



March 1, 2021

**REGISTERED MAIL**

Myoung Jung Kim  
Hansarang Presbyterian Church  
56 Cummer Avenue  
Toronto ON M2M 2E5

BN: 878219922RR0001  
File #: 3012863

Dear Myoung Kim:

**Subject: Notice of Intention to Revoke  
Hansarang Presbyterian Church**

We are writing with respect to our letter dated February 4, 2019, (copy enclosed), in which Hansarang Presbyterian Church (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA) for the period from January 1, 2015, to December 31, 2016, and explain why the registration of the Organization should not be revoked in accordance with subsection 168(1) of the Income Tax Act.

We received your written response dated March 21, 2019, in which you agreed to the revocation of the charitable status of Hansarang Presbyterian Church.

As indicated in our previous letter, the audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization failed to maintain adequate books and records, failed to devote charitable resources on activities carried on by the Organization, issued receipts not in accordance with the Act, failed to file an information return as and when required by the Act and/or its Regulations, and failed to comply with the requirements of the Act as they apply to the Organization's definition. 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 for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

**Conclusion**

For each of the reasons mentioned in our letter dated February 4, 2019, pursuant to subsections 168(1), 149.1(1), 149.1(2), and 149.1(14), of the Act, we propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the Canada Gazette:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(d), 168(1)(e), and subsections 149.1(1), 149.1(2), 149.1(14) of the Income Tax Act, that I propose to revoke the registration of the charity

listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration is effective on the date of publication of this notice in the Canada Gazette.

**Business number**  
878219922RR0001

**Name**  
Hansarang Presbyterian Church  
Toronto ON

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

Assistant Commissioner  
Appeals Branch  
Canada Revenue Agency  
250 Albert Street  
Ottawa ON K1A 0L5

Should the Organization choose not to file an objection to this notice of intention to revoke with the CRA within this period, a copy of the revocation notice, described above, will be published in the Canada Gazette after the expiration of 90 days from the date this letter was mailed. As such, 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 intention to revoke registration, can be found in Appendix A, attached.

### **Consequences of revocation**

As of the effective date of revocation:

- a) the Organization will no longer be exempt from Part I tax as a registered charity and **will no longer be permitted to issue official donation receipts**. This means that gifts made to the Organization would not be allowable as tax credits to individual donors or as allowable deductions to corporate donors under subsection 118.1(3), or paragraph 110.1(1)(a), of the Act, respectively;
- b) by virtue of section 188 of the Act, the Organization will be required to pay a tax within one year from the date of the notice of intention to revoke. This revocation tax is calculated on Form T2046, Tax Return Where Registration of a Charity is Revoked (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities

can also be found in Appendix A. Form T2046 and the related Guide RC4424, Completing the Tax Return Where Registration of a Charity is Revoked, are available on our website at [canada.ca/en/revenue-agency/services/charities-giving/charities](http://canada.ca/en/revenue-agency/services/charities-giving/charities);

- c) the Organization will no longer qualify as a charity for purposes of subsection 123(1) of the Excise Tax Act. As a result, the Organization may be subject to obligations and entitlements under the Excise Tax Act that apply to organizations other than charities. If you have any questions about your Goods and Services Tax/Harmonized Sales Tax (GST/HST) obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

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

Yours sincerely,



Tony Manconi  
Director General  
Charities Directorate

Enclosures:

- CRA letter dated February 4, 2019
- Organization's response received March 21, 2019
- Appendix A, Relevant provisions of the Act



February 4, 2019

Myoung Jung Kim  
Hansarang Presbyterian Church  
56 Cummer Avenue  
Toronto ON M2M 2E5

BN: 878219922RR0001  
File#: 3012863

Dear Mr. Kim:

**Subject: Audit of Hansarang Presbyterian Church**

This letter results from the audit of the Hansarang Presbyterian Church (the Organization) conducted by the Canada Revenue Agency (CRA). The Audit was conducted as a follow up to a Compliance Agreement signed by the Organization on September 20, 2010. The audit related to the operations of the Organization for the period from January 1, 2015 to December 31, 2016.

On March 22, 2018, the Organization was advised that the CRA identified specific areas of non-compliance with the provisions of the Income Tax Act and its Regulations in the following areas.

AREAS OF NON-COMPLIANCE		
	Issue	Reference
1.	Failure to maintain adequate books and records	149.1(2), 230(2), 230(4) 168(1)(b), 168(1)(e), 188.2(2)(a)
2.	Failure to devote charitable resources on activities carried on by the Organization / provided personal benefit	149.1(1), 168(1)(b)
3.	Issuing receipts not in accordance with the Act	149.1(2), 168(1)(d), 188.1(7), Regulation 3500, 3501(1), 3501(1.1)
4.	Failure to file an information return as and when required by the Act and/or its Regulations	149.1(2), 149.1(14), 168(1)(c),
5.	Failure to comply with the requirements of the Act as they apply to the Organization's definition	149.1(2)

This letter describes the areas of non-compliance identified by the CRA relating to the legislative and common law requirements that apply to registered charities, and offers

the Organization an opportunity to respond and present additional information. The Organization must comply with the law; if it does not, its registered status may be revoked in the manner described in section 168 of the Act.

### **Previous areas of non-compliance**

In 2010, the CRA conducted an audit of the Organization's operations for the fiscal periods ending December 31, 2007, December 31, 2008, and December 31, 2009. The audit concluded with sanctions and a Compliance Agreement signed by the Organization on September 20, 2010, which addressed the following areas of non-compliance with the Act:

1. Inadequate books and records:
  - no donation receipts were provided for any year;
  - no banking statements were presented for 2008 or for other accounts associated with the organization;
  - the banking records that were provided did not reconcile to the charity information returns or financial statements;
  - the documentation provided to support the income and expenses of the organization (the weekly summary sheets) did not reconcile to the charity information returns or the financial statements;
  - no documentation was provided to support the expenses for 2008;
  - expense documentation was missing for the months of April and May 2007;
  - the documentation provided for the 2007 expenses did not reconcile to the return;
  - adequate documentation was not provided to demonstrate that all the activities undertaken by the charity were charitable (i.e. foreign activities, scholarships, payments to qualified donees);
  - there were no board minutes;
2. Members of the Organization received undue benefits;
3. The charity information returns were not completed properly and/or the information on them could not be verified based on the records provided;
4. The Organization engaged in non-charitable activities;
5. The Organization did not file its information slips (T4s/T4As) correctly;
6. The Organization was unable to demonstrate that it met the disbursement quota for 2007 and 2008; and
7. Based on the relationships identified on the directors worksheets, the Organization did not meet the definition of a charitable organization.

## **Identified areas of non-compliance by the current audit**

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

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

- a) information in such form as will enable the Minister to determine whether there are any grounds for revocation of its registration under the Act;
- b) a duplicate of each receipt containing prescribed information for a donation received by it;
- c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under this Act."

In addition, subsection 230(4) also states "Every person required by this section to keep records and books of account shall retain:

- a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such a period as is prescribed;
- b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the end of the last taxation year to which the records and books of account relate."

The policy of the CRA relating to the maintenance of books and records, and books of account, is based on several judicial determinations and the law, which have held that:

- i. it is the responsibility of the registered charity to prove that its charitable status should not be revoked;<sup>1</sup>
- ii. a registered charity must maintain, and make available to the CRA at the time of an audit, meaningful books and records, regardless of its size or resources. It is not sufficient to supply the required documentation and records subsequent thereto;<sup>2</sup> and
- iii. the failure to maintain proper books, records, and records of account in accordance with the requirements of the Act is itself sufficient reason to revoke an organization's charitable status in the case of material or repeated non-compliance.<sup>3</sup>

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

<sup>2</sup> *Canadian Committee for the Tel Aviv Foundation*, 2002 FCA 72, [2002] 2 CTC 93; *The Lord's Evangelical Church of Deliverance and Prayer of Toronto v. Canada*, (2004) FCA 397.

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

Our review determined that the books and records were inadequate and unreliable as follows:

- The ledger was maintained in Korean instead of being maintained in one of the two official languages (English or French).
- The bank deposit analysis conducted shows discrepancies between the amount reported and the amount deposited.
- The sole donation receipt issued cannot be traced to the original donations in the records or the bank. Further, there was no assurance that all revenues received were being deposited into the Organization's bank account.
- Expenses were reported based on estimates and most receipts were not maintained. Amounts paid per the bank statements for expenses did not appear in the ledger or on the financial statements.
- There was no oversight regarding the accounts and no internal controls were maintained. Control of official donation receipts was not maintained as required and appropriate policies or procedures for replacing receipts were not in place.
- Following the lack of documents and estimates reported on the T3010, we were unable to corroborate the amounts spent by the Organization on its charitable activities.
- The amounts reported in the books and records do not match the T3010 numbers reported. For example:

Fiscal period ended December 31, 2015

Section D, Financial Information, was completed incorrectly:

- On line 4200, Total assets, the Organization reported assets of \$31,642. During the audit we were only able to identify cash assets worth \$1,228.48. We were not provided with any records that would corroborate the existence of other assets;
- Line 4500, Total eligible amount of all gifts for which tax receipts were issued, reported receipted donations of \$12,000. However the records provided only had one donation receipt issued during the audit period. The receipt was issued for \$4,000 in 2015;
- Line 4530, Total other gifts, reported \$8,774 as gifts received that were not receipted. This amount could not be verified by the records or bank statements provided;
- Line 4700, Total revenue, reported \$20,952. This amount could not be verified by the records or bank statements provided. In 2015 amounts deposited into the bank were actually \$2,388 less than what was reported;
- Line 4810, Travel and vehicle expenses, was reported based on estimates and was not verifiable;
- Line 4920, All other expenditures, did not match expenses per bank statements and was also based on some estimated numbers;

- Line 4950, Total expenditures excluding gifts to qualified donees, was not verifiable and did not match the bank accounts;
- Line 5000, Total expenditures on charitable activities, was not completed as required;
- Line 5010, Total expenditures on management and administration, was not completed as required; and
- Line 5100, Total expenditures, was not verifiable and did not match the bank accounts.

Fiscal period ended December 31, 2016

Section D, Financial Information, was completed incorrectly:

- On line 4200, Total assets, the Organization reported assets of \$32,345. During the audit we were only able to identify cash assets worth \$1,321.19. We were not provided with any records that would corroborate the existence of other assets;
- Line 4500, Total eligible amount of all gifts for which tax receipts were issued, reported receipted donations of \$8,250. However, no supporting documents nor donation receipts were provided to support the amount;
- Line 4530, Total other gifts, reported \$4,088 for gifts received that were not receipted. This amount could not be verified by the records or bank statements provided;
- Line 4700, Total revenue, reported \$12,338. The amount could not be verified by the records or bank statements provided;
- Line 4810, Travel and vehicle expenses, was reported based on estimates and was not verifiable;
- Line 4920, All other expenditures, was unable to be reconciled due to inadequate records, did not match expenses per bank statements, and was declared to be partially based on estimated numbers;
- Line 4950, Total expenditures excluding gifts to qualified donees, was not verifiable and did not match the bank accounts;
- Line 5000, Total expenditures on charitable activities, was not completed as required;
- Line 5010, Total expenditures on management and administration, was not completed as required; and
- Line 5100, Total expenditures, was not verifiable and did not match the bank accounts.

Under paragraph 188.2(2)(a), an Organization may receive a notice of suspension of delivering official receipts if it contravenes to subsection 230(2).

The Organization has failed to comply with the requirements of the Compliance Agreement signed on September 20, 2010 at the conclusion of the previous audit. The Organization agreed, on a go forward basis, to maintain duplicate copies of all receipts and banking records and maintain adequate documentation to support revenue and



expenses as well as adequate board meeting minutes. For these reasons, it appears to us that there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

## 2. Failure to devote charitable resources on activities carried on by the Organization / provided personal benefit

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

The following expenses appearing in the bank statements were considered personal benefits paid, as they included [REDACTED] costs, restaurant expenditures, and unvouchered expenses for supermarkets, electronic stores, and office supply stores, all paid by the charity on behalf of its president and for his personal benefit:

<u>Description</u>	<u>Month</u>	<u>Day</u>	<u>Year</u>	<u>Amount</u>	<u>Description</u>	<u>Month</u>	<u>Day</u>	<u>Year</u>	<u>Amount</u>
[REDACTED]	1	12	2015	\$ 25.30	[REDACTED]	1	11	2016	\$ 25.30
[REDACTED]	2	10	2015	25.30	[REDACTED]	2	10	2016	25.30
[REDACTED]	3	10	2015	25.30	[REDACTED]	3	10	2016	25.30
[REDACTED]	4	10	2015	25.30	[REDACTED]	4	11	2016	25.30
[REDACTED]	4	24	2015	57.00	[REDACTED]	5	10	2016	25.30
[REDACTED]	5	11	2015	25.30	[REDACTED]	6	10	2016	25.30
[REDACTED]	6	10	2015	25.30	[REDACTED]	7	11	2016	25.30
[REDACTED]	7	10	2015	25.30	[REDACTED]	7	18	2016	252.50
[REDACTED]	8	6	2015	12.42	[REDACTED]	7	25	2016	15.00
[REDACTED]	8	10	2015	25.30	[REDACTED]	8	10	2016	25.30
[REDACTED]	8	17	2015	35.90	[REDACTED]	8	17	2016	15.00
[REDACTED]	9	10	2015	25.30	[REDACTED]	9	6	2016	15.00
[REDACTED]	10	1	2015	128.59	[REDACTED]	9	12	2016	25.30
[REDACTED]	10	13	2015	105.00	[REDACTED]	9	16	2016	57.34
[REDACTED]	10	13	2015	25.30	[REDACTED]	10	11	2016	25.30
[REDACTED]	11	6	2015	45.20	[REDACTED]	11	10	2016	25.30
[REDACTED]	11	9	2015	15.47	[REDACTED]	12	12	2016	25.30
[REDACTED]	11	10	2015	25.30	[REDACTED]	12	28	2016	10.68
[REDACTED]	11	17	2015	60.00	2016 Total				<u>\$ 669.12</u>
[REDACTED]	11	17	2015	12.42					
[REDACTED]	11	23	2015	39.54					
[REDACTED]	12	7	2015	37.36					
[REDACTED]	12	10	2015	25.30					
2015 Total				<u>\$ 852.50</u>					

As previously mentioned, the expenses were reported based on estimates and most receipts were not maintained. No supporting documents were provided in order to prove

that the expenditures listed above were related to the charitable activities of the Organization.

Accordingly, it is our position that the Organization has failed to meet the requirements of subsection 149.1(1) of the Act, as "no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee, or settler thereof".

Furthermore, the Organization was previously audited and signed a Compliance Agreement on September 20, 2010 in which it agreed, on a go forward basis, to not issue funds to individuals that are not qualified donees, not confer any undue benefits on members of the Organization, issue appropriate information slips, and only use its resources for charitable activities.

For this reason, and each of the reasons above, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

### **3. Failure to issue donation receipts not in accordance with the Act and/or its Regulations**

The Act allows for the issuance of computer-generated official donation receipts provided that said receipts are readable and the reliability of the computer data is sufficiently protected.

Subsection 3501(1) of the Income Tax Regulations provides that each official donation receipt that a registered charity issues must include, in a manner that cannot be readily altered, the prescribed contents of a receipt.

The receipts issued did not contain many of the required contents, such as:

- The Organization's address in Canada as recorded with CRA.
- The name, Canada Revenue Agency, and the website address previously **www.cra-arc.ca** and now **www.canada.ca/charities-giving**.
- If cash and a single donation, the date or the year during which the donation was received.
- If cash and multiple donations, the dates or the years during which the donations were received.
- A unique serial number.
- The place or locality where the receipt was issued.
- The date on which the receipt was issued where that date differs from the date of the donation.
- The signature of an authorized person.

In summary, it is our position that the Organization does not issue receipts according to the Act and its Regulations. Accordingly, it is our position that the Organization has failed to meet the requirements of sections 3500 and 3501 of the Regulations about issuing receipts only when allowed and ensuring all the required information is present.

Furthermore, the Organization was previously audited and signed a Compliance Agreement on September 20, 2010 in which it agreed, on a go forward basis, to maintain duplicate copies of all donation receipts and issue donation receipts in accordance with the Act and/or its Regulations, which it has failed to do.

For these reasons, and each of the reasons above, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

#### **4. Failure to complete an accurate charity information return**

Subsection 149.1(14) of the Act states that:

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

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

The audit revealed that the Organization did not accurately complete its T3010 for the fiscal periods under audit, in that items were incorrectly reported. Specifically:

- Section C, Programs and General Information, did not include an answer to the question posed in C6, though a collection plate/box method was used.

#### Fiscal period ended December 31, 2015

- Section D, Financial Information, was completed incorrectly:
  - On line 4200, Total assets, the Organization reported assets of \$31,642. During the audit we were only able to identify cash assets worth \$1,228.48. We were not provided with any records that would corroborate the existence of other assets;

- Line 4500, Total eligible amount of all gifts for which tax receipts were issued, reported receipted donations of \$12,000. However, the records provided only had one donation receipt issued during the audit period. The receipt was issued for \$4,000 in 2015;
- Line 4530, Total other gifts, reported \$8,774 as gifts received that were not receipted. This amount could not be verified by the records or bank statements provided;
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- Line 5000, Total expenditures on charitable activities, was not completed as required;
- Line 5010, Total expenditures on management and administration, was not completed as required; and
- Line 5100, Total expenditures, was not verifiable and did not match the bank accounts;
- Schedule 1, Foundations, should not have been completed as the Organization is designated as a Charitable Organization and not a Foundation;
- Schedule 3, Compensation, was completed incorrectly, showing one individual was paid \$5,000 in 2015. No T4s or T4As were completed by the Organization in 2015. Furthermore, the records indicated that two individuals were paid in this period. One, [REDACTED], received \$5,000 and the other, the [REDACTED], received \$2,400 for conducting church services; and
- Schedule 6, Detailed Financial Information, was filled out even though it was not required to be completed.

Fiscal period ended December 31, 2016

- Section D, Financial Information, was completed incorrectly:
  - On line 4200, Total assets, the Organization reported assets of \$32,345. During the audit we were only able to identify cash assets worth \$1,321.19. We were not provided with any records that would corroborate the existence of other assets;
  - Line 4500, Total eligible amount of all gifts for which tax receipts were issued, reported receipted donations of \$8,250. However, no supporting documents nor donation receipts were provided to support the amount;

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- Schedule 3, Compensation, was completed incorrectly, showing one individual was paid \$5,000 in 2015. No T4s or T4As were completed by the Organization in 2015. Furthermore, the records indicated that two individuals were paid in this period. One, the [REDACTED] received \$5,000 and the other, the [REDACTED], received \$2,400 for conducting church services;
- Schedule 6, Detailed Financial Information, was filled out even though it was not required to be completed; and
- T1235, Director's/Trustees and Like Officials Worksheet, was not attached to the 2016 T3010.

Under paragraph 168(1)(c) of the Act, the registration of a charity may be revoked if it fails to file a charity information return when required under the Act. It is our position the Organization has failed to comply with the Act by failing to file an accurate T3010.

Furthermore, the Organization was previously audited and signed a Compliance Agreement on September 20, 2010 in which it agreed, on a go forward basis, to ensure that all future charity information returns are filed correctly, any remuneration paid/given/made available to members be reported on a T4 or T4A slip, to ensure that appropriate information slips (T4s, T4As, and T4NRs) be issued, and that they reconcile to the records of the Organization.

For this reason and each of the reasons above, there may be grounds to revoke the registered status of the Organization under paragraph 168(1)(c) of the Act.

## **5. Failure to comply with the requirements of the Act as they apply to the Organization's definition**

A registered charity is categorized under the Act as a charitable organization or as a charitable foundation (public foundation or private foundation), depending on which designation, as determined by CRA, best reflects its objectives, its proposed activities, as well as the composition of its board. The designation a registered charity falls under is important because it will determine which rules under the Act will apply. Hansarang Presbyterian Church was registered on January 27, 2000 as a charitable organization under the Act.

A charitable organization as per subsection 149.1(1) of the Act is an organization, whether or not incorporated, which devotes all of its resources to charitable activities carried on by the organization itself. In addition, no part of its income may be payable to or otherwise available for the personal benefit of a proprietor, member, shareholder, trustee or settlor of the charitable organization. However, charitable activities are not defined under the Act. Rather, the meaning of charitable activities is based on jurisprudence. In any taxation year a charitable organization cannot disburse more than 50% of its income to "qualified donees." Accordingly, a charitable organization is generally considered to be a "doer" type of charity.

There are three types of registered charities. Every registered charity is designated as either a:

- charitable organization
- public foundation, or
- private foundation

The designation a charity receives depends on its structure, its source of funding, and its mode of operation. A registered charity is notified of its designation by the CRA when it receives a Notice of Registration. All registered charities, regardless of their designation, can issue official donation receipts for income tax purposes.

To determine the designation of a registered charity, the CRA applies the following criteria:

### **Charitable organization**

- it is established as a corporation, a trust, or under a constitution
- it has only charitable purposes
- it primarily carries on its own charitable activities
- it has more than 50% of its directors, trustees, or like officials dealing with each other at arm's length
- it generally receives its funding from a variety of arm's length donors

**Public foundation**

- it is established as a corporation or a trust
- it has only charitable purposes
- it generally gives more than 50% of its income annually to other qualified donees, usually other registered charities, but it may carry out some of its own charitable activities
- more than 50% of its directors, trustees, or like officials deal with each other at arm's length
- it generally receives its funding from a variety of arm's length donors

**Private foundation**

- it is established as a corporation or a trust
- it has only charitable purposes;
- it carries on its own charitable activities and/or it funds other qualified donees, usually other registered charities
- 50% or more of its directors, trustees, or like officials do not deal with each other at arm's length, and/or
- more than 50% of its funding comes from a person or group of persons that control the charity in any way or make up more than 50% of the directors, trustees, or like officials of the charity

The audit results indicate that the current Board of Directors do not deal with each other at arm's length. The Organization has operated for several years with only two directors who are related by marriage.

Furthermore, the Organization was previously audited and signed a Compliance Agreement on September 20, 2010 in which it agreed, on a go forward basis, to ensure that there are sufficient board members dealing with each other at arm's length.

The Minister may, by notice sent by registered mail to a registered charity, on the Minister's own initiative or on application made to the Minister in prescribed form, designate the charity to be a charitable organization, private foundation or public foundation and the charity shall be deemed to be registered as a charitable organization, private foundation or public foundation, as the case may be, for taxation years commencing after the day of mailing of the notice unless and until it is otherwise designated under this subsection [149.1(6.3)] or its registration is revoked under subsection (2), (3), (4), (4.1) or 168(2).

The Organization's options:

**a) No response**

The Organization may choose not to respond. In that case, the Director General of the Charities Directorate may issue a notice of intention to revoke

the registration of the Organization in the manner described in subsection 168(1) of the Act.

## Response

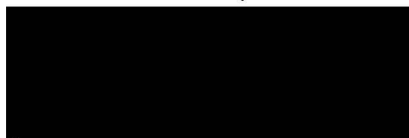
If the Organization chooses to respond, send written representations and any additional information regarding the findings outlined above **within 30 days** from the date of this letter to the address below. After considering the response, the Director General of the Charities Directorate will decide on the appropriate course of action. The possible actions include:

- no compliance action;
- issuing an educational letter;
- resolving the issues through a Compliance Agreement;
- applying penalties or suspensions or both, as described in sections 188.1 and 188.2 of the Act; or
- issuing a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the Act.

If the Organization appoints a third party to represent it in this matter, send us a written request with the individual's name, the individual's contact information, and explicit authorization that the individual can discuss the file with us.

If you have any questions or require further information or clarification, do not hesitate to contact me at the number indicated below. My team leader, Francis Yu, may also be reached at 587-489-2402.

Yours sincerely,



Pamela Tribiger  
Audit Division  
Edmonton Tax Services Office  
Telephone: 587-489-2396  
Toll free: 1-800-267-2384 (Charities)  
Fax: 780-495-2873  
Address: Suite 10, 9700 Jasper Ave  
Edmonton, AB T5J 4C8



Received

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The Hansarang Presbyterian  
Church has received the letter regarding  
its recent audit and agrees to the  
revocation of the charity.



**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.

**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.