACTED] and its affiliates was spent. In the absence of any documentation our view remains that the Organization funds the activities of [REDACTED] and its affiliates, including the website.

The Organization’s representations of September 23, 2014, claimed the three examples we cited on page 17 of our AFL dated June 24, 2014, do not qualify as political activities because they are merely congratulating individuals on their achievements or policies. The representations further advised that the examples on page 17 to 19 do not need to be addressed because “these political statements are simply not the statements of the Organization.”

The examples from page 17 read as follows:



[REDACTED]

With respect to these three examples, we do not take issue with the portion of the excerpt that congratulate the individuals. Rather, our concerns about political activities are with regards to sections which read:

[REDACTED]

It is our view that these citations explicitly communicated to the public that the law, policy, or decision of governments should be opposed or changed. As a result, we maintain our view that these are examples of political activities found on the website.

With regards to the other examples of non- incidental and ancillary political activities listed in our AFL dated June 24, 2014, the representations claimed that they are not political activities of the Organization because the Organization does not fund the shared website. As noted above, it continues to be our view that the Organization helps fund the website, which includes the website's political activities.

Our AFL dated June 24, 2014, addressed the activities of the Organization with respect to meetings with Canadian Members of Parliament and released text of representations made to elected representatives and public officials. As advised in our AFL, when a registered charity makes a well-reasoned representation to elected representatives or public officials, it is considered a charitable activity provided that the representation is a reasonable way to achieve the charity's charitable purpose and provided the representations remain a minor focus of the charity. Additionally, we consider releasing the text of a representation before or after delivering it to elected representatives and public officials to be a charitable activity provided the entire text is released and there is no explicit call to political action either in the text or in reference to the text. However, to be considered charitable, the communication with the elected representative or public official must relate to an issue that is connected to the charity's charitable purposes.

[REDACTED]

It was our position that the Organization had not clearly demonstrated how these meetings and releases of text further its charitable purposes.

The Organization's representations of September 23, 2014, did not address how these meetings and releases of text further the Organization's charitable purposes. Rather, the representations advised that it is only a question of the resources dedicated to the activity of meeting with political leaders that needs to be addressed. The representation further stated that "[The CRA] have obviously reviewed the Organization's financial records and have seen that there are very few financial resources dedicated to the activity. Similarly, volunteer and other resources dedicated to random meetings with political leaders are minute."

As the Organization's representations did not provide additional information and supporting material to show how these activities are connected to a charitable purpose of the Organization, our position remains unchanged.

The Organization's representations of September 23, 2014, did not provide support for all its expenses and could not account for all the resources that it provided to [REDACTED], or expensed on behalf of [REDACTED]. Therefore, we are still unable to determine the amount of the Organization's resources used to conduct political activities. Regardless, our position remains that the Organization has failed to meet the requirements of subsections 149.1(1) of the Act that it devote substantially all its resources to charitable activities carried on by the Organization itself. For this reason there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

1. e) Conduct partisan political activities

Our AFL dated June 24, 2014, advised that subsection 149.1(6.2) of the Act prohibits a registered charity from engaging in partisan political activities. Moreover, our AFL advised that our audit of the Organization revealed examples of partisan political activities on the Organization's shared website.

The Organization's September 23, 2014, representations failed to make any submissions on these activities, citing its position that the shared website is not an activity of the Organization. It was argued in the representations that examples the CRA provided in our AFL were from "a website that [the CRA] admit(s) is at most shared between the various UMD groups" and therefore not activities of the Organization.

As noted in the section above, we agree the Organization does not maintain direction and control over hosting this website. Regardless, the Organization provides funds and pays bills on behalf of [REDACTED] and its affiliated entities to share in this activity. In the absence of any documentation to demonstrate direction and control, funds provided to support [REDACTED], or its affiliated entities, are considered to be distributed to their activities. Their activities include the shared website and the partisan political activities found within the website.

It therefore remains the CRA's position that the Organization provides funds and pays bills on behalf of [REDACTED] and its affiliates in support its partisan political activities contained on the website, which is prohibited under the Act. The Organization has engaged in prohibited partisan political activities and has therefore failed to meet the requirements of subsections

149.1(1) and 149.1(6.2) of the Act, namely that it devote substantially all its resources to charitable activities carried on by the Organization itself, and that it not engage in partisan political activities. For these reasons there are grounds to revoke the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2. Failure to maintain books and records as required

As stated in our AFL dated June 24, 2014, our audit found that the Organization did not maintain its own books and records. These were maintained by [REDACTED] at an address other than an address in Canada as recorded by the Minister which is a direct contravention of subsection 230(2) of the Act. Additionally, our audit found that the Organization was unable to provide support for revenue and expenses and it failed to prepare and issue Statements of Remuneration (T4As) to individuals who received scholarships.

The Organization's representations of September 23, 2014, stated that the Organization's recordkeeping could be improved. The representations purport the errors were not extensive and committed without malice. However, no further information has been provided regarding the inadequate books and records.

We agree with the Organization's representations that it did not maintain adequate books and records. As stated in our AFL, 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.¹²

As a result, our position remains that the Organization has failed to maintain adequate books and records of account as per subsection 230(2) of the Act. Therefore, grounds exist for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

3. Failure to maintain proper donation receipts

Our AFL of June 24, 2014, advised that the Organization had no control over its donation receipts. The Organization allowed [REDACTED] to prepare and maintain its receipts. In addition, our AFL advised:

- sample receipts lacked required information as prescribed by Regulation 3501;
- receipts were not maintained at a Canadian address of the Organization; and
- insufficient donation summary information was maintained.

The Organization's representations of September 23, 2014, advised that the Organization's receipting could be improved. No additional information or documentation was submitted to us to show how the Organization intends to make improvements.

The Organization's acknowledgment of inadequacies in receipting is not sufficient to alleviate our concerns or demonstrate how the Organization intends to remedy the deficiencies.

¹² *College Rabbinique de Montreal Oir Hachaim D'Tash v. Canada (Minister of the Customs and Revenue Agency)*, (2004) FCA 101; subsection 168(1) of the Act

Consequently, it remains the CRA's position that the Organization has failed to maintain proper donation receipts and that grounds exist for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

4. Failure to complete an accurate charity return

Our AFL dated June 24, 2014, stated that the Organization inaccurately reported liabilities, revenues, expenses, political activities, and gifts to non-qualified donees in its Form T3010 for the fiscal period ending December 31, 2011, and December 31, 2012.

The Organization's September 23, 2014, representations advised that the CRA's comments about inaccuracies in T3010 reporting are self-evident. The representations further stated that "the extent of those inaccuracies is obviously based on the interpretation of evidence gathered during [the CRA's] audit."

We agree with the Organization's representations that the inaccuracies in the T3010 reporting are based on evidence gathered during the audit. However, the representations did not provide information or documentation to rectify the inaccuracies identified.

As detailed in the sections above, our position with respect to the Organization's activities that fund non-qualified donees and provide support for political activities remains unchanged. Additionally, we still remain unable to determine the total funds the Organization provided to non-qualified donees due to the inadequate books and records. Furthermore, the Organization's reporting of liabilities, revenues, and expenses, remains inaccurate.

Therefore, it is our position that the Organization is not in compliance with subsection 149.1(14) of the Act and for this reason and that grounds exist for revocation of the Organization under paragraph 168(1)(c).

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.