



March 3, 2022

REGISTERED MAIL

Yakov Farkas
Director
Canadian Friends of United Wiznitz Institutions in Israel

BN: 893041764RR0001
File #: 0977439

Dear Yakov Farkas:

**Subject: Notice of intention to revoke
Canadian Friends of United Wiznitz Institutions in Israel**

We are writing with respect to our letter dated May 12, 2021 (copy enclosed), in which Canadian Friends of United Wiznitz Institutions in Israel (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, 2017 to December 31, 2018. Specifically, the Organization was asked to explain why its registration should not be revoked in accordance with subsection 168(1) of the Income Tax Act.

We have reviewed and considered your written response dated June 7, 2021. Your reply has not alleviated our concerns with respect to the Organization's non-compliance with the requirements of the Act for registration as a charity. Our concerns are explained below.

Repeated non-compliance

The current audit was conducted as a follow-up to a previous audit for the period from January 1, 2011 to December 31, 2012. The previous audit found that the Organization did not maintain the necessary direction and control over its resources and over the conduct of its activities, was resourcing non-qualified donees, did not maintain adequate books and records as required by the Act, and issued donation receipts not in accordance with the Act. Due to the serious nature of the non-compliance identified during the audit, the CRA issued a Notice of Suspension of Receipting Privileges to the Organization on January 15, 2018, which suspended its authority to issue official donation receipts and its qualified donee status for one year effective January 22, 2018.

In our letter dated May 12, 2021, we advised the Organization that the current audit found it had not rectified the areas of non-compliance from the previous audit, and had identified new areas of non-compliance. The Organization submitted representations dated June 7, 2021, in response to our letter, in which the Organization advised that Mr. Y. Farkas was now in charge of the Organization, and that the Organization "cannot

explain nor justify the actions of [REDACTED] Tabak, for 2017 and 2018 who ran the organization for many years". The representations further stated that "...from now on, everything will be properly handled. The donations will total the actual receipts for the year" and that "[a]ll expenditures will have proper back-up by invoices, T4 or T4A". However, the Organization's representations did not provide any additional information or documentation to demonstrate how it would comply with the requirements of charitable registration going forward aside from providing a few assertions as stated above. As a result, the concerns outlined in our letter have not been alleviated.

Conclusion

The audit by the CRA found that the Organization is not complying with the requirements set out in the Act. In particular, it was found that the Organization is not constituted and operated exclusively for charitable purposes, failed to devote resources to charitable activities carried on by the Organization itself, failed to maintain adequate books and records, failed to issue donation receipts in accordance with the Act and/or its Regulations, and failed to file an information return as and when required by the Act and/or its Regulations. For these reasons, it is our position that the Organization no longer meets the requirements for charitable registration.

Consequently, for the reasons mentioned in our letter dated May 12, 2021, and pursuant to subsections 168(1) and 149.1(2) of the Act, we hereby notify you of our intention to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, the revocation will be effective on the date of publication of the following notice in the Canada Gazette:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(d), 168(1)(e), and subsection 149.1(2) of the Income Tax Act, of our intention to revoke the registration of the charity listed below and that by virtue of paragraph 168(2)(b) thereof, the revocation of registration will be effective on the date of publication of this notice in the Canada Gazette.

Business number
893041764RR0001

Name
Canadian Friends of United Wiznitz
Institutions in Israel
Montréal QC

Should the Organization choose to object to this notice of intention to revoke its 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 Intake Centre
Post Office Box 2006, Station Main
Newmarket ON L3Y 0E9

However, a copy of the revocation notice, described above, will be published in the Canada Gazette after the expiration of **30 days** from the date this letter was mailed. As such, the Organization's registration will be revoked on the date of publication, unless the CRA receives an order, **within the next 30 days**, from the Federal Court of Appeal issued under paragraph 168(2)(b) of the Act extending that period.

As noted above, even though the Organization may file a notice of objection with the CRA Appeals Branch within the 90 day time frame, in order to temporarily suspend the revocation process, the Organization must obtain an order from the Federal Court of Appeal.

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) and 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. Form T2046 must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix A. Form T2046 and the related Guide RC4424, Completing the Tax Return where Registration of a Charity is revoked, are available on our website at **canada.ca/charities-giving**;
- 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 entities 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 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 May 12, 2021
- Organization's representations dated June 7, 2021
- Appendix A, Relevant provisions of the Act

c.c.: 



May 12, 2021

Yakov Farkas
Director
Canadian Friends Of United Wiznitz Institutions In Israel
[REDACTED]

BN: 893041764RR0001
File #: 0977439

Dear Yakov Farkas:

Subject: Audit of Canadian Friends Of United Wiznitz Institutions In Israel

This letter results from the audit of the Canadian Friends Of United Wiznitz Institutions In Israel (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from January 1, 2017 to December 31, 2018.

On May 12, 2021, 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.	It is not constituted and operated for exclusively charitable purposes <ul style="list-style-type: none">○ Delivery of non- incidental private benefits / conferring an undue benefit to a person	149.1(1), 149.1(2), 168(1)(b), 188.1(4), 188.1(5)
2.	Failed to devote resources to charitable activities carried on by the Organization itself <ul style="list-style-type: none">○ Lack of direction and control over the use of resources / resourcing non-qualified donees	149.1(1), 149.1(2), 168(1)(b)
3.	Failed to maintain adequate books and records	149.1(2), 168(1)(e), 188.2(2)(a), 230(2), 230(4), 230(4.1)
4.	Failed to issue donation receipts in accordance with the Act and/or its Regulations	149.1(2), 168(1)(d), 188.1(7), 188.2(2)(c), Regulations 3500 and 3501
5	Failed 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), 188.1(6)

6.	Failed to have at least three directors as required by The Québec Companies Act	Part III of The Québec Companies Act, chapter C-38, S. 218
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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 and explain why its registered status should not be revoked. 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.

General legal principles

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

- Relief of poverty (first category);
- Advancement of education (second category);
- Advancement of religion (third category); or
- Certain other purposes beneficial to the community in a way the law regards as charitable (fourth category).

The public benefit requirement involves a two-part test:

- The first part of the test requires the delivery of a benefit that is recognizable and capable of being proved, and socially useful. To be recognized and capable of being proved, a benefit must generally be tangible or objectively measurable. Benefits that are not tangible or objectively measurable must be shown to be valuable or approved by "the common understanding of enlightened opinion for the time being". To be socially useful, a benefit must have public value and a demonstrable impact on the public. In most cases, the benefit should be a necessary and reasonably direct result of how the purpose will be achieved and of the activities that will be conducted to further the purpose, and reasonably achievable in the circumstances. An "assumed prospect or possibility of gain" that is vague, indescribable or uncertain, or incapable of proof, cannot be said to provide a charitable benefit.
- The second part of the test requires the benefit be directed to the public or a sufficient section of the public. This means a charity cannot:

- have an eligible beneficiary group that is negligible in size or restricted based on criteria that are not justified based on the charitable purposes(s); or
- provide an unacceptable private benefit. Typically, a private benefit is a benefit provided to a person or organization that is not a charitable beneficiary, or to a charitable beneficiary that exceeds the bounds of charity. A private benefit will usually be acceptable if it is incidental, meaning it is necessary, reasonable, and not disproportionate to the resulting public benefit.

The CRA must be satisfied that an organization's activities directly further charitable purposes in a manner permitted under the Act. In making a determination, we are obliged to take into account all relevant information. Accordingly, the current audit encompassed an enquiry into all aspects of the Organization's operations. The fact that some of the areas of non-compliance identified in this letter may, or may not, have been evaluated in preceding audits does not preclude the need for compliance with existing legal requirements. Furthermore, the CRA may take a position that differs from that reached previously based on reconsideration of the pertinent facts and law.¹

Previous non-compliance

The Organization was the subject of a previous audit for the period from January 1, 2011 to December 31, 2012. The audit found that the Organization did not maintain the necessary direction and control over its resources and over the conduct of its activities, was resourcing non-qualified donees, did not maintain adequate books and records as required by the Act, and issued receipts not in accordance with the Act.

Due to the serious nature of non-compliance identified during the audit, the CRA issued a letter to the Organization dated April 10, 2017, (copy attached) wherein it proposed a suspension of the Organization's status as a qualified donee along with its ability to issue official donation receipts. In response to our letter, the Organization provided a letter dated July 18, 2017, advising that it would not be providing representations as to why it should not be subject to a sanction. Consequently, a Notice of Suspension of Receiving Privileges was issued to the Organization on January 15, 2018, (copy attached) advising that the Organization's authority to issue official donation receipts and its qualified donee status were suspended for one year beginning on January 22, 2018.

Chronology of current audit

The Organization's available books and records were not sufficient for us to verify if the Organization was maintaining adequate direction and control over its resources and over the activities being conducted with its resources. We issued a letter to the Organization on November 25, 2019, advising that more information/documentation was required to continue the audit. The Organization was requested to complete the attached Audit Query Sheet (T997), wherein we outlined specific items that should be provided, if available. In

¹ See for example Canadian Magen David Adom for Israel v MNR, 2002 FCA 323 at para 69.

response to our letter, the Organization's representative provided a response dated January 6, 2020. The response did not adequately address our queries, and has limited our ability to draw audit conclusions regarding the charitable nature of the Organization's activities, adequacy of direction and control over its resources and over the conduct of its activities, adequacy of books and records, and various other areas of non-compliance, outlined in more detail below. As such, we are proceeding based on available information.

Current audit findings

The current audit found that the Organization had not rectified the issues of non-compliance identified in our letter dated April 10, 2017, and identified new areas of non-compliance. Based on the non-compliance identified during the two audits, we remain concerned about the Organization's compliance with the requirements of charitable registration.

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

Identified areas of non-compliance

1. It is not constituted and operated for exclusively charitable purposes

Delivery of non- incidental private benefits / conferring an undue benefit to a person

Legislation and jurisprudence

In order to satisfy the definition of a "charitable organization" pursuant to subsection 149.1(1) of the Act, "charitable organization" is, amongst other criteria, 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."

A registered charity must be established and operated for the purpose of delivering a charitable benefit to the public or a sufficient segment thereof. The public benefit requirement prevents a charity from conferring an unacceptable private benefit in the course of pursuing charitable purposes.

At common law a private benefit² means a benefit provided to a person or organization that is not a charitable beneficiary, or a charitable beneficiary where a benefit goes beyond what is considered to be charitable. Private benefits can be conferred on a charity's staff, directors/trustees or members/volunteers while they are carrying out activities that support the charity, or to third parties who provide the charity with goods and services. Where it can be fairly considered that the eligibility of a recipient relates

² "Personal benefit" is also sometimes used instead of "benefit" in the common law private benefit context.

solely to the relationship of the recipient to the organization, any resulting benefit will not be acceptable.

Providing a private benefit is unacceptable unless it is *incidental* to accomplishing a charitable purpose. A private benefit will usually be incidental where it is necessary, reasonable, and proportionate to the resulting public benefit.³

(i) **Necessary** – Necessary means legitimately and justifiably resulting from:

- (a) an action taken to achieve a charitable purpose; or
- (b) a necessary step, a consequence, or a by-product of an action taken to achieve a charitable purpose; or
- (c) the operation of a “related business” as defined in paragraph 149.1(1) of the Act.

and

(ii) **Reasonable** – Reasonable means related to the charitable need and no more than is needed to achieve the purpose, and fairly and rationally assessed and distributed.

and

(iii) **Proportionate** – Proportionate means the private benefit cannot be a substantial part of a purpose or activity, or be a non-charitable end in itself. The private benefit must be secondary and the public benefit must be predominant and more significant.

The public benefit cannot be too speculative, indirect or remote, as compared to a more direct private benefit, particularly when a direct benefit is to private persons, entities, or businesses.

Examples of unacceptable (not incidental) private benefit might include:

- paying excessive salaries/remuneration;
- paying for expenses, or providing benefits that are not justified or needed to perform required duties;
- providing excessive per diems;
- unjustified/unnecessary or excessive payments for services, facilities, supplies, or equipment;
- promoting the work, talent, services, or businesses of certain persons or entities, without justification.

Typically, private benefits that are unacceptable under the common law will also be “undue” under subsection 188.1(5) of the Act. An undue benefit means a benefit provided by a registered charity, a registered Canadian amateur athletic association (RCAAA), or a third party at the direction, or with the consent, of a charity or RCAAA

³ For more information, see CRA Policy statement CPS-024, Guidelines for registering a charity: Meeting the public benefit test.

that would otherwise have had a right to that amount. An undue benefit includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity or RCAA that is paid, payable, assigned or otherwise made available for the personal benefit of any person who:

- (a) is a proprietor, member, shareholder, trustee or settlor of the charity or RCAA;
- (b) has contributed or otherwise paid into the charity or RCAA more than 50% of the capital of the charity or RCAA; or
- (c) does not deal at arm's length with a person in (a) or (b), or with the charity or RCAA.

Undue benefit does not include

- (a) a gift to a qualified donee;
- (b) reasonable consideration or remuneration for property acquired or services received by the charity or RCAA;
- (c) a gift made, or a benefit provided, in the course of a charitable act⁴ in the ordinary course of the charitable activities carried on by the charity or RCAA, unless it can be reasonably considered that the beneficiary was eligible for the benefit solely due to the relationship of the beneficiary to the charity or RCAA.

Audit findings

Based on our review of the Organization's operations, the president and director, Bernard Tabak is the only individual with the authority to withdraw funds from the Organization's bank account. The audit identified a number of expenses that appeared personal in nature.

That said, it is our view that the following expenditures provide an unacceptable private benefit:

Loans

The Organization reported an amount of \$11,864 on line 4110- Amounts receivable from non-arm's length persons on its T3010 return for fiscal year end (FY) 2017. The Organization did not provide any supporting documentation to show who received these amounts, what the amounts were for, the terms or repayment of the amounts including the interest rate, or how the amounts were used for activities in furtherance of the Organization's purposes and whether they were repaid.

On line 4120- Amounts receivable from all others, the Organization reported an amount of \$209,865. Based on the financial statements for FY 2017, this amount is a "loans receivable". Our audit found that \$22,932 of the \$209,865 amount was provided to the

⁴ While charitable act is not defined in the Act, it is considered to refer to an activity that itself provides a charitable benefit to an eligible beneficiary.

president, Bernard Tabak during the fiscal period 2017. The Organization was unable to provide the name(s) of the individual(s) who received the remaining loan amount of \$186,933. In addition, the Organization did not provide documentation to show what the loans were for, the terms or repayment of the loans including the interest rate and payment due dates, or how the loans were used for activities in furtherance of the Organization's charitable purposes and if the loans have been repaid.

In its January 6, 2020 letter, the Organization confirmed that it had no details about the loans receivable nor the account receivables. Further, the Organization stated that it did not know whether the amount reported on line 4110, and the loans amount reported on line 4120 of the T3010 return have been repaid.

Vehicle

The Organization leased a vehicle (████████ 2014) during fiscal years 2017 and 2018. In its January 6, 2020 letter, the Organization stated that this vehicle was used by Bernard Tabak. Based on the bank statements provided, the Organization made lease payments for a total amount of \$5,525 in 2017 and \$1,275 in 2018. No documentation was provided, such as a travel log, to show that Mr. Tabak was using this vehicle in furtherance of the Organization's charitable purposes.

By paying for expenses, or providing advantages, that were not apparently justified or necessary to perform required duties or to further a charitable purpose, and/or subsidizing unnecessary or unrelated travel, and/or permitting unjustified use of resources belonging to the Organization, it appears the Organization provided an unacceptable private benefit on Bernard Tabak.

An organization that delivers an unacceptable private benefit is not using all of its resources for charitable purposes, and may have its registered status revoked. Given the serious nature of the non-compliance identified in the current audit, there are grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

2. Failed to devote resources to charitable activities carried on by the Organization itself

Lack of direction and control over the use of resources / resourcing non-qualified donees

Legislation and jurisprudence

In our letter dated April 10, 2017, we explained that to comply with the requirement that it devote all of its resources to charitable activities carried on by the organization itself, a registered charity may only use its resources (funds, personnel and/or property) in two ways:

- for its own charitable activities – undertaken by the charity itself under its continued supervision, direction and control; and
- for gifting to qualified donees as defined in the Act.

A charity's own charitable activities may be carried out by its directors, employees or volunteers, or through intermediaries (a person or non-qualified donee that is separate from the charity, but that the charity works with or through, such as an agent, contractor or partner). If acting through an intermediary, the charity must establish that the activity to be conducted will further its charitable purposes, and that it maintains continued direction and control over the activity and over the use of the resources it provides to the intermediary to carry out the activity on its behalf.⁵

Although there is no legal requirement to do so, and the same result might be achieved through other arrangements or means, entering into a written agreement can be an effective way to help meet the own activities test. However, the existence of an agreement is not enough to prove that a charity meets the own activities test. The charity must be able to show that the terms establish a real, ongoing, active relationship with the intermediary, and are actually implemented. For this purpose, the charity must retain, and make available to the CRA upon request, documentation to show that it exercises the required direction and control, such as:

- communicate a clear, complete, and detailed description of the activity to the intermediary;
- monitor and supervise the activity, including requiring regular reporting;
- provide clear, complete, and detailed instructions to the intermediary on an ongoing basis;
- make periodic transfers of resources to the intermediary, based on demonstrated performance; and
- arrange for the intermediary to either keep the charity's funds separate, or account for separately in its books and records.

A charity must record all steps taken to exercise direction and control as part of its books and records, to allow the CRA to verify that the charity's funds have been spent on its own activities. While the nature and extent of the required direction and control may vary based on the particular activity and circumstances, the absence of appropriate direction and control indicates that an organization is acting as a conduit, funding the programs of non-qualified donees in contravention of the Act.

Though made in reference to an agency relationship, the underlying principles enunciated by the Federal Court of Appeal in *Canadian Committee for the Tel Aviv Foundation v Canada* are applicable to most intermediary arrangements:

⁵ For more information, see CRA Guidance CG-002, Canadian Registered Charities Carrying Out Activities Outside Canada and Guidance CG-004, Using an Intermediary to Carry Out Activities Within Canada.

Under the scheme of the Act, it is open to a charity to conduct its overseas activities either using its own personnel or through an agent. However, it cannot merely be a conduit to funnel donations overseas.⁶

And

Pursuant to subsection 149.1(1) of the Act, a charity must devote all its resources to charitable activities carried on by the organization itself. While a charity may carry on its charitable activities through an agent, the charity must be prepared to satisfy the Minister that it is at all times both in control of the agent, and in a position to report on the agent's activities.⁷

As re-iterated by the Court in *Lepletot v MNR*,⁸ an organization may carry on charitable activities through an agent if the activities are conducted on behalf of the organization. However, it is not enough for an organization to fund an intermediary that carries on certain activities. The law requires that the intermediary actually conduct those activities on the organization's behalf. Likewise, the Court in *Canadian Magen David Adom for Israel* mentions the importance of monitoring the activities when it stated that:

[A] charity that chooses to carry out its activities in a foreign country through an agent or otherwise must be in a position to establish that any acts that purport to be those of the charity are effectively authorized, controlled and monitored by the charity.⁹

Audit findings

The Organization is conducting its purported activities through intermediaries that are pre-existing entities, and, most, if not all, the purported activities are already being conducted by those pre-existing entities. For these reasons, the existence of an arrangement between the Organization and the entities that demonstrates that the Organization exercises sufficient and continuing direction and control over, and full accountability for, all its resources and related activities, is critical.

Given the information we have received and reviewed, it is our view that the Organization does not exercise the required degree of direction and control over the use of its funds, or over the activities conducted with those funds, to establish that it is carrying out its own charitable activities in accordance with the provisions of the Act. Rather, it appears that the Organization is acting as a conduit: funding the programs of the intermediaries. The following outlines the basis for our concerns.

⁶ Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at para 30, Rothstein JA.

⁷ Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at para 40, Rothstein JA.

⁸ *Bayit Lepletot v Canada (MNR)*, 2006 FCA 128 at para 5.

⁹ Canadian Magen David Adom for Israel v Canada (MNR), 2002 FCA 323 at para 66, Létourneau JA.

Intermediary Agreement

The Organization provided an agency agreement with █ B. Walzer in Israel dated June 8, 1993, for the audit period (copy attached). The Organization, as Principal, appointed the [intermediary] to assist it in providing scholarships to deserving students.

Provision 2 of the agency agreement requires the intermediary, █ Walzer, to attend the following:

- a) Keep any and all funds received from the [Organization] segregated from those of any other persons or entity;
- b) Keep copies in the applicant's file of all documents, letters, schedules, etc., that the intermediary used in his decision to spend funds to grant scholarships to deserving students;
- c) Keep copies of any letters authorizing the intermediary to spend the money entrusted with him for the granting of scholarships for deserving students;
- d) Keep detailed expenditure records of all activities;
- e) To provide to the Organization complete records of all transactions and a detailed financial reports every six (6) months;
- f) To provide to the Organization a detailed annual financial report within three (3) months of the Organization's fiscal year end and on the 31 day of December in year; and
- g) To provide all the above noted documentation upon request of the Organization for audit and verification.

During the audit, financial reports from the intermediary were not provided. As such, we were unable to verify if requirement a) was met.

Other than scholarship applications provided in Hebrew, we did not identify any documentation in regards to requirements b) through f).

The Organization did not request the documentation from the intermediary as required by g).

Provision 3 requires the intermediary to provide to the Organization a duplicate set of books and records maintained with respect to the activities carried out on behalf of the Organization. As noted above, we identified no books and records received from the intermediary.

Based on our review, we are concerned that, notwithstanding the agreement in place, it appears that the purpose of the Organization may not be to carry out its own activities, but to fund and facilitate the work of the intermediary. Our concerns are further substantiated by the following factors:

Scholarships/Stipends/Awards

Scholarships, bursaries and prizes are often awarded to assist in the education of qualified students. As the advancement of education is a charitable purpose according to common law, an entity established to award scholarships, bursaries or prizes may be eligible for registration as a charity under the Act. There are however, certain criteria that have to be met in order for an entity to qualify as charitable under this purpose.

In respect of criteria, as with other purposes the presence of "public benefit" is an essential element in determining whether a particular purpose and activity in furtherance of that purpose is charitable at law. The criteria used in selecting the recipients of a scholarship, for example, must be such that those who are eligible for consideration constitute a sufficient section of the public. Further, a charity should ensure that it has in place certain controls such as a committee responsible for reviewing applications, selecting eligible candidates, awarding the scholarship, and ensuring the funds are being used to advance education. Absent eligibility criteria and the appropriate controls in place, a purpose to provide scholarships/bursaries/prizes/ would likely fail the public benefit test.

Assessment of Applicants

A charity that is adequately directing and controlling its activities should identify the type of activities it wishes to conduct, set criteria for how it will choose which activities to support, and assess applicants against this criteria.

That said, based on documentation provided by the Organization, its main focus is in support of religious scholars studying within various institutions in Israel. The Organization's funds are generally wired to institutions then transferred to individuals in the form of student scholarships. While the Organization provided scholarship application forms from students, these forms were in Hebrew, therefore, we were unable to analyze these forms.

In addition, the Organization was unable to show that it had certain controls in place such as, its criteria for selecting eligible candidates, a committee responsible for reviewing applications, selecting eligible candidates, awarding the scholarship, and ensuring the funds are being used to advance education. Moreover, the Organization did not provide a list of candidates purportedly approved by the scholarship committee.

It is our view that the Organization has not exercised the required degree of direction and control over the use of its funds, or over the activities to be conducted with those funds. Rather, in our assessment, the Organization has acted as a conduit, funding the programs of the intermediaries.

Gifting to a non-Qualified Donee

While the Organization did provide an agency agreement with [REDACTED] Walzer, we were unable to identify an agency agreement for the \$735,623 amount disbursed to Igud Mosdot Wiznitz, a non-qualified donee in Israel.

Given the absence of appropriately structured arrangements (such as agency agreements) establishing the Organization's necessary direction and control over its funds and purported activities, we conclude that the Organization was funding a non-qualified donee, contrary to the provisions of the Act.

The Organization has failed to demonstrate that it restricted its activities to carrying on its own charitable activities or making gifts only to qualified donees as required by the Act.

Given that the Organization has not established that it is operationally or administratively separate and apart from the intermediaries, it is our view that the Organization's purpose is to further the activities of the intermediaries by accepting donations for the intermediaries' programs from, and issuing receipts to, Canadian donors. This view is substantiated by the following factor:

Human Resources

Our audit found that, during the audit period, the Organization had only one active director, Bernard Tabak. Given Mr. Tabak's [REDACTED], it is difficult to accept that any real supervision could be exercised on a regular and on-going basis by the Organization through this position, even should Mr. Tabak's involvement extend to the substantive charitable activities. Absent supporting documentation, it is not clear that the Organization maintains communication with any of its intermediaries beyond the disbursement of funds. It appears that the Organization's involvement in, and authority over, the actual conduct of any substantive activity is limited to providing the funds to the intermediaries.

Given the Organization's failure to meet the requirements of subsections 149.1(1) and 149.1(2) of the Act that it devote substantially all of its resources to its own charitable activities or to gifting to qualified donees, and its continued failure to rectify these same issues identified in our letter dated April 10, 2017, it is our view that the present case constitutes repeat serious and material non-compliance. For this reason, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(b) of the Act.

3. Failed to maintain adequate books and records

Legislation and jurisprudence

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 requirement relating to the maintenance of books and records, and books of account, is based on several court decisions, which have held, among other things, that:

- the onus is on the registered charity to provide that its charitable status should not be revoked.¹⁰
- 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 books and records at some later date.¹¹
- Subsection 168(1)(e) of the Act provides that the Minister may propose to revoke registration of a charitable organization if it fails to comply with, or contravenes, any of sections 230 to 231.5 of the Act. The Federal Court of Appeal has affirmed this, determining that non-compliance with subsection 230(2) of the Act is a proper basis upon which the Minister may issue such a notice.¹²

¹⁰ Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at paras 26-27.

¹¹ Canadian Committee for the Tel Aviv Foundation v Canada, 2002 FCA 72 at 39; See also Lord's Evangelical Church of Deliverance and Prayer of Toronto v Canada, 2004 FCA 397.

¹² Opportunities for the Disabled Foundation v Canada (National Revenue), 2016 FCA 94 at para 39; and Ark Angel Foundation v Canada (National Revenue), 2019 FCA 21 at para 43.

- The requirement to keep proper books and records is foundational and non-compliance with the requirement is sufficient to justify revocation.¹³

The Board of Directors (the Board) of an organization is responsible for establishing and maintaining an adequate internal control structure that minimizes the risks associated with any misstatement in the financial reporting of the organization, safeguards the organization's assets, and prevents or detects error and fraud. The Board should ensure that sufficient internal controls exist around the accounting system, the maintenance of the accounting records, the selection and application of accounting policies and procedures, and the segregation of duties.

Given the significant privileges that flow from registration as a charitable organization under the Act, the Minister must be able to monitor the continuing entitlement of charitable organizations to those privileges.¹⁴ In that regard, the Federal Court of Appeal has held that there exists a serious obligation for registered charities to maintain adequate books and records,¹⁵ and that material or significant, and/or repeated, non-compliance with the requirements of subsection 230(2) of the Act constitutes sufficient grounds for revocation.¹⁶

For more information on Books and Records, visit our website.¹⁷

Audit findings

The audit found that the Organization failed to maintain adequate books and records of account in the following facets of its operations:

- The agency agreement we reviewed was inadequate to establish that any activities that purport to be those of the Organization are effectively authorized, controlled and monitored by the Organization.
- Financial or narrative reports from the intermediary the Organization identified as carrying out its purported activities were not provided.
- Examples of communication between the Organization and its intermediary were not provided.

¹³ Jaamiah Al Uloom Al Islamiyyah Ontario v Canada (National Revenue), 2016 FCA 49 at para 15; and Ark Angel Foundation v Canada (National Revenue), 2019 FCA 21 at para 43.

¹⁴ Humane Society of Canada for the Protection of Animals and the Environment v Canada (National Revenue), 2015 FCA 178 at para 80.

¹⁵ Humane Society of Canada for the Protection of Animals and the Environment v Canada (National Revenue), 2015 FCA 178 at para 80.

¹⁶ Ark Angel Foundation v Canada (National Revenue), 2019 FCA 21 at para 43.

¹⁷ See <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/books-records.html>

- Where an intermediary disburses the Organization's funds for any expense, the Organization must be able to support those expenses with source documentation. We have identified no such documentation.
- The Organization disbursed an amount of \$735,623 to Igud Mosdot Wiznitz, a non-qualified donee in Israel. We did not identify a structured arrangement.
- Detailed minutes reflecting discussions and operations regarding the Organization's programs and activities were not provided for fiscal years 2017 and 2018.
- The Organization failed to provide documentation to show that it had certain controls in place in regards to scholarships such as, its criteria for selecting eligible candidates, a committee responsible for reviewing applications, selecting eligible candidates, awarding the scholarship, and ensuring the funds are being used to advance education.
- The student scholarship applications provided for our review are completed in Hebrew. While the Act does not explicitly require records to be kept in one of the two official languages of Canada (English or French), charities are strongly advised to do so. Records in other languages cannot be interpreted by the CRA and therefore are not effective in meeting the requirements of the Act at paragraph 230(2), which states that information must be kept "in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act."
- The Organization paid \$603 for rent every month from January 1, 2017 to August 31, 2017, for its office located at [REDACTED], Montreal. However, the Organization was not able to provide the rental contract.
- According to the bank statements of the [REDACTED], the Organization made a bank transfer of \$49,400 on June 30, 2017. The Organization stated that this transfer was a donation to a registered charity, Congregation Tzemach Tzaddik, however, the Organization was not able to provide bank confirmation that show the recipients of this transfer. As such, we were unable to verify whether the funds were transferred to Congregation Tzemach Tzaddik.

Internal Controls

The audit found that the Organization's internal controls were inadequate as follows:

- inadequate authorization of transactions;
- no overview by the board of directors;
- sole control of the Organization's affairs and resources were with Bernard Tabak; and
- lack of structure to effectively allow directors to approve or review, in detail, the Organization's expenditures.

The Organization's lack of internal controls contributes to our concern that a large amount of its expenditures appear to be personal in nature.

Given the Organization's failure to fulfill its requirement to maintain and make available adequate books and records, as described above, and its continued failure to rectify the books and records issues identified in our letter dated April 10, 2017, it is our view that the present case constitutes repeat serious and material non-compliance. For this reason, it appears there may be grounds for revocation of the charitable status of the Organization under paragraph 168(1)(e) of the Act.

4. Failed to issue donation receipts in accordance with the Act and/or its Regulations

Legislation and jurisprudence

The law provides various requirements with respect to the issuing of official donation receipts (ODRs) by registered charities. These requirements are contained in Regulations 3500 and 3501 of the Act and are described in some detail in Folio S7-F1-C1, Split-receipting and Deemed Fair Market Value.

Missing elements

ODRs issued by the Organization for FYE 2017 did not contain the following required elements:

- The Organization indicated "official receipt" instead of "official receipt for income tax purposes" on the ODRs.
- The Organization's name registered with the CRA is Canadian Friends Of United Wiznitz Institutions In Israel, however, the Organization indicated "United Wiznitz Institutions In Israel" on the ODRs.
- The name, Canada Revenue Agency, and the website address www.cra-arc.gc.ca/charities are not indicated on the ODRs.

Control of ODRs

- The Organization did not indicate the address of donors on the ODR summary list provided.

Issuing ODRs to other registered charities

We identified the following two instances where the Organization issued ODRs to another registered charity:

Donee (registered charity)	Serial number of donation receipt	Amount recorded on donation receipt
J & H Feldman Charitable Foundation	#11088	\$ 50,000
J & H Feldman Charitable Foundation	#11141	\$ 5,000

ODRs should not be issued to other registered charities to acknowledge gifts nor should other registered charities insist on receiving ODRs.¹⁸ ODRs that bear a charity's registration number and other information required by the Act are for tax deduction or credit purposes only.

Given the Organization issued official donation receipts otherwise than in accordance with the Act and its Regulations, and its continued failure to rectify the receipting practices issues identified in our letter dated April 10, 2017, it is our view that the present case constitutes repeat serious and material non-compliance. For this reason, it appears there may be grounds for revocation of the Organization's charitable status under paragraph 168(1)(d) of the Act.

5. Failed to file an information return as and when required by the Act and/or its Regulations

Legislation and jurisprudence

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.¹⁹

Audit findings

The Organization inaccurately completed the following worksheets and schedules of its T3010 return for FYE 2017:

¹⁸ See section 3500 of the Regulations.

¹⁹ *Opportunities for the Disabled Foundation v MNR*, 2016 FCA 94 at paras 48-51.

- The Organization provided loans for a total amount of \$22,932 to the president, Bernard Tabak. Rather than reporting this loan on line 4110- Amounts receivable from non-arm's length persons, the Organization included this loan in the \$209,856 amount reported on line 4110- Amounts receivable from non-arm's length persons.
- According to the bank statements for fiscal year 2017 ([REDACTED]), the Organization deposited a total of \$512,166 in its bank account. However, the total revenue reported on line 4700 of the T3010 return is \$426,561. While the Organization explained the discrepancy is due to reverse entries of \$85,606, it is our view that the total revenue reported on the T3010 return is inaccurate.

Accordingly, it is our view the Organization has failed to comply with the Act by failing to file an accurate T3010 return. Under paragraph 168(1)(c) of the Act, the registration of a charity may be revoked if it fails to file an information return as and when required under the Act or its Regulations. For this reason, it appears there may be grounds to revoke the registered status of the Organization.

6. Failed to have at least three directors as required by The Québec Companies Act

The provisions of Part III of The Québec Companies Act, chapter C-38, S. 218, states the following:

The enterprise registrar may, by letters patent under his hand and seal, grant a charter to any number of persons, not less than three, who apply therefor, for objects of a national, patriotic, religious, philanthropic, charitable, scientific, artistic, social, professional, athletic or sporting character, or the like, but without pecuniary gain.

Audit findings

The T1235- Directors/Trustees and Like Officials Worksheet for fiscal year 2017, lists one director, Bernard Tabak.

The T1235 for fiscal year 2018, lists two directors: Bernard Tabak and Yakov Farkas.

Given that the Organization had less than three directors during fiscal years 2017 and 2018, it is our view that the Organization failed to comply with the requirements of The Québec Companies Act.

The Organization's options:

a) Respond

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, we 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.

b) Do not respond

The Organization may choose not to respond. In that case, we may issue a notice of intention to revoke the registration of the Organization 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 with the party's name, contact information, and clearly specify the appropriate access granted to the party to discuss the file with us. For more information on how to authorize a representative, go on our website at <https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/aut-01.html>.

If you have any questions or require further information or clarification, do not hesitate to contact me at the numbers below. My team leader, Robert Bill, may also be reached at 514-229-0589.

Yours sincerely,

[REDACTED]
Han Tao
Compliance Division
Montreal TSO

Telephone: 514-434-9369
Toll Free: 1-888-892-5667
Facsimile: 514- 283-2769
Address: 305 René-Lévesque Ouest, 7ème étage, C.P.27, Montréal, QC H2Z 1A6

c.c.:



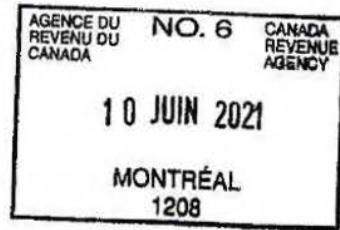
Attachments

- CRA letter dated April 10, 2017
- CRA letter dated January 15, 2018
- Agency agreement dated June 8, 1993



June 7,2021

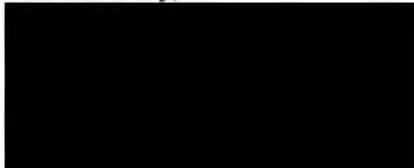
Mrs. Han Tao
Compliance Division
Tax Service Office
TSO Montreal-Section: 445-1-3
305 Rene-Levesque Blvd. W.,
7th Floor, P.O. 27,
Montreal QC H2Z 1A6



Mrs. Han Tao,
Re: Canadian Friends of United Wiznitz Institutions in Israel
BN:893041764 RR 0001

I have received your letter dated May 12,2021 and studied its contents.
My client, Mr. Y. Farkas, who is now in charge of the Organization discussed your letter with me.
While he cannot explain nor justify the actions of [REDACTED] Tabak, for 2017 and 2018 who ran the organization for many years, he assures me that from now on, everything will be handled properly. The donations will total the actual receipts for the year divided between regular donations and other charities. All expenditures will have proper back-up by invoices, T4 or T4A.
You have the client, Mr. Farkas assurance on the above mentioned charity.

Yours truly,



APPENDIX A

Qualified Donees**149.1 (1) Definitions**

charitable foundation means a corporation or trust that is constituted and operated exclusively for charitable purposes, 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 settlor thereof, and that is not a charitable organization

charitable organization, at any particular time, means an organization, whether or not incorporated,

(a) constituted and operated exclusively for charitable purposes,

(a.1) all the resources of which are devoted to charitable activities carried on by the organization itself,

(b) 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 settlor thereof,

(c) more than 50% of the directors, trustees, officers or like officials of which deal at arm's length with each other and with

(i) each of the other directors, trustees, officers and like officials of the organization,

(ii) each person described by subparagraph (d)(i) or (ii), and

(iii) each member of a group of persons (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)) who do not deal with each other at arm's length, if the group would, if it were a person, be a person described by subparagraph (d)(i), and

(d) that is not, at the particular time, and would not at the particular time be, if the organization were a corporation, controlled directly or indirectly in any manner whatever

(i) by a person (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)),

(A) who immediately after the particular time, has contributed to the organization amounts that are, in total, greater than 50% of the capital of the organization immediately after the particular time, and

(B) who immediately after the person's last contribution at or before the particular time, had contributed to the organization amounts that were, in total, greater than 50% of the capital of the organization immediately after the making of that last contribution, or

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(ii) by a person, or by a group of persons that do not deal at arm's length with each other, if the person or any member of the group does not deal at arm's length with a person described in subparagraph (i)

qualified donee, at any time, means a person that is

- (a) registered by the Minister and that is
 - (i) a housing corporation resident in Canada and exempt from tax under this Part because of paragraph 149(1)(i) that has applied for registration,
 - (ii) a municipality in Canada,
 - (iii) a municipal or public body performing a function of government in Canada that has applied for registration,
 - (iv) a university outside Canada, the student body of which ordinarily includes students from Canada, that has applied for registration, or
 - (v) a foreign charity that has applied to the Minister for registration under subsection (26),
- (b) a registered charity,
- (b.1) a registered journalism organization,
- (c) a registered Canadian amateur athletic association, or
- (d) Her Majesty in right of Canada or a province, the United Nations or an agency of the United Nations.

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;

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(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;
- (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; and
- (f) of a registered charity, if it accepts a gift from a foreign state, as defined in section 2 of the State Immunity Act, that is set out on the list referred to in subsection 6.1(2) of that Act.

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,

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(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]

- (ii) that is not the subject of a suspension under subsection 188.2(1),
- (iii) that has no unpaid liabilities under this Act or under the Excise Tax Act,
- (iv) that has filed all information returns required by subsection 149.1(14), and
- (v) 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; or

(b) a municipality in Canada that is approved by the Minister in respect of a transfer of property from the particular charity.

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) Joint and several, or solidary, liability – tax transfer

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 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 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,

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 described in paragraph 188(1.3)(a) 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.