



REGISTERED MAIL

Vaad Mishmeres Mitzvos Committee to Observe the Torah Laws
5773 Ferrier Suite 208
Montréal QC H4P 1N3

MAY 31 2016

BN: 890618796RR0001

Attention: Mr. Juda Pal

File #: 0595017

**Subject: Notice of Intention to Revoke
Vaad Mishmeres Mitzvos Committee to Observe the Torah Laws**

Dear Sir:

We are writing further to our letter dated October 9, 2015 (copy enclosed), in which you were invited to submit representations as to why the registration of Vaad Mishmeres Mitzvos Committee to Observe the Torah Laws (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 January 29, 2016. 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 failed to meet the requirement for registration by not devoting all of its resources to its own charitable activities, notably by gifting funds to non-qualified donees and by providing funds to individuals in need; failed to maintain or provide adequate books and records; and failed to file an information return as required by the Act. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated October 9, 2015, we wish to advise you that, pursuant to subsection 168(1) and 149.1(2) of the Act, we propose to revoke the registration of the Organization. By virtue of subsection 168(2) of

the Act, revocation will be effective on the date of publication of the following notice in the *Canada Gazette*:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(e) 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
890618796RR0001

Name
Vaad Mishmeres Mitzvos Committee
to Observe the Torah Laws
Montréal QC

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

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

Notwithstanding the filing of an objection, a copy of the revocation notice, described above, will be published in the *Canada Gazette* after the expiration of **30 days** from the date this letter was mailed. The Organization's registration will be revoked on the date of publication.

A copy of the relevant provisions of the Act concerning revocation of registration, including appeals from a notice of intent to revoke registration can be found in Appendix "B", attached.

Consequences of revocation

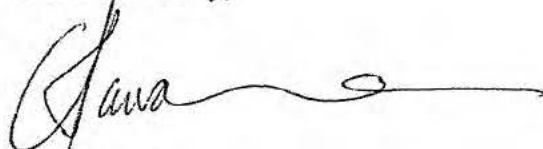
As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively;

- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on prescribed Form T2046, *Tax Return Where Registration of a Charity is Revoked* (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix "B". Form T2046 and the related Guide RC4424, *Completing the Tax Return Where Registration of a Charity is Revoked*, are available on our Web site at www.cra-arc.gc.ca/charities;
- 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).

Finally, we wish to advise that subsection 150(1) of the *Income Tax Act* requires that every corporation (other than a corporation that was a registered charity throughout the year) file a return of income with the Minister in the prescribed form, containing prescribed information, for each taxation year. The return of income must be filed without notice or demand.

Yours sincerely,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated October 9, 2015
- Organization letter dated January 29, 2016
- Appendix "A", Comments on representations
- Appendix "B", Relevant provisions of the Act

c.c.: Mr. Harold Feder



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



October 9, 2015

REGISTERED MAIL

Vaad Mishmeres Mitzvos Committee to Observe the Torah Laws
5773 Ferrier suite 208
Montréal QC H4P 1N3

BN: 890618796RR0001

Attention: Mr. Juda Pal

File #: 0595017

Subject: Audit of Vaad Mishmeres Mitzvos Committee to Observe the Torah Laws

Dear Sir:

This letter is further to the audit of the books and records of the Vaad Mishmeres Mitzvos Committee to Observe the Torah Laws (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2009 to December 31, 2010.

At our meeting of September 11, 2014, you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* and/or its *Regulations* (Act) in the following areas.

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Failure to meet the requirements for registration: 1.1. Failure to devote all of its resources to its own charitable activities: gifting to non-qualified donees; 1.2. Failure to devote all of its resources to its own charitable activities: providing funds to individuals;	149.1(1), 168(1)(b)
2.	Failure to maintain/provide adequate books and records	230(2), 168(1)(e)
3.	Failure to file an information return as required by the Act	149.1(2), 168(1)(c)
4.	Failure to issue Receipts in Accordance with the Act/Conveying Undue Benefits	149.1(1) and (2), 168(1)(b) and (d), 118.1(4) and (5) Reg. 3501(1), 230(2)(c)

The purpose of this letter is to describe the areas of non-compliance identified by the CRA during the course of the audit as they relate to the legislative and common law requirements applicable to registered charities, and to provide the Organization with the opportunity to make additional representations or present additional information. Registered charities must comply with the law, failing which the Organization's registered status may be revoked in the manner described in section 168 of the Act. Each separate area of non-compliance outlined in this letter would provide grounds for revocation.

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

General legal principles

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

"In conclusion, on the basis of the Canadian jurisprudence, the requirements for registration under s. 248(1) come down to two:
(1) the purposes of the organization must be charitable, and must define the scope of the activities engaged in by the organization; and
(2) all of the organization's resources must be devoted to these activities."

As the term "charitable" is not defined in the Act, whether or not an organization qualifies as such is determined by reference to the common law; that is court decisions. The courts have recognized four general categories of charitable purposes: (1) the relief of poverty; (2) the advancement of religion; (3) the advancement of education; and (4) other purposes beneficial to the community as a whole (or a sufficient section thereof) in a way that the law regards as charitable. This last category identifies an additional group of purposes that have been held charitable at law rather than qualifying any and all purposes that provide a public benefit as charitable.

It is the pursuit of objects that are exclusively charitable at law that allows an organization to maintain its registration as a charity. When an organization pursues non-charitable objects, undertakes activities in support of non-charitable objects, or undertakes activities that are illegal or improper in nature, it cannot maintain its

¹ *Vancouver Society of Immigrant & Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10, at page 110 (paragraph 152, 154, 155)

registration as a charity in spite of the fact that some of its activities may support otherwise charitable purposes.

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

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

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.²

Although there is no legal requirement to do so, and the same result might be achieved through other arrangements or means, entering into a written agreement can be an effective way to help meet the own activities test. However, the existence of an agreement is not enough to prove that a charity meets the own activities test. The charity must be able to show that the terms establish a real, ongoing, active relationship with the intermediary,³ 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.

The CRA recommends adopting the following types of measures to direct and control the use of a charity's resources:

- create a written agreement, and implement its terms and provisions

² 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*.

³ 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.

- communicate a clear, complete, and detailed description of the activity to the intermediary
- monitor and supervise the activity
- provide clear, complete, and detailed instructions to the intermediary on an ongoing basis
- arrange for the intermediary to keep the charity's funds separate from its own, and to keep separate books and records

In order for such arrangements to be considered acceptable devotion of the charity's resources to its "own" charitable activities the following criteria should be met:

- the charity has obtained reasonable assurance before entering into agreements with individuals or other organizations that they are able to deliver the services required by the charity (by virtue of their reputation, expertise, years of experience, etc.)
- all expenditures will further the Canadian charity's formal purposes and constitutes charitable activities that the Canadian charity carries on itself
- an adequate written agreement is in place
- the charity provides periodic, specific instructions to individuals or organizations as and when appropriate
- the charity regularly monitors the progress of the project or program and can provide satisfactory evidence of this to the Department
- where appropriate, the charity makes periodic payments on the basis of this monitoring and maintains the right to discontinue payments at any time if it is not satisfied.

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 activities. Therefore, it is important that intermediary in conducting the charitable activities on behalf of the Organization shall do the following:

- keep copies of any letters, documentations related to activities, which included applicant's file, application for assistance and documentation attached to it
- report and letter that recommend an application for assistance
- record the detail of each transaction including the date, name and amount provided to each recipient
- keep copies invoices, receipts and proof of payment
- provide the Organization complete records of all transactions⁴.

⁴ A registered charity's books and records must be kept at the Canadian address that it has on file with us. This includes all books and records related to any activity carried on inside or outside Canada by itself or by its agents, intermediaries and so forth.

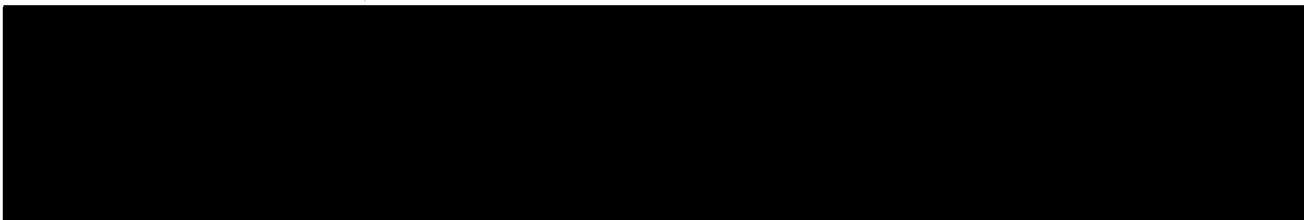
Background of the Organization

The Organization was originally registered on October 9, 1980 with the following objectives:

- (a) To further the observance of the statutes of The Jewish religion & The Torah Law.
- b) To raise funds in order to print and distribute Jewish literature about the observance of Jewish precepts.

The Organization was re-registered effective April 9, 2000⁵ with the following object:

- a) To provide assistance to individuals and families in need to enable them to observe mandatory practises of the Jewish religion.



1.1. Failure to devote all of its resources to its own charitable activities - gifts to non-qualified donees:

Audit Findings

Per above, the Organization was registered for the purposes of providing assistance to individuals and families in need to enable them to observe mandatory practices of the Jewish religion. In order to carry out this activity, the Organization provides grants and financial aid to intermediaries within Canada and abroad; primarily in the United States and Israel. The Organization states that it provided financial aid for poverty relief, medical services and education so that individuals and families could continue to observe the Jewish religion.

For fiscal periods ending 2009 and 2010, the Organization reported spending \$19,423,204 and \$21,367,431 respectively on its own charitable activities. Of this amount, we determined the Organization sent \$11,214,378 in 2009 and \$13,734,423 in 2010 to intermediaries located outside Canada. The intermediaries are not recognized by CRA as qualified donees nor do they appear to be individuals or families for which

⁵ The Organization was revoked for delinquency in 1999 and subsequently re-applied for registered charity status.

⁶ [REDACTED]

the Organization was registered to assist. The Organization also reported gifting \$590,486 and \$799,825 in 2009 and 2010 respectively to qualified donees.

During our audit, the Organization did not provide the following books and records to support the direction and control of its activities through intermediaries:

- written agreement signed between the Organization and each intermediary
- selection criteria applied for beneficiaries or recipients of financial aid
- list of beneficiaries or recipients of financial aid
- financial statements from the intermediaries demonstrating receipt and use of the Organization's fund
- list of the activities for which the Organization's funds were used
- periodic reports from the intermediaries on how the Organization's funds were used including copies of records and supporting documentation such as invoices, receipts and proof of payment to substantiate how the funds were used
- all other documents supporting Organization's control and direction of its resources carrying through intermediaries

The Organization's representatives recognized that they had not established written agreements with their intermediaries in Canada or abroad and stated to us that funds paid by the Organization to these intermediaries were for use of the general programs of these intermediaries.

As such, it appears the Organization has willingly and knowingly provided its resources to non-qualified donees and permitted those resources to be used as the decided by the intermediaries; not under the on-going and regular direction and control of the Organization. While the intermediaries may operate programs similar to the Organization's, we were unable to ascertain that during the course of our audit and no information was provided to demonstrate how the Organization's resources were used for its own charitable purposes.

Our expectations for the Organization's improvements to its operations and record maintenance stem from the undertakings submitted and agreed to by the Organization following our prior audits wherein the same area of non-compliance was identified and from correspondence exchanged during your re-registration process⁷. During our audit of fiscal period ending December 31, 1996, the areas of non-compliance issues were serious enough to warrant a letter proposing to revoke the Organization's charitable registration. Including the re-registration process, the Organization stated in its correspondence multiple times⁸ that it intended to comply fully with all rules and regulations of the CRA.

⁷ The Organization was revoked on April 8, 2000 for failure to file an annual information return.

⁸ Correspondence dated November 10, 1999, December 11, 2000, March 3, 2001 and May 3, 2001

According to the representations, the Organization agreed to make the following necessary changes and/or corrections to its operations:

- to revise its objectives to state it would: [P]rovide assistance to individuals and families in need to enable them to observe mandatory practices of the Jewish.
- to enter into agency agreements with the intermediaries, including rabbis designated by yourself to further your charitable activities, through which the Organization carries out its activities abroad.
- the Organization will give periodic, specific instructions to these intermediaries and rabbis to further the charitable activities of the Organization.
- the Organization will keep proper record of the expenses which are incurred on behalf of the Organization.
- the Organization will receive, from the intermediaries, regular reports twice yearly on the progress of the intermediaries' activities.
- to support disbursements paid directly to an individual, the Organization will
 - have application forms to substantiate release of funds
 - have cancelled cheques confirming the distribution of funds to an approved applicant
- the operating committee (executive) maintains the final say on acceptance or rejection or modifying any request for assistance.
- the Organization will at all times be in a position to control payments and possibly to discontinue sending funds if we are not satisfied.

Upon re-registration, the Organization was advised again of the requirements to maintain registration such as entering into and adhering to agreements with its agents conducting activities on its behalf.

Conclusion

Although the Organization agreed in previous audits to make necessary changes to its operations, including improving its record keeping, to comply with the Act and common law applicable to registered charities, our current audit has revealed the Organization has not made these necessary changes. Our current audit found that the Organization continues to provide funding to intermediaries abroad without adequate supporting documentation and without sufficient management and control over the resources devoted to this activity. The Organization has not entered into agency agreements with them, nor has it demonstrated its on-going and active direction and control over the funds provided to these intermediaries. The funds were used in the activities of the intermediaries to carry out *their* own activities. The fact that your Director had committed to the CRA to put in place measures in order to maintain direction and control your own activities, yet failed to implement any such measures is a serious concern for the CRA.

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

As you may be aware, Economic Action Plan 2013 introduced measures requiring financial institutions to report electronic fund transfers (EFTs) of \$10,000 or more to the CRA beginning in January 2015. In addition to the ongoing audit and while outside the years under review; we have reviewed the EFTs of the Organization that have occurred since January 1, 2015. Following our review of EFT data for January – July 2015, we noted the Organization has transferred over \$1,180,655 CDN on 35 occasions to non-qualified donees primarily located in the United States and Israel. The Organization also transferred \$8,820,160 CDN to its [REDACTED] bank account located in [REDACTED]. From our observations, this account was generally used to make payments to non-qualified donees during the course of the audit. Our review of this information provides further confirmation that the Organization's current activities remain the same or similar to those identified in this current audit and those identified in our prior audits; that the Organization continues to transfer funds to non-qualified donees and does so otherwise than in accordance for the objects it was registered for.

Under section 149.1 (1), a charitable organization must devote all of its resources to charitable activities it conducts itself. The Organization devoted 56% and 62% of their resources to non-qualified donees in the fiscal periods audited. Under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to Organization that she proposes to revoke its registration because it fail to demonstrate that it meets the test for continued registration under subsection 149.1(1) of the Act as a charitable organisation" all the resources of which are devoted to charitable activities". It appears there are grounds to revoke the Organization under paragraph 168(1)(b) of the Act.

1.2. Failure to devote all of its resources to its own charitable activities - providing funds to individuals;

The Organization must demonstrate that beneficiaries meet established criteria before granting financial support and that this is an activity of the Organization of which it retains direction and control by supporting documents such as:

- A list of criteria for the type of request;
- A record of the names and addresses of the people receiving this aid;
- All applications relating to this program with all the supporting documents supporting the information requested on the application. If funds are paid to an individual, a file for each person will be kept by Organization including the following information:
 - the application form;

- o the application is signed by the applicant and signed by authorized person when it is approved by the Organization ;
- o a description of the projected use by the person of the funds received
- o the identity of the person with a photocopy of an ID card.
- o the proof of income, like notice of assessment of the person and its spouse;
- Invoices or receipts for the expenses paid
- Cancelled cheques supporting the expenses paid.

Audit Findings

Per above, the Organization was registered for the purposes of providing assistance to individuals and families in need to enable them to observe mandatory practices of the Jewish religion. In order to carry out this activity, the Organization provides grants and financial aid to individual within Canada and abroad; primarily in the United States and Israel.

The Organization provided grants or aid of \$8,208,823 and \$7,633,008 to individuals and families in need for 2009 and 2010 respectively. In the general ledgers provided, you provide aid in the following categories: medical, adult education, poor, special education and outreach, with substantially all aid granted for adult education and to the poor. To substantiate the amounts awarded to individuals, the Organization provided a sheet with the following information: name, address of the recipient, the date the aid is granted, the check number and the amount awarded. On a few occasions, the Organization made cheques payable to cash totaling \$32,842 in 2009 and \$42,732 in 2010.

Based on our review of correspondence exchanged between the CRA and the Organization from September 2, 1999 to August 23, 2001, the Organization selects applicants to provide financial aid to based on the applicant's financial needs. Per your procedures, the applicant completes Part I to III of an application form and every request must be accompanied by a letter from a recognized rabbi as to the financial need of the applicant seeking assistance. The committee reviews the application forms; has the right to accept or deny or grant partial acceptance to any of the requests; and completes the bottom section of the application form indicating whether the application has been approved or denied and the amount of funding provided.

We were not provided with copies of these applications forms nor were we provided with your policies and procedures for providing aid, determining annually or per applicant how much aid was available or granted or proof aid was provided.

To support all its disbursements to individuals, the Organization provided copy of letters received from rabbis or other community leaders attesting to the financial needs of the individuals.

As such, without the application form, we cannot confirm whether the Organization asked for or was provided with additional information such as the applicant's annual family income (with proof), how the funds will be used/reason for the application and other information necessary to determine that the individual meets the selection criteria. In application the forms submitted with your above noted correspondence during the audit and re-registration processes, your form requested applicant's to provide details on their employment history, dependants and annual living costs/debts.

Per above, a charity must provide CRA with a means of examining the internal decision-making mechanisms within the charity's own structure to demonstrate the charity has undertaken activities advancing the charitable objects for which it was registered. Generally, this is conducted through a review of the charity's records such as: application forms signed by the applicant, approval or denial notations on the forms, internal communications such as minutes of board meetings where applications are discussed, evaluated and approved or denied; as well as, policies and procedures that the charity followed when it approved aid to an individual.

Due to the absence of supporting documentation, the Organization cannot demonstrate:

- that it reviewed and approved the applications,
- that the applicant met your established criteria to be granted financial support,
- that the funds will be used for basic needs,
- that the amount granted was appropriate in the present circumstances, or
- that it has direction and control over the funds provided to individual.

An organization is required to show they had significant input into its projects, as stated in *Bayit Lepletot v. Minister of National Revenue*, 2006 FCA 128

"The question which remains in such a case, as it does here, is who is carrying on the charitable works. It was incumbent upon the appellant to show that they were being carried on its behalf."

During the current audit, we observed the same concerns as those observed in the previous audit – no written (or otherwise documented or known) selection criteria or documents supporting the committee's decision (or denial) to provide aid to an applicant. The Organization has not implemented corrective measures to ensure to maintain control and management of its resources and that its resources were used for its own activities.

Conclusion

The Organization devoted 41% and 34% of their resources as payments to individuals in 2009 and 2010 respectively. Those payments are non charitable expenses because a letter from the rabbi is not sufficient to demonstrate that the person is in need and that person meet the Organization criteria and the amount granted was appropriate in the present circumstances and for the Organization to demonstrate that it has review and approve the application, have proof of payment and has control and direction of its funds. The lack of documentation at the time of the audit supports our contention that Organization did not exercise control over its activities. The fact that the Director of the organization had committed to the CRA to put in place measures in order to maintain direction and control over their own activities, yet failed to implement any such measures is a major concern for the CRA.

For each of the reasons listed above, under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to Organization that he proposes to revoke its registration because it fail to demonstrate that it meets the test for continued registration under subsection 149.1(1) of the Act as a charitable organisation "all the resources of which are devoted to charitable activities".

When a charitable organization fails to devote its resources to charitable programs, under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the registered charity that he proposes to revoke its registration. For this reason, it appears to us that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2. Failure to maintain/provide adequate books and records

Legislation

Subsection 230(2) of the Act requires every registered charity to maintain adequate records and books of account at an address in Canada recorded with the Minister. The purpose of this requirement is to enable the charity to accurately provide CRA with the information required by the Act as well as enable CRA to verify the accuracy of reported information through the conducting of audits.

In addition to the retention of copies of the donation receipts that section 230(2) explicitly requires, section 230(4) also states that "every person required by this section to keep books of account shall retain

- (a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher

necessary to verify the information contained therein, for such period as prescribed; and

- (b) All other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the date of the last taxation year to which the records and books relate".

A charity is not meeting its requirement to maintain adequate books and records if it fails to exercise due care with respect to ensuring the accuracy thereof.

Audit Findings

Our audit revealed the following situations, where the Organization failed to maintain adequate books and records.

- a) Per above, the Organization did not maintain adequate books and records to support its direction and control over the activities purportedly undertaken by its agents.
- b) The amounts paid by the Organization to individuals are not support by documentation to show that the amount paid are charitable.
- c) For the years 2009 and 2010, the total income of the Organization reported was \$19,577,860 and \$22,827,112, respectively. For these periods, the Organization failed to provide us with detailed deposits slips ,which are required to be able to;

-Determine that the individual receipts are valid

-To determine if the total reported on the T3010 is correct;

and

-To determine if the organization's books and records are accurate.

The fact that the organization failed to list the individual items of each deposit posed two problems regarding the reconciliation between the donation receipts and reported income:

- (i) We were unable to reconcile the total deposits with the total receipts for either of the two years under audit.

	Total receipts	Total deposits	Difference
2009	\$20,428,844.43	\$19,292,860.92	\$1,135,983.51
2010	\$22,094,131.49	\$22,827,112.49	(\$732,981)

- (ii) We were unable to verify if there was a deposit for any of the donation receipts issued. For example; for the period of August 30, 2010 to September 1, 2010, the Organization made deposits for a total of \$213,964. For the same period, the Organization issued donation receipts for a total of \$231,085.

With the only the total of all items deposited included with the deposit slip, it impossible for CRA to verify each donation and ensure that the amounts entered on the official donation receipts were received by the Organization.

- d) The Organization has the following account ledger of the amounts paid for the activities: medical, adult education, poor, special education, education and outreach.

The accounting records of the Organization do not provide the total paid to individuals, non-qualified donees or to registered charities. The CRA was unable to reconcile the amounts paid in each of the three categories mentioned above.

- e) The Organization noted it sometimes receives donor instructions to gift its donation to a designated entity. According to the representative, the Organization retains the final decision; however, in the absence of documentation, we cannot confirm if the Organization honours the donor's direction or if it applies the fund to its own activities. The Organization does not retain the donor's direction.
- f) The Organization was not able to provide other documentation, for example; Copy of a \$12 000 loan agreement made to provide financial assistance to an individual;

In a prior audit, we observed issues of non-compliance surrounding the Organization's books and records and in your responses, agreed to make the following necessary changes and/or corrections:

- The Organization will have all cancelled cheques;
- The Organization will have receipts from the individuals or entities;
- The Organization will keep proper record of the expenses which are incurred on behalf of the Organization;

- The Organization will put into place a proper system of entering the records so that these can be properly checked. The charitable income (deposits) balance with the receipts issued. The disbursements will be substantiated by application forms, receipts and the details where applicable. The other expenses are substantiated by vouchers.

Although the Organization had agreed to make the changes necessary to comply with the Act, we found all the necessary changes were not made⁹. We found that the Organization has not implemented a system to allow reconcile revenue with deposit slips, therefore the CRA was unable to determine if all the receipts were valid.

Conclusion

It is our view that the Organization failed to maintain adequate books and records. Under paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the Act dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone there may be grounds to revoke the registered status of the Organization.

3. Failure to file an information return as required by the Act

Legislation

The audit also revealed the Organization is improperly completing the T3010, *Registered Charity Information Return* in that many of the items reported were incorrectly identified or omitted.

Subsection 149.1(14) of the Act requires that the return must be in prescribed form and contain prescribed information. A charity is not properly meeting its information return filing requirements when it fails to exercise due care with respect to insuring the accuracy thereof. It is the responsibility of the charity to ensure that the information that is provided in its return, schedules and statements, is factual and complete in every respect.

Audit Findings

The Organization improperly completed the T3010 for the fiscal periods ending December 31, 2009 and December 31, 2010 in that items, noted below were reported incorrectly:

⁹ Prescient Foundation 2013 FCA 120

- a) For 2009 and 2010, the Organization reported \$538,799 and \$1,026,523 respectively on line 4500, *Cash, bank accounts, and short-term investments*. The amount should have been reported as \$526,799 and \$1,014,523 respectively per the records we were provided.

In both years, the Organization had a loan receivable of \$12 000. This amount should be reported on line 4110, *Amounts receivable from non-arm's length parties*.

- b) For 2009 and 2010, worksheet T1236, *Qualified Donees Worksheet / Amounts Provided to Other Organizations* was incomplete. The Organization did not report all gifts made to qualified donees and the information provided was not complete; the registration number of certain qualified donees was missing.

For 2010, we observed the following:

- The Organization did not indicate the registration numbers for the gifts made to:

- The registration number for the gift made to [REDACTED] was incorrect.

For 2009, we observed the following:

- The Organization did not indicate the registration number for the gift it made to [REDACTED]

In the same period, the Organization reports gifting \$74,900 in 2009 and \$23,514 in 2010 to various qualified donee and failed to provide the name of the qualified donee, their registration number or the amount each qualified donees received. As such, we are unable to confirm these amounts were truly gifted to a qualified donee as defined by the Act.

- c) In both years, the Organization reported on line 4500, the total eligible amount of gifts received amounting to \$18,468,521 in 2009 and \$19,403,046 in 2010 yet actually issued official donation receipts for totalling \$20,428,844 in 2009 and \$22,285,193 in 2010. The difference is due to the fact that the Organization issued official donation receipts to other registered charities. Amounts received from other registered charities should have been reported on line 4510 of the T3010. Official donation receipts for income tax purposes should not be issued for amounts received from other registered charities.

The above finding was also noted in a prior audit. That audit found that amounts reported on the T3010 form did not balance with the total official donation receipts issued.

Conclusion

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because the charity fails to file a *Registered Charity Information Return* as and when required under the Act or a Regulation. For this reason, there may be grounds for revocation of the charitable status of the Organization.

4. Other Areas of Concern

4.1. Failure to issue Receipts in Accordance with the Act

Pursuant to subsection 118.1(2) of the Act, a registered charity can issue tax receipts for income tax purposes for donation that legally qualify as gifts. The Act requires the registered charity to ensure the information on its official receipts is accurate. The requirements for the content of the receipts are listed in Regulation 3501 of the Act. These requirements are further explained in Interpretation Bulletin IT-110R3, *Gifts and Official Donation Receipts*.

Our audit found that the donation receipts issued by the Organization contained a spelling error. The name on the official donation receipts is Vaad Mishmere Mitzvos - Committee to observe the Torah Laws whereas the name as registered with Minister is Vaad Mishmere Mitzvos - Committee to observe the Torah Laws.

4.2. Undue benefits

The Organization is registered as a charitable organization. In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization is defined as "an organization... no part of the income of which is payable to, or otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settler". In order to meet this requirement, a charity may use its resources (funds, personnel and/or property) in only two ways, both inside and outside of Canada: for charitable activities undertaken by the charity itself under its continued supervision, direction and control, and for gifting to "qualified donees" as defined in the Act.

The Organization has made advances to its president's company wherein it advanced the corporation funds interest free. The funds were ultimately repaid by the corporation; however, it demonstrates a willingness of the Organization to use its resources for the

private benefit of its president. A charity who conveys a private benefit on a non-arm's length person could be subject to a sanction and/or revocation.

The following transactions were made by the Organization:

- May 25, 2010, a check is issued \$15 000 to [REDACTED] reimbursed the Organization the same month by paying 3 cheques of \$ 5,000.
- On 8 April 2010, the Organization issues a cheque of \$9 000 to the same company. The company reimbursed the Organization by making him two checks of \$4 500 in the same month.

We bring these items to the Organization's attention; however, they will not be considered independent grounds for revocation.

The Organization's options:

a) No response

You may choose not to respond. In that case, the Director General of the Charities Directorate may give notice of its intention to revoke the registration of the Organization by issuing a Notice of Intention in the manner described in subsection 168(1) of the Act.

b) Response

Should you choose to respond, please provide your written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter. After considering the representations submitted by the Organization, the Director General of the Charities Directorate will decide on the appropriate course of action, which may include:

- no compliance action necessary;
- the issuance of an educational letter;
- resolving these issues through the implementation of a Compliance Agreement;
- the application of penalties and/or suspensions provided for in sections 188.1 and/or 188.2 of the Act; or
- giving notice of its intention to revoke the registration of the Organization by issuing a notice of intention to revoke in the manner described in subsection 168(1) of the Act.

If you appoint a third party to represent you in this matter, please send us a written authorization naming the individual and explicitly authorizing that individual to discuss your file with us.

If you have any questions or require further information or clarification, please do not hesitate to contact me at the numbers indicated below. My team leader, Mr. Robert Willson, may also be reached at [REDACTED].

Yours sincerely,

[REDACTED]

Jean Dion
Verification & Enforcement Division
Tax Services Office: Montréal
Section 445-1-3

Telephone: [REDACTED]
Toll Free: 1-800-267-2384
Facsimile: 514-283-8208
Address: 305 Boul. René-Lévesque West
Montréal QC H2Z 1A6

c.c.: [REDACTED]

January 29, 2016

VIA REGULAR MAIL AND EMAIL

Canada Revenue Agency
Montreal TSO, Audit Division
305 Rene-Levesque Blvd., 7th Floor
Montreal, Quebec
H2Z 1A6

Attention: Robert Wilson, Team Leader

Dear Mr. Wilson:

**Re: Vaad Mishmeres Mitzvos – Committee to Observe the Torah
Laws (the “Charity”)
BN: 890618796RR0001
CRA File No.: 0595017
Our File No.: [REDACTED]**

This is further to our correspondence and phone conversations regarding this matter. I am writing in response to your letter dated October 9, 2015. I apologize for the delay in responding. As you know the president of the Charity was faced with some serious health challenges for an extended period. We appreciate your indulgence.

I will respond to the points raised in your letter using the same numbers as reference:

- 1.1 The Charity has adopted a strict policy that all distributions to foreign intermediaries be done solely in accordance with validly executed agency agreements which comply with CRA guidelines. As an example, I attach a copy of a signed agency agreement made as of December 30, 2015. The Charity is in the process of having agency agreements signed with all of its foreign intermediaries. Furthermore, each such agent will be informed of their obligations pursuant to the agreements to ensure that the Charity is carrying on its own activities in the foreign jurisdictions. We would appreciate any comments you may have on the form of agreement. The Charity is certainly open to make any required amendments.
- 1.2 The Charity has created an Assistance Application Form and implemented it into its process for providing financial assistance to

individuals. A sample completed form for a recent application is attached. Once again, the Charity remains open to comments or suggestions for improvement to the form. All cheques for financial assistance will be payable directly to the individual. The cheque records will include proper backup with all pertinent details and cross-referenced to the application form.

In the vast majority of cases the financial assistance is required to meet basic living expenses which are increased due to the added costs of living in accordance with the Torah laws. Where there are particular expenses which are out of the ordinary, these will be noted on the application.

The Charity will no longer be making out any cheques to cash. In the past they would only do so in emergency circumstances. To the extent that you require any information regarding past cheques made out to cash, please provide any details you may have in that regard.

The Charity is in the process of setting up a grid with objective criteria to evaluate requests for financial assistance both in Canada and abroad. We will provide you with a summary of the criteria upon completion.

2. Many of the concerns relating to the Charity's books and records are addressed through the new policies and procedures outlined above. In addition, the Charity has worked with its auditors to adopt policies and procedures to improve its record keeping. Specifically, the following issues have been addressed:
 - deposit slips with details on the contributor are maintained for each contribution;
 - correct names and charity registration numbers for all qualified donees receiving funds;
 - receipts no longer issued to qualified donees;
 - maintenance of proper records for all expenses incurred by the Charity.
3. The Charity has worked out an arrangement with its auditor to provide the information that is required by the auditor on a timely basis to ensure that the T3010 Charity Information Return is filed correctly and on time. It has committed to file the 2015 return on or before June 30, 2016 and to do the same for all future returns.
- 4.1 The spelling of the Charity's name on all donation receipts has been corrected.
- 4.2 There will be no further non-arm's-length loans or advances.

I trust this to be satisfactory. I want to reiterate that the Charity understands the importance of adhering to the requirements of the Income Tax Act and the policies expressed by the CRA and is open to working together with the CRA to ensure that all such requirements are met.

I look forward to hearing from you.

Yours very truly,

Encl.

AGENCY AGREEMENT

THIS AGREEMENT made as of December 30, 2015

BETWEEN: Vaad Mishmeres Mitzvos

(herein referred to as "the Charity")
OF THE FIRST PART;

AND [REDACTED]

(herein referred to as "the Representative")
OF THE SECOND PART.

WHEREAS the Charity desires to provide scholarships and educational assistance,

AND WHEREAS the Charity desires to have [REDACTED] in carrying out its activities in Israel.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and premises herein contained, the parties hereto agree as follows:

1. The Representative acknowledges that he is aware of the Charity's goal and objectives to provide assistance for individuals that qualify. The Representative undertakes to pursue that goal and objective and agrees to disburse any and all funds entrusted to him for that purpose only. The Representative further agrees that all funds belong to the Charity until expended for the purpose that they were meant.
2. The Representative agrees that in conducting the above-noted activities on behalf of the Charity, he shall attend the following:
 - a) keep any and all funds received from the Charity segregated from those of any other persons or entity, and to pay assistance monies directly to designated entities persons and applicants that have been approved by the assistance committee:
 - b) any and all approval of assistance applications are subject to review by the assistance committee. The assistance committee can modify, reject, increase or decrease any application. The assistance committee has final say on all applications; keep copies in each applicant's file of all documents, letters, schedules, etc., that the Agent used to spend funds to grant scholarships and educational assistance.
 - c) keep copies in the applicant's file of all documents, letters, schedules, etc., that the Representative used in his decision to spend funds to grant assistance to deserving persons;

- d) keep copies of any letters authorizing the Representative to spend the money entrusted with him for the granting of assistance for deserving persons;
- e) keep detailed expenditure records of all activities.
- f) to provide the Charity complete records of all transactions and a detailed financial report every twelve months.
- g) To provide to the Charity a detailed annual financial report within three (3) months of the Charity's fiscal year end and on the 31st day of December in year, and
- h) To provide all the above noted documentation upon request of the Charity for audit and verification.
- i) the Charity has the right to inspect the project and activities on reasonable short notice.
- j) the Representative agrees to follow regular instructions from the Charity.
3. The representative agrees to provide to the Charity all copies set of books and records maintained with respect to the activities carried out on behalf of the Charity, which shall include, without limiting the generality of the foregoing, those records required to be kept pursuant to subparagraph 2 (a).
4. All letters, documents, records, notices, demands, request, consents and reports required to be delivered to any party pursuant to this Agreement shall be sent to the intended recipient at their address as follows;

CHARITY

Vaad Mishmeres Mitzvos
[REDACTED]

AGENT
[REDACTED]

Further details regarding funds distribution will be sent in an addendum.

Any party may from time to time change its or his address by written notice addressed to the other.

5. In the event of failure of the Representative to comply with the terms of this Agreement, the Representative shall immediately return to the Charity all sums of money entrusted with him which have not been used for the purpose set forth in this Agreement and in all other respects this Agreement shall be terminated.
6. The terms of this Agreement shall remain operative until amended in writing by the parties hereto.

7. This Agreement shall be construed in accordance with the laws of the Province of Quebec.
8. The charity has the right to withdraw or withhold funds or other resources at its discretion, in witness whereof the parties hereto have executed this agreement as of the date first written above.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

Vaad Mishmeres Mitzvos Date

Witness Date

Witness Date

11/14/16



ASSISTANCE APPLICATION FORM

Date: December 22 2015

Last Name: [REDACTED]

First Name: [REDACTED]

Address: [REDACTED]

City: [REDACTED]

Country: [REDACTED]

Postal Code: [REDACTED]

Phone: [REDACTED]

Fax: [REDACTED]

Cell: [REDACTED]

Email: [REDACTED]

Social Insurance Number: [REDACTED]

Date Of Birth: [REDACTED]

Gender: [REDACTED]

Marital Status: [REDACTED]

Current Occupation: [REDACTED]

Last Years' Total Family Gross Income (all sources): [REDACTED]

Other sources of Income: UI (Y/N) [REDACTED] WELFARE (Y/N) [REDACTED] FEDERATION (Y/N) [REDACTED] OTHER INSTITUTION (Y/N) [REDACTED]

Will requested funds be used to repay outstanding debts? (Y/N) [REDACTED] Needed Assistance Amount: [REDACTED]

Are your tax returns attached? [REDACTED]

Attached, Delinquent Notices: [REDACTED]

CERTIFICATION: By signing below, I hereby certify that the information furnished herein is true and correct.

APPLICANT SIGNATURE: [REDACTED]

DATE: December 22 2015

PRINT NAME: [REDACTED]

FOR OFFICE USE ONLY

BOARD MEETING ATTENDED BY: [REDACTED]

DATE: JAN 5 2016 APPROVED AMOUNT: 25,000. APPROVED BY: [REDACTED]

COMMENTS: [REDACTED]

VAAD MISHMERES MITZVOS

5773 FERRIER ST. #206, MONTREAL, QC, H4P 1N3 • TEL. 514-731-4800 • FAX: 514-731-4629

ITR APPENDIX "A"

Based on the Canada Revenue Agency's (CRA) audit of Vaad Mishmeres Mitzvos Committee to Observe the Torah Laws (the Organization), and after careful consideration of the representations, it remains our position that the identified areas of non-compliance with the provisions of the *Income Tax Act* and/or its Regulation are sufficiently serious to warrant revocation of its registration. The Organization has failed to provide additional documentation or reasonable explanations in support of its position.

Below please find:

- (1) A summary of the issues raised by the CRA in our letter of October 9, 2015;
- (2) The Organization's responses provided by Mr. Harold Feder dated January 29, 2016;
- (3) The CRA's conclusions with respect to each issue.

1. Failure to meet the requirements for registration:

1.1. Failure to devote all of its resources to its own charitable activities: gifting to non-qualified donees

Our audit revealed the Organization gave \$11,214,378 in 2009 and \$13,734,423 in 2010 to intermediaries located outside Canada without direction and control. During the course of our audit, the Organization's representatives recognized that they had not established written agreements with their intermediaries in Canada or abroad and stated that funds paid to these intermediaries were for use in the general programs of these intermediaries. As such, it appeared the Organization willingly and knowingly provided its resources to non-qualified donees and permitted those resources to be used as the intermediaries saw fit; not under the on-going and regular direction and control of the Organization. While the intermediaries may operate programs similar to the Organization's, we were unable to ascertain that during the course of our audit and no information was provided to demonstrate how the Organization's funds were used for its own charitable purposes.

Additionally, we obtained an electronic fund transfers (EFTs) report. Our review of the EFT data for the Organization for the period of January 2015 to April 2016, noted the Organization transferred over \$25.8 million CDN on 298 occasions to non-qualified donees primarily located in the United States and Israel. Our review of this information provided further confirmation that the Organization's current activities remain the same or similar to those identified in this current audit and those identified in our prior audits; that the Organization continued to transfer funds to non-qualified donees and did so otherwise than in accordance for the objects for which it was registered.

The Organization has not revealed how these amounts transferred to non-qualified donees are in furtherance of its object to provide aid to enable persons to observe

mandatory practices of the Jewish religion or how it maintained the necessary documentation to demonstrate adequate direction and control over the funds, such as:

- a written agreement signed between the Organization and each intermediary
- a list of the activities for which the Organization's funds were used
- the selection criteria applied for beneficiaries or recipients of financial aid
- a list of beneficiaries or recipients of financial aid
- periodic reports from the intermediaries on how the Organization's funds were used including copies of records and supporting documentation such as invoices, receipts and proof of payment to substantiate how the funds were used
- a copy of the communications between the Organization and the intermediaries in order to demonstrate that the Organization provides complete and detailed instructions related to activities to the intermediary on an ongoing basis
- all other documents supporting the Organization's control and direction of its resources carried through intermediaries

Our prior audits revealed the same area of non-compliance and from correspondence exchanged during your re-registration¹, the Organization agreed to make the above changes and comply with all rules and regulations of the CRA.

For the purposes of the Act, when a registered charity merely transfers its resources to another entity and fails to maintain effective direction and control over those resources, the result is the same as a gift to non-qualified donee. The Organization devoted 56% and 62% of their resources to non-qualified donees in the periods audited.

Response:

The Organization stated that "The [Organization] has adopted a strict policy that all distributions to foreign intermediaries be done solely in accordance with validly executed agency agreements which comply with CRA guidelines. As an example, I attach a copy of a signed agency agreement made as of December 30, 2015. The charity is in the process of having agency agreements signed with all of its foreign intermediaries. Furthermore, each such agent will be informed of their obligations pursuant to the agreements to ensure that the [Organization] is carrying on its own activities in the foreign jurisdictions..."

Conclusion:

The Organization has not provided the CRA with the details of its policy implemented or the method of how it will maintain the direction and control over the funds sent to its intermediaries. As noted in prior audits, and during its re-registration process, the Organization has been advised on numerous occasions of the rules applicable to registered charities particularly those operating overseas and has failed to implement the corrective measures it committed to. As outlined in previous correspondence, it is

¹ Correspondence dated November 10, 1999, December 11, 2000, March 3, 2001 and May 3, 2001.

not sufficient for the Organization to sign an agency agreement with its intermediaries but to actively adhere to the terms of the agreements and to demonstrate that its resources were used for and in accordance with its on-going direction and oversight.

For these reasons, and those set out in our letter of October 9, 2015, we continue to be of the view that the Organization is not devoting all of its resources to its own charitable activities by providing funds to non-qualified donees. Under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to a charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act for its registration as such. For this reason alone there are grounds for revocation of the charitable status of the Organization.

1.2. Failure to devote all of its resources to its own charitable activities: providing funds to individuals

The Organization provided grants or aid of \$8,208,823 and \$7,633,008 to individuals and families in need for 2009 and 2010 respectively. To substantiate the amounts awarded to individuals, the Organization provided a sheet with the following information: name, address of the recipient, the date the aid is granted, the cheque number and the amount awarded. In the general ledgers provided, aid was provided in the following categories: medical, adult education, poor, special education and outreach with substantially all aid granted for adult education and to the poor.

Per your procedures, the applicant completes Part I to III of an application form and every request must be accompanied by a letter from a recognized rabbi as to the financial need of the applicant seeking assistance. The committee is to review the application forms; has the right to accept or deny or grant partial acceptance to any of the requests; and completes the bottom section of the application form indicating whether the application has been approved or denied and the amount of funding provided.

We were not provided with copies of these applications forms nor were we provided with your policies and procedures for providing aid, determining annually or per applicant how much aid was available or granted or proof aid was provided.

Due to the absence of supporting documentation, the Organization cannot demonstrate:

- that it reviewed and approved the applications,
- that the applicant met your established criteria to be granted financial support,
- that the funds will be used for basic needs,
- that the amount granted was appropriate in the present circumstances, or
- that it has direction and control over the funds provided to the individual.

During the current audit, we observed the same concerns as those observed in a previous audit and that the Organization has not implemented any corrective measures.

Response:

The Organization responded that it has created an assistance application form and implemented it into its process for providing financial assistance to individuals. All cheques for financial assistance will be payable directly to the individual and the cheque records will include proper backup with all pertinent details and cross-referenced to the application form.

The Organization stated that it will no longer be making out any cheques to cash. The Organization is in process of setting up a grid with objective to evaluate requests for financial assistance both in Canada and abroad. The Organization will provide the CRA with a summary of the criteria upon completion.

Conclusion:

Our position remains unchanged. The response provided fails to demonstrate that funds sent to individuals and families in 2009 and 2010 were for charitable purposes and that the recipients were proper beneficiaries of financial aid. We also find it concerning that a charity that purports to grant financial aid to individuals and families, based on financial need, does not have an established application form or evaluation criteria.

The Organization provided a single copy of an application form recently utilized; however, it is not sufficient to demonstrate how the applicant met your established criteria and that the amount granted was appropriate in the present circumstances. The application was received by the Organization on December 22, 2015, with \$25,000 in financial aid granted on January 5, 2016.

In our analysis of this application, we noted some concerns, such as:

- There was no explanation of the procedures the Organization implemented to validate the information provided on the application, such as an identity card with photo to confirm the address provided and identity of the applicant.
- There was no supporting documentation provided to show how the Organization determined that the applicant is eligible for the assistance; or the amount to be granted to the applicant.
- There was no indication that the directors of the Organization approved the financial aid, such as the minutes of a directors meeting.
- There was no explanation why the Organization granted \$25,000 in one payment immediately after the authorization of the application instead of disbursing this amount according to the monthly needs of the applicant.

During the current audit, we observed the same concerns as those observed in the previous audit. The Organization did not implement corrective measures to ensure that it maintained control and management of its resources and that its resources were used for its own charitable activities. The Organization devoted 41% and 34% of their resources to individual in 2009 and 2010 fiscal periods, respectively.

For these reasons, and those set out in our letter of October 9, 2015, we continue to be of the position that the Organization is not devoting all of its resources to its own charitable activities. Under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to a charity that the Minister proposes to revoke its registration because it ceases to comply with the requirements of the Act for its registration as such. For this reason alone there are grounds for revocation of the charitable status of the Organization.

2. Failure to maintain/provide adequate books and records

Our audit revealed that the Organization's books and records did not meet the requirements of subsection 230(2) on the *Income Tax Act*. The following issues were noted:

- a) The Organization gave \$11,214,378 in 2009 and \$13,734,423 in 2010 to intermediaries located outside Canada and did not maintain adequate books and records to support its direction and control over the activities purportedly undertaken by its intermediaries.
- b) The Organization provided grants or aid of \$8,208,823 in 2009 and \$7,633,008 in 2010 to individuals and families in need. The amounts paid to the individuals and families were not supported by documentation demonstrating the amounts were provided for charitable purposes or that the beneficiaries were in need of assistance.
- c) For the years 2009 and 2010, total income reported was \$19,577,860 and \$22,827,112, respectively. For these periods, the Organization failed to provide us with detailed deposits slips, which are required to be able to determine that the individual official donation receipts are valid and to determine if total income reported on the T3010 is correct.

Response:

The Organization's response stated that our concerns were addressed through the new policies and procedures outlined above. In addition, it was working with its auditors to adopt policies and procedures to improve its record keeping. Specifically, the Organization stated the following issues have been addressed:

- deposit slips with details on the contributor are maintained for each contribution;
- correct names and charity registration numbers for all qualified donees receiving funds will be obtained;
- receipts will no longer be issued to qualified donees;
- maintenance of proper records for all expenses incurred.

Conclusion:

The representations do not disagree with our audit findings and we acknowledge that the Organization's adopted corrective measures could improve some of its record keeping issues raised in our prior letter. The Organization provided no other documentation to prove these changes were implemented.

The Organization failed to provide any additional documentation to alleviate the additional concerns raised by the CRA with respect to inadequate books and records. More specifically, there was no documentary evidence provided demonstrating that the Organization used its funds solely for charitable purposes and that it maintained control over its funds sent through its intermediary for its activities.

During the audit stage, the Organization stated that they did not have the resources to manage more than 1200 agency agreements, and to guarantee that each intermediary respects each agreement. As outlined in our previous letter, should a charity wish to use agents or the like to carry on its charitable activities, it is required to maintain continued direction and control over the activities and resources provided and to demonstrate to CRA that these agents or the like are operating on the charity's behalf and not for their own mandate.

The Organization understood the issues cited by CRA and undertook to implement corrective measures with its intermediary to maintain adequate books and records to support the direction and control of its funds; however, it failed to do so. In fact, it is the CRA's opinion that it adequately advised the Organization to correct its record keeping regarding funds transfer to its intermediary and regarding funds paid to individuals or families in need. It is our view the Organization failed to implement corrective measures.

For those reasons, our position remains unchanged, the Organization did not maintain adequate books and records to support its direction and control over the activities purportedly undertaken by its intermediaries and to support the funds paid to individuals are charitable. The Organization failed to demonstrate that its resources were used exclusively in charitable activities.

Pursuant to paragraph 168(1)(e) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration because it fails to comply with or contravenes section 230 of the Act dealing with books and records. It is our position the Organization has failed to comply with and has contravened section 230 of the Act. For this reason alone, there are grounds to revoke the registered status of the Organization under paragraph 168(1)(e) of the Act.

3. Failure to file an information return as required by the Act

The Organization improperly completed the T3010 for the fiscal periods ending December 31, 2009 and December 31, 2010.

Response:

The Organization's response stated that it has worked out an arrangement with its auditor to provide the information that is required on a timely basis to ensure that the T3010, *Registered Charity Information Return* is filed correctly and on time. It has committed to file the 2015 return on or before June 30, 2016 and to do the same for all future returns.

Conclusion:

While the Organization states it will work with its accountant, it does not address the substantive errors and omissions of financial information identified in our audit. The Organization's solution cannot be accepted by the CRA based on the other elements of non-compliance cited above and in our prior letter.

Under paragraph 168(1)(c) of the Act, the Minister may, by registered mail, give notice to the charity that the Minister proposes to revoke its registration in the case where a registered charity fails to file an information return as and when required under this Act or a regulation. For this reason alone, there are grounds to revoke the registered status of the Organization under paragraph 168(1)(c) of the Act.

4. Other Areas of Concern**Failure to issue Receipts in Accordance with the Act and Undue Benefits**

Our audit found that official donation receipts issued by the Organization contained a spelling error. The name on the official donation receipts is Vaad Mishmere Mitzvos - Committee to observe the Torah Laws whereas the name as registered with the Minister is Vaad Mishmeres Mitzvos - Committee to observe the Torah Laws.

The audit also found that the Organization made advances to its president's company wherein it advanced the corporation funds interest free. The funds were ultimately repaid by the corporation; however, it demonstrated a willingness of the Organization to use its resources for the private benefit of its president. A charity that conveys an undue benefit on a non-arm's length person could be subject to a sanction and/or revocation.

Responses:

For both issues, the Organization's name on the official donation receipt has been corrected and there will be no further non-arm's-length loans or advances.

Conclusion:

We accept the Organization's representations and note these two issues will not be independent grounds for revocation.

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.