



**REGISTERED MAIL**

Reverend Jacqueline Collins  
President  
Restoration Missionary Fellowship Inc.  
[REDACTED]

BN: 866055304RR0001  
File #: 3034928

**DEC 03 2018**

Dear Reverend Collins:

**Subject: Notice of intention to revoke  
Restoration Missionary Fellowship Inc.**

We are writing with respect to our letter dated August 23, 2017 (copy enclosed), in which the Restoration Missionary Fellowship Inc. (the Organization) was invited to respond to the findings of the audit conducted by the Canada Revenue Agency (CRA), and explain why the registration of the Organization should not be revoked in accordance with subsection 168(1) of the Income Tax Act.

As of this date, we still have not received any response to our letter.

**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 failed to maintain adequate books and records, failed to maintain direction and control over its resources, issued receipts not in accordance with the Act, and failed to file an information return as and when required by the Act and/or its Regulations. For all of these reasons, and for each reason alone, it is the position of the CRA that the Organization no longer meets the requirements for charitable registration and should be revoked in the manner described in subsection 168(1) of the Act.

For each of the reasons mentioned in our letter dated August 23, 2017, pursuant to subsections 168(1) and 149.1(2) of the Act, we propose to revoke the registration of the Organization. By virtue of subsection 168(2) of the Act, revocation will be effective on the date of publication of the following notice in the Canada Gazette:

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

**Business number**  
866055304RR0001

**Name**  
Restoration Missionary Fellowship Inc.  
Scarborough ON

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

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. As such, the Organization's registration will be revoked on the date of publication, unless the CRA 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 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 (the Return). The Return must be filed, and the tax paid, on or before the day that is one year from the date of the notice of intention to revoke. The relevant provisions of the Act concerning the tax applicable to revoked charities can also be found in Appendix A. Form T2046 and the related Guide RC4424, Completing the Tax Return Where Registration of a Charity is Revoked, are available on our website at **canada.ca/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 organizations other than charities. If you have any questions about your Goods and Services Tax/Harmonized Sales Tax (GST/HST) obligations and entitlements, please call GST/HST Rulings at 1-888-830-7747 (Quebec) or 1-800-959-8287 (rest of Canada).

Finally, we advise that subsection 150(1) of the 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 August 23, 2017
- Appendix A, Relevant provisions of the Act

c.c.: Dionne Latouche





Canada Revenue  
Agency

Agence du revenu  
du Canada

August 23, 2017

Reverend Jacqueline Collins  
Restoration Missionary Fellowship Inc.

BN: 866055304RR0001  
File #:3034928

Dear Reverend Collins:

**Subject: Audit of Restoration Missionary Fellowship Inc.**

This letter is further to the audit of the books and records of Restoration Missionary Fellowship Inc. (the Organization) conducted by the Canada Revenue Agency (CRA). The audit related to the operations of the Organization for the period from 2014-01-01 to 2015-12-31.

At our meeting of April 6, 2017, you were advised that the CRA has identified specific areas of non-compliance with the provisions of the *Income Tax Act* (Act) and/or its *Regulations* in the following areas.

AREAS OF NON-COMPLIANCE:		
	Issue	Reference
1 .	Issuing receipts not in accordance with the Act.	149.1(2), 168(1)(d) Reg. 3500, 3501(1), 3501(1.1) 188.1, 188.2
2 .	Failure to file an information return as and when required by the Act and/or its Regulations	149.1(2), 168(1)(c), 188.1, 188.2, 188.2(1.1),
3 .	Failure to maintain adequate books and records	149.1(2), 230(2), 168(1)(b), 168(1)(e), 188.1, 188.2, 188.2(2.1)

4 .	Lack of direction and control over these of the Organization's resources / Failure to carry out its own charitable activities	149.1(1), 149.1(2), 168(1)(b), 188.1, 188.2
-----	-------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------

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

##### **Issuing receipts not in accordance with the Act**

When issuing official donation receipts for tax purposes, a registered charity is required to include certain prescribed information therein. Furthermore, a charity is required to maintain adequate control over the issuance and accounting for their receipts. The Organization's official donation receipts do not satisfy all of the requirements of Regulation 3501, the Act and Income Tax Folio S7-F1-C1. The following deficiencies were noted during the audit of the official donation receipts issued:

- The name Canada Revenue Agency and the website address [www.cra-arc.gc.ca/charities](http://www.cra-arc.gc.ca/charities) is required. The web address is incorrect on the receipts.
- The signature of an authorized person was missing from receipt # 2015-001
- The Organization does not maintain an up-to-date log system that accounts for the number of official donation receipts created against those that are issued and/or voided.
- There is no listing of official donation receipts. A listing showing the receipts issued, including the donor's name and address, the date of the donation, the date of the receipt if that date differs from the date of the donation, the serial number of the receipt, the type of gift, and the donation amount must be maintained.

- The receipts were unable to be traced to the bank statements and no ledger was maintained.
- The internal controls are inadequate as no segregation of duties exists for the custody and authorization of and the accounting for the official donation receipts; and, proper records were not maintained.

A previous audit of the Organization by the CRA listed the following deficiencies and errors in the books and records of the Organization:

- The donation receipts do not include the CRA website address;
- The receipts do not bear the signature of an authorized person of the organization;
- A receipt was issued for a gift in kind without the valuation of the item from a third party appraiser;
- The 2008 donations cannot be verified because copies of the receipts not available; and,
- There are no proper controls over the receipts issued. In particular, receipt # 42 was issued twice to different people for different amounts. Another receipt was issued without a receipt number.

The Organization signed a compliance agreement on December 2, 2010 that stated:

"The Organization will take necessary steps to satisfy all of the requirements of Regulation 3501, the Act and IT-110R3 with respect to official donation receipts. The Organization will also develop a system of numbering donation receipts, so that the receipts may be easily identified based on the year in which they were issued and the type of gift. The Organization will keep better controls over the number of receipts issued each year, so that numeric gaps in the receipt numbers will be avoided. The organization should also exercise better controls over issuing donation receipts by having the authorized person sign the receipts."

By signing the agreement, the parties certified that they had read, understood, and agreed to, the terms of the Compliance Agreement. The Organization further acknowledged that, should it fail to implement all corrective measures in accordance with the terms of the Compliance Agreement, the Minister of National Revenue (the Minister) may apply the penalties and suspensions provided for in sections 188.1 and/or 188.2 of the Act, which include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee". The Minister may, by registered mail, also give notice that the Minister proposes 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.

For these reasons alone, there are grounds for revoking the charitable status of the Organization.

### **Failure to file an information return as and when required by the Act and/or its Regulations**

Under the Act subsection 149.1(14) requires the filing of an information return containing the prescribed information. The return includes sections that are made public record under subsection 149.1(15) of the Act and parts that remain protected. Failure to provide information or providing inaccurate information can be grounds for suspension under subsection 188.2(2.1) of the Act or Revocation under 168(1) of the Act.

The following omissions, deficiencies or errors were identified during the audit.

- Both section D and Schedule 6 were completed but the amounts reported on the two sections did not match.
- The financial statements which are basically a rough income statement don't match the T3010 returns filed and were not included with the T3010 return for the 2015 year. The copy that was supposed to be sent in for 2015 was later provided at the audit.
- Section C6 of the return regarding fundraising activities for 2014 and 2015 was not completed.
- Section D of the return was not filled out in a manner that was easy to read, line 4200 total assets did not include the bank account balance or piano and the totals did not add up correctly on line 5100 of the T3010 for 2014 or 2015.
- Schedule 2 was not completed as required in regards to activities outside of Canada.
- A general ledger does not exist. No listing of expenses were maintained.
- Allocations were not completed as required.
- Form T1235E "Directors/Trustees" was not completed as required as the birthdate for all directors was not included on the form for the 2015 year and some of the phone numbers were missing for 2014 year. Furthermore, the total number of directors was indicated as 4 but 6 names were written down.
- Form T1236E "Qualified Donees Worksheet" was not completed as required on the T3010 for the 2015 year.

A previous audit listed the following deficiencies and errors on the T3010 for the Organization:

- The 2008 T3010 information return shows reports amounts in part on an accrual basis and in part on a cash basis.
- In 2009, the donation receipts were issued for \$23,952 but the amount reported is \$22,582.

- The qualified donee worksheet lists the names of donors of the Organization instead of the qualified donees who were recipients of fund from the Organization.
- The assets and liabilities amount reported incorrectly on the T3010 information returns.

The Organization signed a compliance agreement on December 2, 2010 that stated:

"The T3010 Registered Organization Information Returns will be completed properly and all the amounts in T3010 will match the amounts on the financial statement."

By signing the agreement, the parties certified that they had read, understood, and agreed to the terms of the Compliance Agreement. The Organization further acknowledged that should it fail to implement all corrective measures in accordance with the terms of the Compliance Agreement, the Minister of National Revenue (the Minister) may apply the penalties and suspensions provided for in sections 188.1 and/or 188.2 of the Act, which include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee. The Minister may, by registered mail, also give notice that the Minister proposes 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.

For these reasons alone, there are grounds for revoking the charitable status of the Organization.

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

The Act requires that a registered charity maintain books and records, as prescribed, sufficient to enable the CRA to determine whether it is meeting its responsibilities for registration as a charity. The books and records and internal controls are wholly inadequate for the purposes of subsection 230(2) of the Act.

The Organization has no internal controls in place. No segregation of duties exists. Reverend Collins does all record keeping, deposits, disbursements, and donation receipting. The records are not audited or reviewed by an outside source. No bank reconciliations are completed.

If adequate internal controls are not incorporated in the system it is impossible to ensure that all transactions are being recorded accurately and completely as required. Failure to provide information or providing inaccurate information can be grounds for suspension of charity status under subsection 188.2(2.1) of the Act.

Furthermore, no procedures are in place and no record keeping is done for receipted donations. The donations receipts from 2014 and 2015 were unable to be traced to the bank. It appears the receipts were issued in February each year to individual donors but it is unclear how the Organization kept track of who these donors were and of the amounts receipted.

Revenue other than receipted donations were not tracked either and was said to be reported based on what was deposited in the bank. However, revenue reported could not be reconciled to the income summary provided, which itself was slightly different from the bank deposits. Further donations were received in the form of gift cards donated and no records were maintained in regard to these.

The income summary has a list of expenses paid. The Organization could not provide receipts for 2014 at all and provided a disorganized set of receipts for 2015. The majority of the receipts provided for 2015 do not appear to have been claimed. The CRA attempted to trace the expenses claimed to invoices or cheque stubs but an audit trail could not be established. Furthermore, some cheques were written to the director and no backup existed to prove that they were for reimbursements as claimed.

Additionally, no minute book was maintained. Some notes from a meeting discussing the conference the Organization held were supplied but there were no other records of minutes, incorporation documents, returns filed, etc.

A previous audit listed the following deficiencies and errors in the books and records of the Organization:

- Source documents did not substantiate all of the amounts claimed on the T3010 information returns.
- Some funds received are not deposited to the bank account. Instead the funds are used to pay for expenses.
- The invoices are in the name of other ministries such as 'Restoration Ministry' and 'Restoration Bible Institute'.
- There was no minute book maintained for the 2008 year. The minute book prepared for 2009 does not provide sufficient details to confirm the activities of the Organization.
- The T3010 information return should be reconciled with the financial statements before it is submitted.

The Organization signed a compliance agreement on December 2, 2010 that stated they would maintain proper books and records in accordance with subsection 230(2) and Regulation 5800(1) of the Act but has failed to do so.

By signing the agreement, the parties certified that they had read, understood, and agreed to, the terms of the Compliance Agreement. The Organization further

acknowledged that should it fail to implement all corrective measures in accordance with the terms of the Compliance Agreement, the Minister of National Revenue (the Minister) may apply the penalties and suspensions provided for in sections 188.1 and/or 188.2 of the Act, which include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee. The Minister may, by registered mail, also give notice that the Minister proposes 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.

For these reasons alone, there are grounds for revoking the charitable status of the Organization.

**Lack of direction and control over the Organization's resources / Failure to carry out its own charitable activities**

The CRA requires that a charity take all necessary measures to direct and control the use of its resources when carrying out activities through an intermediary. As discussed in Guidance CG-002, *Canadian registered charities carrying out activities outside Canada*, when carrying out activities through an intermediary, the following steps are strongly recommended:

- create a written agreement with the intermediary, and implement its terms
- communicate a clear, complete, and detailed description of the activity to the intermediary
- monitor and supervise the activity
- provide clear, complete, and detailed instructions to the intermediary on an ongoing basis
- arrange for the intermediary to keep the charity's funds separate from its own, and to keep separate books and records
- make periodic transfers of resources, based on demonstrated performance

A charity must maintain a record of steps taken to direct and control the use of its resources, as part of its books and records, to allow the CRA to verify that all of the charity's resources have been used for its own activities.

The Organization collected donated items (for which no receipts were issued) and shipped the items to Trinidad for distribution to needy people. The items consisted of basic first aid, clothing, shoes, toiletries etc. No agreements between the Organization and its agents overseas were in place and the Organization had no way of knowing whether the items were given to the needy or to others. Schedule 2 was not completed on the T3010 identifying that foreign activities were conducted.

The foreign activities did not meet all requirements to be considered the Organization's own activities, as required under the Act. There was no documentation (e.g. agency agreements) of how the Organization maintained direction or control over the goods distributed. However, no money was sent, only items that would be of use to those in need. Furthermore, no receipts were issued for the items that were donated to the Organization for distribution overseas.

The CRA would normally just provide education on this issue. However, the requirements of the Act were explained to the Organization following a previous audit, yet the Organization nevertheless failed to put in place the required procedures and documentation.

The Organization signed a compliance agreement on December 2, 2010 that stated:

"As some of the charitable activities are conducted outside Canada, the Organization will maintain ongoing direction and control over its resources and over the conduct of its charitable activities outside Canada and will retain, and make available to the CRA upon request, books and records substantiating compliance with this requirement. The Organization will enter into a structured arrangement with any intermediary (an individual that is not its employee or volunteer, or an organization that is not a "qualified donee" under the Act) through which it carries out its charitable activities/programs and retain signed copies of any funding agreements and other agreements.

However, prior review of an arrangement by the CRA does not confer ongoing approval of the Organization's activities. Each activity conducted by the Organization will be judged on its own merits to determine whether it is in compliance with legislative and common law requirements and, in particular, with those requirements pertaining to:

- a) its charitable nature; and
- b) the exercise of adequate direction and control over its actual implementation.

The Organization must be able to demonstrate, at all times, that each activity furthers one of its charitable purposes, and that the terms of all structured arrangements are put into practice and adhered to."

By signing the agreement, the parties certified that they had read, understood, and agreed to, the terms of the Compliance Agreement. The Organization further acknowledged that should it fail to implement all corrective measures in accordance with the terms of the Compliance Agreement, the Minister of National Revenue (the Minister) may apply the penalties and suspensions provided for in sections 188.1 and/or 188.2 of the Act, which include suspension of the Organization's authority to issue official receipts and suspension of its status as a "qualified donee". The Minister may, by registered mail, also give notice that the Minister proposes 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.

For this reasons alone, there are grounds for revoking the charitable status of the Organization.

**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.

- 10 -

If you have any questions or require further information or clarification, please do not hesitate to contact me at the numbers indicated below. My team leader, Francis Yu, may also be reached at 780 495-3631.

Yours sincerely,



Pamela White  
Audit Division



Telephone: 780 495-6883  
Toll free: 1 800 267-2384 (Charities)  
Fax: 780 495-4243  
Address: Suite 10, 9700 Jasper Ave  
Edmonton, AB T5J 4C8  
Website: [www.cra-arc.gc.ca/chrts-gvng](http://www.cra-arc.gc.ca/chrts-gvng)

c.c.: Dionne Latouche, 

## **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.