



REGISTERED MAIL

Shuswap Association for the Promotion of Eco Desarrollo
c/o Box 489
Clinton BC V0K 1K0

MAY 05 2016

BN: 892933367RR0001

Attention: Mr. Ira Zbarsky

File #: 0933010

Subject: Notice of Intention to Revoke
Shuswap Association for the Promotion of Eco Desarrollo

Dear Mr. Zbarsky:

We are writing further to our letter dated November 9, 2015 (copy enclosed), in which you were invited to submit representations as to why the registration of Shuswap Association for the Promotion of Eco Desarrollo (the Organization) should not be revoked in accordance with subsection 168(1) of the *Income Tax Act* (the Act).

We have now reviewed and considered your letter dated November 24, 2015. However, notwithstanding your reply, our concerns with respect to the Organization's books and records, objects and activities, and donation receipting practices, have not been alleviated.

Further, we considered your request for a meeting made via your telephone conversation with the Charities Directorate Client Services Section in December 2015. The auditor contacted the Organization in writing, as requested, to arrange a mutually convenient date for such a meeting; however, the Organization did not reply to our letter of December 15, 2015.

Conclusion

The audit by the Canada Revenue Agency (CRA) has revealed that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization did not maintain its books and records in accordance with the Act; used its resources for non-charitable activities; gave its resources to non-qualified donees; was engaged in an unrelated business; provided undue benefits; and failed to issue donation receipts in accordance with the Act. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization

no longer meets the requirements necessary for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

Consequently, for each of the reasons mentioned in our letter dated November 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)(d), 168(1)(e), and subsection 149.1(2)(a), of the Income Tax Act, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

Business number	Name
892933367	Shuswap Association for the Promotion of Eco Desarrollo Clinton BC

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

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

A copy of the revocation notice, described above, will be published in the *Canada Gazette* after the expiration of **90 days** from the date this letter was mailed. The Organization's registration will be revoked on the date of publication, unless the Canada Revenue Agency receives an objection to this notice of intention to revoke within this timeframe.

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

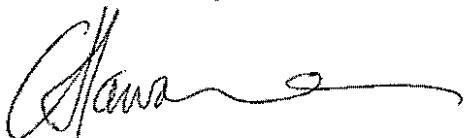
Consequences of revocation

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 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 "A". 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) or 1-800-959-8287 (rest of Canada).

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

Yours sincerely,



Cathy Hawara
Director General
Charities Directorate

Attachments:

- CRA letter dated November 9, 2015
- Appendix "A", Relevant provisions of the Act

c.c.: Jane Ordinario
Director

[REDACTED]

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



CANADA REVENUE
AGENCY

AGENCE DU REVENU
DU CANADA

FILL
COPY

REGISTERED MAIL

Shuswap Association for the Promotion of Eco Desarrollo
Box 489
Clinton BC V0K 1K0

Attention: Director

BN: 89293 3367RR0001

File #: 0933010

November 3, 2015

Subject: Audit of Shuswap Association for the Promotion of Eco Desarrollo

Dear Sir/Madam:

This letter is further to the audit of the books and records of the Shuswap Association for the Promotion of Eco Desarrollo (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2011 to December 31, 2012.

You are hereby advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* (the Act) and/or its *Regulations* in the following areas.

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1.	Books and records	149.1(2), 168(1), 188.1, 188.2, 230(2)
2.	Objects and activities a) Devoting resources to non-charitable activities b) Gifting to non-qualified donees c) Engaging in an unrelated business d) Providing undue benefits	149.1(1), 149.1(2), 168(1), 188.1 and 188.2
3.	Failure to issue donation receipts in accordance with the Act	168(1), 188.1, 188.2, Regulation 3501

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

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

Identified Areas of Non-Compliance

1) Books and records

Subsection 230(2) of the Act requires that every qualified donee, which includes a registered charity, maintain its books and records at an address in Canada which is recorded with the Minister. Further, the information must be maintained in a manner that will enable the Minister to determine if there are grounds to revoke the organization's charitable registration.

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; 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 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, which have held that:

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

In cases where a registered charity is involved in serious non-compliance, or for repeat or multiple infractions, the CRA may impose intermediate sanctions (that is, financial penalties or suspensions) as outlined in sections 188.1 and 188.2 of the Act. A registered charity is liable to a suspension under paragraph 188.2(2)(a) of the Act which states "that the authority of the person to issue an official receipt referred to in Part XXXV of the Income Tax Regulations is suspended for one year from the day that is seven days after the day on which the notice is mailed" for any contraventions of any part of section 230 of the Act. Due to the seriousness of the non-compliance identified in our audit, we are not proposing this sanction at this time.

The Organization was asked in writing to provide its books and records for review on five occasions¹. The Organization only ever provided a sample of its books and records. The sample, provided at the initial interview on November 5, 2014, contained minimal records - the majority of which were hand written notes by Director Ira Zbarsky which could not be related back to the information returns filed with CRA.

In discussions with the directors, it was explained that significant business activities were undertaken and that agreements with partners and other business records existed. We were not provided with any books and records to support these purported activities. Further, the Organization explained that a portion of its books and records are kept outside of Canada, in Guatemala; a direct contravention of the Act².

The resulting lack of books and records, and the Organization's unwillingness to provide the same, are a serious concern to the Canada Revenue Agency. The books and records of the Organization are required in the administration of the Act to: confirm your purposes; to verify your assets and liabilities; and most importantly, to confirm that the activities undertaken are charitable and are in furtherance of the charitable objects for which you were registered as a Canadian charity. The Organization's failure to maintain adequate books and records, or to provide them to the Minister's agent when requested, is a serious breach of the provisions of the Act. This is a failure on the part of the Organization's board of directors and its officers.

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 that 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 under paragraph 168(1)(e) of the Act.

The following sections explain other areas of non-compliance identified during the course of our review. The Organization should be aware that its failure to maintain and

¹ We requested your records on: October 16, 2014; October 17, 2014; October 28, 2014; January 28, 2015; and February 11, 2015.

² Income Tax Act subsection 230(2)

provide books and records is a contributing factor in all the following identified areas of non-compliance.

2) Objects and activities

At law, a registered charity must be established for exclusively charitable purposes and must focus on undertaking activities that directly further these purposes. A charitable organization is defined in subsection 149.1(1) of the Act to mean an organization, whether or not incorporated, that meets a number of conditions, one of which is that it must devote all of its resources to charitable activities carried on by the Organization itself. Where a registered charity has a mixture of charitable and non-charitable purposes and/or activities, it does not qualify for registration under the Act or continued registration following an audit.

The principal common law elements governing a charity's registration were defined by Iacobucci J. in *Vancouver Society of Immigrant and Visible Minority Women v M.N.R.* Therein he stated that "the requirements for registration under section 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 unless the organization falls within the specific exemptions of subsections. 149.1(6.1) or (6.2).

In regard to the first point set out by Iacobucci J., the purposes of an organization are defined in its governing documents though reference must also be made to an organization's activities. The activities could indicate that the organization is carrying on a purpose not set out in its governing documents. In other words, reference must also be made to an organization's activities in order to determine whether it is pursuing a purpose not encompassed by the purposes set out in the governing documents.

In regard to the second point, all the resources of an organization must be devoted exclusively to activities which further these charitable purposes with certain exemptions regarding political activities outlined at subsections 149.1(6.1) or (6.2).

When the Organization requested its charitable registration in 1990, it stated that its purposes, also known as objects, were:

- a) to support spiritually and materially, community based sustainable economic and cultural projects in the rural underdeveloped and impoverished areas and shanty towns of Central and South America.

- b) to pursue an educational program for rural communities in B.C. to increase public awareness of the issues related to community based sustainable development in the rural areas and shanty towns of Central and South America.
- c) to promote the above objectives through linking personally and directly, individuals and communities in British Columbia with communities in Central and South America.
- d) to cooperate in such ways as the Society may, from time to time determine, with other agencies in any other country, engaged in activities of similar objectives.
- e) to solicit and administer funds to cover the costs of all programs designed to meet the above objectives.

In June 2003, the Organization provided a Copy of Resolution indicating that clauses b) and d) had been amended to:

- b) to support materially and spiritually community based ecologically sustainable economic and cultural projects in rural and impoverished areas of Eastern Africa designated by UN and AU as IGAD (Inter Governmental Authority on Development) which includes Ethiopia, Djibouti, Kenya, Uganda, Eritrea and Somalia (as and when a central government is established) by:
 - 1) providing courses in the areas of sustainable agriculture, natural livestock management, fruit culture, agro forestry, natural medicine and appropriate technology;
 - 2) assisting rural communities in such underdeveloped countries in economic cooperative self-sufficiency;
 - 3) Entering into agency agreement with organizations to assist in the furtherance of the above.
- d) To pursue a structured educational program for communities of Western and Central Canada to increase public awareness of the issues related to community based ecologically sustainable development in the rural and shanty town areas of Central America and Eastern Africa, Which will include utilizing popular education techniques and involved educators from Central American and Eastern Africa.

On several occasions the Organization, through multiple persons, was asked to provide a copy of its current Constitution for the audit³. A copy of the current Constitution has not been provided.

In a telephone conversation with Mr. Zbarsky on March 30, 2015, he advised that the purpose of the Organization is to help break people out of the oppressive cycle of the democratic free market economy that keeps people in poverty. They look to help people develop their own economy. The Organization provides workshops and equipment to help people fulfill this.

The audit revealed that during the audit period the Organization engaged in a number of activities that the CRA considers non-charitable: a) devoting resources to non-charitable activities; b) gifting to non-qualified donees; c) engaging in an unrelated business; and d) providing undue benefits.

a) Devoting resources to non-charitable activities and b) Gifting to non-qualified donees

At the initial interview Ms. Ordinario and Mr. Tejero explained that the Organization has numerous activities – it constructed food processing equipment, such as coffee roasters and sugar mills, for small farmers in the Philippines, Guatemala and Mexico and provided instruction to farmers on how to use the equipment to further process their raw products.

In addition, the Organization provided gifts of funds to the farmers so they would not need to borrow the high interest money that is offered locally. Records of the gifts were not provided. The Organization is reported to have established agreements with farmers in the Philippines to purchase the farmer's products; the agreements were not provided for the audit. The Organization was to purchase cacao, sugar and coffee. There was no evidence that the Organization honored these agreements or imported any goods from the Philippines.

The Organization provided one waybill showing it transported 151 kg of goods comprised of: cacao, cinnamon, toasted ginger and toasted corn. The products were transported by air from Guatemala to Vancouver BC. It was explained by Mr. Zbarsky that these imported products were sold, along with products produced in BC by the Organization, at farmer's markets around British Columbia. The records provided by the Organization included a list of twenty markets it attended in BC. No revenue documents were ever submitted to provide details of the money raised from such activities.

Mr. Zbarsky also stated that the Organization operates five greenhouses and eight hundred acres of orchard land in BC; predominantly in the Okanagan region.

³ We requested the Constitution in our October 16, 2014 letter to Mr. Tejero; in our October 17, 2014 letter to Ms. Ordinario; and on October 27, 2014 Mr. Zbarsky confirmed by telephone that he had seen the letter sent to Ms. Ordinario.

Organization Director, Sean Ralston, was employed by the Organization to work at the farming activities in BC. Some of the farmed products were processed at the Clinton facility and some were sold as fresh unprocessed goods. Some of the harvested products were paid back to orchard owners as rent. The Organization provided no records to substantiate the quantity of products produced, processed, distributed to sell, sold, or paid to orchard owners for rent.

The importation, production, processing, distribution, and sale of food products are generally a business activity. In this case, the farming activities do not appear to support the Organization's objects and given the inconsistencies in the stated activities, we are unable to determine whether these activities are a related business, as outlined below.

As noted, every registered charity is required by the Act to be constituted for exclusively charitable purposes. The Organization did not demonstrate that it is constituted for exclusively charitable purposes. The purposes of the Organization are not clear to the directors, and the purposes that were stated were not exclusively charitable. Helping people break out of the oppressive democratic economy is a broad statement which allows the Organization to undertake activities that are not exclusively charitable and could indicate the Organization is furthering an unstated purpose.

The Organization has contravened subsection 149.1(1) of the Act by not conducting exclusively charitable activities to further exclusively charitable purposes. The Minister may revoke the registration of a charity under paragraph 168(1)(b) of the Act if it fails to demonstrate that it meets the test for continued registration. It appears there are grounds to revoke the Organization under paragraph 168(1)(b) of the Act.

c) Engaging in an unrelated business

A significant portion of the Organization's activities appear to be business activities, which may not further the charitable purposes of the Organization. For example, the primary purpose for the farm activity in BC appears to be to conduct business. Further, these business activities could be outside the objects established by the Organization for itself.

Under the Act, a registered charity generally cannot operate a commercial business activity. Under certain circumstances, it may be permissible for a registered charity to operate a business provided it meets certain criteria; namely, the business must be considered a "related business". Running a business cannot become a purpose in its own right - it must remain subordinate to the organization's charitable purpose.

In determining whether or not the related business provisions apply to an organization, a two-step analysis is conducted. First, it must be determined whether or not the activities in question constitute a business activity. Whether a particular activity of a charity is a business requires the facts and circumstances in each case to be considered in the light of certain criteria established by the courts:

The intended course of action - If the rationale for operating a given activity is to generate a profit, then the activity is likely a business.

The potential to show a profit - Even if an activity does not yield a profit, it may nonetheless be capable of earning a profit. In determining whether a particular activity is a business, it is the intention and capacity to make a profit at some point that is relevant. On the other hand, if the activity is structured so that it is incapable of returning a profit, then it is not a business.

The existence of profits in past years - When the activity has been carried on for some time, a history of it returning a profit would generally imply that a business exists.

The expertise and experience of the person or organization that undertakes the activity - If the person or organization that is undertaking the activity has been selected for the position because of specialized commercial knowledge, skill, or experience, it may indicate that the activity is commercial in nature and possibly a business.

Further, certain activities are sometimes pursued by a registered charity with the intention to make a profit but are not considered business activities. These would include soliciting donations, as donors do not expect any good or service in return for their contributions.

"Carrying on" a business implies that the commercial activity is a continuous or regular operation. A charity may engage in some business-like transactions, provided they are not operated regularly or continuously. Most fundraising events are business activities. They typically involve the sale of goods and services for the purpose of obtaining income. Yet even if fundraising events are business activities, in practice they are mostly not affected by the related business provisions because they do not amount to "carrying on" a business. In locating the dividing line between a fundraising event and carrying on a business, the following factors are considered.

A fundraising event has clear "start" and "end" points. In contrast, carrying on a business implies continuous operations. A fundraising event of a particular type does not recur with such regularity and frequency that it amounts to carrying on a business.

Second, once it has been established that an organization is engaging in business activities, the CRA must then determine whether or not these business activities are "related", which is permissible, or "unrelated", which is not permissible.

There are generally two types of business characteristics that establish a business activity to be a related business. These are: businesses which are run substantially by

volunteers⁴; and businesses which are linked to a charity's purpose and subordinate to that purpose.

The fact that the profits from a business are applied to a charitable purpose is not sufficient to constitute the necessary linkage. Instead, it is the nature of the business, and whether it has some direct connection to a charity's purpose, that determines whether it is a related business.

Subsection 149.1(2) of the Act specifies that a charitable organization which carries on an unrelated business may have its charitable status revoked. Unrelated businesses are further discussed in CRA publication CPS-019 *What is a Related Business?* which is available on the CRA website.

As per above, the Organization did not substantiate its business activities with books and records that could be considered adequate under subsection 230(2) of the Act. The sample of books and records that was provided was too small and unreliable to demonstrate the actual activities of the Organization.

In the absence of adequate books and records, it was necessary to rely on the description of activities which was provided by director Ira Zbarsky. The activities he described included: importing a variety of food products from Guatemala and the Philippines; operating roughly 800 acres of orchards in the Okanagan region of B.C.; processing some of the imported and locally grown food to create value added products such as fruit leather and chocolate bars; and sales of its unprocessed, and value added products, at farmers markets across British Columbia. The audit confirmed two imported shipments of goods from Guatemala and the Organization's attendance at some farmer's markets in BC.

The Organization reported that it has one employee who performs much of the work related to its activities. The Organization also provides its food products to other people who act as its vendors at the farmer's markets. It appears, based on the remuneration and working conditions for these people, that they may also be employees of the Organization.

The Organization appears to be operating a business, and approached the activities as such. This included developing a supply chain that addressed both the upstream and downstream activities, and securing a large scale supply of their own farm products. Further, the Organization employed people to: manage the day to day operations; perform the value added processes; and distribute/sell the market ready products.

⁴ As defined in subsection 149.1(1) of the Act - "includes a business that is unrelated to the objects of a charity if substantially all persons employed by the charity in the carrying on of that business are not remunerated for that employment".

As stated above, a "related business" is any business activity carried out by a charity that is either substantially run by volunteers, or that is both *linked* to a charity's purpose and *subordinate* to that purpose.

In determining whether or not the business is linked to a charity's purpose, four forms of connection or linkage have been identified. A business will be considered linked to a charity's purpose if it fits within one of the following categories:

- A usual and necessary concomitant of charitable programs - business activities that supplement charitable programs. Either they are necessary for the effective operation of the programs, or they improve the quality of the service delivered in these programs (hospital parking lots, gift shops, student residences).
- An off-shoot of a charitable program - In the ordinary conduct of its charitable programs, a charity may create an asset that it can exploit in a business. The charity carries out its charitable programs, not in order to create the asset, but to achieve its charitable purpose. The asset is simply a by-product of the charity's programs (recordings of services, products sold that are produced in the course of conducting a charitable program).
- A use of excess capacity – using a charity's assets and staff, which are currently needed to conduct a charitable program, to gain income during periods when they are not being used to their full capacity within the charitable program (rentals of dormitory rooms outside of the regular school year, church parking rentals, asset rentals).
- The sale of items that promote the charity or its objects - involves sales that are intended to advertise, promote, or symbolize the charity or its objects.

The audit revealed that the activity of operating the processing facility and selling products at regional farmer's markets is an unrelated business. The business is not substantially run by volunteers nor is it linked to, or subordinate to, the Organization's purposes which were outlined previously in this letter.

In cases where a registered charity is involved in serious non-compliance, or for repeat or multiple infractions, the CRA may impose intermediate sanctions (that is, financial penalties or suspensions) as outlined in sections 188.1 and 188.2 of the Act.

Due to the seriousness of the non-compliance identified in our audit, we are not proposing these sanctions at this time.

Under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it operates an unrelated business. It is our position that the Organization has contravened subsection 149.1(2) of the Act and it appears to us that there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

d) Providing Undue Benefits

Subsection 149.1(1) of the Act provides a definition of what a charitable organization is. The definition states at paragraph (a) that "all the resources of which are devoted to charitable activities carried on by the organization itself"

The audit revealed that the Organization's assets (resources) were made available for the personal benefit of a director of the Organization. The Organization reported that a director resides at one of its real estate holdings in Clinton BC.

The Organization has provided a private benefit to the director by allowing him to use the Organization's asset, the building, for his personal residence. We were provided no evidence to suggest this Director reimbursed the Organization or paid fair rent for the use of this space. In providing the private benefit the Organization has ceased to use its assets exclusively for charitable activities.

Additionally, Mr. Zbarsky said that a portion of the food that the Organization imports, and a portion that it grows, is processed at the properties in Clinton. As discussed above, in this case the: importing; growing; processing; and retailing of food products does not appear to be a charitable activity as it appears to be an unrelated business. Therefore the capital assets used for these purposes also do not appear to be used exclusively for charitable purposes.

Subsection 188.1(4) the Act permits a sanction to be applied if a registered charity confers on a person an undue benefit⁵ as defined in subsection 188.1(5) of the Act.

In cases where a registered charity is involved in serious non-compliance, or for repeat or multiple infractions, the CRA may impose intermediate sanctions (that is, financial penalties or suspensions) as outlined in sections 188.1 and 188.2 of the Act. A registered charity that confers an undue benefit is liable to a penalty under paragraph 188.1(4)(a) of the Act that is equal to 105% of the amount of the benefit, for the taxation year. The penalty increases to 110% for repeat or multiple infractions under paragraph 188.1(4)(b) of the Act. In certain circumstances, the Minister may also suspend the tax receipting privilege of a registered charity, under paragraph 188.2(1)(b) of the Act in conjunction with a 188.1(4)(b) penalty. Due to the seriousness of the non-compliance identified in our audit, we are not proposing these sanctions at this time.

Subsection 149.1(1) of the Act requires that the assets of an organization be dedicated to charitable activities. The major uses of the Organization's assets are for the personal benefit of a director as a residence and to conduct its business activities. It failed to keep track of these assets and ensure that they were used exclusively for charitable

⁵ Generally, an undue benefit conferred on a person by a registered charity includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity that is paid, payable, assigned or otherwise made available for the personal benefit of any person.

purposes. For all of these points and each one individually, the Organization is in contravention of subsection 149.1(1).

Under paragraph 168(1)(b) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it uses its resources to non-charitable activities. It is our position the Organization has contravened subsection 149.1(2) of the Act and it appears to us that there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

4) Failure to issue donation receipts in accordance with the Act

The Organization did not provide copies of the donation receipts that it issued. Subsection 230(2) requires that every qualified donee, which includes a registered charity, retain a copy of each donation receipt that it issues. The Organization failed to comply with this subsection which further demonstrates that the Organization's books and records are not adequate for the purposes of the Act.

Regulation 3501 of the Act identifies specific information that must appear on every donation receipt issued by a qualified donee. This information may also be found in CRA bulletin IT-110R3, *Gifts and Official Donation Receipts*, which is available on the CRA website.

Despite not being provided access to your duplicate copies of receipts issued, we were able to examine copies of the Organization's receipts provided to us. The following areas of non-compliance were identified:

- The Organization's registration number was not recorded on the donation receipt.
- The Organization's address, as registered with CRA, was not recorded on the donation receipt.
- The place or locality where the donation receipt was issued was not recorded on the donation receipt.
- The name of the donor, including their middle initial, was not recorded on the donation receipt.
- A brief description of gift in kind donations was not recorded on the donation receipt.
- The name and address of the appraiser used for gift in kind donations was not recorded on the donation receipt.
- The appraised fair market value of the gift in kind donation was not recorded on the donation receipt.
- The appraisal was not available for review.
- The Organization did not demonstrate that it retained a copy of each donation receipt it issued.
- It could not be determined if all the issued donation receipts were accounted for.

- It could not be determined if the date on the donation receipt was correct.
- It could not be determined if the Organization properly secures blank donation receipts.
- It could not be determined if the Organization issued donation receipts for gifts of service.
- It could not be determined if the Organization issued donation receipts where the donor has directed the funds to either a specific person/family or to a non-qualified donee.
- It could not be determined if the Organization issued donation receipts for the purchase of goods or services.
- It could not be determined if the Organization issued a donation receipt where the payer was legally obligated to make a payment.
- It could not be determined if the Organization was processing spoiled or replacement receipts in accordance with the Act.

The process for issuing donation receipts was discussed with Mr. Tejero and Ms. Ordinario. Ms. Ordinario explained that she received donations for [REDACTED], a non-profit organization [REDACTED] in Vancouver BC. Ms. Ordinario would issue donation receipts from the Organization and deposit the funds to the bank account of [REDACTED]. The donation receipts would be sent to Mr. Zbarsky in Clinton, where he would sign them. The donation receipts would then be given to the donor. Thus, the Organization issued donation receipts for donations that it did not receive, and that the donor didn't intend for the Organization to receive. Further, the gifts were made to a non-qualified donee which is not eligible to issue tax deductible donation receipts. The Organization facilitated an income tax deduction by the donor for a donation that was not an eligible deduction under the Act.

Under no circumstances should a registered charity lend its registration number to another organization for receipting purposes. A registered charity is responsible for all tax receipts issued under its name and number and must account for the corresponding donations on its annual information return. A charity that lends its registration number risks losing its charitable registration.

In cases where a registered charity is involved in serious non-compliance, or for repeat or multiple infractions, the CRA may impose intermediate sanctions (that is, financial penalties or suspensions) as outlined in sections 188.1 and 188.2 of the Act.

Under subsection 188.1(7) of the Act, a registered charity is liable to a penalty equal to 5% of the amount reported on the receipt if the receipt contains incorrect information. The penalty increases to 10% of the amount for repeat or multiple infractions under subsection 188.1(8) of the Act.

Under subsection 188.1(9) of the Act, a charity may be liable to a penalty equal to 125% of the amount reported on a receipt issued if the receipt contains false information. A charity may have its receipting privileges suspended under paragraph 188.2(2)(c) of the

Act if it has issued a receipt for a gift otherwise than in accordance with this Act and the regulations. Finally, the registered charity may be subject to a suspension of its tax receipting privileges under paragraph 188.2(1)(c) of the Act if subsection 188.1(9) penalties are applied and the total of all such penalties for the taxation year exceeds \$25,000.

Due to the seriousness of the non-compliance identified in our audit, we are not proposing these sanctions at this time.

Under paragraph 168(1)(d) of the Act, the Minister may, by registered mail, give notice to the registered charity that the Minister proposes to revoke its registration if it issues a receipt otherwise than in accordance with the Act and its Regulations. It is our position that the Organization has issued receipts otherwise than in accordance with the Act and the Regulations. For each reason identified above, it appears to us that there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(d) of the Act.

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 below. My team leader, Ross Thackray, may also be reached at (250) 363-3141.

Yours sincerely,

[REDACTED]
Ross Thackray
Team Leader

Stephen Bastedo
Charities Division
Vancouver Island Tax Services Office

Telephone: (250) 363 6989
Facsimile: (250) 363 3000
Address: c/o 9755 King George Boulevard, Surrey, BC, V3T 5E1

c.c.: Jane Ordinario,
[REDACTED]

105-14

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.